

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R049-11

Effective May 30, 2012

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

AUTHORITY: §§ 1 and 2, NRS 444A.020, as amended by section 1 of Senate Bill No. 417, chapter 254, Statutes of Nevada 2011, at page 1319.

A REGULATION relating to recycling; providing for the regulation of recycling services at apartment complexes and condominiums; and providing other matters properly relating thereto.

Section 1. NAC 444A.120 is hereby amended to read as follows:

444A.120 1. A municipality which makes a program available pursuant to NRS 444A.040 shall submit a request for approval of the program to the Department. The request must be accompanied by:

(a) In a municipality whose population is ~~[40,000]~~ *45,000* or more but less than 100,000:

(1) A statement setting forth the location of and types of recyclable material collected by each recycling center.

(2) A description of the program for the disposal of hazardous household products which sets forth:

(I) The location of and types of material collected by each collection site; and

(II) The schedule for the collection of the hazardous household products.

(3) A copy of all ordinances which:

(I) Govern the program; or

(II) Provide for the participation of the municipality in a program adopted by an adjoining municipality.

(4) Any other documentation and information which demonstrates that the program will ensure that the municipality will meet the goal set forth in NAC 444A.110.

(b) In a municipality whose population is 100,000 or more, in addition to the documentation and information required by paragraph (a), copies of all contracts and agreements to provide for the separation at the source of recyclable material from other solid waste originating from the residential premises , *including, without limitation, apartment complexes and condominiums,* and public buildings where services for the collection of solid waste are provided.

2. The Department shall approve a program if the Department determines that the program will contribute to the achievement of the municipality's goal set forth in NAC 444A.110.

3. As used in subsection 1, "recycling center" means a facility designed and operated to receive, store, process or transfer recyclable material.

Sec. 2. NAC 444A.130 is hereby amended to read as follows:

444A.130 1. A municipality which makes available in that municipality a program for the disposal of hazardous household products shall provide for the collection at least semiannually of used or waste motor oil, motor vehicle batteries and:

(a) Paint and products associated with painting; or

(b) Any other household, garage or garden products which are capable of causing harmful physical effects if inhaled, absorbed or ingested.

↪ If a program for the disposal of hazardous household products is made available, it must be implemented on or before January 1, 1994.

2. A municipality which makes available in that municipality a program for the separation at the source of recyclable material at residential premises , *including, without limitation, apartment complexes and condominiums*, shall designate at least three recyclable materials to be so separated.

3. A municipality which makes available in that municipality a program for the separation at the source of recyclable material at public buildings shall designate at least three recyclable materials to be so separated.

Permanent Regulation - Filing Statement

Recycling Services at Apartment Complexes and Condominiums

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

State Environmental Commission (SEC) LCB File No: R049-11

Petition R049-11: This regulation addresses revisions to standards for municipal recycling at apartment complexes and condominiums as required by SB417. **SB 417** became effective on June 4, 2011.

As way of background under existing law (NRS 444A.010 to 444A.050), Nevada counties are required to provide for recycling services. The level of service required is dependent on the population of the county. Counties with populations of 100,000 or more must provide for curbside collection of recyclables and provide for recycling centers where recyclable material may be dropped off. Counties with populations of 45,000 to 100,000 must provide for recycling centers where recyclable material may be dropped off, and counties with populations of less than 45,000 may provide services if they choose to, but are not required to do so. Services provided by counties must conform to minimum standards established in regulation by the State Environmental Commission (SEC).

To implement SB417, the Nevada Division of Environmental Protection (NDEP) has proposed minor amendments to existing regulations to require that recycling services be made available to apartment complexes and condominiums, however, the regulation does not mandate that apartment complexes and condominiums, or Multi-Family Dwellings (MFDs), participate in recycling programs. Following the structure in the existing statute, new regulatory provisions relating to recycling services at apartment complexes and condominiums will only apply in counties with populations of 100,000 or more. Accordingly, these regulatory changes provide additional opportunity for residents of apartment complexes and condominium complexes to recycle. Proposed regulation changes also included a change in population thresholds from 40,000 to 45,000 (per AB545).

