

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
Workshop to Solicit Comments on Proposed Amendments to
NAC 444.665 through NAC 444.9071

Wednesday, November 13, 2019
10:00 a.m.

Great Basin Conference Room
4th Floor
901 S. Stewart Street
Carson City, NV

Video Conference to
NDEP Red Rock Conference Room
2030 E. Flamingo Road, Ste. 230
Las Vegas, NV

MEETING NOTES

ATTENDEES:

NDEP Staff

Carson City:

Jeffrey Kinder, Deputy Administrator
Daren Winkelman, Bureau Chief of Sustainable Materials Management (BSMM)
Skylar Jones, Program Development Coordinator for BSMM
Annalyn Settlemeyer, Compliance and Enforcement Supervisor for BSMM (Carson City)
Christopher Locken, NDEP
Sarah Nutsch, NDEP
Edie Robertson, NDEP
Maureen Godbout, NDEP
Mike Leigh (via phone conference), NDEP
Paul Eckert (via phone conference), NDEP

Las Vegas:

Mike Richardson, Compliance and Enforcement Supervisor for BSMM (Las Vegas)
Kathryn Dotchin, NDEP

Public

Carson City:

Rick Duran, VDM Metals
Keshab Simkhada, Nevada Gold Mines
Ryan Galligan, Nevada Gold Mines
Lindsay Sewell, Elko Mining Group
Branden Rising, Nevada Gold Mines
Chad Stevens, UNR – EH&S
Gina Martin, TMWA

Kelli Burgess, TMWA
Alberto Ramirez, Teichert Materials
Brad Deroche, US Ordonance
Jessie Barto, Marigold Mining Co.
Jay Vance, 21st Century
Steven Slater, Universal Service Recycling Nevada LLC

Las Vegas:

Tracy Kurtz, Compliance Alliance
Brian Nathan, SNHD
Cynthia Lang, AECOM
Marlon Cartin, Asset Laboratories
John Dyer, US Ecology
Denie Rasmussen, NV Energy
Mirna Aguirre, Wastebin Trans
Frank Rojas, SA Recycling
Troy Belka, MSTs
Joe Leedy, Clark County
Alexes Foglesong, Logistical Solutions
Sid Stafford, LS
Rick Bergstand, Nellis AFB
Luke Stewart, PABCO Gypsum
Rob Tidwell, Republic Services
Asa Marie Davis, Luxor Hall
Erik Anderson, SNHD
Roland Fornoff, Sunrise Hospital
Rene Robles, Nellis AFB

CALL TO ORDER

Daren Winkelman of Nevada Division of Environmental Protection (NDEP) opened the meeting at 10:05 a.m. with an explanation of the purpose of the meeting and the process of state regulation adoption for the Nevada hazardous waste program.

PUBLIC COMMENT

There were no public comments.

PRESENTATION OF PROPOSED REGULATION R084-19 (Discussion)

Skylar Jones of NDEP presented the proposed regulations for adoption for the State of Nevada hazardous waste program. The rules included in the adoption are:

- Expansion on provisions for the imports and exports of hazardous waste
- Revisions to the Land Disposal Treatment Standards of carbamate wastes
- Removal of Saccharin and its salts from the list of hazardous wastes
- Conditional exclusions for solvent contaminated wipes
- Establishment of the electronic manifest system and fee structure
- Required provisions of the Definition of Solid Waste rules
- The Generator Improvements Rule

NDEP is proposing not to include the following provisions in the adoption:

- The Generator Controlled Exclusion (Definition of Solid Waste Rule)
- The Transfer-based Exclusion (Definition of Solid Waste Rule)
- The Remanufacturing Exclusion (Definition of Solid Waste Rule)
- Part 262 Subpart K: Academic Laboratory Generator Standards
- The Conditional Exclusion for Carbon Dioxide Streams in Geologic Sequestration
- The Disposal of Coal Combustion Residuals from Electric Utilities Rule
- Any rules finalized after July 1, 2018

NDEP is also proposing to make changes to the existing state regulations to maintain consistency with changes made to federal regulations:

- Part 262 Subparts E and F have been consolidated and replaced with Part 262 Subpart H (Transboundary Movements of Hazardous Waste for Recovery or Disposal)
- Removing requirements to send copies of manifests to the State: NAC 444.8655(2)(a) and NAC 444.8666
- Adding a definition for the word “written” to include the recognition of electronic documents (i.e. written record of inspection)
- Updating “Conditionally exempt small quantity generator” nomenclature to “Very small quantity generator” for consistency with federal regulations
- Removing the Variance provisions that give procedures for a facility to apply for a variance from certain federal hazardous waste regulations. These applications should be submitted to the EPA.

Questions and comments were taken throughout the presentation. They are summarized below.

PUBLIC COMMENT AND QUESTIONS (Discussion)

An un-named attendee asked for clarification that the imports and exports provisions that NDEP is proposing to include in the adoption apply to imports and exports into and out of the United States, not in and out of the state.

Skylar Jones responded that they apply to imports and exports in and out of the United States.

An un-named attendee asked how long the federal government allows states to post-pone adoption of new rules and if EPA would ever force us to adopt a new rule.

Daren Winkelman responded that it is unlikely the federal government would take any action for not adopting promptly. It is preferred that the state operates the program in lieu of EPA. We have recently received pressure to update our regulations in order to renew our state authorization.

Annalyn Settlemeyer of NDEP added that as long as we continue to keep our regulated community informed and stay up to date on regulation adoption going forth, their concerns should be alleviated.

