

Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

Legislative Review of Adopted Permanent Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission Permanent No: R145-24P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

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 funds 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 three years, and it was never updated for inflation or increased costs for 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 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.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

The Legislative Counsel Bureau published its draft, R145-24P, in the Nevada Register on September 9, 2024.

The NDEP held one public workshop for R145-24P on April 9, 2026. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada, as well as at the NDEP offices at 375 East Warm Springs Road in Las Vegas, Nevada. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. Seven members of the public and regulated industry attended the workshop either in person or virtually. During and after the public workshop, the Division received one verbal comment:

- 1) Kyle Davis, representing the Nevada Mining Association, thanked the Division for working with the industry and having conversations about how this regulation would work, the impact of it, and the various ways in which it could and could not be used to make sure that a program was put together that will effectively take care of any situation that may occur in the future while minimizing the hardship on existing operators.

A summary of the workshop is included on the NDEP website as well as the SEC website.

The proposed regulations were also distributed to an extensive distribution list maintained by NDEP Bureau of Mining Regulation and Reclamation. In addition, on March 24th, 2026, 2 News Nevada posted an article about the proposed regulation change with links to the posting.

The SEC held a hybrid regulatory hearing on April 30, 2026, to consider possible action on R145-24P. The SEC posted its public notice, which included a link¹ and instructions to access R145-24P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website, and on the SEC website.

The public notice was also published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once per week for three consecutive weeks prior to the SEC regulatory meeting.

3. The number of persons who attended the SEC Regulatory Hearing:

- (a) Attended April 30, 2026, hearing: 45 (approximately)
- (b) Testified on this petition at the hearing: 3

1. Danilo Dragoni, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
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2. Ashley Taylor, on behalf of the Nevada Division of Environmental Protection
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3. Kyle Davis, representing the Nevada Mining Association

¹ <https://sec.nv.gov/meetings/sec-meeting-april-30-2026>

(c) Submitted to the agency written comments: None

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through one public workshop and during the April 30, 2026, SEC hearing as noted in number 2 above. There was one verbal comment received regarding the regulatory amendments during the April 30, 2026, SEC meeting: Mr. Kyle Davis, representing the Nevada Mining Association, spoke briefly in support of the proposed regulations.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Commissioners unanimously adopted R145-24P with NDEP-proposed changes because the SEC was satisfied with the proposed regulation and the proposed edits to the LCB draft.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry:

The proposed regulations will directly impact small businesses. The proposed regulation will impact mining projects that have fluid management stabilization included in their reclamation permits and sureties (for example, for the presence at the site of heap leach pads or tailings). This includes small businesses. The proposed regulation is requesting that these projects contribute to the Fund an annual amount equivalent to 0.45 percent of their current surety estimate for the stabilization of the fluids, for those mine projects that have fluid management stabilization in their sureties. The payments will be collected until a new targeted maximum Fund balance of \$10,000,000 is reached, which the Division estimates this will take approximately 12 to 15 years.

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). The proposed regulation is requesting that these projects will contribute to the Fund an annual amount equivalent to 0.45 percent of their current surety estimate for the stabilization of the fluids (for those mine projects that have fluid management stabilization in their surety). The payments will be collected for a period of between 12 and 15 years, until a new targeted maximum Fund balance of \$10,000,000 is reached.

The proposed regulation represents an additional payment 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.

The immediate effects are associated with the new payments proposed with this regulation, which will take effect upon approval. However, the payment schedule was developed to minimize the impact by allowing for approximately 12 to 15 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

Public:

No direct economic effect is expected on the public, either adverse or beneficial, in the short or long term.

7. The estimated cost to the agency for enforcement of the adopted regulation.

Enforcing Agency.

No costs are estimated for the enforcement of the proposed regulation

8. 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.

The proposed regulations do not overlap or duplicate other State or Federal Regulations.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The proposed regulations are not more stringent than federal regulations.

10. 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 approximately \$378,000 to \$678,000 (depending on inflation and increase in fluid management costs across the 12-15 years). The payments will be exclusively deposited into the Trust Fund for Short-Term Fluid Management and used according to NAC 519A.392.