

## LCB File No. R090-00

### PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

#### NEVADA STATE ENVIRONMENTAL COMMISSION NOTICE OF PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing beginning at **10:00 a.m. on Tuesday, June 20, 2000**, at the **Las Vegas Valley Water District**, located at **1001 South Valley View Boulevard, Mead Room #2 and #3, Las Vegas, 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 2000-07 (LCB File R-055-00)** is a permanent regulation amending NAC 445B.400 to 445B.774, the air quality regulations governing the Inspection and Maintenance (I/M) program in Clark County. The proposed regulation adds a requirement to inspect the on-board diagnostic (OBD) system for model year 1996 and new motor vehicles to ensure the proper operation of the vehicles emission control components. The definition of "certified on-board diagnostic system" is added. This regulation is proposed to become effective in the event that the air pollution control measures in Clark County are insufficient to attain federal carbon monoxide ambient air quality standards. (This petition was previously publicly noticed for the April 20, 2000 hearing on March 21, 2000, March 29, 2000 and April 6, 2000.)

**2. Petition 2000-08 (LCB File R-087-00)** proposes to permanently modify NAC 459 by amendments to NAC 459.95334 to increase fees currently assessed under the Chemical Accident Prevention Program (CAPP). The regulation provides for an increase in annual fees for the period until June 30, 2001 and then again on July 1, 2001.

Businesses will see an increase in annual program fees. The program audits conducted by Chemical Accident Prevention Program (CAPP) staff have been beneficial to many businesses, particularly small businesses. The immediate effect of the increased fee would be increased operating cost. The long-term effects would ultimately manifest themselves as lower accident rates. The adoption of the amendment is not anticipated to have direct economic impact on the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. There is no additional cost to the agency for enforcement. The fees generated by this increase will fund two engineers and a half time clerical to implement the chemical accident program regulations for 39 regulated facilities. The fees as amended will result in approximately \$275,000 annually being collected from regulated clients.

**3. Petition 2000-09 (LCB R-090-00)** is a permanent amendment to NAC 519A.010 to 519A.415, the mining regulation and reclamation rules. The amendments include an added definition for "process fluid stabilization," the establishment of a readiness fund for emergency fluid management with fees in the year 2001, 2002 and 2003 ranging from \$ 1,000 to \$ 35,000. Amended is NAC 519A.345 by allowing surety's to be used for process fluid stabilization. NAC 519A.360 is amended to limit only the cost of reclamation activities in the calculations of the aforementioned fees.

The public would be better protected from possible financial impacts due to unsecured closure of mining

operations and emergency fluid management obligations. The public is not adversely affected in the immediate or long-term. Mine operators with process fluid stabilization needs may be required to post additional surety. Fees are based upon the total reclamation liability, with surety for process fluid stabilization required through mine closure. Fees for the readiness fund would be collected for only three years and the fund is to be replenished by surety money collected. No additional costs are expected for collection of the fees. The Bureau of Land Management and the USDA Forest Service requires surety for process fluid stabilization on public lands, but not private lands.

Through joint bonding, done by a Memorandum of Understanding, duplication is avoided. There is no equivalent federal regulation for the readiness fund. The requirement for a surety for process fluid stabilization is not more stringent than federal requirements. The total amount of the readiness fund is anticipated to be approximately \$1,000,000. The fund is to be used as a bridge to support the management of mining process fluids during the surety revocation process, with the fund being replenished by surety money collected.

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, 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, 555 E. Washington - Suite 4300, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notice 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.state.nv.us/ndep/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 **June 14, 2000**.

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

**LCB File No. R090-00**

**PROPOSED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**Petition 2000-09**

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

Authority: NRS 519A.160

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

*1. "Process fluid stabilization" defined. Process fluid stabilization means the condition which results when contaminants in any fluid, including meteoric waters, which are intentionally or unintentionally introduced into any heap leaching or tailings facility are bound or contained or otherwise treated so as to prevent them from degrading the waters of the state under the environmental conditions that may be reasonably expected at the site.*

**Sec. 2.** Chapter 519A of NAC is hereby amended by adding thereto a new section to read as follows:

*1. The division shall establish a readiness fund for emergency fluid management. The fund is to be used as a bridge to support fluid management at sites during the surety revocation process, pursuant to NAC 519A.390, until surety money is available. The fund is to be replenished by surety money collected. An operator of a mining operation which is required to have an Industrial Artificial Pond Permit from the division of wildlife pursuant to NRS 502.390 shall submit fees to the readiness fund. On or before April 15, 2001, April 15, 2002 and April 15, 2003, the operator shall submit to the division:*

*(a) A fee of \$36,000 if the company's total reclamation liability for mining operations in the state as of April 15, 2000 was more than \$35,000,000;*

*(b) A fee of \$24,000 if the company's total reclamation liability for mining operations in the state as of April 15, 2000 was more than \$7,000,000 but did not exceed \$35,000,000;*

*(c) A fee of \$6,000 if the company's total reclamation liability for mining operations in the state as of April 15, 2000 was more than \$1,000,000 but did not exceed \$7,000,000; or*

*(d) A fee of \$1,000 if the company's total reclamation liability for mining operations in the state as of April 15, 2000 did not exceed \$1,000,000.*

*2. For the purposes of this section, an "operator" has that meaning ascribed to it under NAC 519A.065 and also includes herein any corporate entity with more than one mining operation in the state of Nevada. A corporate entity with more than one mining operation in the state of Nevada may combine the total surety amount posted pursuant to NAC 519A.360 for all of its mining operations in the state of Nevada to determine the total posted surety amount as of April 15, 2000 and the corresponding amount of fees to be paid according to the schedule outlined in subsection 1 above.*

**Sec. 3.** NAC 519A.345 is hereby amended to read as follows:

Authority of division to require operator of mining operation to perform certain types of reclamation. The division may, if appropriate, require an operator of a mining operation to reclaim:

1. Roads and drill pads by:

(a) Recontouring or regrading to round off, cut and fill slopes to the original contour or to approximate the form of the land before its disturbance;

(b) Removing culverts;

(c) Ripping or scarifying the surface;

(d) Constructing water bars;

(e) Revegetation; and

(f) Restoring or stabilizing drainage areas or streambeds.

