

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R097-05

Effective October 31, 2005

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

AUTHORITY: §§1-5, NRS 519A.160.

A REGULATION relating to mining reclamation; revising provisions governing the modification of a plan for reclamation of a mining operation or an exploration project; revising the fees for certain permits; and providing other matters properly relating thereto.

Section 1. Chapter 519A of NAC is hereby amended by adding thereto a new section to read as follows:

“Major Modification” means:

- 1. A change in the postmining land use which requires reclamation techniques which are significantly different from the techniques included in the approved plan for reclamation;*
- 2. The addition of a type of disturbance which was not previously included in the approved plan and which cannot be reclaimed in a manner that is substantially similar to the reclamation techniques included in the approved plan;*
- 3. The proposed disturbance is equal to 25 percent or more of the acreage in the approved plan; or*
- 4. A change in the visual appearance of the reclaimed areas that is substantially different from the visual appearance which was discussed or commented upon during the public comment period.*

Sec. 2. NAC 519A.010 is hereby amended to read as follows:

519A.010 As used in NAC 519A.010 to 519A.415, inclusive, unless the context otherwise requires, the words and terms defined in NAC 519A.015 to 519A.095, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 519A.050 is hereby amended to read as follows:

519A.050 “Minor modification” means:

1. ~~[An increase in the acreage affected by an active exploration project or active mining operation]~~ *A change involving more than 10 acres but less than 25 percent of the acreage included in the approved plan for reclamation* if:

(a) The types of disturbances are included in the approved plan; or

(b) The ~~[affected land can be reclaimed in a manner which is substantially similar to the manner of reclamation included]~~ *change, including, but not limited to the postmining land use, does not require reclamation techniques significantly different from those included* in the approved plan ; ~~[]~~

2. Changes in the ~~[specific techniques for reclamation, including, but not limited to the equipment which is used and the mixes of seeds.]~~ *equipment used for reclamation; or*

3. Changes to the final contours.

~~[4. Changes to the schedule for completing reclamation necessitated by changes in:
—(a) The mining operation or exploration project; or
—(b) Changes to the approved plan for reclamation.]~~

Sec. 4. NAC 519A.227 is hereby amended to read as follows:

519A.227 1. The fee for a minor modification to a permit for an exploration project or a permit for a mining operation is ~~[one half the amount of the applicable annual fee for the~~

~~permit.] \$500 plus \$20 per acre or part of an acre, not to exceed one-half the annual fee assessed pursuant to NAC 519A.230 and 519A.235.~~

2. The fee for a major modification to a permit for an exploration project or a permit for a mining operation is equal to the amount of the applicable annual fee ~~[for the permit.~~

~~—3. For the purpose of this section, the following are not modifications:~~

~~—(a) An increase or decrease in the amount of surety necessary to cover the cost of reclamation as determined by the 3-year periodic review of the amount of surety required by NAC 519A.380;~~

~~or~~

~~—(b) Changes to the proposed seed mix for reclamation.] assessed pursuant to NAC 519A.230 and 519A.235.~~

3. *For a modification that does not constitute a major modification or a minor modification and involves a disturbance of 10 acres or less, a transfer of the permit or a change to the schedule for completion of reclamation, the fee is the lesser of \$250 or one-half the annual fee assessed pursuant to NAC 519A.230 and 519A.235.*

4. *Fees paid pursuant to this section are nonrefundable.*

Sec. 5. NAC 519A.305 is hereby amended to read as follows:

519A.305 1. The Division shall, at least 30 days before making a major modification to a plan for reclamation of a mining operation:

(a) Circulate a public notice of the intent to modify the plan in a manner intended to inform interested persons;

(b) Cause to be published in a newspaper of general circulation within the geographic area of an exploration project or mining operation, a notice of the intent to modify the plan; and

(c) Mail to the operator, the landowner, members of the board of county commissioners of the county in which the project or operation is located, the Division of Minerals *of the Commission on Mineral Resources* and any other person who so requests, written notice of the intent to modify the plan.

2. Notice given pursuant to subsection 1 must include:

(a) The name, address and telephone number of the Division;

(b) The name and address of the operator;

(c) The location of the project or operation;

(d) A description of the procedure which the Division will use to make a final decision to modify a plan;

(e) The specific location where interested persons may obtain further information or inspect and copy relevant forms and documents; and

(f) A statement that interested persons must submit to the Division written comments on the tentative decision of the Division within 30 days after the date on which the notice is published.

