

# Workshop for Proposed Regulation Amendments

## Subdivision of Land

NAC 278.290, 278.330, 278.340, 278.390 and 278.490

## Temporary Regulation #P2014-11

### Nevada Division of Environmental Protection

Carson City, NV ~ November 18, 2014



## NDEP Representatives

- **Bureau of Safe Drinking Water**
  - ◆ Jennifer Carr, Bureau Chief
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## Public Participation

- Ways to Participate and Comment
  - ◆ Questions and Comments today
  - ◆ By December 1, for NDEP consideration & inclusion in Testimony to SEC
    - Written Comments by letter:  
Nevada Division of Environmental Protection  
Bureau of Safe Drinking Water  
901 South Stewart Street, Suite 4001  
Carson City, NV 89701
    - E-mail or call us with your Comments
  - ◆ SEC Hearing (December 3, 2014)



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## Regulation Amendment Process

- Draft Regulation Available
  - ◆ Posted to SEC website, October 2014  
[http://sec.nv.gov/main/hearing\\_1214.htm](http://sec.nv.gov/main/hearing_1214.htm)
- Workshop: November 18, 2014
- State Environmental Commission (SEC) Hearing (December 3, 2014)
  - ◆ Sign up at <http://www.sec.nv.gov/> to receive notices



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# Regulation Amendment Process

State of Nevada  
Dept. of Conservation & Natural Resources  
State Environmental Commission  
901 South Stewart Street, Suite 4001 - Carson City, Nevada 89701

SEC Website Resources

- SEC Web Pages
- SEC Authorities
- Recent Meetings
- Appeal Hearings
- About The Commission (SEC)

Agendas, Minutes & Audio Recordings  
Regulatory Hearing Only

Agendas, Minutes & Audio Files

Receive email notification of SEC hearings — Join Electronic Mailing List.

SEC Meetings

**Regulatory:** The most recent meeting of the SEC was held on **Wednesday, October 8th, 2014** in Carson City at the Bryan Building. The next meeting is scheduled for **Wednesday, December 3rd, 2014**.

**Appeals:** No appeal hearings are pending.

SEC Rules of Practice

**Amended SEC Rules of Practice** — On May 30, 2012 the Legislative Commission approved certain amendment to State Environmental Commission's (SEC) **Rules of Practices**. The amended rules update NAC 445B.875 to NAC 445B.895, which is the section in the Nevada Administrative Code (NAC) that governs the practices of the SEC in contested cases (i.e. appeal hearings). In general, the amended regulation

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## Overview

- Why is this Amendment “Temporary”?
- Subdivision Review Process
  - ♦ Current and New Approach
- General Cleanup



## What is a Temporary Amendment?

- July 1 of Even-Numbered Years (2014)
- Legislative Council Bureau (LCB) Busy Prepping for February 2015 Session Start
- No LCB Review of Temporary Regulations
- Must be Heard by SEC twice – again after July 1, 2015 as a Permanent Amendment
  - ◆ 2<sup>nd</sup> Round of Workshops, etc.



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## Overarching Goal of Amendments

Change process and timing of document review and approval to provide earlier opportunity to legally grade land at subdivision projects, if desired.



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## What Are You Changing?

- Providing alternate timing for plan submittal to provide options for developers who need them
- Proposed Amendments to not change overall program requirements or fees



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## Key Terms & Definitions

- Key Terms:
  - ◆ Tentative Map
  - ◆ Improvement Plans
  - ◆ Final Map
- “Improvement” Defined: NRS 278.0155  
“Improvement” means such street work and utilities to be installed on land dedicated or to be dedicated for streets and easements as are necessary...



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## Which Regulation is the Focus?

- Current Law – NAC 278.340

“The developer shall not perform any construction on the site of a subdivision, except that necessary to evaluate the subdivision, until the Division or local agency approves the final map.”



## What Does “any construction” Mean?

- 2008 – BSDW Position in letter to Washoe County Health District
  - ◆ Grading was construction  
(Clearing and grubbing also considered construction)
- Plan approval prior to grading is important for protection of public health
  - ◆ If land is graded “wrong” then water/sewer crossing designs can be adversely affected

“Can’t get slopes, need to put sewer over water”



## What is the Problem?

- In Washoe County – “Water Plan” Design is occurring with TMWA *long before* WC Health District review staff’s involvement.
- Catch-22 for Subdivisions in flood plains
  - ♦ Cannot grade until Final Map is approved;  
BUT
  - ♦ FEMA won’t sign Final Map until land is re-graded out of the 100-year flood plain.



