

## SUPPLEMENTAL FORM #1

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

**1. Name, address, telephone number, and signature:**

Nevada Department of Conservation and Natural Resources  
Division of Environmental Protection  
901 South Stewart Street, Suite 4001  
Carson City, Nevada 89701-5249  
(775) 687-4670

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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:**

- a. The Nevada Division of Environmental Protection (NDEP), which is a division of the Nevada Department of Conservation and Natural Resources (NDCNR) of the State of Nevada. The Office of Financial Assistance (OFA) administers the Safe Drinking Water and Clean Water State Revolving Funds. These programs provide U.S. Environmental Protection Agency (EPA)-mandated support to entities within Nevada that provide safe drinking water, manage wastewater, oversee stormwater, and protect non-point source waters. To that end, these programs operate similarly to lending institutions, providing both low-cost loans and principal-forgiveness loans to water systems throughout the state. The OFA also administers the Nevada Capital Improvements Grant Program.

**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:**

Nevada Revised Statutes (NRS) 445A.060-160 established the Account to Finance the Construction of Treatment Works and the Implementation of Pollution Control Projects, more commonly referred to as the Nevada Clean Water State Revolving Fund program (CWSRF). The Federal Clean Water Act was amended to establish this program within each state for the sole purpose of providing loans to eligible recipients to fund wastewater, stormwater, or non-point source pollution control projects. NRS 445A.130 requires Nevada's program to manage the funds as set forth in the Clean Water Act. The State Environmental Commission may adopt regulations to carry out the provisions of this section per NRS 445A.135.

The proposed changes address key areas of the regulations. Specifically, the proposed changes:

- (a) Align with the adoption of Assembly Bill (AB) 20 (83<sup>rd</sup> Session)
- (b) Define the term "affordability criteria,"
- (c) Amend the environmental review process,
- (d) Amend the administrative fee for loans,
- (e) Align state regulations with federal regulations, and
- (f) Clean up outdated language and processes.

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

Proposed regulation changes were prompted by changes to the Nevada Revised Statutes, the federal Clean Water Act, direction from the Environmental Protection Agency (EPA) to find ways of streamlining processes to provide financial assistance to more eligible recipients, and the significant increase in federal funding through the Bipartisan Infrastructure Law (BIL) of 2021.

##### **(a) Adoption of AB20.**

- (i) NRS 445A was amended to expand the eligible entities and projects that are fundable by the CWSRF to align with the federal Clean Water Act. Nevada's law was more restrictive than federal law, which limited our ability to support as many systems as allowed. NRS 445A.135 was also amended to require the State Environmental Commission to set forth the entities that are eligible to receive assistance.
- (ii) NRS 445A was also amended to clarify the Division of Environmental Protection of the state Department of Conservation and Natural Resources shall administer the program.
- (iii) New Sections: 6, 8
- (iv) Amended Sections: 18, 19, 21, 45, 55, 56, 60

**(b) Definition of “affordability criteria”**

- (i) The federal Clean Water Act requires each state to develop a set of criteria that a municipality must meet to qualify for principal forgiveness funding authorized in the annual Congressional appropriations. Affordability criteria is synonymous with the terms disadvantaged or underserved in that Nevada must identify a community or project that is underserved compared to other areas of the state. These proposed changes are to update Nevada’s CWSRF program to align with the Nevada Drinking Water State Revolving Fund Program (DWSRF) as regulated by NAC 445A.6751-NAC 445A.67644. Alignment with the Drinking Water State Revolving Fund simplifies the administration process for recipients and in administering both programs.
- (ii) New Sections: 2
- (iii) Amended Sections: 37

**(c) State environmental review process changes**

- (i) Federal changes to the National Environmental Policy Act (NEPA) were enacted in September 2020 to allow more flexibility in the process. These changes are to update Nevada’s regulations for environmental reviews as they specifically relate to CWSRF projects, to align with the federal process more closely. It also adds clarifying language to the regulations over a state environmental review process that is equivalent to the NEPA.
- (ii) Additionally, the CWSRF regulations required the Division to prepare environmental assessments and Environmental Impact Statements. The borrower is the subject matter expert of their project and should be contracting appropriate professionals to assess the impact their project will have on the environment. The Division should be reviewing that assessment and making a determination of the environmental impact of the project based on that assessment.
- (iii) New Sections: None
- (iv) Amended Sections: 24, 25, 26, 27, 28, 31, 33, 34, 35

**(d) Revising the administrative fee for loans**

- (i) The CWSRF must remain sustainable into the future as CWSRF funding is meant to revolve in perpetuity for Nevada’s water systems. Currently, the Division collects a loan origination fee only at the time the loan closes. The Division is not currently collecting any funding annually, while the loan remains outstanding and payable to the state. If the grants were no longer available, the program does not have another funding source to rely upon for administration of the long-term management of the loans. These fees will provide enough resources to allow the SRF programs to remain viable if federal grants

become unavailable. The proposed language aligns the CWSRF with the current DWSRF fees and allows for a potential borrower to justify a fee waiver, if they are able to demonstrate a hardship based on certain criteria as outlined in the regulations.

