

Secretary of State
Filing Data

**For Filing Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification Proposed Adopted By Agency Temporary Emergency Permanent

Brief description of action: Regulation R004-08: Delivery Prohibition - Underground Storage

Tanks: This regulation amends the existing underground storage tank regulations contained in Nevada Administrative Code 459.9921 to 459.999 by instituting a delivery prohibition component. Specifically, the regulation implements the delivery prohibition provisions from Section 9012 of the federal Solid Waste Disposal Act (SWDA), enacted by the Underground Storage Tank Compliance Act, which was part of the [federal] Energy Policy Act of 2005. In order to continue to receive federal funds under Subtitle I of the SWDA, an implementing agency (in this case the Nevada Division of Environmental Protection (NDEP) is required to enact program changes to institute a delivery prohibition element as part of its program. A delivery prohibition is a mechanism of identifying underground storage tanks that are not operating in accordance with program requirements marking them ineligible for the acceptance or delivery of a regulated substance.

The State of Nevada has chosen to employ a “red-tag” method for identifying underground storage tanks that are ineligible for delivery. The regulation makes it unlawful to either accept or deliver a regulated substance to a tank that has been marked with a visible “red-tag”. NDEP will have control over the placement and removal of the red-tag, though mechanisms are provided for NDEP to authorize a facility owner or operator to place and remove a red-tag.

Authority citation other than 233B: §§ 1-9, NRS 459.826 and 459.830.

Notice date: February 15, 2008

Hearing date: March 18, 2008