

NEVADA ADMINISTRATIVE CODE
CHAPTER 444

Containing NAC 444.842 to 444.980

FACILITIES FOR MANAGEMENT OF HAZARDOUS WASTE

General Provisions

444.842	Definitions.
444.8422	"Administrator" defined.
444.84225	"Class 3 modification" defined.
444.8423	"Commission" defined.
444.8424	"Disposal" defined.
444.8426	"Division" defined.
444.8427	"Facility for community recycling" defined.
444.84275	"Facility for community storage" defined.
444.8428	"Facility for the management of hazardous waste" defined.
444.84285	"Facility for the recycling of hazardous waste" defined.
444.843	"Hazardous waste" defined.
444.8432	"Management of hazardous waste" defined.
444.8433	"Mobile unit for the recycling of hazardous waste" defined.
444.84335	"New or expanding facility for the management of hazardous waste" defined.
444.8434	"Person" defined.
444.8436	"Polychlorinated biphenyl" defined.
444.8437	"Recycling" defined.
444.8438	"Storage" defined.
444.8442	"Treatment" defined.
444.8444	"Waste containing polychlorinated biphenyl" defined.
444.8446	Fee for processing and review of certain applications: Amount; deposit; return of excess; exception concerning deposit for mobile unit for recycling of hazardous waste.
444.8447	Fees for emergency permit.
444.8448	Fees for modification, termination or reissuance of existing permit.
444.845	Annual operating fee; penalty for unpaid fee.
444.8452	Additional fees to offset cost of inspection and other regulation: Payment; accounting; penalty for unpaid fee; waiver.
444.8454	Deposit of fees.
444.8455	Facility or mobile unit for recycling of hazardous waste: Preliminary requirements; exemption.
444.84555	Facility or mobile unit for recycling of hazardous waste: Written determination by administrator.
444.8456	Stationary new or expanding facility for management of hazardous waste: Restrictions on location; exempt facilities.
444.8458	Stationary new or expanding facility for management of hazardous waste: Certificate of designation; prerequisite for permit; application; issuance; exempt facilities.
444.846	Fee for volume of hazardous waste received by facility for the management of hazardous waste owned by state: Amount; payment; penalty; disposition.

Variances

444.847	Submission of application.
444.8472	Contents of application.
444.8474	Fee for review of application: Amount; return of excess.
444.8476	Initial review of application; recommendation to commission.
444.8478	Public comment and hearing on application; statement of reasons for denial.
444.848	Duration of variance; revocation; annual review.
444.8482	Renewal of variance.

DISPOSAL OF HAZARDOUS WASTE

General Provisions

444.850	Definitions.
444.8505	"Administrator" defined.
444.8508	"Commission" defined.
444.8509	"Conditionally exempt small quantity generator" defined.
444.851	"Department" defined.

444.8515 "Director" defined.
 444.853 "Division" defined.
 444.8546 "Facility for the management of hazardous waste" defined.
 444.8565 "Hazardous waste" defined.
 444.861 "Used oil" defined.
 444.8618 Information concerning and application for EPA identification number

Standards of Practice

444.8632 Compliance with federal regulations adopted by reference.
 444.86325 Exceptions to and revision of federal regulations adopted by reference.
 444.8633 Revision of certain terms referred to in federal regulations adopted by reference.
 444.8634 Meanings ascribed to certain terms referred to in federal regulations.
 444.8655 Acquisition, preparation and distribution of manifests.
 444.8666 Receipt of hazardous waste accompanied by manifest.
 444.8671 Labeling of containers of hazardous waste accumulated or stored on site.
 444.8675 Biennial reports by generators of hazardous waste.
 444.8677 Written record of inspections by certain generators of hazardous waste.
 444.8681 Mixing of used oil with hazardous waste or products prohibited; exceptions; recordkeeping requirements.
 444.8682 Requirements for managing and disposing of mixtures of used oil and hazardous wastes or other products.
 444.8683 Regulation of mixtures of used oil with wastes determined not to be hazardous.
 444.8686 Open burning of hazardous waste.
 444.8688 Permit required to transfer hazardous waste from transport vehicle to boiler or industrial furnace.

Variations

444.8693 Submission of application for variance from certain federal regulations.
 444.8696 Fee for processing and review of application for variance.

Administrative Penalties

444.8701 Definitions.
 444.8706 Imposition and amounts.
 444.8711 Issuance and contents of citations.
 444.8716 Requests for forfeiture or hearing; scheduling and notice of hearing.
 444.8721 Failure to request forfeiture or hearing or to appear at hearing.
 444.8726 Continuance of hearing.
 444.8731 Inspection and copying of documents division intends to use at hearing.
 444.8736 Rendering of decision by hearing officer.
 444.8741 Methods for delivery of documents.
 444.8746 Methods of payment.

PROGRAM FOR REDUCTION OF HAZARDOUS OR INDUSTRIAL WASTE

444.8752 Definitions.
 444.8754 "Disposal" defined.
 444.8756 "Division" defined.
 444.8758 "Facility for the management of hazardous waste" defined.
 444.8762 "Generator" defined.
 444.8764 "Hazardous waste" defined.
 444.8766 "Industrial waste" defined.
 444.8768 "Reduction" defined.
 444.8776 Applications for grants: Solicitation; submission; contents.
 444.8778 Applications for grants: Determination of eligibility and adequacy; action by division; correction of deficiencies.
 444.8782 Applications for grants: Evaluation of application that is final.
 444.8784 Awarding of grants.
 444.8786 Grant agreements: Entry; contents.
 444.8788 Grants: Cancellation and termination; disbursement; examination of recipient; reimbursement of ineligible costs; return of money not spent.

RECYCLING OF USED ANTIFREEZE

General Provisions

444.8801	Definitions.
444.8806	"Administrator" defined.
444.8811	"Center for the collection of used antifreeze" defined.
444.8816	"Commission" defined.
444.8821	"Division" defined.
444.8826	"Facility for the recycling of used antifreeze" defined.
444.8831	"Facility for the transfer of used antifreeze" defined.
444.8836	"Generator of used antifreeze" defined.
444.8841	"Hazardous waste" defined.
444.8846	"Identification number" defined.
444.8851	"Mobile unit for the recycling of used antifreeze" defined.
444.8856	"Point for aggregation" defined.
444.8861	"Transporter of used antifreeze" defined.
444.8866	"Used antifreeze" defined.
444.8871	Applicability.

General Requirements

444.8876	Containers and tanks for storage of used antifreeze: General requirements.
444.8881	Underground storage tanks: Compliance with federal regulations; identification of pipes.
444.8886	Container: Secondary system for containment.
444.8891	Above-ground storage tank: Secondary system for containment.
444.8896	Required action upon release of used antifreeze.
444.8901	Required report of release of used antifreeze.
444.8906	Required report of release of used antifreeze into body of water.

Generation, Collection and Aggregation

444.8911	Applicability.
444.8916	Mixing of used antifreeze with solid or hazardous waste forbidden; storage.
444.8921	Center for collection of used antifreeze: Registration.
444.8926	Recycling of used antifreeze for personal use: Requirements; calculation in determination of status; management of waste as hazardous waste.
444.8931	Responsibility of generator for transport of used antifreeze by holder of identification number; exception; calculation in determination of status.

Transport and Transfer

444.8936	Applicability.
444.8941	Management of used antifreeze transported in truck used for hazardous waste.
444.8946	Consolidation or aggregation; processing forbidden; exception.
444.8951	Identification number; compliance with federal regulations.
444.8956	Required destinations after transport.
444.8961	Records of used antifreeze accepted for transport: Maintenance; contents.
444.8966	Records of used antifreeze delivered to transporter: Maintenance; contents.
444.8971	Release of used antifreeze during transport.
444.8976	Release of used antifreeze into body of water during transport.
444.8981	Storage: Tanks and containers.
444.8986	Storage: Maximum duration.

Facilities for Recycling

444.8991	Applicability.
444.8996	Written determination; identification number.
444.9001	Storage: Tanks and containers.
444.9006	Requirements when above-ground storage tank no longer used.
444.9011	Requirements when container no longer used.
444.9016	Records of used antifreeze accepted by facility: Maintenance; contents.
444.9021	Management of residue as hazardous waste.
444.9026	Responsibility of owner or operator that used antifreeze not be mixed with hazardous waste; creation, maintenance and review of written plan.
444.9031	Contingency plan in case of release: Contents; review and amendment; maintenance.
444.9036	Responsibility of owner or operator for weekly inspection of storage tanks and containers.
444.9041	Written record of operation.
444.9046	Written report.

Mobile Units for Recycling

444.9051	Applicability.
444.9056	Written determination.
444.9061	Records of used antifreeze accepted by mobile unit: Maintenance; contents.
444.9066	Management of residue as hazardous waste.
444.9071	Written report.

POLYCHLORINATED BIPHENYL

444.940	Definitions.
444.9405	"Director" defined.
444.941	"Disposal" defined.
444.9415	"Division" defined.
444.942	"Draft permit" defined.
444.9425	"Facility for the management of waste containing polychlorinated biphenyl" defined.
444.943	"Generator of polychlorinated biphenyl" defined.
444.9435	"Polychlorinated biphenyl" defined.
444.944	"Site" defined.
444.9445	"Storage" defined.
444.945	"Waste containing polychlorinated biphenyl" defined.
444.9452	Adoption by reference of provisions of Code of Federal Regulations.
444.9453	References in federal regulations to "hazardous waste" and "hazardous waste facility."
444.946	Generators: General duties.
444.9465	Transporters: General duties.
444.9475	Restrictions on management and treatment.
444.9485	Requirements for permit to operate or construct facility; requirements for permitted facility.
444.949	Director to prepare draft permit or deny application.
444.9495	Public notice.
444.950	Public comment and hearings.
444.9505	Final decision by director.
444.951	Requirements specified in permit.
444.9515	Transfer of permit.
444.952	Modification of permit; revocation and reissuance.
444.9525	Notice of intent to terminate permit.
444.953	Emergency permits.
444.9535	Notice of planned alterations or additions.
444.954	Report of noncompliance.
444.9545	Completion or correction of application or report.
444.955	Minor modifications to permit.
444.9555	Facilities to obtain identification number; compliance with regulations.

LIMITATIONS ON ISSUANCE OF PERMITS

444.960	Reliability, expertise and competence required; issuance prohibited if person having beneficial interest convicted of felony.
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DISPOSAL OF ASBESTOS

444.965	Definitions.
444.966	"Asbestos" defined.
444.967	"Division" defined.
444.968	"Operator" defined.
444.969	"Solid waste management authority" defined.
444.970	"Transporter" defined.
444.971	Standards for handling and transportation.
444.972	Approval required for transportation; submission of information to obtain approval.
444.973	Maintenance and filing of records regarding transportation.
444.974	Notification required before delivery; disposal at site other than Class I disposal site.
444.975	Inspection upon delivery; notice of noncompliance with standards; acceptance of noncomplying load.
444.976	Duties of operator who accepts asbestos.

PRACTICE BEFORE STATE ENVIRONMENTAL COMMISSION

444.980 Appeal of final decision of state department of conservation and natural resources.

Note: The Administrative code provided below was downloaded as .html text from the Nevada Legislative Counsel Bureau's website (www.leg.state.nv.us). See the footer for the date of the codification of the below regulations. This regulation does not contain all citations for the Chapter only those citations affected by the State Environmental Commission, the Division of Environmental Protection and the Board to Review Claims are presented, unless otherwise noticed.

FACILITIES FOR MANAGEMENT OF HAZARDOUS WASTE

General Provisions

NAC 444.842 Definitions. As used in NAC 444.842 to 444.8482, inclusive, unless the context otherwise requires, the words and terms defined in NAC 444.8422 to 444.8444, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 4-18-90; 4-18-90; 5-27-92; 3-1-94)

NAC 444.8422 "Administrator" defined. "Administrator" means the administrator of the division.

(Added to NAC by Environmental Comm'n, eff. 7-22-87)

NAC 444.84225 "Class 3 modification" defined. "Class 3 modification" has the meaning ascribed to it in Appendix I of 40 C.F.R. § 270.42 pursuant to the provisions of NAC 444.8632.

(Added to NAC by Environmental Comm'n, eff. 3-1-94)

NAC 444.8423 "Commission" defined. "Commission" means the state environmental commission.

(Added to NAC by Environmental Comm'n, eff. 4-18-90)

NAC 444.8424 "Disposal" defined. "Disposal" has the meaning ascribed to it in NRS 459.425.

(Added to NAC by Environmental Comm'n, eff. 7-22-87)

NAC 444.8426 "Division" defined. "Division" means the division of environmental protection of the state department of conservation and natural resources.

(Added to NAC by Environmental Comm'n, eff. 7-22-87)

NAC 444.8427 "Facility for community recycling" defined. (NRS 459.485, 459.490, 459.500) "Facility for community recycling" means a facility for recycling hazardous waste which has a yearly capacity that is not more than twice the amount of the type of hazardous waste proposed to be recycled that is generated within the region in this state in which the facility is or is proposed to be located, as determined by the generation rate contained in the biennial report required by the provisions of 40 C.F.R. § 262.41, as that section existed on July 1, 2002.

(Added to NAC by Environmental Comm'n, eff. 4-18-90; A 9-19-90; 11-9-95; R202-97, 3-5-98; R124-98, 11-2-98, r0170-99, 1-26-2000; R037-01, 10-25-2001; R104-02 10-18-2002)

NAC 444.84275 "Facility for community storage" defined. (NRS 459.485, 459.490, 459.500) "Facility for community storage" means a facility for the storage and consolidation of hazardous waste which has a yearly capacity that is not more than twice the amount of hazardous waste that is generated within the county in which the facility is or is proposed to be located, as determined by the generation rate contained in the biennial report required by the provisions of 40 C.F.R. § 262.41, as that section existed on July 1, 2002.

(Added to NAC by Environmental Comm'n, eff. 4-18-90; A 9-19-90; 11-9-95; R202-97, 3-5-98; R124-98, 11-2-98, R170-99, 1-26-2000; R037-01, 10-25-2001; R104-02, 10-18-2002)

NAC 444.8428 "Facility for the management of hazardous waste" defined. "Facility for the management of hazardous waste" includes the contiguous land, any structures, other appurtenances or improvements on the land and any mobile units for the treatment of hazardous waste which are used for the management of hazardous waste. Such a facility may contain more than one unit for the management of hazardous waste.

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 3-1-94)

NAC 444.84285 "Facility for the recycling of hazardous waste" defined. Facility for the recycling of hazardous waste" includes the contiguous land and any structures, other appurtenances or improvements on the land which are used for the recycling of hazardous waste.

(Added to NAC by Environmental Comm'n, eff. 3-1-94)

NAC 444.843 "Hazardous waste" defined.

1. "Hazardous waste" has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261;

- (b) Waste containing polychlorinated biphenyl; and
- (c) Waste brought into this state which is designated as hazardous waste in the state of its origin.
(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 9-19-90; R170-00, 1-26-2000)

NAC 444.8432 "Management of hazardous waste" defined. "Management of hazardous waste" has the meaning ascribed to it in NRS 459.435 and includes, but is not limited to, the open burning of hazardous waste, open detonation of hazardous waste, and incineration of hazardous waste, including burning for the recovery of energy or destruction in boilers or industrial furnaces.

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 3-1-94)

NAC 444.8433 "Mobile unit for the recycling of hazardous waste" defined. "Mobile unit for the recycling of hazardous waste" means any transportable equipment which is used to perform recycling of a hazardous waste and is not permanently stationed at a single facility.

(Added to NAC by Environmental Comm'n, eff. 3-1-94)

NAC 444.8435 "New or expanding facility for the management of hazardous waste" defined. "New or expanding facility for the management of hazardous waste" means a facility for the management of hazardous waste:

1. For which a permit is required pursuant to 40 C.F.R. Part 124, Subparts A and B, and Part 270, Subparts A to F, inclusive, but which was not issued the permit before March 28, 1990; or

2. Which has an effective permit required pursuant to 40 C.F.R. Part 124, Subparts A and B, and Part 270, Subparts A to F, inclusive, and whose owner or operator proposes the expansion of an existing unit or the addition of a new unit which requires a class 3 modification of the permit.

(Added to NAC by Environmental Comm'n, eff. 3-1-94)

NAC 444.8434 "Person" defined. "Person" has the meaning ascribed to it in NRS 459.445.

(Added to NAC by Environmental Comm'n, eff. 7-22-87)

NAC 444.8436 "Polychlorinated biphenyl" defined. "Polychlorinated biphenyl" has the meaning ascribed to it in NAC 444.9435.

(Added to NAC by Environmental Comm'n, eff. 7-22-87)

NAC 444.8437 "Recycling" defined. "Recycling" means any process which uses hazardous waste to produce products or energy or to recover materials.

(Added to NAC by Environmental Comm'n, eff. 4-18-90)

NAC 444.8438 "Storage" defined. "Storage" has the meaning ascribed to it in NRS 459.450.

(Added to NAC by Environmental Comm'n, eff. 7-22-87)

NAC 444.8442 "Treatment" defined. "Treatment" has the meaning ascribed to it in NRS 459.455.

