

**JIM. GIBBONS**  
Governor



STATE OF NEVADA  
**STATE ENVIRONMENTAL COMMISSION**

901 South Stewart Street, Suite 4001  
Carson City, Nevada 89701-5249  
Telephone (775) 687-9308  
Fax (775) 687-5856  
[www.sec.nv.gov](http://www.sec.nv.gov)

**ALLEN BIAGGI**  
Director



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October 3, 2008

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C/o Debra. Corp  
Legislative Counsel Bureau (LCB), Legal Division  
401 South Carson Street  
Carson City, Nevada 89701-4747

MEMBERS

Pete Anderson  
State Forester  
Division of Forestry

**Re: Re-Drafting Request: Regulation R153-08: Adopt by Reference  
Changes to the Federal Hazardous Waste Regulations**

Dear Ms. Corp:

Tony Lesperance, Director  
Department of  
Agriculture

Enclosed for "re-drafting" by the LCB Legal Division is a proposed permanent regulation that would amend NAC 444. The proposed regulation would adopt by reference changes to the federal hazardous waste regulations.

Eugene Gans  
Las Vegas, NV

Attached is the Division of Environmental Protection's review of R153-08.

Kenneth Mayer - Director  
Department of Wildlife

If you have any questions about this regulation please contact Mr. Jim Trent at 687-9478.

Ira Rackley  
Las Vegas, NV

Sincerely,

Tracy Taylor  
State Engineer  
Division of Water Resources

*John B Walker*

Harry Shull  
Las Vegas, NV

John B. Walker  
Executive Secretary

Frances Barron  
State Board of Health  
Las Vegas, NV

Stephanne Zimmerman  
Las Vegas, NV

COUNSEL  
Rosemarie Reynolds

JBW/jbw  
Enclosure  
ecc: Rose Marie Reynolds, Deputy Attorney General  
Colleen Cripps, Deputy Administrator NDEP  
Eric Noack, NDEP / BWM  
Jim Trent, NDEP / BWM  
Don Cripe, NDEP/BWM

STAFF  
[John B. Walker](#)  
Executive Secretary

Kathy Rebert  
Recording Secretary

**LCB File No.R153-08**  
**July 3, 2008**

**NDEP Review of Proposed Language**  
**October 3, 2008**

After review of LCB File No.R153-08, NDEP is proposing additional changes to the current version. The revisions are required to exclude the adoption by reference of a non-applicable federal rule. These changes are all included in an additional section revising NAC 444.8632. As shown below in bold italics, the specific changes are in NAC 444.86325.1(j) and 444.86325.2(d) with subsequent re-lettering. Please contact Don Cripe (687-9464) or Jim Trent (687-9478) of NDEP if you have any questions.

NAC 444.86325 is hereby amended to read as follows:

444.86325 Exceptions to and revision of federal regulations adopted by reference.

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

- (a) Sections 2.106(b) and 2.110;
- (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 and 265.430, 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) ***Part 278***;
- (k) 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 CFR part 271."

(b) Section 260.2(a) is adopted except that "the Freedom of Information Act, 5 U.S.C. section 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) ***1. Section 260.11(a) is adopted except that "and 278" is deleted.***  
***2. Section 260.11(a)(3)(iii) is adopted except that "and Section 278.3(b)(1)" is deleted.***

**(d)** Section 260.33(b) is adopted except that "in the locality where the recycler is located" is deleted.

**(e)** 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.

**(f)** Section 261.4(e) (3) (iii) is adopted except that "for the Region in which the generator is located is deleted."

**(g)** 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.

**(h)** Sections 262.42(a)(2) and 262.42(b) are adopted except that "for the Region in which the generator is located" is deleted.

**(i)** 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.

**(j)** 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.

**(k)** 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.

**(l)** 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.

**(m)** Part 270 is adopted except that all references to "interim authorization" are deleted.

**(n)** 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.