



NEVADA DIVISION OF  
**ENVIRONMENTAL  
PROTECTION**



Nevada Department of  
**CONSERVATION &  
NATURAL RESOURCES**

# Proposed Regulatory Amendment R161-24

## Presented by

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# PRESENTATION OUTLINE

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- Introduction
- R161-24P
  - ✓ *“Adopt by Reference” Hazardous Waste Regulation Updates*
  - ✓ *Adoption of Hazardous Secondary Materials (HSM) Exclusions*
- Stakeholder Engagement
  - ✓ *Proposed Changes to R161-24P*
- Workshop Summary

# INTRODUCTION

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## **Nevada is an “Adopt by Reference” State**

- EPA regulates household, industrial, and manufacturing solid and hazardous wastes under the Resource Conservation and Recovery Act (RCRA).
- RCRA's goals are to manage the hazards of waste disposal; conserve energy and natural resources by recycling and recovery; reduce or eliminate waste; and clean-up waste that which may have spilled, leaked or been improperly disposed of.
- The Hazardous Waste Program, under RCRA Subtitle C, establishes a system for controlling hazardous waste from the time it is generated until its ultimate disposal.
- The Solid Waste Program, under RCRA Subtitle D, includes plans to manage nonhazardous industrial solid waste and municipal solid waste, sets criteria for municipal solid waste landfills and other solid waste disposal facilities, and prohibits the open dumping of solid waste.

# HAZARDOUS WASTE REGULATION UPDATES

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## **Nevada's Current Hazardous Waste Regulations**

- 40 CFR Part 2, Subpart A, Part 124, Subparts A, B, and G, Parts 260 to 270, inclusive, Part 273 and Part 279, were adopted as they existed on July 1, 2018, except as otherwise modified by NAC 444.86325, 444.8633 and 444.8634.

## **Authorization of RCRA Program**

- To continue administering the RCRA program, the state of Nevada must stay up to date on the adoption of finalized federal regulations.
- The State intends to adopt the hazardous waste regulations under 40 CFR Part 2, Subpart A, Part 124, Subparts A, B, and G, Parts 260 to 270, inclusive, Part 273 and Part 279, as they existed on July 1, 2022, with some modifications.

# HAZARDOUS WASTE REGULATION UPDATES

## RULES INCLUDED IN THE PROPOSED ADOPTION:

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### **Safe Management of Recalled Airbags**

- This interim final rule facilitates a more expedited removal of defective Takata airbag inflators from vehicles by dealerships, salvage yards and other locations for safe and environmentally sound disposal by exempting the collection of airbag waste from hazardous waste requirements so long as certain conditions are met.

### **Universal Waste Regulations: Addition of Aerosol Cans**

- This final rule adds hazardous waste aerosol cans to the universal waste program.
- This change will benefit the wide variety of establishments generating and managing hazardous waste aerosol cans, including the retail sector, by providing a clear, protective system for managing discarded aerosol cans, eases regulatory burdens, promotes the collection and recycling of these cans, and encourages the development of municipal and commercial programs to reduce the quantity of these wastes going to municipal solid waste landfills or combustors.
- The state is proposing to replace “or” with “and” in section 273.13(e)(4)(vi).

# HAZARDOUS WASTE REGULATION UPDATES

## RULES INCLUDED IN THE PROPOSED ADOPTION:

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### **Modernizing Ignitable Liquids Determinations**

- This rule finalizes updates to the flash point test methods from 1978, 1979, and 1980 (required for determining if a liquid waste is an ignitable hazardous waste) to include current ASTM International standards.

### **Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes**

- This rule makes conforming changes to regulations related to twelve hazardous waste import-export recovery and disposal operations used in hazardous waste export and import notices submitted to EPA by U.S. importers and exporters, and in movement documents that accompany import and export shipments. The changes are needed to reflect regulations related to Canadian import-export recovery and disposal operations that Canada promulgated in the Canada Gazette Part II on March 17, 2021, and that become effective in Canada on October 31, 2021.

# HAZARDOUS WASTE REGULATION UPDATES

## RULES INCLUDED IN THE PROPOSED ADOPTION:

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### Updates to Existing Regulations and Section Clean-Ups

- A correction from the EPA to the Generator Improvement Rule: In section 261.1(a)(1), delete “hazardous waste produced by very small quantity generators and”

# ADOPTION OF HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

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## Solid Waste

- An item becomes a solid waste when it is discarded.

