

SOLID WASTE MANAGEMENT AUTHORITY

REGULATIONS GOVERNING TEMPORARY PERMITS TO OPERATE SOLID WASTE DISPOSAL SITES

**Adopted by the Southern Nevada District Board of Health
on January 22, 2009
and Amended October 27, 2011**



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**SOLID WASTE MANAGEMENT AUTHORITY
REGULATIONS GOVERNING
Temporary Permits to Operate Solid Waste Management Facilities**

WHEREAS, the Southern Nevada Health District (SNHD) has been established by the County of Clark and the cities of Las Vegas, Henderson, North Las Vegas, Mesquite, and Boulder City as the Public Health Authority for those entities, pursuant to Nevada Revised Statutes (NRS) Chapter 439; and

WHEREAS, the Southern Nevada District Board of Health (Board) is the governing body of the SNHD, and is vested with jurisdiction over all public health matters within its district of Clark County, Nevada, and is authorized to adopt Regulations necessary to protect and promote public health and safety in the geographical area subject to its jurisdiction; and

WHEREAS, the Board is the Solid Waste Management Authority (SWMA) within its district of Clark County, Nevada, and is authorized pursuant to NRS 444.580 to adopt Regulations for the location, design, construction, operation and maintenance of solid waste management facilities and solid waste management systems and issue permits thereunder; and

WHEREAS, the Board finds that the efficient and sanitary storage, processing, and disposal of solid waste does affect public health and the environment, and that it is necessary to adopt Solid Waste Management Authority Regulations Governing Temporary Permits to Operate Solid Waste Management Facilities to promote and regulate the safety and sanitary condition of those sites; and

WHEREAS, the Board believes that the following Regulations are designed to protect public health and safety, and the environment, within the context of solid waste management systems; it does therefore publish, promulgate and order compliance with the substantive and procedural requirements hereinafter set forth within Clark County, Nevada.

INTENT AND SCOPE

Intent The purpose of these Regulations is to allow certain types of solid waste management facilities to operate and generate revenue to keep a company viable for up to six months while working through the permanent permitting process. If operated correctly, the company would stay within environmental laws to protect public health, safety, and the environment. The purpose of these Regulations is to protect the public health, safety, and environment through preventive measures and timely correction of public health and environmental risks and solid waste management issues.

Scope These Regulations establish definitions; set minimum standards for the issuance of Temporary Permits to operate solid waste management facilities; outline financial assurance requirements pertaining to closure of these sites, record keeping and reporting requirements; provide for inspection and enforcement actions; and include provisions for the issuance, suspension, and revocation of such Permits.

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SECTION 1

GENERAL PROVISIONS

Summary of acronyms and abbreviations of terms used in these Regulations

Board	Southern Nevada District Board of Health
CFC	Chlorofluorocarbon
C&D	Construction and demolition
LLC	Limited Liability Company
NAC	Nevada Administrative Code
NRS	Nevada Revised Statutes
SNHD	Southern Nevada Health District
SWMA	Solid Waste Management Authority

Definitions. As used in these Regulations, unless the context otherwise requires, the following words and terms defined have the meanings ascribed to them in this document as they pertain to solid waste management facilities:

1. **“Agency of jurisdiction” defined.** The **agency of jurisdiction** is the political entity; local planning, zoning, and/or building department; air quality authority; flood control and/or storm water authority; safety authority; fire marshal; business licensing; police; federal regulatory agency; department of agriculture; or other federal, state, or local health agency other than the Health Authority, having jurisdiction concerning construction, operation, maintenance, and public safety of a solid waste management facility.
2. **“Cease and Desist Order” defined.** A **Cease and Desist Order** is a written Order issued by the Health Authority which directs the owner and/or operator to stop causing or allowing a violation of these or any other applicable Regulations at a solid waste management facility. As specified in the Cease and Desist Order, a timeframe to achieve compliance with the Order may be included.
3. **“Construction and demolition waste” defined.** **Construction and demolition (C&D) waste** is non-hazardous solid waste resulting from the construction, remodeling, repair, and demolition of utilities and structures; and uncontaminated solid waste resulting from land clearing. Such waste includes, but is not limited to, wood (including painted, treated, and coated wood and wood products), land clearing debris, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles and other roofing coverings, glass, plastics that are not sealed in a manner that conceals other wastes, empty buckets ten (10) gallons or less in size and having no more than one (1) inch of residue remaining on the bottom, electrical wiring and components containing no hazardous liquids, pipe and metals, corrugated container board, carpeting, furniture, and tires, that are incidental to any of the above. Solid waste that is not C&D debris, (even if resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads and land clearing) includes, but is not limited to, asbestos waste, garbage, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, fluorescent light bulbs or tubes, appliances, drums, containers greater

than ten (10) gallons in size, any containers having more than one (1) inch of residue remaining on the bottom, or fuel tanks.

