

**PROPOSED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

LCB File No. R037-01

Explanation - Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

Authority: §§1-6, NRS 459.485, 459.490 and 459.500

1 **Section 1.** NAC 444.8427 is hereby amended to read as follows:

2 444.8427 "Facility for community recycling" means a facility for recycling hazardous waste which
3 has a yearly capacity that is not more than twice the amount of the type of hazardous waste proposed
4 to be recycled that is generated within the region in this state in which the facility is or is proposed to
5 be located, as determined by the generation rate contained in the biennial report required by the
6 provisions of 40 C.F.R. § 262.41, as that section existed on July ~~6, 1999.~~ *1, 2001.*

7 **Sec. 2.** NAC 444.84275 is hereby amended to read as follows:

8 444.84275 "Facility for community storage" means a facility for the storage and consolidation of
9 hazardous waste which has a yearly capacity that is not more than twice the amount of hazardous
10 waste that is generated within the county in which the facility is or is proposed to be located, as
11 determined by the generation rate contained in the biennial report required by the provisions of
12 40 C.F.R. § 262.41, as that section existed on July ~~6, 1999.~~ *1, 2001.*

13 **Sec. 3.** NAC 444.850 is hereby amended to read as follows:

14 444.850 As used in NAC 444.850 to 444.8746, inclusive, unless the context otherwise requires:

15 1. The words and terms defined in NAC 444.8505 to 444.861, inclusive, have the meanings
16 ascribed to them in those sections.

17 2. Except for the words and terms otherwise defined in NAC 444.8505 to 444.861, inclusive, the
18 words and terms defined in 40 C.F.R. § 260.10, as that section existed on July ~~6, 1999.~~ *1, 2001,*
19 have the meanings ascribed to them in that section.

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1 **Sec. 4.** NAC 444.8632 is hereby amended to read as follows:

2 444.8632 1. In addition to the requirements of NAC 444.850 to 444.8746, inclusive, a person
3 who generates, transports, treats, stores, disposes or otherwise manages hazardous waste or used oil
4 shall comply with all applicable requirements of, and may rely upon applicable exclusions or
5 exemptions under 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270,
6 inclusive, and Parts 273 and 279, as those provisions existed on July ~~[6, 1999.]~~ **1, 2001**, which,
7 except as otherwise modified by NAC 444.86325, 444.8633 and 444.8634, are hereby adopted by
8 reference. The ~~[state environmental]~~ commission may use federal statutes and regulations that are
9 cited in 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270, inclusive, and
10 Parts 273 and 279, to interpret these sections and parts.

11 2. The volumes containing these parts may be obtained from the Superintendent of Documents, P.O.
12 Box 371954, Pittsburgh, Pennsylvania ~~[15250,]~~ **15250-7954**, for the following prices:

- 13 (a) Volume 40 C.F.R. Part 2 ~~[\$33]~~ **\$37**
14 (b) Volume 40 C.F.R. Part 124 ~~[53]~~ **66**
15 (c) Volume 40 C.F.R. Parts 260 to 265, inclusive ~~[32]~~ **36**
16 (d) Volume 40 C.F.R. Parts 266 to 299, inclusive ~~[33]~~ **35**

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18 **Sec. 5.** NAC 444.86325 is hereby amended to read as follows:

19 444.86325 1. The following sections and parts of Title 40 of the Code of Federal Regulations, and
20 any reference to these sections and parts, are not adopted by reference:

- 21 (a) Sections 2.106(b) and 2.110;
22 (b) Sections 124.1(b)-(e), 124.4, 124.5(e), 124.9, 124.10(a)(1)(iv), ~~[124.12(e), 124.14(d),]~~
23 124.15(b)(2), 124.16, 124.17(b), 124.18, 124.19 and 124.21;
24 (c) Sections 260.1(b)(4)-(6) and 260.20, 260.21 and 260.22;
25 (d) Section 261.5(j);
26 (e) Part 262, Subpart H;

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The language in this proposed regulation (Petition 2001-02) was prepared by the Legislative Counsel Bureau as File R037-01 dated July 11, 2001. This proposed regulation is scheduled to be acted upon by the State Environmental Commission on September 18, 2001. Original Petition 2001-02 was adopted as a temporary regulation by the Environmental Commission on December 5, 2000 and filed with the Nevada Secretary of State on December 6, 2000.

