

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R138-06

Effective September 18, 2006

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

AUTHORITY: §1, NRS 445A.425 and 445A.430.

A REGULATION relating to water pollution; revising provisions governing discharge permits relating to mining that are issued by the State Department of Conservation and Natural Resources; and providing other matters properly relating thereto.

Section 1. NAC 445A.232 is hereby amended to read as follows:

445A.232 1. Except as otherwise provided in subsections 2 and 7, a nonrefundable application fee must accompany each original application for a permit, each application for a modification to a permit, other than a minor modification made pursuant to NAC 445A.263, and each application to renew a permit which is submitted to or required by the Director. The Director shall charge the following fees:

Type of Permit	Application Fee	Fee for Annual Review and Services
Issued		

Type of Permit	Application	Fee for
Issued	Fee	Annual
		Review
		and
		Services
DISCHARGE OF DOMESTIC		
WASTEWATER		
Less than 50,000 gallons daily	\$1,000	\$1,000
50,000 gallons or more but less than		
250,000 gallons daily	1,500	1,500
250,000 gallons or more but less than		
500,000 gallons daily	2,000	2,000
500,000 gallons or more but less than		
1,000,000 gallons daily	3,000	3,000
1,000,000 gallons or more but less than		
2,000,000 gallons daily	4,000	4,000

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
2,000,000 gallons or more but less than 5,000,000 gallons daily	6,000	6,000
5,000,000 gallons or more but less than 10,000,000 gallons daily	10,000	10,000
10,000,000 gallons or more but less than 20,000,000 gallons daily	10,000	20,000
20,000,000 gallons or more but less than 40,000,000 gallons daily	10,000	30,000
40,000,000 gallons or more daily.....	10,000	40,000

DISCHARGE OF TREATED

EFFLUENT

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
Less than 50,000 gallons daily	\$750	\$750
50,000 gallons or more but less than 250,000 gallons daily	1,000	1,000
250,000 gallons or more but less than 500,000 gallons daily	1,250	1,250
500,000 gallons or more but less than 1,000,000 gallons daily	1,500	1,500
1,000,000 gallons or more but less than 10,000,000 gallons daily	2,000	2,000
10,000,000 gallons or more but less than 20,000,000 gallons daily	2,500	2,500

Type of Permit	Application	Fee for Annual Review and
Issued	Fee	Services
20,000,000 gallons or more but less than		
40,000,000 gallons daily	3,000	3,000
40,000,000 gallons or more daily.....	3,500	3,500
<p>DISCHARGE FROM REMEDIATION, DEWATERING, OTHER THAN A DISCHARGE TO GROUNDWATER FROM THE DEWATERING OF A MINE, OR FROM A POWER PLANT, A MANUFACTURING OR FOOD PROCESSING FACILITY OR ANY OTHER COMMERCIAL OR INDUSTRIAL FACILITY</p>		
Cooling water only	\$2,000	\$2,000
Less than 50,000 gallons of process		

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
water daily	2,500	2,500
50,000 gallons or more but less than 250,000 gallons of process water daily	3,000	3,000
250,000 gallons or more but less than 500,000 gallons of process water daily	4,000	4,000
500,000 gallons or more but less than 1,000,000 gallons of process water daily	5,000	5,000
1,000,000 gallons or more but less than 2,000,000 gallons of process water daily	6,000	6,000
2,000,000 gallons or more but less than 5,000,000 gallons of process water daily	8,000	8,000

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
5,000,000 gallons or more but less than 10,000,000 gallons of process water daily	10,000	10,000
10,000,000 gallons or more but less than 20,000,000 gallons of process water daily	10,000	20,000
20,000,000 gallons or more but less than 40,000,000 gallons of process water daily	10,000	30,000
40,000,000 gallons or more of process water daily	10,000	40,000
 DISCHARGE FROM A TREATMENT PLANT FOR DRINKING WATER 		
Intermittent discharge of less than 100,000 gallons daily	\$500	\$500

Type of Permit	Application	Fee for
Issued	Fee	Annual
		Review
		and
		Services
Intermittent discharge of 100,000 gallons or more but less than 1,000,000 gallons daily	750	750
Intermittent discharge of 1,000,000 gallons or more daily	1,000	1,000
Routine discharge of less than 100,000 gallons daily	500	500
Routine discharge of 100,000 gallons or more but less than 1,000,000 gallons daily	750	750
Routine discharge of 1,000,000 gallons or more daily	1,000	1,000

DISCHARGE OF WASTEWATER

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
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FROM A CONCENTRATED ANIMAL
FEEDING OPERATION

