

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: _____

Telephone Number: _____

Date of Petition: _____

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

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 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 the standards of water quality and amounts of waste which may be discharged into waters of the state. The primary focus and main purpose of the amendments is to increase permit application fees for water pollution control at mine sites (implemented by the Bureau of Mining Regulation and Reclamation).

SPECIFIC CHANGES:

The NDEP is proposing an amendment to NAC 445A.232 subsection 2 to allow for a comprehensive change to fee structure for the discharge to groundwater from the dewatering of a mine and water pollution control from mining. These activities are regulated by the Regulation and Closure Program (the Program) with the Bureau of Mining Regulation and Reclamation. The amendment seeks to increase and modify the fee categories assessed to align the revenue generated by the permits program with the increasing costs associated with the implementation of the Mining Program. The amendment also seeks to establish an annual 5% increase of these fees.

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

The purpose of the amendments is to increase permit application fees and annual service fees, last updated more than 20 years ago, to account for inflation and ensure the financial viability of the Program and the agency's ability to serve the regulated community and the public effectively, with the addition of three new positions. The increases are necessary to maintain Program viability and adequate staffing. Agency costs have increased due to inflation while fees have remained unchanged. At this time, the Program has been in a revenue short fall for the past 4-5 fiscal years and project that without fee increase, the reserve will be depleted in FY26-27. Staff time and resources necessary to review permit application and maintain existing permits (including inspection and compliance support) have increased substantially due to increased project complexity and modeling in greater detail. In addition, the proposed regulations update the fees to better reflect workload and resources required to implement the Program.

5. A statement of the:

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

The proposed regulation raises application and annual service fees for all regulated mines. However, it also updates the categories used to determine fees. This results in a new redistribution of fees with large, established mines being most impacted by the annual fee increase. For example, a small mine operation permitted to process less than 18,500 tons per year currently pays \$250 in annual fees; regulation change would result in this same operation paying a \$415 annual fee. A large mine operator permitted to process more than 2 million tons annually currently pays \$20,000 in annual fees; regulation change would result in this same operation paying \$33,000 annual fee if processing less than 5 million tons, but up to \$50,000 if processing more than 40 million tons. Additionally, physical separation sites could see a substantial increase in their annual fees since the current annual fee is \$500 annually; regulation change would result in the fee being based on the tonnage processed therefore any physical separation facility that mines more than 18,500 tons per year will have a fee increase. As a result of stakeholders' comments, the regulation was amended to spread the fee increase over 2 years, instead of one, and implement a new set of lower annual and renewal fee increases specifically for operations that use physical separation to extract gold (placer mines). This change reflects more closely the nature and lesser complexity of these operations.

(1) Both adverse and beneficial effects:

The proposed regulations raise fees for all regulated mines. However, the additional funds collected will enable the agency to maintain program viability by ensuring a balanced budget and adequate staffing. The agency anticipates that hiring the additional staff will allow for more efficient permitting that will lead to positive impact to the regulated industry, decrease delays due to insufficient agency resources, and will allow for more detailed reviews of the monitoring reports and spill reports.

(2) Both immediate and long-term effects:

The new fee schedule will be effective on January 1, 2025, for application fees, and July 1, 2025, for annual fees. The proposed regulation also sought to establish a 5% annual increase. The SEC agreed that a 5% annual increase is the proper solution for a more stable and predictable way to manage the budget and avoid sudden increase in fees. However, the SEC removed the 5% annual increase to allow the Division to first develop a strategy to define what constitutes a manageable budget reserve.

(b) Estimated economic effect on the public:

The proposed regulation amendments will have no economic impact on the general public.

(1) Both adverse and beneficial effects:

There are no adverse economic effects to the general public.

(2) Both immediate and long-term effects:

The proposed regulation amendments will have no immediate nor long term economic impact on the general public.

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

The proposed regulation will not result in a direct cost for enforcement of the 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 agency anticipates collecting approximately between \$2,800,000 and \$3,600,000 in application and annual maintenance fees during the first fiscal years on implementation, of which approximately between \$1,000,000 and \$1,800,000 will be because of the proposed fee increase. The agency plans to use these additional funds to ensure the fiscal stability of the Program, and to provide three more positions to improve the Program's efficiency and services to the regulated industry.

Supporting Documents



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