

Form #1

Petition to Adopt, Amend, or Repeal Commission Regulations

Approved 10-3-1995



NEVADA
STATE ENVIRONMENTAL
COMMISSION

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

Name: Jennifer Carr, Deputy Administrator

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Date of Petition: December 30, 2019

Representative capacity and signature of petitioner, authorized individual, officer or attorney:

Jennifer Carr, Deputy Administrator

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:

The Nevada Division of Environmental Protection (NDEP) is a Division of the Department of Conservation and Natural Resources of the State of Nevada.

The NDEP is a regulatory agency tasked with protecting human health and the environment.

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 and 459 establish the authority of the State Environmental Commission to adopt regulations governing three different certification programs administered by the NDEP. These include Drinking Water Operators (NRS 445A), Wastewater Treatment Operators (NRS 445A) and the Certified Environmental Managers, Underground Storage Tank Testers and Underground Storage Tank Handlers certified by the Bureau of Corrective Actions (NRS 459).

The NDEP is proposing to create a new set of regulatory sections to clearly outline the process the agency will follow when implementing existing disciplinary authority and ensure the certified individual subject to the disciplinary action has clear due process and appeal procedures. Additional conforming amendments are included in relevant sections of Nevada Administrative Code (NAC) 445A and 459.

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

Prior disciplinary actions taken by the NDEP revealed the need for a well-defined disciplinary process for certified individuals or those seeking certification. This regulatory petition defines the due process afforded to individuals in the NDEP's three certification programs when the NDEP seeks to implement a disciplinary action. These regulations may be in addition to other civil or criminal proceedings provided by NRS.

When NDEP believes there are sufficient grounds for disciplinary or other action, the agency will issue a Notice of Intent to Take Disciplinary Action to the individual. Such a notice could ultimately result in probation, suspension or revocation of the certification. This proposal sets procedural expectations for both NDEP and the individual as the process unfolds.

5. A statement of the:

(a) Estimated economic effect of the regulation on the business which it is to regulate:

No economic effect on business is anticipated. This proposal is for a clear disciplinary process afforded to individuals certified by the NDEP in three program areas.

(1) Both adverse and beneficial effects:

NA

(2) Both immediate and long-term effects:

NA

(b) Estimated economic effect on the public:

No direct economic effect is anticipated. Tangential benefits are described below.

(1) Both adverse and beneficial effects:

Certified Drinking Water Operators and Certified Wastewater Treatment Operator protect public health and the environment, and the certification programs for Certified Environmental Managers, Certified Underground Storage Tank Handlers and Certified UST Testers are all related to consumer protection and environmental protection. Persons seeking services from these individuals receive an unquantified benefit from NDEP's oversight and enforcement.

(2) Both immediate and long-term effects:

NA

(c) Estimated cost by the agency for enforcement of the proposed regulation:

No change in current costs is expected. The additional time invested in the disciplinary process will be absorbed by existing staff. Disciplinary actions are very infrequent.

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 regulation does not duplicate or overlap with other State regulations for NDEP's certification program.

Other civil penalties, administrative fines, and pursuit of criminal proceedings are provided for in Statute when Laws and Regulations are violated under the Public Water Systems Law, the Water Pollution Control Law or the Hazardous Materials Law. The NDEP may need to take action against a person or regulated entity when a poor decision by a certified individual results in an impact to human health or the environment. However, those Statutes are separate from the grounds for disciplinary action included in existing regulation for these certification programs. The clear due process afforded the individual under this proposed regulation would apply to the individual's certification itself.

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 regulation is not required by federal regulation.

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 regulation does not address fees.

Supporting Documents



When submitting this form, attach a second document to your email with your proposed regulatory language. Include other supporting documents as needed.