4. **“Construction and demolition waste short-term storage facility” defined.** A **Construction and demolition waste short-term storage facility** is a facility that provides for the storage of one or more trucks, trailers, and/or portable waste containers which are used for the collection of C&D solid waste for transport to a permanent disposal site.
5. **“Disposal site” defined.** A **disposal site** is any place at which solid waste is dumped, abandoned, or accepted or disposed of by incineration, land filling, composting or any other method. The term includes a municipal solid waste landfill.
6. **“Hazardous waste” defined.** **Hazardous waste** is a waste with properties that make it dangerous or potentially harmful to human health or the environment. In regulatory terms, a Resource Conservation and Recovery Act hazardous waste is a waste that appears on one of the four hazardous wastes lists (F-list, K-list, P-list, or U-list), or exhibits at least one of four characteristics—ignitability, corrosivity, reactivity, or toxicity. These regulations do not include the management of hazardous waste.
7. **“Health Authority” defined.** **Health Authority** means the officers and agents of the Board and the staff of the SNHD, including Environmental Health Specialists.
8. **“Household hazardous waste” defined.** **Household hazardous wastes** are hazardous products used and disposed of by residential as opposed to industrial consumers. This includes paints, stains, varnishes, solvents, pesticides, and other materials or products containing volatile chemicals that can catch fire, react or explode, or that are corrosive or toxic.
9. **“Notice of Violation” defined.** A **Notice of Violation (NOV)** is a written notice that may be issued by the Health Authority if the owner and/or operator of a solid waste management facility is alleged to be in violation of a condition(s) set forth in the Permit to operate, solid waste management regulation(s), or statute(s); or presents a threat to human health, public safety, or the environment, including a public nuisance. Issuance of a NOV will require a hearing of the charges before a SWMA Hearing Officer.
10. **“Nuisance” defined.** A **nuisance** is anything which is injurious to health, offensive to the senses, or an obstruction to the free use of property, and thus interferes with the comfortable enjoyment of life or property.

11. **“Operator” defined.** An **Operator** is the person responsible for the operation of a solid waste management facility or any part of it. An operator may also be an owner.
12. **“Owner” defined.** The **Owner** is the person who owns a solid waste management facility or any part of it. An owner may also be an operator.
13. **“Permit To Operate A Solid Waste Management Facility” defined.** A **Permit To Operate A Solid Waste Management Facility** is the initial written approval by the SWMA to design, construct, and operate a solid waste management facility under the provisions of these Regulations, and is separate from any other licensing and/or permitting requirements of other agencies of jurisdiction that may exist within political subdivisions where the solid waste management facility is located.
14. **“Permit revocation” defined.** **Permit revocation** occurs when the SWMA revokes all permission to operate a solid waste management facility due to the presence of one or more significant health, safety, and environmental hazards; and/or repeated failure to comply with applicable laws and regulations. Upon receipt of the revocation Order, the solid waste management facility must cease immediately all operations at all work sites operated under the Permit. Revocations are intended to result in permanent closure of the solid waste management facility. The solid waste management facility may seek relief through the appeal process outlined in these Regulations.
15. **“Permit suspension” defined.** **Permit suspension** occurs when the SWMA suspends all permission to operate a solid waste management facility due to the presence of one or more condition(s) that constitutes significant health, safety, environmental hazards, and/or failure to comply with applicable laws and regulations that are facility wide or are of such severity as to cause an imminent hazard to the health and safety of the public and employees. Suspensions may lead to eventual Permit Revocation. The solid waste management facility may seek relief through the appeal process outlined in these Regulations.
16. **“Person” defined.** **Person** includes any state or federal agency; any state, including the State of Nevada; a political subdivision of any state; an interstate agency or organization; any firm, partnership, corporation, or Limited Liability Company (LLC) meeting all legal requirements of the State of Nevada; or a natural person.
17. **“Public waste storage bin facility” defined.** A **public waste storage bin facility** is a facility that provides one or more portable waste containers which are used for the collection of solid waste for transport to a permitted solid waste disposal site. The term does not include residential or commercial waste containers that are located on or near a site of waste generation.
18. **“Putrescible” defined.** **Putrescible** means capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases.

