

LCB File No. R126-03

**PROPOSED REGULATION OF THE STATE
ENVIRONMENTAL COMMISSION**

Petition 2003-06

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

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, ~~2002~~ *2003*.

Sec. 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, ~~2002~~ *2003*.

Sec. 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, ~~2002~~ *2003*, have the meanings ascribed to them in that section.

Sec. 4. NAC 444.8618 is hereby amended as follows:

NAC 444.8618 Information concerning and application for EPA identification number. A generator, transporter or facility owner or operator who is required to obtain an EPA identification number pursuant to 40 C.F.R. § 262.12, 263.11, 264.1(j)(1), 264.11, ~~or~~ 265.11 *or NAC 444.8951* may obtain information relating to the procedure to obtain the identification number and an application by submitting a written request to the Division of Environmental Protection, 333 West Nye Lane, Room 138, Carson City, Nevada 89706-0851 *or by telephone at (775) 687-9481*.

Sec. 5. 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~~ ~~[444.850]~~ 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, ~~[2002]~~ 2003, 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.....\$~~[54]~~57
- (b) Volume 40 C.F.R. Part 124.....~~[38]~~42
- (c) Volume 40 C.F.R. Parts 260 to 265, inclusive.....~~[45]~~47
- (d) Volume 40 C.F.R. Parts 266 to 299, inclusive.....~~[45]~~47

Sec. 6. NAC 444.8688 is hereby amended as follows:

NAC 444.8688 Permit required to transfer hazardous waste from transport vehicle to boiler or industrial furnace. ~~[A person who desires to transfer hazardous waste from a transport vehicle directly to a boiler or industrial furnace shall first obtain a permit for the storage of hazardous waste in the manner prescribed by 40 C.F.R. Part 270.]~~ *Direct transfer of hazardous waste from transport vehicle to boiler or industrial furnace prohibited. The owner or operator of a boiler or industrial furnace shall not directly transfer hazardous waste from a transport vehicle to a boiler or industrial furnace without the use of a storage unit. A storage unit must be permitted in the manner prescribed by 40 CFR Part 270.*

Sec. 7. NAC 444.8801 is hereby amended as follows:

NAC 444.8801 Definitions. As used in NAC 444.8801 to 444.9071 inclusive, unless the context otherwise requires, the words and terms defined in NAC 444.8806 to 444.8866 inclusive, have the meanings ascribed to them in those sections. *References to federal regulations in NAC 444.8801 to 444.9071 inclusive, refer to those sections as they existed on July 1, 2003.*

Sec. 8. NAC 444.8846 is hereby amended as follows:

NAC 444.8846 "Identification number" defined. "Identification number" means an identification number issued by the Environmental Protection Agency *or authorized state agency.*

Sec. 9. NAC 444.8871 is hereby amended as follows:

NAC 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 October 3, 1996]~~; 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.

Sec. 10. NAC 444.8881 is hereby amended as follows:

NAC 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 October 3, 1996]~~.

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

Sec. 11. NAC 444.8896 is hereby amended as follows:

NAC 444.8896 Required action upon release of used antifreeze. If used antifreeze which is not governed by the requirements of 40 C.F.R. Part 280, Subpart F, ~~[as that subpart existed on October 3, 1996]~~ is released into the environment, a person, center or facility that is governed by the provisions of NAC 444.8911 to 444.8931, inclusive, 444.8936 to 444.8986, inclusive, or 444.8991 to 444.9046, inclusive, shall, as soon as the release is discovered:

1. Immediately stop the release of used antifreeze into the environment;
2. Immediately contain, if possible, the used antifreeze which was released;
3. Clean up and properly manage the used antifreeze which was released and any other materials that were released; and
4. If necessary to prevent future releases of used antifreeze, repair or replace any storage tanks or containers.

Sec. 12. NAC 444.8901 is hereby amended as follows:

NAC 444.8901 Required report of release of used antifreeze. In addition to the requirements of NAC 444.8896, a person, center, point for aggregation or facility that is governed by provisions of NAC 444.8911 to 444.8931, inclusive, 444.8936 to 444.8986, inclusive, or 444.8991 to 444.9046, inclusive, shall, not more than 24 hours after a release, report the release by telephone pursuant to the requirements for reporting set forth in 40 C.F.R. Part 302, ~~[as that part existed on October 3, 1996]~~ to:

1. The National Response Center, in accordance with 40 C.F.R. Part 302, ~~[as that part existed on October 3, 1996]~~ at (800) 424-8802 or (202) ~~[462] 267-2675~~; and
2. The director of the state department of conservation and natural resources at ~~[(800) 992-0900 extension 4670, or (775) 687-4670]~~ **(888) 331-6337 or (775) 687-9485**.

Sec. 13. NAC 444.8906 is hereby amended as follows:

NAC 444.8906 Required report of release of used antifreeze into body of water. If used antifreeze is released into a body of water in this state, a person, center, point for aggregation or facility that is governed by the provisions of NAC 444.8911 to 444.8931, inclusive, 444.8936 to 444.8986, inclusive, or 444.8991 to 444.9046, inclusive, shall, not more than 24 hours after a release, report the release by telephone to the director of the state department of conservation and natural resources at ~~[(800) 992-0900 extension 4670, or (775) 687-4670]~~ **(888) 331-6337 or (775) 687-9485**.

