

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 98003

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-034-98

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

For Filing Administrative
Regulations

For Emergency
Regulations Only

Effective Date _____

Expiration Date _____

Governor's Signature

State Environmental Commission

Classification [] Proposed [] Adopted By Agency [xx] Temporary [] Emergency []

Brief description of action: Petition 98003 (LCB File No. R-034-98) permanently amend NAC 444.570 to 444.7499 by adding new provisions relating to solid waste public storage bin facilities and transfer stations. The regulations establish a process for application for approval criteria for transfer stations including the transfer design report, operating plan, design standards, and operating standards. Standards for public storage bins are established. NAC 444.666 was amended to remove the provision requiring all-weather roads for approach and exit to transfer stations. NAC 444.628 was amended to establish alternative frequencies for monitoring at Class II landfill sites. NAC 444.688 was amended to define "operating day" for determining the necessary frequency and criteria for covering landfill sites. NAC 444.7175 was amended to provide for alternative requirements for infiltration barriers at Class II sites. NAC 444.747 is proposed to be amended to provide record keeping criteria for Class III landfill sites.

Authority citation other than 233B: NRS 444.560

Notice date: February 23, 1998, March 11, 1998; and March 18, 1998

Hearing date: March 25, 1998

Date of Adoption of Agency: March 25, 1998

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 98003 (LCB R-034-98)**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 444. This regulation deals with the establishing criteria for solid waste transfer stations and bins.

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

Petition 98003 (LCB R-034-98), was noticed three (3) times: February 23, 1998, March 11, 1998 and March 18, 1998 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. The two regulatory workshops were publicly noticed, a mailing sent to 200 persons, and workshops and held on February 3, 1998 in Carson City and February 4, 1998 in Las Vegas, Nevada. A total of 48 persons attended the workshops. Comments at the workshops focused on modifying terms to distinguish public and commercial containers. It was suggested that storage times be increased to allow for emergency conditions, and that the standards should be applied to recycling facilities. The public was also mailed the public notice through the Environmental Commission's mailing list. At the hearing of March 25, 1998 of the Nevada Environmental Commission one member of the public expressed unrelated comments regarding the lack of a public comment process for Class I landfills in Clark County. No public written comments were received regarding the petition. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

- | | | |
|-----|---|----|
| (a) | Attended each hearing; | 27 |
| (b) | Testified at each hearing; | 7 |
| (c) | Submitted to the agency written comments; | 2 |

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

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates and locations of workshops and notices. Testimony was received from Silver State Disposal Company regarding this transfer station and bin requirements. Silver State was concerned that the regulations did not address recycling facilities and that the proposed regulations would not be consistent with ordinances of Clark County. Silver State suggested that additional fees should be levied upon the transfer stations and bins. No written comments were received regarding this petition. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

Page 2 - SEC Information Statement - Permanent Petition 98003

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 permanent regulation was adopted by the State Environmental Commission on March 25, 1998 without a request for amendment.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

The proposed regulation may have a modest beneficial effect accruing to both private businesses and local governments due to potential reductions in the costs for construction, operation and closure of some municipal solid waste landfills. There will be no immediate adverse or beneficial economic effect on the public.

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

There will be no increased cost to the Division of Environmental Protection for enforcement of this 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 petition provides for regulation in counties, other than Clark or Washoe. Those counties are defined as Solid Waste Management Authorities by statute. This regulation does not overlap or duplicate a federal 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 proposed regulations are not more stringent than what is required by the federal Resource Conservation and Recovery Act (RCRA), subtitle D.

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.

There will be no additional fees, nor will there be an increase in fees associated with this regulation.

END OF FILING STATEMENT FOR 98003 (LCB R-034-98)

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

LCB File No. R034-98

Explanation: Matter in *italics* is new. Matter in [] is material to be omitted.

AUTHORITY: §§1 to 18, NRS 444.560.

Section 1. Chapter 444 of the NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive of this regulation.

