

FORM #4

NEVADA STATE ENVIRONMENTAL COMMISSION SMALL BUSINESS IMPACT DISCLOSURE PROCESS PURSUANT TO 233B “Nevada Administrative Procedures Act”

The purpose of this Form is to provide a framework pursuant to NRS 233B.0608 for drafting and submitting a Small Business Impact Statement (SBIS) to the State Environmental Commission (SEC) and to determine whether a SBIS is required to be noticed and available at the public workshop. A SBIS must be completed and submitted to the Legislative Counsel Bureau for ALL adopted regulations.

Note: Small Business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS 233B.0382).

To determine whether a SBIS must be noticed and available at the public workshop, answer the following questions:

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

Yes. The Solid Waste program fee proposal only affects the six largest solid waste landfill facilities in the State, one of which is a small business. NDEP has reached out to each facility owner/operator and gained acceptance of the proposed fee.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

Yes. See Small Business Impact Statement attached.

If **Yes** to either of questions 1 & 2, a SBIS must be noticed and available at the public workshop.

FORM #4
SMALL BUSINESS IMPACT STATEMENT
(NRS 233B.0609)

1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary. *(Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.)*

The Solid Waste program fee proposal only affects the six largest solid waste landfill facilities in the State, one of which is a small business. NDEP has reached out to each facility owner/operator and gained acceptance of the proposed fee.

2. The manner in which the analysis was conducted (if an impact was determined).

The proposed fees would apply to a small number of landfill disposal facilities, representing the larger facilities within NDEP's jurisdiction. Each of the affected facility owners was contacted individually regarding the impact and their acceptance of the proposed fees.

3. The estimated economic effect of the proposed regulation on small businesses:

- a. Both adverse and beneficial effects
- b. Both direct and indirect effects

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.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of the methods. *(Include a discussion of any considerations of the methods listed below.)*

A. Simplification of the proposed regulation

- B. Establishment of different standards of compliance for a small business
- C. Modification of fees or fines so that a small business is authorized to pay a lower fee or fine.

The NDEP Bureau of Waste Management Solid Waste Branch has been funded by Tire fees since 1993. Tire fees have no relation to the regulatory workload of the Solid Waste program; while the number and complexity of regulated facilities has increased, tires 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.

The NDEP's waste management revenues have experienced significant shortfalls over the past several years. The net loss in FY12 was \$1.1 million and a similar loss is anticipated in FY13 once the fiscal year accounting is closed. While the revenue balance is sufficient to support expenses in the near term, these steep declines are not sustainable and jeopardize the State's ability to regulate solid waste and respond to releases in the future.

To address these revenue shortfalls NDEP has reduced 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, we are also proposing to establish a modest schedule of solid waste fees.

5. The estimated cost to the agency for enforcement of the proposed regulation. *(Include a discussion of the methods used to estimate those costs.)*

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.

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

It is anticipated that the proposed annual permit fees would generate \$100,000 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 waste management facilities.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide an explanation of why such duplicative or more stringent provisions are necessary.

The proposed regulation does not include provisions which are more stringent than a federal regulation.

8. The reasons for the conclusions regarding the impact of a regulation on small businesses.

The proposed fees would apply to a small number of landfill disposal facilities, representing the larger facilities within NDEP's jurisdiction. 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.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and that the information contained in this statement is accurate.



Colleen Cripps, PhD
Administrator, NDEP



Date

<http://www.leg.state.nv.us/Statutes/77th2013/Stats201314.html#Stats201314page2304>