

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R091-16

Effective November 2, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~(omitted material)~~ is material to be omitted.

AUTHORITY: §§1-37, NRS 459.485 and 459.490.

A REGULATION relating to hazardous waste; revising provisions concerning certain federal regulations adopted by reference relating to hazardous waste; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Environmental Commission to adopt regulations governing systems of hazardous waste management, including the plan for management of hazardous waste in the entire State. (NRS 459.485) Such regulations must be based upon studies, guidelines and regulations of the Federal Government and meet certain other requirements. (NRS 459.490)

Existing regulations adopt by reference certain federal regulations with which a person who generates, transports, treats, stores, disposes or otherwise manages hazardous waste or used oil must comply. (NAC 444.8632) **Section 17** of this regulation adds an additional subpart of federal regulations that is adopted by reference relating to procedures for the application and issuance of certain hazardous waste permits. **Sections 5, 8, 9 and 13** of this regulation add references to certain subparts of federal regulations that are adopted by reference in **section 17**, including the new additional subpart, relating to the issuance of hazardous waste permits. **Sections 1-16 and 19-37** of this regulation make technical changes and refer to the adoption by reference of federal regulations in **section 17**.

Existing regulations set forth certain specific sections and parts of federal regulations that are: (1) not adopted by reference; or (2) adopted by reference but with certain revisions. (NAC 444.86325) **Section 18** of this regulation adds an additional federal regulation that is not adopted by reference relating to the assumption by a state of legal responsibility for the compliance by owners or operators of hazardous waste facilities with certain requirements or the assurance by a state that funds will be available to cover such requirements. **Section 18** also revises certain sections and parts of federal regulations that are adopted by reference relating to financial requirements applicable to owners and operators of hazardous waste facilities.

Section 1. NAC 444.84235 is hereby amended to read as follows:

444.84235 “Delisted waste” means waste that the EPA removed from the list of hazardous wastes located in 40 C.F.R. Part 261, Subpart D, *as adopted by reference in NAC 444.8632*, as a result of a successful petition for a regulatory amendment pursuant to 40 C.F.R. § 260.20 or 40 C.F.R. § 260.22.

Sec. 2. 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, 2008.~~ *adopted by reference in NAC 444.8632.*

Sec. 3. 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, 2008.~~ *adopted by reference in NAC 444.8632.*

Sec. 4. NAC 444.843 is hereby amended to read as follows:

444.843 1. “Hazardous waste” has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261 ~~§~~, *as adopted by reference in NAC 444.8632;*

(b) Waste containing polychlorinated biphenyl; and

(c) Waste brought into this State which is designated as hazardous waste in the state of its origin unless the waste:

- (1) Is remediation waste or delisted waste;
- (2) Does not meet the requirements of paragraph (a); and
- (3) Is disposed of at a facility for the management of hazardous waste.

Sec. 5. NAC 444.84335 is hereby amended to read as follows:

444.84335 “New or expanding facility for the management of hazardous waste” means a facility for the management of hazardous waste:

1. For which a permit is required pursuant to 40 C.F.R. Part 124, Subparts A, ~~and~~ B ~~and~~ *G*, and Part 270, Subparts A to F, inclusive, *H, I and J, as adopted by reference in NAC 444.8632*, but which was not issued the permit before March 28, 1990; or

2. Which has an effective permit required pursuant to 40 C.F.R. Part 124, Subparts A, ~~and~~ B ~~and~~ *G*, and Part 270, Subparts A to F, inclusive, *H, I and J, as adopted by reference in NAC 444.8632*, and whose owner or operator proposes the expansion of an existing unit or the addition of a new unit which requires a class 3 modification of the permit.

Sec. 6. NAC 444.84375 is hereby amended to read as follows:

444.84375 “Remediation waste” has the meaning ascribed to it in 40 C.F.R. § 260.10 ~~and~~, *as adopted by reference in NAC 444.8632*.

Sec. 7. NAC 444.8447 is hereby amended to read as follows:

444.8447 1. Except as otherwise provided in subsection 2, an owner or operator of a facility for the management of hazardous waste who applies for an emergency permit pursuant to 40 C.F.R. § 270.61, *as adopted by reference in NAC 444.8632*, shall, before the permit is issued

by the Administrator, pay to the Division the following fees to offset the cost to process and review the application:

(a) A fee of \$25; and

(b) An additional fee of \$50 for each hour of staff time devoted to processing and reviewing the application.

2. The Administrator may waive the fees provided in subsection 1 for good cause shown.

Sec. 8. NAC 444.845 is hereby amended to read as follows:

444.845 1. The owner or operator of a facility for the management of hazardous waste shall, on or before March 1 of each year, pay the following annual permit fee to the Division to offset partially the cost of inspection and other regulation of the facility:

Permitted Activity or Regulated Unit	Annual Permit Fee
Land disposal, or incineration or burning in a boiler or industrial furnace.....	\$50,000
Treatment of hazardous waste.....	10,000
Thermal treatment of waste munitions of the Armed Forces of the United States or its contractor, including, without limitation, detonation	7,500
Storage of hazardous waste.....	2,500

2. If the facility contains more than one type of regulated unit or engages in more than one type of permitted activity, the operator is not required to pay more than the annual permit fee for the regulated unit or permitted activity to which the highest fee is applicable.

3. The Division may assess a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that the fee remains unpaid.

4. As used in this section, “owner or operator of a facility for the management of hazardous waste” means a person who:

(a) Qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G ~~H~~, *as adopted by reference in NAC 444.8632*;

(b) Has been issued a permit pursuant to 40 C.F.R. Part 124, Subparts A , ~~and~~ B ~~H~~ *and G*, and Part 270, Subparts A to F, inclusive ~~H~~, *I and J, as adopted by reference in NAC 444.8632*;
or

(c) Has been issued a permit to carry out a remedial action plan pursuant to 40 C.F.R. Part 270, Subpart H, *as adopted by reference in NAC 444.8632*, if the facility is constructed and the permit issued after October 24, 2014.

