

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION
June 11, 2010
P2010-04**

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

A REGULATION that updates state regulations (NAC444.8630) by adopting new federal hazardous waste regulations by reference that were published in the period July 1, 2008 to July 1, 2009. In this case the Nevada Division of Environmental Protection is proposing to individually adopt the Academic Laboratories Rule in NAC444.86325.

NAC 444.86325 Exceptions to and revision of federal regulations adopted by reference. ([NRS 459.485](#))

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

- (a) Section 2.101(a)(1)-(10);
- (b) Sections 124.1(b)-(e), 124.4, 124.5(e), 124.9, 124.10(a)(1)(iv), 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) Part 262, Subpart H;
- (f) Sections 264.1(d), 264.1(f), 264.149, 264.150, 264.301(1), 264.1050(h), 265.1(c)(4), 265.149, 265.150, 265.430 and 265.1050(g);
- (g) Section 266.111;
- (h) Sections 268.5 and 268.6, Part 268, Subpart B, and sections 268.42(b) and 268.44;
- (i) Sections 270.1(c)(1)(i), 270.60(b) and 270.64; and
- (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);
 - (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 all references to “RCRA part B,” “part B RCRA” and “part B” and insert in their place “[NRS 459.400](#) to [459.600](#), inclusive,” in sections 124.31 and 124.32; and

(6) Delete from sections 124.31(a), 124.32(a) and 124.33(a) the following sentence: “For the purposes of this section only, ‘hazardous waste management units over which EPA has permit issuance authority’ refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 C.F.R. part 271.”

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

(d) 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.

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

(f) 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.

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

(h) 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.

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

(j) 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.

(k) 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.

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

(m) 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.

(n) The Academic Laboratories Generators Standards Rule published in Volume 73, No.231, pages 72912 through 72960 of the Federal Register on December 1, 2008, is adopted except that references to “appropriate EPA Regional Administrator” at 262.203 and 262.204 are deleted and replaced by “Director”.