

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
Workshop to Solicit Comments on Proposed Amendment to
Nevada's Hazardous Waste Regulations:

NAC 444.8618 - NAC 444.8633

October 30, 2024
2:30 PM

Bonnie B. Bryan Boardroom 1st
Floor
901 South Stewart Street Carson
City, NV 89701

Warm Springs Conference Room
Suite 200
375 East Warm Springs Road Las
Vegas, NV 89119

The workshop was also held virtually and was
publicly accessible by video conference and phone

MEETING NOTES

ATTENDEES:

Workshop Chair:

Mandy Hood, Program Development Coordinator, BSMM

NDEP Staff:

Jeff Kinder, Deputy Administrator, NDEP

Annalynn Settlemeyer, Chief, BSMM

Kayla Alm, Supervisor, BSMM

Chris Locken, Supervisor, BSMM

Jonathan Zittel, Supervisor, BSMM

Mike Richardson, Supervisor, BSMM, Las Vegas

Diondrae White, BSMM, Las Vegas

Kathryn Foxworthy, BWPC, Las Vegas

Public:

Carson City:

Dan Lieber, ABTC

Amanda Brazew

Sarah Graham, Tesla

Fortunato Villamagna, Comstock

Paul Harshbarger, Comstock

Josh Girkin, Redwood

Ally Freitas, UES

Chris Peterson, Comstock Inc.

Stav Zas, Redwood

Alex, Fireflies.ai Notetaker

Las Vegas:

Amanda Rasmussen, MSTS

Karlita Simper, MSTS

*Virtual*¹:

Isaiah Dums, NDEP	Brandilyn Baxter
Michelle Gonse, NDEP	Tidwell, Rob
Christian Pineda-Arciniega, NDEP	17023329601 (Unverified)
Nicole Hoekstra	Rebecca Choi
Gary Wheeler (Unverified)	Roberto Gonzalez (External)
Cierra Peters, NDEP	Jenna Kube (External)
Jocelyn Najera, NDEP	Hillenbrand, Jillian
Meghan Pistolesi (External)	Smith, Charlotte
Frank Rojas (34641 Las Vegas-Range Rd) (External)	Jesus, Dezbah Tso
Maureen Godbout, NDEP	Kalina Rossa (External)
Corrado DeGasperis (External)	Tate, Heather (External)
Rasmussen, Denis (NV Energy) (External)	Lori Blair (Unverified)
Sosaeh (Unverified)	Driggs, Andrea (PHX)
Katherine Hansen, NDEP	John Itzaina
Kat Olson (External)	12099148108 (Unverified)
Jennifer Hood, NDEP	Angela Hammond (External)
17025130612 (Unverified)	Leo Drozdoff (External)
Runnebaum, Ranee	17024209001 (Unverified)
Jocelyn Moran, NDEP	Kurt A. Goebel (External)
Haley Brown (External)	Jacob Gliddon (Unverified)
Andrew Bennett	Burgess, Kelli
Ross, Steven	Sarah Collins (External)
Maycee Shepard (External)	17609200285 (Unverified)
Emma Lintz	Joel Dunkin (External)
Jill Washburn	Simaga, Cara (External)
Jennifer Ortega (External)	Don Tatro
17028845014 (Unverified)	Sara Duvall
Nicholas Schlafer	Brett Bottenberg (External)
Richard Black (Unverified)	Erica Fransen
Ken McIntyre, NDEP	Isabelle Ramos, NDEP

¹ Participants are listed using their online registration. Last name and/or affiliation may not have been provided.

CALL TO ORDER

Ms. Hood called the meeting to order at 2:32 PM, explained the purpose of the Public Workshop, and introduced the staff present. Ms. Hood explained that the names of attendees would be collected for the record and that the meeting was being recorded. Ms. Hood reviewed the workshop agenda. There were no questions or changes to the agenda. Ms. Hood explained that virtual attendees would be muted by the moderator and how they could signal to the moderator that they had a question or comment so they could be unmuted. Ms. Hood explained that a copy of the proposed regulation, and State Environmental Commission (SEC) Forms 1 and 4, could be found on the Nevada Division on Environmental Protection's (NDEP) website.

Ms. Hood explained how the regulation adoption process works. The regulation adoption timeline was explained, specifying that there would be a 30-day public comment period prior to the SEC hearing for each set of proposed amendments. Ms. Hood stated that unless there are substantive changes based on feedback from this workshop, permanent regulation R161-24 is expected to be heard before the November 19th SEC hearing. Any information about the hearing can be found on the SEC website. If the regulations are adopted by the SEC, they are submitted to the Legislative Commission. If the Legislative Commission approves the regulations, they are filed with the Secretary of State and become effective. Ms. Hood then moved on to present the petition.

R161-24 SUMMARY

NDEP is proposing to update the hazardous waste regulations, hazardous secondary material exclusions, as well as discuss proposed changes to R161-24 from stakeholder engagement.

Nevada is an "Adopt by Reference" state and has currently adopted federal regulations through July 1, 2018. Our proposed regulatory amendment aims to align Nevada's state program with federal regulations through July 1, 2022, and includes housekeeping updates to clarify existing regulations.

