

## LCB File No. R173-99

### NEVADA STATE ENVIRONMENTAL COMMISSION NOTICE OF PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing beginning at **9:30 a.m. on Thursday, December 16, 1999**, at the Clark County Commission Chambers, located at 50 South Grand Central Parkway (Clark County Complex), **Las Vegas**, Nevada.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission.

**3. Petition 2000-02 (LCB R173-99)** is a permanent regulation amending NAC 444.570 to 444.7499, the solid waste and recycling regulations. The amendment establishes standards for the design, operation, closure and financial assurance of solid waste materials recovery facilities. NAC 444.670 is amended to reduce buffer zones for adjoining property and public roads for composting facilities. The standard for allowable pathogenic organisms in compost is amended from zero to a measurable quantity. The regulations are proposed to address issues related to the waste segregation process and the storage of waste residue and recovered materials. The proposed standards do not apply to facilities which only accept recyclable materials that have been separated at the source.

In regards to the material recovery facility regulations most regulated businesses would incur some short and long term costs in meeting the standards. The compost regulation is not expected to have any short or long term impact upon the regulated community. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

Pursuant to NRS 233B.0603(c) the provisions of NRS 233B.064 (2) is hereby provided:

“Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporation therein its reason for overruling the consideration urged against its adoption.”

Persons wishing to comment upon the proposed regulation changes may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Carson City, Nevada 89706-0851. Written submissions must be received at least five days before the scheduled public hearing.

A copy of the regulations to be adopted or amended will be on file at the State Library, 100 Stewart Street and the Division of Environmental Protection, 333 West Nye Lane - Room 104, in Carson City and at the Division of Environmental Protection, 555 E. Washington - Suite 4300, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notice have been deposited at major library branches in each county in Nevada. The notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653. The proposed regulations are on the Internet at <http://www.leg.state.nv.us>. In addition, the State Environmental Commission maintains an Internet site at <http://www.state.nv.us/ndep/admin/envir01.htm>. This site contains the public notice, agenda, codified regulations, and petitions for pending and past commission actions.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of David Cowperthwaite, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851, facsimile (775) 687-5856, or by calling (775) 687-4670 Extension 3118, no later than 5:00 p.m. on **December 9, 1999**.

This public notice has been posted at the following locations: Clark County Public Library and Grant Sawyer Office Building in Las Vegas; Clark County Commission Chambers and Washoe County Library in Reno; and Division of Environmental Protection and Department of Museums, Library and Arts in Carson City.

# PROPOSED REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

Petition 2000-02

EXPLANATION - Matter in *italics* is new; matter in brackets ~~⊠~~ that is ~~stricken~~ is to be omitted.

Authority: NRS 444.560

Sec. 1 Chapter 444 of the NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive of this regulation.

**Sec. 2** *“Materials recovery facility” means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials. The term does not include:*

- (1) a facility which receives only recyclable materials that have been separated at the source of waste generation to the extent that further processing of the materials generates less than 10% waste residue by weight on an annual average;*
- (2) a salvage yard for the recovery of used automobile parts;*
- (3) a facility which receives, processes or stores only concrete and other masonry waste, asphalt pavement, brick, uncontaminated soil or stone for the recovery of recyclable materials.*

**Sec. 3** Materials recovery facility approval required

*An application to operate a new materials recovery facility or to modify an existing materials recovery facility must be submitted to the solid waste management authority before construction commences. A materials recovery facility must not be established until the site location and the design and operating plans of the materials recovery facility have been approved by the solid waste management authority.*

**Sec. 4** Application to operate a MRF

*1. An application to operate a new materials recovery facility or to modify an existing materials recovery facility must include:*

- (a) The name, location and mailing address of:*
  - (1) The materials recovery facility;*
  - (2) The owner of the materials recovery facility;*
  - (3) The operator of the materials recovery facility; and*
  - (4) The authorized agent of the owner;*
- (b) Evidence of ownership of the land on which the materials recovery facility will be located;*
- (c) The report concerning the design of the materials recovery facility, as described in section 5 of this regulation;*

*(d) The plan for operating the materials recovery facility, as described in section 6 of this regulation;*

*(e) A final closure plan that identifies the steps needed to close the facility and describes how the materials recovery facility will comply with the closure standards set forth in section 10 of this regulation. The plan must contain a detailed written cost estimate, in current dollars, of the cost of hiring a third person to close the materials recovery facility in accordance with the closure plan.*

