

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R176-05

Effective May 4, 2006

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

AUTHORITY: §§1-13, NRS 444A.110.

A REGULATION relating to solid waste; establishing the requirements for awarding certain grants to enhance solid waste management systems and promote the efficient use of resources; and providing other matters properly relating thereto.

Section 1. Chapter 444A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 13, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.*

Sec. 4. *“Municipality” has the meaning ascribed to it in NRS 444A.012.*

Sec. 5. *“Solid waste” has the meaning ascribed to it in NRS 444.490.*

Sec. 6. *“Solid waste management authority” has the meaning ascribed to it in NRS 444.495.*

Sec. 7. *“Solid waste management system” has the meaning ascribed to it in NRS 444.500.*

Sec. 8. *1. The Division may solicit applications for grants to enhance solid waste management systems and promote the efficient use of resources, including, without limitation,*

the recycling of solid waste. The Division may establish deadlines for applications by giving public notice of the availability of grants and the deadlines. An application received after 5 p.m. on the last business day of the application period will be returned to the applicant.

2. An application for a grant may be submitted to the Division by:

- (a) A municipality;*
- (b) An educational institution; or*
- (c) A nonprofit organization.*

3. An application for a grant must be submitted in the form specified by the Division in its solicitation for the grant and must include:

(a) A one-page cover letter setting forth:

(1) The name, address, telephone number, facsimile number and e-mail address of the municipality, educational institution or nonprofit organization submitting the application;

(2) The name of the proposed project;

(3) A summary of the proposed project; and

(4) The name, address and telephone number of a contact person for the proposed project;

(b) A description of:

(1) The managerial and technical ability of the applicant to carry out the proposed project; and

(2) The extent of any assistance that a consultant may provide for the proposed project;

(c) A proposed schedule for the project which includes, without limitation, a beginning and an ending date for the project;

(d) A work plan setting forth the principal objectives of the proposed project, including, without limitation, a description of the background, goals, deliverables and need for the proposed project;

(e) The criteria according to which the success of the proposed project will be measured;

(f) A budget for the proposed project prepared on a form furnished by the Division; and

(g) Any other information required by the Division in the solicitation for the grant.

Sec. 9. 1. The Division shall review each application to determine:

(a) The eligibility of the applicant;

(b) The eligibility of the proposed project specified in the application;

(c) The eligibility of the costs specified in the application; and

(d) The adequacy of the supporting documentation.

2. Any proposal that is designed to enhance solid waste management systems or promote the efficient use of resources is eligible for the award of a grant pursuant to sections 2 to 13, inclusive, of this regulation.

3. Any costs incurred in carrying out the purposes specified in subsection 2 are eligible for the grant program.

4. Documentation is considered adequate if it is submitted in the form required by subsection 3 of section 8 of this regulation and enables the Division to:

(a) Determine whether the proposed project is feasible;

(b) Determine whether the applicant has the managerial and technical ability and experience to carry out the proposed project; and

(c) Evaluate the proposed project pursuant to section 10 of this regulation.

Sec. 10. 1. In evaluating an application, the Division shall consider:

- (a) The goals and policies of the Bureau of Waste Management of the Division;*
- (b) Whether the proposed project is consistent with:
 - (1) The State's plan for the management of solid waste; and*
 - (2) The plan for the management of solid waste adopted by the municipality in which the proposed project is located;**
- (c) If the applicant is a municipality, whether the municipality has adopted a plan for the management of solid waste that has been updated at least once within the immediately preceding 5 years;*
- (d) Whether the proposed project is likely to improve solid waste management systems within this State or a municipality;*
- (e) Whether the proposed project will increase opportunities for the recycling and reuse of solid waste;*
- (f) Whether the proposed project is likely to increase public awareness of the importance of conserving natural resources or the reuse, recycling and appropriate disposal of solid waste;*
- (g) Whether the proposed budget is reasonable for the proposed work plan for the project;*
- (h) Whether any alternative source of financial and technical support is available for use by the applicant;*
- (i) Whether the proposed project may be completed without financial assistance from the Division;*
- (j) The managerial and technical ability of the applicant to carry out the proposed project;*
and
- (k) Whether the proposed project is likely to require continuing financial assistance after the expiration of the term of the grant for the proposed project.*

2. The Division shall consult with a solid waste management authority concerning the proposed project pursuant to subsection 4 of NRS 444A.110. After notifying the solid waste management authority of the proposed project, the Division shall allow the solid waste management authority at least 30 days to provide comments on the proposed project.

Sec. 11. *1. The Division shall award grants for proposed projects that, as determined by the Division, best meet the factors set forth in section 10 of this regulation.*

2. The Division shall determine the amount of a grant based upon a review of the factors specified in subsection 1. The Division may grant multiple awards to a single applicant.

