

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R045-18

April 10, 2018

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

AUTHORITY: §§1-5, NRS 519A.160.

A REGULATION relating to mining; revising certain definitions related to exploration projects and mining operations; revising provisions relating to public notice of the approval or denial of permits for certain exploration projects and mining operations; requiring, under certain circumstances, an operator of a small mining operation to obtain a permit for a mining operation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires persons who wish to engage in an exploration project or mining operation to file an application for a permit with the Division of Environmental Protection of the State Department of Conservation and Natural Resources that includes plans for the reclamation of the land used for the exploration project or mining operation. (NRS 519A.190, 519A.210) Under existing law, a small mining operation is not subject to these requirements. (NRS 519A.080). **Section 5** of this regulation provides that if 5 acres or more of land will be affected by a small mining operation in a calendar year, the operator must, before such land is affected, obtain a permit for a mining operation. In applying for a permit for a mining operation, the operator must include in the plan for reclamation required pursuant to NAC 519A.140 all land previously affected by the small mining operation.

Section 1 of this regulation revises the definition of the term, “affected” to include the surface of the land disturbed by a small mining operation. **Section 2** of this regulation revises the definition of “productive postmining use of the land” to include renewable energy development and storage.

Under existing regulations, the Division is required to provide public notice of the issuance of a draft permit or notice of intent to deny an application for a permit for an exploration project or mining operation by publishing the notice in a newspaper of general circulation in the area of the proposed exploration project or mining operation. (NAC 519A.185)

Section 4 of this regulation revises this public notice requirement to instead require the Division to publish the notice on the Internet website of the Division.

Section 1. NAC 519A.025 is hereby amended to read as follows:

519A.025 “Affected” means that the surface of the land is or will be disturbed by an exploration project, ~~or~~ mining operation, *small mining operation* or that the land is used:

1. As an evaporation or settling pond, leach dump, placer area or tailings pond or dump; or
2. In conjunction with any structure, facility, equipment, machine, tool, material or property incident to an exploration project or mining operation.

Sec. 2. NAC 519A.070 is hereby amended to read as follows:

519A.070 “Productive postmining use of the land” means a use which supports activities including:

1. Wildlife habitat;
2. Livestock grazing;
3. Agriculture and ranching;
4. Industry;
5. *Renewable energy development and storage;*
6. Recreation; or
- ~~6.~~ 7. Any other activities which benefit the State of Nevada, its residents or the owner of the land.

Sec. 3. NAC 519A.085 is hereby amended to read as follows:

519A.085 “Small mining operation” ~~means a person who does not remove from the earth in any calendar year material in excess of 36,500 tons and who disturbs less than 5 acres of land in any calendar year. To determine the area of the surface disturbed, all land disturbed and left unreclaimed by an operator within a 1-mile radius of the center of the project must be considered.~~ *has the meaning ascribed to it in NRS 519A.120.*

Sec. 4. NAC 519A.185 is hereby amended to read as follows:

519A.185 1. Except as otherwise provided in subsection 3, the Division shall, at least 30 days before the issuance of a draft permit or a notice of intent to deny the application for a permit for an exploration project or mining operation to be conducted on privately owned land:

(a) Circulate a public notice of the intent to issue a draft permit or deny the application in a manner intended to inform interested persons;

(b) ~~Cause to be published in a newspaper of general circulation within the geographic area of a proposed exploration project or mining operation, a~~ *Publish the* notice of the intent to issue the permit or deny the application ~~;~~ *on the Internet website of the Division;* and

(c) Mail to the operator, landowner of record who is identified by the applicant in the application, members of the board of county commissioners of the county in which the project or operation is to be located, Division of Minerals of the Commission on Mineral Resources and any other person or group who so requests, written notice of the intent to issue a draft permit or deny the application.

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 proposed project or operation;
- (d) The tentative decision of the Division to issue a draft permit or deny the application for a permit;
- (e) A description of the procedure which the Division will use to make a final decision to issue or deny the permit;
- (f) The location where interested persons may obtain further information or inspect and copy the draft of the permit and other relevant forms and documents; and
- (g) A statement that interested persons must submit to the Division written comments and information on the tentative decision of the Division within 30 days after the date on which the notice is published.

3. An application for a permit which has been submitted pursuant to NAC 519A.150 or 519A.155 is not subject to the notice requirements of NAC 519A.185 to 519A.210, inclusive.

Sec. 5. NAC 519A.410 is hereby amended to read as follows:

519A.410 1. The operator of a small mining operation shall submit to the Division:

- (a) A sketch or topographic map of the operation depicting:
 - (1) The boundaries of the project area;
 - (2) Surface ownership within the project area;
 - (3) Areas to be affected and the nature of the disturbances including tailings impoundments, leach pads, waste rock dumps, buildings, roads and all other surface facilities;
 - (4) Areas within the project area which were previously affected by activities other than those of the operator or which will not be subject to additional or continuing disturbance because of his or her activities;

(5) The location of any body of surface water within one-half-mile down gradient from the operation which may be impacted by excess sedimentation resulting from the mining operations; and

(6) The location of access roads that were created before January 1, 1981.

(b) An estimate of the acreage affected by each type of disturbance set forth pursuant to subparagraph (3) of paragraph (a) of subsection 1.

(c) A proposed postmining use of the land and general description of the manner in which the postmining use of the land will be attained by reclamation.

2. The information and documentation required by subsection 1 must be submitted:

(a) By October 1, 1991, for a small mining operation which is active on October 1, 1990; or

(b) Before disturbance of the surface for a new small mining operation.

3. If 5 acres or more of land will be affected by a small mining operation in a calendar year, the operator of the small mining operation must, before such land is affected, obtain a permit for a mining operation pursuant to the provisions of this chapter and chapter 519A of NRS. In applying for a permit for the mining operation, the operator must include in the plan for reclamation required pursuant to NAC 519A.140 all land previously affected by the small mining operation.