

PROPOSED REGULATION OF THE STATE LAND REGISTRAR

LCB File No. R040-12

NAC 321.305 is hereby amended to read as follows:

NAC 321.305 “Committee” defined. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001) “Committee” means the technical advisory committee established ~~[pursuant to section 7 of the “Cooperative Agreement” entered into by the division and the district on September 25, 1997]~~ *by the Division for the purpose of providing funding recommendations to the Division administrator.*

(Added to NAC by St. Land Registrar by R222-97, eff. 3-5-98)

NAC 321.330 is hereby amended to read as follows:

NAC 321.330 “Project” defined. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001) “Project” means a project that is authorized by law and may include a project for:

1. ~~[The control of erosion;]~~ Improvements listed in the “Environmental Improvement Program” of the Tahoe Regional Planning Agency.
2. ~~[Treatment relating to]~~ *The improvement of* water quality; or
3. The restoration or enhancement of natural watercourses or stream environment zones, in the Lake Tahoe Basin.

(Added to NAC by St. Land Registrar by R222-97, eff. 3-5-98; A by R004-02, 3-19-2002)

NAC 321.333 is hereby amended to read as follows:

NAC 321.333 “Stream environment zone” defined. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001) “Stream environment zone” means an area:

~~[1. The biological and physical characteristics of which are the result of the presence of surface or ground water; and]~~

~~[2] I.~~ 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.]~~ *in the Tahoe Regional Planning Agency Code of Ordinances.*

(Added to NAC by St. Land Registrar by R004-02, eff. 3-19-2002)

NAC 321.340 is hereby amended to read as follows:

NAC 321.340 Award of grants of money; entry into contracts or agreements; matching contributions. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001)

~~[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 local governments pursuant to NAC 321.300 to 321.365, inclusive. 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 local governments.]~~

~~[2] 1.~~ The state land registrar will, pursuant to NAC 321.300 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, 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.

2. The state land registrar will, pursuant to NAC 321.300 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 431, Statutes of Nevada 2009, 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, state agencies, local governments, nonprofit organizations and other persons or entities to carry out projects relating to the improvement of water quality and the restoration or enhancement of streams in the Lake Tahoe Basin.

3. An applicant for a grant of money pursuant to NAC 321.300 to 321.365, inclusive, shall provide a matching contribution to the project of not less than 25 percent of the total cost of the project, except that a state agency is not required to provide a matching contribution.

(Added to NAC by St. Land Registrar by R222-97, eff. 3-5-98; A by R022-00, 5-4-2000; R004-02, 3-19-2002)

NAC 321.345 is hereby amended to read as follows:

NAC 321.345 Grants of money: Solicitation of applications; initial determination of eligibility; submission and contents of application. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001)

1. The state land registrar will periodically:

(a) Solicit applications from 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 *general obligation bonds issued pursuant to section 1 of Chapter 431, Statutes of Nevada 2009; and*

(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~~[.]~~; *and*

(c) Whether the project proposes the treatment of stormwater that is connected to surface water bodies or Lake Tahoe.

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, *a state agency* or any other person or entity for a grant pursuant to NAC 321.300 to 321.365, inclusive, must be submitted to the ~~{district}~~ *Division* and include, without limitation:

(a) A completed application package on 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) Details of the match contributions to be provided for the project;

~~{(d)}~~ *(e)* A detailed description of the project;

~~{(e)}~~ *(f)* ~~{Proof of any title to land, lease or easement that is required to carry out the project;}~~
Identification of lands, leases or easements that will be necessary to carry out the project;

~~{(f)}~~ *(g)* A map of the location of the project;

~~{(g)}~~ *(h)* A statement regarding the conformity of the project to all applicable local and regional land use plans;

~~{(h)}~~ *(i)* Evidence that the project is included within the “Environmental Improvement Program” of the Tahoe Regional Planning Agency;

~~{(i)}~~ *(j)* 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;}~~

(k) Specific information on how stormwater is transmitted to surface water bodies and Lake Tahoe.

~~{(j)}~~ ~~{An itemized list of the costs of the project in accordance with the descriptions of work and unit prices set forth in the “Project Cost Estimator” which is hereby adopted by reference. A copy of the “Project Cost Estimator” may be obtained without charge:}~~

~~— (1) In person, at the:~~

~~— (I) Nevada Tahoe Conservation District Office, 870 Emerald Bay Road, South Lake Tahoe, California; or~~

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

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

~~— (3) By mail, at the Nevada Tahoe Conservation District Office, P.O. Box 10529, South Lake Tahoe, California 96158;}~~

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

~~{(l)}~~ *(m)* 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 321.300 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.~~
- ~~—(Added to NAC by St. Land Registrar by R222-97, eff. 3-5-98; A by R022-00, 5-4-2000; R004-02, 3-19-2002)]~~

NAC 321.350 is hereby amended to read as follows:

