

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 98008

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-124-98

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 98008 (LCB File No. R-124-98) is a permanent petition amending NAC 444.8427 to 444.9452, the hazardous waste management regulations. The amendments update those regulations adopted by reference from July 1, 1997 to July 1, 1998 for NAC 444.8427, 444.84275, 444.850, 444.8632 and 444.9452. The major changes adopted by reference are new land disposal restrictions treatment standards for metal bearing wastes, including toxicity characteristics for metal wastes and hazardous waste from minerals. The new federal regulations exclude from the definition of solid waste certain shredded circuit boards in recycling operations as well as certain materials used in wood preserving operations. The amendments are necessary to incorporate changes to the federal hazardous waste regulations to refer to the most current federal regulations, to revise state regulations to be more consistent with federal regulations and to make technical corrections to state regulations.

Authority citation other than 233B: NRS 459.485, 459.490 and 459.500

Notice date: August 25, 1998, September 2, 1998 and September 10, 1998

Hearing date: September 24, 1998

Date of Adoption of Agency: September 24, 1998

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 98008 (LCB R-124-98)**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 444. This permanent regulation deals with amendments to the hazardous waste regulations.

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 98008 (LCB R-124-98), was noticed three (3) times: August 25, September 2 and September 10, 1998 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. The regulation was adopted on September 24, 1998 by the State Environmental Commission. The regulatory workshops were held on August 26 and 27, 1998. The public wanted to know if used mineral oil was regulated. The Division of Environmental Protection explained that used mineral oil was regulated a hazardous waste. The workshops for this petition was held in conjunction with petition 98009 (LCB R-125-98). No written comments or testimony was received at the public hearing during adoption of the regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. 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:

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|--|----|
| (a) Attended each hearing; | 15 |
| (b) Testified at each hearing: | 0 |
| (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 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. Newmont Gold, at the workshop was interested in knowing whether it was necessary to adopt Land Disposal Restrictions, and the Division responded that the Commissions action would allow State to be consistent with federal regulations. No written comments were received regarding this petition, nor was testimony presented 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.

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 September 24, 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 permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. The regulation should make it easier for affected businesses to comply by simplifying the requirements. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

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

There is no additional cost to the agency for enforcement.

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.

The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency.

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 regulations are no more stringent than federal regulations. The Resource Conservation and Recovery Act (RCRA) Public Law 94-580 was passed by Congress in 1976. Revision of the state hazardous waste regulations is required pursuant to 40 CFR 271.4. This provision requires an U.S. EPA approved state hazardous waste program to be consistent with federal regulations. When federal hazardous waste regulations are revised, state regulations must be updated in accordance with the procedures in 40 CFR 271.21 to remain consistent.

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 98008 (LCB R-124-98)

**CODIFIED PERMANENT REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R124-98

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

Authority: §§1-5, NRS 459.485, 459.490 and 459.500

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

444.8427 "Facility for community recycling" means a facility for recycling hazardous waste which has a yearly capacity that is not more than twice the amount of the type of hazardous waste proposed to be recycled that is generated within the region in this state in which the facility is or is proposed to be located, as determined by the generation rate contained in the biennial report required by the provisions of 40 C.F.R. § 262.41, as that section existed on July 1, ~~[1997]~~ **1998**.

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

444.84275 "Facility for community storage" means a facility for the storage and consolidation of hazardous waste which has a yearly capacity that is not more than twice the amount of hazardous waste that is generated within the county in which the facility is or is proposed to be located, as determined by the generation rate contained in the biennial report required by the provisions of 40 C.F.R. § 262.41, as that section existed on July 1, ~~[1997]~~ **1998**.

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

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

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

2. Except for the words and terms otherwise defined in NAC 444.8505 to 444.861, inclusive, the words and terms defined in 40 C.F.R. § 260.10, as ~~[it]~~ **that section** existed on July 1, ~~[1997]~~ **1998**, have the meanings ascribed to them in that section.

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

444.8632 1. In addition to the requirements of NAC 444.850 to 444.8746, inclusive, ~~[any]~~ **a** person who generates, transports, treats, stores, disposes or otherwise manages hazardous waste or used oil shall comply with all applicable requirements of, and may rely upon applicable exclusions or exemptions under 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270, inclusive, Part 273 and Part 279, as those provisions existed on July 1, ~~[1997,]~~ **1998**, which, except as modified by NAC 444.86325, 444.8633 and 444.8634, are hereby adopted by reference. The state environmental commission may use federal statutes and regulations that are cited in 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270, inclusive, Part 273 and Part 279, to interpret these sections and parts.

2. The volumes containing these parts may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh PA 15250, for the following prices:

(a) Volume 40 C.F.R. Part 2	\$31
(b) Volume 40 C.F.R. Part 124	40
(c) Volume 40 C.F.R. Parts 260 to 265, inclusive	29
(d) Volume 40 C.F.R. Parts 266 to 299, inclusive	29

Sec. 5. NAC 444.9452 is hereby amended to read as follows:

444.9452 1. All sections, subparts and parts of Title 40 of the Code of Federal Regulations referred to in NAC 444.940 to 444.9555, inclusive, as modified by NAC 444.9453, are hereby adopted by reference as they existed on July 1, ~~1997~~ **1998**.

2. The volumes containing these sections, subparts and parts may be obtained from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250, D.C. 20402, for the following prices:

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|---|------|
| (a) The volume containing 40 C.F.R. Parts 260 to 265, inclusive..... | \$29 |
| (b) The volume containing 40 C.F.R. Parts 266 to 299, inclusive | 29 |
| (c) The volume containing 40 C.F.R. Part 761 | 38 |

End of LCB File No. R124-98