Sec. 9. NAC 444.8452 is hereby amended to read as follows:

444.8452 1. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay the following fees to the Division to offset partially the cost of inspection and other regulation of the facility:

(a) For the disposal, open burn, open detonation or incineration of hazardous waste by a unit or for the burning of hazardous waste in a boiler or industrial furnace for the recovery of energy by a facility:

(1) Nineteen dollars per ton of the volume that is hazardous waste pursuant to paragraph (a) of subsection 2 of NAC 444.843; and

(2) Three dollars and fifty cents per ton of the volume that is hazardous waste pursuant to paragraph (b) or (c) of subsection 2 of NAC 444.843 but is not hazardous waste pursuant to paragraph (a) of that subsection.

(b) For the treatment or storage of a volume of hazardous waste by a unit without:

(1) Subsequent disposal, open burn, open detonation or incineration of the hazardous waste by the facility; or

(2) Subsequent burning of the hazardous waste in a boiler or industrial furnace for the recovery of energy by the facility,

↳ \$5 per ton if the waste that is stored or treated is waste generated at that facility.

(c) For the treatment of a volume of hazardous waste by a unit so that it is no longer hazardous waste pursuant to NAC 444.843 and subsequent disposal of the treated waste by the facility, \$4 per ton.

2. The owner or operator of such a facility shall:

(a) Calculate the amount of hazardous waste subject to the fees on a quarterly basis based on the volume of the hazardous waste that is newly managed by a unit during the quarter of the year for which the fees are calculated;

(b) Pay the fees provided in this section within 30 days after the end of each quarter; and

(c) Submit, with each payment, a detailed accounting of the volume of waste, which corresponds to the fee paid.

3. The Division may assess a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that a fee remains unpaid.

4. The Division may waive any part of the fees specified in subsection 1 for waste brought to a state-owned facility if the waste is generated:

- (a) By an agency of this State; or
- (b) In compliance with an order issued by the Division to clean up a spill or deposit.

5. As used in this section:

(a) “Owner or operator of a facility for the management of hazardous waste” means a person who:

(1) Qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G ~~H~~, *as adopted by reference in NAC 444.8632*; or

(2) Has been issued a permit pursuant to 40 C.F.R. Part 124, Subparts A, ~~and~~ B ~~H~~ *and G*, and Part 270, Subparts A to F, inclusive ~~H~~, *H, I and J, as adopted by reference in NAC 444.8632*.

(b) “Unit” means a unit for the management of hazardous waste that is:

(1) Operated by a facility for the management of hazardous waste; and

(2) Subject to the permitting requirements of 40 C.F.R. Part 270 ~~H~~, *as adopted by reference in NAC 444.8632*.

Sec. 10. NAC 444.8455 is hereby amended to read as follows:

444.8455 1. Except as otherwise provided in subsection 4, a person who proposes to construct or operate a facility for the recycling of hazardous waste must obtain a written determination from the Administrator that the facility will operate as a facility for the recycling of hazardous waste before commencing the construction or operation of the facility. If the facility will recycle hazardous waste other than used antifreeze governed by NAC 444.8801 to 444.9071, inclusive, or precious metals governed by 40 C.F.R. Part 266, *as adopted by reference in NAC 444.8632*, the Administrator must approve an operating plan for the facility before construction or operation of the facility commences. Such an operating plan must, without

limitation, include a description of the procedures that will ensure safe operation and demonstrate compliance with:

(a) The requirements for emergency preparedness and a contingency plan specified in 40 C.F.R. Part 264, Subparts C and D ~~H~~, *as adopted by reference in NAC 444.8632*;

(b) The standards for containers and tanks specified in 40 C.F.R. Part 264, Subparts I, J, AA, BB and CC ~~H~~, *as adopted by reference in NAC 444.8632*; and

(c) The applicable requirements for closure and financial assurance for closure specified in 40 C.F.R. Part 264, Subparts G and H ~~H~~, *as adopted by reference in NAC 444.8632*.

2. Except as otherwise provided in subsection 4, a person who proposes to construct or operate a mobile unit for the recycling of hazardous waste must obtain a written determination from the Administrator that the mobile unit will operate as a mobile unit for the recycling of hazardous waste before commencing the construction or operation of the mobile unit.

3. A written determination required pursuant to subsection 1 or 2 may be requested by filing a written application with the Administrator.

4. The provisions of this section do not apply to a person who is recycling hazardous waste which he or she has generated, at a unit for the recycling of hazardous waste which is owned by the person and is located at the same site at which the hazardous waste is generated.

Sec. 11. NAC 444.84555 is hereby amended to read as follows:

444.84555 1. An application for a written determination that a proposed facility or mobile unit will operate as a facility for the recycling of hazardous waste or mobile unit for the recycling of hazardous waste must be accompanied by:

(a) The name and address of the owner and operator of the facility or mobile unit;

- (b) The name and address of the property owner of the location at which a facility is proposed to be constructed;
- (c) A detailed description of the type of recycling which is proposed, including:
 - (1) The manufacturer of the equipment to be used at the facility or mobile unit;
 - (2) The nature of the recycling; and
 - (3) An explanation evidencing that the:
 - (I) Facility is a facility for the recycling of hazardous waste; or
 - (II) Mobile unit is a mobile unit for the recycling of hazardous waste;
- (d) A description of the source and estimated amount of hazardous waste to be recycled on an average day and on a peak day;
- (e) A physical and chemical description of the type of hazardous waste to be accepted by the facility or processed by the mobile unit;
- (f) A detailed economic analysis of the recycling process to be used at the facility or by the mobile unit, including:
 - (1) The projected costs to operate the facility or mobile unit;
 - (2) The fees that would be charged per unit of volume to process waste transported to the facility or processed by the mobile unit;
 - (3) The projected value that would be recovered per unit of volume; and
 - (4) The projected costs otherwise to manage, recycle, treat or dispose of the material as a hazardous waste;
- (g) A description of the markets and the uses for the products to be produced and the materials and energy to be recovered;

(h) A comparison of the economic and environmental impact of the proposed recycling process to a process which uses material that is not considered waste when producing the same product; and

(i) An operating plan if the facility is a stationary facility and will recycle hazardous waste other than used antifreeze governed by NAC 444.8801 to 444.9071, inclusive, or precious metals governed by 40 C.F.R. Part 266 ~~†~~, *as adopted by reference in NAC 444.8632*. Such an operating plan must, without limitation, include a description of the procedures that will ensure safe operation and demonstrate compliance with:

(1) The requirements for emergency preparedness and a contingency plan specified in 40 C.F.R. Part 264, Subparts C and D ~~†~~, *as adopted by reference in NAC 444.8632*;

(2) The standards for containers and tanks specified in 40 C.F.R. Part 264, Subparts I, J, AA, BB and CC ~~†~~, *as adopted by reference in NAC 444.8632*; and

(3) The applicable requirements for closure and financial assurance for closure specified in 40 C.F.R. Part 264, Subparts G and H ~~†~~, *as adopted by reference in NAC 444.8632*.

