

NDEP RESPONSES TO PUBLIC COMMENTS ON PROPOSED RECYCLING REGULATIONS

The Nevada Division of Environmental Protection (NDEP) held two public workshops to present proposed revisions to Nevada regulations concerning the recycling of solid waste and to solicit comments on these revisions from the regulated community. The workshops were conducted on October 18, 2000 at 333 W. Nye Lane in Carson City and on October 20, 2000 at 1001 South Valley View Blvd. in Las Vegas. The NDEP is proposing regulatory changes to implement Assembly Bill No. 564, passed in the 1999 legislative session. AB 564 amends several statutes to expand recycling programs to include public (government) buildings as well as residential premises. In conjunction with the above, the NDEP will also propose a related regulatory standard concerning paper recycling by state agencies.

Concerns expressed at the Las Vegas workshop focused on the public building recycling program requirements and how the municipality and the service provider can meet the statutory requirements in an efficient and economical manner. The NDEP has therefore modified our initial proposal by reducing the number of recyclable materials to be collected under the program from 5 to 3. As with the residential recycling program, the municipality will have the latitude to devise the program as it sees fit to meet the statutory requirements.

Concerns expressed at the Carson City workshop focused on the state agency requirements to prepare recycling plans and the need for exemption of agency buildings confronted with severe obstacles to recycling. In response to these concerns the NDEP has modified the draft regulation to streamline the process. Two NDEP forms have been developed to facilitate preparation of agency and recycling plans, and criteria for exemption have been identified.

A. Recycling Service at Public Buildings - Implementation of AB 564

1. Municipalities need a staff position of municipal waste specialist to coordinate recycling and waste management programs.

RESPONSE: *The NDEP agrees that this would be appropriate in urban areas, but cannot provide funding for such a position. Rather, such a position would have to be funded by the local governments.*

2. It is difficult to reach economies of scale for efficient collection of paper. Small offices don't generate enough paper waste to be economically viable.

RESPONSE: *Recyclable collection service is already available to many commercial and public buildings in both Washoe and Clark Counties. Further, the Counties have some flexibility in how the collection service is structured.*

3. The disposal company in Clark County won't be able to combine this program with the residential curbside program.

RESPONSE: *Some waste haulers do combine residential and office collection programs. The waste hauling franchisee and other service providers should discuss with the municipalities the most efficient ways to provide the service.*

4. Containers for recyclables must be outside of the building for disposal company personnel to access. This leads to issues of adequate space and contamination. Because of contamination potential, containers must be under control of the state agency or building owner.

RESPONSE: *Yes, to address these concerns, the service provider should provide clear instructions to the customer concerning contamination and control over recycling containers. The municipal governments can also provide public information and education.*

5. It is difficult to provide containers for five recyclable materials.

RESPONSE: *The NDEP has revised the proposed regulation to require a minimum of 3 materials. This is consistent with existing requirements for residential programs.*

6. Republic Services of Southern Nevada previously attempted to institute recycling at public schools. The program failed because school personnel seemed unwilling to take overall responsibility of the program at each school; there was little control over containers, and contamination became too great.

RESPONSE: *School districts are now required to recycle paper and paper products per AB 564, passed in 1999. Municipal governments and the service providers should work with the schools to plan and properly implement recycling programs. School districts are eligible to apply to the NDEP for funding for recycling program development and recycling education.*

7. Can all five recyclable materials be different grades of paper and paper products?

RESPONSE: *As noted in #5, above, the minimum number of recyclable materials has been reduced to 3. If the County wants to limit the collection of recyclable materials at public buildings to only 3 different paper products, this option should be considered in light of whether it adequately supports achievement of the County's 25% recycling rate goal. Since approximately 70% of the waste generated at office buildings is paper, this option may not be unreasonable.*

8. The addition of recyclables collection at public buildings may add expense to collection services.

RESPONSE: *The County and the franchisee should cooperate to devise an efficient system.*

9. Nellis Air Force Base is not part of the franchise agreement and is concerned over potential cost increases for this service.

RESPONSE: *NDEP believes that a program for the collection of recyclables at public buildings can be devised in Clark County without significant cost increases to customers.*

II. State Agency Recycling of Paper and Paper Products

1. Must a recycling plan be required for each state agency? Can a blanket plan be utilized at state buildings with tenants from multiple agencies?