Sec. 2. *"Public storage bin facility" means a facility that provides one or more portable waste containers which are used for the collection of solid waste for transport to a solid waste disposal site. The term does not include residential or commercial waste containers that are located on or near a site of waste generation.*

Sec. 3. 1. *An application to operate a new transfer station or to modify an existing transfer station must be submitted to the solid waste management authority before construction commences.*

2. *The application must include:*

(a) *The name, location and mailing address of:*

(1) *The transfer station;*

(2) *The owner of the transfer station;*

(3) *The operator of the transfer station; and*

(4) *The authorized agent of the owner;*

(b) *Evidence of ownership of the land on which the transfer station will be located;*

(c) *The report concerning the design of the transfer station, as described in section 4 of this regulation;*

(d) *The plan for operating the transfer station, as described in section 5 of this regulation;*

(e) *Evidence of approval to establish a transfer station from the applicable local government;*
and

(f) *Any other information that the solid waste management authority requires.*

Sec. 4. *The report concerning the design of the transfer station required pursuant to section 3 of this regulation must:*

1. *Be prepared under the direction of a licensed professional engineer.*

2. *Be signed and stamped by a professional engineer who is licensed in this state.*

3. *Include, without limitation, a general location map that shows land use and zoning within a 1 mile radius of the transfer station.*

4. *Include, without limitation, plans and specifications of the transfer station in sufficient*

detail to demonstrate compliance with the design standards set forth in section 6 of this regulation. The plans must:

- (a) Be drawn to a scale of not more than 200 feet per inch and must include, without limitation, contour intervals of not more than 5 feet;*
- (b) Show existing and proposed contours;*
- (c) Show access roads and traffic routing inside of and around the transfer station;*
- (d) Include, without limitation, provisions for the control of surface water run-on and run-off and show grades, berms, dikes, swales and other devices used for drainage and control of surface water;*
- (e) Show fencing, equipment, shelter, employee facilities, waste handling areas and any other appurtenances;*
- (f) Include, without limitation, provisions for weighing and measuring incoming solid waste;*
- (g) Include, without limitation, provisions for controlling odors and dust as necessary to prevent a public nuisance;*
- (h) Define the population and area to be served by the transfer station;*
- (i) List the anticipated types, quantities and sources of solid waste to be received at the transfer station; and*
- (j) Provide evidence that the transfer station will be in compliance with the design standards set forth in section 6 of this regulation.*

Sec. 5. The operating plan of the transfer station required pursuant to section 3 of this regulation must include, without limitation:

- 1. Provisions for the control of access to the transfer station;*
- 2. The number of attendants who will be at the transfer station during operating hours;*
- 3. A list of the equipment and machinery that will be used at the transfer station;*
- 4. Procedures for controlling vehicular traffic;*
- 5. The types of wastes that the transfer station will not receive and a list of the facilities where such waste will be directed;*
- 6. A program for detecting and preventing the disposal of regulated hazardous waste and polychlorinated biphenyl wastes;*
- 7. Procedures for measuring or weighing incoming solid waste;*
- 8. The proposed capacity and expected life of the transfer station;*
- 9. The frequency and method of transfer of solid waste to a disposal site;*
- 10. The maximum time that solid waste will be stored at the transfer station;*
- 11. The location of waste storage areas at the transfer station;*
- 12. The proposed operating hours;*
- 13. A contingency plan that describes procedures for emergencies and alternate solid waste handling systems;*
- 14. A plan approved by the local fire authority for the prevention and control of fires;*
- 15. A plan for the management of special wastes that are proposed for acceptance at the facility; and*
- 16. A description of how the transfer station will comply with the operating standards set forth in section 7 of this regulation.*

Sec. 6. 1. A transfer station must be constructed with:

(a) Any barriers and appurtenances necessary to control access to the station;

(b) An all-weather access road;

(c) Appurtenances to control litter; and

(d) Areas for processing, tipping, sorting and storing that:

(1) Are located within a covered enclosure with at least three sides; and

(2) Have a floor with a hard surface such as concrete or asphalt pavement and a drainage structure for the recovery of liquids;

2. The transfer station must be constructed to comply with the requirements regarding signs set forth in NAC 444.690.

Sec. 7. 1. Any solid waste accepted at a transfer station must be:

(a) Transferred to a disposal site that has been issued a permit by the solid waste management authority; or

(b) Salvaged for reuse or recycling and thereafter promptly removed from the transfer station.

2. A transfer station must be kept in a neat and orderly condition. All residual wastes or other residual material must be promptly removed from the transfer station.

3. Any area that is used for tipping, handling or storing solid waste must be free of standing water. The drainage from the floor of such an area must be discharged into a sewer or its equivalent.

4. A person shall not salvage solid waste from a transfer station unless he:

(a) Is authorized by the solid waste management authority;

(b) Is supervised by the operator of the station;

(c) Stores the salvaged material in clearly identified containers or areas; and (d) Maintains the salvaged material in a safe, sanitary and orderly manner.