(Added to NAC by Environmental Comm'n, eff. 7-22-87)

NAC 444.8444 "Waste containing polychlorinated biphenyl" defined. "Waste containing polychlorinated biphenyl" has the meaning ascribed to it in NAC 444.945.

(Added to NAC by Environmental Comm'n, eff. 7-22-87)

NAC 444.8446 Fee for processing and review of certain applications: Amount; deposit; return of excess; exception concerning deposit for mobile unit for recycling of hazardous waste.

1. Except as otherwise provided in subsection 4, the:

(a) Owner or operator of a facility for the management of hazardous waste, for which a permit is required for its operation, closure or care after closure;

(b) Person who applies for a written determination pursuant to NAC 444.8455; or

(c) Person who applies for a certificate of designation pursuant to NAC 444.8458, must, before the administrator may issue a permit, written determination or certificate of designation, pay a fee to the division to offset the cost to process and review the application. The amount of the fee is \$50 for each hour of staff time devoted to processing and reviewing the application for the facility, plus the amount paid to consultants by the division in connection with the application. The total fee must not exceed:

Regulated Unit	Maximum Fee
Landfill, boiler, industrial furnace or incinerator	\$50,000
Treatment	50,000
Surface impounds, areas for thermal treatment, waste piles	25,000
Storage	25,000
Facility for recycling	10,000
Mobile unit for the recycling of hazardous waste	10,000

2. If the facility contains more than one type of regulated unit, the operator is not required to pay more for each application than the maximum fee for the regulated unit to which the highest fee is applicable, unless the facility contains a landfill and an incinerator. If the facility contains a landfill and an incinerator, the operator is not required to pay more than \$100,000 for an application.

3. Except as otherwise provided in subsection 4, an applicant for a permit, written determination or certificate of designation shall deposit the maximum fee with the division at the time of submission. The division shall maintain an accurate account of the time devoted to each application by the division and the amount paid to consultants by the division. The division shall return to the applicant any amount remaining from the maximum fee after a deduction for the fee for staff time and the amount paid to consultants.

4. An applicant for a written determination for a mobile unit for the recycling of hazardous waste shall deposit at least 10 percent of the maximum fee with the division at the time of submission. The division shall maintain an accurate account of the time devoted to each application by the division and the amount paid to consultants by the division. If the deposit submitted pursuant to this subsection is greater than the fee for staff time and the amount paid to consultants, the division shall return to the applicant the excess amount. If the fee for staff time and the amount paid to consultants is greater than the deposit submitted to the division:

(a) The division shall bill the applicant for the balance; and

(b) Payment from the applicant on the balance must be received by the division before it issues a decision on the written determination.

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 4-18-90; 5-27-92; 3-1-94)

NAC 444.8447 Fees for emergency permit.

1. Except as otherwise provided in subsection 2, an owner or operator of a facility for the management of hazardous waste who applies for an emergency permit pursuant to 40 C.F.R. § 270.61 shall, before the permit is issued by the administrator, pay to the division the following fees to offset the cost to process and review the application:

(a) A fee of \$25; and

(b) An additional fee of \$50 for each hour of staff time devoted to processing and reviewing the application.

2. The administrator may waive the fees provided in subsection 1 for good cause shown.

(Added to NAC by Environmental Comm'n, eff. 5-27-92)

NAC 444.8448 Fees for modification, termination or reissuance of existing permit.

1. An owner or operator of a facility for the management of hazardous waste who applies for a modification or termination, or a revocation and reissuance, of an existing permit issued by the division shall, before the administrator may modify, terminate or reissue the existing permit, pay to the division the following fees to offset the cost to process and review the application:

(a) A minimum fee of \$25; and

(b) An additional amount of \$50 for each hour of staff time devoted to processing and reviewing the application and the amount paid to consultants by the division in connection with the application, not to exceed the maximum fee for an application pursuant to NAC 444.8446.

2. If the facility contains more than one type of regulated unit, the operator is not required to pay more for each application than the maximum fee for the regulated unit to which the highest fee is applicable, unless the modification or termination, or revocation and reissuance, affect both a landfill and an incinerator. If the modification or termination, or revocation and reissuance, affect both a landfill and an incinerator, the operator is not required to pay more than \$100,000 for the application.

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 5-27-92)

NAC 444.845 Annual operating fee; penalty for unpaid fee.

1. The owner or operator of a facility for the management of hazardous waste shall, on or before March 1 of each year, pay the following annual operating fee to the division to offset partially the cost of inspection and other regulation of the facility:

Regulated Unit	Annual Operating Fee
Landfills, incinerators, boilers, industrial furnaces	\$5,000
Surface impounds, facilities for treatment of land, facilities for thermal destruction	1,000
Tanks, portable containers, waste piles, facilities for treatment or storage	500

2. If the facility contains more than one type of regulated unit, the operator is not required to pay more than the annual operating fee for the regulated unit to which the highest fee is applicable.

3. The division may assess a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that the fee remains unpaid.

4. As used in this section, "owner or operator of a facility for the management of hazardous waste" means a person who:

(a) Qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G; or

(b) Has been issued a permit pursuant to 40 C.F.R. Part 124, Subparts A and B, and Part 270, Subparts A to F, inclusive.

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 5-27-92; 3-1-94)

NAC 444.8452 Additional fees to offset cost of inspection and other regulation: Payment; accounting; penalty for unpaid fee; waiver. (NRS 459.485, 459.500, 459.510)

1. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay the following fees to the division to offset partially the cost of inspection and other regulation of the facility:
 - (a) For the disposal, open burn, open detonation or incineration of hazardous waste by a unit or for the burning of hazardous waste in a boiler or industrial furnace for the recovery of energy by a facility:
 - (1) Eighteen dollars and fifty cents per ton of the volume that is hazardous waste pursuant to paragraph (a) of subsection 2 of NAC 444.843; and
 - (2) Three dollars per ton of the volume that is hazardous waste pursuant to paragraph (b) or (c) of subsection 2 of NAC 444.843 but is not hazardous waste pursuant to paragraph (a) of that subsection.
 - (b) For the treatment or storage of a volume of hazardous waste by a unit without :
 - (1) Subsequent disposal, open burn, open detonation or incineration of the hazardous waste by the facility; or
 - (2) Subsequent burning of the hazardous waste in a boiler or industrial furnace for the recovery of energy by the facility, \$5 per ton, not to exceed a maximum fee of \$10,000 per calendar year if the waste that is stored or treated is waste generated at that facility.
 - (c) For the treatment of a volume of hazardous waste by a unit so that it is no longer hazardous waste pursuant to NAC 444.843 and subsequent disposal of the treated waste by the facility, \$3 per ton.
 2. The owner or operator of such a facility shall:
 - (a) Calculate the amount of hazardous waste subject to the fees on a quarterly basis based on the volume of hazardous waste that is newly managed by a unit during the quarter of the year for which the fees are calculated;
 - (b) Pay the fees provided in this section within 30 days after the end of each quarter; and
 - (c) Submit, with each payment, a detailed accounting of the volume of waste, which corresponds to the fee paid.
 3. The division may assess a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that a fee remains unpaid.
 4. The division may waive any part of the fees specified in subsection 1 for waste brought to a state-owned facility if the waste is generated:
 - (a) By an agency of this state; or
 - (b) In compliance with an order issued by the division to clean up a spill or deposit.
 5. As used in this section:
 - (a) "Owner or operator of a facility for the management of hazardous waste" means a person who:
 - (1) Qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G; or
 - (2) Has been issued a permit pursuant to 40 C.F.R. Part 124, Subparts A and B, and Part 270, Subparts A to F, inclusive.
 - (b) "Unit" means a unit for the management of hazardous waste that is:
 - (1) Operated by a facility for the management of hazardous waste; and
 - (2) Subject to the permitting requirements of 40 C.F.R. Part 270.
- (Added to NAC by Environmental Comm'n, eff. 7-22-87; A 5-27-92; 3-1-94; R107-97, 3-5-98; R170-00, 1-26-2000)

NAC 444.8454 Deposit of fees. (NRS 459.485, 459.490, 459.500, 459.510) The division shall deposit the fees and penalties it collects pursuant to NAC 444.8446 to 444.8452, inclusive, with the state treasurer for credit to the account for the management of hazardous waste.
(Added to NAC by Environmental Comm'n, eff. 7-22-87; A by R170-99, 1-26-2000)

NAC 444.8455 Facility or mobile unit for recycling of hazardous waste: Preliminary requirements; exemption. (NRS 459.485, 459.490, 459.500)

1. Except as otherwise provided in subsection 4, a person who proposes to construct or operate a facility for the recycling of hazardous waste must obtain a written determination from the administrator that the facility will operate as a facility for the recycling of hazardous waste before he commences the construction or operation of the facility. If the facility will recycle hazardous waste other than used antifreeze governed by NAC 444.8801 to 444.9071, inclusive, or precious metals governed by 40 C.F.R. Part 266, the administrator must approve an operating plan for the facility before construction or operation of the facility commences. Such an operating plan must, without limitation, include a description of the procedures that will ensure safe operation and demonstrate compliance with:
 - (a) The requirements for emergency preparedness and a contingency plan specified in 40 C.F.R. Part 264, Subparts C and D;
 - (b) The standards for containers and tanks specified in 40 C.F.R. Part 264, Subparts I, J, AA, BB and CC; and
 - (c) The applicable requirements for closure and financial assurance for closure specified in 40 C.F.R. Part 264, Subparts G and H.
2. Except as otherwise provided in subsection 4, a person who proposes to construct or operate a mobile unit for the recycling of hazardous waste must obtain a written determination from the administrator that the mobile unit will operate as a mobile unit for the recycling of hazardous waste before he commences the construction or operation of the mobile unit.
3. A written determination required pursuant to subsection 1 or 2 may be requested by filing a written application with the administrator.

4. The provisions of this section do not apply to a person who is recycling hazardous waste which he has generated, at a unit for the recycling of hazardous waste which is owned by him and is located at the same site at which the hazardous waste is generated.

(Added to NAC by Environmental Comm'n, eff. 4-18-90; A 3-1-94; R104-02, 10-18-2002)

NAC 444.84555 Facility or mobile unit for recycling of hazardous waste: Written determination by administrator. (NRS 459.485, 459.490, 459.500)

1. An application for a written determination that a proposed facility or mobile unit will operate as a facility for the recycling of hazardous waste or mobile unit for the recycling of hazardous waste must be accompanied by:

- (a) The name and address of the owner and operator of the facility or mobile unit;
- (b) The name and address of the property owner of the location at which a facility is proposed to be constructed;
- (c) A detailed description of the type of recycling which is proposed, including:
 - (1) The manufacturer of the equipment to be used at the facility or mobile unit;
 - (2) The nature of the recycling; and
 - (3) An explanation evidencing that the:
 - (I) Facility is a facility for the recycling of hazardous waste; or
 - (II) Mobile unit is a mobile unit for the recycling of hazardous waste;
- (d) A description of the source and estimated amount of hazardous waste to be recycled on an average day and on a peak day;
- (e) A physical and chemical description of the type of hazardous waste to be accepted by the facility or processed by the mobile unit;
- (f) A detailed economic analysis of the recycling process to be used at the facility or by the mobile unit, including:
 - (1) The projected costs to operate the facility or mobile unit;
 - (2) The fees that would be charged per unit of volume to process waste transported to the facility or processed by the mobile unit;
 - (3) The projected value that would be recovered per unit of volume; and
 - (4) The projected costs otherwise to manage, recycle, treat or dispose of the material as a hazardous waste;
- (g) A description of the markets and the uses for the products to be produced and the materials and energy to be recovered;
- (h) A comparison of the economic and environmental impact of the proposed recycling process to a process which uses material that is not considered waste when producing the same product ; and
- (i) An operating plan if the facility is a stationary facility and will recycle hazardous waste other than used antifreeze governed by NAC 444.8801 to 444.9071, inclusive, or precious metals governed by 40 C.F.R. Part 266. Such an operating plan must, without limitation, include a description of the procedures that will ensure safe operation and demonstrate compliance with:
 - (1) The requirements for emergency preparedness and a contingency plan specified in 40 C.F.R. Part 264, Subparts C and D;
 - (2) The standards for containers and tanks specified in 40 C.F.R. Part 264, Subparts I, J, AA, BB and CC; and
 - (3) The applicable requirements for closure and financial assurance for closure specified in 40 C.F.R. Part 264, Subparts G and H.

2. The administrator may require the applicant to submit additional information before issuing a written determination.

3. The administrator shall not issue a written determination unless he determines, based upon the application, that all the following requirements are satisfied:

- (a) The facility or mobile unit will be operated as a facility or mobile unit for the recycling of hazardous waste.
- (b) The recycling process has economic value. A recycling process has economic value if:
 - (1) The applicant shows that the material recovered from or the products or energy produced as a result of the process have value in the marketplace; and
 - (2) The fees that the applicant charges per unit of volume to process the material are less than or equal to the cost otherwise to recycle, manage, treat or dispose of the material as a hazardous waste, except that the fees that the applicant charges per unit of volume may be offset by the recovered unit value of the material recovered from or the products or energy produced as a result of the process.

(c) The probable beneficial environmental effect of the facility or mobile unit to the state outweighs the probable adverse environmental effect.

4. Before issuing a written determination for a facility, the administrator shall provide for a period of public notice and comment of not less than 45 days. The request for public comment must be noticed in a local newspaper of general circulation that is published daily or weekly and must be sent to all persons on a mailing list developed and maintained by the administrator. A person may request to be placed on the mailing list by contacting the administrator. The administrator shall respond to all comments he receives during the period provided for comments before making his determination to issue or not to issue a written determination.

5. The administrator may revoke, suspend or modify a written determination if, at any time, he determines that:

- (a) A facility or mobile unit no longer satisfies the conditions stated in the application upon which the administrator issued the written determination;
- (b) An applicant misrepresented or failed to disclose fully a relevant fact on his application;
- (c) The administrator receives information that was not available at the time he issued the written determination which would have justified the imposition of different conditions at the time the determination was issued; or
- (d) The standards or regulations on which the administrator based the written determination have been changed.

6. A person may request a hearing before the state environmental commission concerning a final decision of the administrator to issue, deny, revoke, suspend or modify a written determination by filing a request, not more than 10 days after receiving notice from the administrator of his decision, on form 3 with the State Environmental Commission, 333 West Nye Lane, Carson City, Nevada 89706-0851. The provisions of NAC 445B.875 to 445B.899, inclusive, apply to a hearing of the state environmental commission requested pursuant to this section.

(Added to NAC by Environmental Comm'n, eff. 4-18-90; A 3-1-94; R125-98, 11-2-98; R104-02, 10-18-2002)

NAC 444.8456 Stationary new or expanding facility for management of hazardous waste: Restrictions on location; exempt facilities. (NRS 459.485, 459.490, 459.500)

1. A stationary new or expanding facility for the management of hazardous waste must not be constructed within:

- (a) One mile of:
 - (1) A dwelling, school, church or community center;
 - (2) An area zoned solely for residential use;
 - (3) A public park;
 - (4) A wildlife management area;
 - (5) An area identified by the division of wildlife of the state department of conservation and natural resources as a key habitat for wildlife or as a habitat for an endangered or threatened species;
 - (6) An area where surface water or wetlands occur;
 - (7) A natural or man-made geologic hazard which provides a potential for the conveyance of hazardous constituents, as that term is defined in Appendix VIII of 40 C.F.R. Part 261, to surface or ground waters; or
 - (8) An existing well which supplies public drinking water;
- (b) An area identified by the office of historic preservation of the department of cultural affairs as an historical or archeological site that is eligible for listing in the state register of historic places or the national register of historic places, unless an approved mitigation activity has been completed on the site;
- (c) A 100-year flood plain; or
- (d) An area where the water table seasonally rises to within 150 feet of the surface of the ground.

2. The provisions of this section do not apply to a facility:

- (a) For community recycling;
- (b) For community storage;
- (c) For the storage of hazardous waste which is generated on the site of the facility; or
- (d) Which qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G.

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 4-18-90; 3-1-94; R104-02, 10-18-2002)

NAC 444.8458 Stationary new or expanding facility for management of hazardous waste: Certificate of designation; prerequisite for permit; application; issuance; exempt facilities.

1. A person who proposes to construct or operate a new or new or expanding facility for the management of hazardous waste must obtain a certificate of designation from the administrator before the submission of an application for a permit or class 3 modification required pursuant to 40 C.F.R. Part 124, Subparts A and B, and Part 270, Subparts A to F, inclusive.

