

## Proposed Revised NACs:

### **NAC 445A.2272 Contamination of soil: Establishment of action levels. (NRS 445A.425)**

1. For the purposes of [NAC 445A.22695](#) to [445A.2271](#), inclusive, the action level for soil must be established at the following levels:

(a) The background concentration or volume of a hazardous substance, hazardous waste or a regulated substance set forth in:

- (1) The permit issued to the owner or operator by the Division; or
- (2) A study approved by the Division.

(b) The presence of a hazardous substance, hazardous waste or a regulated substance in the soil at an appropriate level of concentration that is based on the protection of the waters of the State, public health and safety for all identified routes of exposure and the environment. The appropriate level of concentration must be determined by the Division using the ~~[Integrated Risk Information System, adopted by the Environmental Protection Agency, as it existed on October 3, 1996,]~~ *United States Environmental Protection Agency approved standards and methodology for development of Regional Screening Levels adopted by reference in NAC 445A.2272 (3)*, or any other equivalent method or peer-reviewed source of information chosen by the Division.

2. Except as otherwise provided in this subsection, if more than one action level for soil may be established using the criteria set forth in paragraph (b) of subsection 1, the most restrictive action level must be used. In no case may the action level be more restrictive than the background concentration of the hazardous substance, hazardous waste or regulated substance.

3. The State Environmental Commission hereby adopts by reference the ~~[Integrated Risk Information System, adopted by the Environmental Protection Agency, as it existed on October 3, 1996. A copy of the system is available on-line through the Internet and may be obtained from an Integrated Risk Information System Representative at (301) 496-6531, free of charge.]~~ *United States Environmental Protection Agency, "Regional Screening Level (RSL) Tables and associated User's Guide." A copy of the RSL Tables and User's Guide is available free of charge at the United States Environmental Protection Agency Risk Assessment, Regional Screening Levels website at the Internet address <https://www.epa.gov/risk/regional-screening-levels-rsls>.*

(Added to NAC by Environmental Comm'n, eff. 10-3-96; A by R189-08, 8-25-2009)

### **NAC 445A.22725 Contamination of groundwater: Order by Director for corrective action; request for exemption; exception. (NRS 445A.425)**

1. Except as otherwise provided in this section, the Director may require an owner or operator to take corrective action if the release of a hazardous substance, hazardous waste or a regulated substance contaminates groundwater and the level of

contamination exceeds the action level established for the groundwater pursuant to [NAC 445A.22735](#).

2. An owner or operator may, before initiating corrective action or after the termination of remediation pursuant to [NAC 445A.22745](#), submit a written request to the Director for an exemption from the provisions of subsection 1. The request must be accompanied by such supporting information as the Director may require. The Director may grant the request if:

(a) The following conditions are satisfied:

(1) Each source of the contamination of the groundwater is identified and controlled or no source of the contamination remains based upon the age and nature of the release;

(2) The magnitude and extent of the contamination of the groundwater is known; and

(3) Data are available from at least 3 years of quarterly monitoring or another period specified by the Division based upon the magnitude of the contamination of the groundwater and the data do not show a trend of increasing concentrations of the contamination in the body of the plume of the contamination;

(b) A demonstration is made which indicates that natural attenuation is sufficient to reduce any concentration of the contamination below action levels or to prevent any migration of the contaminant to a receptor or another point of demonstration established by the Division at concentrations that are greater than action levels, if the demonstration relies upon analytical or numerical models of diffusion and dispersion or any other calculations of physical or chemical processes of retardation or degradation that are approved by the Division; and

(c) The groundwater contaminated by the release is not a source of drinking water and is not likely to be a source of drinking water in the future because:

(1) It is economically or technologically impractical to recover the water for drinking because of the depth or location of the water or render the water fit for human consumption; or

(2) A legal restriction or institutional control is in effect concerning the use of the groundwater based upon the depth of the groundwater, the presence of a municipal system, the use of an environmental covenant or other controls accepted by the Division.