- 19. “Recyclable material” defined.** **Recyclable material** is solid waste that is processed and returned to the economic mainstream in the form of raw materials or products, as determined by the State of Nevada Environmental Commission. The State of Nevada Environmental Commission interprets recyclable material to include, without limitation:
- (a) Newspaper;
 - (b) Corrugated cardboard;
 - (c) Aluminum;
 - (d) Yard debris (material generated from plants, including trees, bushes, sod, and grass clippings on residential or business property);
 - (e) Office paper;
 - (f) Glass;
 - (g) Tin and steel cans;
 - (h) Metal;
 - (i) Motor oil;
 - (j) Plastic;
 - (k) Antifreeze;
 - (l) Wood; and
 - (m) Food waste
- 20. “Recycling center” defined.** A **Recycling center** is a facility designed and operated to receive, store, or process recyclable material which has been separated at the source from all but residual solid waste (ref. NRS 444A.014). The center must receive, store and process only source-separated recyclables for which there is an available market to be permitted as a recycling center. The recyclable materials must be separated from the solid waste stream at the source of waste generation. A Recycling Center may not receive any solid waste, other than residual solid waste, commingled with recyclables at the recycling facility. The term “Recycling Center” does not include a:
- (a) Materials recovery facility (Dist. BOH MRF Reg. – Section 2, #1);
 - (b) Transfer station (Dist. BOH TS Reg. – Section 1, #26);
 - (c) Compost plant (Dist. BOH SWMR 444.670);
 - (d) Hazardous waste recycling facility permitted by the NDEP or the U.S. EPA;
 - (e) Public waste storage bin facility (Dist. BOH PWSBF Reg. – Section 1, #18);
 - (f) Drop-off bins; and
 - (g) Agricultural facility.

21. **“Solid waste” defined.** **Solid waste** is any garbage, refuse, rubbish, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923), or hazardous waste as defined in the Resource Conservation and Recovery Act, Subpart C.
22. **“Solid Waste Management Authority” defined.** The **Solid Waste Management Authority (SWMA)** means:
- (a) The district board of health in any area in which a health district has been created pursuant to NRS 439.362 or 439.370 and in any area over which the board has authority pursuant to an interlocal agreement, if the board has adopted all regulations that are necessary to carry out the provisions of NRS 444.440 to 444.620, inclusive.
 - (b) In all other areas of the State, the Division of Environmental Protection of the State Department of Conservation and Natural Resources.
 - (c) In states other than Nevada, any solid waste management authority having jurisdiction over the location of the permanent disposal site.
23. **“Solid Waste Management Facility” defined.** A **solid waste management facility** is any facility at which solid waste is deposited or accepted for processing, sorting, recycling, transfer, or storage.
24. **“Solid waste management system” defined.** A **solid waste management system** is the entire process of storage, collection, transportation, processing, recycling and disposal of solid waste by any person engaging in such process as a business or by any municipality or by any combination thereof. The term includes plans and programs for the reduction of waste and public education.
25. **“Source separated recyclable materials” defined.** **Source separated recyclable materials** are solid wastes that include single recyclable or commingled recyclable materials that have been separated from the waste stream, with ten (10) percent or less by weight or volume of non-recyclable solid waste, at the site of generation.
26. **"Temporary Permit" defined.** A **temporary permit** is the written temporary approval by the SWMA to operate a solid waste management facility for up to six (6) months from the initial date of issue under the provisions of these Regulations, and all other applicable Federal, State and local agencies of jurisdiction Laws, Regulations, and Ordinances.

27. **“Transfer station” defined.** A **transfer station** is a solid waste processing site where solid waste is transferred from one vehicle to another vehicle or storage device for temporary storage until transferred to a permanent disposal site approved by the SWMA or permitted by any other solid waste management authority having jurisdiction over the location of the permanent disposal site. Some processing may be included therein. The term does not include public waste storage bin facilities or C&D waste short-term storage facilities.
28. **“Waste Management Permit” defined.** A **Waste Management Permit** is an annual permanent Permit issued by the SWMA under the appropriate solid waste regulations for a solid waste management facility to operate and conduct day-to-day business. Annual fees are assessed in accordance with the then current SNHD Environmental Health Fee Schedule.