2. An application for a certificate of designation must be accompanied by sufficient information to determine the need for the facility and by information concerning:

(a) The effect of the proposed facility on the public health, safety and welfare in the geographic area and any municipality near its proposed location, including without limitation:

(1) The risk and effect of an accident in the transportation of hazardous waste to the facility;
(2) The identification, risk and effect of any spill, discharge, fire, failure of equipment or other emergency that could occur at the facility;

(3) The identification, risk and effect of any exposure to persons of hazardous waste, or products of the degradation of hazardous waste, that could occur during the operation or after the closure of the facility;

(4) The consistency of the facility with local and regional plans and regulations for the use of land;
(5) The protection of the public from adverse effects, including the economic and environmental effects from the construction and operation, and care after closure, of the facility;

(6) The risk and effect of the facility concerning public and private sources of drinking water; and
(7) The risk and effect of the facility concerning scenic, historic and recreational areas, and wetlands, flood plains, wildlife areas and other areas that are environmentally sensitive;

(b) The density of population in the proximity of the proposed location for the facility;

(c) The public benefits of the proposed facility, including:

(1) The need in the state for the additional capacity for the management of hazardous waste;
(2) The energy and resources recoverable by the proposed facility; and
(3) The reduction in methods for the management of hazardous waste, which are less suitable for the environment, that would be made possible by the proposed facility;

(d) Whether any other available site or method for the management of hazardous waste would be less detrimental to the public health or safety or to the quality of the environment;

(e) The applicant's qualifications and experience in the management of hazardous waste;

(f) Whether the proposed facility complies with the provisions of NAC 444.8456; and

(g) The characteristics, sources and quantity of hazardous waste to be managed.

3. The administrator shall not issue a certificate of designation unless he determines, based upon the application, that:

(a) The probable beneficial environmental effect of the facility to the state outweighs the probable adverse environmental effect; and

(b) There is a need for the facility to serve industry in the state. The administrator shall set forth in writing the basis of his determination of need for the facility.

4. The provisions of this section do not apply to a facility:

(a) For community recycling;

(b) For community storage;

(c) For the storage of hazardous waste which is generated on the site of the facility; or

(d) Which qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G.

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 4-18-90; 3-1-94; 9-15-94)

NAC 444.846 Fee for volume of hazardous waste received by facility for the management of hazardous waste owned by state: Amount; payment; penalty; disposition.

1. The operator of a facility for the management of hazardous waste that is owned by the State of Nevada shall, in addition to any other applicable fees, pay to the division of environmental protection of the state department of conservation and natural resources a fee of 25 cents per cubic foot of the volume of all hazardous waste received at the facility.

2. The operator of such a facility shall pay the fee provided in subsection 1, based upon the volume of hazardous waste received by the facility during each quarter of the calendar year, within 30 days after the end of each quarter.

3. The division of environmental protection may assess and collect a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that the fee remains due.

4. The division of environmental protection shall:

(a) Deposit the money received pursuant to this section in the account for the management of hazardous waste created pursuant to NRS 459.530;

(b) Account for the money received pursuant to this section separately; and

(c) Use the money for the cost of closure and perpetual care of the facility.

(Added to NAC by Environmental Comm'n, eff. 1-2-92; A by R170-99, 1-26-2000)

Variances

NAC 444.847 Submission of application. Any person seeking a variance from the provisions of NAC 444.842 to 444.8482, inclusive, must submit an application for the variance to the secretary of the commission.
(Added to NAC by Environmental Comm'n, eff. 4-18-90)

NAC 444.8472 Contents of application. An application for a variance must:

1. Be accompanied by:
 - (a) The maximum fee prescribed by subsection 2 of NAC 444.8474;
 - (b) A map showing:
 - (1) The site of the facility or proposed facility; and
 - (2) The location of any area, structure, park, hazard or well described in NAC 444.8456 and located within 2 miles of the facility;
 - (c) Any drawings, plans or specifications related to the variance requested; and
 - (d) If it has not previously been submitted, any report of operations required to be submitted to the division pursuant to this chapter.
2. Include:
 - (a) The name and address of the applicant;
 - (b) A detailed description of the regulated activity in which the applicant is engaged or in which he wishes to engage;
 - (c) A detailed description of the variance requested;
 - (d) A statement of the reasons for seeking the variance;
 - (e) A detailed analysis of the environmental effects of the facility or proposed facility under the worst expected adverse conditions if the variance is granted;
 - (f) A description of the extent to which the facility or proposed facility will affect the local environment and the public health under the worst expected adverse conditions if the variance is granted;
 - (g) A description of any:
 - (1) Hardship to the applicant; and
 - (2) Benefit to the environment and public health, that will result from denial of the variance;
 - (h) In the case of an application relating to an existing facility, a detailed description of any prior judicial or administrative proceeding affecting the facility, with a description of any corrective action taken as a result of the proceeding; and
 - (i) A detailed description of any prior judicial or administrative proceeding involving:
 - (1) The applicant or any officer, partner or coadventurer of the applicant; and
 - (2) The operation of a facility for the management of hazardous waste,with a description of any corrective action taken as a result of the proceeding.
(Added to NAC by Environmental Comm'n, eff. 4-18-90)

NAC 444.8474 Fee for review of application: Amount; return of excess.

1. An applicant for a variance shall pay:
 - (a) A fee of \$50 per hour for each hour spent by the staff of the division to review the application; and
 - (b) The actual cost of travel, per diem, salaries and any other expenses incurred by the commission in connection with the application.
2. The amount to be paid by an applicant pursuant to subsection 1 will not exceed:
 - (a) Five thousand dollars in the case of a facility or proposed facility handling less than 1,000 tons of waste annually.
 - (b) Ten thousand dollars in the case of a facility or proposed facility handling 1,000 tons or more but less than 10,000 tons of waste annually.
 - (c) Twenty thousand dollars in the case of a facility or proposed facility of unspecified capacity or handling 10,000 tons or more of hazardous waste annually.
3. The division shall maintain an accurate account of the time and expense associated with the review of each application and, upon completion of the review, refund to the applicant any difference between the amount required to cover the cost of the review and the amount paid at the time the application was filed.
(Added to NAC by Environmental Comm'n, eff. 4-18-90)

NAC 444.8476 Initial review of application; recommendation to commission. Upon the filing of an application for a variance, the division shall review the application and accompanying materials and make a recommendation to the commission for approval or disapproval of the application.
(Added to NAC by Environmental Comm'n, eff. 4-18-90)

NAC 444.8478 Public comment and hearing on application; statement of reasons for denial.

1. Before an application is heard, the commission will provide for a period of public notice and comment of not less than 30 days. After the expiration of that period, the application will be heard by the commission at its next regularly scheduled meeting or at a meeting scheduled by the chairman of the commission.

2. If the commission denies an application, it will state its reasons for the denial.
(Added to NAC by Environmental Comm'n, eff. 4-18-90)

NAC 444.848 Duration of variance; revocation; annual review.

1. The duration of a variance will be established by the commission in each case, but in no event does a variance continue in force after the expiration of any permit issued by the division for the facility involved.

2. A variance may be revoked by the commission if it finds, after notice to the owner or operator of the facility and a hearing at which the owner or operator is given an opportunity to be heard:

(a) That the owner or operator has violated any condition of the variance; or

(b) That continued operation of the facility as permitted by the variance poses an unreasonable threat to the public health or violates minimum requirements for the protection of public health as established by state and federal laws and regulations.

3. The commission will review each variance at least once each year to ensure continuing compliance with the conditions of the variance.

(Added to NAC by Environmental Comm'n, eff. 4-18-90)

NAC 444.8482 Renewal of variance.

1. A variance must be renewed before the renewal of any permit issued by the division for the facility involved.

2. An application to renew a variance is subject to all the provisions of NAC 444.847 to 444.8482, inclusive, except that the information required by NAC 444.8472 for an original application need not be submitted if the applicant requests the incorporation into the present record of the entire administrative record relating to the original application.

(Added to NAC by Environmental Comm'n, eff. 4-18-90)

DISPOSAL OF HAZARDOUS WASTE

General Provisions

NAC 444.850 Definitions. (NRS 459.485, 459.490, 459.500) As used in NAC 444.850 to 444.8746, inclusive, unless the context otherwise requires:

1. The words and terms defined in NAC 444.8505 to 444.861, inclusive, have the meanings ascribed to them in those sections.

2. Except for the words and terms otherwise defined in NAC 444.8505 to 444.861, inclusive, the words and terms defined in 40 C.F.R. § 260.10, as that section existed on July 1, 2002, have the meanings ascribed to them in that section.

(Added to NAC by Environmental Comm'n, eff. 11-22-82; A 9-19-90; 9-19-90, eff. 12-1-90; 1-2-92; 5-27-92; 5-27-92; 10-29-93; 3-1-94; 11-9-95; R202-97, 3-5-98; R124-98, 11-2-98; R170-99, 1-26-2000; R037-01, 10-25-2001; R104-02, 10-18-2002)

NAC 444.8505 "Administrator" defined. "Administrator" means the regional administrator of the United States Environmental Protection Agency.

(Added to NAC by Environmental Comm'n, eff. 11-22-82)

NAC 444.8508 "Commission" defined. "Commission" means the state environmental commission.

(Added to NAC by Environmental Comm'n, eff. 5-27-92)

NAC 444.8509 "Conditionally exempt small quantity generator" defined. "Conditionally exempt small quantity generator" means a generator which generates 100 kilograms of hazardous waste or less in a calendar month. A generator is a conditionally exempt small quantity generator only during the calendar months that it generates 100 kilograms of hazardous waste or less.

(Added to NAC by Environmental Comm'n, eff. 3-1-94)

NAC 444.851 "Department" defined. "Department" means the state department of conservation and natural resources.

(Added to NAC by Environmental Comm'n, eff. 11-22-82)

NAC 444.8515 "Director" defined. "Director" means the director of the department.

(Added to NAC by Environmental Comm'n, eff. 11-22-82)

NAC 444.853 "Division" defined. "Division" means the division of environmental protection.

(Added to NAC by Environmental Comm'n, eff. 11-22-82)

NAC 444.8546 "Facility for the management of hazardous waste" defined. "Facility for the management of hazardous waste" has the meaning ascribed to it in NAC 444.8428.

(Added to NAC by Environmental Comm'n, eff. 5-27-92)

NAC 444.8565 "Hazardous waste" defined. (NRS 459.485, 459.490, 459.500)

1. "Hazardous waste" has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261; and

(b) Waste brought into this state which is designated as hazardous waste in the state of its origin.

The term does not include waste containing polychlorinated biphenyl, unless it is mixed with hazardous waste.

(Added to NAC by Environmental Comm'n, eff. 11-22-82; A 10-3-83; 6-29-84; 10-16-85; 7-22-87; 7-1-88; 9-19-90; R202-97, 3-5-98)

NAC 444.861 "Used oil" defined. "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of the use is contaminated by physical or chemical impurities.

(Added to NAC by Environmental Comm'n, eff. 3-1-94)

NAC 444.8618 Information concerning and application for EPA identification number. (NRS 459.485) A generator, transporter or facility owner or operator who is required to obtain an EPA identification number pursuant to 40 C.F.R. §§262.12, 263.11, 264.1(j)(1), 264.11 or 265.11 may obtain information relating to the procedure to obtain the identification number and an application by submitting a written request to the Division of Environmental Protection, 333 West Nye Lane, Room 138, Carson City, Nevada 89706-0851.

(Added to NAC by Environmental Comm'n by R019-00, eff. 5-26-2000)

Standards of Practice

NAC 444.8632 Compliance with federal regulations adopted by reference. (NRS 459.485, 459.490, 459.500)

1. In addition to the requirements of NAC 444.850 to 444.8746, inclusive, a person who generates, transports, treats, stores, disposes or otherwise manages hazardous waste or used oil shall comply with all applicable requirements of, and may rely upon applicable exclusions or exemptions under 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270, inclusive, Part 273 and Part 279, as those provisions existed on July 1, 2002, which, except as otherwise modified by NAC 444.86325, 444.8633 and 444.8634, are hereby adopted by reference. The commission may use federal statutes and regulations that are cited in 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270, inclusive, Part 273 and Part 279, to interpret these sections and parts.

2. The volumes containing these parts may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, for the following prices:

- (a) Volume 40 C.F.R. Part 2..... \$54
- (b) Volume 40 C.F.R. Part 124..... 38
- (c) Volume 40 C.F.R. Parts 260 to 265, inclusive..... 45
- (d) Volume 40 C.F.R. Parts 266 to 299, inclusive..... 45

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 3-7-90; 9-19-90; 1-2-92; 5-27-92; 10-29-93; 3-1-94; 9-15-94; 11-9-95; R202-97, 3-5-98; R124-98, 11-2-98; R170-99, 1-26-2000; R037-01, 10-25-2001; R104-02, 10-18-2002)

NAC 444.86325 Exceptions to and revision of federal regulations adopted by reference. (NRS 459.485, 459.490, 459.500)

1. The following sections and parts of Title 40 of the Code of Federal Regulations, and any reference to these sections and parts, are not adopted by reference:

- (a) Sections 2.106(b) and 2.110;
- (b) Sections 124.1(b)-(e), 124.4, 124.5(e), 124.9, 124.10(a)(1)(iv), 124.15(b)(2), 124.16, 124.17(b), 124.18, 124.19 and 124.21;
- (c) Sections 260.1(b)(4)-(6) and 260.20, 260.21 and 260.22;
- (d) Section 261.5(j);
- (e) Part 262, Subpart H;
- (f) Sections 264.1(d), 264.1(f), 264.149, 264.150, 264.301(1), 265.1(c)(4), 265.149, 265.150 and 265.430;
- (g) Section 266.111;
- (h) Sections 268.5 and 268.6, Part 268, Subpart B, and sections 268.42(b) and 268.44;
- (i) Sections 270.1(c)(1)(i), 270.60(b) and 270.64; and
- (j) Sections 279.10(b)(2), 279.10(b)(3), 279.10(c), 279.10(d)(1), 279.42(b)(2), 279.51(b)(2), 279.62(b)(2) and 279.73(b)(2).

2. The following parts and sections of Title 40 of the Code of Federal Regulations are adopted by reference, as revised in this subsection:

- (a) Part 124 is adopted with the following exceptions:
 - (1) Delete all references to appeals to the Administrator in section 124.5(b);
 - (2) Delete all references to "EPA-issued permits" and insert in its place "permits issued by the department," except in sections 124.5(d), 124.10(b) and 124.10(d)(1)(vi);
 - (3) Delete all references to "when EPA is the permitting issuing authority" and insert in its place "when the department is authorized to issue a permit," except in sections 124.5(d), 124.10(b) and 124.10(d)(1)(vi);
 - (4) Subpart A is adopted solely for the purpose of establishing procedures for permits for the management of hazardous waste, except that all references to "UIC," "PSD" and "NPDES" are deleted;
 - (5) Delete all references to "RCRA part B," "part B RCRA" and "part B" and insert in their place "NRS 459.400 to 459.600, inclusive," in sections 124.31 and 124.32; and
 - (6) Delete from sections 124.31(a), 124.32(a) and 124.33(a) the following sentence: "For the purposes of this section only, 'hazardous waste management units over which EPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 C.F.R. part 271."

(b) Section 260.2(a) is adopted except that “the Freedom of Information Act, 5 U.S.C. section 552, section 3007(b) of RCRA and EPA regulations implementing the Freedom of Information Act and section 3007(b)” must be replaced with “NRS 459.555 and any regulations adopted pursuant thereto.”

(c) Section 260.33(b) is adopted except that “in the locality where the recycler is located” is deleted.

(d) Section 260.41(a) is adopted except that “or unless review by the Administrator is requested. The order may be appealed to the Administrator by any person who participated in the public hearing. The Administrator may choose to grant or to deny the appeal” is deleted.

(e) Section 261.4(e)(3)(iii) is adopted except that “in the Region where the sample is collected” is deleted.

(f) Section 262.11(c)(1) is adopted except that “, or according to an equivalent method approved by the Administrator under 40 C.F.R. Part 260.21” is deleted.

(g) Sections 262.42(a)(2) and 262.42(b) are adopted except that “for the Region in which the generator is located” is deleted.

(h) Sections 264.18(c) and 265.18 are adopted except that “except for the Department of Energy Waste Isolation Pilot Project in New Mexico” is deleted.

(i) Sections 264.143(h), 264.145(h), 265.143(g) and 265.145(g) are adopted except that “If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such Regions” is deleted.

(j) Sections 264.147(a)(1)(i), 264.147(b)(1)(i) and 265.147(a)(1)(i) are adopted except that “or Regional Administrators if the facilities are located in more than one Region” is deleted.

(k) Section 264.151 is adopted with the following exceptions:

(1) Delete all references to “(of/for) the Regions in which the facilities are located”; and

(2) Delete “an agency of the United States Government” from the second paragraph of the trust agreement.

(l) Part 270 is adopted except that all references to “interim authorization” are deleted.

(m) Section 279.40(c) is adopted except that “unless, under the provisions of § 279.10(b), the hazardous waste/used oil mixture is determined not to be hazardous waste” is deleted.

(Added to NAC by Environmental Comm’n, eff. 1-2-92; A 10-29-93; 3-1-94; R202-97, 3-5-98; R037-01, 10-25-2001; R104-02, 10-18-2002)

NAC 444.8633 Revision of certain terms referred to in federal regulations adopted by reference. (NRS 459.485) 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);

(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

(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 and 264.1(j)(1);

(g) Sections 264.12(a) and 265.12(a);

(h) The provisions of section 270.2 defining "Administrator," "Director," "major facility," "Regional Administrator" and "state/EPA agreement"; and

(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."

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 7-22-87; 9-19-90; 1-2-92; 10-29-93 R019-00, 5-26-2000)

NAC 444.8634 Meanings ascribed to certain terms referred to in federal regulations. (NRS 459.485, 459.490, 459.500)

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. Any reference to the "Administrator" in 40 C.F.R. 264.12, 263.11 or 264.1(j)(1) shall be deemed to include the "director".

