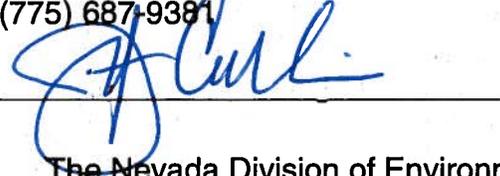


FORM # 1

**FORM FOR PETITIONING THE NEVADA BOARD TO REVIEW CLAIMS FOR
ADOPTION, FILING AMENDMENTS OR REPEAL OF BOARD REGULATIONS**

1. Nevada Division of Environmental Protection
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October 5, 2015

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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 Statutes (NRS) 590.830 establishes the authority of the Nevada Board to Review Claims (Board) to adopt regulations for the investigation and payment of claims against the Fund for Cleaning up Discharges of Petroleum (Fund).

SPECIFIC CHANGES:

NAC 590.710: Modification of the definition of the word "site" to include all businesses that could reasonably be associated with the tank and unity of ownership of such businesses and tank.

NAC 590.760: Modification to increase the corrective action cost for securing not less than three competitive bids from \$3,000.00, as established in 1989, to the current rate, using an inflation calculator. The rate will be identified in Policy Resolution 2001-05 which entails the CEM Cost Guidelines.

NAC 590.774: Housekeeping effort using revised regulation citation.

NAC 590.780: Extend the time from 30 to 60 days for submitting confirmation of payment. If confirmation is received after 60 days, any pending claims will not be approved for reimbursement by the Board until the second meeting following receipt of confirmation.

In addition, pursuant to NAC 590.780.5, an operator must pay its vendors or contractors for costs approved and paid by the Board within 30 days or else

refund the money back to the Fund. NDEP is proposing to amend this citation by eliminating subsequent claims from being approved by the Board until the refund is made. Upon refunding the money to the Fund, all subsequent claims, including the claim associated with the refunded money, may be submitted to the Board for payment.

4. NEED FOR AND PURPOSE:

NAC 590.710: The NDEP is responsible for administering the Petroleum Fund program. NDEP was made aware of an issue regarding the definition of a small business whereby a large company, using the existing definition of the word "site," could argue that it is a small business, and receive the \$50,000 cap on cleanup obligation benefit intended for a small business. The designation of a small business currently includes use of the gross receipts from the "site" where the tank is located. A small business will typically own both the tank(s) and the market on the property. A large business may own only the tank(s) at the "site" and not the market located on the same property. To qualify for the benefits provided to a small business, the business must include the gross annual receipts from the sale of fuel from the tank(s) and the sales from the market, whereas the large business owning just the tank(s) only needs to include the gross annual receipts of the fuel sold at the site. This gives a large business an unfair, and unintended, advantage over a small business. The change in definition of the word "site" requires that the ownership of all businesses that could be reasonably associated with the tanks be included in the definition of the site, which eliminates this issue.

NAC 590.760: The proposed increase for corrective action costs with a value of \$3000.00 to secure not less than three competitive bids is needed to adjust for inflation considerations. The \$3,000.00 was established in 1989 and no longer holds the same value.

NAC 590.774: In addition, during workshops held for program Policy Resolutions, NDEP was made aware that the consultants require more than 30 days for the preparation and submittal of confirmation documentation indicating they have been paid within the required 30 days by the owner/operator. The consultants agreed that 45 to 60 days would be adequate. NDEP is proposing to increase the deadline for submittal of the documentation to 60 days. In addition, if the documentation is not provided within 60 days, NDEP is proposing to hold subsequent claims until the second Board to Review Claims meeting after receiving the documentation to provide a disincentive for failing to comply.

NAC 590.780: Lastly, the regulation currently requires the owner/operator to refund the Fund money if he/she fails to pay the vendors/contractors within 30 days of receiving the Fund money. The proposed amendment to NAC 590.780 provides an incentive for the owner/operator to comply with the requirement to refund the Fund money because subsequent claims will be held until the money is refunded. In addition, and very importantly, the amendment provides a mechanism to retrieve the refunded money. Upon making the refund, all

subsequent claims, including the claim associated with the refund, may be submitted at the next Board meeting for payment. This process is needed to incentivize the owner/operator to pay the vendors/contractors within 30 days of being paid by the Fund.

5. ECONOMIC EFFECTS:

(a) Regulated Business/Industry. The proposed amendments will have a positive economic impact on business and industry. The increase in corrective action costs requiring three competitive bids to be secured will reduce the workload associated with the bid process. The extension of time for submittal of documentation indicating the vendors/contractors were paid on time will reduce pressure on the environmental consultants. In addition, the delayed Board approval for subsequent claims of owners/operators who do not pay their vendors/contractors on time will provide an incentive to modify that practice so that Fund money will be distributed within the required 30 days.

(b) Public. The proposed amendments are not expected to have an economic effect on the public.

(c) Enforcing Agency. The proposed amendments will have no economic effect on the agency.

6. The proposed amendments do not overlap any other State or Federal regulations.
7. The proposed amendments are not more stringent than what is established by federal law.
8. The proposed amendments do not address fees.

