

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R038-13

August 12, 2013

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

AUTHORITY: §1, NRS 459.485, 459.500 and 459.520; §2, NRS 459.485 and 459.500; §3, NRS 459.485, 459.500 and 459.510.

A REGULATION relating to hazardous waste; revising provisions governing the regulation of facilities for the management of hazardous waste; and providing other matters properly relating thereto.

Section 1. NAC 444.8448 is hereby amended to read as follows:

444.8448 1. An owner or operator of a facility for the management of hazardous waste who applies for a modification ~~[or termination]~~ or a ~~[revocation]~~ **renewal** and reissuance ~~[.]~~ of an existing permit issued by the Division shall, before the Administrator may modify ~~[.]~~ ~~terminate]~~ or **renew and** reissue the existing permit, pay to the Division the following fees to offset the cost to process and review the application:

(a) ~~[A minimum fee of \$25; and]~~ **For the renewal and reissuance of an existing permit, \$15,000.**

(b) ~~[An additional amount of \$50 for each hour of staff time devoted to processing and reviewing the application and the amount paid to consultants by the Division in connection with the application, not to exceed the maximum fee for an application pursuant to NAC 444.8446.~~

~~2. If the facility contains more than one type of regulated unit, the operator is not required to pay more for each application than the maximum fee for the regulated unit to which the highest fee is applicable, unless the modification or termination, or revocation and reissuance, affect both a landfill and an incinerator. If the modification or termination, or revocation and reissuance, affect both a landfill and an incinerator, the operator is not required to pay more than \$100,000 for the application.~~ *For the class 1 modification of an existing permit that requires prior approval, \$500.*

(c) For the class 2 modification of an existing permit, \$1,500.

(d) For the class 3 modification of an existing permit, \$5,000.

2. For the purposes of this section:

(a) "Class 1 modification" has the meaning ascribed to it in Appendix I of 40 C.F.R. §270.42, as adopted by reference in NAC 444.8632.

(b) "Class 2 modification" has the meaning ascribed to it in Appendix I of 40 C.F.R. §270.42, as adopted by reference in NAC 444.8632.

Sec. 2. NAC 444.845 is hereby amended to read as follows:

444.845 1. The owner or operator of a facility for the management of hazardous waste shall, on or before March 1 of each year, pay the following annual operating fee to the Division to offset partially the cost of inspection and other regulation of the facility:

{Regulated Unit

Annual

— Operating Fee

Landfills, incinerators, boilers, industrial furnaces	\$5,000
Surface impounds, facilities for treatment of land, facilities for thermal destruction	1,000
Tanks, portable containers, waste piles, facilities for treatment or storage	500

<i>Permitted Activity or Regulated Unit</i>	<i>Annual Permit Fee</i>
<i>Land disposal, or incineration or burning in a boiler or industrial furnace</i>	<i>\$50,000</i>
<i>Treatment of hazardous waste.....</i>	<i>\$10,000</i>
<i>Thermal treatment of waste munitions of the Armed Forces of the United States or its contractor, including, without limitation, detonation.....</i>	<i>\$7,500</i>
<i>Storage of hazardous waste</i>	<i>\$2,500</i>

2. If the facility contains more than one type of regulated unit ~~{}~~ *or engages in more than one type of permitted activity*, the operator is not required to pay more than the annual ~~{operating}~~ *permit* fee for the regulated unit *or permitted activity* to which the highest fee is applicable.

3. The Division may assess a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that the fee remains unpaid.

4. As used in this section, “owner or operator of a facility for the management of hazardous waste” means a person who:

(a) Qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G; ~~or~~

(b) Has been issued a permit pursuant to 40 C.F.R. Part 124, Subparts A and B, and Part 270, Subparts A to F, inclusive ~~or~~; *or*

(c) Has been issued a permit to carry out a remedial action plan pursuant to 40 C.F.R. Part 270, Subpart H, if the facility is constructed and the permit issued after the effective date of this regulation.

Sec. 3. NAC 444.8452 is hereby amended to read as follows:

444.8452 1. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay the following fees to the Division to offset partially the cost of inspection and other regulation of the facility:

(a) For the disposal, open burn, open detonation or incineration of hazardous waste by a unit or for the burning of hazardous waste in a boiler or industrial furnace for the recovery of energy by a facility:

(1) ~~Eighteen~~ **Nineteen** dollars ~~and fifty cents~~ per ton of the volume that is hazardous waste pursuant to paragraph (a) of subsection 2 of NAC 444.843; and

(2) Three dollars *and fifty cents* per ton of the volume that is hazardous waste pursuant to paragraph (b) or (c) of subsection 2 of NAC 444.843 but is not hazardous waste pursuant to paragraph (a) of that subsection.

(b) For the treatment or storage of a volume of hazardous waste by a unit without:

(1) Subsequent disposal, open burn, open detonation or incineration of the hazardous waste by the facility; or

(2) Subsequent burning of the hazardous waste in a boiler or industrial furnace for the recovery of energy by the facility,

↪ \$5 per ton ~~[- not to exceed a maximum fee of \$10,000 per calendar year]~~ if the waste that is stored or treated is waste generated at that facility.

(c) For the treatment of a volume of hazardous waste by a unit so that it is no longer hazardous waste pursuant to NAC 444.843 and subsequent disposal of the treated waste by the facility, ~~[\$3]~~ \$4 per ton.

2. The owner or operator of such a facility shall:

(a) Calculate the amount of hazardous waste subject to the fees on a quarterly basis based on the volume of the hazardous waste that is newly managed by a unit during the quarter of the year for which the fees are calculated;

(b) Pay the fees provided in this section within 30 days after the end of each quarter; and

(c) Submit, with each payment, a detailed accounting of the volume of waste, which corresponds to the fee paid.

3. The Division may assess a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that a fee remains unpaid.

4. The Division may waive any part of the fees specified in subsection 1 for waste brought to a state-owned facility if the waste is generated:

(a) By an agency of this State; or

(b) In compliance with an order issued by the Division to clean up a spill or deposit.

5. As used in this section:

(a) "Owner or operator of a facility for the management of hazardous waste" means a person who:

(1) Qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G; or

(2) Has been issued a permit pursuant to 40 C.F.R. Part 124, Subparts A and B, and Part 270, Subparts A to F, inclusive.

(b) "Unit" means a unit for the management of hazardous waste that is:

(1) Operated by a facility for the management of hazardous waste; and

(2) Subject to the permitting requirements of 40 C.F.R. Part 270.

Digest for Proposed Regulation R_038-13

Existing law provides for the regulation of facilities for the management of hazardous waste. (NAC 444.842-444.8482) **Sections 1, 2 and 3** of this regulation revise provisions governing certain fees which must be paid to the Division of Environmental Protection of the State Department of Conservation and Natural Resources by the owner or operator of a facility for the management of hazardous waste for the permitting and operation of such a facility in this State.