Sec. 12. *The Division and the recipient of a grant shall enter into an agreement which must:*

1. Establish the term of the grant, not to exceed 2 years, unless otherwise determined by the Division;

2. Establish a schedule and the terms for the payment of the grant;

3. Unless otherwise specified by the Division, require payments to be based upon completion of all or some of the objectives identified in the work plan for the project;

4. Provide that the recipient may enter into contracts to complete the work specified in the agreement;

5. Require the recipient to submit the results of all studies and analyses performed under the agreement to the Division; and

6. Require the recipient to include in any document, statement or promotional item issued by the recipient that describes the project a statement indicating that money for the project was provided through a grant from the Division. Before issuing any such document, statement or promotional item, the recipient must submit the document, statement or promotional item to

the Division for its approval. Any document, statement or promotional item submitted for approval pursuant to this subsection shall be deemed approved if the Division fails to approve or disapprove the document, statement or promotional item within 30 days after receiving the document, statement or promotional item.

Sec. 13. 1. *Unless the Division determines that a variance is justified, the Division shall cancel a grant that is not completed in accordance with the terms and conditions of the grant, including, without limitation, time schedules.*

2. If the Division determines that a project is no longer beneficial, the Division may, upon its own initiative or at the request of the recipient of the grant for the project, terminate the grant 30 days after giving notice of the termination to the recipient. The Division may order a recipient to cease expending money awarded by the grant, effective on the date of issuance of the notice of termination.

3. The Division shall disburse the money awarded by a grant in accordance with the schedule for payments set forth in the grant agreement.

4. If the books, records, documents and accounting procedures and practices of a recipient of a grant are relevant to the grant, they are subject to examination at any time by the Division and other appropriate state officers. The recipient shall reimburse the Division for any costs that have been paid which, as determined by the Division, are ineligible for payment.

5. If the Division makes payments to the recipient of a grant before completion of the project, the recipient shall, upon completion of the project, cancellation of the grant or termination of the project, return to the Division any money that has not been spent. The

money must be returned in accordance with the procedure for returning the money set forth in the grant agreement.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R176-05

The State Environmental Commission adopted regulations assigned LCB File No. R176-05 which pertain to chapter 444A of the Nevada Administrative Code on March 8, 2006.

Notice date: 2/1/2006
Hearing date: 3/8/2006

Date of adoption by agency: 3/8/2006
Filing date: 5/4/2006

INFORMATIONAL STATEMENT

This regulation adds several new sections to Chapter 444A of the Nevada Administrative Code (NAC). The new regulation establishes procedures for the Division of Environmental Protection (NDEP) to award grants to municipalities, educational institutions, and nonprofit organizations for projects that enhance solid waste management systems and promote the efficient use of resources.

As way of background, the 2005 legislative session enacted SB 396 which modified NRS 444A.110. The new law authorized NDEP to award grants for the above referenced activities. It also required the State Environmental Commission (SEC) to adopt regulations governing the administration of the grants. This regulation carries out this requirement. The regulation outlines grant application requirements, eligibility determination, evaluation criteria, grant agreements, and procedures for disbursement of funds, grant termination, etc.

NDEP currently has a program to provide public education and support of recycling programs in Nevada through contracts. The new grants program is better suited for carrying out this function. The regulation will broaden the range of qualifying projects from recycling public education and support, to projects that enhance solid waste management systems and promote the efficient use of resources. NDEP will still utilize recycling contracts as necessary for entities that are not eligible to receive grants under the statute.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Nevada Division of Environmental Protection (NDEP) held two workshops on the above referenced regulation. The purpose of the workshops was to inform the public and regulated community about the proposed regulatory changes and solicit comments from interested persons. Time and location of the workshop are noted below.

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

November 17, 2005 - 1:00 PM to 3:00 PM
Nevada Division of Environmental Protection
Richard H. Bryan State Office Building
901 South Stewart Street, Conference Room 413
Carson City, Nevada

The State Environmental Commission (SEC) held a public hearing to consider this regulation on March 8th, 2006 at the Washoe County Commission Chambers in Reno, Nevada.

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

- (a) Attended March 08, 2006 hearing; 70
- (b) Testified on this Petition at the hearing: 2 (NDEP Staff)
- (c) Submitted to the agency written comments: (none)

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses as indicated in number 1 above. Comments were also solicited by State Environmental Commission (SEC) in the SEC notice in the newspapers, by direct mail to interested persons subscribing to the SEC electronic and ground-based mailing list.

The public notice for the referenced SEC meeting was also sent to county libraries throughout the state and the proposed regulation was made available for public inspection at the State Library in Carson City, and at the offices of the Nevada Division of Environmental Protection in Carson City and Las Vegas. The workshop notice, the proposed regulation, the SEC public notice and the SEC meeting agenda were also made available on SEC Website at: <http://www.sec.nv.gov/main/hearing030806.htm>

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.

No changes were proposed at the State Environmental Commission Hearing, either by NDEP staff, the public or the Commission. 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.

No anticipated economic effects will result from adoption of this regulation

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

There will be no additional costs to the Nevada Division of Environmental Protection for implementing this regulation.

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 regulation does not overlap or duplicate any regulations of other state, federal or local 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 no more stringent than what is established by federal law.

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.

This regulation does not address fees changes.