

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R037-13

Effective October 24, 2014

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

AUTHORITY: §1, NRS 444.560.

A REGULATION relating to solid waste disposal; providing for the imposition of certain fees by the Division of Environmental Protection of the State Department of Conservation and Natural Resources relating to the operation of certain solid waste disposal sites; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Environmental Commission of the State Department of Conservation and Natural Resources to adopt regulations concerning the issuance of permits to construct or operate a disposal site. The Commission is further authorized to establish a schedule of fees for the issuance of permits or other approvals to operate solid waste management facilities which are located within the jurisdiction of the Department. (NRS 444.560) This regulation: (1) requires the Division of Environmental Protection of the Department to charge and collect certain fees for an application for the initial issuance of a permit or letter of approval to operate certain solid waste disposal sites; (2) requires the Division to charge and collect certain fees for an annual permit to operate certain solid waste disposal sites; (3) authorizes the Division to charge and collect certain annual permit fees during the period in which certain solid waste disposal sites require postclosure care; and (4) requires the Division to charge and collect certain fees for the substantive modification of an existing permit to operate a solid waste disposal site.

Section 1. Chapter 444 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The Division shall charge and collect the following fees for an application for the initial issuance of a permit or letter of approval:

For an application submitted by a class I site proposed to receive, based on an annual average, less than 500 tons per day.....\$5,000

For an application submitted by a class I site proposed to receive, based on an annual average, 500 or more tons per day\$65,000

For an application submitted by a class III site proposed to receive, based on an annual average, less than 500 tons per day.....\$5,000

For an application submitted by a class III site proposed to receive, based on an annual average, 500 or more tons per day\$20,000

For an application to operate a transfer station\$1,000

For an application to operate a facility for the management of waste tires\$2,500

2. The Division shall, on or before July 31 of each year, charge and collect the following annual permit fees:

For a permit issued to a class I site receiving, based on an annual average, more than 100 but less than 500 tons per day, excluding class I sites which have received a waiver of the liner and groundwater monitoring requirements prescribed by this chapter.....\$5,000

For a permit issued to a class I site receiving, based on an annual average, 500 or more tons per day.....\$65,000

For a permit issued to a class III site receiving, based on an annual average, more than 20 but less than 500 tons per day.....\$5,000

<i>For a permit issued to a class III site receiving, based on an annual average, 500 or more tons per day</i>	<i>\$20,000</i>
<i>For a permit issued to a class III site primarily receiving by-products from the combustion of coal and receiving, based on an annual average, less than 100 tons per day.....</i>	<i>\$5,000</i>
<i>For a permit issued to a class III site primarily receiving by-products from the combustion of coal and receiving, based on an annual average, 100 or more tons per day</i>	<i>\$10,000</i>

3. The Division shall charge and collect the annual permit fee prescribed by subsection 2 for each year during which a disposal site requires a permit for its operation. Upon the closure of the disposal site and for each year during which the disposal site requires postclosure care, the Division may charge and collect an annual permit fee in an amount equal to:

(a) For each year during the first 5 years of postclosure care, 50 percent of the annual permit fee charged during the permitting period immediately preceding closure.

(b) For each year after the first 5 years of postclosure care, 10 percent of the annual permit fee charged during the permitting period immediately preceding closure.

4. The Division shall, for the purpose of modifying an existing permit to operate a solid waste disposal site, charge and collect a fee in an amount equal to:

(a) For a proposal to modify a permit that is subject to the requirements for public notice and review pursuant to NAC 444.6435, 50 percent of the applicable fee prescribed by subsection 1.

(b) For any other proposal to modify a permit, \$250.

↳ Routine technical corrections and administrative updates shall not be deemed to be substantive modifications to permits for the purposes of charging and collecting a fee pursuant to this subsection.

Permanent Regulation – Informational Statement

A Regulation Relating to Solid Waste

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

State Environmental Commission (SEC) LCB File No: R037-13

Regulation R037-13:

On October 8, 2014, the SEC adopted a regulation modification related to the NDEP Bureau of Waste Management's Solid Waste Branch. The proposed regulation establishes the following fees: application fees for obtaining a permit or approval to operate certain new solid waste facilities; annual permit fees applicable to certain Class I and Class III disposal sites; and fees related to requests to modify an existing permit.

