

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

LCB File No. R100-10

September 21, 2010

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

AUTHORITY: §§1-13, NRS 459.485.

A REGULATION relating to hazardous waste; adopting by reference certain provisions of the Code of Federal Regulations; and providing other matters properly relating thereto.

Section 1. NAC 444.8427 is hereby amended to read as follows:

444.8427 “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, ~~2008.~~ *2009.*

Sec. 2. NAC 444.84275 is hereby amended to read as follows:

444.84275 “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, ~~2008.~~ *2009.*

Sec. 3. NAC 444.850 is hereby amended to read as follows:

444.850 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, ~~2008,~~ 2009, have the meanings ascribed to them in that section.

Sec. 4. NAC 444.8632 is hereby amended to read as follows:

444.8632 1. In addition to the requirements of NAC 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 ~~{};~~:

(a) Except as otherwise provided in paragraph (b), the provisions of 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, ~~{} Parts~~ Part 260 , Part 261, Part 262, Subparts A to J, inclusive, Parts 263 to 270, inclusive, Part 273 and Part 279, as those provisions existed on July 1, 2008 ~~{};~~; and

(b) The provisions of 40 C.F.R. §§ 261.5 and 262.10 and Part 262, Subpart K, as those provisions existed on July 1, 2009,

↳ which, except as otherwise modified by NAC 444.86325, 444.8633 and 444.8634, are hereby adopted by reference.

~~{};~~ 2. 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~~ Part 260 , Part 261, Part 262, Subparts A

to K, inclusive, Parts 263 to 270, inclusive, Part 273 and Part 279 to interpret those sections ~~and~~
~~parts.~~

~~—2.]~~, parts and subparts.

3. *The provisions adopted by reference in this section may be obtained, free of charge, from the U.S. Government Printing Office at the Internet address*

<http://www.gpoaccess.gov/cfr/>. The volumes containing those parts may be obtained by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, for the following prices:

(a) Volume 40 C.F.R. Parts 1 to 49, inclusive	[\$60] \$66
(b) Volume 40 C.F.R. Parts 100 to 135, inclusive	[48] 51
(c) Volume 40 C.F.R. Parts 260 to 265, inclusive	[53] 56
(d) Volume 40 C.F.R. Parts 266 to 299, inclusive	[50] 56

Sec. 5. NAC 444.8688 is hereby amended to read as follows:

444.8688 1. A person shall not transfer hazardous waste from a transport vehicle directly to a boiler or industrial furnace without the use of a storage unit.

2. An owner or operator of a boiler or industrial furnace may transfer hazardous waste from a transport vehicle to the boiler or furnace using a storage unit if he first obtains a permit for the storage of hazardous waste in the manner prescribed by 40 C.F.R. Part 270, as that Part existed on July 1, ~~[2008.]~~ 2009.

Sec. 6. NAC 444.8871 is hereby amended to read as follows:

444.8871 1. The provisions of NAC 444.8801 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 July 1, ~~2008.~~ 2009; or

(b) It was designated as a hazardous waste in the state of its origin.

2. The provisions of NAC 444.8801 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. 7. NAC 444.8881 is hereby amended to read as follows:

444.8881 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 July 1, ~~2008.~~ 2009.

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

Sec. 8. NAC 444.8926 is hereby amended to read as follows:

444.8926 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 July 1, ~~2008.~~ 2009.

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. 9. NAC 444.8931 is hereby amended to read as follows:

444.8931 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 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 July 1, ~~2008,~~ 2009, 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 the 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. 10. NAC 444.8941 is hereby amended to read as follows:

444.8941 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 July 1, ~~2008,~~ 2009, before he transports the used antifreeze.

Sec. 11. NAC 444.9006 is hereby amended to read as follows:

444.9006 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 July 1, ~~2008.~~ 2009.

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 set forth in 40 C.F.R. § 265.310, as that section existed on July 1, ~~2008.~~ 2009.

Sec. 12. NAC 444.9011 is hereby amended to read as follows:

444.9011 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 July 1, ~~2008.~~ 2009.

Sec. 13. NAC 444.9452 is hereby amended to read as follows:

444.9452 1. All sections, subparts and parts of Title 40 of the 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 those sections, subparts and parts existed on July 1, ~~2008.~~ 2009.

2. *The provisions adopted by reference in this section may be obtained, free of charge, from the U.S. Government Printing Office at the Internet address <http://www.gpoaccess.gov/cfr/>.* The volumes containing those sections, subparts and parts may be obtained by mail from the Superintendent of Documents, U.S. Government Printing Office,

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for the following prices:

- (a) The volume containing 40 C.F.R. Parts 260 to 265, inclusive ~~[\$53]~~**\$56**
- (b) The volume containing 40 C.F.R. Parts 266 to 299, inclusive ~~[50]~~**56**
- (c) The volume containing 40 C.F.R. Parts 700 to 789, inclusive ~~[64]~~**67**