

FORM # 1

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

1. Nevada Division of Environmental Protection
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2. The Nevada Division of Environmental Protection (NDEP) is a division of the Nevada Department of Conservation and Natural Resources of the State of Nevada. The NDEP is an environmental regulatory agency.
3. Nevada Revised Statutes (NRS) 444.560, NRS 459.485, NRS 445A.425, NRS 445A.465, NRS 445A.590, NRS 445A.595, NRS 445A.270, NRS 445A.295, NRS 445A.135, and NRS 445A.160 establish the authority of the State Environmental Commission (SEC) to adopt regulations to carry out the provisions associated with solid waste, hazardous materials, and water controls associated with mining activities, water pollution control, and the financing of water projects.

SPECIFIC CHANGES:

The NDEP is proposing to revise the public notice rule provisions for regulations associated with solid waste, hazardous materials, mining activities, water pollution control, and its program for financing water projects, including the state revolving fund program. The proposed amendments modify the methods for providing certain public notices. Proposed modifications would change a one-day publication in a newspaper to providing public notice on an internet website designed to provide general public notice, unless a federal law exists that requires otherwise. The website will allow continuous access to the public notice as opposed to a single day newspaper publication. Other methods of notice required by regulations, such as direct mailing, will not be affected.

4. **NEED FOR AND PURPOSE:**

On September 13, 2017, The State Environmental Commission adopted the NDEP Air Bureau's Regulatory Petition R015-17 which removed the mandatory requirement to provide public notice of certain NDEP actions through a single (one day) publication in a newspaper,

and instead provide for website access (e-access) of those actions. On September 21, 2017, the Legislative Commission approved it and it became effective. Over the past year NDEP has monitored this effort to determine any impacts on public participation. NDEP has identified no negative impacts to the public participation process.

NDEP is therefore proposing to amend additional regulations across several programs that mandate a newspaper publication to instead require the public notice to be provided on an internet website designed to provide general public notice. Included in the amendment is an exception for any federal programmatic law that may require a different public notice process.

These amendments will improve communication with the public on NDEP actions by allowing for information to be made available for an extended period of time on a dedicated website as opposed to a one day newspaper notice. This will result in broader and more informed public participation. Public access will be improved by making actions immediately available through a convenient and reliable e-access process. It will also provide flexibility for the NDEP by avoiding time delays associated with newspaper publication and allowing for faster correction of errors and rescheduling of events. Additionally, human and fiscal resources currently being spent by the NDEP will be more efficiently used by removing the newspaper publication requirement.

5. ECONOMIC EFFECTS:

- (a) Regulated Business/Industry. The economic impact on the regulated businesses/industry subject to this amendment is anticipated to be beneficial only, both immediately and long-term. During the permitting process, if a public notice is not published timely or if there is an error in the publication, it causes a delay in the issuance of the permit. The delay can translate to lost revenue for the regulated business.

Although the newspapers throughout Nevada are not regulated by NDEP, there is an indirect economic effect in that they will not receive revenue associated with the cost of publications. The NDEP programs associated with this amendment spent an average of approximately \$10,545 annually between State Fiscal Years 2017 and 2018 on publication of public notices with newspapers that meet the criteria for a small business. Since the proposed regulations remove the requirements for publishing public notices in newspapers, the newspapers that are small businesses will no longer be potential recipients of those funds from the NDEP.

In a 2010 publication entitled "Public Policy and Funding the News" https://fundingthenews.usc.edu/files/2015/07/Funding-the-News_report-optimized.pdf, it is cited that the National Newspaper Association estimated in 2000 that public notices accounted for 5 percent to 10 percent of all community newspaper revenue. NDEP published an average of 83 public notices annually between the State Fiscal Years 2017 and 2018 and spent an average of \$10,545 annually on publications with newspapers meeting the small business criteria. While the proposed amendments may have an economic impact on some small businesses, it will not be significant due to the small

dollar amount provided by NDEP that contributes to a small percentage of total revenue that is reduced even further when distributed amongst multiple newspapers.

- (b) Public. The proposed regulation will have no economic impact on the public.
 - (c) Enforcing Agency. The NDEP programs associated with this amendment cumulatively spent an average of approximately \$10,545 annually between SFY 2017 and 2018 on publication of public notices in newspapers. Since the proposed regulations remove the requirements for publishing public notices in newspapers for various actions, the NDEP will no longer incur those expenses. Labor savings associated with these activities will be directed to other needs.
6. The proposed amendments do not overlap, duplicate or conflict with any regulations of other government agencies. Importantly, the proposed amendments are in direct alignment with the direction USEPA is taking with its federal regulations. The USEPA has already removed the requirement to publish public notices in newspapers from multiple federal programs, including the Clean Air Act, and is actively working to remove the requirement from additional federal programs, including portions of the Clean Water Act.
 7. The proposed amendments are no more stringent than what is established by federal law.
 8. The proposed amendments do not address fees.