REVISED PROPOSED REGULATION OF THE

STATE ENVIRONMENTAL COMMISSION

LCB File No. R092-13

December 3, 2013

EXPLANATION – Matter in ***italics*** is new; matter in brackets **[~~omitted material~~]** is material to be omitted.

AUTHORITY: §§1-6, NRS 519A.160.

A REGULATION relating to mining; requiring certain plans for reclamation of an exploration project or mining operation to include a determination concerning whether to allow access to the water level of a pit lake; and providing other matters properly relating thereto.

Section 1. NAC 519A.250 is hereby amended to read as follows:

519A.250 1. An operator may request in writing that the Division grant an exception to the requirements for reclamation for open pits and rock faces which may not be feasible to reclaim.

2. If the operator proves to the satisfaction of the Division that reclamation is not feasible, the Division shall exempt an open pit or rock face from the requirements for reclamation of NAC 519A.010 to 519A.415, inclusive.

3. The Division shall base its determination of the feasibility of reclaiming open pits and rock faces on the technological and economic practicability of achieving a safe and stable condition suitable for a productive postmining land use. The Division shall consider, without limitation, the:

(a) Topography of the site;

(b) Geology and stability of the site;

(c) Time required to complete reclamation;

(d) Consumption of resources required to complete reclamation;

(e) Potential adverse environmental impacts to the quality of the air and water associated with the activities for reclamation; and

(f) Future access to mineral resources.

4. Upon request by the applicant, the return of material to the open pit from which it was extracted shall be considered to be not feasible for the purposes of reclamation.

5. If an open pit or rock face is exempted from reclamation, ***other than a pit lake for which public access is provided in a plan for reclamation pursuant to subsection 3 of NRS 519A.230,*** public safety must be provided for by means other than reclamation, including, but not limited to, restrictions on access to the site or restrictions on the deed to the property.

Sec. 2. NAC 519A.260 is hereby amended to read as follows:

519A.260 When preparing his or her plan for reclamation an applicant must consider:

1. The pre-mining and postmining use of the land;

2. The technical and economic practicability of the proposed techniques for reclamation;

3. ~~[The]~~ ***Except as otherwise provided in NRS 519A.230, the*** effectiveness of the proposed activities for reclamation in ensuring public safety;

4. The annual precipitation of the area and its effect on revegetation and the potential for erosion;

5. The existing and proposed postmining topography in relation to the potential for erosion;

6. The potential for degradation of surface-water or groundwater quality resulting from the proposed activities for reclamation;

7. The visual impact of the reclamation;

8. Any other criteria which may affect the applicability of a particular activity for reclamation, including types of soil and the physical and chemical characteristic of the soil; and

9. Whether the disturbance was created before or after September 19, 1990.

Sec. 3. NAC 519A.265 is hereby amended to read as follows:

519A.265 A plan for reclamation for an exploration project must include:

1. A topographic map or sketch in sufficient detail to allow the Division to locate the area to be explored and determine the potential for adverse effects on surface water which may result from the exploration activities.

2. A description of any land within the project area which was affected by:

(a) A project conducted by a previous operator and which is inactive on the date on which the application for a permit for an exploration project is filed;

(b) The current operator before January 1, 1981, and is inactive on the date on which the application for a permit for an exploration project is filed;

(c) The current operator before January 1, 1981, and is active on the date on which the application for a permit for an exploration project is filed;

(d) The current operator on or after January 1, 1981, but before October 1, 1990, and which is inactive on the date on which the application for a permit for an exploration project is filed; and

(e) The current operator on or after January 1, 1981, but before October 1, 1990, and which is active on the date on which the application for a permit for an exploration project is filed.

3. A description of any land within the project area:

(a) On which the operation is active on or after October 1, 1990; and

(b) Comprising access roads which were created before January 1, 1981.

4. A description of the techniques for prospecting and excavation to be used which will affect the surface.

5. The proposed location and approximate length and width of access roads.

6. A description of the best management practices employed during operation and reclamation to control erosion and minimize the transport and delivery of sediment to surface water, which must be the best management practices described in the *State* ~~[of Nevada]~~ *Handbook of Best Management Practices* or practices equivalent thereto.