5. The operator of the transfer station shall maintain accurate records of the operations of the station. The records must be furnished upon request to the solid waste management authority or be made available for inspection by the solid waste management authority at any reasonable time. The records must include, without limitation:

(a) A daily log of the quantity of solid waste received and transported;

(b) Instances in which the station rejected a waste load; and

(c) Any emergencies or unusual events.

6. Solid waste must be removed from a transfer station not more than 72 hours after acceptance unless the owner or operator is prevented from doing so because of an emergency such as a fire or flood. The owner or operator shall notify the solid waste management authority not more than 24 hours after an emergency that results in the storage of solid waste for more than 72 hours.

7. The acceptance, handling and transportation of asbestos waste must be conducted pursuant to NAC 444.965 to 444.980, inclusive.

8. At the final closure of a transfer station, any remaining wastes must be removed to a disposal site that has been issued a permit by the solid waste management authority.

Sec. 8. 1. The owner of a public storage bin facility shall notify the solid waste management authority in writing not more than 30 days after establishing the facility. The notification must include, without limitation:

- (a) The location of the facility;**
- (b) The owner of the facility;**
- (c) The name and phone number of the authorized agent of the owner;**
- (d) The capacity of the facility in cubic yards;**
- (e) The types of solid wastes it receives; and**
- (f) The population and area to be served by the facility.**

2. Storage bins may have a combined capacity of not more than 100 cubic yards and must be constructed of durable, watertight materials with a lid or screen on top that prevents access by disease vectors and the loss of materials during transport. Storage of solid waste outside the storage bins is prohibited unless approved by the solid waste management authority.

3. If garbage and similar putrescible waste is stored in combination with nonputrescible waste, the wastes must not be stored at the facility for more than 1 week.

4. The owner of a public storage bin facility shall:

- (a) Set up directional signs in the community so that the facility can be easily located;**
- (b) Provide access to the facility by an all-weather road;**
- (c) Service the facility as often as is necessary to ensure that there is adequate storage capacity at all times; and**

(d) Comply with the requirements regarding signs set forth in of NAC 444.690.

5. At final closure, the owner or operator shall remove any remaining wastes to a proper facility and remove all storage bins.

Sec. 9. NAC 444.570 is hereby amended to read as follows:

444.570 As used in NAC 444.570 to 444.7499, inclusive, **and sections 2 to 8, inclusive, of this regulation** unless the context otherwise requires, the words and terms defined in NAC 444.5701 to 444.631, inclusive, have the meanings ascribed to them in those sections.

Sec. 10. NAC 444.628 is hereby amended to read as follows:

444.628 "Transfer station" means a solid waste processing site where solid waste is transferred from one vehicle to another vehicle or storage **[bin] device** for temporary storage until transferred to a disposal site. Some processing may be included therein. **The term does not include public storage bin facilities.**

Sec. 11. NAC 444.666 is hereby amended to read as follows:

444.666 1. A transfer station must not be established until the site location **[, facilities and proposed method of operation]** **and the design and operating plans of the transfer station** have been approved by the solid waste management authority.

2. A transfer station must be designed and constructed so as to be esthetically compatible with its environs.

[3. Approach and exit roads to a transfer station must be of all-weather construction and maintained in good condition.]

Sec. 12. NAC 444.667 is hereby amended to read as follows:

444.667 1. An owner or operator shall provide for the control of explosive gas at the municipal solid waste landfill unit in accordance with the provisions of this section.

2. The owner or operator shall ensure that:

(a) The concentration of methane gas generated at the unit does not exceed 25 percent of the lower explosive limit for methane in structures, excluding components for any system to control or recover the gas; and

(b) The concentration of methane gas does not exceed the lower explosive limit for methane at the boundary of the unit.

3. The owner or operator shall carry out a routine program for monitoring methane gas to ensure that the standards set forth in subsection 2 are met. **[The] *Except as otherwise provided in subsection 4, the*** level of methane must be monitored at least quarterly each year. The type and frequency of monitoring must be determined based on the:

(a) Conditions of the soil;

(b) Hydrogeologic conditions surrounding the unit;

(c) Hydraulic conditions surrounding the unit; and

(d) Location of the structures and boundaries of the unit.

4. ***The solid waste management authority may, after public review and comment, allow the owner or operator of a Class II site to monitor the level of methane gas less frequently than one time each quarter. In deciding whether to allow such a deviation, the solid waste management authority shall consider:***

(a) The unique characteristics of small communities;

(b) Climatic and hydrogeologic conditions, and

(c) Whether allowing the deviation would have an adverse effect on human health or the environment.

