

**ADOPTED REGULATION OF THE
STATE LAND REGISTRAR**

LCB File No. R004-02

Effective March 19, 2002

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

AUTHORITY: §§1-14, section 2 of chapter 361, Statutes of Nevada 1995, at page 907, as amended by section 4 of chapter 25, Statutes of Nevada 2001, at page 369, and section 3 of chapter 514, Statutes of Nevada 1999, at page 2629, as amended by section 5 of chapter 25, Statutes of Nevada 2001, at page 369.

Section 1. Chapter 321 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“Local government” means any political subdivision of this state, including, without limitation:*

- 1. Counties;*
- 2. Incorporated cities and towns, including Carson City;*
- 3. Unincorporated towns; and*
- 4. General improvement districts and other districts.*

Sec. 3. *“Nonprofit organization” means an entity or organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3).*

Sec. 4. *“State agency” means any agency, department or division of the executive department of this state. The term includes the University and Community College System of Nevada.*

Sec. 5. *“Stream environment zone” means an area:*

1. Whose biological and physical characteristics are the result of the presence of surface or ground water; and

2. That meets the criteria for a stream environment zone set forth in Volume III, Stream Environment Zone Protection and Restoration Program in the “Water Quality Management Plan for the Lake Tahoe Region” of the Tahoe Regional Planning Agency, dated November 1988.

Sec. 6. NAC 321.300 is hereby amended to read as follows:

321.300 As used in NAC 321.300 to 321.365, inclusive, *and sections 2 to 5, inclusive, of this regulation, unless the context otherwise requires,* the words and terms defined in NAC 321.305 to 321.330, inclusive, *and sections 2 to 5, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 7. NAC 321.330 is hereby amended to read as follows:

321.330 “Project” means a project *that is authorized by law and may include a project* for ~~the~~:

- 1. The* control of erosion ;
- 2. Treatment relating to water quality;* or ~~the~~
- 3. The* restoration *or enhancement* of natural watercourses *or stream environment zones* in the Lake Tahoe Basin.

Sec. 8. NAC 321.340 is hereby amended to read as follows:

321.340 1. The state land registrar will award grants of money from the sale of general obligation bonds of this state issued pursuant to section 1 of chapter 361, Statutes of Nevada 1995, to the department of transportation and ~~eligible counties~~ *local governments* pursuant to NAC 321.340 to 321.365, inclusive.

~~[2.]~~ Such money must be distributed as follows:

(a) Not more than one-third of the money may be allocated to projects of the department of transportation.

(b) At least two-thirds of the money must be allocated to projects of ~~[eligible counties.]~~ *local governments.*

2. The state land registrar will, pursuant to NAC 321.340 to 321.365, inclusive:

(a) Award grants of money from the sale of general obligation bonds of this state issued pursuant to section 1 of chapter 514, Statutes of Nevada 1999, to; and

(b) Enter into contracts or agreements in accordance with section 3 of chapter 514, Statutes of Nevada 1999, as amended by section 5 of chapter 25, Statutes of Nevada 2001, with,

FLUSH *state agencies, local governments, nonprofit organizations and other persons or entities to carry out projects relating to water quality, the control of erosion and the restoration or enhancement of streams in the Lake Tahoe Basin.*

3. An applicant for a grant *of money* pursuant to NAC 321.340 to 321.365, inclusive, shall provide a matching contribution to the project of not less than 25 percent of the total ~~[projected]~~ cost of the project ~~[for which the grant is being requested by the applicant.]~~

~~—4.— The state land registrar will not award a grant pursuant to NAC 321.340 to 321.365, inclusive, in an amount which exceeds 75 percent of the projected cost of the project.], except that a state agency is not required to provide a matching contribution.~~

Sec. 9. NAC 321.345 is hereby amended to read as follows:

321.345 1. The state land registrar will periodically ~~[solicit]~~ :

(a) *Solicit* applications from ~~[eligible counties and the department of transportation]~~ *state agencies, local governments, nonprofit organizations and other persons or entities* for grants of money from the sale of general obligation bonds issued pursuant to section 1 of chapter 361, Statutes of Nevada 1995, *and general obligation bonds issued pursuant to section 1 of chapter 514, Statutes of Nevada 1999;* and ~~[establish]~~

(b) *Establish* deadlines for the submission of those applications.

