

**ADOPTED REGULATION OF THE COMMISSION
ON MINERAL RESOURCES**

LCB File No. R066-02

Effective August 23, 2002

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

AUTHORITY: §§1 and 3-5, NRS 513.063 and 519A.290; §2, NRS 513.063 and 519A.250.

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

“Plan” means a plan of operation filed with and approved by the United States Bureau of Land Management or the United States Forest Service.

Sec. 2. NAC 519A.510 is hereby amended to read as follows:

519A.510 As used in NAC 519A.510 to 519A.635, inclusive, unless the context otherwise requires, the words and terms defined in NAC 519A.512 to 519A.555, inclusive, *and section 1 of this regulation*, have the meanings ascribed to them in those sections.

Sec. 3. NAC 519A.585 is hereby amended to read as follows:

519A.585 1. The responsible regulatory authority shall establish the amount of the reclamation performance bond.

2. A participant is subject to a maximum bond amount for which the bond pool may be liable. The maximum amount may be reached by bonding more than a single mining operation or exploration project or a combination thereof.

3. A participant may participate in the bond pool with greater bond coverage than is required by the responsible regulatory authority with the approval of the administrator or a

person designated by him. Any coverage in excess of ~~that~~ *the coverage* required by the responsible regulatory authority must be identified and may not be used to cover reclamation costs in the event of the forfeiture by the participant. The administrator or a person designated by him will include any such coverage in determining the amount of the deposit and premiums the participant is required to pay pursuant to NAC 519A.595.

4. The maximum bond coverage for a participant who is the operator of one or more mining operations or exploration projects, or any combination thereof, is ~~[\$1,000,000.]~~ *\$3,000,000.*

5. A participant may request a change in his bond pool coverage. The administrator or a person designated by him may require additional information before increasing the bond coverage of a participant.

Sec. 4. NAC 519A.595 is hereby amended to read as follows:

519A.595 1. Each participant must pay the entry deposit and premiums required by this section to maintain participation in the bond pool.

2. ~~1A~~ *If an operator becomes a participant before August 23, 2002, the* participant must pay a deposit equal to 15 percent of his bond coverage at the time of entry into the bond pool. The amount of the deposit will be adjusted if the bond coverage provided by the pool increases or decreases *solely because of a recalculation of the amount of the bond* so the deposit is equal to 15 percent of the bond coverage. *If the bond coverage provided by the pool increases because the plan is amended, the deposit for the bond will be calculated in the manner provided in subsection 3.* The deposit and any addition to the original deposit must remain in the bond pool until the participant has been released by the responsible regulatory authority from further reclamation liability. The deposit will not be released in the event of a forfeiture.

3. *If an operator becomes a participant after August 23, 2002, the amount of the deposit for:*

(a) *A bond that is less than \$10,000, is 100 percent of the amount of the bond; and*

(b) *A bond that is \$10,000 or more, is a percentage of the amount of the bond calculated using the following formula:*

$$\frac{3}{299,000} (\text{amount of bond} - 10,000) + 50$$

4. Annual premiums, established as an equal percentage of each participant's bond coverage, must be paid by the participant:

(a) In quarterly installments on or before March 31, June 30, September 30 and December 31; or

(b) Annually in accordance with a schedule approved by the administrator or a person designated by him.

~~[4.]~~ 5. Upon entry to the bond pool, the participant must, based on the date of entry, pay a prorated amount of the first:

(a) Quarterly premium; or

(b) Annual premium, if the participant pays the premium in accordance with a schedule approved by the administrator or a person designated by him pursuant to subsection ~~[3.]~~ 4.

FLUSH After entry to the bond pool, the participant must pay the regular quarterly or annual amount on or before the date the premium is due.

~~[5.]~~ 6. The annual premium ~~[:~~

~~—(a) [s]~~ *will be calculated as follows:*

(a) *Except as otherwise provided in paragraph (b), for bonds that were issued before August 23, 2002, the annual premium is 5 percent of the bond coverage of a participant . ~~and~~*

(b) *For bonds that are issued on or after August 23, 2002, or for bonds that have increased because the plan is amended, the annual premium:*

(1) *Except as otherwise provided in subparagraph (3), for bonds whose total amount is less than \$10,000, is 3 percent of the amount of the bonds.*

(2) *Except as otherwise provided in subparagraph (3), for bonds whose total amount is at least \$10,000, is a percentage of the amount of the bond calculated using the following formula:*

$$\frac{-0.5}{299,000 (\text{amount of bond} - 10,000) + 10}$$

(3) *If the amount of the deposit and the premiums paid by a participant equal or exceed the amount of the bond, is 3 percent of the amount of the bond. For the purposes of this subparagraph, any late penalty paid by a participant will not be considered in determining the amount of the annual premium.*

7. Except as otherwise provided in NAC 519A.610 and 519A.615, *the annual premium* is nonrefundable.

~~6.~~ 8. If a change occurs in the required premium as a percentage of the bond coverage of a participant, the administrator or a person designated by him will notify the participant not less than 30 days before the due date of the next:

(a) Quarterly premium; or

(b) Annual premium, if the participant pays his premium in accordance with a schedule approved by the administrator or a person designated by him pursuant to subsection ~~3.~~ 4.