3. Any reference to the "EPA" in 40 C.F.R. 264.11 or 265.11 shall be deemed to include the "director"

4. 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. must be paid to the "State of Nevada" and deposited in the account for the management of hazardous waste.

(Added to NAC by Environmental Comm'n, eff. 7-22-87; A 9-19-90; 1-2-92; 10-29-93; R170-99, 1-26-2000, R019-00, 5-26-2000)

NAC 444.8655 Acquisition, preparation and distribution of manifests.

1. Except as otherwise provided in 40 C.F.R. Part 262, Subpart B, the generator shall include in the manifest the hazardous waste number assigned by the United States Environmental Protection Agency, if appropriate.

2. The manifest must consist of at least the number of copies which will provide:

(a) The division with one copy;

(b) The generator, each transporter and the operator of the designated facility, one copy each; and

(c) Another copy to be returned to the generator upon completion of the shipment.

3. For shipments of waste out of the state, the generator shall, in addition to complying with the requirements for distribution set forth in 40 C.F.R. § 262.23, send one copy of the generator's returned copy from the out-of-state facility to the division within 30 days after his receipt of that copy.

4. The generator shall acquire his manifest as specified in 40 C.F.R. Part 262.21 or in the case of international shipment as specified in 40 C.F.R. Part 262, Subpart E.

(Added to NAC by Environmental Comm'n, eff. 11-22-82; A 6-29-84; 10-16-85; 7-22-87; 9-19-90)

NAC 444.8666 Receipt of hazardous waste accompanied by manifest. If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his agent, shall:

1. Comply with the requirements for manifests set forth in 40 C.F.R. Part 264, Subpart E or 40 C.F.R. Part 265, Subpart E; and

2. Within 30 days after the delivery, send a copy of the manifest or shipping paper, for shipments transported by railroad, to the division.

(Added to NAC by Environmental Comm'n, eff. 11-22-82; A 9-19-90)—(Substituted in revision for NAC 444.8960)

NAC 444.8671 Labeling of containers of hazardous waste accumulated or stored on site. (NRS 459.485, 459.490, 459.500) A generator who accumulates or stores hazardous waste on site shall, in addition to complying with the requirements for labeling set forth in 40 C.F.R. Part 262, include on the label of each container of hazardous waste, excluding those containers described in 40 C.F.R. § 262.34(c), the hazardous waste number assigned by the United States Environmental Protection Agency.

(Added to NAC by Environmental Comm'n, eff. 5-27-92; A by R202-97, 3-5-98)

NAC 444.8675 Biennial reports by generators of hazardous waste.

1. A generator shall submit to the director a report for the hazardous waste generated during odd-numbered years no later than March 1 of the next following even-numbered year.

2. The biennial report must contain the information requested on the appropriate form supplied by the division.

3. A generator shall retain a copy of each of his biennial reports for at least 3 years after the report became due. The period required for the retention of each such report is automatically extended during the course of any unresolved action for enforcement regarding the generator or as requested by the director.

4. As used in this section, "generator":

(a) Has the meaning ascribed to it in 40 C.F.R. § 260.10; and

(b) Includes a person who has given notice that he is a generator of hazardous waste and holds an active identification number issued pursuant to 40 C.F.R. § 262.12.

(Added to NAC by Environmental Comm'n, eff. 11-22-82; A 5-27-92)

NAC 444.8677 Written record of inspections by certain generators of hazardous waste. A generator who generates more than 100 kilograms of hazardous waste in a calendar month and accumulates hazardous waste on site shall, in addition to complying with the requirements for accumulation set forth in 40 C.F.R. § 262.34, maintain a written record of inspections conducted of containers and tanks. Those records must be kept on site for not less than 3 years and must include:

1. The date and time of an inspection;

2. The name of the inspector;

3. A notation of the inspector's observations; and

4. The date and nature of any repairs made or other remedial action taken.

(Added to NAC by Environmental Comm'n, eff. 10-29-93)

NAC 444.8681 Mixing of used oil with hazardous waste or products prohibited; exceptions; recordkeeping requirements.

1. The mixing of used oil with hazardous wastes is prohibited except for the following:
 - (a) Mixtures of used oil and a hazardous waste which is hazardous solely because it exhibits the characteristic of ignitability specified in 40 C.F.R. § 261.21 and is not listed in subpart D of 40 C.F.R. Part 261, by a conditionally exempt small quantity generator who generates and mixes less than 5 gallons of such waste per calendar month with its used oil, if the resulting mixture does not exhibit the characteristic of ignitability specified in 40 C.F.R. § 261.21.
 - (b) Mixtures of used oil and waste gasoline, if the resulting mixture does not exhibit any of the characteristics of hazardous waste specified in subpart C of 40 C.F.R. Part 261.
 - (c) Mixtures of used oil and waste diesel fuel. If such mixtures will be used for mining activities relating to extraction, express written approval must be granted by the division before such use.
2. The mixing of used oil with products is prohibited except for the following:
 - (a) Mixtures of used oil and diesel fuel. If such mixtures will be used for mining activities relating to extraction, express written approval must be granted by the division before such use.
 - (b) Mixtures of used oil and other fuels if such mixture will be used for the recovery of energy pursuant to 40 C.F.R. Part 279.
 - (c) Mixtures of used oil and sorbent materials when used only to manage isolated leaks and spills. Such mixtures must not contain any free liquid.
3. Conditionally exempt small quantity generators who mix hazardous waste with used oil pursuant to paragraph (a) of subsection 1 shall maintain records of the mixing for a minimum of 3 years. The records must include the quantity and description of the hazardous waste mixed with the used oil, the amount of used oil to which the waste was added and the date the mixing took place. In addition, such conditionally exempt small quantity generators shall, for not less than 3 years, maintain records on site of all purchases of solvents that upon disposal would exhibit the characteristic of ignitability specified in 40 C.F.R. § 261.21. The records maintained pursuant to this subsection must be readily available for review.

(Added to NAC by Environmental Comm'n, eff. 3-1-94)

NAC 444.8682 Requirements for managing and disposing of mixtures of used oil and hazardous wastes or other products.

1. Mixtures of used oil with hazardous wastes that are exempted pursuant to subsection 1 of NAC 444.8681 that are being recycled or burned for the recovery of energy must be managed in accordance with the requirements of 40 C.F.R. Part 279. If such mixtures are to be disposed of, they must be managed in accordance with the requirements of 40 C.F.R. Part 262.
2. Mixtures of used oil and hazardous wastes that are not exempted pursuant to subsection 1 of NAC 444.8681 must be managed as a hazardous waste in accordance with the requirements of Subtitle C of the Resource Conservation and Recovery Act and NAC 444.850 to 444.8746, inclusive.
3. Except as otherwise provided in subsection 4, mixtures of used oil and products that are exempted pursuant to subsection 2 of NAC 444.8681 that are being reused or burned for the recovery of energy must be managed in accordance with the requirements of 40 C.F.R. Part 279.
4. Mixtures of used oil and sorbent materials that are exempted pursuant to paragraph (c) of subsection 2 of NAC 444.8681 may be managed in accordance with the requirements of NAC 444.570 to 444.7499, inclusive.
5. Mixtures of used oil and products that are not exempted pursuant to subsection 2 of NAC 444.8681 must be managed as a hazardous waste in accordance with the requirements of Subtitle C of the Resource Conservation and Recovery Act and NAC 444.850 to 444.8746, inclusive, until a determination has been made pursuant to NAC 444.8683 that the waste is not hazardous.

(Added to NAC by Environmental Comm'n, eff. 3-1-93)

NAC 444.8683 Regulation of mixtures of used oil with wastes determined not to be hazardous. Mixtures of used oil with wastes that are determined not to be hazardous are subject to regulation as used oil pursuant to 40 C.F.R. Part 279. Documentation of the determination that the waste was not hazardous must be maintained on site and available for inspection while the waste is being generated and for a minimum of 3 years.

(Added to NAC by Environmental Comm'n, eff. 3-1-93)

NAC 444.8686 Open burning of hazardous waste. An operator shall not openly burn hazardous waste except for the open burning and detonation of waste explosives. For the purposes of this section, waste explosives include waste which has the potential to detonate and any bulk military propellants which cannot safely be disposed of through other treatment. For the purposes of this section, detonation is an explosion in which chemical transformation passes through the material faster than the speed of sound. An operator who openly burns hazardous waste or detonates waste explosives shall do so in accordance with 40 C.F.R. Part 264, Subpart X and the following table and in a manner that does not threaten human health or the environment.

Pounds of waste explosives or propellants	Minimum distance from open burning or detonation to the property of others
0 to 100	204 meters
101 to 1,000	380 meters
1,001 to 10,000	530 meters
10,001 to 30,000	690 meters

(Added to NAC by Environmental Comm'n, eff. 11-22-82; A 9-19-90)—(Substituted in revision for NAC 444.9290)

NAC 444.8688 Permit required to transfer hazardous waste from transport vehicle to boiler or industrial furnace. A person who desires to transfer hazardous waste from a transport vehicle directly to a boiler or industrial furnace shall first obtain a permit for the storage of hazardous waste in the manner prescribed by 40 C.F.R. Part 270.
(Added to NAC by Environmental Comm'n, eff. 1-2-92)

Variances

NAC 444.8693 Submission of application for variance from certain federal regulations. An owner or operator of a facility for the management of hazardous waste may seek a variance from the requirements of 40 C.F.R. Parts 260, 264 and 268, as adopted pursuant to NAC 444.8632, by submitting an application for the variance to the commission.
(Added to NAC by Environmental Comm'n, eff. 5-27-92)

NAC 444.8696 Fee for processing and review of application for variance.

1. Except as otherwise provided in subsection 2, the owner or operator of a facility for the management of hazardous waste shall pay to the division, to offset the cost to process and review an application for a variance:

(a) A fee of \$50 for each hour of staff time devoted to processing and reviewing the application; and

(b) The actual cost of travel, per diem, salaries and any other expenses incurred by the commission in connection with the application.

2. The maximum amount an applicant must pay pursuant to subsection 1 is:

(a) Five thousand dollars in the case of a facility or proposed facility handling less than 1,000 tons of hazardous waste annually.

(b) Ten thousand dollars in the case of a facility or proposed facility handling 1,000 tons or more but less than 10,000 tons of hazardous waste annually.

(c) Twenty thousand dollars in the case of a facility or proposed facility of unspecified capacity or handling 10,000 tons or more of hazardous waste annually.

3. The division shall maintain an accurate account of the time and expense associated with the review of each application and, upon completion of the review, refund to the applicant any difference between:

(a) The amount required to cover the cost of the review; and

(b) The amount paid at the time the application was filed.

4. The commission shall not issue a variance unless all applicable fees are paid.

(Added to NAC by Environmental Comm'n, eff. 5-27-92)

Administrative Penalties

NAC 444.8701 Definitions. As used in NAC 444.8701 to 444.8746, inclusive:

1. "Administrator" means the administrator of the division.

2. "Hearing officer" means the administrator or any person designated by him to conduct a hearing relating to a citation issued pursuant to NAC 444.8711.

(Added to NAC by Environmental Comm'n, 9-19-90, eff. 12-1-90)

NAC 444.8706 Imposition and amounts.

1. In addition to any other remedy provided by law for such a violation and except as otherwise provided in subsection 2, any person who violates any provision of NRS 459.400 to 459.600, inclusive, or any regulation adopted pursuant to those sections, including the provisions of the federal regulations adopted by reference in NAC 444.8632, may be required to pay an administrative penalty pursuant to NRS 459.500 in an amount to be determined by the division.

2. The administrative penalty may not exceed the amount specified in this subsection for a violation of any of the following provisions:

Section Violated	Nature of Violation	Maximum Penalty
40 C.F.R. § 262.11	Failure to determine whether solid waste is hazardous.	\$300
40 C.F.R. § 262.12(a)	Treatment, storage, disposal, transportation or offering for transportation of hazardous waste without identification number.	200
40 C.F.R. § 262.12(c)	Offering hazardous waste to transporter or facility which does not have identification number.	200
40 C.F.R. § 262.20(a)	Failure to prepare manifest.	400
40 C.F.R. § 262.20(b)	Failure to designate facility on manifest.	200
40 C.F.R. § 262.20(d)	Failure to designate facility or instruct return of waste.	200
40 C.F.R. § 262.22	Insufficient number of copies of manifest.	200
40 C.F.R. § 262.23(a)(1)	Failure to sign manifest certification by hand.	100
40 C.F.R. § 262.23(a)(2)	Failure to obtain signature of initial transporter and date of acceptance on manifest.	100
40 C.F.R. § 262.23(a)(3)	Failure to retain copy of manifest.	100
40 C.F.R. § 262.23(b)	Failure to give transporter remaining copies of manifest.	300
40 C.F.R. § 262.23(d)	Failure to send required number of copies of dated and signed manifest for shipment by rail.	200
40 C.F.R. § 262.30	Failure to comply with regulations for packaging.	400 per load
40 C.F.R. § 262.31	Failure to comply with regulations for labeling.	200 per load
40 C.F.R. § 262.32(a)	Failure to comply with regulations for marking.	200 per load
Section Violated	Nature of Violation	Maximum Penalty
40 C.F.R. § 262.32(b)	Failure to mark each container with required information.	\$200 per load
40 C.F.R. § 262.33	Failure to comply with regulations for placarding.	200 per load
40 C.F.R. § 262.34(a)	Accumulation of hazardous waste.	1,000
40 C.F.R. § 262.34(c)(1)	Accumulation of hazardous waste or acutely hazardous waste.	300
40 C.F.R. § 262.34(d)	Accumulation of hazardous waste.	500

40 C.F.R. § 262.34(d)(1)	Accumulation of more than 6,000 kilograms of hazardous waste.	500
40 C.F.R. § 262.40(a)	Retention of copy of manifest.	200
40 C.F.R. § 262.40(b)	Retention of copies of reports.	200 per record
40 C.F.R. § 262.40(c)	Retention of records.	200
40 C.F.R. § 262.41	Failure to submit properly completed biennial report.	500
40 C.F.R. § 262.42(a)(1)	Determination by generator of status of waste.	100
40 C.F.R. § 262.42(a)(2)	Submittal of exception report.	100
NAC 444.8666	Failure to submit copy of manifest to the division.	500
NAC 444.8671	Failure to label container properly.	100

(Added to NAC by Environmental Comm'n, 9-19-90, eff. 12-1-90; A 5-27-92)

NAC 444.8711 Issuance and contents of citations.

1. Any authorized representative or employee of the division who has probable cause to believe that a violation described in NAC 444.8706 has occurred may issue a citation to the generator or other person responsible for the violation.

2. A citation issued pursuant to this section must:

- (a) Be in the form prescribed by the division;
- (b) Identify the provision alleged to have been violated;
- (c) Contain a short and plain statement of the facts supporting the alleged violation; and
- (d) Set forth the amount of the penalty provided for the violation.

(Added to NAC by Environmental Comm'n, 9-19-90, eff. 12-1-90)

NAC 444.8716 Requests for forfeiture or hearing; scheduling and notice of hearing.

1. A person who receives a citation pursuant to NAC 444.8711 and does not desire to contest the matter must, within 30 days after the date of the citation, sign a request for forfeiture and deliver it to the division, together with his copy of the citation and payment for the total amount of the penalty set forth in the citation.

2. A person who is cited pursuant to NAC 444.8711 and desires a hearing on the matter must, within the time provided by subsection 1, deliver a written request for hearing to the division. The person shall include in the request a statement of the issues that he intends to raise at the hearing.

3. Upon receipt of a request for hearing, the division shall:

- (a) Schedule the matter for hearing at the earliest practicable date; and
- (b) Deliver written notice of the hearing to the person.

4. Any delivery required by this section to be made to the office of the division may be made personally or by mail, but the documents must be received by the division before the expiration of the time provided by this section.

(Added to NAC by Environmental Comm'n, 9-19-90, eff. 12-1-90)

NAC 444.8721 Failure to request forfeiture or hearing or to appear at hearing. If a person cited pursuant to NAC 444.8711 fails to deliver a request for forfeiture or a request for hearing within the time required by NAC 444.8716, or fails to appear at a scheduled hearing, the department may proceed to recover a civil penalty and damages for the violation as provided by NRS 459.585.

(Added to NAC by Environmental Comm'n, 9-19-90, eff. 12-1-90)

NAC 444.8726 Continuance of hearing.

1. If a request for hearing is made and granted pursuant to NAC 444.8716, the person cited may request a continuance of the hearing by delivering a written request to the hearing officer. The request may be granted or denied at the discretion of the hearing officer.

2. Except as otherwise ordered by the hearing officer for good cause:

(a) A request for continuance:

- (1) Must state the basis for the request; and

(2) Must be received by the hearing officer not less than 5 business days before the scheduled date of the hearing.

(b) A continuance will not be granted for more than 30 days after the date previously scheduled for the hearing. (Added to NAC by Environmental Comm'n, 9-19-90, eff. 12-1-90; A 5-27-92)

NAC 444.8731 Inspection and copying of documents division intends to use at hearing. If a request for hearing is granted, the person cited is entitled before the hearing to inspect and copy any document that the division intends to present to the hearing officer. The division may charge a fee, not to exceed the cost of reproduction, for each copy of any such document.

