

LCB File No. R020-02

PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

NOTICE OF PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing beginning at **9:30 a.m. on Friday, March 8, 2002, at the Nevada Division of Wildlife's Conference Room B, 1100 Valley Road, Reno, Nevada.**

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission.

1. Petition 2002-05 is a permanent amendment to NAC 445B.400 to 445B.774, the vehicle emission control program. Amendments are proposed for NAC 445B.575, devices to control pollution; 445B.5815, the inspection of vehicle: certified on-board diagnostic systems and 445B.6115, the exemption of vehicle from certain provisions. NAC 445B.51815 is amended to remove the limitation on applicability of the on-board diagnostic systems for counties with a population of more than 400,000. The restrictive trigger for effectuating the implementation of on-board diagnostic systems is removed from NAC 445B.575 and 445B.5815. An effective date of March 1, 2002 for implementation of on-board diagnostics is established for Clark and Washoe Counties.

The Nevada Department of Motor Vehicles has already moved forward with implementing the on-board diagnostic II testing at the state's smog check inspection stations. The estimated short-term impact is approximately \$12,950 per station. There are approximately 400 stations in Clark and Washoe County for a cumulative cost of about \$5,000,000. The inspection stations have already incurred these costs. This investment cost will offset the existing tailpipe testing, reducing the long-term emission testing equipment maintenance costs. The proposed amendments are not expected to have any economic short or long-term adverse impact upon the public. The implementation of the proposed regulation is not expected to result in any additional cost by the Division of Environmental Protection for enforcement. There are no other state or government agency regulations that the proposed amendments duplicate. The regulation implements U.S. EPA final rules of May 8, 1998 (Federal Register Volume 63, No. 85, pp. 24429-24434) and April 5, 2001 (Federal Register Volume 66, No. 66, pp. 18156-18179) for Inspection/Maintenance Program Requirement for On-Board Diagnostic Checks. The amendment is no more stringent than federal requirements. This regulation does not provide for any new or increased fees.

2. Petition 2002-06 is a permanent amendment to NAC 519A.120 to 519A.240, the mining reclamation program. The amendments are to 519A.225, fees for application of permit; 519A.230, submission of fee if permit not issued; 519A.235, annual submission of fees for services by division and 519A.240, time for submission of fees for new exploration projects and mining operations. The proposed fees are to be effective April 15, 2002.

The proposed regulation increases fees for mining reclamation permits. The regulation will increase permit costs for the mining industry. The fees will allow a continued level of service for

timely review and approval of permit decisions. The fees will also allow for sustained coordination with federal agencies (the BLM and U.S. Forest Service) also involved in mining reclamation. The proposed amendments are not expected to have any economic short or long-term adverse impact upon the public. The implementation of the proposed regulation is not expected to result in any additional cost by the Division of Environmental Protection for enforcement. There are no other state or government agency regulations that the proposed amendments duplicate. This regulation is no more restrictive or stringent than federal requirements. This regulation provides for increased fees for mining reclamation permits. It is projected that the fees collected will be annually about \$ 438,100. The expenditures cover the cost for administration and enforcement of mining reclamation regulations. The fee supports 6.5 positions including costs for salaries and benefits, travel, training, equipment, operating, information services and indirect costs.

Pursuant to NRS 233B.0603 the provisions of NRS 233B.064 (2) are hereby provided:

"Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporation therein its reason for overruling the consideration urged against its adoption."

Persons wishing to comment on the proposed regulation changes may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Carson City, Nevada 89706-0851. Written submissions must be received at least five days before the scheduled public hearing.

A copy of the regulations to be adopted or amended will be on file at the State Library and Archives, 100 Stewart Street and the Division of Environmental Protection, 333 West Nye Lane - Room 104, in Carson City and at the Division of Environmental Protection, 1771 E. Flamingo, Suite 121-A, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notices have been deposited at major library branches in each county in Nevada. The notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653. The proposed regulations are on the Internet at <http://www.leg.state.nv.us>. In addition, the State Environmental Commission maintains an Internet site. It is at <http://www.ndep/state.nv.us/admin/envir01.htm>. This site contains the public notice, agenda, codified regulations, and petitions for pending and past commission actions.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of David Cowperthwaite, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851, facsimile (775) 687-5856, or by calling (775) 687-4670 Extension 3118, no later than 5:00 p.m. on **March 1, 2002**.

This public notice has been posted at the following locations: Clark County Public Library and Grant Sawyer Office Building in Las Vegas, Washoe County Library and Division of Wildlife in Reno, and the Division of Environmental Protection and Department of Museums, Library and Arts in Carson City.

PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

Petition 2002-06

Petition 2002-06 was received on February 1, 2002 from the Division of Environmental Protection, Bureau of Mining Regulation and Reclamation. This petition is before the Environmental Commission on March 8, 2002 for adoption. This petition was submitted to the Legislative Counsel Bureau on February 7, 2002 for drafting.

Explanation - Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted

Authority: §§1, NRS 519A.160

Section 1. NAC 519A.225 is hereby amended to read as follows:

519A.225 1. An applicant for a permit for an exploration project shall submit to the division an application fee of:

~~[(a) One dollar and fifty cents for each acre of affected and unreclaimed public land included in the plan for reclamation; and~~

~~-(b) Two dollars and fifty cents for each acre of affected and unreclaimed privately owned land included in the plan for reclamation.]~~

(a) \$100 if the total affected area is 20 acres or less;

(b) \$500 if the total affected area is more than 20 acres but does not exceed 100 acres;

(c) \$1,000 if the total affected area is more than 100 acres but does not exceed 500 acres; and

(d) \$2,000 if the total affected area is more than 500 acres.

2. An applicant for a permit for a mining operation shall submit to the division an application fee of:

~~[(a) One dollar and fifty cents for each acre of affected and unreclaimed public land administered by a federal land management agency and included in the plan for reclamation; and~~

~~-(b) Two dollars and fifty cents for each acre of affected and unreclaimed privately owned land included in the plan for reclamation.]~~

(a) \$500 if the total affected area is 50 acres or less;

(b) \$1,500 if the total affected area is more than 50 acres but does not exceed 200 acres;

(c) \$3,000 if the total affected area is more than 200 acres but does not exceed 500 acres;

(d) \$4,500 if the total affected area is more than 500 acres but does not exceed 1,000 acres;

(e) \$6,000 if the total affected area is more than 1,000 acres but does not exceed 2,500 acres;

(f) \$8,000 if the total affected area is more than 2,500 acres but does not exceed 5,000 acres; and

(g) \$10,000 if the total affected area is more than 5,000 acres.

3. The fee for a minor modification to a permit is one-half the amount of the application fee.

4. The fee for a major modification to a permit is equal to the amount of the application fee.

5. As used in this section, "minor modification" includes the 3-year periodic review of amount of surety required by NAC 519A.380, but does not include changes to the proposed seed mix for reclamation.

Sec. 2. NAC 519A.235 is hereby amended to read as follows:

519A.235 On or before April 15, 1991, and on or before April 15 of each year thereafter, an operator of an exploration project or mining operation shall submit to the division for services rendered by the division:

1. ~~[One hundred dollars for each exploration project which is active on October 1, 1990, and for which a permit has been issued by the division or an application for a permit has been submitted to the division.]~~

For each exploration project which is active on October 1, 1990, and for which a permit has been issued by the division or an application for a permit has been submitted to the division shall submit the following fee:

(a) \$100 if the total affected area is 20 acres or less;

(b) \$500 if the total affected area is more than 20 acres but does not exceed 100 acres;

(c) \$1,000 if the total affected area is more than 100 acres but does not exceed 500

acres; and

(d) \$2,000 if the total affected area is more than 500 acres.

~~[2. For each mining operation which is active on October 1, 1990, and for which a permit has been issued by the division or an application for a permit has been submitted to the division:~~

~~-(a) A fee of \$500 if the total affected area is 200 acres or less;~~

~~-(b) A fee of \$1,000 if the total affected area is more than 200 acres but does not exceed 500 acres;~~

~~-(c) A fee of \$1,500 if the total affected area is more than 500 acres but does not exceed 1,000 acres; and~~

~~-(d) A fee of \$2,000 if the total affected area is more than 1,000 acres.]~~

2. For each mining operation which is active on October 1, 1990, and for which a permit has been issued by the division or an application for a permit has been submitted to the division shall submit the following fee:

(a) \$500 if the total affected area is 50 acres or less;

(b) \$1,500 if the total affected area is more than 50 acres but does not exceed 200 acres;

(c) \$3,000 if the total affected area is more than 200 acres but does not exceed 500 acres;

(d) \$4,500 if the total affected area is more than 500 acres but does not exceed 1,000 acres;

(e) \$6,000 if the total affected area is more than 1,000 acres but does not exceed 2,500 acres;

(f) \$8,000 if the total affected area is more than 2,500 acres but does not exceed 5,000 acres; and

(g) \$10,000 if the total affected area is more than 5,000 acres.

3. If an operator has filed a corporate guarantee to meet the surety requirements of NAC 519A.350, the operator shall pay an annual review fee of \$10,000. This fee shall be payable to the division on or before July 1 of each calendar year.