



NEVADA DIVISION OF  
**ENVIRONMENTAL  
PROTECTION**



Nevada Department of  
**CONSERVATION &  
NATURAL RESOURCES**

# Proposed Regulatory Amendment R161-24P Workshop

Presented by

Bureau of Sustainable  
Materials Management (BSMM)

# MEETING AGENDA

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- 2024 Hazardous Waste Regulation Updates
- Hazardous Secondary Materials (HSM) Exclusions
- Proposed Changes to R161-24P from Stakeholder Engagement
- Next Steps

# 2024 HAZARDOUS WASTE REGULATION UPDATES

## NEVADA IS AN “ADOPT BY REFERENCE” STATE

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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.

# 2024 HAZARDOUS WASTE REGULATION UPDATES

## RULES INCLUDED IN THE PROPOSED ADOPTION:

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- Safe Management of Recalled Airbags
- Universal Waste Regulations: Addition of Aerosol Cans
- Modernizing Ignitable Liquids Determinations
- Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes
- Updates to existing regulations and section clean-ups

# 2024 HAZARDOUS WASTE REGULATION UPDATES

## SAFE MANAGEMENT OF RECALLED AIRBAGS (84 FR 61552 )

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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.



# 2024 HAZARDOUS WASTE REGULATION UPDATES

## ADDITION OF AEROSOL CANS (84 FR 67202-67220 )

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This final rule adds hazardous waste aerosol cans to the universal waste program under the federal Resource Conservation and Recovery Act (RCRA) regulations. 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, promote 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).





# 2024 HAZARDOUS WASTE REGULATION UPDATES

## IGNITABLE LIQUIDS DETERMINATIONS (85 FR 40594-40608)

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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 (ASTM) standards. EPA is also finalizing the codification of existing guidance to define “aqueous” as “50% water by weight.” EPA is finalizing updates to correct cross references to U.S. DOT regulations and to remove obsolete information in the ignitability regulation. Finally, EPA is finalizing alternatives to the use of mercury thermometers in the air sampling and stack emissions methods 0010, 0011, 0020, 0023A, and 0051 in SW-846.



# 2024 HAZARDOUS WASTE REGULATION UPDATES

## CONFORMING TO CANADA-SPECIFIC CODES

(86 FR 45381-45386 )

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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. exporters and importers, and in movement documents that accompany export and import shipments. The changes to regulations related to these twelve recovery and disposal operations are needed to reflect changes to 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. Additionally, as the changes in today's rule are being made solely to conform to Canada's regulatory changes to Canada-specific operation codes and descriptions, no public comment was solicited.



# UPDATES TO EXISTING REGULATIONS

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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”

# 2024 HAZARDOUS WASTE REGULATION UPDATES

## HELPFUL RESOURCES

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**Federal Register:** throughout the presentation, each ruling's corresponding Federal Register notice is listed next to each title. The Federal Register provides supplemental information including a summary, changes, impacts, and effects on state authorization of each rule.

### EPA's FAQ pages:

Safe Management of Recalled Airbags:

<https://www.epa.gov/hw/interim-final-rule-safe-management-recalled-airbags>

Aerosol Cans Rule:

<https://www.epa.gov/hw/increasing-recycling-adding-aerosol-cans-universal-waste-regulations>

Modernizing Ignitable Liquids Determinations:

<https://www.epa.gov/hw-sw846/final-rule-modernizing-ignitable-liquids-determinations>

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

<https://www.federalregister.gov/documents/2021/10/01/2021-21417/conforming-changes-to-canada-specific-hazardous-waste-import-export-recovery-and-disposal-operation>

Annual Code of Federal Regulations:

[Code of Federal Regulations \(Annual Edition\) | GovInfo](#)

# HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

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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, then the HSM is a hazardous waste.

# HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

## PROPOSED CHANGES TO THE REGULATIONS

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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

# HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

## PROPOSED CHANGES TO THE REGULATIONS

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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.

# HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

## DISCARDED MATERIAL PATHWAYS

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Classification*	Detail	Potential Permit Status
<b>Commercial Chemical Product</b>	Includes unused commercial products	No permit
<b>Hazardous Secondary Materials</b>	Hazardous waste if conditions of the exclusion are NOT met.	Must maintain appropriate, current documentation with Division demonstrating exclusions met
<b>Solid Waste</b>	Discarded materials that need a waste determination	Solid Waste Permit
<b>Universal Waste</b>	Solid waste that is a hazardous waste managed under the universal waste regulations	TSDf Permit / Written Determination
<b>Hazardous Waste</b>	Solid waste with hazardous characteristics	TSDf Permit / Written Determination

\*Classification determined by generator's waste determination.

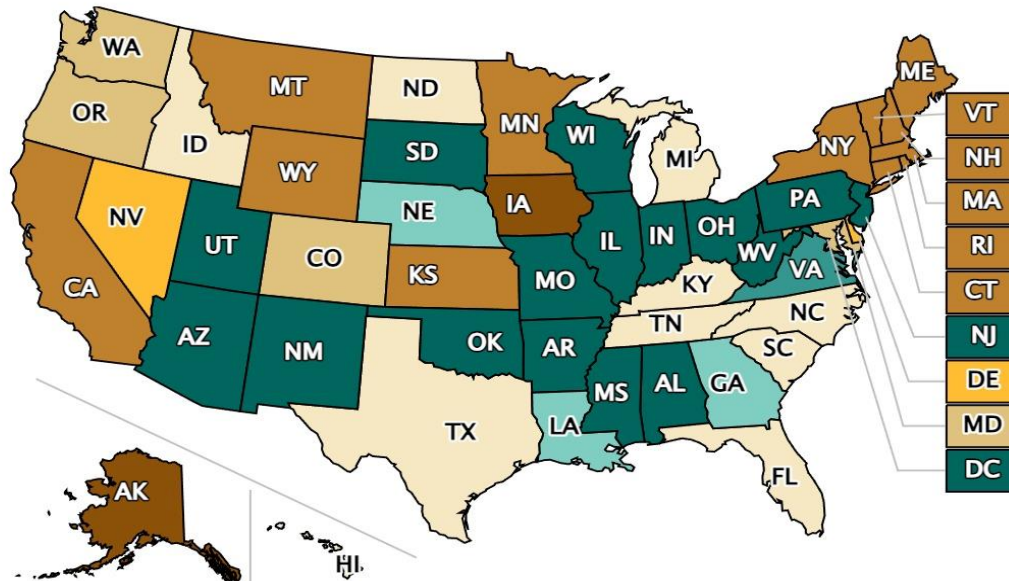


# HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

## HAZARDOUS SECONDARY MATERIAL- MAP

States where the 2015/2018 Definition of Solid Waste Rule is in Effect

- Adopted entire 2018 rule
- Adopted entire 2015 rule
- Authorized by EPA for the entire 2015 rule
- Partially authorized by EPA (Not All Mandatory Parts) for the 2015 rule
- Authorized by EPA for the entire 2018 rule
- Adopted only mandatory portions of the DSW rule
- Neither adopted nor authorized
- Administered by EPA Region
- Authorized for only mandatory portions of the DSW rule



# HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

## MIXING MATERIAL PATHWAY TYPES

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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.

# HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

## LEGITIMATE RECYCLING

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### 4 Factor Test (260.43) (Brief overview)

#### 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

# HAZARDOUS SECONDARY MATERIALS (HSM) EXCLUSIONS

## LEGITIMATE RECYCLING

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### 4 Factor Test (260.43) (Brief overview)

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'

# PROPOSED CHANGES TO R161-24P FROM STAKEHOLDER ENGAGEMENT

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- 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.”

# NEXT STEPS

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Public comment on the proposed regulations can be sent to the following email address: [idnumber@ndep.nv.gov](mailto:idnumber@ndep.nv.gov)

Response to Comments

State Environment Commission – November 19, 2024 @ 9 AM