- (ii) New Sections: None
- (iii) Amended Sections: 47

**(e) Aligning state regulations with federal regulations.**

- (i) The federal Clean Water Act was amended over the last 10 years to include programmatic changes to the CWSRF.
- (ii) The Clean Water Act only requires Treatment Works Projects to be ranked on a priority list. Other eligible projects of the CWSRF are not required to be ranked on a list. This clean-up will increase efficiency in Nevada and remove unnecessary processes.
- (iii) The Clean Water Act only requires some federal grant conditions to apply to an amount equivalent to the grant amount. Not all projects from the CWSRF must comply with all federal grant conditions. These changes allow for flexibility and a reduction of the administrative burden on some projects.
- (iv) New Sections: 8, 11
- (v) Amended Sections: 17, 18, 21, 37, 38, 39, 40, 57, 58

**(f) Clean up outdated language and processes.**

- (i) Proposed changes include removal of redundant language, updating flow of process, and ensuring consistency with other NAC sections that relate to the CWSRF and DWSRF. Consistency between the CWSRF and DWSRF assists borrowers and staff who manage both types of projects apply consistent procedures and processes, increasing government efficiency.
- (ii) New Sections: 3, 5, 7, 9, 10
- (iii) Amended Sections: 23, 29, 38, 39 40, 42, 43, 44, 49, 53, 54, 56, 61, 62

**5. A Statement of the:**

**a. Estimated economic effect of the regulation on the business which it is to regulate:**

The CWSRF program is authorized to fund a wide range of entities and projects. While Nevada has focused primarily on publicly owned treatment works, the recent passage of AB20 through the 83<sup>rd</sup> Legislative Session expands the CWSRF eligible recipients to a list approved by the State Environmental Commission in accordance with 33 U.S.C. §§ 1381 et seq.

The proposed regulations expand the eligibility of the program to a private entity or organization for the implementation and development of nonpoint source projects, stormwater projects, watershed projects, decentralized treatment systems, or the recycling of wastewater, stormwater, or subsurface drainage. The

entity or organization may or may not be a business defined by NRS 233B.0382. This proposed regulation does introduce a loan origination fee and an annual service fee and establishes the requirement for a reserve account, both of which may have a minimal adverse financial impact on water systems if they have not kept up with user rate changes in support of basic operating costs. However, the proposed regulation also requires the availability of a hardship waiver if a potential borrower is able to demonstrate that the fee would cause a hardship.

In addition, the interest rates on loans secured through the CWSRF program are lower than those offered by other, more traditional lending institutions. The table below summarizes potential savings over the life of a \$1M 20-year loan from the CWSRF versus a market rate loan:

Borrower Name	EXAMPLE OF SRF LOAN vs MUNICPAL BOND RATE
Breakdown per million for 20 Year Equivalency Loan	
Closing Date	January 1, 2026
First Payment Date	July 1, 2026
Loan Amount	\$1,000,000.00
Length of Amortization	20
Total Number of Payments	40

EXAMPLE BELOW SHOWS SAVINGS BASED ON MOST RECENT RATES

Rates below from December 11, 2025

	Municipal Bond	SRF Loan	Difference
Interest Rate	4.81%	2.41%	
Interest Paid	\$ 568,061.39	\$ 266,184.36	\$ 301,877.03
Loan Origination Fee		\$ 5,000.00	\$ (5,000.00)
Annual Service Fee*		\$ 5,000.00	\$ (5,000.00)
Principal Paid	\$ 1,000,000.00	\$ 1,000,000.00	\$ -
Total Paid	\$ 1,568,061.39	\$ 1,276,184.36	\$ 291,877.03
TOTAL SAVINGS THROUGH SRF per million (Including Fees)		\$ 291,877.03	29.19%

\*Total paid over life of loan

SRF 20 Year rates are calculated weekly using the 20 Year Municipal Bond Rate	4.81%
Equivalency Loan 50% of Bond Rate	2.41%
Non Equivalency Loan 59% of Bond Rate	2.84%

Fees total 1% of the loan amount (10,000 for every 1,000,000). Loan Origination Fee of 0.50% is due in full when the contract is signed. Annual Service Fee is due Jan 1 each year for a total of 0.50% of the loan divided up into 20 payments over the life of the loan.

Loan Origination Fee	0.50%	\$	5,000.00
Annual Service Fee*	0.50%	\$	5,000.00
	1.00%	\$	10,000.00

Therefore, there is a potential added economic burden on borrowers in the form of a fee but there is an economic benefit from the lower interest rates available, and as a result, the Division cannot estimate the overall economic effect on businesses at this time. The table above considers those fees as well.

**b. Estimated economic effect on the public:**

The public receives a benefit when a wastewater or stormwater system takes out a loan from the CWSRF versus from the public market. The CWSRF is required to offer below market interest rates in order to make expensive infrastructure projects more affordable. This helps keep user rates lower than they would be if another financing option were used by the water system.

