

**ADOPTED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R123-11**

Effective May 30, 2012

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

AUTHORITY: §1, NRS 444.558, 444.560 and 444.590.

A REGULATION relating to solid waste disposal; providing for the appeal to the State Environmental Commission of certain decisions of the Division of Environmental Protection of the State Department of Conservation and Natural Resources relating to the disposal of solid waste; and providing other matters properly relating thereto.

**Section 1.** NAC 444.748 is hereby amended to read as follows:

444.748 1. Any person who believes that an alternative to any standard specified in NAC 444.570 to 444.7499, inclusive, will comply with the intent of the specified standard and will protect public health and the environment, may petition the State Environmental Commission for a variance in accordance with its procedural rules. A variance may not be granted if it is inconsistent with the federal criteria for landfills set forth in 40 C.F.R. Part 258, as that part existed on November 8, 1993.

2. Any person who wishes to appeal from a decision or action of the ~~[solid waste management authority]~~ *Division* may do so. Such an appeal must be made in writing in accordance with the State Environmental Commission's procedural rules.

## **Permanent Regulation - Filing Statement**

A Regulation Relating to Solid Waste

Legislative Review of Adopted Regulations as Required  
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

### **State Environmental Commission (SEC) LCB File No: R123-11**

**Petition R123-11:** This proposed permanent regulation amends NAC 444.748. The regulation simply clarifies the jurisdictional responsibilities associated with appeals concerning the management and disposition of solid waste by Nevada's three Solid Waste Management Authorities. The regulation makes clear that only those appeals involving the management of solid waste, which are under the direct regulatory control of the Nevada Division of Environmental Protection (NDEP), must conform to the procedural rules of the State Environmental Commission (SEC) as codified under NAC 445B.875.

The regulation being amended was never intended to include an option to appeal a solid waste matter to the SEC that was under the direct jurisdiction of Washoe or Clark County. Such matters have typically been appealed to the District Boards of Health in those respective counties. The amendment is to subpart 2 of NAC 444.748 and consists of deleting the phrase "solid waste management authority" and replacing it with the word "Division." In this case the "Division" means the NDEP.

#### **1. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.**

On February 01, 2012 staff from NDEP conducted a public workshop on LCB's Proposed Draft Regulation R123-11. This workshop was conducted at the Bryan State Office Building Great Basin Conference Room, at 901 S. Stewart Street, Carson City, and simultaneously video conferenced to the location noted below:

Nevada Division of Environmental Protection Red Rock Conference Room 2030 E. Flamingo Road Suite 230 Las Vegas, Nevada 89119
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Collectively, this video conferenced workshop was attended by seven (7) members of the public as listed below. One oral comment was provided by a representative from the Southern Nevada Health District (SNHD) at the workshop. The commenter simply asked when the regulation would become effective and NDEP responded that it would become effective when and if it was approved by Legislative Commission of the Nevada Legislature.

## Members attending the February 1, 2012 Regulatory Workshop

- Walter Ross, Southern Nevada Health District (SNHD)
- Eddie Ridenour, SNHD
- Greg Martinelli, Waste Management
- Jim Endres, Representing Recology
- Elizabeth Nelson, BEC Environ.
- Chelsea Capurro, Griffin Comm. Group
- Tom Woodworth, Council for NV Energy

A public notice, agenda, and proposed permanent regulation R123-11 for the public workshop were posted at: Department of Conservation and Natural Resources, 901 S. Stewart Street, Carson City, the State Legislative Building, 401 S. Carson Street, Carson City, the Nevada State Library and Archives, 100 S. Stewart Street, Carson City, and the Nevada Division of Environmental Protection, 2030 E. Flamingo Road, Suite 230, Las Vegas. Public notice for the workshop was published in the Reno Gazette Journal, and the Las Vegas Review Journal.

Copies of the agenda, public notice, and the proposed permanent regulation R123-11 were also made available to individuals on the NDEP Bureau of Waste Management Solid Waste and Recycling email distribution lists.

Following the workshop, the SEC held a formal regulatory hearing on February 15, 2012. The hearing was held in Reno at the Nevada Dept. of Wildlife, 1100 Valley Road. A public notice and agenda for the regulatory hearing was posted at the meeting location, at the State Library in Carson City, and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of the agenda, the public notice, and the proposed permanent regulation R123-11 were also made available to all public libraries throughout the state as well as to individuals on the SEC mailing lists.

The public notice for the permanent regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory hearing. Other information about this regulation was made available on the SEC website at: [http://sec.nv.gov/main/hearing\\_0212.htm](http://sec.nv.gov/main/hearing_0212.htm).

### **2. The number of persons who attended the SEC Regulatory Hearing:**

- (a) Attended February 15, 2012 hearing: 30 (approx.)
- (b) Testified on this Petition at the hearing: 1 (NDEP Staff)
- (c) Submitted to the agency written comments: 0

### **3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited at the public workshops and at the February 15 Commission hearing as noted in number 1 above. . Summary minutes of the hearing and workshop are posted on the SEC Website at: [http://www.sec.nv.gov/main/hearing\\_0212.htm](http://www.sec.nv.gov/main/hearing_0212.htm).

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was adopted without changes.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.**

This regulation will not have an immediate or long-term adverse economic impact on public or business communities.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

There will be no additional costs to the agency for enforcement of the proposed regulation.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

This regulation does not duplicate any other federal, state or local regulation.

**8. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.**

The regulation is not more stringent than any federal regulation or guidance.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The regulation does not address fees.