2. *Before a state agency, a local government, a nonprofit organization or any other person or entity may submit an application for a grant of money for a proposed project, the state agency, local government, nonprofit organization or other person or entity must submit a preapplication to the division for an initial determination of the eligibility of the proposed project to qualify for a grant. In making an initial determination of the eligibility of a proposed project to qualify for a grant, the state land registrar will consider the following criteria, without limitation:*

(a) *Whether the proposed project is listed in the “Environmental Improvement Program” of the Tahoe Regional Planning Agency; and*

(b) *Whether the proposed project is of benefit to the general public as determined by the state land registrar.*

FLUSH *Upon the initial determination by the state land registrar that a project is eligible to qualify for a grant, the applicant may submit an application for a grant of money for the proposed project.*

3. An application *by a local government, a nonprofit organization or any other person or entity* for ~~[such]~~ a grant *pursuant to NAC 321.340 to 321.365, inclusive,* must be submitted to the district and include, without limitation:

- (a) A completed application *package* on ~~[a form]~~ *forms* provided by the district ~~[]~~ *and approved by the division;*
- (b) The amount of money requested for the project;
- (c) The total projected cost of the project ~~[]~~, *including, without limitation, the estimated costs for planning, design, acquisition and construction;*
- (d) A detailed description of the project;
- (e) Proof of any title to land, lease or easement that is required ~~[for the carrying out of]~~ *to carry out* the project;
- (f) A map of the location of the project;
- (g) A statement regarding the conformity of the project to all applicable local and regional land use plans;
- (h) *Evidence that the project is included within the “Environmental Improvement Program” of the Tahoe Regional Planning Agency;*
- (i) A plan for the operation and maintenance of the project for a period of not less than 20 years, including, without limitation, the identity of the person who will operate the project and provide the maintenance; ~~and~~
- ~~—(i)]~~ (j) An itemized list of the costs of the project in accordance with the descriptions of work and unit prices set forth in the ~~[“Question 12 Project”]~~ *“Project Cost Estimator”* which is hereby adopted by reference. A copy of the ~~[“Question 12 Project”]~~ *“Project Cost Estimator”* may be obtained without charge:
 - (1) In person, at the ~~[United States Department of Agriculture, Natural Resources Conservation Service Tahoe Field Office,]~~ :

(I) Nevada-Tahoe Conservation District Office, 870 Emerald Bay Road, ~~[Suite 108,]~~
South Lake Tahoe, California ~~[]~~; *or*

(II) Division of State Lands, 333 West Nye Lane, Suite 118, Carson City, Nevada;

(2) By telephone, at (530) ~~[573-2761,]~~ 573-2757 or (775) 687-4363; or

(3) By mail, at the ~~[United States Department of Agriculture, Natural Resources Conservation Service Field Office,]~~ Nevada-Tahoe Conservation District Office, P.O. Box 10529, South Lake Tahoe, California 96158 ~~[]~~;

(k) A detailed description of how the project conforms to the guidelines and objectives described in the application package; and

(l) A detailed description of the environmental and public benefits of the project.

4. An application by a state agency for a grant pursuant to NAC 321.340 to 321.365, inclusive, must be submitted to the division and include, without limitation:

(a) A completed application package on forms provided by the division;

(b) The amount of money requested for the project;

(c) The total projected cost of the project, including, without limitation, the estimated costs for planning, design, acquisition and construction;

(d) A detailed description of the project;

(e) Proof of any title to land, lease or easement that is required to carry out the project;

(f) A statement regarding the conformity of the project to all applicable local and regional land use plans;

(g) Evidence that the project is included within the “Environmental Improvement Program” of the Tahoe Regional Planning Agency;

(h) A plan for the operation and maintenance of the project for a period of not less than 20 years, including, without limitation, the identity of the person who will operate the project and provide the maintenance;

(i) A detailed description of how the project conforms to the guidelines and objectives described in the application package; and

(j) A detailed description of the environmental and public benefits of the project.

Sec. 10. NAC 321.350 is hereby amended to read as follows:

321.350 The district shall:

1. Evaluate the feasibility of each project *for which it has received an application* and *evaluate* its estimated costs and benefits pursuant to the criteria set forth in NAC 321.355. In its review of each project, the district shall use the technical advice of the committee.

2. Develop a preliminary list which ranks projects for which applications have been submitted in order of priority . ~~[for each of the following categories:~~

~~—(a) Projects of the department of transportation.~~

~~—(b) Projects of eligible counties for the control of erosion.~~

~~—(c) Projects of eligible counties for the restoration of natural watercourses.]~~

3. Make the preliminary list of prioritized projects available for public review.

4. Conduct at least one public hearing regarding each preliminary list of prioritized projects.

The district may revise each preliminary list after the public hearing.

