

**FORM FOR PETITIONING THE STATE ENVIRONMENTAL COMMISSION FOR  
ADOPTION, FILING AMENDMENTS OR REPEAL OF COMMISSION  
REGULATIONS.**

**Form #1**

- 1. Name, Address, telephone number, date of petition, representative capacity and signature of petitioner, authorized individual, officer or attorney.**

July 24, 2015

Nevada Division of Environmental Protection  
Bureau of Safe Drinking Water  
901 South Stewart Street, Suite 4001  
Carson City, NV 89701



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Chief, Bureau of Safe Drinking Water  
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- 2. Specific type of petitioner (individual, partnership, corporation, government agency, or other) and the exact occupation or business, including a description of the occupation or business if necessary.**

Nevada Division of Environmental Protection (NDEP), Bureau of Safe Drinking Water (BSDW), a government agency.

- 3. Exact and specific nature of changes sought, including delineation of the regulations, statutory provisions of Commission decisions involved. May include a statement of the written term or substance of the proposed regulatory action, or a description of the subjects and issues involved.**

The NDEP is requesting adoption of these regulatory amendments governing the Subdivision process found in Chapter 278 of the Nevada Administrative Code (NAC). Statutory authority to adopt these amendments is contained in NRS 445A.855 and 445A.860.

Proposed amendments to NAC 278 serve several functions:

- 1) A temporary amendment related to this petition was adopted by the State Environmental Commission on May 6, 2015. The primary proposed amendment addresses NAC 278.340. Prior to May 6, 2015, the existing regulation prohibited *any* construction from occurring at a proposed Subdivision until a Final Map was approved. An alternative was requested by interested parties to consider allowing mass grading of a proposed Subdivision earlier in the review and approval process. The Temporary Amendments were crafted to ensure the protection of public health, and to maintain a mechanism to ensure that land grading would not negatively impact the engineering design of water and wastewater infrastructure. The permanent amendments would permit grading and construction to begin upon Agency review and approval of water and wastewater utility

engineering design “plans for improvement”, without having to wait for Final Map approval.

Sections 1, 2 and 5 of the proposed amendments also pertain to Final Map and improvement plan approval processes that are associated with amending NAC 278.340.

- 2) Section 4 of the proposed regulation cleans up an old reference to the State Health Officer’s certification of laboratories. This function is now performed by the Division of Environmental Protection, Bureau of Safe Drinking Water.

**4. A statement of the need for and purpose of the proposed regulations.**

The Nevada Division of Environmental Protection (NDEP), the Washoe County Health District and the Southern Nevada Health District (the Agencies) have an existing role in review and approval of subdivisions in Nevada. The programs regulate drinking water supply and wastewater collection and treatment, and are responsible for review and approval of subdivision maps and utility plans for improvement for conformance with engineering design regulations. The regulatory process requires a developer to submit a subdivision Tentative Map for review and approval, followed by later submittal of a Final Map for review and approval. Prior to the May 6, 2015 adoption of the Temporary Amendments, detailed engineering plans for utility improvement were required to be submitted with the Final Map; they now may be submitted for review and approval separate from the Final Map.

Prior to the May 6, 2015 adoption of the Temporary Amendments, regulation in NAC 278.340 prohibited any construction from occurring prior to the developer receiving Agency approval of a subdivision Final Map. In 2014, the Builder’s Association of Northern Nevada approached the Washoe County Health District with a desire to be able to perform mass grading for land development projects before the Final Map is approved by the health authority. The NDEP and the County were concerned that checks and balances must remain in place to ensure that grading of land would not impede proper engineering design of water and wastewater infrastructure for protection of public health. Under the proposed process provided in the regulation amendment, a developer may choose to submit a utility plan for improvements before submittal of a Final Map for a subdivision. The regulations, as drafted, would permit the developer to begin grading and utility construction on the site prior to Final Map approval.

In order to prevent an increased project tracking burden on the Agencies, the amendment proposes that if the developer chooses to use this process instead of submitting utility improvement plans with the subdivision Final Map, then the developer shall certify that nothing was changed on the improvement plans subsequent to Agency approval. Any changes to the engineering design that occur prior to Final Map approval will require re-submittal of plans for review and approval, with specific identification of the changes to facilitate Agency review.

**5. A statement of the:**

- (a) **Estimated economic effect of the regulation on the business which it is to regulate;**
  - (1) **Both adverse and beneficial effects; and**
  - (2) **Both immediate and long-term effects; and**
- (b) **Estimated economic effect on the public;**
  - (1) **Both adverse and beneficial effects; and**

- (2) Both immediate and long-term effects; and**  
**(c) Estimated cost by the agency for enforcement of the proposed regulation.**

**(a)(1) and (a)(2):** The proposed amendment will involve the Agencies in the review and approval process earlier in the planning and design timeline and will provide more time for addressing engineering concerns before a developer submits a the Final Map, resulting in both immediate and long-term beneficial effects. The proposal would allow developers to begin grading and utility construction earlier, if desired, potentially moving development along more quickly. No adverse effects are anticipated.

**(b)(1) and (b)(2):** The proposed amendment is not expected to have an economic effect on the public.

**(c):** The proposed amendment only changes the process of document submittal and review in order to be responsive to land developers who wish to perform grading and construction prior to Final Map approval for a subdivision. The amendment does not change the overall agency program requirements.

- 6. A description of any regulations 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.**

This regulation amendment will not overlap or duplicate any Local, State or Federal regulation. The Division and the local health authorities operate under the same provisions.

- 7. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions. The statement must include the specific citation of the federal statute or regulation requiring such adoption.**

This regulation amendment will not be more stringent than federal regulations.

- 8. 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 amendment does not address fees.

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