7. The estimated amount of acreage that will be disturbed by the project.

8. The anticipated schedule for the project and for reclamation.

9. The proposed use of the areas to be affected if different from the pre-exploration use.

10. The activities for reclamation to be undertaken during and upon completion of the project.

11. The proposed methods to monitor and control noxious weeds as described in NAC 555.010 during reclamation.

12. For a pit lake described in subsection 3 of NRS 519A.230:

(a) Written documentation of the consultation with and the determination of each applicable landowner, including any federal land manager, concerning whether to allow public access to the pit lake; and

(b) If an applicable landowner agrees to allow public access to the pit lake and such access is feasible, a plan for at least one point of public nonmotorized access to the water level of the pit lake when the pit in which the pit lake is located reaches at least 90 percent of its predicted maximum capacity.

Sec. 4. NAC 519A.270 is hereby amended to read as follows:

519A.270 The plan for reclamation for a mining operation must include:

1. A topographic map of the area of the operation depicting:

(a) The boundaries of the area of the operation;

(b) Surface ownership of the land within the area of the operation;

(c) The areas to be affected in sufficient detail so that they can be located from the ground;

(d) The kind of disturbances, including:

(1) Tailings impoundments;

(2) Leach pads;

(3) Waste rock dumps;

(4) Buildings;

(5) Roads; and

(6) All other surface facilities; and

(e) A description of the land within the area of operation which was affected by:

(1) An operation conducted by a previous operator and which is inactive on the date on which the application for a permit for an operation is filed;

(2) The current operator before January 1, 1981, and which is inactive on the date on which the application for a permit for an operation is filed;

(3) The current operator before January 1, 1981, and which is active on the date on which the application for a permit for an operation is filed;

(4) The current operator on or after January 1, 1981, but before October 1, 1990, and which is inactive on the date on which the application for a permit for an operation is filed; and

(5) The current operator on or after January 1, 1981, but before October 1, 1990, and which is active on the date on which the application for a permit for an operation is filed.

2. A description of any land within the area of operation:

(a) On which the operation is active on or after October 1, 1990; and

(b) Comprising access roads which were created before January 1, 1981.

3. The location of any surface water body within one-half-mile down gradient of the operation which may be impacted by excess sedimentation resulting from the mining operations.

4. An estimate of the number of acres affected by each type of disturbance.

5. A proposed productive postmining use of the land.

6. A proposed schedule of the time for initiation and completion of activities for reclamation.

7. The proposed postmining topography.

8. The technical criteria used to determine the final gradient and stability of slopes created or affected by the mining operation.

9. The proposed methods to be used in reclaiming impoundments used during the operation.

10. A statement of any constraints on the estimated time to complete reclamation caused by the residual moisture content or physical or chemical qualities of impoundments.

11. The kinds of access roads and their estimated width and length which will be built and the manner in which they will be reclaimed.

12. A description of the best management practices employed during operation and reclamation to control erosion and minimize the transport and delivery of sediment to surface water, which must be the best management practices described in the *State* ~~[of Nevada]~~ *Handbook of Best Management Practices* or practices equivalent thereto.

13. The proposed revegetation of the land for its postmining land use, including:

(a) A plan for the management of topsoil and growth medium;

(b) A list of each species of vegetation;

(c) The rate of seeding of vegetation;

(d) The type of fertilizer and mulch to be used;

(e) When the planting will occur; and

(f) The proposed methods to monitor and control noxious weeds as described in NAC 555.010 during reclamation.

14. The proposed disposition of:

(a) Buildings;

(b) Equipment;

(c) Piping;

(d) Scrap;

(e) Reagents; and

(f) Any other equipment and materials.

15. A description of any surface facilities such as buildings or roads which will not be reclaimed.

16. A description of any necessary monitoring and maintenance of fences, signs and other structures which will be performed by the operator on the reclaimed land.

17. A description of any reclamation which is necessary because of instream mining.

18. A statement of the effect that the proposed reclamation will have on future mining in the area.

19. A statement setting forth the effect that the proposed reclamation will have on public safety.

20. For a pit lake described in subsection 3 of NRS 519A.230:

(a) Written documentation of the consultation with and the determination of each applicable landowner, including any federal land manager, concerning whether to allow public access to the pit lake; and

(b) If an applicable landowner agrees to allow public access to the pit lake and such access is feasible, a plan for at least one point of public nonmotorized access to the water level of the pit lake when the pit in which the pit lake is located reaches at least 90 percent of its predicted maximum capacity.