*(f) Documentation of financial assurance which complies with section 11 of this regulation.*

*(g) A list of the recyclable materials to be recovered at the facility;*

*(h) A description of the final use, or the available markets, for the materials identified for recovery; and*

*(I) Any other information that the solid waste management authority deems necessary to evaluate the proposed operation.*

#### **Sec. 5. Report of design of materials recovery facility**

*The report concerning the design of the materials recovery facility required pursuant to section 4 of this regulation must include a complete description of the site configuration, material flow, design capacity and necessary environmental controls. The report must:*

*1. Be prepared under the direction and signed and stamped by a professional engineer who is licensed in this state.*

*2. Include a general location map that shows land use and zoning within a 1 mile radius of the materials recovery facility.*

*3. Include plans and specifications of the materials recovery facility in sufficient detail to demonstrate compliance with the design standards set forth in section 7 of this regulation. The plans must:*

*(a) Be drawn to a scale of not more than 200 feet per inch;*

*(b) Show existing and proposed contours;*

*(c) Show access roads and traffic routing inside of and around the materials recovery facility;*

*(d) Include provisions for the control of surface water run-on and run-off in order to minimize contact of stormwater with waste materials and to prevent pollutants or contaminants from entering waters of the state;*

*(e) Show fencing, equipment, shelter, employee facilities, waste handling and receiving areas, maintenance areas and any other appurtenances;*

*(f) Include the maximum processing rate of the facility and the maximum storage capacity, in cubic yards, of both processed and unprocessed waste and of recovered materials;*

*(g) Include provisions for controlling odors and dust as necessary to prevent a public nuisance;*

*(h) Define the population and area to be served by the materials recovery facility; and*

*(i) List the anticipated types, quantities and sources of solid waste to be received at the materials recovery facility.*

#### **Sec. 6 Plan for operating a materials recovery facility**

*The plan for operating the materials recovery facility required pursuant to section 4 of this regulation must provide a complete description of the proposed operating procedures and must include:*

- 1. Provisions for the control of access to the materials recovery facility;*
- 2. The number of attendants who will be at the materials recovery facility during operating hours;*
- 3. A list of the equipment and machinery needed to operate the materials recovery facility;*
- 4. Procedures for controlling vehicular traffic;*
- 5. The types of wastes that the materials recovery facility will not receive and a list of the facilities where such waste will be directed;*
- 6. A program for detecting and rejecting regulated hazardous waste, polychlorinated biphenyl wastes and any other unacceptable wastes identified in the application;*
- 7. Procedures for measuring or weighing incoming solid waste;*
- 8. The frequency and method of transfer of solid waste to a disposal site;*
- 9. The location of storage areas for processed and unprocessed solid wastes and recovered materials at the materials recovery facility;*
- 10. A plan for disposal of processed and unprocessed solid wastes and recovered materials;*
- 11. The proposed operating hours;*
- 12. A contingency plan that describes procedures for emergencies and alternate solid waste handling systems;*
- 13. A description of how the materials recovery facility will comply with the operating standards set forth in section 8 of this regulation.*
- 14. Safety procedures and personnel protective equipment needed for workers required to handle solid waste.*

**Sec. 7** Materials recovery facility design standards

- 1. A materials recovery facility must be constructed with:*
  - (a) Any barriers and appurtenances necessary to control access;*
  - (b) An all-weather access road;*
  - (c) Appurtenances to control litter;*
  - (d) Provisions for visual screening;*
  - (e) For areas used to receive, process or store putrescible waste or wastes mixed with putrescible wastes, a covered enclosure with at least three sides, and a floor with a durable surface, such as concrete, constructed with drainage controls to prevent runoff or the accumulation of standing water and to control runoff;*
  - (f) For areas used to receive, process or store solid wastes from the construction, refurbishment or demolition of buildings or other structures, a floor with a durable surface, such as concrete, with drainage controls to prevent runoff or the accumulation of standing water and to control runoff;*
- 2. The materials recovery facility that is open to the public must be constructed to comply with the requirements regarding signs set forth in NAC 444.690.*
- 3. The design and location of a materials recovery facility must comply with applicable local ordinances.*

**Sec. 8** Materials recovery facility operating standards

*1. Any solid waste accepted at a materials recovery facility must be:*

*(a) Transferred to a disposal site that has been issued a permit by the solid waste management authority; or*