2. Drill holes from exploration by plugging the holes with the minimum surface plug required pursuant to chapter 534 of NRS.

3. Waste and development rock piles by:

(a) Regrading to round off sharp edges, enhance the stability, reduce susceptibility to erosion and facilitate efforts for revegetation;

(b) Revegetation; and

(c) Diverting run-on.

4. Dams for tailings ponds by:

(a) Covering with waste rock, topsoil or growth medium;

(b) Revegetation; and

(c) Rendering the dam incapable of storing any mobile fluid in a quantity which could pose a threat to the stability of the dam or to public safety.

5. Impoundments for tailings by:

(a) Regrading to promote run-off and reduce infiltration;

(b) Covering with waste rock, topsoil or growth medium;

(c) Revegetation; ~~and~~

*(d) Process fluid stabilization; and*

~~(d)~~ *(d)* Diverting run-on.

6. Heaps from leaching by:

(a) Regrading to enhance structural stability, promote run-off, reduce infiltration and control erosion;

(b) Covering with waste rock, topsoil or growth medium;

(c) Revegetation;

(d) Process *fluid stabilization* ~~[Stabilization]~~; and

(e) Diverting run-on.

7. Solution ponds, settling ponds and other nontailings impoundments by:

(a) Backfilling and regrading to approximate the natural land form; and

(b) Restoring the regime of the surface water to the regime that existed before the disturbance.

8. Buildings, foundations, facilities, structures and other equipment by:

(a) Demolishing to the level of the foundation and burying the demolished items on the site in conformance with applicable requirements for the disposal of solid waste;

(b) Salvaging and sale;

(c) Disposal off of the site in conformance with applicable requirements for the disposal of solid waste; and

(d) Continuing use in a manner consistent with the post-mining land use.

9. Open pit mines by:

(a) Performing activities that will provide for public safety;

(b) Stabilizing pit walls or rock faces where required for public safety;

(c) Constructing and maintaining berms, fences or other means of restricting access;

(d) Creating a lake for recreational use, wildlife or other uses; and

(e) Revegetation.

Reclamation of open pits or rock faces does not require backfilling although backfilling in whole or in part with waste rock from an adjacent mining operation may be encouraged if backfilling is feasible and does not create additional negative environmental impacts.

10. Underground mines by:

(a) Sealing shafts, adits, portals and tunnels to prevent access; and

(b) Constructing and maintaining berms, fences or other means of restricting access.

**Sec. 4.** NAC 519A.360 is hereby amended to read as follows:

Amount of surety required.

1. The operator shall provide surety in an amount sufficient to ensure reclamation of:

(a) The entire area to be affected by his project or operation; or

(b) A portion of the area to be affected if, as a condition of the issuance of the permit, filing additional surety is required before the operator disturbs land not covered by the initial surety.

2. Except as otherwise provided in subsection 6, the amount of surety required must be based on an estimate of the cost of executing the plan for reclamation which would be incurred by the state or federal agency having jurisdiction over the land.

3. The operator's estimate of the cost for reclamation must be based on either:

(a) The costs of equipment rental, operation and labor appropriate for the geographic area;

(b) Estimated costs provided by an outside contractor; or

(c) Any other method which is acceptable to the administrator, the Bureau of Land Management, the United States Forest Service or another federal land management agency, if applicable.

4. In determining the cost of executing the plan for reclamation, all activities in the plan for reclamation must be considered, including, if appropriate:

(a) Earth moving, regrading, stabilization of heaps and dumps, recontouring of roads and erosion control;

(b) Revegetation, preparation of seedbed and planting;

(c) Demolition of buildings and other structures;

(d) Removal and disposal or salvage of buildings, structures, equipment, piping, scrap and reagents;

(e) Any ongoing or long-term activities which are required to maintain the effectiveness of reclamation or are necessary in lieu of reclamation, including periodic clean-out of sediment basins or maintenance of berms and fences which are used to prevent access to areas which pose a threat to the public safety;

(f) Equipment mobilization and demobilization; and

(g) Administration and management by the division, the Bureau of Land Management, the United States Forest Service and another federal land management agency, if applicable.

5. In determining the cost of executing the plan for reclamation the operator is ***required to include only costs of reclamation activities specifically required by NAC 519A.010 to 519A.415, inclusive, or chapter 519A of NRS. The operator is*** not required to consider the cost of environmental stabilization, remediation and neutralization or any other activity not required by NAC 519A.010 to 519A.415, inclusive, or chapter 519A of NRS. This subsection does not limit in any way the authorities of the Bureau of Land Management, the United States Forest Service or another federal land management agency to require surety for purposes other than those of NAC 519A.010 to 519A.415, inclusive, and chapter 519A of NRS.

6. The department shall require surety in the amount prescribed in subsections 2 to 5, inclusive, unless the operator demonstrates to the satisfaction of the administrator that a lesser amount will be sufficient to ensure that the required reclamation will be completed. The division shall consider:

(a) The financial strength of the company;

(b) The value of the assets of the company;

(c) Past reclamation performance of the company;

(d) Extent of proposed concurrent reclamation;

- (e) Ease of implementation of the proposed reclamation plan; and
- (f) Other factors presented by the applicant.