Additionally, the SRFs are required to distribute a portion of the grant as principal forgiveness loans (i.e., loans that are not repaid). This further supports our communities that would not otherwise be able to secure funding to improve their infrastructure and/or come into compliance.

The service fee and reserve accounts may have an adverse impact on the community if the recipient has not been keeping up with rate changes that support their basic operations. The CWSRF program, along with our funding partners, requires a recipient to maintain sufficient user rates for their utility. This means that wastewater user rates must be sufficient to ensure long-term sustainability, should federal funding terminate. The Division estimates this impact will be minimal.

**c. Estimated cost by the agency for enforcement of the proposed regulation:**

The proposed changes would not have a significant impact on OFA's ability to enforce program requirements. Service fees would be collected as part of our routine semi-annual debt service collections.

**6. A description of any regulations for 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:**

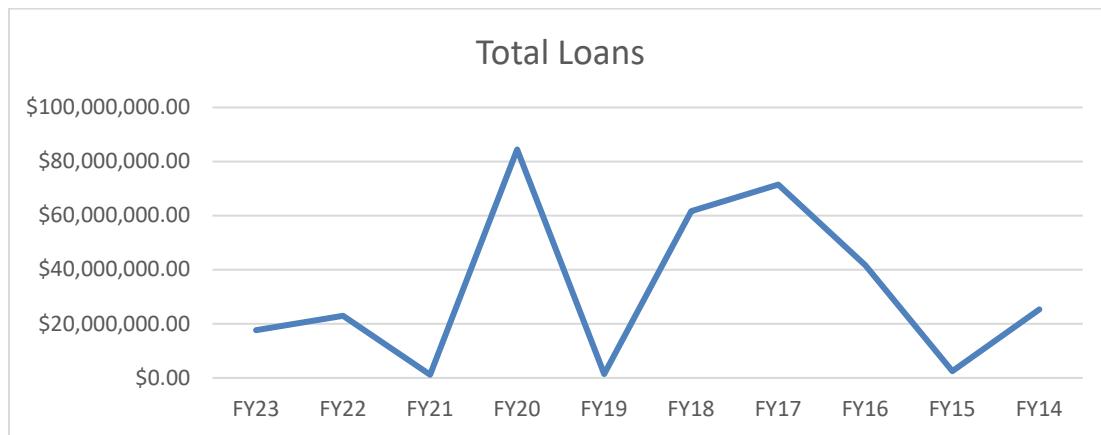
The proposed regulations do not overlap or duplicate other State or Federal Regulations.

**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:**

The proposed regulations are not 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:**

The proposed fee structure is dependent upon the number of loans initiated within a year, and the number of open loans from previous years that have the service fee requirement. The amount of funds awarded in contracts that have been executed over the last ten years have fluctuated drastically. It is not possible to determine the revenue from potential future loans.



However, NDEP has looked at the previous ten years to see how much the Division would have received, if these fees had been implemented:

Prior Fiscal Year Balances	Origination Fee	Service Fee	Annual Total
FY 2023	\$81,800.00	\$75,503.02	\$157,303.02
FY 2022	115,000.00	72,876.36	187,876.36
FY 2021	5,875.00	69,043.02	74,918.02
FY 2020	413,000.00	68,749.27	481,749.27
FY 2019	2,000.00	50,499.27	52,499.27
FY 2018	306,000.00	50,499.27	356,499.27
FY 2017	352,827.59	34,591.38	387,418.97
FY 2016	208,250.00	17,100.00	225,350.00
FY 2015	11,000.00	6,687.50	17,687.50
FY 2014	125,750.00	6,187.50	131,937.50
<b>Totals</b>	<b>\$1,621,502.59</b>	<b>\$451,736.61</b>	<b>\$2,073,239.19</b>

All funds collected will be used to offset expenses for administering the CWSRF. The loan origination fee that has been collected since 2006 has built up a cash reserve that by itself is not sustainable should the federal grants terminate. An annual fee collected is needed to ensure current cash is generated to fund current expenditures.

CWSRF Administration Expenditures			
State Fiscal Year	Paid By Service Fees	Paid By Grants	Total Administration
2023 <sup>B</sup>	\$65,890.37	\$313,937.75	\$379,828.12

2022 <sup>B</sup>	176,475.92	148,274.55	324,750.47
2021	264,852.88	0	264,852.88
2020 <sup>A</sup>	330,749.23	0	330,749.23
2019	214,900.51	0	214,900.51

<sup>A</sup> Administration costs in SFY 2020 increased due to the development of a new web-based system that increases efficiency in implementing the program. The ongoing costs for this system are minimal.

<sup>B</sup> Administration costs starting in SFY 2022 and forward have increased due to additional staff being added to manage new loans from the Bipartisan Infrastructure Law. Ongoing costs are expected to be elevated from 2019 levels.