RESPONSE: *There must be a plan for each building or group of buildings. Each agency must submit a report (on a one-page form) which identifies its occupied buildings and those for which it claims exemption from the recycling requirement. A recycling plan (on a two-page form) is*

required for each occupied building. Note: "State agency" is defined in NRS 232.007 as every public agency, bureau, board, commission, department, division, officer or employee of the executive department of state government. A department-level program report which addresses all the buildings occupied by the agencies under it would relieve those agencies of the plan requirement.

A blanket plan is fine for buildings occupied by more than one agency as co-tenants, however, one agency must take the lead and submit the building recycling plan and note other agencies served under the plan.

2. Can a state agency be treated as one statewide entity, such that recycling in some offices of the agency would meet the requirement of recycling for all offices, in particular small, rural offices where recycling is impractical?

RESPONSE: *An agency cannot fulfill the requirement by simply choosing an office at which to recycle. On the other hand, agency buildings in many rural areas will qualify for exemption.*

3. The requirement in NRS 232.007 to request the chief of the budget division for a waiver from the paper recycling requirement would be too burdensome for the agencies. There should be an alternative form of waiver.

RESPONSE: *The NDEP has identified 3 different circumstance under which recycling would be difficult and impractical. These are: lack of storage space at the building, lack of local collection service in the area and restrictions in an existing building lease which prevent the agency from locating containers or establishing the service. Buildings which can demonstrate that these conditions apply may claim exemption.*

4. Will state agencies occupying leased office space from privately-owned entities have to comply? What about lease agreement considerations?

RESPONSE: *See response to #3. Some lease agreements may be prohibitive of recycling programs. Agencies should discuss with the lessor the needs for a recycling program, container space and collection service. Provisions for recycling should be incorporated into new or renewed leases, and new building construction design.*

5. Will remote offices of state agencies be required to implement paper recycling programs?

RESPONSE: *See response to #3. If collection service for paper is not available in the community, the agency may claim exemption for buildings located there.*

6. What are the reporting requirements, and who has enforcement authority of the regulations?

RESPONSE: *Each agency must submit to NDEP an initial report on a one-page form describing the agency's occupied buildings, exempt buildings and declaring the agency recycling policy. Also submit an initial recycling plan on a two-page form for each non-exempt building or group of buildings.*

No enforcement authority has been established by the statute.

7. Monitoring implementation of the proposed recycling plans will be burdensome.

RESPONSE: *The requirement to submit initial agency recycling program information will help the NDEP to assess how many state agency buildings are recycling and to contact building recycling coordinators for more information. NDEP intends a minimal monitoring effort.*

Some suggestions for agencies to monitor recycling programs at their buildings are provided in the “Public Buildings Recycling Programs Model Plan”. Agencies can adjust their monitoring efforts according to their stated recycling policies and the conditions on site.

8. Who will remove paper from the buildings?

RESPONSE: *Circumstances vary among agencies and across the state. Therefore each agency shall arrange for removal of recyclables from each of its buildings. There are two basic options: either contracts with the custodial services are modified to address the issue, or employees do it themselves. This question must be addressed in the building recycling plan.*

9. Contracts with the Department of Building and Grounds will need review.

RESPONSE: *If the NV Department of B & G provides the custodial service, the agency may wish to renegotiate the contract to include removal of recyclables from the building. As noted above, however, such responsibilities can be assigned to one or more agency employees.*

10. Can shredded paper be recycled?

RESPONSE: *Yes.*

11. Are there markets for the proposed recyclables?

RESPONSE: *Yes. Markets for office paper, newsprint, old corrugated cardboard, plastic bottles, aluminum containers, tin/steel cans and glass containers are well-established, though subject to fluctuation.*

12. Washoe County has instituted a similar mandatory recycling policy for County entities; renegotiating lease agreements to accommodate the recycling policy is difficult. There was initial resistance to the policy by County employees, but the Health District now estimates a participation rate of 90%.

RESPONSE: *Washoe County’s experience shows government waste reduction and recycling programs can succeed, but it also illustrates the common obstacles of contract renegotiation and enlisting employee participation.*