1 (f) Sections 264.1(d), 264.1(f), 264.149, 264.150, 264.301(1), 265.1(c)(4), 265.149, 265.150 and
2 265.430;

3 (g) Section 266.111;

4 (h) Sections 268.5 and 268.6, Part 268, Subpart B, and sections 268.42(b) and 268.44;

5 (i) Sections 270.1(c)(1)(I), 270.60(b) and 270.64; and

6 (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),
7 279.62(b)(2) and 279.73(b)(2).

8 2. The following parts and sections of Title 40 of the Code of Federal Regulations are adopted by
9 reference, as revised in this subsection:

10 (a) Part 124 is adopted with the following exceptions:

11 (1) Delete all references to appeal to the Administrator in section 124.5(b);

12 (2) Delete all references to “EPA-issued permits” and insert in its place “permits issued by the
13 department,” except in sections 124.5(d), 124.10(b) and 124.10(d)(1)(vi);

14 (3) Delete all references to “when EPA is the permitting issuing authority” and insert in its place
15 “when the department is authorized to issue a permit,” except in sections 124.5(d), 124.10(b) and
16 124.10(d)(1)(vi);

17 (4) Subpart A is adopted solely for the purpose of establishing procedures for permits for the
18 management of hazardous waste, except that all references to “UIC,” “PSD” and “NPDES” are
19 deleted;

20 (5) Delete all references to “RCRA part B,” “part B RCRA” and “part B” and insert in their place
21 “NRS 459.400 to 459.600, inclusive,” in sections 124.31 and 124.32; and

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

26 (b) Section 260.2(a) is adopted except that “the Freedom of Information Act, 5 U.S.C. section 522,
27 section 3007(b) of RCRA and EPA regulations implementing the Freedom of Information Act and

1 section 3007(b)” must be replaced with “NRS 459.555 and any regulations adopted pursuant
2 thereto.”

3 (c) Section 260.33(b) is adopted except that “in the locality where the recycler is located” is deleted.

4 (d) Section 260.41(a) is adopted except that “or unless review by the Administrator is requested.
5 The order may be appealed to the Administrator by any person who participated in the public hearing.
6 The Administrator may choose to grant or to deny the appeal” is deleted.

7 (e) *Section 261.2(c)(3) is adopted except that “(except as provided under 40 C.F.R.
8 261.4(a)(17))”is deleted from the second sentence.*

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

11 ~~[(f)]~~(g) Section 262.11(c)(1) is adopted except that “,or according to an equivalent method approved
12 by the Administrator under 40 C.F.R. Part 260.21” is deleted.

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

15 ~~[(h)]~~(i) Sections 264.18(c) and 265.18 are adopted except that “except for the Department of
16 Energy Waste Isolation Pilot Project in New Mexico” is deleted.

17 ~~[(I)]~~(j) Sections 264.143(h), 264.145(h), 265.143(g) and 265.145(g) are adopted except that “If
18 the facilities covered by the mechanisms are in more than one Region, identical evidence of financial
19 assurance must be submitted to and maintained with the Regional Administrators of all such Regions”
20 is deleted.

21 ~~[(j)]~~(k) Sections 264.147(a)(1)(I), 264.147(b)(1)(I) and 265.147(a)(1)(I) are adopted except that
22 “or Regional Administrators if the facilities are located in more than one Region” is deleted.

23 ~~[(k)]~~(l) Section 264.151 is adopted with the following exceptions:

24 (1) Delete all references to “(of/for) the Regions in which the facilities are located”; and

25 (2) Delete “an agency of the United States Government” from the second paragraph of the trust
26 agreement.

27 ~~[(l)]~~(m) Part 270 is adopted except that all references to “interim authorization” are deleted.

1 ~~[(m)]~~ (n) Section 279.40(c) is adopted except that “unless, under the provisions of §279.10(b), the
2 hazardous waste/used oil mixture is determined not to be hazardous waste” is deleted.

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4 **Sec. 6.** NAC 444.9452 is hereby amended to read as follows:

5 444.9452 1. All sections, subparts and parts of Title 40 of the Code of Federal Regulations
6 referred to in NAC 444.940 to 444.9555, inclusive, as modified by NAC 444.9453, are hereby
7 adopted by reference as they existed on July ~~[6, 1999.]~~ **1, 2001.**

8 2. The volumes containing these sections, subparts and parts may be obtained from the
9 Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania ~~[15250,]~~ **15250-7954,**
10 for the following prices:

- 11 (a) The volume containing 40 C.F.R. Parts 260 to 265, inclusive ~~[\$32]~~ **\$36**
- 12 (b) The volume containing 40 C.F.R. Parts 266 to 299, inclusive. ~~[33]~~ **35**
- 13 (c) The volume containing 40 C.F.R. Part 761 ~~[42]~~ **46**

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