5. Submit a final list of prioritized projects ~~[for each category of projects]~~ to the state land registrar with a written evaluation of each project which addresses the criteria set forth in NAC 321.355.

Sec. 11. NAC 321.355 is hereby amended to read as follows:

321.355 The district shall evaluate each project pursuant to the following criteria:

1. The benefit to the water quality of Lake Tahoe, including, without limitation, whether the project:

(a) Will address a significant problem relating to soil erosion or water quality or both soil erosion and water quality;

(b) Will result in a ~~[quantifiable]~~ *demonstrated* improvement in water quality;

(c) Is listed ~~[as a priority project in the “Water Quality Management Plan for the Lake Tahoe Region” or]~~ *in* the “Environmental Improvement Program” of the Tahoe Regional Planning Agency; and

(d) Will reduce significantly the amount of untreated runoff that is currently being deposited in Lake Tahoe.

2. The adequacy of the design of the project, including, without limitation, whether the proposed project:

(a) Uses proven, effective and cost effective techniques to address the control of soil erosion and ~~[untreated runoff];~~

~~—(b) Restores and]~~ *treatment relating to water quality;*

(b) *Restores*, preserves *and enhances* vegetation and stream ~~[environmental]~~ *environment* zones to the maximum extent possible;

(c) Uses improvements that reflect aesthetic considerations; and

(d) Uses bioengineering.

3. The comprehensive approach of the project, including, without limitation, whether all identifiable aspects of the problem of soil erosion *and treatment relating to the water quality of the runoff* in the project area or the watershed are covered in the project.

4. The long-term viability of the project ~~{}~~, *including, without limitation, the ability of the applicant to operate and maintain the project.*

5. The cost effectiveness of the project, including, without limitation, the potential of the project to attract financing in addition to the grant.

6. The ability of the applicant to carry out the project in a timely manner.

7. The ability of the portion of the project that will be paid for with money from the grant to achieve benefits to water quality independently of the other components of the project.

8. The ability of the project to be used as a model for future projects, including, without limitation, whether the project:

(a) Uses biotechnology; ~~{and}~~

(b) Combines proven and innovative approaches ~~{}~~; *and*

(c) Includes a monitoring program measuring the effectiveness of the project.

9. The amount of cooperation and support for the project from persons other than the applicant, including, without limitation:

(a) Federal, state and local governmental agencies; and

(b) Private landowners.

10. The amount of a matching contribution to the project that will be provided by the applicant which must equal at least 25 percent of the cost of the project.

11. The adequacy of the plan for maintenance of the project.

12. The benefits to the public.

13. The extent that the project meets the objectives and guidelines set forth in the application package provided by the district.

Sec. 12. NAC 321.360 is hereby amended to read as follows:

321.360 The state land registrar and the recipient of a grant shall enter into an agreement, which must require that the recipient shall:

1. ~~Provide~~ *If the recipient is not a state agency, provide* a matching contribution to the proposed project of not less than 25 percent of the cost of the project;
2. Operate and provide maintenance for the project for not less than 20 years after the project is completed; ~~and~~
3. *Agree to any additional conditions determined necessary by the state land registrar to carry out the purposes of this chapter, including, without limitation, the posting of a performance bond by the applicant; and*
4. Obtain such easements for conservation *or other interests in land* as are necessary to carry out the project. The easements must be approved by the state land registrar. *The state land registrar may require that the easement for conservation or other interests in land be held by this state.* As used in this subsection, “easement for conservation” has the meaning ascribed to it in NRS 111.410.

Sec. 13. NAC 321.365 is hereby amended to read as follows:

321.365 1. Except as otherwise provided in subsection 2, the recipient of a grant pursuant to NAC 321.340 to 321.365, inclusive, may use the money from the grant to pay for:

(a) All expenses related directly to the project, including, without limitation, expenses related to the design and construction of the project; ~~and~~

(b) *Monitoring the effectiveness of projects funded pursuant to section 3 of chapter 514, Statutes of Nevada 1999, if the state land registrar determines such monitoring to be necessary; and*

(c) The administrative costs of the project, not to exceed 3 percent of the total cost of the project.

