

FACT SHEET

For a Proposed Permanent Regulation Relating to Hazardous Waste Management Facilities

A. DESCRIPTION OF PROPOSED REGULATION

The State of Nevada is authorized by the United States Environmental Protection Agency (EPA) to enforce federal Hazardous Waste regulations. Nevada Revised Statutes (NRS) 459.500 and 459.510 establishes the authority of the State Environmental Commission (SEC) to adopt fees related to regulation of hazardous waste management facilities. The proposed regulation revises existing fees applicable to facilities that treat, store or dispose of hazardous waste. Hourly review fees related to renewal or modification of an existing permit are replaced with a flat fee structure. The structure of annual permit fees is revised and fees are increased. The regulation is clarified to indicate that annual permit fees are applicable to facilities where a remedial action plan has been permitted pursuant to 40 CFR Part 270 Subpart H. Various fees applicable to the volume of waste disposed or treated by a permitted facility are revised.

NEED FOR AND PURPOSE:

The Hazardous Waste Management Fund has experienced significant revenue shortfalls over the past several years. The net loss in FY12 was \$1.1 million and a similar loss is anticipated for FY13. While the Fund balance is sufficient to support expenses in the near term, these steep declines are not sustainable and jeopardize the State's ability to regulate hazardous waste and respond to releases of hazardous substances in the future.

The Hazardous Waste Fund, established by NRS 459.530, supports the regulation of hazardous waste management, hazardous materials training, investigation of contaminant releases and cleanup of soil and groundwater where responsible parties are unable to respond. Sources of revenue to the fund include fees, cost reimbursement, penalties and treasurer's interest. As a result of the recession, interest on the Fund has declined from \$759,183 in FY08 to just \$16,090 in FY12. Other contributing factors to net losses from the Fund include: slight declines in fee revenue, though disposal fees are market-driven and variable; a one-time Legislative sweep of projected interest earnings on the Fund of \$382,000 in FY10; an increase in the amount of unreimbursed clean-up expenses, due in part to the diminished financial health of private companies that would otherwise be responsible; and a gradual erosion of the value of federal grant funds that have remained flat over time, requiring a gradual shift of costs toward fees.

To address these revenue shortfalls NDEP has plans to reduce expenditures through vacancy savings, reductions in contract support and shifting of costs to other revenue sources. However, program cuts alone are insufficient to bridge the gap. Consequently, NDEP is also proposing increases in program fees. The hazardous waste program fee increases only affect four permitted facilities in the State, including the Beatty Facility, operated by US Ecology, Hawthorne Weapons and Ammunition Depot, 21st Century EMI treatment facility in Fernley, and the Safety Kleen storage facility in North Las Vegas.

ECONOMIC EFFECTS:

- Regulated Business/Industry. Each of the affected facility owners was contacted individually regarding the impact and their acceptance of the proposed fee increases. All of the facility owners were accepting of the proposed fee increases and none indicated adverse impacts on their business or operations. The benefit of the proposed fee increases is that it ensures adequate revenue to maintain a robust regulatory and cleanup program that protects public health and the environment and prevents the need for federal intervention by US EPA.
- Public. There would be no significant economic impact on the public if the proposed fees were adopted.
- Enforcing Agency. There will be no additional cost to the agency for implementing the proposed fee schedule.

The proposed regulation does not duplicate any other state or federal regulation. The proposed regulation does not include provisions which are more stringent than a federal regulation. It is anticipated that the proposed fee increases would generate an additional \$236,000 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 hazardous waste management facilities and oversight of investigation and cleanup of releases of contaminants to the environment.

Accordingly, the NDEP plans to incorporate changes into state regulation. Chapter 459 of the Nevada Administrative Code (NAC) will be amended to include the above described provisions.

B. PROCEDURES FOR REACHING A FINAL DECISION

NDEP is making the proposed regulation available for public comment until December 2, 2013 at 5:00 P.M. Comments should include all reasonable references, factual grounds, and supporting material. A public hearing will be held, if necessary or requested, to further hear comments regarding the proposed regulation.

All persons wishing to request a hearing or comment on any of the proposed regulation changes should do so in writing to:

Nevada Division of Environmental Protection
Bureau of Waste Management
ATTN: Art Gravenstein
901 S. Stewart Street, Suite 4001
Carson City, Nevada 89701
775-687-9467
agravens@ndep.nv.gov

A copy of the proposed regulation changes will be available for review at the above address and at:

Department of Conservation and Natural Resources
901 S. Stewart Street
Carson City, NV 89701

State Legislative Building
401 S. Carson Street
Carson City, NV 89701

Nevada State Library and Archives
100 S. Stewart Street
Carson City, NV 89701

Nevada Division of Environmental Protection
2030 E. Flamingo Road, Suite 230
Las Vegas, NV 89119