

LCB File No. R125-07

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

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

AUTHORITY: §§1-5, NRS 445A.425, 445A.660, and 459.485

A REGULATION relating to notification of release of hazardous substances; establishing triggers for release events that require immediate notification to the Director; establishing triggers for release and discovery events that require notification within one working day; providing that reporting in accordance with this proposed regulation shall not satisfy requirements to notify other federal, state, or local agencies; and establishing the appropriate format for notification.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *Any person who owns or operates a facility or his designated agent shall make immediate notice to the Director after a release of hazardous substance involving his facility which:*

(a) Is in a quantity equal to or greater than that which is required to be reported to the National Response Center pursuant to 40 C.F.R. Part 302;

(b) Involves any amount of hazardous substance released to surface water; or

(c) Otherwise threatens a vulnerable resource.

2. *Immediate notice to the Director for a release described in subsection 1 shall be made as soon as practicable after knowledge of the release but not prior to the notification of emergency response agencies, if necessary, or the initiation of abatement actions to prevent immediate threats to human health or the environment.*

Sec. 3. 1. *Any person who owns or operates a facility or his designated agent shall make notice to the Director by the end of the next working day (Monday through Friday, 8 a.m. to 5 p.m.) after knowledge of a release of hazardous substance involving his facility which:*

(a) Is released to the soil or other surfaces of land in a quantity greater than 25 gallons (liquid) or 200 pounds (solid) of product;

(b) Has impacted at least 3 cubic yards of soil as discovered during excavation of soil, subsurface exploration, or any other subsurface activity;

(c) Has impacted groundwater in either a dissolved or free phase as discovered during subsurface exploration, monitoring of groundwater, or any other subsurface activity; or

(d) Is the result of a confirmed release from an underground storage tank regardless of the method of confirmation or the amount of hazardous substances released.

2. Releases reported pursuant to the immediate notification requirements of section 2 of this proposed regulation are not subject to additional reporting to the Director under this section.

Sec. 4. NAC 445A.345 is hereby amended to read as follows:

445A.345 As used in NAC 445A.345 to 445A.348 and sections 2 and 3 of this proposed regulation, inclusive, unless the context otherwise requires:

1. “Confirmed release from an underground storage tank” means an actual or strongly presumed belowground release that is discovered through:

(a) A failed tank or line tightness test that is not the result of malfunctioning or misapplied testing equipment;

(b) Visual or laboratory confirmation of hazardous substances in surrounding soil or groundwater that may be reasonably associated with the underground storage tank; or

(c) Any unexplained and rapid loss of product from an underground storage tank.

[H.] 2. “Facility” means any:

(a) Building, structure, installation, equipment, pipe, including the pipe into a sanitary or storm sewer or publicly owned treatment works, pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, container for storage, tank or underground tank for storage;

(b) Site or area where a hazardous substance, pollutant or contaminant has been deposited, stored, disposed of, placed or otherwise located; or

(c) Motor vehicle, rolling stock or aircraft or any vessel used as a means of transportation on water.

3. “Hazardous substance” has the meaning ascribed to it in NRS 459.429, and for the purpose of release reporting, includes:

(a) A hazardous substance as designated in 40 CFR Part 302;

(b) A hazardous material, regardless of amount, as defined in NRS 459.7024;

(c) A regulated substance as defined in NRS 459.448;

(d) A contaminant as defined in NRS 445A.325; and

(e) A pollutant as defined in NRS 445A.400.

4. “Other surfaces of land” means rock, gravel, road base, compacted earth, asphalt, pavement, and concrete except where that surface constitutes a structure engineered to prevent a release to the environment.

~~[2.]~~ *5. “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers, or other closed receptacles containing any hazardous substance).*

6. “Underground storage tank” means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of hazardous substances, and the volume of which (including the volume of underground pipes connected thereto) is ten percent or more beneath the surface of the ground.

7. “Vulnerable resource” means:

(a) Any building or structure and its associated grounds that is used primarily to house, shelter, or provide services for children, elderly, or ill populations, to include schools, day-cares, hospitals, and senior centers;

(b) Within a 150 foot radius of a public drinking water system wellhead; and

(c) The interior of a storm drain.

Sec. 5. NAC 445A.347 is hereby amended to read as follows:

445A.347 1. ~~[Any person who owns or operates a facility or his designated agent shall, as soon as possible after he has knowledge of a release described in subsection 2 that involves his facility, but not later than the end of the first working day after the release, provide n]~~Notice ~~[of the release]~~ to the Director, *as required in NAC 445A.345 to 445A.348 and sections 2 and 3 of this proposed regulation shall be made* by telephone at (888) 331-6337 (in-state calls only) or (775) 687-9485 (in-state and out-of state calls).

2. Notice made pursuant to NAC 445A.345 to 445A.348 and sections 2 and 3 of this proposed regulation does not satisfy requirements to report to any other federal, state, or local agencies that maintain separate reporting requirements for releases involving hazardous substances.

~~[2. The following are subject to the notice requirements of subsection 1:~~

~~(a) A release in a quantity equal to or greater than that which is required to be reported to the National Response Center pursuant to 40 C.F.R. Part 302.~~

~~(b) A release consisting of any quantity of pollutants, hazardous waste, as defined in NRS 459.430, or contaminants, as defined in NRS 445A.325, and the pollutant, hazardous waste or contaminant is not listed in 40 C.F.R. § 302.4.~~

~~(c) A release consisting of a petroleum product:~~

~~—(1) Which is release to the soil or other surfaces of land in a quantity greater than 25 gallons; or~~

~~—(2) Discovered on or in the groundwater or in at least 3 cubic yards or soil during excavation of soil, subsurface exploration, monitoring of groundwater or any other subsurface activity.]~~