5. If the owner or operator detects levels of methane gas exceeding the limits specified in paragraph (a) of subsection 2, he shall:

(a) Immediately take all necessary actions to ensure protection of public health and safety and notify the solid waste management authority;

(b) Except as otherwise provided in subsection **[5] 6**, within 7 days after detection, place in the operating records for the unit the levels of methane gas detected and a description of the actions taken to protect public health and safety; and

(c) Except as otherwise provided in subsection **[5] 6**, within 60 days after detection, carry out a plan for remediation for the releases of methane gas, place a copy of the plan in the operating records and notify the solid waste management authority that the plan has been carried out. The plan must describe the nature and extent of the problem and the proposed remedy.

[5.] 6. The solid waste management authority may establish alternative schedules for demonstrating compliance with paragraphs (b) and (c) of subsection **[4.**

6.] 5.

7. As used in this section, "lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25EC and at atmospheric pressure.

Sec. 13. NAC 444.688 is hereby amended to read as follows:

444.688 The compacted solid waste of a Class I site must be covered as follows:

1. Except as otherwise provided by this section, all solid waste must be covered at the end of each operating day or at more frequent intervals as necessary to control disease vectors, fires, odors, blowing litter and scavenging with at least 6 inches of compacted earthen material.
2. The solid waste management authority may approve alternative materials to be used for compaction and alternative thicknesses of that material if the owner or operator shows that the alternative materials and thicknesses are capable of controlling disease vectors, fires, odors, blowing litter and scavenging without presenting a threat to public health and safety and the environment.
3. The solid waste management authority may grant a temporary waiver from the requirements of subsections 1 and 2 if the owner or operator can show that extreme seasonal climatic conditions make the requirements impractical.
4. Unless otherwise approved by the solid waste management authority, at least 12 inches of compacted earthen material must be placed as an intermediate cover on a fill surface if that surface is not to receive waste for more than 90 days. This subsection does not apply to final fill surfaces.
5. The integrity of daily and intermediate cover must be maintained until further filling or the addition of final cover is made. All cracks, depressions and erosion of the cover for surface and side slopes of fills must be promptly repaired.
6. Daily and temporary cover must be graded to drain runoff of surface water. The top slope must have a grade of not less than 3 percent.
7. *Except as otherwise provided in subsection 8, as used in this section, "operating day" means the portion of a day during which a site is accepting and disposing of solid waste.*
8. *"Operating day" means a period, not to exceed 6 days, that ends with the first interruption of operations which lasts 4 hours if:*
 - (a) *The site consistently operates without stopping throughout a 24-hour period;*
 - (b) *The owner or operator demonstrates to the solid waste management authority that:*
 - (1) *A daily cover requirement would impose a severe operational constraint on the site; and*
 - (2) *Disease vectors, fires, odors, blowing litter and scavenging will be adequately controlled.*

Sec. 14. NAC 444.7045 is hereby amended to read as follows:

444.7045 1. The owner or operator of a Class II site shall provide suitable shelter, drinking water and sanitary facilities for the employees who work at the Class II site.

2. [The] *Except as otherwise provided in subsection 3, the* owner or operator of a Class II site shall comply with:

- (a) NAC 444.6895, for the closure of the municipal solid waste landfill units;
- (b) NAC 444.6894 and 444.6896, for the postclosure maintenance of municipal solid waste landfill units;
- (c) NAC 444.685 to 444.6859, inclusive;
- (d) NAC 444.6665 to 444.6678, inclusive, 444.6885, 444.6887, 444.692, 444.698 and 444.7025, if the Class II site contains at least one municipal solid waste landfill unit;
- (e) NAC 444.6765 and 444.678 to 444.6795, inclusive; and
- (f) NAC 444.6891, 444.6892 and 444.6893.

3. The solid waste management authority may, after public review and comment, allow the owner or operator to deviate from the provisions concerning the infiltration barrier set forth in NAC 444.6891. In deciding whether to allow the deviation, the solid waste management authority shall consider:

- (a) The unique characteristics of small communities;**
- (b) Climatic and hydrogeologic conditions; and**
- (c) Whether allowing the deviation would have an adverse effect on human health or the environment.**

Sec. 15. NAC 444.716 is hereby amended to read as follows:

444.716 [Solid] **1. Except as otherwise provided in subsection 2, solid wastes at a Class II site must be covered in accordance with NAC 444.688 .**

2. The solid waste management authority may, after public review and comment, allow the owner or operator of a Class II site to cover solid waste less frequently than set forth in NAC 444.688. In deciding whether to allow the deviation, the solid waste management authority shall consider:

- (a) The unique characteristics of small communities;**
- (b) Climatic and hydrogeologic conditions; and**
- (c) Whether allowing the deviation would have an adverse effect on human health or the environment.**

Sec. 16. NAC 444.7175 is hereby amended to read as follows:

444.7175 **1.** The owner or operator of a Class II site that stops receiving waste before October 9, 1997, shall:

[1. Comply]

(a) Except as otherwise provided in subsection 2, comply with the requirements for a final cover set forth in NAC 444.6891; and

[2.] (b) Complete activities for the closure of each municipal solid waste landfill unit at the site within 180 days after the last receipt of waste.

2. The solid waste management authority may, after public review and comment, allow the owner or operator to deviate from the provisions concerning the infiltration barrier set forth in NAC 444.6891. In deciding whether to allow the deviation, the solid waste management authority shall consider:

- (a) The unique characteristics of small communities;**
- (b) Climatic and hydrogeologic conditions; and**
- (c) Whether allowing the deviation would have an adverse effect on human health or the environment.**

Sec. 17. Chapter 444.735 of the NAC is hereby amended to read as follows:

444.735 The location of a Class III site must:

1. Be easily accessible in all kinds of weather to all vehicles expected to use it.
2. Safeguard against water pollution originating from the decomposed solid waste at the site.
3. Safeguard against uncontrolled movement or collection of gas originating from the decomposed waste at the site.

4. Have an adequate quantity of cover material that is workable, compactible and does not contain organic material of a quantity and distribution conducive to the harboring and breeding of disease vectors.
5. Conform to the land use planning of the area.
6. Not be within one-fourth mile of the nearest inhabited domestic dwelling or place of public gathering or be within 1,000 feet of a public highway, unless special provisions for the beautification of the site and the control of litter vectors are included in the design and approved by the solid waste management authority.
7. Not be within 1,000 feet of any surface water or be within 100 feet of the uppermost aquifer if the site is approved after September 2, 1992, unless approved by the solid waste management authority.
8. Be approved by the solid waste management authority.
9. ***If the site accepts hazardous waste from conditionally exempt small quantity generators as defined in 40 C.F.R. §261.5, comply with the provisions of NAC 444.6785 and 444.679.***

Sec. 18. NAC 444.747 is hereby amended to read as follows:

444.747 1. Scavenging at a Class III site is prohibited.

2. The area of a Class III site must be inspected daily and all scattered paper and other lightweight debris returned to the fill area and covered.

3. The operator of a Class III site shall:

(a) Establish provisions concerning weighing or otherwise adequately measuring and recording all solid waste received at the site; and

(b) Submit annually to the division a report of the solid waste received at the site. The report must be submitted on a form provided by the division ***within 30 days following the end of each calendar year.***

4. The operation of a Class III site must be approved by the solid waste management authority.

5. ***The owner or operator of a Class III site shall record and retain in its operating records at its site or at another location approved by the solid waste management authority:***

(a) Any documentation of cost estimates and financial assurance required pursuant to NAC 444.685;

(b) Plans for closure and postclosure care and any monitoring, testing or analytical data required pursuant to NAC 444.6891 to 444.6896, inclusive;

(c) How the site conforms to the restrictions on location set forth in NAC 444.735;

(d) Any plan to characterize solid waste required to NAC 444.737; and

(e) Any demonstration, certification, finding, monitoring, testing or analytical data from the program for monitoring ground water required pursuant to NAC 444.7481 to 444.7499, inclusive;

6. ***The owner or operator shall promptly notify the solid waste management authority after the owner or operator has placed the information in the operating record of its facility pursuant to subsection 5. The information must be furnished upon request to the solid waste management authority or be made available for inspection by the solid waste management authority at any reasonable time.***

7. ***Notwithstanding any other provision of this chapter, the solid waste management authority may establish alternative schedules for Class III sites for any recordkeeping and notification required pursuant to NAC 444.570 to 444.7499, inclusive, except that the authority will not establish an***

alternative schedule for the notification required, pursuant to subsection 3 of NAC 444.7491.

Sec. 19. *The owner or operator of an existing transfer station shall satisfy the requirements of:*

1. Paragraphs (a), (b), (d), and (f) of subsection 2 of section 3 and section 7 of this regulation not less than 180 days after the effective date of this regulation.

2. Paragraph (c) of subsection 2 of section 3 and section 6 of this regulation not less than 2 years after the effective date of this regulation.

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