NAC 321.350 Evaluation and prioritization of projects. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001) ~~[The district shall:]~~

1. ~~[Evaluate the feasibility of each project for which it has received an application]~~ *The Committee shall evaluate the feasibility of each project 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 will use the technical advice of the committee.]~~
2. *The Committee shall* Develop a preliminary list which ranks projects for which applications have been submitted in order of priority.
3. *The Division will* Make the preliminary list of prioritized projects available for public review *and comment*.
4. *The registrar may* 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 to the state land registrar with a written evaluation of each project which addresses the criteria set forth in NAC 321.355.]~~ *The Division will develop a final project list using the committee recommendations and considering any public comments.*

(Added to NAC by St. Land Registrar by R222-97, eff. 3-5-98; A by R004-02, 3-19-2002)

NAC 321.355 is hereby amended to read as follows:

NAC 321.355 Criteria for evaluation of projects. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001) The ~~[district]~~ *Committee* shall evaluate each project pursuant to the following criteria:

1. The benefit to the water quality of Lake Tahoe, including, without limitation, ~~[whether]~~ *how* 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 demonstrated ~~[improvement in water quality;]~~ *reduction in loading of Lake Tahoe Total Maximum Daily Load stormwater pollutants of concern to surface water bodies and Lake Tahoe; and*
 - (c) ~~[Is listed in the “Environmental Improvement Program” of the Tahoe Regional Planning Agency; and]~~ *Will address impaired stream environment zones.*

~~[(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 treatment relating to water quality;]~~ *Incorporates cost effective measures and innovative approaches to target stormwater pollutants of concern; and*

(b) Restores, preserves and enhances ~~[vegetation and]~~ stream 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.]~~ *The comprehensive approach of the project including without limitation whether all identifiable pollutant issues relating to water quality are considered in the project.*

4. The long-term viability of the project, including, without limitation, the ability of the applicant to *inspect*, 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]~~ 5. 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;~~

~~—(b) Combines proven and innovative approaches; and]~~

~~[(c)]~~ 6. ~~[Includes a monitoring program measuring the effectiveness of the project.]~~ *Where appropriate, includes monitoring components for assessing the effectiveness of the project or the project components.*

~~[9.]~~ 7. 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.]~~ 8. 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]~~ 9. The benefits to the public.

~~[13]~~ 10. The extent that the project meets the objectives and guidelines set forth in the application package provided by the ~~[district]~~ *Division*.

(Added to NAC by St. Land Registrar by R222-97, eff. 3-5-98; A by R004-02, 3-19-2002)

NAC 321.360 is hereby amended to read as follows:

NAC 321.360 Agreement between state land registrar and recipient of grant. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001) The state land registrar and the recipient of a grant shall enter into an agreement which must require that the recipient shall:

1. 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;
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.

(Added to NAC by St. Land Registrar by R222-97, eff. 3-5-98; A by R022-00, 5-4-2000; R004-02, 3-19-2002)

NAC 321.365 is hereby amended to read as follows:

NAC 321.365 Authorized and prohibited uses of grant. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001)

1. Except as otherwise provided in subsection 2, the recipient of a grant pursuant to NAC 321.300 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 *planning*, design and construction of the project;

(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}~~ 5 percent of the ~~{total cost}~~ *state share* of the project.

2. The recipient of a grant pursuant to NAC 321.300 to 321.365, inclusive, 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 *and implementation* of the project;

(b) The purchase of new equipment, 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 is recommended by the committee to ~~{remedy erosion}~~ *address water quality issues*;

(d) The acquisition of land, unless such an acquisition is 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;

(f) Any component of the project that is determined by the state land registrar 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.

(Added to NAC by St. Land Registrar by R222-97, eff. 3-5-98; A by R004-02, 3-19-2002)

NAC 321.310 is hereby repealed.

NAC 321.310 “District” defined. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001) “District” means the Nevada-Tahoe Conservation District.

(Added to NAC by St. Land Registrar by R222-97, eff. 3-5-98)

NAC 321.335 is here by repealed.

NAC 321.335 “Cooperative Agreement” adopted by reference. (§2 of ch. 361, Stats. 1995, as amended by §4 of ch. 25, Stats. 2001; §3 of ch. 514, Stats. 1999, as amended by §5 of ch. 25, Stats. 2001)

1. The “Cooperative Agreement” entered into by the division and the district on September 25, 1997, is hereby adopted by reference.

2. A copy of the “Cooperative Agreement” may be obtained without charge:

(a) In person, from the Division of State Lands, 333 West Nye Lane, Suite 118, Carson City, Nevada.

(b) By telephone, at (775) 687-4363 or (775) 687-4735.

(c) By mail, from the State Land Registrar, Division of State Lands, Capitol Complex, Carson City, Nevada 89710.

(Added to NAC by St. Land Registrar by R222-97, eff. 3-5-98; A by R022-00, 5-4-2000)