(Added to NAC by Environmental Comm'n, 9-19-90, eff. 12-1-90)

NAC 444.8736 Rendering of decision by hearing officer. Within 30 days after the end of a hearing, the hearing officer shall prepare and file a decision in writing. The decision must include a statement of the reasons for the conclusion reached by the hearing officer. The hearing officer shall cause a copy of the decision to be delivered, personally or by certified mail, to the person cited.

(Added to NAC by Environmental Comm'n, 9-19-90, eff. 12-1-90)

NAC 444.8741 Methods for delivery of documents. Any delivery required by NAC 444.8706 to 444.8746, inclusive, to be made to:

1. The division must be made to the office of the division at 123 West Nye Lane, Capitol Complex, Carson City, Nevada 89710.

2. The person cited must be made to him at the address set forth in the citation or, if he has made a request for hearing, at the address set forth in the request.

(Added to NAC by Environmental Comm'n, 9-19-90, eff. 12-1-90)

NAC 444.8746 Methods of payment. Payment of an administrative penalty imposed pursuant to NAC 444.8706 must be made by money order, bank draft or check payable to the State of Nevada.

(Added to NAC by Environmental Comm'n, 9-19-90, eff. 12-1-90)

PROGRAM FOR REDUCTION OF HAZARDOUS OR INDUSTRIAL WASTE

NAC 444.8752 Definitions. As used in NAC 444.8752 to 444.8788, inclusive, unless the context otherwise requires, the words and terms defined in NAC 444.8754 to 444.8768, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8754 "Disposal" defined. "Disposal" has the meaning ascribed to it in NRS 459.425.

(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8756 "Division" defined. "Division" means the division of environmental protection of the state department of conservation and natural resources.

(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8758 "Facility for the management of hazardous waste" defined. "Facility for the management of hazardous waste" has the meaning ascribed to it in NAC 444.8428.

(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8762 "Generator" defined. "Generator" means any natural person, any form of business or social organization or any other legal entity, including, but not limited to, a corporation, partnership, association, trust or unincorporated organization, or a state or local government, governmental agency or political subdivision of a state or local government, that produces hazardous or industrial waste in Nevada. The term does not include the Federal Government or any agency or political subdivision of the Federal Government.

(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8764 "Hazardous waste" defined.

1. "Hazardous waste" has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261;

(b) Waste containing polychlorinated biphenyl; and

(c) Waste brought into this state which is designated as hazardous waste in the state of its origin.

(Added to NAC by Environmental Comm'n, eff. 1-2-92; A by R170-99, 1-26-2000)

NAC 444.8766 "Industrial waste" defined. "Industrial waste" means a solid, semi-solid or liquid waste that:

1. Results from an industrial, manufacturing, service or commercial activity; and

2. Is managed as a waste stream independent of municipal solid waste.

(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8768 "Reduction" defined.

1. "Reduction" means action by a generator that:

(a) Decreases the total quantity of hazardous or industrial waste generated through abatement, minimization, reuse or recycling; or

(b) Decreases the quantity of one or more types of hazardous or industrial waste that results in a decrease in the risk to the public health and safety or to the environment, but does not decrease the total quantity of hazardous or industrial waste generated.

2. As used in this section:

(a) "Abatement" means the elimination or reduction of the quantity of hazardous or industrial waste produced through an industrial process by the addition or substitution of a substance or piece of equipment.

(b) "Minimization" means a decrease in the quantity of hazardous or industrial waste as a result of the internal practices of a generator or technology that increases the concentration of waste.

(c) "Recycling" means any process which uses hazardous or industrial waste to produce products or energy or to recover materials.

(d) "Reuse" means reutilization of hazardous or industrial waste by the generator as the waste was generated or with minor modification.

(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8776 Applications for grants: Solicitation; submission; contents.

1. The division may solicit applications for grants for the reduction of hazardous or industrial waste and establish deadlines for applications by giving public notice of the availability of grants and the deadlines. An application received after 4:30 p.m. on the last business day of the application period will be returned to the applicant.

2. An application for a grant for the reduction of hazardous or industrial waste may be submitted to the division by:

- (a) A generator; or
 - (b) An association that consists of or represents two or more generators that generate similar hazardous or industrial wastes in this state.
3. An application for a grant for the reduction of hazardous or industrial waste must be accompanied by:
- (a) A description of the managerial and technical ability of the applicant to study the feasibility of a reduction of hazardous or industrial waste and any assistance by a consultant that is anticipated;
 - (b) A description of the method or technology to be studied or used by the the applicant and a statement explaining:
 - (1) Whether the method or technology to be used or studied is in existence; and
 - (2) Whether the study involves original or continuing research to determine the feasibility of the method or technology;
 - (c) A description of the hazardous or industrial waste affected by the method or technology to be studied or used by the applicant, including:
 - (1) The amount of waste generated by the applicant in previous calendar years;
 - (2) An estimate of the amount of waste that will be reduced by the method or technology; and
 - (3) A description of the method currently used to manage the hazardous or industrial waste generated by the applicant and any change in management that is anticipated after the reduction;
 - (d) A statement of financial feasibility, which must include:
 - (1) The amount of grant requested;
 - (2) An estimate of the total amount of money needed to complete the project; and
 - (3) A description of any financial support that might be available to the applicant from external and internal sources; and
 - (e) Any other information deemed necessary by the division.
(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8778 Applications for grants: Determination of eligibility and adequacy; action by division; correction of deficiencies.

1. The division shall review each application to determine:
 - (a) The eligibility of the applicant;
 - (b) The eligibility of the proposal specified in the application;
 - (c) The eligibility of the costs specified in the application; and
 - (d) The adequacy of the supporting documentation.
2. Proposals designed to:
 - (a) Use a method or technology; or
 - (b) Study the feasibility of a method or technology,
 to reduce the amount of hazardous or industrial waste that is generated, are eligible for the grant program. These proposals may include, but are not limited to, a study of the feasibility of a method or technology that is in existence.
3. Only the costs of using or studying the feasibility of a method or technology, as described in subsection 2, are eligible for the grant program.
4. Documentation is considered adequate if it enables the division to:
 - (a) Determine whether the proposal appears to be feasible;
 - (b) Determine whether the applicant has the managerial and technical ability and experience to carry out the proposal; and
 - (c) Evaluate the proposal pursuant to NAC 444.8782.
5. If the division determines that the documentation in an application is complete, the application is considered final and the division shall:
 - (a) Notify the applicant that the application is final;
 - (b) Evaluate the application pursuant to NAC 444.8782; and
 - (c) Set a date for action.
6. If the division determines that:
 - (a) Any of the costs of the proposal are ineligible;
 - (b) Any part of the proposal is ineligible; or
 - (c) The documentation in the application is inadequate,
 the applicant may correct the application within 30 days after receiving notice of the deficiencies.
(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8782 Applications for grants: Evaluation of application that is final.

1. In evaluating an application that is final, the division shall consider:
 - (a) The goals and policies of the bureau of waste management of the division of environmental protection of the state department of conservation and natural resources;
 - (b) The significance of the reduction of hazardous or industrial waste proposed by the applicant, measured by:
 - (1) The potential decrease in the quantity of hazardous or industrial waste generated in this state from:
 - (I) The reduction proposed by the applicant; and
 - (II) The use of other methods of reduction by other generators; and
 - (2) The decrease in risk to the public health and safety and to the environment from the waste reduction, including:

(I) The decrease in the quantity of waste with a high degree of intrinsic hazard;
(II) The decrease in the quantity of waste that is untreatable and disposed on land; and
(III) The effect of the reduction proposed by the applicant on the subsequent management of the waste that will not be eliminated, including the need for further processing and steps for disposal to manage the waste properly;

(c) The merits of the specific method or technology proposed by the applicant, based upon:
(1) The decrease in the percentage of hazardous or industrial waste affected by the reduction;
(2) The increase or decrease in the percentage of hazardous or industrial waste generated by the applicant;
(3) The general applicability of the reduction proposed by the applicant to other generators in this state;
(4) The likelihood that the method or technology will successfully reduce hazardous or industrial waste;
(5) The estimated reliability of the method or technology; and
(6) The capital needed for the use of the method or technology and the costs of operating and maintaining the method or technology once it is in place;
(d) Whether the application was submitted by an association of two or more generators;
(e) The recommendations of the division's plan for the management of hazardous waste;
(f) An evaluation of the feasibility of the proposal by an independent consultant if the division requests such an evaluation;
(g) Whether alternative sources of financial and technical support are available to the applicant; and
(h) Whether the method or technology will be developed without the financial assistance of the division.
2. As used in this section, "intrinsic hazard" means:
(a) The propensity of hazardous or industrial waste to migrate in the environment and result in exposure to the public; and
(b) The significance of the damage to natural resources or harm to the public that is likely, as a result of inherent or induced attributes of the waste such as its chemical and physical stability, solubility, bioconcentratability, toxicity, flammability and corrosivity.
(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8784 Awarding of grants.

1. The division shall award grants to those proposals, which in the judgment of the division, best meet the factors set forth in NAC 444.8782.
2. The division may give preference to an application filed by association of two or more generators, if the division determines that the association significantly contributes to cooperation among generators in reducing the amount of hazardous or industrial waste generated.
3. The division shall determine the amount of a grant based on a review of the factors set forth in NAC 444.8782 and the amount of money available for grants. Grants are limited to a maximum amount of \$30,000 per agreement. The division may grant multiple awards to a single applicant.
(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8786 Grant agreements: Entry; contents. The division and the recipient of a grant shall enter into a grant agreement, which must:

1. Establish the term of the grant, which may not exceed 1 year, unless otherwise determined by the division;
2. Establish a schedule for the payment of the grant;
3. Provide that the recipient is authorized to enter into contracts to complete the work specified in the agreement;
4. Identify the method or technology to be studied or used by the recipient;
5. Provide that the recipient shall submit the results of all studies and analyses performed under the agreement to the division; and
6. Establish the procedure for determining the amount of money to be returned to the division upon completion of the project, cancellation of the grant or termination of the project.
(Added to NAC by Environmental Comm'n, eff. 1-2-92)

NAC 444.8788 Grants: Cancellation and termination; disbursement; examination of recipient; reimbursement of ineligible costs; return of money not spent.

1. Unless the division determines that a variance is justified, the division shall cancel a grant for the reduction of hazardous or industrial waste that is not completed in accordance with its terms and conditions, including time schedules.

2. If the division determines that a project is no longer feasible, it may, upon its own initiative or at the request of a recipient of a grant, terminate the grant 30 days after giving notice of the termination to the recipient. The division may order a recipient to stop spending money received as a grant, effective the date the notice of termination is issued.

3. The division shall disburse the money for grants in accordance with the schedule for payments set forth in the grant agreement.

4. If the books, records, documents and accounting procedures and practices of a recipient of a grant are relevant to the grant, they are subject to examination at any time by division and other appropriate state officers. The recipient shall reimburse the division for any costs that have been paid which, in the opinion of the division, are ineligible.

5. Upon completion of the project, cancellation of the grant or termination of a project, the applicant shall, pursuant to the procedure set forth in the grant agreement, return to the division the money that has not been spent.

(Added to NAC by Environmental Comm'n, eff. 1-2-92)

RECYCLING OF USED ANTIFREEZE

General Provisions

NAC 444.8801 Definitions. As used in NAC 444.8801 to 444.9071, inclusive, unless the context otherwise requires, the words and terms defined in NAC 444.8806 to 444.8866, inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification)

NAC 444.8806 "Administrator" defined. "Administrator" means the administrator of the division.
(Added to NAC by Environmental Comm'n, eff. 10-3-96)

NAC 444.8811 "Center for the collection of used antifreeze" defined. "Center for the collection of used antifreeze" means any facility that accepts, aggregates or stores used antifreeze which is collected from:

1. Generators of used antifreeze that are governed by the provisions of NAC 444.8911 to 444.8931, inclusive; or
2. A person who generates used antifreeze from his household.

The term does not include a generator of used antifreeze who collects his used antifreeze in compliance with the provisions of NAC 444.8911 to 444.8931, inclusive.

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

NAC 444.8816 "Commission" defined. "Commission" means the state environmental commission.
(Added to NAC by Environmental Comm'n, eff. 10-3-96)

NAC 444.8821 "Division" defined. "Division" means the division of environmental protection of the state department of conservation and natural resources.

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

NAC 444.8826 "Facility for the recycling of used antifreeze" defined.

1. "Facility for the recycling of used antifreeze" means a facility that receives used antifreeze from another site, performs recycling of the used antifreeze and is permanently stationed at a single facility.

2. The term includes the contiguous land and any structures, other appurtenances or improvements on the land which are used for the recycling of used antifreeze.

3. The term does not include a generator of used antifreeze who recycles his own used antifreeze or has it recycled by a mobile unit for the recycling of used antifreeze.

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

NAC 444.8831 "Facility for the transfer of used antifreeze" defined.

1. "Facility for the transfer of used antifreeze" means a facility where shipments of used antifreeze are transported to and stored for more than 24 hours but not more than 35 days.

2. The term includes, without limitation, loading docks and parking areas.

3. The term does not include a generator of used antifreeze who transfers his used antifreeze in compliance with the provisions of NAC 444.8911 to 444.8931, inclusive.

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

NAC 444.8836 "Generator of used antifreeze" defined. "Generator of used antifreeze" means a person or facility that performs an act or conducts a process which produces used antifreeze.

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

NAC 444.8841 "Hazardous waste" defined.

1. "Hazardous waste" has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261, as that part existed on October 3, 1996;

(b) Mixture of wastes from commercial chemical products identified in 40 C.F.R. Part 261.33, as that part existed on October 3, 1996, which has been discarded or is intended to be discarded, if at least 10 percent of the mixture, by volume, is composed of one or more of its active ingredients; and

(c) Waste brought into this state which is designated as hazardous waste in the state of its origin.

3. The term does not include waste containing polychlorinated biphenyl, unless it is mixed with hazardous waste.

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

NAC 444.8846 "Identification number" defined. "Identification number" means an identification number issued by the Environmental Protection Agency.

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

NAC 444.8851 "Mobile unit for the recycling of used antifreeze" defined. "Mobile unit for the recycling of used antifreeze" means any transportable equipment which is used to perform recycling of used antifreeze and is not permanently stationed to a single facility.

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

NAC 444.8856 "Point for aggregation" defined. "Point for aggregation" means a facility that accepts, aggregates or stores used antifreeze which is collected from:

1. Another site where used antifreeze is generated which is owned or operated by the owner or operator of the point for aggregation; or

2. A person who generates used antifreeze from his household.

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

NAC 444.8861 "Transporter of used antifreeze" defined. "Transporter of used antifreeze" means a person who:

1. Transports used antifreeze;

2. Collects used antifreeze from more than one generator of used antifreeze and transports the used antifreeze; or

3. Owns or operates a facility for the transfer of used antifreeze.

The term does not include a generator of used antifreeze who transports his used antifreeze in compliance with the provisions of NAC 444.8911 to 444.8931, inclusive.

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

NAC 444.8866 "Used antifreeze" defined. "Used antifreeze" means ethylene glycol or propylene glycol that has been used and as a result of such use is contaminated by physical or chemical impurities.

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

NAC 444.8871 Applicability.

1. The provisions of NAC 444.8806 to 444.9071, inclusive, apply to used antifreeze that is recycled and is determined to be a hazardous waste because:

(a) It exhibits a characteristic of hazardous waste which is identified in 40 C.F.R. Part 261, Subpart C, as that part existed on October 3, 1996; or

(b) It was designated as a hazardous waste in the state of its origin.

2. The provisions of NAC 444.8806 to 444.9071, inclusive, do not apply to used antifreeze which will be disposed of and not recycled, or to mixtures of used antifreeze and hazardous waste. The used antifreeze described in this subsection is governed by the provisions of NAC 444.850 to 444.8746, inclusive.

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

General Requirements

NAC 444.8876 Containers and tanks for storage of used antifreeze: General requirements. Each container and storage tank that is above the ground which stores used antifreeze must be:

1. In good condition, including, without limitation, being free from severe rusting, visible structural defects or deterioration;

2. Free from visible leaks;

3. Closed unless material is being added or removed; and

4. Clearly marked with the words Used Antifreeze.

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

NAC 444.8881 Underground storage tanks: Compliance with federal regulations; identification of pipes.

1. Each storage tank that is underground which stores used antifreeze must comply with the requirements of 40 C.F.R. Part 265, Subpart J, as that subpart existed on October 3, 1996.

2. Each pipe that transfers used antifreeze to storage tanks that are underground must be clearly marked with the words Used Antifreeze.

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

NAC 444.8886 Container: Secondary system for containment. (NRS 459.485, 459.490, 459.500) Each container which stores used antifreeze at a facility for the transfer of used antifreeze or a facility for the recycling of used antifreeze must have a secondary system for containment which:

1. Includes dikes, berms or retaining walls, or the equivalent, which are impervious to the penetration of used antifreeze;

2. Includes a floor, or the equivalent, which covers the entire area within the dike, berm or retaining wall and is impervious to the penetration of used antifreeze;

3. Is large enough to prevent the release of used antifreeze into the soil, ground water or surface water; and

4. Has the capacity to contain either 10 percent of the total volume of the containers within the system or the volume of the largest container within the system, excluding a container which contains no free liquid, whichever is greater.