3. The Division:

(a) Shall allow written comments and information and a public hearing as provided in NAC 519A.185 to 519A.210, inclusive, before making a major modification to a plan for reclamation.

(b) Is not required to allow written comments and a public hearing as provided in NAC 519A.185 to 519A.210, inclusive, before making a minor modification to a plan for reclamation.

~~[4. As used in this section, "major modification" includes only:~~

~~—(a) A change in the postmining land use that requires reclamation techniques which are significantly different from the techniques in the approved plan;~~

- ~~—(b) The addition of a type of disturbance not previously included in the approved plan and which cannot be reclaimed in a manner which is substantially similar to the reclamation techniques included in the approved plan;~~
- ~~—(c) Other modifications to the approved reclamation activities which significantly increase the amount of surety required and are not a minor modification; or~~
- ~~—(d) A change in the visual appearance of the reclaimed areas which is substantially different than the visual appearance which was discussed or commented upon during the public comment period.]~~

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R097-05

The State Environmental Commission adopted regulations assigned LCB File No. R097-05 which pertain to chapter 519A of the Nevada Administrative Code on October 4, 2005.

Notice date: 8/30/2005
Hearing date: 10/14/2005

Date of adoption by agency: 10/4/2005
Filing date: 10/31/2005

INFORMATIONAL STATEMENT

This is a permanent regulation proposed by the Nevada Division of Environmental Protections - Bureau of Mining Regulation and Reclamation. The State Environmental Commission approved the permanent regulation on October 04, 2005.

The regulation provides for changes to the NAC 519A mining reclamation regulations. Under the regulation, changes include a revision to the current fee structure for a permit modification and definition of minor modification. The revision also defines a major modification. The revision to the current fee structure reduced the fees charged for simple changes to the permit that require minimal staff time to review and process. The other revisions set clearer parameters to define minor and major modification.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Nevada Division of Environmental Protection (NDEP), Bureau of Mining Regulation & Reclamation held workshops on the above referenced temporary regulation at the following locations.

Carson City February 7, 2005 2:00 p.m. - 3:00 p.m Department of Conservation & Natural Resources 123 West Nye Lane, Room 217 Carson City, Nevada 89706	Elko February 8, 2005 3:00 p.m. - 4:00 p.m Elko BLM Field Office 3900 East Idaho Street Elko, Nevada 89801	Winnemucca February 9, 2005 11:00 a.m. - 12:00 p.m. Winnemucca Public Library 85 East Fifth Street Winnemucca, Nevada 89445
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Notification of the proposed changes was sent out to all parties included on NDEP's mailing list. Notification was published in the Carson Appeal, Humboldt Sun, Elko Daily Free Press, and on NDEP website. In addition the Nevada Mining Association was given notification to distribute directly to its members. No written comments were received; verbal comments received showed support for the proposed changes.

2. The proposed regulation was also noticed by the State Environmental Commission (SEC) in the Las Vegas Review Journal (LVRJ) and Reno Gazette Journal (RGJ) newspapers on the

following dates (September 05, 19, 26, 2005). The public was subsequently mailed a public notice and meeting agenda for the SEC regulatory hearing, which was held in Reno on October 04, 2005; the SEC mailing list was used for both mailings.

At the SEC hearing, there were no public comments received by the Commission during the adoption of the referenced regulation.

3. The number persons who:

- (a) Attended October 04, 2005 hearing; 18
- (b) Testified on this Petition at the hearing: 1 (NDEP Staff)
- (c) Submitted to the agency written comments: (none)

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The State Environmental Commission adopted the regulation on October 04, 2005 without any changes.

5. The estimated economic effect of the adopted regulation on the business, which it is to regulate, and on the public.

No anticipated economic effects will result from adoption of this regulation.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no additional costs to the Nevada Division of Environmental Protection for implementing this regulation.

7. A description of any regulations of other state or government agencies, which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary.

The regulation does not overlap or duplicate any regulations of other state, federal or local agencies.

8. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulation is no more stringent than what is established by federal law.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation makes small decrease and other nominal adjustments to fees.