2. The Administrator may require the applicant to submit additional information before issuing a written determination.

3. The Administrator shall not issue a written determination unless he or she determines, based upon the application, that all the following requirements are satisfied:

(a) The facility or mobile unit will be operated as a facility or mobile unit for the recycling of hazardous waste.

(b) The recycling process has economic value. A recycling process has economic value if:

(1) The applicant shows that the material recovered from or the products or energy produced as a result of the process have value in the marketplace; and

(2) The fees that the applicant charges per unit of volume to process the material are less than or equal to the cost otherwise to recycle, manage, treat or dispose of the material as a hazardous waste, except that the fees that the applicant charges per unit of volume may be offset by the recovered unit value of the material recovered from or the products or energy produced as a result of the process.

(c) The probable beneficial environmental effect of the facility or mobile unit to the State outweighs the probable adverse environmental effect.

4. Before issuing a written determination for a facility, the Administrator shall provide for a period of public notice and comment of not less than 45 days. The request for public comment must be noticed in a local newspaper of general circulation that is published daily or weekly and must be sent to all persons on a mailing list developed and maintained by the Administrator. A person may request to be placed on the mailing list by contacting the Administrator. The Administrator shall respond to all comments he or she receives during the period provided for comments before making his or her determination to issue or not to issue a written determination.

5. The Administrator may revoke, suspend or modify a written determination if, at any time, he or she determines that:

(a) A facility or mobile unit no longer satisfies the conditions stated in the application upon which the Administrator issued the written determination;

(b) An applicant misrepresented or failed to disclose fully a relevant fact on his or her application;

(c) The Administrator receives information that was not available at the time the Administrator issued the written determination which would have justified the imposition of different conditions at the time the determination was issued; or

(d) The standards or regulations on which the Administrator based the written determination have been changed.

6. A person may request a hearing before the Commission concerning a final decision of the Administrator to issue, deny, revoke, suspend or modify a written determination by filing a request, not more than 10 days after receiving notice from the Administrator of his or her decision, on Form 3 with the State Environmental Commission, Bryan State Office Building, 901 South Stewart Street, Carson City, Nevada 89701-5249. The provisions of NAC 445B.875 to 445B.899, inclusive, apply to a hearing of the Commission requested pursuant to this section.

Sec. 12. NAC 444.8456 is hereby amended to read as follows:

444.8456 1. A stationary new or expanding facility for the management of hazardous waste must not be constructed within:

(a) One mile of:

- (1) A dwelling, school, church or community center;
- (2) An area zoned solely for residential use;
- (3) A public park;
- (4) A wildlife management area;
- (5) An area identified by the Department of Wildlife as a key habitat for wildlife or as a habitat for an endangered or threatened species;
- (6) An area where surface water or wetlands occur;
- (7) A natural or artificially created geologic hazard which provides a potential for the conveyance of hazardous constituents, as that term is defined in Appendix VIII of 40 C.F.R. Part 261, *as adopted by reference in NAC 444.8632*, to surface or groundwaters; or
- (8) An existing well which supplies public drinking water;

(b) An area identified by the Office of Historic Preservation of the State Department of Conservation and Natural Resources as an historical or archeological site that is eligible for listing in the State Register of Historic Places or the National Register of Historic Places, unless an approved mitigation activity has been completed on the site;

(c) A 100-year floodplain; or

(d) An area where the water table seasonally rises to within 150 feet of the surface of the ground.

2. The provisions of this section do not apply to a facility:

(a) For community recycling;

(b) For community storage;

(c) For the storage of hazardous waste which is generated on the site of the facility; or

(d) Which qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G ~~H~~, *as adopted by reference in NAC 444.8632.*

Sec. 13. NAC 444.8458 is hereby amended to read as follows:

444.8458 1. A person who proposes to construct or operate a new or new or expanding facility for the management of hazardous waste must obtain a certificate of designation from the Administrator before the submission of an application for a permit or class 3 modification required pursuant to 40 C.F.R. Part 124, Subparts A, ~~and~~ B ~~H~~ *and G*, and Part 270, Subparts A to F, inclusive ~~H~~, *H, I and J, as adopted by reference in NAC 444.8632.*

2. An application for a certificate of designation must be accompanied by sufficient information to determine the need for the facility and by information concerning:

(a) The effect of the proposed facility on the public health, safety and welfare in the geographic area and any municipality near its proposed location, including without limitation:

- (1) The risk and effect of an accident in the transportation of hazardous waste to the facility;
 - (2) The identification, risk and effect of any spill, discharge, fire, failure of equipment or other emergency that could occur at the facility;
 - (3) The identification, risk and effect of any exposure to persons of hazardous waste, or products of the degradation of hazardous waste, that could occur during the operation or after the closure of the facility;
 - (4) The consistency of the facility with local and regional plans and regulations for the use of land;
 - (5) The protection of the public from adverse effects, including the economic and environmental effects from the construction and operation, and care after closure, of the facility;
 - (6) The risk and effect of the facility concerning public and private sources of drinking water; and
 - (7) The risk and effect of the facility concerning scenic, historic and recreational areas, and wetlands, floodplains, wildlife areas and other areas that are environmentally sensitive;
- (b) The density of population in the proximity of the proposed location for the facility;
 - (c) The public benefits of the proposed facility, including:
 - (1) The need in the State for the additional capacity for the management of hazardous waste;
 - (2) The energy and resources recoverable by the proposed facility; and
 - (3) The reduction in methods for the management of hazardous waste, which are less suitable for the environment, that would be made possible by the proposed facility;

(d) Whether any other available site or method for the management of hazardous waste would be less detrimental to the public health or safety or to the quality of the environment;

(e) The applicant's qualifications and experience in the management of hazardous waste;

(f) Whether the proposed facility complies with the provisions of NAC 444.8456; and

(g) The characteristics, sources and quantity of hazardous waste to be managed.