SECTION 2

RISKS TO PUBLIC HEALTH, SAFETY, AND THE ENVIRONMENT

A solid waste management facility must not create risks to public health, safety, and the environment. In general, risks are those activities, conditions, or substantial health hazards, that cause:

- 1.** The pollution of the air, land, or waters of the State.
- 2.** A health or safety hazard to the general public or employees of the solid waste management facility.
- 3.** A public nuisance.

SECTION 3

APPROVALS FOR OPERATION

1. The location, design, and operation of a solid waste management facility must comply with all relevant laws, regulations, codes, and ordinances from all applicable federal, state, and local agencies of jurisdiction.
2. A solid waste management facility shall not begin operation until the site location has been approved by the agency of jurisdiction, a business license has been applied for at the agency of jurisdiction, and a Temporary Permit has been approved and issued by the SWMA to the owner and/or operator for the solid waste management facility.
3. A Temporary Permit issued pursuant to these Regulations is issued for a specific location and to a specific owner and/or operator and is not transferable. A fee as specified in the Southern Nevada Health District, Environmental Health Division, Permit and Plan Review Fee Schedule shall be paid at the time of Temporary Permit application submission.
4. Transfer of more than 50 percent of the outstanding shares of stock of any corporation or LLC that has been issued a Temporary Permit is considered a transfer of ownership. The existing Temporary Permit would be considered null and void and a new Permit would be required to be applied for along with payment of all fees associated with the new application. The new Permit shall be applied for within one week of the change of ownership.
5. These regulations shall only apply to recycling centers, construction and demolition waste short-term storage facilities, and such other solid waste management facilities as determined by the Health Authority to have a low potential to create risks to public health, public safety, and/or the environment or to cause a public nuisance. These regulations shall not apply to solid waste management facilities that have been approved by the SWMA but have not been issued a Permit.
6. A Temporary Permit shall be valid for up to six (6) months from the initial date of issue. Extensions shall not be considered or approved except in extraordinary circumstances beyond the control of the applicant, as determined by the Director of the Environmental Health Division of the Southern Nevada Health District. Appropriate documentation must be submitted with a written request for an extension at least 21 days prior to the expiration of the existing Temporary Permit. A maximum of one extension may be granted to any solid waste management facility issued a Temporary Permit. Extensions shall be granted for a period of up to six (6) months.
7. Ninety (90) days prior to the Temporary Permit expiring, a permanent permit application must be submitted to the Southern Nevada Health District. Failure to do so may result in the expiration of the approved temporary permit.

SECTION 4

APPLICATION FOR TEMPORARY PERMIT TO OPERATE

1. Application for a Temporary Permit

- (a) An application for a Temporary Permit to operate a solid waste management facility will not be accepted by the Health Authority without the inclusion of:
- (1) Documentation of Land Use approval to operate the specified type of solid waste management facility by the agency of jurisdiction.
- and
- (2) Documentation that an application for a business license or temporary business license to operate the specified type of solid waste management facility has been submitted to the agency of jurisdiction.
- (b) Prior to commencing the operation of any solid waste management facility under the authority of these Regulations, the owner and/or operator, or their agent must make written application for a Temporary Permit on forms provided by the Health Authority, pay all applicable fees, and receive written approval from the SWMA to operate. Fees are not refundable or prorated. An application for a Temporary Permit shall be considered null and void if an applicant fails to respond to the SWMA within 21 days after a specified due date.
- (c) When making application for a Temporary Permit to operate a solid waste management facility, two (2) copies of the application, including all associated enclosures, must be submitted in the format specified by the SWMA. Any subsequent changes to the application must also be submitted in duplicate and in the format specified by the SWMA. The application must include:
- (1) The name, location, phone number, and mailing address of:
 - i. The physical location and operator of the solid waste management facility,
 - ii. The business owner of the solid waste management facility,
 - iii. The property owner of the solid waste management facility,
 - iv. The authorized agent of the owner, if applicable.