3. In addition to any calculations of physical or chemical processes required pursuant to paragraph (b) of subsection 2, a demonstration made pursuant to that paragraph may also rely upon:

(a) Any known mechanism of biological degradation and any evidence obtained for the site relating to metabolic activity and the presence of the appropriate redox potential which supports biological degradation of the contamination;

(b) Any indication of degradation based upon the presence of any daughter products; or

(c) Any other applicable factors specified by the Division which are appropriate for making a decision based upon risk.

4. The Director shall not require an owner or operator to take corrective action pursuant to subsection 1 to achieve the remediation standard required by the Division if the owner or operator files with the Division a study which is acceptable to the Division and which demonstrates that, based on a review of available technology and the prohibitive cost of the corrective action, it is not feasible to achieve the required remediation standard.

(Added to NAC by Environmental Comm'n, eff. 10-3-96; A by R189-08, 8-25-2009)

**NAC 445A.2273 Contamination of groundwater: Plan and schedule for completing corrective action.** ([NRS 445A.425](#)) An owner or operator who is required to take corrective action pursuant to [NAC 445A.22725](#) shall submit to the Division a plan and schedule for completing the corrective action. The owner or operator shall not take any corrective action until the plan and schedule are approved by the Division.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.22735 Contamination of groundwater: Establishment of action levels.** ([NRS 445A.425](#))

1. For the purposes of [NAC 445A.22725](#), [445A.2273](#) and [445A.2274](#), the action level for groundwater must be established ~~[at]~~ *for* the following ~~[levels]~~:

(a) The presence of 1/2 inch or more of a petroleum substance that is free-floating on the surface of the water of an aquifer, using a measurement accuracy of 0.01 feet.

(b) The presence of a hazardous substance, hazardous waste or a regulated substance in groundwater at a level of concentration equal to the maximum contaminant level for that substance or waste established pursuant to the ~~[Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and 40 C.F.R. Part 141, as those sections existed on October 3, 1996.]~~ *United States Environmental Protection Agency, "National Primary Drinking Water Regulations" adopted by reference in NAC 445A.22735 (4).*

(c) A level of concentration equal to the background concentration of a hazardous substance, hazardous waste or a regulated substance, if that level of concentration is greater than the maximum contaminant level established pursuant to paragraph (b).

(d) If a maximum contaminant level has not been established for a hazardous substance, hazardous waste or a regulated substance, a level of concentration equal to:

(1) The background concentration of the waste or substance; or

(2) An appropriate level of concentration that is based on the protection of public health and safety and the environment. The appropriate level of concentration must be determined by the Division using the ~~[Integrated Risk Information System,]~~ *United States Environmental Protection Agency, "Regional Screening Level (RSL) Tables and associated User's Guide,"* adopted by reference in [NAC 445A.2272](#), or an equivalent method approved by the Division.

2. In establishing an action level pursuant to subsection 1, the Division may consider:

(a) The presence of more than one hazardous substance, hazardous waste or regulated substance in the groundwater;

(b) Any potential threat the contamination may pose to sensitive areas of the environment; and

(c) Any other threat or potential threat to groundwater that is specifically related to the site.

3. If more than one action level for groundwater may be established using the criteria set forth in subsection 1, the most restrictive action level must be used.

4. ~~[The Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and 40 C.F.R. Part 141, as those sections existed on October 3, 1996, are hereby adopted by reference. A copy of those sections may be obtained by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, at a cost of \$30.]~~ *The State Environmental Commission hereby adopts by reference the United States Environmental Protection Agency, "National Primary Drinking Water Regulations" available free of charge at the United States Environmental Protection Agency National Primary Drinking Water Regulations website at the Internet address <https://www.epa.gov/groundwater-and-drinking-water/national-primary-drinking-water-regulations>. A copy of the Regulations may be obtained by mail from the EPA Office of Ground Water and Drinking Water, 1200 Pennsylvania Ave, N.W. (Mail Code 4606M), Washington, DC 20460 or by toll-free telephone at (800) 490-9198.*

(Added to NAC by Environmental Comm'n, eff. 10-3-96)

**NAC 445A.2274 Contamination of groundwater: Remediation standard.** ([NRS 445A.425](#)) Unless remediation of a release may be terminated pursuant to [NAC 445A.22745](#), the remediation standard for groundwater shall be deemed to be the action level of the groundwater.

(Added to NAC by Environmental Comm'n, eff. 10-3-96)