3. The Administrator shall not issue a certificate of designation unless he or she determines, based upon the application, that:

(a) The probable beneficial environmental effect of the facility to the State outweighs the probable adverse environmental effect; and

(b) There is a need for the facility to serve industry in the State. The Administrator shall set forth in writing the basis of his or her determination of need for the facility.

4. The provisions of this section do not apply to a facility:

(a) For community recycling;

(b) For community storage;

(c) For the storage of hazardous waste which is generated on the site of the facility; or

(d) Which qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G ~~H~~, *as adopted by reference in NAC 444.8632.*

Sec. 14. 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 ~~that section existed on July 1, 2008;~~ *adopted by reference in NAC 444.8632*, have the meanings ascribed to them in that section.

Sec. 15. NAC 444.8565 is hereby amended to read as follows:

444.8565 1. “Hazardous waste” has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261 ~~§~~, *as adopted by reference in NAC 444.8632*; and

(b) Waste brought into this State which is designated as hazardous waste in the state of its origin.

↪ The term does not include waste containing polychlorinated biphenyl, unless it is mixed with hazardous waste.

Sec. 16. NAC 444.8618 is hereby amended to read as follows:

444.8618 A generator, transporter or facility owner or operator who is required to obtain an EPA identification number pursuant to 40 C.F.R. § 262.12, 263.11, 264.1(j)(1), 264.11 or 265.11, *as adopted by reference in NAC 444.8632*, may obtain information relating to the procedure to obtain the identification number and an application by submitting a request in writing to the Division of Environmental Protection, Bryan State Office Building, 901 South Stewart Street, Carson City, Nevada 89701-5249, or by telephone at (775) 687-9481.

Sec. 17. 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, 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~~ **H and G**, Parts 260 to 270, inclusive, Part 273 and Part 279, as those provisions existed on July 1, 2008, which, except as otherwise modified by NAC 444.86325, 444.8633 and 444.8634, are hereby adopted by reference. The 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~~ **H and G**, Parts 260 to 270, inclusive, Part 273 and Part 279 to interpret those sections and parts.

2. The volumes containing those parts may be obtained by mail from the Superintendent of Documents, U.S. Government ~~Printing~~ **Publishing** Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, for the following prices:

- (a) Volume 40 C.F.R. Parts 1 to 49, inclusive ~~150~~ **56**
- (b) Volume 40 C.F.R. Parts 100 to 135, inclusive ~~48~~ **51**
- (c) Volume 40 C.F.R. Parts 260 to 265, inclusive ~~53~~ **56**
- (d) Volume 40 C.F.R. Parts 266 to 299, inclusive ~~50~~ **56**

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

444.86325 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) ***Section 267.150;***

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

~~(j)~~ (j) Sections 270.1(c)(1)(i), 270.60(b) and 270.64;

~~(k)~~ (k) Part 278; and

~~(l)~~ (l) 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 260.11(a) is adopted except that “and 278” is deleted.

(d) Section 260.11(c)(3)(vii) is adopted except that “and § 278.3(b)(1)” is deleted.

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

(f) 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.

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

(h) 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.

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

(j) 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.

(k) 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 ~~and~~ *and replaced with “If the facilities covered by the mechanism are in this State and another state, identical evidence of financial assurance must be submitted to and maintained with the Division and the agency regulating hazardous waste in the other state or, if the other state has not been approved or authorized by the EPA under 40 C.F.R. Part 271, the EPA Regional Administrator.”*

(l) 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.

(m) Section 264.151 is adopted with the following exceptions:

(1) ~~Remove all references to “(of/for) the Regions in which the facilities are located”; and~~ *Replace any requirement that an owner or operator notify the EPA Regional Administrator of the financial obligations of the owner or operator with a requirement that the owner or operator notify the Director, the agency regulating hazardous waste in a state that has been approved or authorized by the EPA under 40 C.F.R. Part 271 and all EPA Regional Administrators of Regions affected by the financial assurance mechanism of the owner or operator;*

(2) *Require that all orders, requests, instructions and notices to the Trustee regarding a financial assurance mechanism for a facility in this State be in writing and signed by the Director; and*

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

(n) Part 270 is adopted ~~except that~~ *with the following exceptions:*

(1) *Delete* all references to “interim authorization” ~~are deleted.~~; *and*

(2) *Delete “or 267.150” in § 270.290(r).*

(o) 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.

Sec. 19. NAC 444.8633 is hereby amended to read as follows:

444.8633 Except as otherwise provided in NAC 444.8634:

1. Any references in any part of Title 40 of the Code of Federal Regulations to the U.S. Environmental Protection Agency, “United States Environmental Protection Agency,” “Agency,” “EPA Headquarters,” “EPA Region(s)” or “EPA” which have been adopted by reference *in NAC 444.8632* shall be deemed to mean the “Department” with the following exceptions:

- (a) Any reference to “EPA” identification numbers;
- (b) Any reference to “EPA” hazardous waste numbers;
- (c) Any reference to “EPA” test methods;
- (d) Any reference to “EPA” forms;
- (e) Any reference to “EPA” publications or manuals;
- (f) Any reference to “EPA” guidance;
- (g) Any reference to “EPA” Acknowledgment of Consent;
- (h) Any reference to “EPA” or “Agency” in:
 - (1) Sections 124.1(f), 124.2(b), 124.6(e) and 124.10(c)(1)(ii);

(2) The provisions of section 124.2(a) defining “Administrator,” “Director,” “EPA,” “permit,” “person” and “Regional Administrator”;

(3) The provisions of section 260.10 defining “Administrator,” “EPA Region,” “federal agency,” “person” and “Regional Administrator”;

(4) Part 260, Appendix I;

(5) Section 261.39(a)(5) and Part 261, Appendix IX;

(6) Section 262.32(b), Part 262, Subparts E and F, and the Appendix to Part 262;

(7) The Note following section 263.10(a);

(8) Sections 264.11, 264.71, 265.11 and 265.71;

(9) Section 268.1(e)(3);

(10) Sections 270.1(a)(1), 270.1(b), 270.3, 270.5, 270.10(e)(1)-(2), 270.11(a)(3), 270.32(a), 270.32(c), 270.51, 270.72(a)(5) and 270.72(b)(5); and

(11) The provisions of section 270.2 defining “Administrator,” “approved program or approved State,” “Director,” “Environmental Protection Agency,” “EPA,” “final authorization,” “permit,” “person,” “Regional Administrator” and “state/EPA agreement”; and

(i) Any reference to “EPA,” “Agency” or “EPA Director of the Office of Solid Waste” in section 262.21 and any subsequent reference to EPA’s oversight of the manifest registry process in Part 262, Subparts C and E.