- (2)** A statement indicating whether the applicant is a natural person, firm or corporation, and:
 - i.** If the applicant is a natural person, the name and mailing address of the natural person shall be provided.
 - ii.** If the applicant is a firm or partnership, the name(s) and mailing address(es) of the managing partner(s) shall be provided.
 - iii.** If the applicant is a corporation, the names and mailing addresses of the corporate officers shall be provided.
 - iv.** If the applicant is a LLC, the name(s) and mailing address(es) of the manager(s) shall be provided.
- (3)** The signature of a owner and/or operator;
- (4)** Evidence of ownership or a lease agreement for the land on which the solid waste management facility will be located;
- (5)** Documentation showing the Land Use Permit(s) issued by the agency of jurisdiction for the solid waste management facility.
- (6)** Documentation showing a business license(s) or temporary business license(s) have been applied for or issued for the solid waste management facility from the agency of jurisdiction.
- (7)** Documentation showing any other permits or licenses for the solid waste management facility required to be issued by agencies of jurisdiction, as applicable; i.e., air quality, fire, flood control (Storm Water Pollution Prevention Plan), building department, etc.
- (8)** The documents specific to financial assurance as specified in Section 6.
- (9)** Any other information or documents required by the SWMA.
- (10)** An outline of the Plan of Operation specifying:
 - i.** Types of solid waste to be handled,
 - ii.** Volumes to be handled daily, weekly, and monthly,
 - iii.** Sources of waste stream,
 - iv.** Sources for disposal,
 - v.** Number and position titles of staff, and

- vi. Number and types of equipment used to store, process, and/or dispose of solid waste at the site,
- vii. Available markets.

(d) Notice concerning completeness of application and compliance

The Health Authority shall, within 21 days after receiving an application for a Temporary Permit to operate a solid waste management facility (or within 14 days after receiving the most recent submission/addition to such an application), evaluate the merits of the application to determine if the application is in compliance with all applicable statutes and regulations. If the Health Authority determines that the application does not comply with all applicable statutes and regulations, and/or if the Health Authority will require additional documents or information, it shall provide a written notice to the applicant within the time frames specified above. The notice must specify:

- (1) Each statute or regulation with which the applicant has failed to comply;
- (2) Any documents or other information which the applicant is required to submit to the Health Authority; and
- (3) The period within which the applicant is required to submit to the Health Authority the documents or other information requested pursuant to **Section 4, paragraph 1, subparagraph (d), part (2)** above.

(e) Public notice and fact sheet and public hearing

- (1) Upon determining that the application is complete, the Health Authority shall prepare and issue a public notice and fact sheet when required by law. The public notice and fact sheet shall:
 - i. Be sent to the applicant and the local governing body in the area in which the solid waste management facility is to be located, and published in a newspaper of general circulation for the area in which the solid waste management facility is located;
 - ii. Summarize the action to be taken by the Health Authority;
 - iii. State that the Health Authority will accept comments from the general public for thirty (30) days after the date that the notice is issued;
 - iv. Describe the procedure for obtaining copies of the documents and comments submitted with the application, and
 - v. Describe the proposed solid waste management facility, the proposed action, the availability of the documents submitted with the application, and the procedure for public review and comment.

- (2) Comments regarding the proposed issuance or denial of the Temporary Permit are documented in the record of the public hearings, and written comments submitted to the Health Authority are retained as part of the public record. Comments and their resolutions shall be available for public inspection upon request.
- (3) The Health Authority shall present and offer for Board of Health review the application for a Temporary Permit to operate a solid waste management facility during a public hearing. The Temporary Permit to operate a solid waste management facility must be approved or denied by the Board of Health, acting as the SWMA, at the public hearing held during a regularly-scheduled Board of Health meeting.

(f) Temporary Permit issuance, revocation, or suspension

A Temporary Permit to operate a solid waste management facility issued by the SWMA:

- (1) Shall be issued for up to six (6) months;
- (2) May be modified by the SWMA if the statutes or regulations upon which the issuance of the Temporary Permit is based changes or if a modification is otherwise necessary to protect public health, public safety, the environment or prevent a public nuisance;
- (3) Must specify the amount and type of solid waste which the solid waste management facility may receive, process, and/or store that is consistent with the design of the solid waste management facility;
- (4) Must be issued to a specific owner and/or operator;
- (5) Is not transferrable under any conditions;
- (6) Shall not be modified.

2. Temporary Permit fee schedule

Pursuant to NRS 439.360(5), and under the authority of NRS 439.410(3) and NRS 444.580, the SWMA authorizes the issuance of Temporary Permits and collection of fees as specified in the current SNHD Environmental Health Permit Fee Schedule. Temporary Permit fees are non refundable and shall not be prorated. The types of Permits and/or fees specified include:

- (a) Temporary Permit Application Fee. This fee is assessed at the time of the formal submission of the application. The Temporary Permit application fee shall be equal to 50% of the applicable waste management plan review fee.
- (b) Waste Management Temporary Permit Fee. This fee is assessed at the time the Temporary Permit is issued. The Waste Management Permit fee shall be equal to 50% of the applicable annual waste management permit fee.

