

FORM # 1

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

1. Nevada Division of Environmental Protection
901 S. Stewart Street, Suite 4001
Carson City, NV 89701
(775) 687-4670
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Michael Elges
Chief, Bureau of Air Pollution Control
(775) 687-9329

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) 445B.210 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to prevent, abate and control air pollution. NRS 445B.300 establishes specific authority of the SEC regarding the ability to charge appropriate fees to pay the expenses of administering NAC Chapter 445B.

SPECIFIC CHANGES:

This regulation amends the Nevada Mercury Air Emissions Control Program (NMCP) (NAC 445B.3611 to 445B.3689), which affects the precious metal mining industry. The changes will:

- For FY 2008, increase the collective annual maintenance fee for all thermal units that emit mercury by an amount sufficient to pay the cost of two full-time staff employed for 6 months of FY 2008 (\$125,000), plus start-up equipment costs (\$32,500). These employees will be responsible for ensuring compliance with the NMCP. The cost will be divided among the total number of thermal units that emit mercury.
 - For FY 2009 and each year thereafter, increase the collective annual maintenance fee by \$250,000 to cover the continuing cost of the two additional employees.
 - Add an inflationary adjustment factor of 2 percent compounded annually.
4. **NEED FOR AND PURPOSE:** These amendments carry out the intent of legislation

passed during the 2007 legislative session. The legislature passed Assembly Bill 115 requiring the SEC to “adopt regulations prescribing the appropriate fee to be imposed on the operator of a mine with the potential to emit mercury, and the schedule for payment of the fee.” The revenue generated is directed to pay the cost of two full-time employees whose responsibilities will include ensuring compliance with the NMCP. The law specifies that the fees will be paid by each operator of a mine with the potential to emit mercury.

The inflation adjustment is being added to make the mercury maintenance fee procedures consistent with the maintenance fee procedures for other stationary sources.

5. ECONOMIC EFFECTS:

(a) Regulated Business/Industry. These amendments will have an economic effect on the regulated industry. Stationary sources that conduct precious metal mining and operate one or more thermal units that emit mercury will share the cost of the increase in annual maintenance fees (see #3 above). The Nevada Mining Association was instrumental in developing this fee structure and supports the arrangement.

(b) Public. These proposed amendments will have no direct economic effect on the public.

(c) Enforcing Agency. There will be additional costs to the agency for compliance and enforcement activities. These additional costs will be covered by the revisions to the fee structure that are being proposed.

6. The proposed regulations do not overlap or duplicate any regulations of other state or government agencies.

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

8. The proposed amendments do address fees.

The cost of hiring two full-time staff employed for 6 months of FY 2008 (\$125,000), plus start-up equipment costs (\$32,500) will be collected in FY 2008. An additional \$250,000 will be collected each year thereafter to continue paying salary for the two new FTEs. These costs will be paid by all stationary sources in Nevada that conduct precious metal mining and operate one or more thermal units that emit mercury (see #4 above).