

**PROPOSED REGULATION OF
THE COMMISSION ON MINERAL RESOURCES**

LCB File No. R127-15

December 3, 2015

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

AUTHORITY: §§1-7, NRS 513.063 and 513.094.

A REGULATION relating to mines; increasing the fee for certain filings; revising provisions related to rating and ranking dangerous conditions; revising requirements for posting warning signs of and securing dangerous conditions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Administrator of the Division of Minerals of the Commission on Mineral Resources to establish by regulation a fee, not to exceed \$4 per claim, to establish a program to: (1) discover dangerous conditions related to mines no longer in operation; (2) rank the danger of the conditions; and (3) identify the owners or other persons responsible for the conditions. (NRS 513.094) **Section 1** of this regulation increases the amount of that fee from \$2.50 to \$4 per claim.

Existing regulations establish a schedule for rating the location of a dangerous condition related to a mine which is no longer in operation. (NAC 513.330) **Section 2** of this regulation provides that the Administrator or his or her representative may under certain circumstances assign a different rating.

Existing regulations require a dangerous condition to be posted with a warning sign mounted on an orange post regardless of the ranking of the danger of the condition. (NAC 513.370) **Section 4** of this regulation requires the warning sign to be posted in a prominent location near the dangerous condition and eliminates the requirement that the warning sign be mounted on an orange post. **Section 4** eliminates the requirement that a warning sign be posted under certain circumstances.

Existing regulations establish a schedule of deadlines by which a person responsible for a dangerous condition is required to secure the condition upon notification of the condition. (NAC 513.380) **Section 5** of this regulation extends the duty to secure a dangerous condition to the owner of the real property on which the condition is located. **Section 5** also adds minimal hazards to the schedule, requiring dangerous conditions ranked as such to be secured within 180 days after the owner or responsible person was notified of the condition.

Existing regulations set forth certain methods by which a dangerous condition must be secured. (NAC 513.390) **Section 6** of this regulation revises the list of methods which are acceptable and requires the owner or responsible person to maintain the structure used to secure the condition. **Section 6** also provides that the Administrator or his or her representative may approve the modification of the method of securing a dangerous condition to accommodate site-specific features or characteristics.

Section 1. NAC 513.315 is hereby amended to read as follows:

513.315 The amount of the additional fee that is imposed on filings pursuant to subsection 1 of NRS 513.094 is ~~100~~ ~~\$2.50~~ \$4 per claim.

Sec. 2. NAC 513.330 is hereby amended to read as follows:

513.330 The location of a dangerous condition must be rated in the following manner:

1. One point must be assigned to a dangerous condition located at least 5 miles from an occupied structure or a public road maintained by some governmental entity.
2. Two points must be assigned to a dangerous condition located between 1 and 5 miles from an occupied structure or a public road maintained by some governmental entity.
3. Three points must be assigned to a dangerous condition located 1/2 to 1 mile, inclusive, from a town.
4. Four points must be assigned to a dangerous condition located not more than 1/2 mile from a town or not more than 1 mile from an occupied structure or a public road maintained by some governmental entity.
5. Five points must be assigned to a dangerous condition located within a town or within 100 feet of an occupied structure or a public road maintained by some governmental entity.

↪ The Administrator or his or her representative may assign a different rating to a dangerous condition in a location if other factors affecting accessibility warrant the modification, but the rating for a dangerous condition in a single location may not be scored higher than five points.

Sec. 3. NAC 513.360 is hereby amended to read as follows:

513.360 Dangerous conditions must be ~~rated~~ *ranked* as follows:

1. A dangerous condition with a total number of 2 or 3 points is a minimal hazard;
2. A dangerous condition with a total number of 4 or 5 points is a low hazard;
3. A dangerous condition with a total number of 6 or 7 points is a moderate hazard; and
4. A dangerous condition with a total number of at least 8 points is a high hazard.

Sec. 4. NAC 513.370 is hereby amended to read as follows:

513.370 ~~A~~

1. Except as otherwise provided in subsection 2, a dangerous condition regardless of its ranking must be posted with a warning sign ~~mounted on an orange post.~~ in a prominent location near the dangerous condition. The sign must be posted within 30 days after the *owner or* responsible person is notified by the county sheriff of the existence of the *dangerous* condition.

2. A warning sign is not required to be posted near a dangerous condition that is ranked as a low, moderate or high hazard if the dangerous condition is secured in the manner prescribed in paragraph (b) or (c) of subsection 1 of NAC 513.390.

Sec. 5. NAC 513.380 is hereby amended to read as follows:

513.380 Upon notification of the existence of a dangerous condition, the *owner or* responsible person shall:

1. Secure within 180 days a dangerous condition ~~rated~~ *ranked* as a *minimal or* low hazard;
 2. Secure within 120 days a dangerous condition ~~rated~~ *ranked* as a moderate hazard; and
 3. Secure within 60 days a dangerous condition ~~rated~~ *ranked* as a high hazard,
- ↪ in the manner prescribed in NAC 513.390.

Sec. 6. NAC 513.390 is hereby amended to read as follows:

513.390 ~~{A}~~

1. Except as otherwise provided in subsection 3, a dangerous condition ranked as a low, moderate or high hazard must be secured by one or more of the following:

~~{1.}~~ (a) A barricade ~~{made of wood, metal or plastic, set in place in a solid manner with an orange warning sign attached.}~~

~~—2.— A fence}~~ *or other structure, including, without limitation, a structure consisting of metal posts and four strands of barbed wire, or other durable materials,* constructed to prevent a person or animal from accidentally exposing himself or herself to the dangerous condition.

~~{3.}~~ (b) Permanently anchored seals constructed of material not subject to rapid decomposition and, if used to secure a vertical opening, strong enough to support the weight of any person or animal.

~~{4.}~~ (c) Backfilling so that no void spaces remain.

2. Regardless of the method used pursuant to subsection 1 to secure a dangerous condition, the owner or responsible person shall maintain the integrity of that structure.

3. The Administrator or his or her representative may approve the modification of a method of securing a dangerous condition to accommodate features or characteristics that are specific to the location of the dangerous condition.

Sec. 7. NAC 513.260 is hereby repealed.

TEXT OF REPEALED SECTION

513.260 “Fence” defined. (NRS 513.094) “Fence” has the meaning ascribed to it in subsection 5 of NRS 207.200.