

## LCB File No. R170-99

### NEVADA STATE ENVIRONMENTAL COMMISSION NOTICE OF PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing beginning at **9:30 a.m. on Thursday, December 16, 1999**, at the Clark County Commission Chambers, located at 50 South Grand Central Parkway (Clark County Complex), **Las Vegas**, Nevada.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations. 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.

**2. Petition 2000-01 (R170-99)** is a permanent regulation amending NAC 444.842 to 444.960, the hazardous waste regulations. NAC 444.8427, 444.84275, 444.850 and 444.9452 are amended to reference federal regulations as they existed on July 1, 1999. NAC 444.8632 is amended to adopt 40 CFR Parts 2, Subpart A, 124, Subparts A & B, Parts 260 to 270 and Part 279 as those parts existed on July 6, 1999. The references to the federal regulations provides for the use of enforceable documents in lieu of post-closure permits, allows releases from certain regulated units to be addressed through the corrective action program and creation of a special permit called a Remedial Action Plan for remediation wastes. The hazardous waste fee requirements in NAC 444.8452 are clarified.

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

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.”

Persons wishing to comment upon the proposed regulation changes 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 five 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>. In addition, the State Environmental Commission maintains an Internet site at <http://www.state.nv.us/ndep/admin/envir01.htm>. This site contains the public notice, agenda, codified regulations, and petitions for pending and past commission actions.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of David Cowperthwaite, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851, facsimile (775) 687-5856, or by calling (775) 687-4670 Extension 3118, no later than 5:00 p.m. on **December 9, 1999**.

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

**PROPOSED REGULATION OF THE STATE  
ENVIRONMENTAL COMMISSION**

Petition 2000-01

EXPLANATION – Matter in *italics* is new; matter in brackets ~~{}~~  that is ~~stricken~~ 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 6, 1999 ~~{1, 1998}~~.

**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 6, 1999 ~~{1, 1998}~~.

**Section 3.** NAC 444.843 is hereby amended to read as follows:

**444.843 “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 have been discarded or are intended to be discarded, if at least 10 percent of the mixture, by volume, is composed of one or more of its active ingredients;~~
  - ~~—(e)}~~ Waste containing polychlorinated biphenyl; and
  - (c) ~~{(d)}~~ Waste brought into this state which is designated as hazardous waste in the state of its origin.

**Section 4.** NAC 444.8452 is hereby amended to read as follows:

**444.8452 Additional fees to offset cost of inspection and other regulation: Payment;**

**accounting; penalty for unpaid fee; waiver.**

1. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay the following fees to the division to offset partially the cost of inspection and other regulation of the facility:

(a) *For waste that is managed in a unit for the disposal, open burn, open detonation or incineration of hazardous waste, or is burned in a boiler or industrial furnace for the recovery of energy, \$18.50 per ton for the volume that is hazardous waste as described in paragraph (a) of subsection 2 of NAC 444.843. ~~[Except as otherwise provided in paragraph (d), for the disposal, open burn, open detonation or incineration, including burning for the recovery of energy in boilers or industrial furnaces, of waste that is hazardous waste as described in paragraph (a) or (b) of subsection 2 of NAC 444.843, \$18.50 per ton of the volume received by the facility.]~~*

(b) *For waste that is managed in a unit for the disposal, open burn, open detonation or incineration of hazardous waste, or is burned in a boiler or industrial furnace for the recovery of energy, \$3 per ton for the volume that is hazardous waste as described in paragraph (b) or (c) of subsection 2 of NAC 444.843, but is not a hazardous waste as described in paragraph (a) of subsection 2 of NAC 444.843. ~~[Except as otherwise provided in paragraph (d), for the disposal of waste brought into this state that is hazardous waste as described in paragraph (c) or (d) of subsection 2 of NAC 444.843, but that is not otherwise designated as hazardous waste in accordance with 40 C.F.R. Part 261, \$3 per ton of the volume received by the facility.]~~*

(c) For ~~[the treatment or storage of a volume of hazardous]~~ waste *that is managed by the facility in a unit for the treatment or storage of hazardous waste* without subsequent disposal, open burn, open detonation or incineration by the facility, *or without being subsequently burned for energy recovery by the facility*, \$5 per ton *for the volume that is hazardous as described in NAC 444.843, ~~[of the volume received by the facility,]~~* not to exceed a maximum fee of \$10,000 per calendar year if the waste treated or stored is waste generated at that facility.

(d) For ~~[the treatment and subsequent disposal of a volume of hazardous]~~ waste that is ~~[treated so that it is not]~~ hazardous waste *as described by ~~[pursuant to]~~ NAC 444.843 and is treated by the facility in a unit for the treatment of hazardous waste so that it is no longer hazardous waste pursuant to NAC 444.843 and is subsequently disposed by the facility*, \$3 per ton ~~[of the volume received by the facility].~~

2. The owner or operator of such a facility shall:

(a) Calculate the amount of hazardous waste subject to the fees on a quarterly basis. ~~[.]~~ *The amount of waste subject to the fees is the volume of hazardous waste that is newly managed during the quarter in a unit operated by the facility.*

(b) Pay the fees provided in this section ~~[, based on the volume of hazardous waste received by the facility during each quarter of the calendar year,]~~ within 30 days after the end of each quarter *of the calendar year*; and

(c) Submit, with each payment, a detailed accounting of the volume of waste, which corresponds to the fee paid.

3. The division may assess a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that a fee remains unpaid.

4. The division may waive any part of the fees specified in subsection 1 for waste brought to a state-owned facility if the waste is generated:

(a) By an agency of this state; or

(b) In compliance with an order issued by the division to clean up a spill or deposit.

5. As used in this section, “owner or operator of a facility for the management of hazardous waste” means a person who:

(a) Qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G; or

(b) Has been issued a permit pursuant to 40 C.F.R. Part 124, Subparts A and B, and Part 270, Subparts A to F, inclusive.

*6. As used in this section, “unit” means a unit for the management of hazardous waste subject to the permitting requirements of 40 CFR Part 270.*

**Section 5.** 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 that section existed on July 6, 1999 ~~[1, 1998]~~, have the meanings ascribed to them in that section.

**Section 6.** 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, 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 and B, Parts 260 to 270, inclusive, Part 273 and Part 279, as those provisions existed on July 6, 1999 ~~[1, 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, P.O. Box 371954, Pittsburgh, Pennsylvania 15250, 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

**Section 7.** 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 6, 1999 ~~[1, 1998]~~.

2. The volumes containing these sections, subparts and parts may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250, 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

Petition 2000-01 was submitted to the LCB for drafting on October 5, 1999. Section 4 of this regulation was previously amended by Section 1 of petition 97006 (LCB file no. R107-98).