(c) Extension of Temporary Permit Fee. This fee is assessed at the time the extension is granted by the Director, Environmental Health Division. The Temporary Permit Extension Fee shall be 50% of the fees specified in paragraphs (a) and (b) above.

SECTION 5

DESIGN AND OPERATING STANDARDS

1. A solid waste management facility operating with a Temporary Permit must comply with all design and operating standards specific to their site type as determined and specified by the SWMA. A solid waste management facility operating with a Temporary Permit shall not exceed the volume limits specified in the applicable SWMA Regulations.
2. A solid waste management facility operating with a Temporary Permit must comply with all limitations and conditions specified in the Temporary Permit.
3. A solid waste management facility operating with a Temporary Permit must comply with all relevant laws, regulations, codes, and ordinances from all applicable federal, state, and local agencies of jurisdiction.
4. Operating records
 - (a) The operator of a solid waste management facility shall maintain accurate operating records at the solid waste management facility or business office. Copies of the operating records must be furnished upon request to the Health Authority or made available for inspection by the Health Authority, at the Health Authorities discretion, during the regular business hours of the solid waste management facility or business office. The records must include:
 - (1) A daily record of:
 - i. The quantity of solid waste and/or recyclables, as applicable, received and transported.
 - ii. The name and location of each permitted solid waste management facility, or other facility, receiving the solid waste and/or recyclables.
 - (2) Any receipt or rejection of prohibited solid wastes. The Health Authority shall be notified by the next working day, in writing and in a format specified by the Health Authority, of all rejected loads.
 - (3) Any emergencies or unusual events. The Health Authority shall be notified by the next working day of any emergencies or unusual events occurring at the solid waste management facility.
 - (b) The Health Authority shall be provided with a report specifying the amount of solid waste and recyclables received and shipped in the previous calendar quarter, in writing and in a format specified by the Health Authority, on the fifth (5th) working day of January, April, July, and October of each year, as appropriate.

- (c)** The owner and/or operator of a solid waste management facility shall comply with the following requirements concerning the reporting of recyclables received at and transported from the solid waste management facility:
- (1)** By February 15 of each year, and no later than two (2) weeks after the expiration of the Temporary Permit, a recycling survey must be submitted to the Health Authority in the format specified by the Health Authority.
 - (2)** The survey form will be provided to the solid waste management facility by the Health Authority.
 - (3)** The survey must be signed by the owner and/or operator operating the solid waste management facility.
 - (4)** Upon request by the Health Authority, the owner and/or operator must furnish documentation to verify the recycling survey.

SECTION 6

FINANCIAL ASSURANCE

1. Financial assurance compliance

- (a) The owner and/or operator of a solid waste management facility shall provide financial assurance to cover the cost to remove and dispose of the maximum amount of solid waste, including recyclables, that will be present at the solid waste management facility and/or any structures and/or equipment brought onsite during the duration of the Temporary Permit (hereafter, closure). The financial assurance instrument must be in place prior to issuance of the Temporary Permit and through the duration of the Temporary Permit.
- (b) Owners and/or operators who are entities of the State of Nevada or the Federal Government and whose debts and liabilities are the debts and liabilities of the State of Nevada or the Federal Government are exempt from the provisions of this Section.
- (c) The Health Authority may approve an alternate plan for financial assurance provided the alternate plan meets the criteria set forth in this Section.

2. Financial assurance estimate cost of closure

- (a) The owner and/or operator shall obtain detailed written estimates from at least two (2) non-affiliated companies, in current dollars, for the cost of closing the solid waste management facility.
- (b) The owner and/or operator shall increase the estimate and amount of financial assurance if changes to the conditions at the solid waste management facility increase the maximum cost to remove and dispose of all solid wastes, including recyclables, present at the solid waste management facility and/or any structures and/or equipment.
- (c) Documentation of any changes to the original estimate of financial assurance must be submitted to the Health Authority when they occur.
- (d) The owner and/or operator may reduce the amount of financial assurance upon written approval of the Health Authority, if the estimate exceeds the maximum cost of closure at any time during the remaining life of the Temporary Permit. The owner and/or operator shall provide the Health Authority with documentation of the justification for the reduction of financial assurance as specified in paragraph 2(a) of this Section. The reduction in financial assurance shall not be acted upon until approved by the Health Authority.