Sec. 5. NAC 519A.315 is hereby amended to read as follows:

519A.315 1. ~~[The]~~ ***Except as otherwise provided in NRS 519A.230, the*** abandonment of a site must be conducted in a manner which ensures public safety, encourages techniques to minimize adverse visual effects and establishes a safe and stable condition suitable for the productive postmining use of the land.

2. In selecting appropriate activities for reclamation for a particular site, techniques which minimize adverse visual impact must be considered.

3. As used in this section ~~[, "ensures]~~ ***:***

(a) "Ensures public safety" includes minimizing hazards in areas to which the public may have legal access by, if applicable:

~~[(a)]~~ ***(1)*** Removing or burying structures, equipment, reagents or scrap;

~~[(b)]~~ ***(2)*** Sealing or securing shafts, tunnels and adits pursuant to NAC 513.390;

~~[(c)]~~ ***(3)*** Plugging drill holes;

~~[(d)]~~ ***(4)*** Leaving slopes in a structurally stable condition; and

~~[(e)]~~ ***(5)*** Restricting access to areas which cannot practicably be made safe.

~~[4. As used in this section, "stable]~~

(b) "Stable condition" means a condition that is resistant to excessive erosion and is structurally competent to withstand normal geologic and climatic conditions without significant failure that would be a threat to public safety and the environment.

Sec. 6. NAC 519A.345 is hereby amended to read as follows:

519A.345 The Division may, if appropriate, require an operator of a mining operation to reclaim:

1. Roads and drill pads by:

(a) Recontouring or regrading to round off, cut and fill slopes to the original contour or to approximate the form of the land before its disturbance;

(b) Removing culverts;

(c) Ripping or scarifying the surface;

(d) Constructing water bars;

(e) Revegetation; and

(f) Restoring or stabilizing drainage areas or streambeds.

2. Drill holes from exploration by plugging the holes with the minimum surface plug required pursuant to chapter 534 of NRS.

3. Waste and development rock piles by:

(a) Regrading to round off sharp edges, enhance the stability, reduce susceptibility to erosion and facilitate efforts for revegetation;

(b) Revegetation; and

(c) Diverting runon.

4. Dams for tailings ponds by:

(a) Covering with waste rock, topsoil or growth medium;

(b) Revegetation; and

(c) Rendering the dam incapable of storing any mobile fluid in a quantity which could pose a threat to the stability of the dam or to public safety.

5. Impoundments for tailings by:

(a) Regrading to promote runoff and reduce infiltration;

(b) Covering with waste rock, topsoil or growth medium;

(c) Revegetation;

(d) Process fluid stabilization; and

(e) Diverting runon.

6. Heaps from leaching by:

(a) Regrading to enhance structural stability, promote runoff, reduce infiltration and control erosion;

(b) Covering with waste rock, topsoil or growth medium;

(c) Revegetation;

(d) Process fluid stabilization; and

(e) Diverting runon.

7. Solution ponds, settling ponds and other nontailings impoundments by:

(a) Backfilling and regrading to approximate the natural land form; and

(b) Restoring the regime of the surface water to the regime that existed before the disturbance.

8. Buildings, foundations, facilities, structures and other equipment by:

(a) Demolishing to the level of the foundation and burying the demolished items on the site in conformance with applicable requirements for the disposal of solid waste;

(b) Salvaging and sale;

(c) Disposal off of the site in conformance with applicable requirements for the disposal of solid waste; and

(d) Continuing use in a manner consistent with the postmining land use.

9. Open pit mines by ~~[:]~~ ***, except as otherwise provided in NRS 519A.230:***

(a) Performing activities that will provide for public safety;

(b) Stabilizing pit walls or rock faces where required for public safety;

(c) Constructing and maintaining berms, fences or other means of restricting access;

(d) Creating a lake for recreational use, wildlife or other uses; and

(e) Revegetation.

➥ Reclamation of open pits or rock faces does not require backfilling although backfilling in whole or in part with waste rock from an adjacent mining operation may be encouraged if backfilling is feasible and does not create additional negative environmental impacts.

10. Underground mines by:

(a) Sealing shafts, adits, portals and tunnels to prevent access; and

(b) Constructing and maintaining berms, fences or other means of restricting access.