

PROPOSED REGULATION OF THE BOARD TO REVIEW CLAIMS

LCB File No. R009-16

Notice of Regulatory Hearing Adoption of Regulations Before the Nevada Board to Review Claims

The Nevada Board to Review Claims (Board) will hold a meeting on Thursday, June 2, 2016 at 10:00 am and will be video conferenced in both Carson City and Las Vegas. The meeting location in Carson City is the Legislative Building, located at 401 South Stewart Street, Room 2134. The meeting location in Las Vegas is the Grant Sawyer Building, located at 555 East Washington Avenue, Room 4412. The purpose of the meeting is to receive comments from all interested persons regarding the adoption of regulations that pertain to the chapter(s) of the Nevada Administrative Code cited below.

The following information is provided pursuant to the requirements of NRS 233B.0603:

R009-16: Bureau of Corrective Actions, Petroleum Fund Program

1. The need for and the purpose of the proposed regulation or amendment.

The Nevada Division of Environmental Protection is responsible for administering the Petroleum Fund program. The following regulation amendments are needed to facilitate better management of the program and also to increase the program's effectiveness for the environmental industry that works with the Petroleum Fund program on a routine basis.

2. The terms or the substance of the regulations to be adopted, or a description of the subjects and issues involved.

NAC 590.760: Proposed increase for corrective action costs that require three competitive bids. A value of \$3,000 was established in 1989 and no longer holds the same value. The proposed value will be established annually utilizing the Consumer Price Index for All Urban Consumers published by the United States Department of Labor.

NAC 590.780: During unrelated workshops held for specific Board Policy Resolutions, NDEP was made aware that environmental consultants wanted more than 30 days for the preparation and submittal of confirmation documentation indicating they have been paid by the owner/operator within the required 30 days. The consultants agreed that 45 to 60 days would be adequate. NDEP is proposing to increase the deadline for submittal of the documentation to 60 days. If the documentation is not provided within 60 days, NDEP is proposing to hold subsequent claims until the second Board meeting after receiving the documentation.

In addition, this regulation currently requires the owner/operator to refund the Fund money if he/she fails to pay the vendors/contractors within 30 days of receiving the Fund money. This proposed amendment to NAC 590.780 provides an incentive for the owner/operator to comply with the requirement to refund the Fund money because subsequent claims will be delayed until the money is refunded. In addition, and very importantly, the amendment provides a mechanism to retrieve the refunded money. Upon making the refund, all subsequent claims, including the claim associated with the refund, may be submitted at the next Board meeting for payment. This process is needed to incentivize the owner/operator to pay the vendors/contractors within 30 days of being paid by the Fund.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:
(a) Both adverse and beneficial effects

The proposed amendments are expected to have a beneficial economic impact on the businesses it regulates and are expected to have no economic impact on the public.

- (b) Both immediate and long-term effects

The proposed amendments are expected to economically benefit the businesses it regulates both immediately and long-term. The increase in corrective action costs requiring three competitive bids to be secured will reduce the industry's workload associated with the bid process. The extension of time for submittal of payment verification will reduce pressure on the environmental consultants. In addition, the delayed Board approval for subsequent claims of owners/operators who do not pay their vendors/contractors on time will provide an incentive to modify that practice so that Fund money will be distributed within the required 30 days. There are no immediate or long-term effects on the public.

4. The methods used by the agency in determining the impact on a small business.

Most businesses that interact with the Petroleum Fund are small businesses. The proposed regulations will facilitate timely payments to these businesses, which is beneficial.

5. The estimated cost to the agency for enforcement of the proposed regulation.

There is no cost to NDEP for the enforcement of the proposed regulations.

6. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulations do not overlap any other State or federal regulations.

7. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed amendments are not required by federal law.

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

The proposed amendments are not more stringent than federal law.

9. Whether the proposed regulation establishes a new fee or increases an existing fee.

The proposed amendments do not address fees.

Persons wishing to comment on the proposed actions of the Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to: Nevada Board to Review Claims, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The NDEP must receive written submissions on or before May 23, 2016.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at: the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 2030 E. Flamingo Rd. Suite 230, the Nevada Division of Minerals, 400 W. King Street, Carson City and the Department of Agriculture, 405 South 21st Street, Sparks and in all counties at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation 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, and on the Internet at <http://www.leg.state.nv.us> . Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice and the text of the proposed regulations are also available within the Petroleum Fund website at: http://ndep.nv.gov/bca/what_new.htm . This notice will also be posted on the Department of Administration's website at <https://notice.nv.gov/> .

Notice of the hearing was provided via electronic means to persons on the Certified Environmental Managers e-mail list and the UST owner/operator e-mail list.

This Notice was also provided to or posted at the following locations:

Carson City Library
900 North Roop Street
Carson City, Nevada 89701-3101

Lincoln County Library
63 Main Street
Pioche, Nevada 89043

Churchill County Library
553 South Main Street
Fallon, Nevada 89406-3306

Lyon County Library System
20 Nevin Way
Yerington, Nevada 89447-2399

Las Vegas-Clark County Library District
Headquarters
833 Las Vegas Boulevard North
Las Vegas, Nevada 89101-2062

Mineral County Public Library
P.O. Box 1390
Hawthorne, Nevada 89415

Douglas County Public Library
1625 Library Lane
Minden, Nevada 89423-0337

Pershing County Library
1125 Central Avenue
Lovelock, Nevada 89419

Elko County Library
720 Court Street
Elko, Nevada 89801-3397

Storey County Library - Closed
Posted at Clerk's Office
Address below:

Esmeralda County Library
Corner of Crook & 4th Street
P.O. Box 430
Goldfield, Nevada 89013-0430

Storey County Treasurer and Clerk's Office
Drawer D
Virginia City, Nevada 89440

Eureka County Library
10190 Monroe Street
Eureka, Nevada 89316

Tonopah Public Library (Nye County)
P.O. Box 449
Tonopah, Nevada 89049

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445-3095

Washoe County Library System
301 South Center Street
Reno, Nevada 89501-2102

Battle Mountain Branch Library (Lander County)
625 South Broad Street
Battle Mountain, Nevada 89820

White Pine County Library
950 Campton Street
Ely, Nevada 89301