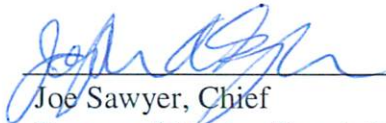


FORM # 1

**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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February 20, 2018

  
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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 Statute (NRS) 519A.160 establishes the authority of the State Environmental Commission (SEC) to adopt regulations as necessary to enable the Division to carry out provisions of NRS 519A.010 to 519A.280, inclusive, and declares that proper reclamation of mined land, areas of exploration, and former areas of mining or exploration is necessary to prevent undesirable land and surface water conditions detrimental to the ecology and to the general health, welfare, safety, and property rights of the residents of this state.

**SPECIFIC CHANGES:**

The amendments propose to:

- Sec. 1, 3, 5. Revise the small miner regulations to allow for bonding of mining activities on sites that are under five acres on private land that use chemicals and/or have underground mines. This protects both the environment and public health from potential chemical and physical hazards. These revisions also clarify affected lands for reclamation permitting purposes.
- Sec. 2. Add renewable energy development and storage as an option to the definition of “productive postmining use of the land”
- Sec. 4. Remove the requirement to provide public notice of a draft permit and other actions through publication in a newspaper and replace them with a requirement for e-notice.

4. **NEED FOR AND PURPOSE:**

These amendments will significantly improve communication with the public on permit and other actions by allowing for information to be made available for an extended time period

on a dedicated website in comparison to a one-day newspaper notice, which will result in broader and better informed public participation. Public access will be improved by making actions immediately available through convenient and reliable electronic media outlets. E-notice 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 financial resources currently being spent by the NDEP will be more efficiently used by removing the public notice newspaper requirements.

Since 2011 there have been six mine facilities which utilized chemicals and were recognized under the existing small miner exemption on private land. Under current regulations there was no posted surety bond required for site reclamation. In three of the cases the mine operator abandoned the site and the underlying landowner became liable for the chemical removal and the site's reclamation and closure costs. Often the underlying landowner is not a miner and may not have the financial resources to clean up the site. In a fourth case the Small mine operator abandoned the property and left five underground openings without proper safe guards. These mine openings can present safety hazards to the public and wildlife. The bonding costs for four small mine facilities were estimated to be in the range of \$10,000 to \$55,000. The proposed regulation change would provide surety bonding for the closure of underground workings and safe removal of process chemicals, on private lands where the overall site disturbance is under the five acre threshold for any projects issued permits after September 1, 2018.

Renewable energy options for development and storage can be considered as long term goals at mining projects where site conditions are amenable to such facilities as a productive post mining land use. This change was requested by the Nature Conservancy, and the NDEP agrees with this proposal.

5. ECONOMIC EFFECTS:

(a) Regulated Business/Industry.

The NDEP reclamation 519A program spent an average of \$865 annually between 2015 and 2017 on publication of public notices in newspapers. These notices are spread throughout the State and are run one time in a paper that is nearest the project. Since the proposed regulations remove the requirements for publishing public notices in newspapers for permitting actions, the newspaper industry will no longer be receiving those funds from the NDEP. The proposed amendments will have no adverse economic impact on regulated businesses; a benefit is that it will shorten permitting time by one to three weeks, which can make an economic difference to the regulated industry with respect to getting the project production started sooner.

The regulation requiring bonding for sites under five acres that have chemical facilities and/or underground workings may result in operators of these facilities having to pay for additional bond costs. This would apply to operators that did not have capital available for bonding and would have to seek bonding through a financial institution or the Division of Minerals Bond Pool. The Bond Pool program was designed to reduce the financial burden of, and time-frame for, obtaining a reclamation bond for a small operation. For bonds under \$10,000 the premium is 3% of the bond amount. For bonds

between \$10,000 and \$3,000,000 the premium is 10% to 5% at the cap. This would apply where projects are on private land. The Bureau of Land Management and U.S. Forest Service already require project bonding for all mining and chemical processing disturbance activities on public lands.

Reclamation is required for sites under five acres and by removing the exemption from bonding for sites that have chemical facilities and/or underground operations the bonding will insure that the work is completed for the protection of waters of the State and public safety.

There are no adverse effects to the mining industry anticipated for the proposed regulation changes, with the exception of bonding costs discussed above. Clear and concise regulations assist mining companies in their determination to invest in mining in Nevada by allowing them to determine the outcome of their mining projects with the knowledge of what is expected of them to comply and protect waters of the state.

The beneficial effects are the bonding will insure that the required reclamation work is completed for protection of waters of the State and public safety. Immediate effects will be in improved understanding of the expectations from the NDEP. In particular a greater industry understanding of the requirement to reclaim mining activities that occur under five acres where there is a potential to degrade waters of the State or leave public safety issues following cessation of underground mining or chemical processing.

(b) Public.

The proposed regulation will have no economic impact on the public.

These proposed regulations would minimize the potential for the public to bear the cost of cleanup on a private land mine facility under five acres that could be left unreclaimed. There would be no adverse effect on the public. Benefits include that waters of the State will be protected and public hazards from underground workings on facilities under five acres on private lands will be managed appropriately.

(c) Enforcing Agency.

The NDEP spent in addition to labor costs an average of \$865 annually between 2016 and 2017 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.

6. The proposed amendments do not overlap any other State or federal regulations. The Bureau of Land Management currently requires notice level bonding on mining facilities on public lands under five acres. This revision will affect mining facilities on private land only.
7. The proposed amendments are no more stringent than what is established by federal law.
8. The proposed amendments do not revise any fees already in regulation.