Sec. 14. NAC 444.8911 is hereby amended as follows:

NAC 444.8911 Applicability.

1. The provisions of NAC 444.8911 to 444.8931, inclusive, apply to:

(a) Generators of used antifreeze, except for persons who generate used antifreeze from their households.

(b) Centers for the collection of used antifreeze.

(c) Points for aggregation.

2. The provisions of NAC 444.8911 to 444.8931, inclusive, do not apply to wastewater which contains a small amount of used antifreeze, if the discharge of antifreeze is governed by paragraph (b) of section 307 of the Clean Water Act (33 U.S.C. § 1317), ~~as that section existed on October 3, 1996~~ or section 402 of the Clean Water Act (33 U.S.C. § 1342), ~~as that section existed on October 3, 1996~~. For the purposes of this subsection, wastewater contains a small amount of used antifreeze if the antifreeze is discharged as a result of small spills, leaks or drips from pumps, machinery, pipes and other equipment which occur during normal operations of the facility or discharged into a system for the treatment of wastewater during the washing or draining operations of the system. Wastewater contains more than a small amount of used antifreeze if the antifreeze is discharged as a result of substantial leaks, spills or other releases which occur during abnormal operations of the facility, or if the used antifreeze is recaptured from the wastewater.

Sec. 15. NAC 444.8926 is hereby amended as follows:

NAC 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 October 3, 1996~~.

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.

Sec. 16. NAC 444.8931 is hereby amended as follows:

NAC 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 October 3, 1996.]~~ 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.

Sec. 17. NAC 444.8941 is hereby amended as follows:

NAC 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 October 3, 1996.]~~ before he transports the used antifreeze.

Sec. 18. NAC 444.8951 is hereby amended as follows:

NAC 444.8951 Identification number; compliance with federal regulations.

1. Except as otherwise provided in subsection 2 of NAC 444.8931, a transporter of used antifreeze must hold an identification number. ~~[An identification number may be obtained from the Environmental Protection Agency by submitting to the administrator a completed EPA Form 8700-12. This form is available, upon request, by telephone at (800) 882-3233].~~ *Information relating to the procedure to obtain the identification number and an application may be obtained by submitting a written request to the Division of Environmental Protection, 333 West Nye Lane, Room 138, Carson City Nevada 890706-0851 or by telephone at (775) 687-9481.*

2. A transporter of used antifreeze shall comply with all applicable provisions of 49 C.F.R. Parts 173, 178 and 179, ~~[as those parts existed on October 3, 1996]~~, which govern the packaging, labeling and placarding of hazardous waste.

Sec. 19. NAC 444.8976 is hereby amended as follows:

NAC 444.8976 Release of used antifreeze into body of water during transport. If used antifreeze is released during transportation into a body of water which is located in this state, the person who transports the used antifreeze shall:

1. Comply with the requirements of notice set forth in NAC 444.8896;
2. If required by 40 C.F.R. Part 302 ~~[as that part existed on October 3, 1996]~~ or 49 C.F.R. § 171.15, ~~[as that section existed on October 3, 1996,]~~ report the release to the National Response Center at (800) 424-8802 or (202) ~~[426]~~ 267-2675; and
3. In accordance with 49 C.F.R. § 171.16, ~~[as that section existed on October 3, 1996,]~~ provide a written report of the release to the Information Systems Manager, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20509-0001.

Sec. 20. NAC 444.8996 is hereby amended as follows:

NAC 444.8996 Written determination; identification number.

1. An owner or operator of a facility for the recycling of used antifreeze shall obtain a written determination from the administrator pursuant to NAC 444.8455 and 444.84555.
2. An owner or operator of a facility for the recycling of used antifreeze shall obtain an identification number. ~~[An identification number may be obtained from the Environmental Protection Agency by submitting to the administrator a completed Form # 8700-12. This form is available, upon request, by telephone at (800) 882-3233.]~~ *Information relating to the procedure to obtain the identification number and an application may be obtained by submitting a written request to the Division of Environmental Protection, 333 West Nye Lane, Room 138, Carson City Nevada 890706-0851 or by telephone at (775) 687-9481.*

Sec. 21. NAC 444.9006 is hereby amended as follows:

NAC 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 October 3, 1996].~~
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 October 3, 1996].~~

Sec. 22. NAC 444.9011 is hereby amended as follows:

NAC 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 October 3, 1996].~~

Sec. 23. NAC 444.9452 is hereby amended to read as follows:

NAC 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 444.9452 Adoption by reference of provisions of 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, ~~[2002]~~ 2003.

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.....\$~~[45]~~47
- (b) The volume containing 40 C.F.R. Parts 266 to 299, inclusive.....~~[45]~~47
- (c) The volume containing 40 C.F.R. Part 761.....~~[55]~~58

Sec. 24. NAC 445A.347 is hereby amended to read as follows:

NAC 445A.347 Notice required.

1. Any person who owns or operates a facility or his designated agent shall notify the Director 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. The notice must be by telephone at ~~[800.992.0900, extension 4670 or 775.687.4670]~~ 888.331.6337 or 775.687.9485.

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 released to the soil or other surfaces of land in a quantity greater than 25 gallons; or

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