



STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Jim Gibbons, Governor

Allen Biaggi, Director

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Background Information

Proposed Regulation of the State Environmental Commission - January 2008

P2008-03: Delivery Prohibition Underground Storage Tanks: The proposed regulation amends the existing underground storage tank regulations contained in Nevada Administrative Code 459.9921 to 459.999 by instituting a delivery prohibition component of underground storage tank regulation. The proposed 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, part of the Energy Policy Act of 2005 enacted on August 8, 2005. In order to continue to receive federal funds under Subtitle I of the SWDA, an implementing agency is required to enact program changes to institute a delivery prohibition element as part of their program.

Delivery prohibition is a mechanism of identifying underground storage tanks that are not operating in accordance with program requirements and marking them as ineligible for the acceptance or delivery of a regulated substance. Delivery prohibition consists of the following elements:

- Criteria for determining ineligible underground storage tanks;
- Mechanisms for identifying ineligible underground storage tanks;
- Processes for reclassifying ineligible underground storage tanks as eligible;
- Processes for providing adequate notice to underground storage tank owners/operator and product deliverers; and,
- Processes for determining the specified geographic areas subject to the rural and remote areas consideration.

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