## What is the Problem?

- Improvement Plan and Final Map are submitted together with short review timeframe before going to the Board of Health for approval.
  - ♦ Problems identified in Engineering Design Review of Improvement Plans (resulting in plan denial & requiring resubmittal) de-rail preferred project timing



## What is the Problem?

- Builder's Association of Northern Nevada engaged Washoe County Health District in discussion to seek process improvement
- Washoe County Health District engaged NDEP in discussion of options
  - ♦ BANN & WCHD initially proposed "pilot" of new process
  - ♦ NDEP determined it could not be done within the existing Regulation, so Amendment is proposed.



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## What Will Change?

- Improvement Plans will be divorced from Final Map
- Improvement Plans can be submitted for review and approval any time. Expected to be after the Tentative Map phase.
- Clearing, grubbing and grading can occur after Improvement Plans are approved

\*\*\*\*Does not change req's for other environmental (i.e. dust control) or building permits\*\*\*\*



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## Amended NAC 278.340

“The developer shall not perform any **clearing, grubbing or grading [construction]** on the site of a subdivision, ..., until the Division or local agency approves the **improvement plans, and the developer demonstrates that the requirements of NAC 278.390 to NAC 278.480, inclusive, have been met.** →



## Amended NAC 278.340

Cont'd:

“**The developer shall not perform construction of improvements on the site of a subdivision until the final map is approved.**”



## Why Wait for “Construction of Improvements”?

- NAC 278.510 (1):

“Before the developer begins construction of any improvements [utilities per NRS 278.0155] based on the final map, the developer must be able to show proof that the map includes a certificate of approval issued by the Division or local health agency pursuant to NRS 278.377 and NAC 278.310.”



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## Associated Amendments

- NAC 278.290 – “When a developer submits a final map... [it must have plans to show water supply and sewerage].

- Change adds:

***“If improvement plans were approved by the Division or local agency prior to final map submittal, the developer shall certify that the improvement plans were not altered subsequent to approval. → ...***



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## NAC 278.290 (Cont'd)

*“... Any changes to approved improvement plans require re-submittal for review and approval by the Division or local agency with clear indication on the plans regarding all changes.”*

(Review Agencies can speed up review if we are shown what was/wasn't changed)



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## Associated Amendments

- Change to NAC 278.330 divorces Improvement Plans from the Final Map:  
“The Division or local agency shall review and either approve or disapprove the plans for improvements shown on the final map **[and] or** related **improvement** plans within 30 days after receipt of the map **[and] or** plans.



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## Why Are You Changing the Fees?

- Subdivision Review Fees – NAC 278.490
  - ◆ Current Final Map Fee: \$400
  - ◆ Proposed Improvement Plan Fee: \$300
  - ◆ Proposed Final Map Fee: \$100
- Proposed fees reflect respective levels of review effort
- No overall change



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## Do I Have To Change?

- Do I have to separate Improvement Plan and Final Map submittals?

No! This is only an option.

Improvement Plans can still be submitted at the same time as the Final Map.



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## Small Business Impacts?

- Presumed to be only positive impacts
  - ◆ Government process improvement
  - ◆ Engineering Design Review earlier in process
    - expected to allow more time to resolve infrastructure concerns before the push to complete and record the Final Map
  - ◆ Permits initial grading sooner & may lead to Final Map and land development more quickly
- Agree/Disagree? Thoughts?



## General Clean-up

- NAC 278.390:  
“Analyses of water quality may be performed in the State Public Health Laboratory, or any other laboratory certified by the [State Health Officer] **Division**, upon the developer’s submission of an adequately identified sample consisting of [1 gallon of water] **a volume of water necessary to conduct drinking water quality analyses, in sample containers appropriate for the analyses.**”



# Comments or Questions

## Bureau of Safe Drinking Water

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## Presentation

[http://ndep.nv.gov/bsdw/regulation\\_amendments.htm](http://ndep.nv.gov/bsdw/regulation_amendments.htm)

