

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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3/8/18

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) 445A.425 establishes the authority of the State Environmental Commission (SEC) to adopt regulations as necessary to enable the division to carry out provisions of NRS 445A.300 to 445A.730, inclusive, including standards of water quality and amounts of waste which may be discharged into the waters of the State.

SPECIFIC CHANGES:

The NDEP amendments propose to:

- Sec. 1. Correct the definition for what is a "Facility" the current regulation includes a typographical error for the word "ore".
- Sec. 2. Adds a definition for the word "mitigation or mitigated".
- Sec. 3. Revises the definition of "Permanent Closure".
- Sec. 4. Updates the definition of "WAD cyanide".
- Sec. 5. Adds a definition for the term "Waste Rock".
- Sec. 6, 10, 11, 12 Removes all regulations related to pilot testing due to their ineffectiveness and lack of use in permitting mining facilities.
- Sec. 7 Clarifies the requirements for waste rock management plans to be required with permit applications. Also clarifies the use of preliminary conceptual closure plans for initial reclamation bonding.
- Sec. 8. Replaces the requirement to provide public notice of a draft permit and other Actions through publication in a newspaper with a requirement for e-notice.
- Sec. 9. Clarifies when a closure permit can be terminated.
- Sec. 13, 17. Revises physical separation regulations to provide a clear distinction from

chemical processing facilities and simplifies material characterization requirements for physical separation facilities.

- Sec. 14, 15. Include the term “Engineering Design Change” in order to clarify the type of modification referenced in regulation.
- Sec. 16. Revises the limitations on degradation of water. This regulation change clarifies that a facility will not be held accountable for exceeding a drinking water standard if the exceedance is due to a naturally elevated background concentration.
- Sec. 18, 19, 21. Revisions to regulations related to the oversight of mines during project closure planning and through the ultimate site closure process to improve the ability to protect waters of the State for the long term.
- Sec. 20. Revises provisions to permit the Division to take certain actions to prevent degradation of waters of the State when planned or unplanned temporary closure is not appropriately managing process fluids.

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, resources currently being spent by the NDEP will be more efficiently used by removing the public notice newspaper requirements.

It is important to update the mining water pollution control regulations as the program evolves to ensure that waters of the state are protected for the long term.

- Adding and improving definitions aids in the regulatory process and allows the public and regulated community to have a clearer understanding of expectations and requirements.
- Revising and strengthening the physical separation regulations allows for permitting activities to focus on chemical facilities that have a greater potential to degrade waters of the state. Reduced requirements for physical separation facilities that have a low potential to degrade waters of the State is warranted.
- Removing regulations regarding Pilot scale and testing facilities that are not effective allows for staff to focus efforts on those regulations that are necessary to protect waters of the State. Pilot scale mining is not being conducted.
- There is a need to better define the various aspects of closure as well as the need to develop more robust closure planning early in the life of mining facilities. Improved closure planning leads to improved reclamation and closure cost estimate for up front bond determinations to insure that waters of the State are protected for the long term.
- The ability for the Division to act to prevent degradation of waters of the State from improperly managed fluids is vital during planned or unplanned mine closures.

5. ECONOMIC EFFECTS:

(a) Regulated Business/Industry.

The Regulation and Closure Branches 445A programs is projected to spend on average \$5,186 annually on publication of public notices in newspapers. These publication costs are spread among 14 counties and 17 papers throughout the State. The publications run once in the publication that is closest to the facility. 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. This change will benefit regulated business by reducing permitting timeframes by one to three weeks, which can make an economic difference to the regulated industry with respect to getting the project production started sooner. 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 program oversight is a cradle to grave program the begins with exploration and ends with the permanent final closure of a facility. The regulations will allow for a slight reduction in permitting costs for physical separation facilities due to a reduction in site characterization requirements.

(b) Public.

These proposed regulations would have no economic effect on the public beyond the additional assurance that the waters of the State will be protected for both the short and long term.

(c) Enforcing Agency.

The Regulation and Closure Branches 445A programs is projected to spend on average \$5,186 annually 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.
7. The proposed amendments are no more stringent than what is established by federal law.
8. The proposed amendments do not address fees, except for clarifying a term in the fee schedule for an engineering design change modification. The fee remains the same..