


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

Form #1

1. Division of Environmental Protection
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July 1, 2015



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2. The Division of Environmental Protection (Division) is an agency of the Department of Conservation and Natural Resources of the State of Nevada. The Division is an environmental regulatory agency.
3. Nevada Revised Statute (NRS) 519A.160 establishes the authority of the State Environmental Commission (SEC) to adopt regulations 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:

Chapter 519A of the Nevada Administrative Code (NAC) is amended to include a new section defining “mine impacted waters”. NAC 519A.270 and NAC 519A.345 are revised to require a reclamation plan to describe the measures that may be required to stabilize, manage, control, or treat mine impacted waters from waste and development rock piles, and open pit and underground mines. NAC 519A.360 is amended to require the costs for stabilization, management, control, and treatment of mine impacted waters to be included in the reclamation project bond, and to provide authority for the Division to bond for long-term fluid management costs such as perpetual treatment of mine impacted waters. Clarification is provided in NAC 519A.350 to include cash deposit as an acceptable reclamation surety.

4. **NEED FOR AND PURPOSE:**
At certain mines within the state, existing drainage or seepage from waste rock storage facilities, open pits and underground mines has the potential to degrade waters of the state or cause adverse effects to the health of human, terrestrial, or avian life. Although statutory

authority for preventing, mitigating, and associated bonding for mine impacted waters is provided in NRS 445A (see NRS 445A.425(1)(a)) and NRS 519A (see 519A.010(1)(b) and 519A.160(4)), the current regulations at NAC 519A do not specifically list mine impacted waters, including contaminated surface water, groundwater, and seepage from waste rock storage facilities, open pits, and underground mines. Mine impacted waters would be defined in NAC 519A to include existing drainage or seepage from the above which have the potential to degrade waters of the state or cause an adverse effect to the health of human, terrestrial, or avian life. If a mining operation had environmental liabilities related to mine impacted waters, proposed revisions to NAC 519A.270 and NAC 519A.345 would require the reclamation plan to include a description and strategy for implementation of the measures necessary to stabilize, manage, control, or treat the mine impacted waters. Proposed revisions to NAC 519A.360 will also specify that: 1) costs associated with reclamation measures appropriate for mine impacted waters be included in the project reclamation bond; and 2) the Division will establish financial guarantee amounts for long-term fluid management costs such as perpetual treatment of mine impacted waters. Although not specifically listed in NAC 519A, the Division has accepted cash deposits as a reclamation surety throughout the life of the mine reclamation program. Proposed revisions to NAC 519A.350 provide clarification that a cash deposit is an acceptable surety to ensure that reclamation will be completed and describe how the cash deposit will be managed by the State Treasurer, including limitations on the interest earned.

5. **ECONOMIC EFFECTS:**

(a) Regulated Business/Industry. These proposed regulations may result in operators of mining operations having to submit a higher reclamation project bond to cover costs associated with stabilization, management, control, or treatment of mine impacted waters. Currently, this would only apply to projects located on private land as the Bureau of Land Management (BLM) has this bonding authority for projects on public lands.

(b) Public. These proposed regulations would have no economic effect on the public.

(c) Enforcing Agency. There is no additional cost to the Division for enforcement of the proposed regulation.

6. The proposed revisions to NAC 519A do not overlap or duplicate any regulations of other state or government agencies. The BLM has authority under 43 CFR 3809 to require bonding for mine impacted waters when the mine project facility or component is located on public land managed by the BLM. The Division does not have similar authority when mine impacted waters are associated with a facility or component located on private land. A cash project bond is accepted by the BLM as a surety to guarantee performance of reclamation obligations when the project is located on public land. The proposed regulation will give the state similar authority to accept a cash bond as a reclamation surety for projects on private land.

7. The proposed revisions are no more stringent than what is established by federal law.

8. The proposed revisions do not address fees.