Less than 100,000 gallons daily	\$1,500	\$1,500
100,000 gallons or more but less than 500,000 gallons daily	2,000	2,000
500,000 gallons or more daily.....	2,500	2,500

PERMIT FOR A CONCENTRATED
ANIMAL FEEDING OPERATION
THAT DOES NOT DISCHARGE
WASTEWATER

Area of a holding facility that is less than 10 acres.....	\$1,500	\$1,500
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Type of Permit	Application	Fee for
Issued	Fee	Annual
		Review
		and
		Services
Area of a holding facility that is 10 acres or more		
but less than 20 acres	2,000	2,000
Area of a holding facility that is 20 acres		
or more	2,500	2,500
DISCHARGE FROM A FISH		
HATCHERY		
Less than 500,000 gallons daily	\$750	\$750
500,000 gallons or more but less than		
2,500,000 gallons daily	1,000	1,000
2,500,000 gallons or more daily.....	1,500	1,500
OTHER PERMITTED DISCHARGES		

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
Less than 50,000 gallons daily	\$1,000	\$1,000
50,000 gallons or more but less than 250,000 gallons daily	1,500	1,500
250,000 gallons or more but less than 500,000 gallons daily	3,000	3,000
500,000 gallons or more but less than 1,000,000 gallons daily	5,000	5,000
1,000,000 gallons or more but less than 10,000,000 gallons daily	10,000	10,000
10,000,000 gallons or more but less than 35,000,000 gallons daily	10,000	20,000

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
35,000,000 gallons or more daily.....	10,000	30,000
REUSE OF SEWAGE SLUDGE		
Less than 20,000 cubic yards per year	\$1,500	\$1,500
20,000 cubic yards or more per year.....	3,000	3,000
REUSE OF DOMESTIC SEPTAGE.....		
	\$1,000	\$1,000
DISCHARGE FROM A RECREATIONAL LAKE		
	\$5,000	\$5,000
TEMPORARY PERMIT	\$250	Not

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
		Applicable

2. Except as otherwise provided in this subsection and subsection 7, a nonrefundable application fee must accompany each original application for a permit and each application to renew a permit for the discharges set forth in this subsection that is submitted to or required by the Director. The Director shall charge the following fees:

Type of Discharge Permitted	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
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DISCHARGE TO GROUNDWATER FROM THE DEWATERING OF A MINE

Cooling water only	\$625	\$315	\$1,000
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Type of Discharge	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
Permitted			
Less than 50,000 gallons of [process] <i>dewatering</i> water daily	625	315	1,500
50,000 gallons or more but less than 1,000,000 gallons of [process] <i>dewatering</i> water daily	875	440	2,000
1,000,000 gallons or more but less than 5,000,000 gallons of [process] <i>dewatering</i> water daily	1,000	500	2,500
5,000,000 gallons or more of [process] <i>dewatering</i> water daily	1,250	625	3,000

MINING

Type of Discharge	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
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~~{Chemically processing}~~ *Mining*

facility designed to chemically

process 36,500 tons per year or
more but less than 100,000 tons per
year..... 4,000

4,000

4,000

~~{Chemically processing}~~ *Mining*

facility designed to chemically

process 100,000 tons per year or
more but less than 500,000 tons per
year..... 6,000

6,000

8,000

~~{Chemically processing}~~ *Mining*

facility designed to chemically

process 500,000 tons per year or
more but less than 1,000,000 tons
per year..... 10,000

10,000

10,000

Type of Discharge	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
Permitted that is 5 acres to 10 acres, inclusive, in size	\$300	\$150	\$750
Industrial or commercial facility, including any structure, that is more than 10 acres but less than 25 acres in size	600	300	750
Industrial or commercial facility, including any structure, that is more than 25 acres in size	1,000	500	750
Municipality whose population is 250,000 or less	600	300	750
Municipality whose population is more than 250,000	1,000	500	1,000

3. To determine the number of acres of a holding facility for an application fee or a fee for the annual review and services for a permit issued to a concentrated animal feeding operation that does not discharge wastewater, the Director shall multiply the number of animals in the concentrated animal feeding operation by .0023.

4. An application fee or a fee for the annual review and services charged pursuant to subsection 1 must be based upon the limit of flow, in gallons per day, of the discharge authorized in the permit.

5. The application fee for a permit with a term of less than 5 years must be reduced by the Director in accordance with the term of the permit, but in no case may the fee be reduced by an amount equal to more than one-third of the fee set forth in this section.

6. If required, the fee for the annual review and services must be:

(a) Submitted to the Division on or before July 1 of each year; and

(b) Paid in advance for the period of review that relates to the fiscal year following payment.