2. The recipient of a grant pursuant to NAC 321.340 to 321.365, inclusive, ~~may~~ *shall* not use the money from the grant to pay for:

(a) Any planning activities which are not directly related to the design and engineering of the project;

(b) The purchase of new equipment ~~;~~

~~—(c) The paving of curbs or gutters,], unless the state land registrar has determined that the purchase of the new equipment is necessary to monitor the effectiveness of the project;~~

(c) *Paving*, unless the paving ~~[of curbs or gutters]~~ is recommended by the committee to remedy erosion;

(d) The acquisition of land, unless such an acquisition is ~~deemed~~ *determined* by the state land registrar to be an integral component of the project;

(e) Any work required by a public agency as mitigation or as a condition of the approval of any other project; ~~and~~

(f) Any component of the project that is ~~deemed~~ *determined* by the state land registrar ~~to~~ not *to* benefit the public ~~;~~;

(g) *Installation of best management practices on private property as required by the Tahoe Regional Planning Agency; or*

(h) *Any other expenses determined by the state land registrar not to be necessary to carry out the purposes of this chapter.*

Sec. 14. NAC 321.320 is hereby repealed.

TEXT OF REPEALED SECTION

321.320 “Eligible county” defined. “Eligible county” includes only:

1. Carson City;
2. Douglas County; and
3. Washoe County.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R004-02**

The State Land Registrar adopted regulations assigned LCB File No. R004-02 which pertain to control of erosion and restoration of natural watercourses for Lake Tahoe (chapter 321 of the Nevada Administrative Code) on February 7, 2002.

Notice date: January 7, 2002

Date of adoption by agency: February 7, 2002

Hearing date: February 7, 2002

Filing date: March 19, 2002

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 321.

1. A description of how public comment was solicited, a summary of public response and an explanation how other interested persons may obtain a copy of the summary.

A public workshop was held in regards to the proposed amendments. The meeting was held at the Zephyr Cove Library on February 7th, 2002. The public workshop was noticed in compliance with open meeting laws. In addition, a copy of the notice along with the proposed amendments was mailed directly to all individuals on the Tahoe Bond Act mailing list. One individual attended the workshop and was in support of the proposed amendments. There were no written comments submitted at the workshop or received prior to the workshop.

A public hearing was held immediately following the public workshop. The meeting was held at the Zephyr Cove Library on February 7th, 2002. The public hearing was noticed in compliance with open meeting laws. In addition, a copy of the hearing notice along with the proposed amendments was mailed directly to all individuals on the Tahoe Bond Act mailing list. One individual attended the workshop and hearing and was in support of the regulations as proposed. There were no written comments submitted at the hearing or received prior to the public hearing. A copy of the record of the hearing may be obtained by calling the Nevada Division of State Lands, Nevada Tahoe Resource Team at (775)687-4735, or by writing to Jim Lawrence at 333 South Carson Meadows Drive, Ste. 44, Carson City, NV 89701.

2. The number of persons who:

- | | |
|--|--|
| (a) Attended the hearing: | 1 at the workshop
1 at the public hearing |
| (b) Testified at the hearing: | 0 at the workshop
0 at the hearing |
| (c) Submitted to the agency written comments: | None |

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

The proposed amendments are not estimated to have an affect on businesses. Regardless, a workshop and public hearing was held at the Zephyr Cove Library on February 7th, 2002. The workshop and public hearing were noticed in compliance with open meeting laws. In addition, a copy of the workshop and hearing notice, along with the proposed amendments were mailed directly to all individuals on the Tahoe Bond Act mailing list. One individual attended the workshop and hearing and was in support of the regulations as proposed. There were no written comments submitted at the hearing or received prior to the public hearing. A copy of the record of the hearing may be obtained by calling the Nevada Division of State Lands, Nevada Tahoe Resource Team at (775) 687-4735, or by writing to Jim Lawrence at 333 South Carson Meadows Drive Ste. 44, Carson City, NV 89701.

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 amendments were adopted without change because the only comment received regarding the proposed amendments was in support.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and**
- (b) Both immediate and long-term effects.**

a. There is no estimated economic effect on the business community, either adverse or beneficial, nor immediate or long-term as a result of the proposed amendments.

b. There is no estimated economic effect on the public, either adverse or beneficial, nor immediate or long-term as a result of the proposed amendments.

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

There is no additional cost to the agency for enforcement of the adopted regulation.

7. A description of any regulation 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.

There are no state or government agency regulations, which the proposed amendments duplicate.

8. If the regulation includes provisions which are not more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no federal regulations that regulate the same activity.

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.

This regulation does not provide or involve a new fee, or increase an existing fee.