

LCB File No. R004-08

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

SEC File No. P2008-03

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted

AUTHORITY: §§1-5, NRS 459.826 and NRS 459.830

A REGULATION relating to delivery prohibitions for underground storage tanks used to contain regulated substances; enacting prohibitions for acceptance of regulated substance to an ineligible underground storage tank; providing for deferral of prohibitions in certain circumstances; establishing criteria for determining when an underground storage tank is ineligible to receive regulated substances; establishing a mechanism for notifying tank owners and operators and product deliverers that a tank is ineligible to receive regulated substances; and establishing mechanisms to lift the delivery prohibition from ineligible underground storage tanks.

Section 1. Chapter 459 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive of this regulation.

Sec. 2. *“Red tag” means a unique identification device, tag, or mechanism of a design approved by the Division that has been placed on the fill pipe of an underground storage tank by the Division or by another party at the direction of the Division to indicate that the underground storage tank is ineligible to accept the delivery of a regulated substance.*

Sec. 3. 1. *A facility owner or operator shall not request or accept delivery of a regulated substance to an ineligible underground storage tank that has been marked with a red tag in accordance with the provisions of sections 4 and 5 of this proposed regulation.*

2. The Division may authorize delivery to an ineligible underground storage tank that has been marked with a red tag by providing a deferral in writing to the facility owner or operator for a single delivery or for a period up to 180 days, if a facility owner or operator demonstrates that the delivery

(a) Is required due to an emergency situation;

(b) Is for the purpose of testing or calibrating the underground storage tank to reestablish eligibility; or

(c) Is necessary to maintain the availability of, or access to, motor fuel in any rural or remote area.

Sec. 4. *An underground storage tank is ineligible for delivery or acceptance of regulated substances when*

(1) The Division determines that any of the required components of an underground storage tank is not installed, including

- (a) Spill prevention equipment,*
- (b) Overfill protection equipment,*
- (c) Leak detection equipment, or*
- (d) Corrosion protection equipment; or*

(2) The Division identifies a failure in the operation or functioning of leak detection equipment or spill, overfill, or corrosion protection equipment and the failure is not remedied within 30 days or another reasonable time period specified by the Division; and

(3) The Division has placed, or caused to be placed, a red tag on the fill pipe of the ineligible underground storage tank.

Sec. 5. *The Division must provide written notification to a facility owner/operator or an on-site employee of the facility where an underground storage tank has been determined to be ineligible for delivery at the time of determination of ineligibility and concurrent with the placement of the red tag. The notification must include:*

(a) An identification of the specific underground storage tank or tanks at the facility that are determined to be ineligible for delivery or acceptance of regulated substances;

(b) The date of determination of ineligibility;

(c) The date of placement of the red tag or the date by which the red tag must be placed on the ineligible underground storage tank if the Division orders the red tag to be placed by the owner or operator of the facility;

(d) The criteria used by the Division in making a determination of ineligibility;

(e) Instructions for the placement of the red tag, if the Division orders the red tag to be placed by the owner or operator of the facility; and

(f) The specific actions that must be taken by the facility owner or operator in order for the Division to reclassify the underground storage tank as eligible for delivery.

Sec. 6. *An underground storage tank determined to be ineligible for delivery or acceptance of a regulated substance and marked with a red tag may be reclassified as eligible for delivery or acceptance through the following mechanism:*

(1) Documentation that details the actions taken to install required equipment or to remedy the operational failure of equipment must be provided to the Division by the owner or operator of the facility;

(b) Within 7 days, the Division shall review the documentation to determine the appropriateness of remedial actions;

(c) If required, the Division may take an additional 14 days to conduct a site inspection to assist in its determination;

(d) If remedial actions are found to be appropriate, the Division shall remove the red tag or authorize the facility owner or operator, in writing, to remove the red tag.