2. Any references in any part of Title 40 of the Code of Federal Regulations to the “Regional Administrator” or “Administrator” which have been adopted by reference shall be deemed to mean the “Director” with the following exceptions:

(a) The provisions of section 124.2(a) defining “Administrator,” “Director,” “interstate agency,” “major facility” and “Regional Administrator”;

- (b) Sections 124.2(b), 124.5(d), 124.6(e) and 124.10(b);
- (c) The provisions of section 260.10 defining “Administrator,” “Regional Administrator” and “hazardous waste constituent”;
- (d) Section 261.30(b), Section 261.4 and Part 261, Appendix IX;
- (e) Section 262.12, Part 262, Subpart E and the Appendix to Part 262;
- (f) Sections 263.11 and 264.1(j)(1);
- (g) Sections 264.12(a) and 265.12(a);
- (h) The provisions of section 270.2 defining “Administrator,” “Director,” “major facility,” “Regional Administrator” and “state/EPA agreement”; and
- (i) Sections 270.3, 270.5, 270.10(e)(1)-(2), 270.10(e)(4), 270.10(f)-(g), 270.11(a)(3), 270.14(b)(20), 270.32(b)(2) and 270.51.

3. Any references in any part of Title 40 of the Code of Federal Regulations to the Resource Conservation and Recovery Act, “RCRA,” “Subtitle C of RCRA,” “RCRA Subtitle C” or “Subtitle C” which have been adopted by reference *in NAC 444.8632* shall be deemed to mean “NRS 459.400 to 459.600, inclusive,” when referring to an operating permit or to the federal hazardous waste program, with the following exceptions:

- (a) Any references to a specific provision of the Resource Conservation and Recovery Act, “RCRA,” “Subtitle C of RCRA,” “RCRA Subtitle C” or “Subtitle C”;
- (b) The provisions of section 124.2 defining “appropriate act and regulations” and “RCRA”;
- (c) The provisions of section 260.10 defining “Act or RCRA”;
- (d) Part 260, Appendix I;
- (e) Part 261, Appendix IX;
- (f) The Appendix to Part 262;

(g) Section 270.1(a)(2); and

(h) The provisions of section 270.2 defining “RCRA” and the provision of section 270.51 defining “RCRA permit.”

4. Following any references in any part of Title 40 of the Code of Federal Regulations to a specific provision of the Resource Conservation and Recovery Act, “RCRA,” “Subtitle C of RCRA,” “RCRA Subtitle C” or “Subtitle C,” which have been adopted by reference [H in NAC 444.8632](#), the phrase “or any comparable provisions of NRS 459.400 to 459.600, inclusive, and any regulations adopted pursuant thereto” shall be deemed to be added with the following exceptions:

(a) Section 270.1(a)(2);

(b) Section 270.72(a)(5); and

(c) Section 270.72(b)(5).

5. Any references in any part of Title 40 of the Code of Federal Regulations to the “Department of Transportation” or “DOT” which have been adopted by reference [in NAC 444.8632](#) shall be deemed to mean “the Department of Transportation of the United States.”

6. Any references in any part of Title 40 of the Code of Federal Regulations to “state(s),” “authorized state,” “approved state” or “approved program” which have been adopted by reference [in NAC 444.8632](#) shall be deemed to mean “Nevada” with the following exceptions:

(a) The provisions of section 124.2(a) defining “Director,” “interstate agency,” “person” and “state”;

(b) The provisions of section 260.10 defining “person,” “state” and “United States”;

(c) Part 262;

(d) Sections 264.143(e)(1), 264.145(e)(1), 264.147(a)(1)(ii), 264.147(b)(1)(ii), 264.147(g)(2) and 264.147(i)(4);

(e) Sections 265.143(d)(1), 265.145(d)(1), 265.147(a)(1)(ii), 265.147(g)(2) and 265.147(i)(4); and

(f) The provisions of section 270.2 defining “approved program or approved State,” “Director,” “final authorization,” “person” and “state.”

Sec. 20. NAC 444.8634 is hereby amended to read as follows:

444.8634 1. Any reference to the following terms in 40 C.F.R. Part 2, Subpart A, *as adopted by reference in NAC 444.8632*, shall be deemed to have the meanings ascribed thereto in this section:

(a) “District court of the United States” or “Federal district court” shall be deemed to mean “district court in Nevada”;

(b) “Federal agency” shall be deemed to mean “state agency”;

(c) Except in section 2.105(a), Freedom of Information Act, “FOIA,” the “Act” or “5 U.S.C. 552” shall be deemed to mean “NRS 459.555 and any regulations adopted pursuant thereto”;

(d) “Freedom of information officer” shall be deemed to mean the “Administrator of the Division or his or her designee”;

(e) “General counsel” shall be deemed to mean the “Attorney General of Nevada”;

(f) Any addresses shall be deemed to mean the “Division of Environmental Protection, Bryan State Office Building, 901 South Stewart Street, Carson City, Nevada 89701-5249”;

(g) Any references to the employment rankings of “GS-8” or “GS-9” shall be deemed to mean, respectively, “grade 31” and “grade 32” of the Nevada Personnel System established

pursuant to NRS 284.170, and any reference to a fee for the cost of staff time shall be deemed to mean, respectively, \$15 and \$22.50 per half hour;

(h) Any references to duplication or reproduction charges of “\$0.15 per page” shall be deemed to mean “10 cents per page”; and

(i) Any reference to an officer except the general counsel shall be deemed to mean the “Administrator of the Division.”

2. Any reference to the “Administrator” in 40 C.F.R. § 262.12, 263.11 or 264.1(j)(1) shall be deemed to include the “Director.”