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.

On November 29, 2011 staff from NDEP conducted a public workshop on LCB's Proposed Draft Regulation R049-11. This workshop was conducted at the Bryan State Office Building Tahoe Hearing Room, at 901 S. Stewart Street, Carson City, and simultaneously video conferenced to the locations noted below:

Desert Research Institute Room 182 755 East Flamingo Road Las Vegas, Nevada 89119	Great Basin College Greenhaw Technical Arts 118 1500 College Parkway Elko, Nevada 89801
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Collectively, these workshop locations were attended by nine (9) members of the public. One oral comment was received (by Waste Management Inc.) at the workshop, and one written comment was later submitted to the SEC by the Nevada State Apartment Association.

NDEP’s response to the comment from Waste Management noted that “the proposed regulation amendments do not mandate participation in recycling; they only require that recycling be made available at multi-family dwellings (in certain counties). How recycling is made available or implemented is not outlined in the proposed regulation amendments. Availability of curbside recycling (source separated) at any residence, multi-family or single family, does not preclude recyclable commodities from being collected in a single stream manner. However, the details of such collection would be subject to negotiation with the solid waste management authority for each specific municipality.” Summary minutes of the workshop along with workshop fact sheet are posted on the SEC Website at: http://www.sec.nv.gov/main/hearing_0212.htm (see agenda item 6).

A public notice, agenda, fact sheet, and proposed permanent regulation R049-11 for the public workshop were posted at: Department of Conservation and Natural Resources, 901 S. Stewart Street, Carson City, the State Legislative Building, 401 S. Carson Street, Carson City, the Nevada State Library and Archives, 100 S. Stewart Street, Carson City, and the Nevada Division of Environmental Protection, 2030 E. Flamingo Road, Suite 230, Las Vegas. Public notice for the workshop was published in the Reno Gazette Journal, the Las Vegas Review Journal, and the Elko Daily Free Press newspapers on November 3, 2011.

Copies of the agenda, public notice, fact sheet, and the proposed permanent regulation R049-11 were also made available to individuals on the NDEP Bureau of Waste Management Solid Waste and Recycling email distribution lists.

Following the workshop, the SEC held a formal regulatory hearing on February 15, 2012. The hearing was held in Reno at the Nevada Dept. of Wildlife, 1100 Valley Road. A public notice and agenda for the regulatory hearing was posted at the meeting location, at the 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 permanent regulation R049-11 were also made available to all public libraries throughout the state as well as to individuals on the SEC mailing lists.

The public notice for the permanent regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory hearing. Other information about this regulation was made available on the SEC website at: http://sec.nv.gov/main/hearing_0212.htm

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

- (a) Attended February 15, 2012 hearing: 30 (approx.)
- (b) Testified on this Petition at the hearing: 1 (NDEP Staff)
- (c) Submitted written comments to the SEC: 1

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 at the public workshops and at the February 15 Commission hearing as noted in number 1 above. Summary minutes of the hearing and workshop are posted on the SEC Website at: http://www.sec.nv.gov/main/hearing_0212.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.

The regulation was adopted without changes.

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

Where there is an increased participation in recycling programs or services, this regulation may lead to financial impacts on certain small businesses, such as recycling haulers or property management businesses that choose to provide recycling services. Moreover, inclusion of Multi-Family-Dwellings recycling services in contract agreements could increase disposal fees for the residents of apartment and condominium complexes that take advantage of this service.

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

There will be no additional costs to the agency for enforcement of the proposed regulation and the regulation is necessary to implement the provisions of SB417.

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.

This regulation does not duplicate any other federal, state or local regulation.

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 regulation or guidance.

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 regulation does not address fees.