An un-named attendee asked if in order to operate under the Solvent-Contaminated Wipes Exclusion, if it is required to use the word “wipes” or if it can be replaced with the word “rags”.

Skylar Jones responded that the replacement should be fine as long as it is very clear to the inspector that the label is indicating that the waste is being managed under the exclusion.

An un-named attendee asked if the facility’s profile states a different word than “wipes” or “rags” and is possibly included with another type of PPE, but has a Stericycle label with what is stated on the profile, if the labeling would be sufficient.

Annalyn Settlemeyer responded that in order to operate under the conditional exclusion, a facility needs to follow the exclusions “to the word”. The labeling needs to be universal so that it is very clear to the inspector if the facility is managing a waste under an exclusion. She suggested working closely with the facility contractor to ensure that the labeling requirements are satisfied.

An un-named attendee asked what the procedure for submitting electronic manifests to the state will be if the state is not equipped with a program to receive electronic manifests.

Skylar Jones responded that the state is proposing to remove the requirements to submit a copy of the manifest to the State. This is no longer a federal requirement, and with the transition to electronic manifests, the requirement will no longer be necessary.

An un-named attendee added an additional question on the subject, asking if the fee for submitting the electronic manifests goes to the federal government.

Skylar Jones responded that yes, the fee goes to the EPA. The EPA has finalized and released a rule that explains the fee structure and how the fees are calculated.

Daren Winkelman added that there is possible litigation on the rule and the fee structure.

Chad Stevens of University of Nevada Reno asked if there will be any leniency for whether facilities label the waste with “Hazardous Waste” or “Chemical Waste”. He also asked if there will be a grace period for updating satellite accumulation areas to satisfy the new labeling requirements.

Annalyn Settlemeyer responded that once these new regulations are fully adopted in the state, they will become effective. Inspectors understand the transitions that facilities are going through, however her advice is to start making the necessary changes to the sites now so the requirements are satisfied when the regulations are adopted.

John Dyer of US Ecology asked if aerosol cans will be moved out of the hazardous waste category and into the universal waste or exempt category.

Skylar Jones responded, “Not at this time.”

Denie Rasmussen of NV Energy asked if the current state requirements for labeling of containers satisfy the new requirements under the Generator Improvements Rule (GIR). He provided an example: if “D001” is already on the container, does that satisfy the new requirements?

Skylar Jones responded that having the waste code would satisfy one of the requirements, however the container is now required to also have the “risks” associated with the hazardous waste on the label. For example, the word “ignitable” or using a DOT or OSHA risk marking system to satisfy the requirement.

Denie Rasmussen asked for clarification that the current state requirements do not satisfy the new requirements under the Generator Improvements Rule.

Annalyn Settlemeyer responded that in addition to the waste code and the words “hazardous waste”, inspectors are looking for some insignia that, for example, the DOT uses. First responders will not know what the waste code means, but they will understand an informational graphic to understand what the waste is.

Denie Rasmussen asked if the new requirements are a combination of DOT and EPA regulations for storing hazardous waste on site.

Annalyn Settlemeyer responded that the Generator Improvements Rule seems to focus more on satellite accumulation areas with these addition requirements.

Daren Winkelman asked for clarification that DOT insignia would satisfy the requirement.

Annalyn Settlemeyer responded “Yes”.

An un-named attendee asked if the presentation will be available online.

Skylar Jones responded that yes, the presentation currently online is not the most up-to-date presentation but will be updated by the end of the day. It is located on the Sustainable Materials Management web page and can also be emailed to anyone upon request.

Daren Winkelman asked if the Legislative Council Bureau (LCB) document will be available on the website too.

Skylar Jones responded that yes, the final draft of the regulations that have been approved by the LCB has been made available.

Lori Olsen of Clark County School District asked if the site already has a “variance”, how the site will be notified when the proposed regulations with the changes to the variance provisions are finalized.

Skylar Jones asked for clarification as to what kind of variance the site has, a variance from state regulations or from federal regulations.

Lori Olsen responded that she was not sure at that point in time.

Mike Richardson added that he will clarify with Olsen privately following the meeting.

Jesse Bartow of Marigold Mining Company asked if the removal of the requirement to send the manifest to the state applies to all out of state manifests as well and if the TSDf still needs to send the manifest.

Annalyn Settelmeyer responded that all manifests will hopefully be uploaded electronically so we can view them at any time. When a facility is being inspected, they will be reviewed at that time as well.

Daren Winkelman added that the point of the electronic manifest system is to take the burden off of the regulated facilities, so that we can view the manifests in the database when necessary. Winkelman introduced Chris Lynch of the Business Environmental Program (BEP).

Chris Lynch gave an introduction of how the program works in conjunction with NDEP. BEP is a neutral third party with a ton of resources. Lynch also stated that BEP is working on a template for the Quick Reference Guide required under the GIR.

Daren Winkelman followed with an announcement that NDEP will be using a new software for the 2019 Biennial Hazardous Waste Report and that BEP will be a great resource for that process.

Skylar Jones added that the system Nevada will be using is RCRAinfo and those required to submit the Biennial Report are encouraged to sign up for Industry User accounts as soon as possible.

Chris Lynch added that BEP is planning to hold workshops for biennial reporting in January of 2020. More details to come.

There were no further comments or questions from the public on R084-19.

ADJOURNMENT

The meeting adjourned at 10:45 a.m.