3. Any reference to the “EPA” in 40 C.F.R. § 264.11 or 265.11 shall be deemed to include the “Director.”

4. Fees required to be paid to the “U.S. Environmental Protection Agency” or the “United States Environmental Protection Agency” pursuant to ~~section 2.107 of~~ 40 C.F.R. § 2.107 must be paid to the “State of Nevada” and deposited in the Account for the Management of Hazardous Waste.

Sec. 21. NAC 444.8655 is hereby amended to read as follows:

444.8655 1. Except as otherwise provided in 40 C.F.R. Part 262, Subpart B, *as adopted by reference in NAC 444.8632*, the generator shall include in the manifest the hazardous waste number assigned by the United States Environmental Protection Agency, if appropriate.

2. The manifest must consist of at least the number of copies which will provide:

(a) The Division with one copy;

(b) The generator, each transporter and the operator of the designated facility, one copy each;

and

(c) Another copy to be returned to the generator upon completion of the shipment.

3. For shipments of waste out of the State, the generator shall, in addition to complying with the requirements for distribution set forth in 40 C.F.R. § 262.23, *as adopted by reference in NAC 444.8632*, send one copy of the generator's returned copy from the out-of-state facility to the Division within 30 days after his or her receipt of that copy.

4. The generator shall acquire his or her manifest as specified in 40 C.F.R. ~~Part~~ § 262.21 , *as adopted by reference in NAC 444.8632*, or in the case of international shipment as specified in 40 C.F.R. Part 262, Subpart E ~~H~~, *as adopted by reference in NAC 444.8632*.

Sec. 22. NAC 444.8666 is hereby amended to read as follows:

444.8666 If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his or her agent, shall:

1. Comply with the requirements for manifests set forth in 40 C.F.R. Part 264, Subpart E or 40 C.F.R. Part 265, Subpart E ~~H~~, *as adopted by reference in NAC 444.8632*; and

2. Within 30 days after the delivery, send a copy of the manifest or shipping paper, for shipments transported by railroad, to the Division.

Sec. 23. NAC 444.8671 is hereby amended to read as follows:

444.8671 A generator who accumulates or stores hazardous waste on-site shall, in addition to complying with the requirements for labeling set forth in 40 C.F.R. Part 262, *as adopted by reference in NAC 444.8632*, include on the label of each container of hazardous waste, excluding those containers described in 40 C.F.R. § 262.34(c), *as adopted by reference in NAC 444.8632*, the hazardous waste number assigned by the United States Environmental Protection Agency.

Sec. 24. NAC 444.8677 is hereby amended to read as follows:

444.8677 A generator who generates more than 100 kilograms of hazardous waste in a calendar month and accumulates hazardous waste on-site shall, in addition to complying with the requirements for accumulation set forth in 40 C.F.R. § 262.34, *as adopted by reference in NAC 444.8632*, maintain a written record of inspections conducted of containers and tanks. Those records must be kept on-site for not less than 3 years and must include:

1. The date and time of an inspection;
2. The name of the inspector;
3. A notation of the inspector's observations; and
4. The date and nature of any repairs made or other remedial action taken.

Sec. 25. NAC 444.8681 is hereby amended to read as follows:

444.8681 1. The mixing of used oil with hazardous wastes is prohibited except for the following:

(a) Mixtures of used oil and a hazardous waste which is hazardous solely because it exhibits the characteristic of ignitability specified in 40 C.F.R. § 261.21 , *as adopted by reference in NAC 444.8632*, and is not listed in Subpart D of 40 C.F.R. Part 261, *as adopted by reference in NAC 444.8632*, by a conditionally exempt small quantity generator who generates and mixes less than 5 gallons of such waste per calendar month with its used oil, if the resulting mixture does not exhibit the characteristic of ignitability specified in 40 C.F.R. § 261.21.

(b) Mixtures of used oil and waste gasoline, if the resulting mixture does not exhibit any of the characteristics of hazardous waste specified in Subpart C of 40 C.F.R. Part 261 ~~H~~, *as adopted by reference in NAC 444.8632*.

(c) Mixtures of used oil and waste diesel fuel. If such mixtures will be used for mining activities relating to extraction, express written approval must be granted by the Division before such use.

2. The mixing of used oil with products is prohibited except for the following:

(a) Mixtures of used oil and diesel fuel. If such mixtures will be used for mining activities relating to extraction, express written approval must be granted by the Division before such use.

(b) Mixtures of used oil and other fuels if such mixture will be used for the recovery of energy pursuant to 40 C.F.R. Part 279 ~~§~~, *as adopted by reference in NAC 444.8632*.

(c) Mixtures of used oil and sorbent materials when used only to manage isolated leaks and spills. Such mixtures must not contain any free liquid.

3. Conditionally exempt small quantity generators who mix hazardous waste with used oil pursuant to paragraph (a) of subsection 1 shall maintain records of the mixing for a minimum of 3 years. The records must include the quantity and description of the hazardous waste mixed with the used oil, the amount of used oil to which the waste was added and the date the mixing took place. In addition, such conditionally exempt small quantity generators shall, for not less than 3 years, maintain records on-site of all purchases of solvents that upon disposal would exhibit the characteristic of ignitability specified in 40 C.F.R. § 261.21 ~~§~~, *as adopted by reference in NAC 444.8632*. The records maintained pursuant to this subsection must be readily available for review.

Sec. 26. NAC 444.8682 is hereby amended to read as follows:

444.8682 1. Mixtures of used oil with hazardous wastes that are exempted pursuant to subsection 1 of NAC 444.8681 that are being recycled or burned for the recovery of energy must be managed in accordance with the requirements of 40 C.F.R. Part 279 ~~§~~, *as adopted by*

reference in NAC 444.8632. If such mixtures are to be disposed of, they must be managed in accordance with the requirements of 40 C.F.R. Part 262 ~~H~~, *as adopted by reference in NAC 444.8632.*

2. Mixtures of used oil and hazardous wastes that are not exempted pursuant to subsection 1 of NAC 444.8681 must be managed as a hazardous waste in accordance with the requirements of Subtitle C of the Resource Conservation and Recovery Act and NAC 444.850 to 444.8746, inclusive.

