

**FORM 1: FORM FOR PETITIONING THE STATE ENVIRONMENTAL COMMISSION FOR
ADOPTION, FILING AMENDMENTS OR REPEAL OF COMMISSION REGULATIONS**
(Provide attachments as needed)

1. Name, address, telephone number, and signature:

Name: Paul Comba

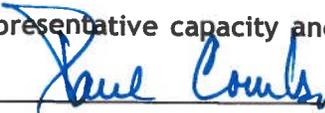
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Date of Petition: July 22, 2019

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 Nevada Division of Environmental Protection (NDEP) is a Division of the Department of Conservation and Natural Resources of the State of Nevada. The NDEP is a regulatory agency tasked with protecting human health and the environment. The Bureau of Water Quality Planning (BWQP) within NDEP is tasked with implementing the Federal requirements of the Clean Water Act for the State of Nevada.

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:

Nevada Revised Statute (NRS) 445A.425 established the authority of the State Environmental Commission to adopt regulations to carry out provisions of NRS 445A.300-445A.730, including standards of water quality and the amounts of waste that may be discharged into waters of the State. The NDEP is proposing to amend Nevada Administrative Code (NAC) 445A.1236, to align with the most current recommended numeric criterion published by the U.S. Environmental Protection Agency (EPA) for selenium to protect the aquatic life beneficial use. The proposed revisions include changes to the toxics table in NAC 445A.1236 and addition of a footnote to the table, and addition of NAC 445A.1237, describing the complex criterion for selenium, which was published by the EPA in June 2016. (See: https://www.epa.gov/sites/production/files/2016-07/documents/aquatic_life_awqc_for_selenium_-_fresh_water_2016.pdf)

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

EPA's regulations for water quality standards at 40 CFR 131.11(a)(1) require states to adopt protective criteria that are based on sound scientific rationale. Nevada's existing water quality criteria for selenium to protect the aquatic life beneficial use are based on EPA criteria published in 1987. Since 1987, EPA identified nearly 30 years of studies with toxicity data related to acute and chronic exposures of aquatic life to selenium, especially related to bioaccumulation of selenium in the food chain. EPA compiled these data to derive the updated 4-part criterion for selenium in 2016 (EPA 2016). Nevada's current criteria for selenium were adopted in 1990, based on EPA's 1987 criteria values. The updated criterion (EPA 2016) accounts for bioaccumulation of selenium in fish tissues and incorporates numeric criterion values for both fish tissue and the water column.

5. A statement of the:

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

The current water quality standards for the most restrictive use (aquatic life) are 5 micrograms per liter ($\mu\text{g/L}$) (chronic) and 20 $\mu\text{g/L}$ (acute) selenium. The proposed revisions decrease these values to 1.9 $\mu\text{g/L}$ (lakes) and 3.9 $\mu\text{g/L}$ (streams), but add values for fish tissue; if the values for tissues are met, then the standard is met, regardless of the water-column values. There is also an option to develop site-specific standards, based on a site-specific study (see Appendix K of EPA, 2016 for details).

(1) Both adverse and beneficial effects:

Beneficial effects include the protection of aquatic life from the harmful effects of selenium. Although selenium is a required trace element in the diet, slightly higher concentrations are toxic, especially to egg-laying vertebrates, such as fish. Grossly deformed embryos are produced when fish are exposed to toxic levels of selenium.

(2) Both immediate and long-term effects:

Immediate effects include identification of waterbodies where selenium may pose a problem to the health and propagation of fish. Long-term effects include actions, if needed, to reduce levels of selenium in the aquatic ecosystems of Nevada, and protect the state's fisheries.

(b) Estimated economic effect on the public:

No significant economic effect is anticipated.

(1) Both adverse and beneficial effects:

No adverse effect on public is expected. Beneficial effects include better protection of aquatic life from the adverse reproductive and teratogenic effects of selenium in egg-laying aquatic life, and the knowledge that Nevada is implementing the most recent science to protect the environment.

(2) Both immediate and long-term effects:

No immediate economic effect is anticipated. Possible long-term economic effect is protecting Nevada's valuable fisheries.

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

No change in current costs is expected.

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 regulation does not duplicate or overlap with any other State 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 regulation is not more stringent than federal regulations. It aligns Nevada's water quality standards for selenium with the most current recommendations of the EPA for protection of aquatic life from the bioaccumulative and toxic effects of selenium. The new values proposed for Nevada have been adjusted to account for the lack of sturgeon (the most-sensitive species) and related species in Nevada. This adjustment resulted in proposed values for selenium in Nevada's waters that are slightly less stringent than national recommended values. States are required to review water quality standards at least once every three years and, if appropriate, revise or adopt new standards (CWA section 303(c)(1)) into state regulations.

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 proposed regulation does not provide for fees.