

# 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: Division of Environmental Protection

Address: 901 S Stewart Street, Suite 4001, Carson City, NV 89701

E-mail Address: ddragoni@ndep.nv.gov

Telephone Number: 775 687 9373

Date of Petition: 6/14/2024

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

Danilo Dragoni – 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 Division of Environmental Protection (Division) is an agency of the Department of Conservation and Natural Resources of the State of Nevada (NDEP). The Division is an environmental regulatory 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:

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, including establishing reasonable fees. The purpose of the proposed amendments is to update the schedule of fee to be deposited in the Trust Fund for Short-Term Fluid Management (Fund) pursuant NAC 519A.392. The original annual fee schedule was approved in 2000, and lasted 3 years. A new schedule of fee is proposed because the balance of the Fund is insufficient to serve its purpose. In addition, language is proposed to clarify the permissible uses of the money in the Fund (including investment), that other forms of money can be received by the Fund (as per NRS 519A.150(4)), and that the proposed fee schedule is suspended during any year if the Fund reaches the target of \$15,000,000. The Division estimates that this will take approximately 10 years.

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

The Fund for Short-Term Fluid Management was established to manage the fluids at defaulting mine sites while the process for forfeiture of the surety, pursuant to NAC 519A.390, is pending. The release of fund following the initiation of forfeiture process can take 6 months or longer, depending, for instance, on which entity holds the bond or if bankruptcy has been filed. Meanwhile, the management of fluids could require immediate action to avoid spills of processing fluids into the ground surface and potentially degrading waters of the state. The original Fund was established in 2000, with the collection for 3 years, and it was never updated for inflation or increase costs for the short-term fluid management. The Division has determined that the Fund is inadequate to support short-term fluid management at today's costs.

The proposed changes allow for the Division to establish funds that are enough to implement short-term fluid management and initiate stabilization of the fluids in the event of multiple mines defaulting. The Division's target is \$15,000,000 in approximately 10 years. NAC 519A.392 also requires that the Funds are reimbursed using the surety that was forfeited, or directly by the operator.

**5. A statement of the:**

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

The proposed regulation will impact all those mining projects that have fluid management stabilization in their reclamation permits and sureties (for example, for the presence at the site of heap leach pads or tailings) or maintain artificial body of water containing chemicals directly associated with the processing of ore (and therefore required to obtain a permit from the Department of Wildlife, as per NRS 502.390). The proposed regulation is requesting that these projects will contribute to the Fund an annual amount equivalent to 1 percent of their current surety estimate for the stabilization of the fluids (for those mine projects that have fluid management stabilization in their surety) and \$5,500 (for those mine projects that do not have fluid management stabilization but have a permit from the Department of Wildlife). The fees will be collected for a period of approximately 10 years, until a new targeted maximum Fund balance of \$15,000,000 is reached.

(1) Both adverse and beneficial effects:

The proposed regulation represents an additional fee to the mining industry. As such, it will increase the overall costs associated with the industry; but it will also guarantee that Nevada has a ready and appropriate Fund in case of sudden and unexpected closure of mining activities and the need to quickly manage fluids at the sites. The expectation is that these additional costs will protect public health and prevent environmental harm, and the costs associated with environmental remediation of a release, which can be much larger than the costs for short term fluid management.

(2) Both immediate and long-term effects:

The immediate effects are associated with the new fees proposed with this regulation, which will take effect upon approval. However, the fee schedule was developed to minimize the impact by allowing for approximately 10 years of collection, which reduces the annual contribution.

Long-term effects, as explained in the section above, will be to have a Fund with appropriate funding to support fluid management at mine sites in case of default.

(b) Estimated economic effect on the public:

No direct economic effect on the public is estimated.

(1) Both adverse and beneficial effects:

No direct economic effect on the public is estimated.

(2) Both immediate and long-term effects:

No direct economic effect on the public is estimated.

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

No costs are estimated for the enforcement of the proposed regulation.

**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 amendments do not overlap with any other State or federal regulations.

**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 amendments are no more stringent than what is established by federal law.

**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 total annual amount expected to be collected is \$13,600,000. The fees will be exclusively deposited into the Trust Fund for Short-Term Fluid Management and used accordingly to NAC 519A.392

### Supporting Documents



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