FLUSH The administrator or a person designated by him will base any change in the percentage of the premium on the recommendation of an actuary who is approved by the commissioner of insurance to review the status of the bond pool. The findings of the actuary must show that a change in percentage allows the bond pool to remain self-sustaining under statistically expected forfeiture rates and forecasted administrative costs.

9. The administrator or a person designated by him will:

(a) Consult with the risk management division of the department of administration to determine the availability and cost of obtaining insurance to insure against exposure to a risk that would cause the liability of the bond pool to exceed the amount of money in the bond pool.

(b) Consult with the commission to determine whether to obtain such insurance. If the insurance is obtained, the administrator or a person designated by him will establish a schedule for payment of the premiums for each participant based on the participant's portion of the total liability of the bond pool.

(c) Notify each participant of the amount of the premium he owes not less not 30 days before the premium is due.

Sec. 5. NAC 519A.635 is hereby amended to read as follows:

519A.635 1. The division will refund to an operator a portion of the fees required by NRS 519A.250 according to the following schedule:

(a) For an amended plan:

(1) That reduces the number of acres or part of an acre to be disturbed from the original number of acres or part of an acre to be disturbed; and

(2) For which a fee has been paid to the division pursuant to NRS 519A.250, the refund is \$1 for each acre or part of an acre removed from planned disturbance by the amendment.

FLUSH

(b) For a plan, there is no refund.

(c) For a notice, there is no refund.

2. An operator who wishes to receive a refund must send to the administrator a written request and a copy of the approved amended plan showing the reduction in acreage. Within 20 business days after receiving a valid written request for a refund and a copy of the amended plan, the administrator or his designee will request that the state controller issue a check to the operator in an amount calculated pursuant to paragraph (a) of subsection 1.

3. As used in this section:

(a) "Notice" means a notice of intent to conduct activities that disturb the surface which is filed with the United States Bureau of Land Management or the United States Forest Service.

(b) "Operator" includes a person who is required by federal law to file a plan, an amended plan or a notice with the United States Bureau of Land Management or the United States Forest Service.

~~[(c) "Plan" means a plan of operation filed with and approved by the United States Bureau of Land Management or the United States Forest Service.]~~

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R006-02

The Commission on Mineral Resources adopted regulations assigned LCB File No. R066-02 which pertain to chapter 519A of the Nevada Administrative Code on July 16, 2002.

Notice date: 6/13/2002
Hearing date: 7/16/2002

Date of adoption by agency: 7/16/2002
Filing date: 8/23/2002

INFORMATIONAL STATEMENT

Public comment was solicited by posting notices at the Legislative Building in Carson City, the Nevada Division of Minerals offices in Carson City and Las Vegas, and Great Basin College in Elko. The notice was also posted on the Division's web site. Interested parties could obtain a copy of the proposed regulation by contacting the Division.

Public comment was also solicited by conducting two workshops prior to the hearing. Notices of the workshops were mailed to current participants in the bond pool, members of the Nevada Mining Association Environmental Committee, members of the Nevada Mines and Prospectors Association, respondents to the Division's exploration survey, and other interested parties, a total of approximately 260 people. One workshop was held July 8, 2002 in Reno and was attended by 10 people. One comment received via e-mail which proposed language clarifying the formulas for calculating deposits and premiums was discussed. Other comments were generic. The second workshop was held in Elko on July 16, 2002, and was attended by 14 people. Comments were generic.

The adoption hearing was attended by six Commissioners, 10 members of the public, and 5 Division staffers. During discussion of the action to be taken, the proposed language clarifying the formulas for calculating deposits and premiums was revisited. It was decided to incorporate the language into the regulation. The regulation was unanimously adopted as amended.

Adoption of the regulation is expected to allow the Division to continue to carry out the legislatively mandated mission of assisting mine operations to obtain reclamation bonding, while at the same time, reducing the potential risk to the Nevada Reclamation Bond Pool. Beneficial effects will result from the continuation of this means of obtaining reclamation bonding. Participation in the Reclamation Bond Pool is voluntary, so only those desiring to participate would experience any impact.

Immediate and long term impacts are expected to be the same.

Enforcement of the regulation will not require any additional effort or cost.

The regulation does not duplicate or overlap any other state or federal regulation. The regulation is not comparable to any federal regulation, and thus not more stringent.

The regulation does increase the amount of deposit required to participate in the Reclamation Bond Pool. Participation is voluntary, and the deposit is refundable. The amount of premiums required may either increase or decrease, depending on the circumstances of an individual bond.