(Added to NAC by Environmental Comm'n, eff. 10-3-96; A by R202-97, 3-5-98)

NAC 444.8891 Above-ground storage tank: Secondary system for containment.

1. Each storage tank that is above the ground which stores used antifreeze at a facility for the transfer of used antifreeze or a facility for the recycling of used antifreeze must have a secondary system for containment which:

(a) Includes dikes, berms or retaining walls, or the equivalent, which are impervious to the penetration of used antifreeze;

(b) Except as otherwise provided in subsection 2, includes a floor, or the equivalent, which covers the entire area within the dike, berm or retaining wall and is impervious to the penetration of used antifreeze; and

(c) Is large enough to prevent the release of used antifreeze into the soil, ground water or surface water.

2. If a storage tank that is above the ground is being used as of October 3, 1996, the floor of the secondary system for containment is not required to cover that portion of the tank which has contact with the ground.

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

NAC 444.8896 Required action upon release of used antifreeze. If used antifreeze which is not governed by the requirements of 40 C.F.R. Part 280, Subpart F, as that subpart existed on October 3, 1996, is released into the environment, a person, center or facility that is governed by the provisions of NAC 444.8911 to 444.8931, inclusive, 444.8936 to 444.8986, inclusive, or 444.8991 to 444.9046, inclusive, shall, as soon as the release is discovered:

1. Immediately stop the release of used antifreeze into the environment;

2. Immediately contain, if possible, the used antifreeze which was released;

3. Clean up and properly manage the used antifreeze which was released and any other materials that were released; and

4. If necessary to prevent future releases of used antifreeze, repair or replace any storage tanks or containers.

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

NAC 444.8901 Required report of release of used antifreeze. (NRS 459.485) In addition to the requirements of NAC 444.8896, a person, center, point for aggregation or facility that is governed by provisions of NAC 444.8911 to 444.8931, inclusive, 444.8936 to 444.8986, inclusive, or 444.8991 to 444.9046, inclusive, shall, not more than 24 hours after a release, report the release by telephone pursuant to the requirements for reporting set forth in 40 C.F.R. Part 302, as that part existed on October 3, 1996, to:

1. The National Response Center, in accordance with 40 C.F.R. Part 302, as that part existed on October 3, 1996, at (800) 424-8802 or (202) 462-2675; and

2. The director of the state department of conservation and natural resources at (800) 992-0900 extension 4670, or (775) 687-4670.

(Added to NAC by Environmental Comm'n, eff. 10-3-96; A by R021-99, 9-27-99)

NAC 444.8906 Required report of release of used antifreeze into body of water. (NRS 459.485) If used antifreeze is released into a body of water in this state, a person, center, point for aggregation or facility that is governed by the provisions of NAC 444.8911 to 444.8931, inclusive, 444.8936 to 444.8986, inclusive, or 444.8991 to 444.9046, inclusive, shall, not more than 24 hours after a release, report the release by telephone to the director of the state department of conservation and natural resources at (800) 992-0900 extension 4670, or (775) 687-4670.

(Added to NAC by Environmental Comm'n, eff. 10-3-96; A by R021-99, 9-27-99)

Generation, Collection and Aggregation

NAC 444.8911 Applicability.

1. The provisions of NAC 444.8911 to 444.8931, inclusive, apply to:

(a) Generators of used antifreeze, except for persons who generate used antifreeze from their households.

(b) Centers for the collection of used antifreeze.

(c) Points for aggregation.

2. The provisions of NAC 444.8911 to 444.8931, inclusive, do not apply to wastewater which contains a small amount of used antifreeze, if the discharge of antifreeze is governed by paragraph (b) of section 307 of the Clean Water Act (33 U.S.C. § 1317), as that section existed on October 3, 1996, or section 402 of the Clean Water Act (33 U.S.C. § 1342), as that section existed on October 3, 1996. For the purposes of this subsection, wastewater contains a small amount of used antifreeze if the antifreeze is discharged as a result of small spills, leaks or drips from pumps, machinery, pipes and other equipment which occur during normal operations of the facility or discharged into a system for the treatment of wastewater during the washing or draining operations of the system.

Wastewater contains more than a small amount of used antifreeze if the antifreeze is discharged as a result of substantial leaks, spills or other releases which occur during abnormal operations of the facility, or if the used antifreeze is recaptured from the wastewater.

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

NAC 444.8916 Mixing of used antifreeze with solid or hazardous waste forbidden; storage.

1. A generator of used antifreeze shall not mix any solid waste or hazardous waste with used antifreeze.

2. A generator of used antifreeze shall store his used antifreeze in containers or storage tanks that are above the ground, or both, which comply with the requirements of NAC 444.8876.

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

NAC 444.8921 Center for collection of used antifreeze: Registration. A center for the collection of used antifreeze shall register with the division for permission to manage used antifreeze. An application for registration may be obtained from the division.

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

NAC 444.8926 Recycling of used antifreeze for personal use: Requirements; calculation in determination of status; management of waste as hazardous waste.

1. A generator of used antifreeze may recycle his used antifreeze for his own use if the recycling:

- (a) Is performed by the generator at a site which is located where the used antifreeze was generated; or
- (b) Is performed pursuant to a written contract by a mobile unit for the recycling of used antifreeze which is located where the used antifreeze was generated.

2. Used antifreeze which is recycled pursuant to this section will not be calculated in the determination of the status of the generator of used antifreeze as a generator of hazardous waste pursuant to 40 C.F.R. Part 262, as that part existed on October 3, 1996.

3. A person who performs recycling pursuant to this section shall manage any waste which is generated during the recycling process pursuant to the provisions of NAC 444.850 to 444.8746, inclusive.

4. A generator who recycles his used antifreeze pursuant to paragraph (a) of subsection 1 is not required to obtain a written determination pursuant to NAC 444.8455 and 444.84555.

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

NAC 444.8931 Responsibility of generator for transport of used antifreeze by holder of identification number; exception; calculation in determination of status.

1. Except as otherwise provided in this section, a generator of used antifreeze shall ensure that his used antifreeze is transported by persons who hold an identification number.

2. A generator may transport, without an identification number, used antifreeze generated at a site which is owned by the generator or collected from a person who generated the used antifreeze from his household if:

(a) The used antifreeze is transported in a motor vehicle which is owned by the generator or an employee of the generator;

(b) Not more than 350 gallons of used antifreeze is transported at one time; and

(c) The used antifreeze is transported to a point for aggregation or a center for the collection of used antifreeze which is registered pursuant to NAC 444.8921.

3. Used antifreeze which is transported pursuant to subsection 2 will not be calculated in the determination of the status of the generator of used antifreeze as a generator of hazardous waste pursuant to 40 C.F.R. Part 262, as that part existed on October 3, 1996, if he maintains records which describe the disposition of the used antifreeze. The records must be maintained for at least 3 years and be made available, upon request, for inspection by a representative of the division or commission. The records may be in the form of a log, copies of contractual agreements, invoices, bills of lading or other documents relating to shipping which show each shipment of used antifreeze that is transported for recycling. The records must include:

(a) The name and address of the generator;

(b) The identification number of the generator, if he has an identification number;

(c) The name and address of the center for the collection of used antifreeze or the facility for the recycling of used antifreeze with whom the generator has contracted to recycle the used antifreeze;

(d) The identification number of the center or facility, if it has an identification number;

(e) The amount of used antifreeze that is transported for recycling; and

(f) The signature and date of acceptance of the representative of the center or facility.

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

Transport and Transfer

NAC 444.8936 Applicability.

1. Except as otherwise provided in this section, the provisions of NAC 444.8936 to 444.8986, inclusive, apply to all transporters of used antifreeze. The provisions of NAC 444.8936 to 444.8986, inclusive, apply to the transportation of used antifreeze for the purposes of import into this state and export from this state while the used antifreeze is located in this state.

2. The provisions of NAC 444.8936 to 444.8986, inclusive, do not apply to the transportation of used antifreeze on the site where the used antifreeze was generated.

3. The provisions of NAC 444.8936 to 444.8986, inclusive, do not apply to the transportation of used antifreeze which was generated at a site owned by the generator of used antifreeze or collected from a person who generates used antifreeze from his household if:

(a) The used antifreeze is transported in a motor vehicle which is owned by the generator or an employee of the generator;

(b) Not more than 350 gallons of used antifreeze is transported at one time; and

(c) The used antifreeze is transported to:

(1) A center for the collection of used antifreeze which is registered pursuant to NAC 444.8921; or

(2) A point for aggregation which is owned or operated by the generator.

4. The provisions of NAC 444.8936 to 444.8986, inclusive, do not apply to the initial transportation of used antifreeze generated from a household if the used antifreeze is transported to:

- (a) A generator of used antifreeze;
- (b) A center for the collection of used antifreeze;
- (c) A point for aggregation;
- (d) A facility for the recycling of used antifreeze; or
- (e) A mobile unit for the recycling of used antifreeze.

If the used antifreeze has been transported from a household pursuant to this subsection, the provisions of NAC 444.8936 to 444.8986, inclusive, apply to the subsequent transportation of the used antifreeze unless the transportation is otherwise exempt pursuant to this section.

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

NAC 444.8941 Management of used antifreeze transported in truck used for hazardous waste. If a transporter of used antifreeze transports used antifreeze in a truck which was used to transport hazardous waste, he shall manage the used antifreeze as a hazardous waste pursuant to the provisions of NAC 444.850 to 444.8746, inclusive, unless he removes the hazardous waste from the truck in accordance with 40 C.F.R. § 261.7, as that section existed on October 3, 1996, before he transports the used antifreeze.

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

NAC 444.8946 Consolidation or aggregation; processing forbidden; exception.

1. A transporter of used antifreeze may consolidate or aggregate loads of used antifreeze for the purpose of transporting the used antifreeze.

2. Except as otherwise provided in this subsection, a transporter of used antifreeze shall not perform any operations which process the used antifreeze unless he complies with the provisions of NAC 444.8991 to 444.9046, inclusive. A transporter may perform operations which process the used antifreeze if the processing is a result of the normal operation of the transportation, including, without limitation, skimming or separating the used antifreeze.

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

NAC 444.8951 Identification number; compliance with federal regulations. (NRS 459.485, 459.490, 459.500)

1. Except as otherwise provided in subsection 2 of NAC 444.8931, a transporter of used antifreeze must hold an identification number. An identification number may be obtained from the Environmental Protection Agency by submitting to the administrator a completed EPA Form 8700-12. This form is available, upon request, by telephone at (800) 882-3233.

2. A transporter of used antifreeze shall comply with all applicable provisions of 49 C.F.R. Parts 173, 178 and 179, as those parts existed on October 3, 1996, which govern the packaging, labeling and placarding of hazardous waste.

(Added to NAC by Environmental Comm'n, eff. 10-3-96; A by R202-97, 3-5-98)

NAC 444.8956 Required destinations after transport. A transporter of used antifreeze shall transport all used antifreeze to:

1. Another transporter of used antifreeze who holds an identification number; or
2. A facility for the recycling of used antifreeze which has an identification number and written determination issued by the administrator pursuant to NAC 444.8455 and 444.84555.

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

NAC 444.8961 Records of used antifreeze accepted for transport: Maintenance; contents. A transporter of used antifreeze shall maintain records of all used antifreeze accepted by him for the purpose of transport. He shall maintain the records for at least 3 years and, upon request, provide the records for inspection by a representative of the division. The record for each shipment of used antifreeze accepted by the transporter must include:

1. The name and address of the person or facility that provided the used antifreeze;
2. The identification number of the person, if he has an identification number, or the facility, if it has an identification number;
3. The quantity of used antifreeze accepted by the transporter; and
4. The signature and date of delivery of the representative of the person or facility that provided the used antifreeze.

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

NAC 444.8966 Records of used antifreeze delivered to transporter: Maintenance; contents. A transporter of used antifreeze shall maintain records of all used antifreeze which is delivered by him to another transporter or a facility for the recycling of used antifreeze, including a transporter or facility that is located in a foreign county. The transporter shall maintain the records for at least 3 years and, upon request, provide the records for inspection by a representative of the division. The record for each delivery of used antifreeze must include:

1. The name and address of the facility or transporter which received the used antifreeze from the transporter;
2. The identification number of the facility, if it has an identification number, or the transporter, if he has an identification number;
3. The quantity of used antifreeze that was delivered to the facility or transporter;

4. The date of delivery of the used antifreeze; and
5. The signature of a representative of the transporter or facility that received the used antifreeze from the transporter, unless the used antifreeze is delivered to a foreign country.
(Added to NAC by Environmental Comm'n, eff. 10-3-96)

NAC 444.8971 Release of used antifreeze during transport.

1. If used antifreeze is released during transportation, the transporter of the used antifreeze shall immediately take action which is necessary to protect human health and the environment, including, without limitation, notification of the local, state and federal officials in the location where the release occurred.
2. If an official from a local, state or federal agency determines that the used antifreeze must be immediately removed to protect human health or the environment, that official may authorize the transportation of the used antifreeze by transporters who have not been issued an identification number.
3. If used antifreeze is released during transportation, the transporter shall clean up the release and take such action as is required or approved by an official from a local, state or federal agency.
4. If used antifreeze is released during transportation, the transporter shall comply with the provisions of this section and NAC 444.8896 and 444.8901.
(Added to N.A.C. by Environmental Comm'n, eff. 10-3-96)

NAC 444.8976 Release of used antifreeze into body of water during transport. If used antifreeze is released during transportation into a body of water which is located in this state, the person who transports the used antifreeze shall:

1. Comply with the requirements of notice set forth in NAC 444.8896;
2. If required by 40 C.F.R. Part 302, as that part existed on October 3, 1996, or 49 C.F.R. § 171.15, as that section existed on October 3, 1996, report the release to the National Response Center at (800) 424-8802 or (202) 426-2675; and
3. In accordance with 49 C.F.R. § 171.16, as that section existed on October 3, 1996, provide a written report of the release to the Information Systems Manager, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20509-0001.
(Added to NAC by Environmental Comm'n, eff. 10-3-96)

NAC 444.8981 Storage: Tanks and containers. An owner or operator of a facility for the transfer of used antifreeze shall store the used antifreeze at the facility in storage tanks or containers, or both, which comply with the applicable requirements of NAC 444.8876 to 444.8891, inclusive.
(Added to NAC by Environmental Comm'n, eff. 10-3-96)

NAC 444.8986 Storage: Maximum duration. An owner or operator of a facility for the transfer of used antifreeze shall not store used antifreeze for more than 35 days.
(Added to NAC by Environmental Comm'n, eff. 10-3-96)

Facilities for Recycling

NAC 444.8991 Applicability. The provisions of NAC 444.8991 to 444.9046, inclusive, apply to facilities for the recycling of used antifreeze which perform recycling of used antifreeze at a location other than the location where the used antifreeze was generated.
(Added to NAC by Environmental Comm'n, eff. 10-3-96)

NAC 444.8996 Written determination; identification number.

1. An owner or operator of a facility for the recycling of used antifreeze shall obtain a written determination from the administrator pursuant to NAC 444.8455 and 444.84555.
2. An owner or operator of a facility for the recycling of used antifreeze shall obtain an identification number. An identification number may be obtained from the Environmental Protection Agency by submitting to the administrator a completed Form # 8700-12. This form is available, upon request, by telephone at (800) 882-3233.
(Added to NAC by Environmental Comm'n, eff. 10-3-96)

NAC 444.9001 Storage: Tanks and containers. An owner or operator of a facility for the recycling of used antifreeze shall store used antifreeze at the facility in storage tanks or containers, or both, which comply with the applicable requirements of NAC 444.8876 to 444.8891, inclusive.
(Added to NAC by Environmental Comm'n, eff. 10-3-96)

NAC 444.9006 Requirements when above-ground storage tank no longer used.

1. Except as otherwise provided in subsection 2, if a storage tank that is above the ground is no longer used at a facility for the recycling of used antifreeze, the owner or operator of the facility shall ensure that the used antifreeze, including its residue, is decontaminated or removed from the storage tank, system for containment, soil and other structures or equipment which are contaminated with used antifreeze. The owner or operator shall manage the used antifreeze as a hazardous waste unless it does not exhibit a characteristic of hazardous waste identified in 40 C.F.R. Part 261, as that part existed on October 3, 1996.

2. If the owner or operator demonstrates to the satisfaction of the division that the used antifreeze cannot be removed or decontaminated as required by subsection 1, he must follow the procedures for closure and post-closure which are set forth in 40 C.F.R. § 265.310, as that section existed on October 3, 1996.

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

NAC 444.9011 Requirements when container no longer used. If a facility for the recycling of used antifreeze is closed, the owner or operator of the facility shall ensure that containers which are used to store used antifreeze, including its residue, are removed from the facility and that systems for containment, soil and other structures or equipment which are contaminated with used antifreeze are decontaminated or removed. Material that is removed must be managed as a hazardous waste unless it does not exhibit a characteristic of hazardous waste which is identified in 40 C.F.R. Part 261, as that part existed on October 3, 1996.

