

JIM. GIBBONS
Governor



STATE OF NEVADA
STATE ENVIRONMENTAL COMMISSION

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June 4, 2008

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Ms. Brenda Erdoes, Legislative Counsel

C/o Debra. Corp
Legislative Counsel Bureau (LCB), Legal Division
401 South Carson Street
Carson City, Nevada 89701-4747

**Re: Regulation P2008-12: Transferred of Regulatory Authorities for
Subdivision Review Programs**

Dear Ms. Corp:

Enclosed for "drafting" by the LCB Legal Division is a proposed permanent regulation that would amend NAC 278.020. The purpose of this regulation is to complete the transfer of authorities covered by Senate Bill SB395.
<http://www.leg.state.nv.us/73rd/reports/history.cfm?ID=2260>

SB395 was passed in 2005; among other actions the legislation transferred statutory and regulatory authorities for subdivision review programs (contained in NRS and NAC 278 respectively) from the Nevada Division of Health to the Nevada Division of Environmental Protection (NDEP).

Accordingly, this proposed regulation revises the text references of "Health Division" to "Division of Environmental Protection." The regulation was originally adopted by the State Board of Health in 1982 in order to implement the statutory responsibilities contained in NRS 278.

Please note that prior to developing this regulation, NDEP transmitted a letter to LCB posing certain regulatory questions (see attached). The letter sought direction on two regulatory issues associated with the transfer of Nevada's safe drinking water program from the Health Division to NDEP as authorized by SB 395. In response to NDEP's letter, on February 29, 2008 a Mr. Randy Stevens of your staff advised NDEP's Deputy Administrator (Mr. Tom Porta) that the associated Statutory Authority necessary to update / modify this regulations was implied.

If you have any questions about this regulation please contact Mr. Cliff Lawson (687-9435).

Sincerely,

John B Walker

John B. Walker
Executive Secretary

JBW

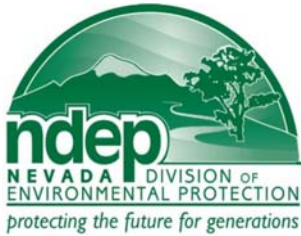
Enclosures

ecc: Rose Marie Reynolds, Deputy Attorney General

Leo Drozdoff, NDEP Administrator

Tom Porta, NDEP, Deputy Administrator

Cliff Lawson, NDEP / BWPC



STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Jim Gibbons, Governor

Allen Biaggi, Director

Leo M. Drozdoff, P.E., Administrator

November 29, 2007

Ms. Brenda Erdoes, Legislative Counsel
Legislative Counsel Bureau, Legal Division
401 South Carson Street
Carson City, NV 89701-4747

Re: Proposed Regulatory Actions Related to Senate Bill (SB) 395, 2005 Legislative Session

Dear Ms. Erdoes:

I am requesting your written concurrence on two proposed regulatory actions that will complete the transfer of authorities covered by SB395. SB395, passed in the 2005 Legislative session transferred statutory and regulatory authorities for Public Water Systems - Safe Drinking Water Programs (NRS and NAC 445A) and Subdivision Review Programs (NRS and NAC 278) from the Nevada Division of Health to the Nevada Division of Environmental Protection (NDEP). Two outstanding regulatory actions are needed to fully complete this process:

1) Public Water Systems - Safe Drinking Water Regulations – NAC 445A.542 to 445A.54296, NAC 445A.591 to 445A.614 and NAC 445A.65505 to 445A.6731.

Changes in regulatory language are needed in these sections to remove references to the Health Division, Bureau of Health Protection Services, and State Board of Health and replace them with the appropriate reference reflecting the NDEP and State Environmental Commission (SEC). I believe these are administrative changes that could be done by the Legislative Counsel Bureau (LCB) and would not require an SEC hearing. NDEP staff is available to assist LCB staff with identifying regulatory sections requiring change. These changes have been made in other regulatory sections as a result of adoption or modification of these regulations by the SEC subsequent to the transfer authorized by SB 395. Examples of sections that have been changed and sections still needing changes follow:

(Section reflecting completed changes – adopted by the SEC 10/31/05)

NAC 445A.652 Review of actions taken by Division. ([NRS 445A.860](#), [445A.880](#))

1. Any person who has reason to believe that an action taken by the Division pursuant to [NAC 445A.617](#) to [445A.652](#), inclusive, has been incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the Administrator of the Division or his designee for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the Administrator or his designee, except

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that the informal conference must be held no later than 60 days after the date on which the Administrator or his designee receives the written request.

