

**Summary of Minutes and Comments of the
Nevada Division of Environmental Protections (NDEP) Public Workshops on
Proposed Regulation Amendments to Nevada's Administrative Code
NAC 278.260, 278.290, 278.330, 278.340, 278.390 and 278.490**

One public workshop was held on August 27, 2015, in Carson City with videoconference to Las Vegas for sections of NAC 278 listed above. The Carson City location was at the NDEP offices, 901 South Stewart Street; the Las Vegas location was at the NDEP offices, 2030 E. Flamingo Road, Suite 230. The workshop commenced at approximately 2:05 p.m.

The intent of the workshop was to provide an informational overview of the proposed changes to regulations pertaining to the Subdivision of Land. It was noted that proposed changes were scheduled to be heard by the State Environmental Commission (SEC) at the October 14, 2015 Hearing.

Workshop Attendees:

Name	Affiliation	Location
Abby Johnson	Eureka County	Carson City
Jason VanHavel	Storey County	Carson City
Dan Birchfield	Manhart Consulting	Carson City

Introduction

Jim Balderson opened the workshop by stating that temporary regulation changes to NAC Chapter 278 Subdivision of Land allowing for grading and construction of utilities to begin upon Agency review and approval of water and wastewater utility engineering design prior to Final Map approval, were approved in May by the State Environmental Commission, and became effective in June. As the regulations were temporary, they were set to expire in November 2015. In order for the temporary regulation changes to become permanent, the Legislative Counsel Bureau (LCB) had to review and approve the temporary regulation language, present it at a publicly noticed workshop (conducted on August 27, 2015) and be heard and approved by the State Environmental Commission (SEC) on October 14, 2015. In accordance with the Open Meeting Agenda, public comment was solicited before commencing the review of proposed revisions. As there were no initial public comments, Mr. Balderson stated that comments would be taken during the workshop or could be provided to him after the workshop by letter, e-mail, or telephone.

Mr. Balderson stated the presentation would: (1) Discuss the temporary amendment history; (2) Discuss the temporary changes made to the subdivision regulations regarding timing and construction of subdivision improvements; (3) Discuss the LCB amended language to the proposed permanent regulations; and (4) Discuss proposed language changes regarding water quality sampling.

Temporary Amendment History

Mr. Balderson provided a review of the Temporary Regulation Amendment history that concluded with the adoption the regulations by the SEC on May 06, 2015, effective as of June 10, 2015. Mr. Balderson then reviewed the process of adopting a Temporary regulation, with subsequent re-processing of the proposed amendments again after July 1, 2015 as Permanent amendments. It was noted that the language changes the LCB provided to the proposed Permanent regulations did not change the intent of the language of the Temporary Regulations.

Proposed Permanent Regulation Revisions

Mr. Balderson then reviewed the technical content of the proposed amendments. Components discussed:

- 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.
- Defined common terms used; “Improvement” (i.e. the utilities) is defined by Statute
- Focus of amendments – 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.”
- Determination of meaning for “any construction” – interpreted by NDEP in 2008 to include grading. Concerns about early grading having potential to adversely affect sewer slope elevations and subsequent requests by developers/engineers to construct sewer lines over water lines, resulting in an unsanitary design.
- Plan review timing concern raised by Washoe County Health District (WCHD) and the Builder’s Association of Northern Nevada, and a desire to improve the process and timing of plan submittals and approvals.
- Proposal is to divorce the improvement plan submittal from the final map submittal and allow them to be reviewed separately; then permitting clearing, grubbing, grading, and utility construction after improvement plan approval.
- Process change for separated plan and map submittals would be optional if desired by a developer, it would not be required.
- Construction of the improvements (the utilities) may commence upon Agency approval prior to approval of the Final Map.
- Amendment to require certification that improvement plans have not changed subsequent to Agency approval if they were processed separate from the final map. Changes to approved plans must be re-submitted for review with clear identification of what changed. Intent is to be able to streamline review of final map by Agency when matching up improvement plans and final maps.
- No change to the NAC 278 fee schedule dated April 2012. The Temporary Regulations called for the Final map submittal fee of \$400 to be split between the Improvement Plans at \$300 and the Final Map at \$100 to generally reflect level of effort for Agency review. The Permanent

Regulations revert to NAC 278 fee schedule dated April 2012 requiring \$400 for review of the Final Map.

- Agency assumptions related to anticipated Small Business impacts were presumed to be positive. Comment on the impact assessment was sought. No comments provided from the workshop attendees.
- General cleanup of old reference to the State Health Officer approval of laboratories, which is now done at NDEP.
- New revised language provided in NAC 278.390 regarding water quality analyses and sample containers to reflect current water quality monitoring requirements required by the Safe Drinking Water Act.
- NDEP proposes a similar modification to language for NAC 278.260.5. (refer to proposed green line regulation revision language) regarding water quality analyses and sample containers to be consistent with NAC 278.390 water quality and sample container language.

Questions, Comments and Responses

	Made by	Statement
Question	Abby Johnson	<p>Where the Division or local agency is referenced in the regulations is that because Washoe or Clark do their own review and the rest of the State refers to NDEP, and do the regulation changes just pertain to subdivisions.</p> <p>Jim Balderson: Yes, the local agency is referring to is Washoe County Health District or the Southern Nevada Health District, and the regulation changes just pertain subdivisions.</p>
Question	Dan Birchfield	<p>To Clarify – The primary change to the regulation is to allow the construction of utilities once the Approving Agency has approved the improvement plans, prior to Final Map approval. If there were no changes to the improvement plans, the design engineer of record would submit the Final Map along with a letter stating that there were no changes to the improvement plans.</p> <p>Jim Balderson: Yes, we accept the letter from the design engineer and no further plan review of the improvement plans is required. This should speed up the process of approving the Final Map.</p>
Comment	Jim Balderson	<p>As a general comment: Have you experienced or are you aware of problems or issues that have occurred as a result of the adoption of the temporary regulations? – No comments noted.</p> <p>If you have questions or comments that come to you after the workshop is concluded, please don't hesitate to contact me.</p>
Comment	Dan Birchfield	<p>Can I get a copy of this slideshow or will it be posted.</p> <p>Jim Balderson: Yes, the presentation should be posted to the SEC</p>

		website.
Question	Dan Birchfield	Do the improvement plans have to include all the planned water and sewer improvements proposed for the entire subdivision or will a phased approach be allowed? Jim Balderson: I don't believe that will change, but I will research it. My understanding is that improvement plans can still be submitted in phases.