

**LCB File No. R124-98**

**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 **9:00 a.m. on Thursday, September 24, 1998, at the Division of Wildlife Conference Room A, 1100 Valley Road, Reno, Nevada.**

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of permanent regulations in Nevada Administrative Code (NAC) 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.

**Petition 98008 (LCB File No. R-124-98)** is a proposed permanent petition amending NAC 444.8427 to 444.9452, the hazardous waste management regulations. The proposed amendments update those regulations adopted by reference from July 1, 1997 to July 1, 1998 for NAC 444.8427, 444.84275, 444.850, 444.8632 and 444.9452. The major changes proposed by the adoption by reference are new land disposal restrictions treatment standards for metal bearing wastes, including toxicity characteristics for metal wastes and hazardous waste from minerals. The new federal regulations will exclude from the definition of solid waste certain shredded circuit boards in recycling operations as well as certain materials used in wood preserving operations. The proposed amendments are necessary to incorporate changes to the federal hazardous waste regulations to refer to the most current federal regulations, to revise state regulations to be more consistent with federal regulations and to make technical corrections to state regulations.

The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. The proposed regulation should make it easier for affected businesses to comply by simplifying the requirements. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. The Resource Conservation and Recovery Act (RCRA) Public Law 94-580 was passed by Congress in 1976. Revision of the state hazardous waste regulations is required pursuant to 40 CFR 271.4. This provision requires an U.S. EPA approved state hazardous waste program to be consistent with federal regulations. When federal hazardous waste regulations are revised, state regulations must be updated in accordance with the procedures in 40 CFR 271.21 to remain consistent. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

**Petition 98009 (LCB File No. R-125-98)** is a proposed permanent regulation amending NAC 444.84555 by adding language to expand the application process for a written determination for the construction and operation of a facility for the recycling of hazardous waste including: the basis for determining the economic value of a hazardous waste recycling process; requirements for public participation; and provisions for revocation, modification and appeal of administrator's decision. The proposed amendments are necessary to provide the administrator with the relevant information and facts to properly review written determination applications and determine whether and when it is appropriate to issue, modify, suspend, revoke or deny a written determination.

The proposed amendments are not anticipated to have a significant adverse short or long term economic impact on Nevada businesses. The addition of a public notice and comment period will likely extend the application review process which may impose additional minimal costs on the hazardous waste recycler. The proposed amendments are not anticipated to have a adverse short or long term impact upon the general public. The public will receive a benefit from the information obtained during the public participation process. The amendments are intended to lessen any adverse effects that hazardous waste recycling facilities may have on the public. There will be minor additional costs to the division of environmental protection in providing notice to the public and maintaining a mailing list. These costs are expected to be covered by the application review fees already established for the purpose of reviewing the written determination. The proposed amendments are consistent with, and in addition to, those of the federal government. The proposed amendments do not duplicate or overlap any other existing state regulations. The Resource Conservation and Recovery Act (RCRA) Public Law 94-580 was passed by Congress in 1976. Revision of the state hazardous waste regulations is required pursuant to 40 CFR 271.4. This provision requires a U.S. EPA approved state hazardous waste program to be consistent with federal regulations. When federal hazardous waste regulations are revised, state regulations must be updated in accordance with the procedures in 40 CFR 271.21 to remain consistent. This regulation does not add a new fee, nor increase an existing fee.

**Petition 98010 (LCB File No. R-126-98)** is a proposed permanent regulation amending NAC 445B.221 by the adoption by reference of 40 CFR 63.40 through 63.44, dealing with construction or reconstruction of major sources of hazardous air pollutants and maximum achievable control technology (MACT) requirements. This adoption by reference implements section 112(g) of the Clean Air Act Amendments of 1990, the Operating Permit Program. In addition the date reference to 40 CFR Parts 72 and 76 has been updated from July 1, 1997 to January 1, 1998. The proposed amendments are necessary since the State must have the authority to review construction and reconstruction of major sources of hazardous air pollutants as part of the Part 70 Operating Permit Program.

The proposed regulation will have a positive short and long term economic impact on the regulated facilities. The amendments will simplify the processes for assuring that major stationary sources are in compliance with all applicable air quality requirements. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations will be consistent with U.S. Environmental Protection Agency statute 42 USC 7401-7671 and the Federal Clean Air Act Titles I-VII.

The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

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 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 **September 18, 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 and Division of Wildlife in Reno; and at the Division of Environmental Protection and Department of Museums, Library and Arts, State Library and Archives Division in Carson City, Nevada.

## LCB File No. R124-98

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**LCB File No. R124-98**

**PROPOSED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

Petition 98008

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” 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, [1997] *1998*.

**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, [1997] *1998*.

**Sec. 3.** 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 it existed on July 1, [1997] 1998, have the meanings ascribed to them in that section.

**Sec. 4.** 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, [1997] 1998, 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 ..... \$31



(b) Volume 40 C.F.R. Part 124 ..... 40

(c) Volume 40 C.F.R. Parts 260 to 265, inclusive ..... 29

(d) Volume 40 C.F.R. Parts 266 to 299, inclusive ..... 29

**Sec. 5.** 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 to 444.9555, inclusive, as modified by NAC 444.9453, are hereby adopted by reference as they existed on July 1, ~~1997~~ 1998.

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. Parts 260 to 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 ..... 38

End of Petition 98008