

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R179-05

Effective April 1, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1 and 2, NRS 444.560.

A REGULATION relating to solid waste; authorizing the owner or operator of a Class I site to dispose of solid waste continuously under certain circumstances; and providing other matters properly relating thereto.

Section 1. NAC 444.688 is hereby amended to read as follows:

444.688 **1.** The compacted solid waste of a Class I site must be covered as follows:

~~{1.}~~ **(a)** Except as otherwise provided ~~{by}~~ *in* this section, ~~{all}~~ solid waste *that is disposed of at the Class I site* must be covered at the end of each operating day or at more frequent intervals as necessary to control disease vectors, fires, odors, blowing litter and scavenging with at least 6 inches of compacted earthen material.

~~{2.}~~ **(b)** The solid waste management authority may approve alternative materials to be used for compaction and alternative thicknesses of that material if the owner or operator shows that the alternative materials and thicknesses are capable of controlling disease vectors, fires, odors, blowing litter and scavenging without presenting a threat to public health and safety and the environment.

~~{3.}~~ **(c)** The solid waste management authority may grant a temporary waiver from the requirements of ~~{subsections 1 and 2}~~ *paragraphs (a) and (b)* if the owner or operator can show that extreme seasonal climatic conditions make the requirements impractical.

~~[4.]~~ (d) Unless otherwise approved by the solid waste management authority, at least 12 inches of compacted earthen material must be placed as an intermediate cover on a fill surface if that surface is not to receive waste for more than 90 days. This ~~[subsection]~~ *paragraph* does not apply to final fill surfaces.

~~[5.]~~ (e) The integrity of daily and intermediate cover must be maintained until further filling or the addition of final cover is made. All cracks, depressions and erosion of the cover for surface and side slopes of fills must be promptly repaired.

~~[6.]~~ (f) Daily and temporary cover must be graded to drain runoff of surface water. The top slope must have a grade of not less than 3 percent.

~~[7.— Except as otherwise provided in subsection 8, as]~~

2. The solid waste management authority may approve the continuous operation of a Class I site as an alternative to the requirements of subsection 1 if the owner or operator shows that its plan for the continuous operation of the site is sufficient to control disease vectors, fires, odors, blowing litter and scavenging without presenting a threat to public health and safety and the environment.

3. As used in this section ~~[, “operating”]~~ :

(a) *“Continuous operation” means that at all times throughout each 24-hour period:*

(1) Waste is being received, placed, spread or compacted on the working surface of the site; and

(2) At least one piece of heavy equipment is operating on the working surface of the site to spread or compact the waste.

(b) *“Operating day” means the portion of a day during which a site is accepting ~~[and disposing of]~~ or managing solid waste.*

~~{8. “Operating day” means a period, not to exceed 6 days, that ends with the first interruption of operations which lasts 4 hours if:~~

- ~~—(a) The site consistently operates without stopping throughout a 24-hour period; and~~
- ~~—(b) The owner or operator demonstrates to the solid waste management authority that:~~
 - ~~——(1) A daily cover requirement would impose a severe operational constraint on the site;~~

~~and~~

- ~~——(2) Disease vectors, fires, odors, blowing litter and scavenging will be adequately controlled.}~~

Sec. 2. This regulation becomes effective on April 1, 2008.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R179-05**

The State Environmental Commission adopted regulations assigned LCB File No. R179-05 which pertain to chapter 444 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

Regulation R179-05: Waste Landfill Cover Requirements: This regulation addresses "cover requirements" of compacted solid waste at certain landfills in Nevada. The regulation amends NAC 444.688. The language in the regulation reverses an existing requirement that allowed certain landfills in Nevada to operate for up to six days without applying cover soil to exposed waste.

By way of background, Nevada has received approval from the Environmental Protection Agency (US EPA) to administer federal municipal solid waste landfill regulations contained in 40 CFR Part 258. Under the approved program, the Clark and Washoe County Health Districts administer the landfill regulation within their areas of jurisdiction, while the Nevada Division of Environmental Protection (Division) does so in all other areas of the State.

