

**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.**

October 27, 2014

Nevada Division of Environmental Protection

Bureau of Safe Drinking Water

901 South Stewart Street, Suite 4001

Carson City, NV 89701



Jennifer L. Carr, P.E., C.E.M.

Chief, Bureau of Safe Drinking Water

(775) 687-9515

- 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 439.150, 439.200, 445A.855 and 445A.860.

Proposed amendments to NAC 278 serve several functions:

- 1) The primary proposed amendment addresses NAC 445A.340. The NDEP considered this amendment at the request of the Builder's Association of Northern Nevada and the Washoe County Health District. The existing regulation prohibits *any* construction from occurring at a proposed Subdivision until a Final Map is approved. An alternative was requested to consider allowing mass grading of a proposed Subdivision earlier in the review and approval process. The NDEP and the County were concerned that checks and balances must remain in place to ensure that grading of the land would not impede proper engineering design of water and wastewater infrastructure for protection of public health. The proposed resolution included in this amendment would permit land development to begin with clearing, grubbing, and grading upon Agency review and approval of utility "improvement plans", without having to wait for Final Map approval.

Section 1 and Section 2 of the proposed amendments also pertain to Final Map and improvement plan approval processes that are associated with amending NAC 445A.340.

Section 5 of the proposed regulation addresses fees related to the proposed amendment discussed above. Without changing the overall fee that is currently paid for Final Map review (\$400), Section 5 proposes to split cost for reviewing a Final Map into a fee for review of improvement plans (\$300) and a fee for review of the Final Map (\$100).

- 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 improvement plans for conformance with engineering design regulations. The current 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. The Final Map submittal includes detailed engineered plans for utility improvements (improvement plans).

Local government has experienced developing issues related to the timing of subdivision map approval and local issuance of construction grading permits. Current regulation in NAC 278.340 prohibits any construction from occurring prior to the developer receiving Agency approval of a subdivision Final Map. 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, if a developer chooses to submit a utility improvement plan before submittal of a Final Map for a subdivision, it is believed that involvement of the Agencies earlier in the planning process will allow for active engagement of the regulatory staff during the project's design phase, and the process of subdivision approval could occur more quickly. It would permit the developer to begin mass grading work 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 land earlier, if desired, potentially moving development along more quickly to the benefit of the State. 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 construction grading 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 propose new or increased fees. Section 5 of the amendment proposes to split an existing fee into two parts to reflect the proposed improvement plan and Final Map processing sequence. The respective level of effort involved in each portion of the plan review process is reflected in the split.

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