3. Financial assurance mechanisms

(a) The mechanisms used to demonstrate financial assurance pursuant to this Section must ensure that the money necessary to meet the cost of closure will be available to the Health Authority whenever it is needed. The financial assurance may be in the form of:

(1) A surety bond guaranteeing payment or performance

- i. A surety bond must meet the standards listed in NAC 444.68535 as determined by the Health Authority to be applicable.

(2) A letter of credit

- i. A letter of credit must meet the standards listed in NAC 444.6854 as determined by the Health Authority to be applicable.

(3) A policy of insurance

- i. A policy of insurance must meet the standards listed in NAC 444.6855 as determined by the Health Authority to be applicable.

(4) Alternate mechanisms approved by the Health Authority

- i. An owner and/or operator may satisfy the requirements of this Regulation by obtaining any other mechanism which:
 - A. Meets the criteria specified in paragraph 3, subparagraph (b) of this Section, and
 - B. Is approved by the Health Authority.
- ii. A mechanism obtained pursuant to this Section must be obtained by the owner and/or operator before the Temporary Permit is issued and maintained until the owner and/or operator is no longer required to demonstrate financial responsibility pursuant to this Section.

(5) An assumption of responsibility by the State

If this State assumes legal responsibility for an owner's and/or operator's compliance with the requirements for closure or assures that money will be available from the State to cover the related expenses, the owner and/or operator shall be deemed to be in compliance with the requirements of this Section. Any assumption of responsibility by this State must meet the criteria specified in paragraph 3, subparagraph (b) of this Section.

(6) Use of multiple financial assurance mechanisms

- i. Except as otherwise provided in this Section, paragraph 3, subparagraph (a), part (6), subpart (ii), an owner and/or operator may satisfy the requirements of this Section by establishing more than one mechanism for financial assurance per solid waste management facility. The combination of mechanisms, rather than a single mechanism, must provide financial assurance for an amount at least equal to the current estimate of cost for closure.
- ii. Any financial assurance provided by:
 - A. A corporate parent, if the entity holding the financial mechanism is a subsidiary of the corporate parent or a subsidiary of a subsidiary of the corporate parent; or
 - B. Another subsidiary of the corporate parent, if the entity holding the financial mechanism is a subsidiary of the same corporate parent,may not be combined if the financial statements of the two entities are consolidated.

(b) General requirements for all financial assurance mechanisms

- (1) An entity providing the mechanism used to demonstrate financial assurance pursuant to this Section shall reimburse or make payments to the Health Authority, or its designee(s), from that mechanism, for expenses in such amounts as the Health Authority shall direct in writing.
- (2) Any such mechanism must:
 - i. Be payable only to the Health Authority, or its designee(s), as approved and authorized in writing by the Health Authority;
 - ii. In all cases the financial assurance must be unilaterally available to only the Chief Health Officer, or designee, who will ensure appropriate dispersal of monies to contractors, operators, and/or the facility owner(s) at her/his sole discretion.
 - iii. Ensure that the amount of money assured is sufficient to cover the costs of closure;
 - iv. Ensure that money will be available in a timely fashion, when needed; and
 - v. Be legally valid, binding and enforceable under applicable state and federal law.
 - vi. May only be cancelled with the written approval of the Chief Health Officer, or designee.

SECTION 7

CLOSURE OF SOLID WASTE MANAGEMENT FACILITY

1. Closure notification

The owner and/or operator of a solid waste management facility shall notify the Health Authority in writing at least thirty (30) days before the date the solid waste management facility is expected to close. The solid waste management facility may not accept any solid waste after the designated closing date unless a Permit to Operate a Solid Waste Management Facility has been issued by the SWMA.

2. Solid waste management facility final clean up

The owner and/or operator shall, within 30 days after receiving the final shipment of solid waste, remove all remaining solid waste, all waste storage bins, litter, recovered materials and inoperable equipment unless the SWMA has issued a Permit to Operate a Solid Waste Management Site at the site. Notwithstanding any other times specified in this Section, all putrescible waste must be properly disposed of within 24 hours after receipt.

