

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R145-24

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

AUTHORITY: § 1, NRS 519A.160.

A REGULATION relating to reclamation; requiring certain mining operators to pay additional surety relating to reclamation on an annual basis; revising provisions relating to the Trust Fund for Short-Term Fluid Management; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person who wishes to engage in an exploration project or mining operation in this State to agree to assume responsibility for the reclamation of any land damaged as a result of the exploration project or mining operation and file with the Division of Environmental Protection of the State Department of Conservation and Natural Resources a bond or other surety. (NRS 519A.190, 519A.210) Existing law requires the State Environmental Commission to adopt regulations providing for the holding of such reclamation performance bonds or other surety. (NRS 519A.160) Existing regulations: (1) set forth the form and amount of the surety an operator of an exploration project or mining operation must provide based upon certain criteria relating to the plan of reclamation; and (2) require an operator of a mining operation that is required to hold a permit with the Department of Wildlife to develop or maintain certain bodies of water to pay additional surety to the Division by October 1, 2000, and April 15, 2001, in certain amounts based on the total amount of the surety the operator was required to provide. (NAC 519A.350, 519A.360, 519A.392) This regulation removes the existing requirements for the additional surety as the deadlines have passed and instead requires an operator of a mining operation whose plan for reclamation and surety includes short-term fluid management, upon commencement of construction of the mining operation, to submit to the Division on an annual basis an additional surety in an amount equal to 0.45 percent of the total amount of the surety included for short-term fluid management that the operator was previously required to provide.

This regulation further requires the Division to: (1) terminate the payment of the additional surety if the amount of the Trust Fund for Short-Term Fluid Management exceeds \$10,000,000; and (2) post notice of the termination on the Internet website of the Division.

Existing law authorizes the Division to receive federal, state and other money and use that money to carry out certain provisions of existing law relating to reclamation. (NRS 519A.150) Existing regulations require the Division to establish the Trust Fund for Short-Term Fluid Management, in which the Division deposits the additional surety required for certain operators of a mining operation. (NAC 519A.392) This regulation authorizes the Division to request that the State Treasurer: (1) deposit the federal, state and other money into the Trust Fund; and (2) make authorized investments of not more than 50 percent of the money in the Trust Fund.

Section 1. NAC 519A.392 is hereby amended to read as follows:

1. In addition to the surety required pursuant to NAC 519A.350 ~~{}~~ *and except as otherwise provided in subsection 4*, on or before ~~{October 1, 2000,}~~ *April 15, 2027, and on an annual basis thereafter*, an operator of a mining operation ~~{that is required to hold a permit from the Department of Wildlife pursuant to NRS 502.390 shall submit to the Division:~~
 - ~~—(a) Thirty-six thousand dollars if the total amount of~~ *whose plan for reclamation and* surety ~~{the operator is required to provide pursuant to NAC 519A.360 is more than \$35,000,000 as of the date the operator submits the money;~~
 - ~~—(b) Twenty-four thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$7,000,000 but less than or equal to \$35,000,000 as of the date the operator submits the money;~~
 - ~~—(c) Six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$1,000,000 but less than or equal to \$7,000,000 as of the date the operator submits the money; or~~
 - ~~—(d) One thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is less than or equal to \$1,000,000 as of the date the operator submits the money.~~

~~—2.— In addition to the surety required pursuant to NAC 519A.350 and the payment required pursuant to subsection 1, on or before April 15, 2001, an operator of a mining operation that is required to hold a permit from the Department of Wildlife pursuant to NRS 502.390} **includes short-term fluid management** shall , **upon commencing construction of the mining operation,** submit to the Division ‡:~~

~~—(a) Thirty-six thousand dollars if the total} **an** amount {of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$35,000,000 as of the date the operator submits the money;~~

~~—(b) Twenty-four thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$7,000,000 but less than or} equal to { \$35,000,000 as of the date the operator submits the money;~~

~~—(c) Six thousand dollars if} **0.45 percent of** the total amount of **the** surety **intended for short-term fluid management that** the operator is required to provide pursuant to NAC 519A.360 . {is more than \$1,000,000 but less than or equal to \$7,000,000 as of the date the operator submits the money; or~~

~~—(d) One thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is less than or equal to \$1,000,000 as of the date the operator submits the money.~~

~~—3.— In addition to the surety required pursuant to NAC 519A.350 and the payments required pursuant to subsections 1 and 2, on or before April 15, 2002, an operator of a mining operation that is required to hold a permit from the Department of Wildlife pursuant to NRS 502.390 shall submit to the Division:~~

~~—(a) Thirty-six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$35,000,000 as of the date the operator submits the money;~~

~~—(b) Twenty-four thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$7,000,000 but less than or equal to \$35,000,000 as of the date the operator submits the money;~~

~~—(c) Six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$1,000,000 but less than or equal to \$7,000,000 as of the date the operator submits the money; or~~

~~—(d) One thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is less than or equal to \$1,000,000 as of the date the operator submits the money.~~

~~—4.} 2.~~ The Division shall:

(a) Establish the Trust Fund for Short-Term Fluid Management;

(b) Deposit money collected pursuant to this section in the Trust Fund;

(c) Credit all interest *and income* earned on the money in the Trust Fund to the Trust Fund;

(d) Use the money in the Trust Fund ~~{only for the management of}~~ *to stabilize process fluids or prevent, control or treat a discharge of process fluids* at a *mine* site ~~{while the}~~ *until:*

(1) The process for forfeiture of a surety pursuant to NAC 519A.390 is ~~{pending;}~~ complete and the proceeds of the surety will be used to pay for process fluid management, stabilization, control or treatment; or

(2) The Division issues or reinstates the permit required pursuant to NRS 519A.200 to the operator or its successor to conduct activities at the mining operation; and

(e) ~~After the conclusion of the process for forfeiture of a surety pursuant to NAC 519A.390, if the surety was forfeited,~~ On or before December 31 of each year, prepare and post on the Internet website of the Division an annual report which must include, without limitation, the current balance of the Trust Fund.

3. The Division may request that the State Treasurer:

(a) Deposit money collected pursuant to subsection 4 of NRS 519A.150 in the Trust Fund for Short-Term Fluid Management; and

(b) Make authorized investments with not more than 50 percent of money deposited in the Trust Fund pursuant to this section.

4. If the amount of money in the Trust Fund for Short-Term Fluid Management is more than \$10,000,000, the Division shall terminate the additional surety required pursuant to subsection 1. If the Division terminates the surety pursuant to this subsection, the Division:

(a) Shall post notice of the termination on the Internet website of the Division; and

(b) Shall not require an operator to submit the additional surety required pursuant to subsection 1 until such time as the Commission reinstates the additional surety by regulation pursuant to chapter 233B of NRS.

5. An operator must reimburse the Trust Fund ~~with the surety that was forfeited,~~ for Short-Term Fluid Management before a permit may be reinstated or transferred. Such reimbursement must be in an amount equal to the total amount of money used from the Trust Fund at the site ~~for which~~ and may be paid with the surety that was forfeited.

~~5.1~~ 6. An operator that operates more than one mining operation in this State may combine the amount of surety *for short-term fluid management* required pursuant to NAC 519A.360 for each site to determine the total amount of surety the operator is required to provide pursuant to NAC 519A.360 for purposes of determining the amount of money to submit pursuant to this section.