

**REVISED PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R052-11

December 27, 2011

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

AUTHORITY: §§1-9, NRS 459.826.

A REGULATION relating to underground storage tanks; requiring the owner or operator of an underground storage tank to designate one or more persons as a Class A operator, Class B operator and Class C operator for each underground storage tank he or she owns or operates; establishing the duties of an owner or operator of an underground storage tank; establishing the training requirements for each class of operator; authorizing the Division of Environmental Protection of the State Department of Conservation and Natural Resources to require the retraining of a Class A operator or Class B operator under certain circumstances; and providing other matters properly relating thereto.

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. *“Class A operator” means a person designated pursuant to paragraph (a) of subsection 1 of section 5 of this regulation.*

Sec. 3. *“Class B operator” means a person designated pursuant to paragraph (b) of subsection 1 of section 5 of this regulation.*

Sec. 4. *“Class C operator” means a person designated pursuant to paragraph (c) of subsection 1 of section 5 of this regulation.*

Sec. 5. 1. *The owner or operator of an underground storage tank shall, for each underground storage tank he or she owns or operates, designate one or more persons as a:*

(a) Class A operator, who is primarily responsible for the general operation and maintenance of the underground storage tank for which he or she is designated.

(b) Class B operator, who is responsible for the daily, on-site operation and maintenance of the underground storage tank for which he or she is designated.

(c) Class C operator, who is responsible for the initial response to an event or alarm which indicates the existence of a spill, release or other emergency at the site of the underground storage tank for which he or she is designated.

2. The owner or operator of an underground storage tank shall:

(a) For each person designated as a Class A operator, ensure that the Class A operator, with respect to each underground storage tank for which the Class A operator has been designated:

(1) Manages resources and personnel;

(2) Establishes work assignments; and

(3) Takes any other actions which are necessary to ensure compliance with applicable federal and state laws and regulations.

(b) For each person designated as a Class B operator, ensure that the Class B operator, with respect to each underground storage tank for which the Class B operator has been designated:

(1) Supervises and monitors the day-to-day operation and maintenance of the underground storage tank;

(2) Maintains records; and

(3) Implements applicable federal and state regulatory requirements and standards in the field.

3. An owner or operator may, for the purposes of complying with subsection 1, designate himself or herself as a Class A operator, Class B operator or Class C operator.

4. An owner or operator may, for the purposes of complying with subsection 1, designate a person as more than one class of operator if the person meets the training requirements prescribed in section 6 or 7 of this regulation for each class of operator for which the person has been designated.

5. The owner or operator of an underground storage tank shall maintain a record for each person who is designated by the owner or operator as a Class A operator, Class B operator or Class C operator. The record for each designee must include the name of the designee, the date of designation and the class of designation. Records maintained pursuant to this subsection must be made available to the Division upon request.

Sec. 6. 1. *The owner or operator of an underground storage tank shall, not later than 30 days after designating a person as a Class A operator or Class B operator, ensure that the person:*

(a) Completes a training program conducted by an independent company or organization that has been approved by the Division;

(b) Completes a training program conducted by his or her employer that has been approved by the Division; or

(c) Provides proof satisfactory to the Division that the person:

(1) Has satisfied the requisite training requirements for a Class A operator or Class B operator, as applicable, in another state or territory of the United States or the District of Columbia; and

(2) Is in good standing with the regulatory body of the state or territory in which the Class A operator or Class B operator received his or her training.

2. A training program for a Class A operator conducted pursuant to subsection 1 must include, without limitation, instruction on:

(a) The general operation and maintenance of an underground storage tank which is sufficient to enable the Class A operator to make informed decisions regarding the operation and maintenance of an underground storage tank and to ensure compliance with applicable federal and state laws and regulations;

(b) The applicable federal and state laws and regulations governing the operation and maintenance of an underground storage tank with respect to:

(1) The prevention of spills or overfilling;

(2) The detection of a release or suspected release;

(3) Protection against corrosion;

(4) Product compatibility;

(5) The documentation of financial responsibility;

(6) Registration and notification;

(7) Recordkeeping;

(8) The temporary or permanent closure of an underground storage tank; and

(9) The procedure for responding to and reporting a release, suspected release or other emergency; and

(c) The requirements for operator training.

3. A training program for a Class B operator conducted pursuant to subsection 1 must include, without limitation, instruction on:

(a) The operation and maintenance of an underground storage tank which is specific to the type of underground storage tank for which the Class B operator is responsible;

(b) The prevention of spills or overfilling;

(c) The detection of a release or suspected release;

(d) Protection against corrosion;

(e) Product compatibility;

(f) Recordkeeping;

(g) The procedure for responding to and reporting a release or other emergency; and

(h) The procedure to shut down an underground storage tank in the event of a release or other emergency.

4. The owner or operator of an underground storage tank shall, for each person who is designated by the owner or operator as a Class A operator or Class B operator, maintain a record of the completion of training required pursuant to this section. Records maintained pursuant to this subsection must be made available to the Division upon request.

Sec. 7. 1. The owner or operator of an underground storage tank shall, before authorizing a Class C operator to assume responsibility for an underground storage tank, ensure that the Class C operator completes a training program conducted by:

(a) A Class A operator or Class B operator in good standing with the Division; or

(b) A person, company, organization or other source approved by the Division.

2. A training program for a Class C operator conducted pursuant to subsection 1 must include, without limitation, instruction on the procedure:

(a) For notifying the supervising Class A operator or Class B operator in the event of a release, equipment alarm, equipment malfunction or other emergency; and

(b) To shut down an underground storage tank in the event of a release or other emergency.

3. The owner or operator of an underground storage tank shall, for each person who is designated by the owner or operator as a Class C operator, maintain a record of the completion of training required pursuant to this section. Records maintained pursuant to this subsection must be made available to the Division upon request.

Sec. 8. *1. If the Division finds that an underground storage tank is not operated in compliance with federal and state laws and regulations governing the general operation of an underground storage tank, the detection of releases, testing for tightness or financial responsibility as provided by 40 C.F.R. §§ 280.10 to 280.116, inclusive, or NAC 459.9921 to 459.999, inclusive, and sections 2 to 8, inclusive, of this regulation, the Division may require the Class A operator or Class B operator who is responsible for the operation and maintenance of the underground storage tank, or both, to be retrained.*

2. If the Division requires a Class A operator or Class B operator to be retrained pursuant to subsection 1, the retraining must be:

(a) Completed within the period specified by the Division; and

(b) Provided by a person, company, organization or other source approved by the Division.

Sec. 9. This regulation becomes effective on August 8, 2012.