## Hazardous Waste

- A discarded item becomes a hazardous waste when it is determined:
  - ✓ *It exhibits hazardous characteristic (e.g., ignitable)*
  - ✓ *It is designated a hazardous or universal waste by EPA*
  - ✓ *It is designated a hazardous or universal waste by reciprocity with another state.*



# ADOPTION OF HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

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**To Recycle a Hazardous Waste, a Facility can follow either of these current regulatory paths:**

- Apply for a Treatment, Storage, and Disposal Facility (or TSDF) permit. This permit would allow the facility to store waste, treat the waste to remove the hazardous characteristics, produce materials from the treatment process that could be used in another process, and dispose of waste that cannot be recycled.

-OR-

- Apply for a state Written Determination (WD) for Recycling Authorization. This authorization would allow the facility to perform just-in-time recycling of the waste. And, like the TSDF permit, the materials resulting from the process could be used in another process.
- The facility must ultimately demonstrate that their process is legitimately recycling the waste as specified in federal requirements

# ADOPTION OF HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

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## A Third Option...

- Hazardous secondary material (HSM) means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste under 40 CFR part 261. (40 CFR 260.10)
- HSM may qualify for a regulatory exclusion from the definition of solid waste and RCRA Subtitle C regulations if they meet the EPA's criteria for legitimate recycling and are not speculatively accumulated.
- For an HSM to fall under one of these exclusions, all the conditions of the exclusion must be met. If not, the HSM is a hazardous waste.

# ADOPTION OF HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

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## Proposing to Adopt by Reference:

### Generator Controlled Exclusion

- 261.4(a)(23) – HSM that is generated and legitimately reclaimed within the United States or its territories and under the control of the generator

### Transfer-Based Recycling Exclusion

- 261.4(a)(24) – HSM that is generated and then transferred to another person for the purpose of reclamation

### Remanufacturing Exclusion

- 261.4(a)(27) – HSM that is generated and then transferred to another person for the purpose of remanufacturing

# ADOPTION OF HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

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## Proposed Changes to the Adopt by Reference

- In section 261.4(a)(1)(ii), “, except as prohibited by §266.505 and Clean Water Act requirements at 40 CFR 403.5(b).” will be deleted.
- In section 261.4(a)(24)(v)(B)(3), “publicly available.” will be deleted.

# ADOPTION OF HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

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## Mixing Material Pathway Types

- Excluded hazardous secondary materials cannot be commingled with regulated hazardous waste and still maintain the exclusion from the definition of solid waste.
- The same unit can be used to manage hazardous waste and excluded hazardous waste, provided that the hazardous waste and associated residues are removed from the unit before processing the excluded hazardous secondary materials.
- Please reference RCRA Online (RO) 14812, 14813, and 14818; and the RCRA HSM Checklist from July 2024.

# PROPOSED CHANGES TO R161-24P FROM STAKEHOLDER ENGAGEMENT

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Early engagement on R161-24P was conducted with facilities that hold written determination authorizations or are currently in the permitting process. These facilities primarily handle discarded lithium-ion batteries or solar panels.

- Nearly 70 questions and/or comments were received from this outreach effort.
- NDEP has prepared a "Response to Comments" Document.

# PROPOSED CHANGES TO R161-24P FROM STAKEHOLDER ENGAGEMENT

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## Proposed Changes to R161-24P

- Sections 261.4(a)(23)(i)(B) – Certifications
- Sections 261.6(c)(2) and 273.60(b) – Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled...
- Section 260.2(b) – Confidentiality of Information. “Any facility that is claiming an exemption or exclusion under sections 260 to 279, inclusive, may not assert a claim of business confidentiality of information to prove that exemption or exclusion.”

# WORKSHOP SUMMARY

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**A workshop was held on October 30, 2024, beginning at 2:30 PM. The workshop was held in NDEP's offices in Carson City and Las Vegas. Additionally, there was a virtual attendance option.**

- There were 12 attendees in person and 47 attendees virtually.
- There were two clarifying questions.
- There are no propose changes to the regulatory petition from the workshop.



# Questions?



## Contact

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