3. Except as otherwise provided in subsection 4, mixtures of used oil and products that are exempted pursuant to subsection 2 of NAC 444.8681 that are being reused or burned for the recovery of energy must be managed in accordance with the requirements of 40 C.F.R. Part 279 ~~H~~, *as adopted by reference in NAC 444.8632.*

4. Mixtures of used oil and sorbent materials that are exempted pursuant to paragraph (c) of subsection 2 of NAC 444.8681 may be managed in accordance with the requirements of NAC 444.570 to 444.7499, inclusive.

5. Mixtures of used oil and products that are not exempted pursuant to subsection 2 of NAC 444.8681 must be managed as a hazardous waste in accordance with the requirements of Subtitle C of the Resource Conservation and Recovery Act and NAC 444.850 to 444.8746, inclusive, until a determination has been made pursuant to NAC 444.8683 that the waste is not hazardous.

Sec. 27. NAC 444.8683 is hereby amended to read as follows:

444.8683 Mixtures of used oil with wastes that are determined not to be hazardous are subject to regulation as used oil pursuant to 40 C.F.R. Part 279 ~~H~~, *as adopted by reference in NAC 444.8632.* Documentation of the determination that the waste was not hazardous must be

maintained on-site and available for inspection while the waste is being generated and for a minimum of 3 years.

Sec. 28. NAC 444.8686 is hereby amended to read as follows:

444.8686 An operator shall not openly burn hazardous waste except for the open burning and detonation of waste explosives. For the purposes of this section, waste explosives include waste which has the potential to detonate and any bulk military propellants which cannot safely be disposed of through other treatment. For the purposes of this section, detonation is an explosion in which chemical transformation passes through the material faster than the speed of sound. An operator who openly burns hazardous waste or detonates waste explosives shall do so in accordance with 40 C.F.R. Part 264, Subpart X, *as adopted by reference in NAC 444.8632*, and the following table and in a manner that does not threaten human health or the environment.

Pounds of Waste Explosives or Propellants	Minimum Distance From Open Burning or Detonation to the Property of Others
0 to 100	204 meters
101 to 1,000	380 meters
1,001 to 10,000	530 meters
10,001 to 30,000	690 meters

Sec. 29. NAC 444.8688 is hereby amended to read as follows:

444.8688 1. A person shall not transfer hazardous waste from a transport vehicle directly to a boiler or industrial furnace without the use of a storage unit.

2. An owner or operator of a boiler or industrial furnace may transfer hazardous waste from a transport vehicle to the boiler or furnace using a storage unit if he or she first obtains a permit for the storage of hazardous waste in the manner prescribed by 40 C.F.R. Part 270, as ~~that Part existed on July 1, 2008.~~ *adopted by reference in NAC 444.8632.*

Sec. 30. NAC 444.8841 is hereby amended to read as follows:

444.8841 1. "Hazardous waste" has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261 ~~§~~, *as adopted by reference in NAC 444.8632;* and

(b) Waste brought into this State which is designated as hazardous waste in the state of its origin.

3. The term does not include waste containing polychlorinated biphenyl, unless it is mixed with hazardous waste.

Sec. 31. NAC 444.8871 is hereby amended to read as follows:

444.8871 1. The provisions of NAC 444.8801 to 444.9071, inclusive, apply to used antifreeze that is recycled and is determined to be a hazardous waste because:

(a) It exhibits a characteristic of hazardous waste which is identified in 40 C.F.R. Part 261, Subpart C, as ~~that Part existed on July 1, 2008.~~ *adopted by reference in NAC 444.8632;* or

(b) It was designated as a hazardous waste in the state of its origin.

2. The provisions of NAC 444.8801 to 444.9071, inclusive, do not apply to used antifreeze which will be disposed of and not recycled, or to mixtures of used antifreeze and hazardous

waste. The used antifreeze described in this subsection is governed by the provisions of NAC 444.850 to 444.8746, inclusive.

Sec. 32. NAC 444.8881 is hereby amended to read as follows:

444.8881 1. Each storage tank that is underground which stores used antifreeze must comply with the requirements of 40 C.F.R. Part 265, Subpart J, as ~~that Subpart existed on July 1, 2008.~~ *adopted by reference in NAC 444.8632.*

2. Each pipe that transfers used antifreeze to storage tanks that are underground must be clearly marked with the words “Used Antifreeze.”

Sec. 33. NAC 444.8926 is hereby amended to read as follows:

444.8926 1. A generator of used antifreeze may recycle his or her used antifreeze for the generator’s own use if the recycling:

(a) Is performed by the generator at a site which is located where the used antifreeze was generated; or

(b) Is performed pursuant to a written contract by a mobile unit for the recycling of used antifreeze which is located where the used antifreeze was generated.

2. Used antifreeze which is recycled pursuant to this section will not be calculated in the determination of the status of the generator of used antifreeze as a generator of hazardous waste pursuant to 40 C.F.R. Part 262, as ~~that Part existed on July 1, 2008.~~ *adopted by reference in NAC 444.8632.*

3. A person who performs recycling pursuant to this section shall manage any waste which is generated during the recycling process pursuant to the provisions of NAC 444.850 to 444.8746, inclusive.

4. A generator who recycles his or her used antifreeze pursuant to paragraph (a) of subsection 1 is not required to obtain a written determination pursuant to NAC 444.8455 and 444.84555.

Sec. 34. NAC 444.8931 is hereby amended to read as follows:

444.8931 1. Except as otherwise provided in this section, a generator of used antifreeze shall ensure that his or her used antifreeze is transported by persons who hold an identification number.

2. A generator may transport, without an identification number, used antifreeze generated at a site which is owned by the generator or collected from a person who generated the used antifreeze from his or her household if:

(a) The used antifreeze is transported in a motor vehicle which is owned by the generator or an employee of the generator;

(b) Not more than 350 gallons of used antifreeze is transported at one time; and

(c) The used antifreeze is transported to a point for aggregation or a center for the collection of used antifreeze which is registered pursuant to NAC 444.8921.