3. The determination of the Administrator of the Division or his designee resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

(Added to NAC by Bd. of Health, eff. 9-16-92; A 10-30-97; A by Environmental Comm'n by R129-05, 10-31-2005)

(Section needing changes – highlight added)

NAC 445A.66645 Administrative review of action taken by Health Division. (NRS 445A.860)

1. A person who has reason to believe that an action taken by the Health Division pursuant to [NAC 445A.65505](#) to [445A.6731](#), inclusive, is incorrect or based on inadequate knowledge may obtain an administrative review of the matter only as provided in this section.

2. The aggrieved person may, not later than 10 working days after receiving notice of the action, request an informal discussion with the employee responsible for the action and his immediate supervisor.

3. If the informal discussion does not resolve the problem, the aggrieved person may, not later than 10 working days after the date scheduled for the informal discussion, request an informal conference by submitting a letter to the Bureau of Health Protection Services of the Health Division requesting the conference. The informal conference must be held within 60 days after the Bureau receives the letter at a place, date and time mutually agreed upon by the aggrieved person and the Bureau. Except as otherwise provided in subsections 3 and 4, the informal conference is the final administrative hearing on the matter.

4. If the informal conference does not resolve the problem and the action taken by the Health Division consisted of:

- (a) The denial of an application for a permit;
- (b) The suspension or revocation of a permit; or
- (c) The modification of or refusal to modify a permit,

↳ the aggrieved person may request a hearing pursuant to [NAC 439.190](#).

5. The Bureau of Health Protection Services may waive any of the provisions of subsections 1 to 4, inclusive. The Bureau shall provide the aggrieved person with written notice of any waiver it grants pursuant to this subsection regarding his grievance.

(Added to NAC by Bd. of Health, eff. 2-20-97)

2) Subdivision of Land – NAC 278.010 to NAC 278.530

The above referenced regulations were originally adopted by the State Board of Health in 1982 in order to implement the statutory responsibilities of NRS 278 which were transferred to NDEP by SB 395. These responsibilities include the review of tentative maps and approval of final subdivision maps. Final map approval, as amended by SB 395, is found in NRS278.377:

NRS 278.377 Certificates of certain governmental entities required; appeal from adverse decision of Division of Environmental Protection; copies of certain certificates to be furnished to subdivider and purchaser.

1. A final map presented for filing must include a certificate by:

(a) The Division of Environmental Protection of the State Department of Conservation and Natural Resources or the district board of health acting pursuant to [NRS 278.335](#) indicating that the final map is approved concerning sewage disposal, water pollution, water quality and water supply facilities.

While SB 395 transferred the statutory responsibilities of NRS 278 (see sections 30 and 31 of SB 395) the bill was silent on the transfer of the associated regulatory authority. Our proposed action to remedy this situation is to take the entire regulatory section through a full adoption process by the SEC which would include workshops and hearings. In addition to the changes needed to reflect the transfer from the Health

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Division to NDEP we would anticipate other changes to update these regulations, most of which were adopted 25 years ago.

Your written concurrence with these proposed actions would be appreciated. Please contact me at 687-9301 or John Walker, Executive Secretary for the SEC at 687-9308 if you have any questions or if any additional information is required.

Sincerely,

Leo M. Drozdoff, P.E.
Administrator

cc: Tom Porta, Deputy Administrator
John Walker, Executive Secretary, SEC
Jennifer Carr, Bureau Chief, Safe Drinking Water
William Frey, Deputy Attorney General

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