The Rules that are included in the proposed adopt by reference adoption are Safe Management of Recalled Airbags, the addition of aerosol cans to the universal waste regulations, modernizing ignitable liquids determinations, and conforming changes to Canada-specific hazardous waste import-export recovery and disposal

operation codes. We are also updating existing regulations such as the Definition of Solid Waste Rule and general section clean-up. Ms. Hood provided the EPA's summary of each rule within the presentation slides as well as a brief overview. This overview went as follows:

The safe management of recalled airbags will allow for faster removal and safer disposal of defective airbag inflators by exempting them from hazardous waste requirements when specific conditions are met.

Including aerosol cans in the universal waste program makes them safer to manage, reduces regulatory requirements, promotes recycling, and helps keep them out of landfills. Our state proposes a minor wording change, replacing "or" with "and" in section 273.13(e)(4)(vi).

This proposed rule modernizes flash point test methods to current ASTM standards, ensuring more accurate identification of ignitable hazardous wastes. The EPA also codifies guidance defining 'aqueous' as 50% water by weight, updates cross-references to U.S. DOT regulations, and removes outdated information. Additionally, the rule introduces alternatives to mercury thermometers in air sampling and stack emissions methods, enhancing safety and precision.

This rule aligns U.S. hazardous waste import-export regulations with recent Canadian updates to recovery and disposal operation codes. These adjustments ensure consistency for U.S. exporters and importers submitting notices to the EPA and accompanying shipment documents, reflecting Canada's regulatory changes effective October 2021.

One of the updates to the existing regulation is a correction from the EPA to the Generator Improvement Rule deleting "hazardous waste produced by very small quantity generators and" from section 261.1(a)(1).

Ms. Hood concluded her section of the presentation by informing the attendees that more information, as well as the current presentation, can be found on the NDEP website.

The second portion of the presentation was then passed to Kayla Alm who went over the updates to the Definition of Solid Waste Rule. This portion of the presentation included the current definition of hazardous secondary material,

exemptions, proposed changes, and the responsibilities placed upon processors. Mrs. Alms' summary went as follows:

Mrs. Alm first went over the definition of hazardous secondary material, which was referred to as HSM going forward. This material, when discarded, would be identified as hazardous waste under part 261 of this chapter.

For a generator and processor to assert the HSM exemptions, they must meet all the requirements of the exclusion being used to exert the exemption.

Additionally, if the state where the HSM has been generated has not adopted the HSM exemption, the exemption may not be asserted. If all the exclusions are not met, the HSM is a hazardous waste and must be managed as such.

Here is the list we are 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

Here is the list of 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.

Mrs. Alm provided a diagram that depicted the different classifications of waste and the potential permit statuses. This diagram was used to help further describe the qualifications of what makes a material a hazardous secondary material. A map of America was also provided in relation to what states currently have the 2015/2018 definition of solid waste rule in effect. Mrs. Alm notified the audience at this time that States that have adopted the Definition of solid waste rule may

have adopted HSM regulations. It is the processor's responsibility to verify that the state where HSM was generated has adopted the HSM regulations. Processors claiming the HSM exemption will be required to provide appropriate documentation demonstrating they meet the exemption.

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.

Mrs. Alm also provided a brief overview of legitimate recycling. Please see 40 CFR 260.43 for additional information. These are factors 1, 2, 3, and 4:

Factor 1 (Required) – 260.43(a)(1)

- Provide useful contribution
- Valuable ingredients; replace catalyst or carrier in process; source of valuable constituent; recovered or regenerated; or effective substitute

Factor 2 (Required) – 260.43(a)(2)

- Recycling must produce a valuable product or intermediate

Factor 3 (Required) – 260.43(a)(3)

- Managed as a valuable commodity
- Analogous raw material and maintained as such

Factor 4 (Considered) – 260.43(a)(4)

- Hazardous constituents 'not along for the ride'

Mrs. Alm then handed the floor to Deputy Administrator Jeff Kinder to speak on the proposed changes to R161-24P from stakeholder engagement.

Mr. Kinder went on to explain that through stakeholder engagement, non-sustainable changes were identified and therefore proposed to be changed to this regulation.

Proposed changes are as follows:

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.”

These are reflected in green in the current version of the regulatory amendment.

Mr. Kinder informed those in attendance that copies were available up front, and that these copies differed from those provided online due to section 261.4 originally proposing a strike through certification option under the generator-controlled exclusion.

The second proposal was for a strike through the requirements for owners or operators of facilities that recycle materials without storage in sections 261.6 and 273. Mr. Kinder then went on to state that including these sections will simply require facilities to comply with the most stringent requirements, whether federal or state.

The final strike through that Mr. Kinder addressed was the proposal to strike claims of business confidential information to ensure our staff has the information available to process these exclusions.

Mr. Kinder stated that NDEP will not be taking this action at this time to ensure that we have time to understand the interaction between federal and state confidentiality requirements and this issue at a later date.

COMMENTS AND QUESTIONS

Q: Chris Peterson from Comstock asked what the meaning and intention behind the replacements of the references from part “272” to “270” were.

A: Ms. Hood responded by letting them know that there were no intentions behind changing part “272” to “270”. It was clean-up that needed to be done to amend an outdated reference.

CLOSING REMARKS AND ADJOURNMENT

Mr. Kinder asked if there were any other comments or questions, there being none, Mr. Kinder thanked everyone for their time and participation in the public workshop and the meeting was adjourned at 2:50 PM.