3. Used antifreeze which is transported pursuant to this section will not be calculated in the determination of the status of the generator of used antifreeze as a generator of hazardous waste pursuant to 40 C.F.R. Part 262, as ~~that Part existed on July 1, 2008,~~ *adopted by reference in NAC 444.8632*, if he or she maintains records which describe the disposition of the used antifreeze. The records must be maintained for at least 3 years and be made available, upon request, for inspection by a representative of the Division or the Commission. The records may be in the form of a log, copies of contractual agreements, invoices, bills of lading or other

documents relating to shipping which show each shipment of used antifreeze that is transported for recycling. The records must include:

- (a) The name and address of the generator;
- (b) The identification number of the generator, if he or she has an identification number;
- (c) The name and address of the center for the collection of used antifreeze or the facility for the recycling of used antifreeze with whom the generator has contracted to recycle the used antifreeze;
- (d) The identification number of the center or facility, if it has an identification number;
- (e) The amount of used antifreeze that is transported for recycling; and
- (f) The signature and date of acceptance of the representative of the center or facility.

Sec. 35. NAC 444.8941 is hereby amended to read as follows:

444.8941 If a transporter of used antifreeze transports used antifreeze in a truck which was used to transport hazardous waste, he or she shall manage the used antifreeze as a hazardous waste pursuant to the provisions of NAC 444.850 to 444.8746, inclusive, unless the transporter removes the hazardous waste from the truck in accordance with 40 C.F.R. § 261.7, as ~~that section existed on July 1, 2008,~~ *adopted by reference in NAC 444.8632*, before transporting the used antifreeze.

Sec. 36. NAC 444.9006 is hereby amended to read as follows:

444.9006 1. Except as otherwise provided in subsection 2, if a storage tank that is above the ground is no longer used at a facility for the recycling of used antifreeze, the owner or operator of the facility shall ensure that the used antifreeze, including its residue, is decontaminated or removed from the storage tank, system for containment, soil and other structures or equipment which are contaminated with used antifreeze. The owner or operator

shall manage the used antifreeze as a hazardous waste unless it does not exhibit a characteristic of hazardous waste identified in 40 C.F.R. Part 261, as ~~{that Part existed on July 1, 2008.}~~ *adopted by reference in NAC 444.8632.*

2. If the owner or operator demonstrates to the satisfaction of the Division that the used antifreeze cannot be removed or decontaminated as required by subsection 1, he or she must follow the procedures for closure and postclosure set forth in 40 C.F.R. § 265.310, as ~~{that section existed on July 1, 2008.}~~ *adopted by reference in NAC 444.8632.*

Sec. 37. NAC 444.9011 is hereby amended to read as follows:

444.9011 If a facility for the recycling of used antifreeze is closed, the owner or operator of the facility shall ensure that containers which are used to store used antifreeze, including its residue, are removed from the facility and that systems for containment, soil and other structures or equipment which are contaminated with used antifreeze are decontaminated or removed. Material that is removed must be managed as a hazardous waste unless it does not exhibit a characteristic of hazardous waste which is identified in 40 C.F.R. Part 261, as ~~{that Part existed on July 1, 2008.}~~ *adopted by reference in NAC 444.8632.*

Permanent Regulation – Informational Statement

A Regulation Relating to Air Quality

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission (SEC)
LCB File No: R091-16

Regulation R091-16:

Nevada Revised Statutes (NRS) 459.485 and 459.490 establish the authority of the State Environmental Commission (SEC) to adopt regulations regarding hazardous waste management, including the plan for management of hazardous waste in the entire State.

SPECIFIC CHANGES:

The regulatory amendments are in response to a comprehensive regulation review by the USEPA. They will correct and clarify existing state hazardous waste regulations and make them more consistent with the federal regulations. Changes include the deletion of a reference to an obsolete federal regulation, the addition of an inadvertently omitted federal subpart and the clarification of wording for hazardous waste financial assurance documents. These minor changes to existing state regulations provide fuller equivalence with current federal hazardous waste regulations.

In addition, there is a State-initiated replacement of a specific adoption by reference date, currently July 1, 2008, with a general reference to NAC 444.8632. This will simplify future adoption by reference efforts.

1. Need for Regulation:

In order to remain consistent with federal hazardous waste regulations and authorized to enforce them in lieu of the USEPA, Nevada is required to periodically update its State Hazardous Waste regulations to be consistent with federal regulations. In 2007, 2008 and 2009, the SEC adopted State regulations to reflect the current federal regulations through July 1, 2008. Following each SEC adoption, the NDEP submitted an amended program authorization application to USEPA reflecting the regulatory changes.

In 2015, USEPA examined the three State program revision applications, in conjunction with conducting a comprehensive review of the Nevada Hazardous Waste program regulations. As a result, the NDEP agreed to address specific federal regulations and, in addition, is proposing amendments that streamline the “Adoption by Reference” process.

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

On September 21, 2016, NDEP conducted a public workshop on proposed regulation R091-16. The workshop was held in Carson City and teleconferenced in Las Vegas. The meeting location in Carson City was at the Bryan Building located at 901 S. Stewart Street (Great Basin Conference Room) and teleconferenced to the NDEP office, located at 2030 East Flamingo Road, Suite 230.

Twenty (20) members of the public attended the workshop.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at: http://www.sec.nv.gov/main/hearing_1016.htm .

Following the workshop, the SEC held a formal regulatory hearing on October 12, 2016 at the Bryan Building Tahoe Conference room located at 901 South Carson Street, Carson City. A public notice for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in Las Vegas, at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R091-16 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://www.sec.nv.gov/main/hearing_1016.htm .

3. The number of persons who attended the SEC Regulatory Hearing:

- (a) Attended October 12, 2016 hearing: 18 (approximately)
- (b) Testified on this Petition at the hearing: 0
- (c) Submitted to the agency written comments: 0

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

Comments were solicited from affected businesses through e-mail, a public workshop and at the October 12, 2016 SEC hearing as noted in number 2 above.

5. 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 regulation was adopted without change because the public was satisfied with the proposed amendments.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry. The corrections and clarifications to existing regulations are not anticipated to have a significant economic impact on Nevada businesses. If any impact occurs, it is expected to be a positive impact, as correcting and clarifying the regulations may simplify compliance.

Public. The proposed regulation will have no economic impact on the public.

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

Enforcing Agency. The proposed amendments will have no economic effect on the agency.

8. 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 amendments adopt federal USEPA regulations in order to allow the NDEP to implement them in Nevada.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulation is no more stringent than what is established by federal law.

10. 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.

The regulation does not address new fees.