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

NAC 444.9016 Records of used antifreeze accepted by facility: Maintenance; contents. An owner or operator of a facility for the recycling of used antifreeze shall maintain records of all used antifreeze accepted by the facility. The records must be maintained for at least 3 years and be made available, upon request, for inspection by a representative of the division. The records may be in the form of a log, copies of contractual agreements, invoices, bills of lading or other documents relating to shipping which show each shipment of used antifreeze accepted by the facility for the purpose of recycling. The record for each shipment of used antifreeze accepted by the facility must include:

1. The name and address of the person, or the owner or operator of the facility that provided the used antifreeze;
2. The identification number of the person, or the owner or operator that provided the used antifreeze, if he has an identification number;
3. The quantity of used antifreeze accepted by the facility; and
4. The signature and date of acceptance of the representative of the person, or the owner or operator that provided the used antifreeze.

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

NAC 444.9021 Management of residue as hazardous waste. An owner or operator of a facility for the recycling of used antifreeze shall manage any residue of used antifreeze which is generated by the storage or recycling of used antifreeze in accordance with the provisions of NAC 444.850 to 444.8746, inclusive.

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

NAC 444.9026 Responsibility of owner or operator that used antifreeze not be mixed with hazardous waste; creation, maintenance and review of written plan.

1. An owner or operator of a facility for the recycling of used antifreeze shall ensure that the used antifreeze managed at the facility is not mixed with hazardous waste. The owner or operator shall submit to the division a written plan for the characterization of waste which describes the procedures that will be used at the facility to detect hazardous waste at the facility. The facility must not begin operations until the division has approved the written plan.

2. The written plan must be reviewed, and amended if necessary, if the quantity or source of waste streams received at the facility changes significantly.

3. The written plan must be maintained at the facility and be made available, upon request, for review by a representative of the division.

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

NAC 444.9031 Contingency plan in case of release: Contents; review and amendment; maintenance.

1. An owner or operator of a facility for the recycling of used antifreeze shall develop a plan for contingency to be followed if used antifreeze is released into the soil, ground water or surface water. The plan must:

(a) Be designed to minimize hazards to human health, public safety and the environment upon the release of used antifreeze; and

(b) Describe the actions that personnel employed at the facility will be required to take upon the release of used antifreeze.

2. A facility for the recycling of used antifreeze shall review, and amend if necessary, its plan for contingency if:

(a) The plan fails in an emergency;

(b) The facility undergoes a change in its design, construction, operation, or maintenance or undergoes other changes which increase the potential for the release of used antifreeze; or

(c) The facility changes its procedures for managing a release of used antifreeze.

3. The plan for contingency must be maintained at the facility for recycling and be made available, upon request, for review by a representative of the division.

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

NAC 444.9036 Responsibility of owner or operator for weekly inspection of storage tanks and containers.

An owner or operator of a facility for the recycling of used antifreeze shall ensure that all containers and storage tanks at the facility, including the secondary systems for containment, are inspected at least once per week. The containers and storage tanks must be inspected for evidence of leaks and deterioration caused by corrosion or other factors. Each inspection must be documented in the written record of operation.

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

NAC 444.9041 Written record of operation.

1. An owner or operator of a facility for the recycling of used antifreeze shall maintain a written record of operation. The record of operation must include:

- (a) The records and results of analyses performed on used antifreeze at the facility pursuant to NAC 444.9026;
- (b) Reports which summarize all incidents which required the facility to use its plan for contingency;
- (c) A copy of the application for a written determination submitted by the facility pursuant to NAC 444.84555;
- (d) A copy of the written determination issued to the facility by the administrator;
- (e) The records for each shipment of antifreeze maintained pursuant to NAC 444.9016; and
- (f) The records of inspections of the containers and storage tanks used at the facility pursuant to NAC 444.9036.

2. The record of operation must be maintained at the facility until the closure of the facility.

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

NAC 444.9046 Written report.

1. An owner or operator of a facility for the recycling of used antifreeze shall submit a written report to the administrator which includes:

- (a) The name and address of the facility;
- (b) The identification number issued to the facility;
- (c) The quantity of used antifreeze accepted by the facility for recycling during the previous year;
- (d) The quantity of used antifreeze accepted by the facility for a purpose other than recycling and the disposition of that used antifreeze; and
- (e) The calendar year which the report covers.

2. The report must be received by the administrator on or before March 1 of the year after the period covered by the report.

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

Mobile Units for Recycling

NAC 444.9051 Applicability. The provisions of NAC 444.9051 to 444.9071, inclusive, apply to an owner or operator of a mobile unit for the recycling of used antifreeze which recycles used antifreeze pursuant to a contract with a generator of used antifreeze.

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

NAC 444.9056 Written determination. An owner or operator of a mobile unit for the recycling of used antifreeze shall obtain a written determination from the administrator pursuant to NAC 444.8455 and 444.84555.

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

NAC 444.9061 Records of used antifreeze accepted by mobile unit: Maintenance; contents. An owner or operator of a mobile unit for the recycling of used antifreeze shall maintain records of all used antifreeze accepted by the mobile unit for recycling. The records must be maintained for at least 3 years and be made available, upon request, for inspection by a representative of the division. The records may be in the form of a log or copies of written contracts. The record for each shipment of used antifreeze accepted by the mobile unit for the purpose of recycling must include:

- 1. The name and address of the generator of used antifreeze;
- 2. The identification number of the generator, if he has an identification number;
- 3. The quantity of used antifreeze that is accepted by the mobile unit;
- 4. The date of acceptance of the used antifreeze; and
- 5. Upon completion of the contract, the date of completion and the signature of the representative of the owner or operator of the mobile unit.

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

NAC 444.9066 Management of residue as hazardous waste.

1. Except as otherwise provided in subsection 2, an owner or operator of a mobile unit for the recycling of used antifreeze is responsible for the proper management, in accordance with NAC 444.850 to 444.8746, inclusive, of residue of used antifreeze generated during the recycling or storage of the used antifreeze.

2. If recycling of used antifreeze occurs at the location where the used antifreeze was generated, the contract between the generator of used antifreeze and the owner or operator of the mobile unit which performs the recycling may specify that the generator is responsible for the proper management, in accordance with NAC 444.850 to 444.8746, inclusive, of residue of used antifreeze generated during the recycling or storage of the used antifreeze.

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

NAC 444.9071 Written report.

1. An owner or operator of a mobile unit for the recycling of used antifreeze shall submit a written report to the administrator which includes:

- (a) The name and address of the mobile unit;
- (b) The identification number issued to the mobile unit;
- (c) The quantity of used antifreeze accepted by the mobile unit for recycling during the previous year; and
- (d) The calendar year which the report covers.

2. The report must be received by the administrator on or before March 1 of the year after the period covered by the report.

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

POLYCHLORINATED BIPHENYL

NAC 444.940 Definitions. As used in NAC 444.940 to 444.9555, inclusive, unless the context otherwise requires, the words and terms defined in NAC 444.9405 to 444.945, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.9405 "Director" defined. "Director" means the administrator of the division.

(Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.941 "Disposal" defined. "Disposal" has the meaning ascribed to it in 40 C.F.R. Part 761.3.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.9415 "Division" defined. "Division" means the division of environmental protection.

(Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.942 "Draft permit" defined. "Draft permit" means a document evidencing the proposed decision of the director to issue, deny, modify, revoke, terminate or reissue a permit. The term includes a notice of intent to terminate a permit and a notice of intent to deny a permit.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.9425 "Facility for the management of waste containing polychlorinated biphenyl" defined. "Facility for the management of waste containing polychlorinated biphenyl" includes the contiguous land and any structure, other appurtenances or improvements on the land which are used for treating, storing or disposing of waste containing polychlorinated biphenyls. Such a facility may contain several units for the treatment, storage or disposal of such waste.

(Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.943 "Generator of polychlorinated biphenyl" defined. "Generator of polychlorinated biphenyl" means any person who removes from service any item containing polychlorinated biphenyl, if such removal would require storage or disposal, or both, under 40 C.F.R. Part 761, Subpart B.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.9435 "Polychlorinated biphenyl" defined. "Polychlorinated biphenyl" has the meaning ascribed to "PCB" in 40 C.F.R. Part 761.3.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.944 "Site" defined. "Site" means the land or water where any facility for the management of waste containing polychlorinated biphenyl is located. The term includes any:

1. Adjacent land used in connection with the facility;
2. Geographically contiguous parcel which is owned by the same person but separated by a public or private right of way if access across the right of way is not along the right of way but across it; and
3. Noncontiguous property owned by the same person if the facility and the property are connected by a right of way controlled by the owner and to which public access is prohibited.

(Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.9445 "Storage" defined. "Storage" means temporary storage of waste containing polychlorinated biphenyl that has been designated for disposal.

(Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.945 "Waste containing polychlorinated biphenyl" defined. "Waste containing polychlorinated biphenyl" means any polychlorinated biphenyl or item containing polychlorinated biphenyl subject to regulation under 40 C.F.R. Part 761.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.9452 Adoption by reference of provisions of Code of Federal Regulations. (NRS 459.485, 459.490, 459.500)

1. All sections, subparts and parts of Title 40 of the Code of Federal Regulations referred to in NAC 444.940 to 444.9555, inclusive, as modified by NAC 444.9453, are hereby adopted by reference as they existed on July 1, 2002.

2. The volumes containing these sections, subparts and parts may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, for the following prices:

- (a) The volume containing 40 C.F.R. Parts 260 to 265, inclusive \$45
- (b) The volume containing 40 C.F.R. Parts 266 to 299, inclusive 45
- (c) The volume containing 40 C.F.R. Part 761 55

(Added to NAC by Environmental Comm'n, eff. 9-19-90; A 11-9-95; R202-97, 3-5-98; R124-98, 11-2-98; R170-99, 1-26-2000; R037-01, 10-25-2001; R104-02; 10-18-2002)

NAC 444.9453 References in federal regulations to "hazardous waste" and "hazardous waste facility."

1. Any references in any part of Title 40 of the Code of Federal Regulations to "hazardous waste" which have been adopted by reference pursuant to NAC 444.9452 shall be deemed to mean "waste containing polychlorinated biphenyl."

2. Any references in any part of Title 40 of the Code of Federal Regulations to "hazardous waste facility" which have been adopted by reference pursuant to NAC 444.9452 shall be deemed to mean "polychlorinated biphenyl facility."
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 444.946 Generators: General duties.

1. A generator of waste containing polychlorinated biphenyl shall not treat, store, dispose of, transport or offer for transportation any waste containing polychlorinated biphenyl without having received an identification number from the United States Environmental Protection Agency.

2. A generator of waste containing polychlorinated biphenyl shall mark his items as prescribed in 40 C.F.R. Part 761, Subpart C.

3. A generator of waste containing polychlorinated biphenyl who transports or offers for transportation waste containing polychlorinated biphenyl for treatment, storage or disposal at a place other than a site which is owned and operated by the generator shall prepare a manifest before transporting the waste. The manifest must be prepared and distributed in accordance with NAC 444.8655 and 40 C.F.R. Part 262.42.

4. A generator of waste containing polychlorinated biphenyl shall retain a copy of the results of each test or analysis of waste containing polychlorinated biphenyl in accordance with 40 C.F.R. §§ 262.40(c) and 262.40(d).

5. A generator of waste containing polychlorinated biphenyl shall not offer the waste to transporters or to facilities for its treatment, storage or disposal that do not have an identification number or are not authorized to accept such waste.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90; 11-9-95)

NAC 444.9465 Transporters: General duties.

1. A transporter of waste containing polychlorinated biphenyl shall not transport or accept for transportation any such waste without having received an identification number from the United States Environmental Protection Agency.

2. A transporter of waste containing polychlorinated biphenyl shall comply with the provisions of 40 C.F.R. §§ 263.20 to 263.22, inclusive.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.9475 Restrictions on management and treatment. Waste containing polychlorinated biphenyl may not be managed in surface impoundments or waste piles and may not be treated or managed in soil.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.9485 Requirements for permit to operate or construct facility; requirements for permitted facility.

1. Any facility to be constructed for the treatment, storage or disposal of waste containing polychlorinated biphenyl must have a permit before commencement of construction. The application for the permit must comply with the following sections of 40 C.F.R. Part 270:

- (a) Section 270.11;
- (b) Section 270.13, except for subsections (c), (f) and (j);
- (c) Section 270.14, except for subsections (a), (b)(2), (b)(6), (b)(9), (b)(11)(v), (b)(14), (b)(18) and (c)(1);
- (d) Section 270.15, except for subsections (c) and (d) and any reference to drainage systems in § 264.175;
- (e) Section 270.16;
- (f) Section 270.19; and
- (g) Section 270.21.

2. An application for a permit to operate or construct a facility for the treatment, storage or disposal of waste containing polychlorinated biphenyl must contain:

- (a) A specification and an estimate of the annual quantity of the waste containing polychlorinated biphenyl to be treated, stored or disposed of at the facility, designated by code number;
- (b) A description of the procedures and equipment required for the security of the facility;
- (c) A copy of the schedule for inspection;
- (d) A copy of the contingency plan;

- (e) A copy of the plan for the introductory and continuing training of personnel at the facility;
 - (f) Proof of financial responsibility to ensure compliance with conditions of the permit as these requirements are specified in 40 C.F.R. §§ 264.140 to 264.148, inclusive; and
 - (g) A copy of the plan for closure of the facility.
3. A generator of polychlorinated biphenyl who stores his own waste for less than 9 months or in quantities of less than 1,000 kilograms is not required to obtain a permit under this section.
4. The owner or operator of a permitted facility for the management of waste containing polychlorinated biphenyl shall comply with the conditions specified in 40 C.F.R. § 270.30.
(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.949 Director to prepare draft permit or deny application.

1. When the director receives a complete application for the management of waste containing polychlorinated biphenyl he shall prepare a draft permit or deny the application.
2. The director shall include in each draft permit:
- (a) All conditions of the permit;
 - (b) All schedules set for compliance; and
 - (c) All requirements regarding the observation, detection and regulation of the facility.
3. If the director decides to deny the application for a permit, he shall issue a notice of his intention to deny it.
4. If the director's final decision is to withdraw the notice of intent to deny he shall prepare a draft permit.
(Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.9495 Public notice.

1. The director shall give public notice that:
- (a) An application for a permit for the management of waste containing polychlorinated biphenyl has been tentatively denied;
 - (b) A draft of such a permit has been prepared;
 - (c) A hearing concerning an application or permit has been scheduled; or
 - (d) An appeal from a decision concerning a permit has been granted.
2. No public notice is required when a request for a modification, revocation, reissuance or termination of a permit is denied. The director shall send the requester a brief written response containing a reason for the denial.
3. The director shall allow at least 45 days of public comment on a draft permit. The public notice of the preparation of a draft permit must specify the period allowed for public comment.
4. Public notice of a hearing must be given at least 30 days before the hearing.
5. All public notices must contain:
- (a) The name and address of the division;
 - (b) The name and address of the applicant for a permit or the holder of the permit and, if different, of the facility regulated by the permit;
 - (c) A brief description of the business conducted at the facility or activity described in the application or the draft permit;
 - (d) The name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit and the application; and
 - (e) The time and place of any related hearing which is scheduled.
- (Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.950 Public comment and hearings.

1. During the period allowed for receipt of public comment and during any subsequent public hearing, any interested person may submit oral or written comments and data on the draft permit for the management of waste containing polychlorinated biphenyl.
2. The director may hold a public hearing if he receives:
- (a) Written notice of opposition to a draft permit; and
 - (b) A request for a public hearing which is submitted to him within the period allowed for public comment.
3. If a hearing concerns the location of a proposed facility, the director shall, if possible, schedule the hearing at a place which is conveniently located in the center of population nearest the site of the proposed facility.
4. The director may set reasonable limits upon the time allowed for oral statements at the hearing and may require interested persons who make oral statements to submit those statements in writing.
5. The director may extend the period for receiving public comment by so stating at the hearing.
6. The director shall make available to the public a tape recording or written transcript of the hearing.
7. Before the director makes his final decision, he shall consider all comments which he has received.
(Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.9505 Final decision by director.

1. The director shall issue a final decision regarding the issuance, denial, modification, revocation, reissuance or termination of a permit for the management of waste containing polychlorinated biphenyl after the close of the period set to receive public comment.
2. The director shall notify the applicant of his decision and each person who has submitted written comments or requested notice of the final decision.

3. A final decision becomes effective 30 days after the service of notice of the decision unless:
- (a) A later effective date is specified in the decision;
 - (b) Review is requested or a hearing for appeal is requested; or
 - (c) No comments requested a change in the draft permit, in which case the permit becomes effective immediately upon issuance of the final decision.
- (Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.951 Requirements specified in permit. The director shall specify in each permit for the management of waste containing polychlorinated biphenyl:

- 1. Any requirements concerning the proper use, maintenance and installation of detecting equipment or methods used to observe or check the permitted activity;
- 2. Any required observation including the type, interval and frequency sufficient to yield data which are representative of the observed activity; and
- 3. Any applicable reporting requirements.

(Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.9515 Transfer of permit. The holder of a permit may transfer his permit for the management of waste containing polychlorinated biphenyl to a new owner or operator if the permit has been modified by the director to identify the new owner or operator and incorporate any other changes deemed necessary by the director.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.952 Modification of permit; revocation and reissuance.

1. The director may modify a permit for the management of waste containing polychlorinated biphenyl if:

- (a) The holder files a request to make substantial alterations, additions or changes to the facility or activity after issuance of the permit;
- (b) The director has received information which was not available at the time the permit was issued and which would have justified the imposition of different conditions upon the holder of the permit;
- (c) The standards or regulations on which the permit was based have been changed by amendment or by judicial decision after the permit was issued;
- (d) The director determines that good cause exists for modification of a schedule for compliance, such as a strike, a shortage of materials, a flood or other act of God, or some other event over which the holder has little or no control and for which there is no reasonably available remedy;
- (e) The director receives new information that the facility in its existing location constitutes a threat to human health or the environment;
- (f) The holder files a request for a variance from the level of required financial responsibility or the director finds that an adjustment of the level of financial responsibility is necessary;
- (g) The director has received notification of a proposed transfer of the permit;
- (h) One of the causes set forth in NAC 444.9525 exists for the termination of a permit and the director determines that modification or revocation and reissuance is appropriate; or
- (i) The director determines that:
 - (1) Extension and modification of the time for closing the facility;
 - (2) Continuation of requirements for security at the facility; or
 - (3) Disturbing the integrity of the system for containment of waste at the facility,is unwarranted.

2. Each request from an interested person, including the holder of the permit, for a modification or a revocation and reissuance of a permit must be in writing and contain facts or reasons supporting the request.

3. If the director decides to modify a permit or to revoke and reissue it, he shall prepare a draft permit incorporating the proposed changes.

4. In the case of:

- (a) A revoked and reissued permit, the owner or operator must submit a new application.
- (b) A modified permit, the director may require the owner or operator to submit an updated application.

5. The director may request additional information from the owner or operator as needed.

6. When a permit is modified, only those conditions to be modified may be considered when a new draft of a permit is prepared. All other aspects of the existing permit must remain in effect for the duration of the unmodified portion of the permit.

7. When a permit is revoked and reissued, the entire subject of the permit may be considered, as if the permit had expired and was being reissued. During any procedure for revocation and reissuance, the holder shall comply with all conditions of the existing permit until a final permit is reissued.

(Added to NAC by Environmental Comm'n, eff. 6-29-84; A 9-19-90)

NAC 444.9525 Notice of intent to terminate permit. When the director decides to terminate a permit for the management of waste containing polychlorinated biphenyl he shall issue a notice of his intent to terminate and follow the same procedure as for a draft permit. The following are causes for terminating a permit during its term or for denying renewal:

1. Noncompliance by the permittee with any condition of the permit;
 2. The permittee's misrepresentation or failure to disclose fully all relevant facts; or
 3. A determination by the director that the permitted activity endangers human health or the environment and can only be returned to acceptable levels by modification or termination.
- (Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.953 Emergency permits.

1. If the director finds an imminent and substantial endangerment to human health or the environment he may issue an emergency permit for the management of waste containing polychlorinated biphenyl to a nonpermitted facility to allow the storage of waste containing polychlorinated biphenyl for a period which does not exceed 90 days.

2. The emergency permit may be:
 - (a) Oral or written. If oral, the director shall issue a written emergency permit within 5 days after the oral permission is given; and
 - (b) Terminated by the director at any time to protect human health or the environment.
 3. The director shall clearly specify the manner and location of storage.
 4. The permit must incorporate all applicable requirements of this chapter to the extent possible and not inconsistent with the emergency.
- (Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.9535 Notice of planned alterations or additions.

1. The permittee shall give notice to the director as soon as possible of any planned physical alterations or additions to the permitted facility for the management of waste containing polychlorinated biphenyl. The permittee shall not commence treatment, storage or disposal of waste containing polychlorinated biphenyl in an altered facility until:

- (a) The permit has been modified in accordance with NAC 444.952;
 - (b) The permittee has submitted to the director by certified mail or hand delivery a letter signed by the permittee and a licensed professional engineer stating that the facility has been modified or the addition has been constructed in compliance with the permit; and
 - (c) Except as otherwise provided in subsection 2, the director has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit.
2. If within 15 days after the date of submission of the letter required in subsection 1 the permittee has not received notice from the director of his intent to inspect, the inspection is waived and the permittee may commence treatment, storage or disposal of waste containing polychlorinated biphenyl.
3. The permittee shall give advance notice to the director of any planned changes in the permitted facility or activity which may result in noncompliance with the permit.
- (Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.954 Report of noncompliance.

1. The permittee of the facility for the management of waste containing polychlorinated biphenyl shall report to the director any noncompliance which may endanger public health or the environment.

2. Within 24 hours after the time the permittee becomes aware of the noncompliance he shall orally provide:

- (a) Information concerning the release of any waste containing polychlorinated biphenyl that may cause an endangerment to a public supply of drinking water; and

(b) Any information regarding a discharge of waste containing polychlorinated biphenyl or a fire or explosion from a facility which could threaten the environment or human health outside the facility. He shall include:

- (1) The name, address and telephone number of the operator;
- (2) The name, address and telephone number of the facility;
- (3) The date, time and type of the incident;
- (4) The name and quantity of material involved;
- (5) The extent of any injuries;
- (6) An assessment of any actual or potential hazards to the environment and human health outside the facility; and

(7) The estimated quantity and disposition of any recovered material that resulted from the incident.

3. The permittee shall submit a written report to the director within 5 days after the time the permittee becomes aware of any noncompliance which may endanger public health or the environment which includes:

- (a) The information required in subsection 2;
- (b) A description of the noncompliance and its cause;
- (c) The period of noncompliance, including the exact dates and times;
- (d) The anticipated time the noncompliance is expected to continue; and
- (e) The steps planned or taken to reduce, eliminate and prevent a reoccurrence of the noncompliance.

4. The director may, upon a reasonable request, extend to 15 days the period allowed for the submission of the written report.

(Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.9545 Completion or correction of application or report. When the facility permittee becomes aware that he:

1. Failed to submit any relevant facts in an application for a permit; or
 2. Submitted incorrect information in an application for a permit or in any report to the director, he shall promptly submit the facts or corrected information to the director.
- (Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.955 Minor modifications to permit. The director may make minor modifications to a permit for the management of waste containing polychlorinated biphenyl with the consent of the permittee. For the purposes of this section, minor modifications may:

1. Correct typographical errors;
 2. Require more frequent checking or reporting by the permittee;
 3. Allow for a change in ownership or operational control of a facility where the director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of responsibility, coverage and liability between the current and new permittees has been submitted to the director; or
 4. Change the lists of the facility's emergency coordinators or equipment in the permit's plan for contingency.
- (Added to NAC by Environmental Comm'n, eff. 6-29-84)

NAC 444.9555 Facilities to obtain identification number; compliance with regulations.

1. A facility for the management of waste containing polychlorinated biphenyl shall obtain an identification number from the United States Environmental Protection Agency and comply with the requirements of 40 C.F.R. Part 761, Subpart D.

2. A facility for the management of waste containing polychlorinated biphenyl which is required to obtain a permit as specified in NAC 444.9485 shall also comply with the following:

- (a) 40 C.F.R. § 264.12;
 - (b) 40 C.F.R. § 264.13;
 - (c) 40 C.F.R. §§ 264.14 to 264.16, inclusive;
 - (d) 40 C.F.R. §§ 264.31 to 264.37, inclusive;
 - (e) 40 C.F.R. §§ 264.51 to 264.56, inclusive;
 - (f) 40 C.F.R. §§ 264.72 to 264.74, inclusive;
 - (g) 40 C.F.R. § 264.76;
 - (h) 40 C.F.R. §§ 264.77(a) and 264.77(b);
 - (i) 40 C.F.R. §§ 264.111 to 264.120, inclusive;
 - (j) 40 C.F.R. §§ 264.140 to 264.148, inclusive;
 - (k) 40 C.F.R. §§ 264.171 to 264.175, inclusive;
 - (l) 40 C.F.R. § 264.178; and
 - (m) 40 C.F.R. Part 264, Subparts J, N and O.
- (Added to NAC by Environmental Comm'n, eff. 6-29-84; A 4-18-90; 9-19-90)

LIMITATIONS ON ISSUANCE OF PERMITS

NAC 444.960 Reliability, expertise and competence required; issuance prohibited if person having beneficial interest convicted of felony.

1. A person may be issued a permit to operate a facility for the management of hazardous waste or facility for the management of waste containing polychlorinated biphenyl only if the administrator of the division of environmental protection is satisfied that he has exhibited sufficient reliability, expertise and competence in the management of waste or a related field to operate the facility with a minimal risk to the health of humans or to the environment.

2. The administrator shall not issue a permit if any person shown to have a beneficial interest in the facility has been convicted of a felony.

3. As used in this section:

(a) "Facility for the management of hazardous waste" includes the contiguous land and any structures, other appurtenances or improvements on the land which are used for treating, storing or disposing of hazardous waste. Such a facility may contain several units for the treatment, storage or disposal of hazardous waste or a combination of such units.

(b) "Facility for the management of waste containing polychlorinated biphenyl" has the meaning ascribed to it in NAC 444.9425.

(Added to NAC by Environmental Comm'n, eff. 10-16-85; A 9-19-90)

DISPOSAL OF ASBESTOS

NAC 444.965 Definitions. As used in NAC 444.965 to 444.976, inclusive, unless the context otherwise requires, the words and terms defined in NAC 444.966 to 444.970, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n, eff. 12-19-89)

NAC 444.966 "Asbestos" defined. "Asbestos" has the meaning ascribed to it in NRS 618.750.

(Added to NAC by Environmental Comm'n, eff. 12-19-89)

NAC 444.967 "Division" defined. "Division" means the division of environmental protection of the state department of conservation and natural resources.

(Added to NAC by Environmental Comm'n, eff. 12-19-89)

NAC 444.968 "Operator" defined. "Operator" means a person who operates a Class I disposal site which has been approved by the solid waste management authority.

(Added to NAC by Environmental Comm'n, eff. 12-19-89)

NAC 444.969 "Solid waste management authority" defined. "Solid waste management authority" means the officers and agents of the division of environmental protection, any district board of health created pursuant to NRS 439.370 or any other entity given specific authority by the division to control asbestos.

(Added to NAC by Environmental Comm'n, eff. 12-19-89; A 11-8-93)

NAC 444.970 "Transporter" defined. "Transporter" means a person engaged in the transportation of asbestos by air, rail, highway or water. The term does not include any person engaged in such transportation on an approved Class I disposal site.

(Added to NAC by Environmental Comm'n, eff. 12-19-89)

NAC 444.971 Standards for handling and transportation.

1. All asbestos that is friable or otherwise capable of giving off friable asbestos dust and that is intended for transport must be wetted with a water and surfactant mixture and stored in:

- (a) A plastic bag which is not less than 6 mils thick and sealed so it will not leak;
- (b) A combination of plastic bags which equal at least 6 mils in thickness; or
- (c) A container made of cardboard or metal which is lined with plastic.

2. Each container used to dispose asbestos must bear a label that conforms with the requirements of the United States Environmental Protection Agency or Occupational Safety and Health Act and contains either of the following statements:

CAUTION
CONTAINS ASBESTOS FIBERS
AVOID OPENING OR BREAKING CONTAINER
BREATHING ASBESTOS IS HAZARDOUS TO YOUR HEALTH

or
CAUTION
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
MAY CAUSE SERIOUS BODILY HARM

or
DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD

3. The vehicle used to transport asbestos must be fully enclosed or be covered so as to prevent damage to the containers or the release of asbestos fibers.

(Added to NAC by Environmental Comm'n, eff. 12-19-89)

NAC 444.972 Approval required for transportation; submission of information to obtain approval.

1. Before a transporter may transport asbestos, he must obtain the written approval of the solid waste management authority.

2. A transporter who seeks approval to transport asbestos shall submit the following information in writing:

- (a) The name, address and license number of the transporter and any subcontractor;
- (b) The address and description of the place from which the asbestos is collected;
- (c) The projected starting and completion dates for transportation and disposal of the asbestos;

- (d) The procedure which will be used to comply with NAC 444.965 to 444.976, inclusive, concerning the transportation and disposal of the asbestos; and
- (e) The name and address of the site where the asbestos will be disposed of.
(Added to NAC by Environmental Comm'n, eff. 12-19-89)

NAC 444.973 Maintenance and filing of records regarding transportation.

- 1. A transporter shall maintain a written record containing the following information regarding each load of asbestos he transports to a Class I disposal site:
 - (a) A number identifying the record;
 - (b) The name and location of the place where the asbestos is located;
 - (c) The name, mailing address and telephone number of the generator;
 - (d) The name, mailing address and telephone number of the transporter;
 - (e) The name, mailing address and telephone number of the disposal site;
 - (f) A description of the asbestos, the number of containers and the volume or weight of each container; and
 - (g) A certification of the containers and labels of the generator.
- 2. The record must:
 - (a) Be maintained each time the transporter transports asbestos to a disposal site on the form prescribed by the division;
 - (b) Contain a signature line for the generator, transporter and operator; and
 - (c) Contain a space for comments.
- 3. For the purposes of NAC 444.965 to 444.976, inclusive, the transporter shall be deemed the generator.
- 4. The transporter shall file a copy of his record with the solid waste management authority within 30 days after the asbestos has been delivered to the disposal site. He shall keep each record for at least 3 years after the asbestos has been delivered to the disposal site.
- 5. As used in this section:
 - (a) "Asbestos-containing waste material" means any:
 - (1) Waste substance that contains more than 1 percent asbestos and is generated as a result of a project for the abatement of asbestos; or
 - (2) Clothing, equipment or other material contaminated with asbestos as a result of such a project.
 - (b) "Generator" means any person whose act or process produces asbestos or asbestos-containing waste material.
(Added to NAC by Environmental Comm'n, eff. 12-19-89)

NAC 444.974 Notification required before delivery; disposal at site other than Class I disposal site.

- 1. Each transporter shall notify the operator at least 24 hours before delivery of the asbestos.
- 2. Asbestos may be disposed of at a site other than a Class I disposal site if such disposal is approved by the solid waste management authority.
(Added to NAC by Environmental Comm'n, eff. 12-19-89)

NAC 444.975 Inspection upon delivery; notice of noncompliance with standards; acceptance of noncomplying load.

- 1. Each operator who accepts asbestos shall inspect each load to verify that each container and label complies with the requirements prescribed in NAC 444.971. If there is any noncompliance with those requirements which may cause the release of fibers during disposal, the operator shall notify the solid waste management authority.
- 2. If the operator notifies the solid waste management authority of noncompliance and the authority authorizes the operator to accept the asbestos, the operator shall comply with the requirements set forth in paragraphs (e), (f) and (g) of subsection 1 of NAC 444.976.
(Added to NAC by Environmental Comm'n, eff. 12-19-89)

NAC 444.976 Duties of operator who accepts asbestos.

- 1. Each operator who accepts asbestos shall:
 - (a) Designate a separate area of the disposal site for asbestos;
 - (b) Maintain records of the location and quantity of asbestos which he accepts;
 - (c) Place each container in a landfill in a manner that limits breakage;
 - (d) Cover asbestos within 24 hours after placement with at least 6 inches of material that is not asbestos;
 - (e) Soak any asbestos which is in a container that does not comply with the requirements of NAC 444.971 before unloading it;
 - (f) Rinse out any vehicle which contained any asbestos which is in a container that does not comply with the requirements of NAC 444.971;
 - (g) Immediately cover any asbestos which is in a container that does not comply with the requirements of NAC 444.971;
 - (h) Compact asbestos after it is covered as prescribed in paragraph (d);
 - (i) Cover asbestos with at least 30 inches of compacted material that is not asbestos after the area designated for the disposal of asbestos is no longer used;
 - (j) Grade and stabilize the material which covers asbestos;

- (k) Control access to any area where asbestos is disposed of; and
- (l) Place a sign at each point of access to the site which reads:

ASBESTOS WASTE DISPOSAL SITE
BREATHING ASBESTOS DUST
MAY CAUSE LUNG DISEASE AND CANCER
or
DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD

2. As used in this section, "landfill" means a facility or part of a facility at which asbestos is disposed of by placing it into or on land.
(Added to NAC by Environmental Comm'n, eff. 12-19-89)

PRACTICE BEFORE STATE ENVIRONMENTAL COMMISSION

NAC 444.980 Appeal of final decision of state department of conservation and natural resources.

1. Except as otherwise provided in subsection 2, any person who requests a hearing before the state environmental commission concerning a final decision of the state department of conservation and natural resources pursuant to chapter 444 of NRS may do so by filing a request, within 10 days of notice of the action of the department on form 3* with the State Environmental Commission, 333 West Nye Lane, Capitol Complex, Carson City, Nevada 89710.

2. A decision of the department issued pursuant to NAC 444.8701 to 444.8746, inclusive, is a final decision for the purposes of judicial review.

3. The provisions of NAC 445B.875 to 445B.899, inclusive, apply to a hearing of the state environmental commission requested pursuant to subsection 1.

*(See adopting agency for form.)

(Added to NAC by Environmental Comm'n, eff. 10-29-93)

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