

PROPOSED REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

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

Authority: NRS 459.485, 459.490 and 459.500

Section 1. NAC 444.8633 is hereby amended to read as follows:

NAC 444.8633 Revision of certain terms referred to in federal regulations adopted by reference.
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 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" Acknowledgement of Consent; and
- (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) Part 261, Appendix IX;
 - (6) Section 262.32(b), Part 262, Subpart E, and the Appendix to Part 262;
 - (7) The Note following section 263.10(a);
 - (8) **Sections 264.11 and 265.11;**
 - (9) **Section 268.1(e)(3);**
 - (9)**[(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
 - (10)**[(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."

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) and Part 261, Appendix IX;
- (e) [Section 262.12,] Part 262, Subpart E, and the Appendix to Part 262;
- (f) [Section 263.11;
- (g)] Sections 264.12(a) and 265.12(a)
- (g) [(h)] The provisions of section 270.2 defining "Administrator," "Director," "major facility," "Regional Administrator" and "state/EPA agreement"; and
- (h) [(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 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, 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 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 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."

Section 2. NAC444.8634 is hereby amended to read as follows:

444.8634 Meanings ascribed to certain terms referred to in federal regulations.

1. Any reference to the following terms in 40 C.F.R. Part 2, Subpart A, 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 2.118(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 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, 333 W. Nye Lane, Room 138, Carson City, Nevada 89706-0851";
- (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.(a) Any reference to "Administrator" in 40 C.F.R. 262.12 and 263.11 shall be deemed to mean either "Administrator" as defined at NAC 444.8505 or "Director" as defined at NAC 444.8515. Generators and transporters seeking an EPA identification number should contact the Nevada Division of Environmental Protection, 333 West Nye Lane, Carson City, NV 89706-0851 for instructions.

(b) Any reference to "EPA" in 40 C.F.R. 264.11 and 265.11 shall be deemed to mean either "Administrator" as defined at NAC 444.8505 or "Director" as defined at NAC 444.8515. Facility owners or operators seeking an EPA identification number should contact the Nevada Division of Environmental Protection, 333 West Nye Lane, Carson City, NV 89706-0851 for instructions.

3[2]. Fees required to be paid to the "U.S. Environmental Protection Agency" or the "United States Environmental Protection Agency" pursuant to section 2.120 of 40 C.F.R. Part 2 must be paid to the "State of Nevada" and deposited in the account for the management of hazardous waste.