*(b) Recovered for reuse or recycling.*

*2. Solid waste that is putrescible or is mixed with putrescible solid wastes must be removed from a materials recovery facility not more than 72 hours after acceptance unless the owner or operator is prevented from doing so because of an emergency such as a fire or flood.*

*3. Solid waste that is non-putrescible may be stored uncovered at the materials recovery facility for a period not to exceed one week. No more than 3,000 cubic yards of solid waste shall be accumulated at the facility at any one time, unless otherwise approved by the solid waste management authority.*

*4. Recovered materials must not be stored at the facility for longer than one year. At least 75 percent of the materials recovered at the facility must be sold and removed from the facility in a 12-month period. Any recovered materials stored longer than one year shall be considered waste and must be properly disposed of at an authorized facility, unless otherwise approved by the solid waste management authority.*

*5. Solid waste or recovered materials may not be stored in piles which are greater than 15 feet in height or have an area at the base which is greater than 5000 square feet. A minimum separation distance of 12 feet must be maintained between adjacent material piles and 10 feet between any material pile and the property boundary.*

*6. The acceptance, handling and transportation of asbestos waste must be conducted pursuant to NAC 444.965 to 444.980, inclusive.*

*7. The owner or operator of a materials recovery facility shall:*

*(a) inspect the area of the materials recovery facility daily and collect, and properly dispose, all scattered paper and lightweight debris.*

*(b) comply, in accordance with NAC 444.660, with any local ordinances concerning the storage, collection and transportation of solid waste.*

**Sec. 9** Recordkeeping and reporting

*1. The operator of the materials recovery facility shall maintain accurate operating records at the facility. The records must be furnished upon request to the solid waste management authority or be made available for inspection by the solid waste management authority at any reasonable time. The records must include:*

*(a) A daily log of:*

*(1) the quantity of solid waste received;*

*(2) the quantity of solid waste transported to disposal sites; and*

*(3) the quantity of recovered materials removed from the site.*

*(b) Instances of the receipt or rejection of prohibited wastes; and*

*(c) Any emergencies or unusual events.*

*2. The owner or operator of a materials recovery facility shall comply with the requirements of NAC 444A.135 concerning the reporting of recycled material.*

**Sec. 10** Materials recovery facility closure standards

*1. The owner or operator of a materials recovery facility must notify the solid waste management authority in writing at least 90 days before the date the facility is expected to close. No waste shall be received by the facility after the expected closing date.*

*2. Within 30 days after receiving the final solid waste shipment, the owner or operator shall remove all remaining solid waste, litter, recovered materials and inoperable equipment in accordance with the approved closure plan, except that all putrescible waste must be removed within 72 hours after receipt .*

**Sec. 11** Materials recovery facility financial assurance requirements

*1. The owner or operator of a materials recovery facility shall obtain a surety bond, or other mechanism of financial assurance approved by the solid waste management authority, for the cost of hiring a third party to close the facility including removal and proper disposal of the maximum inventory of waste and recovered materials for which the facility is designed. The owner or operator shall provide continuous coverage for closure until the facility is closed and the closure has been approved by the solid waste management authority.*

*2. The cost estimate for closure upon which the bond is based shall be updated annually and submitted to the solid waste management authority for review and approval.*

*3. A surety bond must be issued by a corporation licensed to do business in the State of Nevada and must contain an indemnity agreement guaranteeing payment to a trust fund or to the solid waste management authority.*

**Sec. 12** Prohibitions.

*1. Materials recovery facilities must comply with the design and operating plans approved by the solid waste management authority. No materials recovery facility shall be allowed to:*

- (a) contribute to the pollution of air or waters of the state;*
- (b) cause an impairment of the environment;*
- (c) cause a health or safety hazard to workers at the facility or the public; or*
- (d) cause a public nuisance.*

*2. The solid waste management authority may suspend or revoke its approval to operate a materials recovery facility if the owner or operator fails to comply with subsection 1.*

**Sec. 13** Effective Dates For Existing Materials Recovery Facilities

*The owner or operator of an existing materials recovery facility:*

*1. Shall submit an application in accordance with section 4 of this regulation and comply with the requirements of sections 5, 6, 8, 9, 10, 11 and 12 of this regulation not less than 180 days after the effective date of this regulation.*

*2. Shall satisfy the requirements of Section 7 of this regulation not less than 2 years after the effective date of this regulation.*