

LCB File No. R153-08

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

SEC File No. P2008-14

EXPLANATION - Matter in *italics* is new; matter in brackets ~~omitted material~~ is to be omitted.

A REGULATION relating to adopt by reference changes to the federal hazardous waste regulations through July 1, 2008. Changes include the revision to an existing exclusion from the definition of solid waste, and thus from regulation as hazardous waste, for recycled oil bearing hazardous secondary materials and clarifications to previously approved air pollution regulations.

Authority: NRS 459.485, 459.490 and 459.500

Section 1. NAC 444.8427 is hereby amended to read as follows:

444.8427 "Facility for community recycling" defined. "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, ~~2007~~ 2008.

Section 2. NAC 444.84275 is hereby amended to read as follows:

444.84275 "Facility for community storage" defined. "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, ~~2007~~ 2008.

Section 3. NAC 444.850 is hereby amended to read as follows:

444.850 Definitions. 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, ~~2007~~ 2008, have the meanings ascribed to them in that section.

Section 4. NAC 444.8632 is hereby amended to read as follows:

444.8632 Compliance with federal regulations adopted by reference.

1. In addition to the requirements of NAC 444.842 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, and Parts 273 and 279, as those provisions existed on July 1, ~~2007~~ 2008 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, and Parts 273 and 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 PA 15250-7954, for the following prices:

- (a) Volume 40 C.F.R. Part 2.....\$60
- (b) Volume 40 C.F.R. Part 124.....45
- (c) Volume 40 C.F.R. Parts 260 to265, inclusive.....50
- (d) Volume 40 C.F.R. Parts 266 to 299, inclusive.....50

Section 5. NAC 444.8688 is hereby amended as follows:

444.8688 Transfer of hazardous waste from transport vehicle to boiler or industrial furnace.

1. A person shall not transfer hazardous waste from a transport vehicle directly to a boiler or industrial furnace without the use of a storage unit.

2. An owner or operator of a boiler or industrial furnace may transfer hazardous waste from a transport vehicle to the boiler or furnace using a storage unit if he first obtains a permit for the storage of hazardous waste in the manner prescribed by 40 C.F.R. Part 270, as that part existed on July 1, ~~2007~~2008

Section 6. NAC 444.8871 is hereby amended as follows:

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 July 1, ~~2007~~ 2008 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.

Section 7. NAC 444.8881 is hereby amended as follows:

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 July 1, ~~2007~~ 2008.

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

Section 8. NAC 444.8926 is hereby amended as follows:

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 July 1, ~~2007~~ 2008.

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.

Section 9. NAC 444.8931 is hereby amended as follows:

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 subsections 1 and 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 July 1, ~~2007~~ 2008 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.

Section 10. NAC 444.8941 is hereby amended as follows:

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 July 1, ~~2007~~ 2008 before he transports the used antifreeze.

Section 11. NAC 444.9006 is hereby amended as follows:

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 July 1, ~~2007~~ 2008.

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 postclosure which are set forth in 40 C.F.R. § 265.310, as that section existed on July 1, ~~2007~~ 2008.

Section 12. NAC 444.9011 is hereby amended as follows:

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 July 1, ~~2007~~ 2008.

Section 13. NAC 444.9452 is hereby amended to read as follows:

444.9452 Adoption by reference of certain provisions of Code of Federal Regulations

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, ~~2007~~ 2008.

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

- (a) The volume containing 40 C.F.R. Parts 260 to 265, inclusive.....\$50
- (b) The volume containing 40 C.F.R. Parts 266 to 299, inclusive.....50
- (c) The volume containing 40 C.F.R. Part 76161