SECTION 8

INSPECTIONS AND ENFORCEMENT

1. Inspections

- (a) An owner and/or operator of a solid waste management facility shall allow Environmental Health Specialists of the Health Authority entry to their site during operating hours in order to conduct inspections all structures, equipment, operations, and records. The purpose of the inspection is to ensure compliance with all conditions of the Temporary Permit issued by the SWMA, SWMA Regulations, and applicable federal, state, and/or local laws, regulations, ordinances, and codes.
- (b) Inspections, surveys, and visits may be made as often as the Health Authority determines is necessary to ensure compliance with all conditions of the Temporary Permit issued by the SWMA, SWMA Regulations, and applicable federal, state, and/or local laws, regulations, ordinances, and codes. A minimum of one formal inspection will be conducted during the permit period. Copies of records, diagrams, and other documents shall be provided upon request by the Health Authority, and photographs shall be taken of the site, equipment, and operations, as deemed necessary, by the Health Authority during the inspection.
- (c) The agent or agents of the Health Authority shall properly identify themselves with a photo-identification card/badge upon entry on the site.
- (d) It is unlawful for any person to interfere with Environmental Health Specialists and/or other employees of the Health Authority in the performance of their duties, pursuant to NRS 199.300.
- (e) A copy of the inspection report will be left with a person on site at the time of the inspection or other field visit. A written report of inspection findings and required corrective actions, if indicated, will be sent to the owner and/or operator within twenty one (21) days of the inspection date. All violations shall be corrected within the timeframe specified in the inspection report.
- (f) A Cease and Desist Order and/or Notice of Violation may be issued for violations of SWMA Regulation(s) and other SWMA matters for which a hearing is provided for by law. stringent

2. Enforcement

- (a) When an owner and/or operator is found to be in violation of these regulations, the Health Authority may direct the owner and/or operator to fully comply with these regulations no later than thirty days or some other time period deemed appropriate by the Health Authority. Failure by the owner and/or operator to comply as required may be considered a separate violation and subject to enforcement action including but not limited to administrative penalty, permit suspension, and /or permit revocation.
- (b) The SWMA may suspend or revoke its approval to operate a solid waste management facility if the owner and/or operator of the solid waste management facility fails to comply with **all** conditions of the Temporary Permit issued by the SWMA, SWMA Regulations, and applicable federal, state, and/or local laws, regulations, ordinances, and/or codes.
- (c) Whenever the Health Authority finds one or more condition(s) in the operation of a solid waste management facility, which, in the judgment of the Health Authority, constitutes a substantial hazard to public health and/or the environment, or a public nuisance, or is in violation of federal, state, and/or local laws, one or more SWMA regulations, ordinances, and/or codes, the Health Authority may, without warning, notice or hearing, issue a written Order to the owner and/or operator citing the condition, specifying the corrective action to be taken, and specifying the time within which the action must be taken. The Order may state that the Temporary Permit is immediately suspended and all operations shall be immediately discontinued. Any owner and/or operator to whom such an Order is issued shall comply with it immediately. Upon written request to the SWMA received within thirty (30) business days following service of the Order, the owner and/or operator shall be afforded a hearing before the Board during the Board's earliest regularly-scheduled meeting available to contest the terms of the Order or suspension of the Temporary Permit.
- (d) For substantial hazards to public health or the environment, one or more repeated violation(s) of any of the requirements of SWMA Regulations, or for interference with the Environmental Health Specialists of the Health Authority in the performance of their duties, the Temporary Permit may be permanently revoked after a duly noticed hearing before the Board. Before taking such an action, the SWMA shall notify the owner and/or operator in writing at least 30 days prior to the hearing, stating the action to be taken.
- (e) The hearings provided for in this Section shall be conducted by a SWMA Hearing Officer at a time and place designated in writing. Based upon the record of the hearing, the SWMA Hearing Officer shall make a finding and may sustain, modify or rescind any official notice or order considered in the hearing. A written Order specifying the Hearing Officer's decision shall be furnished to the owner and/or operator, by the SWMA.
- (f) Any person who violates SWMA Regulations may be subject to enforcement actions pursuant to NRS 444.592 through NRS 444.610 and NRS 444.630 through NRS 444.645; which include both criminal and civil penalties.

SECTION 9

MISCELLANEOUS

1. Severability clause

Should any Section, paragraph, sentence, phrase, or provision of these Regulations be held invalid for any reason, the remainder of these Regulations shall not be affected.

2. Effective date

These Regulations are effective upon approval by the SWMA.