



# STATE OF NEVADA

Department of Conservation & Natural Resources

Brian Sandoval, Governor

Leo M. Drozdoff, P.E., Director

DIVISION OF ENVIRONMENTAL PROTECTION

Colleen Cripps, Ph.D., Administrator

December 16, 2014

To: County Planning Departments  
Nevada League of Cities Representatives

**Re.: Proposed Amendments to NAC 278 – Subdivision of Land  
Optional Change in Process for Submittal of Civil Improvement Plans and Final Maps**

The Nevada Division of Environmental Protection (NDEP) Bureau of Safe Drinking Water (BSDW) has been working at the behest of the Washoe County Health District and The Builders Association of Northern Nevada to propose amendments to Nevada Administrative Code (NAC) Section 278 pertaining to Subdivision of Land. A draft of the proposed regulation amendment is attached. Also attached is the informational background on the proposal, identified as State Environmental Commission Form #1.

A Public Workshop was held on Tuesday, November 18, 2014 at 2:00 pm in Carson City with videoconference to Las Vegas. Notice of the Workshop was sent to a mailing list of contacts for Public Water Systems serving > 5,000 people, Engineering companies, and 27 public libraries. Workshop PowerPoint materials can be viewed on line ([http://ndep.nv.gov/bsdw/regulation\\_amendments.htm](http://ndep.nv.gov/bsdw/regulation_amendments.htm)).

Comment was received in late November from a local planning department with concern about the potential public health impacts of early grading (prior to Subdivision Final Map approval) if development projects fail to be completed. The concern expressed caused the NDEP to remove the proposed regulation from the December 3, 2014 State Environmental Commission agenda to allow additional discussion to be had among local land planners, builders, developers and regulating agencies. A meeting will be coordinated for early January. If you are interested in participating, please contact the undersigned as soon as possible.

The NDEP intends for the regulation to be heard at the February 11, 2015 State Environmental Commission hearing. If you have any questions or concerns, please do not hesitate to contact the undersigned at 775-687-9515 or Mr. Jim Balderson, NDEP-BSDW Engineering Branch Supervisor, at 775-687-9517.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer L. Carr".

Jennifer L. Carr, PE, CEM, CPM  
Chief, Bureau of Safe Drinking Water

To:

Carson City Planning Division  
Churchill County Planning Department  
Clark County Comprehensive Planning  
Douglas County Planning Commission  
Elko County Planning and Zoning  
Esmeralda County Commissioners  
Eureka County Planning Commission  
Humboldt Regional Planning Department  
Lander County Planning and Zoning  
Lincoln County Planning and Zoning Department  
Lyon County Planning Department  
Mineral County Public Works  
Nye County Planning  
Pershing County Planning and Building  
Storey County Planning Department c/o Storey County Courthouse  
Washoe County Planning and Development Division  
White Pine County Planning Commission

Boulder City  
Caliente  
Carlin  
Elko  
Ely  
Fallon  
Fernley  
Gardnerville  
Gardnerville Ranchos GID  
Henderson  
Incline Village GID  
Indian Hills GID  
Kingsbury GID  
Las Vegas  
Lovelock  
Mesquite  
North Las Vegas  
Pahrump  
Reno  
Sparks  
Wells  
West Wendover  
Winnemucca  
Yerington

**PROPOSED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

*Updated December 15, 2014*

**P2014-11**

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: NRS 439.150, 439.200, 445A.855, and 445A.860.

**Section 1.** NAC 278.290 is hereby amended to read as follows:

NAC 278.290 When a developer submits a final map of his or her subdivision for review, the developer must also provide a complete plan showing the systems of water supply and sewage disposal for the area to be developed. *If improvement plans were approved by the Division or local agency prior to final map submittal, the developer shall provide certification by the Professional Engineer of record that the improvement plans were not altered subsequent to approval. Any changes to approved improvement plans require re-submittal for review and approval by the Division or local agency with clear indication on the plans regarding all changes.*

**Sec. 2.** NAC 278.330 is hereby amended to read as follows:

NAC 278.330 1. The Division or local agency shall review and either approve or disapprove the plans for improvements shown on the final map ~~[and]~~ *or* related *improvement* plans within 30 days after receipt of the map ~~[and]~~ *or* plans.

2. The Division or local agency shall give written notice of its approval or disapproval to the developer. If the Division or local agency disapproves the map or plans, its notice must include the reasons for its action.

3. If the developer fails to record an approved final map within the time allowed by NRS 278.360, the developer must resubmit a tentative map through the governing body to the Division or local agency for its review and approval.

**Sec. 3.** NAC 278.340 is hereby amended to read as follows:

NAC 278.340 *1.* The developer shall not perform any *clearing, grubbing or grading* ~~construction~~ on the site of a subdivision, except that necessary to evaluate the subdivision, until the Division or local agency approves the *improvement plans, and the developer demonstrates that the requirements of NAC 278.390 to NAC 278.480, inclusive, have been met, except for:*

*a. The demonstration of capacity to meet demand for water, if a public water system is to be used for the subdivision, as required by NAC 278.400.1(b); and*

*b. The written commitment for connection to an existing system of community sewerage, as required by NAC 278.430.*

*2. The developer shall not perform construction of improvements on the site of a subdivision until the final map is approved with demonstration of the water and sewer service commitments in subsection 1 of this part, as applicable.*

**Sec. 4.** NAC 278.390 is hereby amended to read as follows:

NAC 278.390 Analyses of water quality may be performed in the State Public Health Laboratory, or any other laboratory certified by the ~~State Health Officer~~ *Division*, upon the developer's submission of an adequately identified sample consisting of ~~1 gallon of water~~ *a volume of water necessary to conduct drinking water quality analyses, in sample containers appropriate for the analyses.*

**Sec. 5.** NAC 278.490 is hereby amended to read as follows:

NAC 278.490 The following fees are prescribed for services performed by the Division:

For reviewing a tentative map..... \$400

Plus \$3 for each building lot shown on the map.

*For reviewing improvement plans*..... **300**

For reviewing a final map..... ~~400~~**100**

Plus \$3 for each building lot shown on the final map.

For a preliminary evaluation of a plant for water treatment for a subdivision,  
an additional fee of..... **50**

For requesting and considering information which the subdivider has failed to  
submit in accordance with [NAC 278.260](#) to [278.370](#), inclusive, each request **100**

**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.

###