

**LCB File No. R005-08**

**PROPOSED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**SEC File No. P2008-04**

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

AUTHORITY: §§1-8, NRS 459.826 and NRS 459.830

A REGULATION relating to secondary containment requirements for underground storage tanks and under-dispenser containment for motor fuel dispensers; establishing criteria for acceptable secondary containment; enacting a requirement for secondary containment on all newly installed underground storage tanks; enacting a requirement for secondary containment on any portion of an underground storage tank that is replaced; enacting a requirement for under-dispenser containment on all newly installed motor fuel dispensers; and allowing for an exemption from containment requirements based on distance to public water systems or potable drinking water wells.

**Section 1.** Chapter 459 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive of this regulation.

**Sec. 2.** *“Motor fuel” means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol and is typically used in the operation of a motor engine.*

**Sec. 3.** *“Secondary containment” means a system of release prevention and detection that consists of a separate inner and outer barrier to contain a regulated substance along with a means of monitoring the interstitial space.*

**Sec. 4.** *“Under-dispenser containment” means containment underneath a motor fuel dispenser that will prevent dispenser leaks from reaching soil or groundwater.*

**Sec. 5.** *An owner or operator that is required to implement secondary containment for an underground storage tank as a result of the requirements in sections 6 and 7 of this proposed regulation shall:*

*1. Satisfy general design and construction requirements for secondary containment in order to*

*(a) Contain regulated substances released from the underground storage tank until they are detected and removed;*

*(b) Prevent the release of regulated substances to the environment at any time during the operational life of the underground storage tank; and*

*(c) Operate with interstitial monitoring that meets the requirements of 40 C.F.R. § 280.43(g);*

*2. Check or cause to be checked for evidence of a release from the underground storage tank at least every 30 days and maintain records of the operation of secondary containment monitoring for a period of one year;*

*3. Notify the Division prior to installation or replacement of an underground storage tank and provide the method of secondary containment planned for use; and*

*4. Maintain records of the installation, maintenance and monitoring of the secondary containment system according to the following schedule:*

*(a) Records of 30-day release monitoring must be maintained for a period of one year;*

*(b) All written performance claims, including any schedules of required maintenance and/or calibration for the secondary containment and its monitoring system must be maintained for a period of not less than five years from the date of installation;*

*(c) All calibration, maintenance and repair of release detection equipment permanently located on-site must be maintained for at least one year; and*

*5. Upon request, make available for review by the Division records of the installation, maintenance and monitoring of the secondary containment system.*

**Sec. 6. 1. Secondary containment shall be required on all underground storage tanks installed after April 1, 2008.**

*2. The requirement for secondary containment in subsection 1 applies only to a newly installed underground storage tank and its associated piping and not to underground storage tanks existing at a facility that may become connected by piping or coupled through a manifold to the newly installed underground storage tank.*

**Sec. 7. 1. Secondary containment shall be required for any existing underground storage tank that is replaced, including the replacement of any piping that constitutes a portion of the underground storage tank whether it is replaced in conjunction or separately from other portions of the underground storage tank.**

*2. The requirement for secondary containment after replacement shall apply only to those portions of an underground storage tank that are actually replaced and not to any other*

*portion that remains in place, including any other underground storage tank that is connected by piping or coupled through a manifold.*

*3. Piping is not considered to be replaced unless 100% of a run of piping from one component to another component of the underground storage tank system is replaced, where a component includes an individual tank, dispenser, or piece of ancillary equipment.*

*4. Secondary containment is not required as a result of repairs not involving replacement that are meant to restore an underground storage tank to operating condition.*

**Sec. 8.** *Under-dispenser containment is required for all motor fuel dispensers that are installed after April 1, 2008 at a location where there was no previous dispenser or at a location to replace an existing dispenser and the equipment used to connect the dispenser to the underground storage tank is replaced. Under-dispenser containment must:*

- 1. Be liquid-tight on its sides, bottom, and at any penetrations;*
- 2. Be compatible with the substance conveyed by the dispenser piping;*
- 3. Allow for visual inspection and access to the components in the containment system and/or be monitored; and*
- 4. Be available for inspection by the Division.*

**Sec. 9. 1.** *An owner or operator shall not be required to implement secondary containment under sections 6 and 7 of this proposed regulation or to implement under-dispenser containment under section 8 of this proposed regulation if he submits a study to the Division to demonstrate that the newly installed underground storage tank or motor fuel dispenser or the replaced portions of an underground storage tank is not within 1,000 feet of a public water system or potable drinking water well, and the study is approved by the Division.*

*2. The 1,000 feet in subsection 1 must be measured from the closest part of the new or replaced underground storage tank or new motor fuel dispenser to the closest part of the nearest public water system or the wellhead of the nearest potable drinking water well.*

*3. As used in this section:*

*(a) "Public water system" has the meaning ascribed to it in NRS 445A.235; and*

*(b) "Potable drinking water well" means any hole that is dug, driven, drilled, or bored and that extends into the earth until it meets groundwater which:*

*(1) supplies water for a non-community public water system, or*

*(2) otherwise supplies water for household use, including drinking, bathing, and cooking, or other similar use.*