

Chapter 519A of NAC

LCB File No. T056-05

ADOPTED TEMPORARY REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

Filed with the Secretary of State on July 20, 2005

Petition 2005-01

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

AUTHORITY: NRS 519A

NAC 519A.050 "Minor modification" defined. "Minor modification" means:

~~[1. An increase in the acreage affected by an active exploration project or active mining operation if:]~~

1. A change involving more than 10 acres but less than 25% of the acreage included in the approved plan 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 in the approved plan.]~~

(b) The change (including but not limited to a change to the post mining land use) does not require reclamation techniques significantly different than 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.]~~

2. Changes in the equipment used for reclamation.

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.]~~

NAC 519A.052 "Major modification" defined. "Major modification" means:

1. A change in the post-mining land use that requires reclamation techniques significantly different than the techniques in the approved plan;

2. The addition of a type of disturbance 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% or more of the acreage in the approved plan;
or

4. 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.

NAC 519A.227 Fee for modification to permit. (NRS 519A.160)

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 of the annual fee 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.]~~ *pursuant to NAC 519A.230 and 519A.235.*

~~[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.]~~

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

4. Fees paid pursuant to this section are nonrefundable.

NAC 519A.305 Requirements for notice and public comment before modifying plan for reclamation.

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 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 post mining 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.}~~

Revised Regulatory Language, incorporating proposed revisions

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NAC 519A.050 “Minor modification” defined. “Minor modification” means:

1. A change involving more than 10 acres but less than 25% of the acreage included in the approved plan if:

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

(b) The change (including but not limited to a change to the post mining land use) does not require reclamation techniques significantly different than in the approved plan.

2. Changes in the equipment used for reclamation.

3. Changes to the final contours.

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1. A change in the post-mining land use that requires reclamation techniques significantly different than the techniques in the approved plan;

2. The addition of a type of disturbance 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% or more of the acreage in the approved plan; or

4. 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.

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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 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 disturbance of ten acres or less, transfer of the permit, or a change to the schedule for completion of reclamation, the fee is the lesser of \$250 or one-half of the annual fee pursuant to NAC 519A.230 and 519A.235.

4. Fees paid pursuant to this section are nonrefundable.

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(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 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.

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T056-05**

The State Environmental Commission adopted temporary regulations assigned LCB File No. T056-05 which pertain to chapter 445B of the Nevada Administrative Code on June 10, 2005.

Notice date: 5/10/2005; 5/24/2005; 6/7/2005
Hearing date: 6/10/2005

Date of adoption by agency: 6/10/2005
Filing date: 7/20/2005

INFORMATIONAL STATEMENT

Nevada Division of Environmental Protection
Bureau of Mining Regulation & Reclamation
Revision to Fee Structure for Permit Modification & Definition of Minor Modification

This is a temporary regulation proposed by the Bureau of Mining Regulation and Reclamation of the Nevada Division of Environmental Protection. The proposed temporary regulation provides for changes to the NAC 519A mining reclamation regulations. Under the proposed regulation, changes include a revision to the current fee structure for a permit modification and definition of minor modification. The proposed revision also defines a major modification. The revision to the current fee structure will reduce the fees charged for simple changes to the permit that require minimal staff time to review and process. The other proposed 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 (May 10th, 24th and June 7th). The public was subsequently mailed a public notice and meeting agenda for the SEC hearing; the SEC mailing list was used for both mailings.

At the SEC hearing, there was one (1) public oral comments received by the Commission during the adoption of the referenced regulation.

3. The number persons who:

- (a) Attended June 10th, 2005 hearing; 20
- (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 June 10th 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.