The federal regulations require municipal landfills to cover disposed solid waste at the end of each operating day (40 CFR § 258.21). Certain landfills in Nevada have claimed to operate "around the clock", suggesting that for them there is no "end of each operating day" that would trigger the daily cover requirement.

In recognition of the potential need to receive waste around the clock at landfills that serve the "24-hour" urban areas of Las Vegas and Reno, in 1998 the State Environmental Commission adopted revisions to NAC 444.688 that allowed such landfills to operate for up to 6 days prior to applying cover material. To make this allowance, the term "operating day" at such landfills was defined to include a period of time up to six days long. The US EPA has since notified the Division that this language is not consistent with the federal criteria.

This regulation therefore restore conformance with the federal landfill criteria while retaining flexibility for landfills to operate continuously. This regulation allows landfills to avoid the requirement of a daily cover if they have equipment continuously "working the face" of the landfill.

1. 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's Bureau of Waste Management held four (4) public workshops on the above referenced regulation at the following locations. A total of 43 people attend these workshops.

LAS VEGAS

November 16, 2005
9:00 AM to 11:00 AM
Clark County Public Library
1401 E. Flamingo Road
Las Vegas, NV

August 10, 2006
10:00 AM to 12:00 AM
Clark County Public Library
1401 E. Flamingo Road
Las Vegas, NV

CARSON CITY

November 17, 2005
1:00 PM to 3:00 PM
Richard H. Bryan State Office Building
901 South Stewart Street,
Carson City, Nevada

August 9, 2006
10:00 PM to 12:00 PM
Richard H. Bryan State Office Building
901 South Stewart Street,
Carson City, Nevada

The State Environmental Commission (SEC) held a public hearing to consider this regulation on December 04, 2007. The hearing was held in Reno at the Nevada Department of Wildlife (1100 Valley Road).

The hearing agenda was posted at the following locations: the Nevada Dept. of Wildlife in Reno, the Grant Sawyer Office Building in Las Vegas, the Nevada State Library in Carson City and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of the agenda, the public notice, and the proposed regulation noted above were made available to all public libraries throughout the state as well as to individuals on the SEC electronic and ground-based mailing lists.

The public notice for the regulations was published on November 12, 19, and 26, in the Las Vegas Review Journal and Reno Gazette Journal newspapers. Information about the regulation was also made available on the SEC website at: http://sec.nv.gov/main/hearing_120407.htm

2. The number persons who attended the SEC Regulatory Hearing:

- (a) Attended December 04, 2007 hearing; 30 (approx.)
- (b) Testified on this Petition at the hearing: 1 (1 NDEP Staff)
- (c) Submitted to the agency written comments: 0

3. 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 as indicated in number 1 above. In addition to the public workshop and the SEC regulatory hearing, the Nevada Division of Environmental Protection held numerous meetings with representatives from Waste Management Inc. This is the company that runs the Lockwood landfill in Story County and it's the only company affected by the regulation.

4. 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 State Environmental Commission adopted the regulation without change on December 04, 2007. Consensus on the proposed changes was obtained prior to the Hearing, during the drafting and public workshop process.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

An immediate and long-term adverse financial effect will impact Waste Management Inc., which is the company that operator the Lockwood Landfill. Costs incurred by the company could also increase disposal fees for the public, albeit marginal. Specifically, and to comply with the regulation, Waste Management plans to deploy a removable tarp cover system; they estimate the system will increase their operating costs by approximately \$300,000 per year. They have indicted that if the trapping system does not work it could cost up to one million per year if the company is forced to apply a daily soil cover.

6. The estimated cost to the agency for enforcement of the adopted regulation.

None

7. 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.

The proposed regulation does overlap or duplicate any regulations of other state or government agencies.

8. 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 regulations adopted by US EPA.

9. 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.

The proposed regulation does alter existing fees