

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.