1. Need for Regulation:

The NDEP Bureau of Waste Management Solid Waste Branch has been funded by Tire fees since 1993. The tire fee schedule has no relation to the regulatory workload of the Solid Waste program; while the number and complexity of regulated facilities has increased, along with program costs, tire fees have remained flat and are no longer adequate to support program needs. The proposed schedule of permit fees will provide a supplemental source of revenue that is directly tied to the regulatory workload. In addition, the proposed fees will enable the Division to offset certain expenses currently funded with hazardous waste fees to help address revenue shortfalls in the Hazardous Waste Management Fund.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

NDEP conducted a public workshop on LCB's Proposed Draft Regulation R037-13. The workshop was held in Carson City and video conferenced to Las Vegas. The meeting location was Carson City at the Bryan Building located at 901 S. Stewart Street (Great Basin Conference Room). In Las Vegas the meeting location was the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230.

One (1) member of the public commented at the workshop. That person was:

Mark Franc, Waste Management Inc., Carson City

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at:
http://sec.nv.gov/docs/R038_13_SolidWaste_Wrkshp_Minutes.pdf.

Following the workshop, the SEC held a formal regulatory hearing on October 8, 2014 at the Nevada Department of Conservation and Natural Resources, 901 South Stewart Street, Carson City, Nevada. A public notice and agenda for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in Las Vegas, at the Division of Minerals in Carson City, at the Division of Wildlife, on the LCB website, on the Division of Administration website and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R037-13 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://sec.nv.gov/main/hearing_1014.htm .

3. The number of persons who attended the SEC Regulatory Hearing:

- (a) Attended October 8, 2014 hearing: 16 (approximately)
- (b) Testified on this Petition at the hearing: 0
- (c) Submitted to the agency written comments: 0

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through e-mail, telephone, a public workshop and at the October 8, 2014 SEC hearing as noted in number 2 above. In addition, NDEP directly contacted each of the affected facility owners regarding the impact of the proposed fees. All of the facility owners were accepting of the proposed fees after discussion and negotiation. Several of the fees were lowered and the fees applicable to coal ash landfills were modified to include two tiers based on annual disposal rate.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted without change because the public was satisfied with the proposed amendments.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

- (a) Regulated Business/Industry. The proposed fees would apply to a small number of landfill disposal facilities, representing the larger facilities within NDEP's jurisdiction, including: Lockwood Regional Landfill serving Reno-Sparks/Washoe County and owned/operated by Waste Management Inc., Carson City Municipal Landfill, City of

Elko Regional Landfill, an industrial waste landfill in Lincoln County owned/operated by Western Elite, Inc., and coal ash landfills associated with coal-fired generating facilities operated by NV Energy and Newmont Energy Investment LLC. With each facility the amount of the fee is relatively nominal compared to the scale of the operation and for all but one facility the fee can be incorporated into their rate structure. Each of the affected facility owners was contacted individually regarding the impact and their acceptance of the proposed fees. All of the facility owners were accepting of the proposed fees after discussion and negotiation; to accommodate industry concerns, several of the fees were lowered and the fees applicable to coal ash landfills were modified to include two tiers based on annual disposal rate. The benefit of the proposed fees is that it helps to maintain a robust regulatory program that ensures the integrity of facility operations and prevents the need for federal intervention by US EPA.

- (b) Public. There would be no significant economic impact on the public if the proposed fee schedule were adopted. If the fees applicable to municipal landfills were passed on to customers, the amount would be insignificant. For example, the fee applicable to the Lockwood Landfill equates to roughly 7 cents per ton per year. An average household generates roughly one ton of household waste per year, so proportionally, the cost per household could be as low as 7 cents per year.

7. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no additional cost to the agency for implementing the proposed fee schedule. The number of accounts is small and existing systems for fee collection and processing can be used.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

This regulation does not duplicate any other federal, state or local regulation.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulation is not more stringent than any federal regulation or guidance.

10. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

It is anticipated that the proposed annual permit fees would generate \$115,000 per year. Additional revenue may be available if new permit applications or requests to modify permits are received; however, the amount cannot be predicted. This revenue would be used to offset the Division's costs for regulating solid waste management facilities within its jurisdiction.