

SOLID WASTE MANAGEMENT AUTHORITY

REGULATIONS GOVERNING HEARING OFFICER PROCESS

**Adopted by the Southern Nevada District Board of Health
on December 13, 2001
and Amended February 28, 2002**



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SOLID WASTE MANAGEMENT AUTHORITY
REGULATIONS – HEARING OFFICER PROCESS

1. The District Board of Health shall appoint a Solid Waste Management Authority Hearing Officer(s) who shall adjudicate alleged violations of all Solid Waste Management Authority Regulations and other Solid Waste Management Authority matters for which a hearing is provided by law. The Hearing Officer(s) shall act independent of each other regarding decisions. The Hearing Officer(s) shall have a working knowledge of solid waste issues, arbitration, law and/or engineering.
2. Hearing Officer(s) shall be selected by the District Board of Health from qualified applicants to the Health District. Such individual(s) shall not be employees of the State or any political subdivision of the State, or of any entity which is permitted or regulated by the Solid Waste Management Authority. The Hearing Officer(s) will be an independent contractor who serves at the pleasure of the District Board of Health, paid in accordance with a fee schedule approved by the District Board of Health.
3. Adjudication by the Hearing Officer(s) of alleged violations of Solid Waste Management Authority Regulations shall be in accordance with the following:
 - a. All parties must be afforded an opportunity for a hearing after reasonable notice. The Notice must include a statement of the time, place and nature of the hearing; a reference to the particular sections of the statutes and regulations involved; and a short and plain statement of the matters asserted.
 - b. Any party may be represented by counsel.
 - c. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.
 - d. Each party may call and examine witnesses, introduce exhibits, cross-examination of opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination, impeach any witness, regardless of which party first called him to testify, and rebut the evidence against it.
 - e. Every witness shall declare, by oath or affirmation, that he will testify truthfully. Unless limited by a specific statute, the Hearing Officer(s) may administer oaths or affirmations to witnesses appearing before him in the hearing.
 - f. Irrelevant, immaterial or unduly repetitious evidence must be excluded. Evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.
 - g. The Hearing Officer(s) may issue subpoenas to compel attendance of any person at the hearing, and require the production of books, records and other documents material to a hearing.
 - h. The Hearing Officer(s) may inquire of any witness following any segment of testimony.
 - i. Members of the public may testify in cases before the Hearing Officer(s).

- j. All testimony shall be recorded verbatim, by human or electronic means. Any party requesting a transcript of any oral proceeding, or any part thereof, shall pay the cost thereof.
4. Upon the Hearing Officer(s) finding a violation has occurred, the Hearing Officer(s) shall levy such penalty, and require corrective action as he deems appropriate to the violation, subject to the following:
 - a. For a first offense, at least \$500 but not more than \$5,000, per day;
 - b. For a second offense, at least \$1,000 but not more than \$5,500, per day;
 - c. For a third offense, at least \$1,500 but not more than \$6,000, per day;
 - d. For any subsequent offense, at least \$500 more than the most recent previous penalty levied by the Hearing Officer, per day.
5. Factors to be considered by the Hearing Officer(s) in determining the amount of any penalty imposed pursuant to subsection 4 herein includes but are not limited to the following:
 - a. Economic benefit to the violator.
 - b. Gravity of the violation.
 - c. Environmental impact.
 - d. Public impact.
6. The decision of the Hearing Officer(s) must be reduced to writing and shall be final 10 days after mailing to by certified mail, return receipt requested or personal service upon each party.
7. All penalties levied by the Hearing Officer(s) shall be paid to the Health District, and used only to pay for management of solid waste within the jurisdiction of the Solid Waste Management Authority.
8. Failure to comply with any order of the Hearing Officer(s) requiring corrective action constitutes a separate violation of these regulations, and subjects the responsible party to additional cases of alleged violations with separate and additional penalties therefor.
9. Any party aggrieved by a decision of the Hearing Officer(s) may seek judicial review of the decision of the Hearing Officer(s), in accordance with the provisions of NRS 233B.130(2), and NRS 233B.131 through 233B.150, inclusive.