7. If a storm water runoff permit is not required, the Director may refund the application fee for the permit.

8. On July 1, 2002, and on July 1 of each even-numbered year thereafter, up to and including July 1, 2010, the Director shall increase by 5 percent each fee for the annual review and services set forth in subsection 1. To determine the amount of each fee that is due on or after July 1, 2002, the Director shall multiply the fee set forth in subsection 1 by:

(a) For the fees due on July 1, 2002, and July 1, 2003, 1.05;

(b) For the fees due on July 1, 2004, and July 1, 2005, 1.1025;

(c) For the fees due on July 1, 2006, and July 1, 2007, 1.1576;

(d) For the fees due on July 1, 2008, and July 1, 2009, 1.2155; and

(e) For the fees due on or after July 1, 2010, 1.2763.

↳ In establishing the annual fee for the review and services pursuant to this subsection, the Director shall round to the nearest dollar.

9. The Director may allow a holder of a permit to pay any fee required by subsection 1 pursuant to a payment plan if the holder of the permit submits a petition to the Division, on a form prescribed by the Division, which demonstrates that the payment of the fee in a lump sum would cause financial hardship to the holder of the permit.

10. As used in this section:

(a) “Concentrated animal feeding operation” has the meaning ascribed to it in 40 C.F.R. § 122.23.

(b) “Domestic septage” has the meaning ascribed to it in 40 C.F. R. § 503.9.

(c) “Sewage sludge” has the meaning ascribed to it in 40 C.F.R. § 503.9.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R138-06**

The State Environmental Commission adopted regulations assigned LCB File No. R138-06 which pertain to chapter 445A of the Nevada Administrative Code on September 6, 2006.

Notice date: 8/7/2006
Hearing date: 9/6/2006

Date of adoption by agency: 9/6/2006
Filing date: 9/18/2006

INFORMATIONAL STATEMENT

This regulation amends NAC 445A.232. The regulation provides clarification in the description for several fee categories of mining facility permits. As way of background, Nevada Revised Statutes (NRS) 445A.425 establishes authority to adopt regulations to maintain the quality of the waters of the State. And pursuant to the State Water Pollution Control Law, authority is granted regarding fees for water pollution control permits.

Water Pollution Control Permits for mining operations are categorized by the specific type of operation and the capacity of the submitted facility designs. The current fee categories describe dewatering of a mine by the gallons of process water discharged or by the tonnage the mine facilities chemically process.

This proposed regulation changes the language from discharge of process water to discharge of dewatering water; it also clarifies the tonnage categories by the tonnage the facility is designed to process.

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) held 2 workshops on the above referenced regulation. The purpose of the workshops was to inform the public and regulated community about the proposed regulatory changes and solicit comments from interested persons. Time and location of the workshop are noted below.

Carson City

August 22, 2006 10:00 a.m. –12:00 p.m.
Nevada State Library
100 N. Stewart Street
Carson City, Nevada 89701

Elko

August 23, 2006 9:00 a.m. – 11:00 a.m.
Elko Bureau of Land Management Field Office
3900 East Idaho Street
Elko, Nevada 89801

In addition to the workshops noted above, the State Environmental Commission (SEC) held a public hearing to consider this regulation on September 06, 2006 at the at the Nevada Department of Wildlife's Conference Room A, 1100 Valley Road, Reno, Nevada.

2. The number persons who attended the SEC Regulatory Hearing:

- (a) Attended SEC hearing on Sept 9th 2006; 70
- (b) Testified on this Petition at the hearing: 1 (NDEP Staff)
- (c) Submitted to the agency written comments: (none)

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses as indicated in number 1 above. Comments were also solicited by State Environmental Commission (SEC) in the SEC notice in the newspapers, by direct mail to interested persons subscribing to the SEC electronic and ground-based mailing list.

Regarding the regulatory hearing, the regulation was noticed by the State Environmental Commission (SEC) in the Las Vegas Review Journal (LVRJ) and Reno Gazette Journal (RGJ) newspapers on the following dates: Monday, August 15, 2006, Monday, August 22, 2006 and Monday, August 29, 2006

The public notice for the referenced SEC meeting was also sent to county libraries throughout the state and the proposed regulation was made available for public inspection at the State Library in Carson City, and at the offices of the Nevada Division of Environmental Protection in Carson City and Las Vegas. The workshop notice, the proposed regulation, the SEC public notice and the SEC meeting agenda were also made available on SEC Website at: http://www.sec.nv.gov/main/hearing_0906.htm

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.

No changes were proposed at the State Environmental Commission Hearing, either by NDEP staff, the public or the Commission. Consensus on the proposed changes was obtained prior to the Hearing, during the drafting and public workshop process.

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. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

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 does not address fees changes.