

Permanent Regulation - Informational Statement

A Regulation Relating to the Bureau of Mining Regulation and Reclamation

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission (SEC) LCB File No: R052-15

Regulation R052-15:

Nevada Revised Statute (NRS) 519A.160 establishes the authority of the State Environmental Commission (SEC) to adopt regulations necessary to enable the Division to carry out provisions of NRS 519A.010 to 519A. 280, inclusive, and declares that proper reclamation of mined land, areas of exploration, and former areas of mining or exploration is necessary to prevent undesirable land and surface water conditions detrimental to the ecology and to the general health, welfare, safety, and property rights of the residents of this state.

SPECIFIC CHANGES:

Chapter 519A of the Nevada Administrative Code (NAC) was amended to include a new section defining “mine impacted waters.” NAC 519A.270 and NAC 519A.345 are revised to require a reclamation plan to describe the measures that may be required to stabilize, manage, control, or treat mine impacted waters from waste and development rock piles, and open pit and underground mines. NAC 519A.360 was amended to require the costs for stabilization, management, control, and treatment of mine impacted waters to be included in the reclamation project bond, and to provide authority for the Division to bond for long-term fluid management costs such as perpetual treatment of mine impacted waters. Clarification is provided in NAC 519A.350 to include cash deposit as an acceptable reclamation surety.

1. Need for Regulation:

At certain mines within the state, existing drainage or seepage from waste rock storage facilities, open pits and underground mines has the potential to degrade waters of the state or cause adverse effects to the health of human, terrestrial, or avian life. Although statutory authority for preventing, mitigating, and associated bonding for mine impacted waters is provided in NRS 445A (see NRS 445A.425(1)(a)) and NRS 519A (see 519A.010(1)(b) and 519A.160(4)), the previous regulations at NAC 519A did not specifically list mine impacted waters, including contaminated surface water,

groundwater, and seepage from waste rock storage facilities, open pits, and underground mines. Mine impacted waters are now defined in NAC 519A to include existing drainage or seepage from the above which have the potential to degrade waters of the state or cause an adverse effect to the health of human, terrestrial, or avian life. If a mining operation had environmental liabilities related to mine impacted waters, the revisions to NAC 519A.270 and NAC 519A.345 require the reclamation plan to include a description and strategy for implementation of the measures necessary to stabilize, manage, control, or treat the mine impacted waters. The revisions to NAC 519A.360 also specify that: 1) costs associated with reclamation measures appropriate for mine impacted waters be included in the project reclamation bond; and 2) the Division will establish financial guarantee amounts for long-term fluid management costs such as perpetual treatment of mine impacted waters. Although not specifically listed in NAC 519A, the Division has accepted cash deposits as a reclamation surety throughout the life of the mine reclamation program. Revisions to NAC 519A.350 provide clarification that a cash deposit is an acceptable surety to ensure that reclamation will be completed and describe how the cash deposit will be managed by the State Treasurer, including limitations on the interest earned.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

On August 4, 2015 and August 12, 2015 NDEP conducted public workshops on proposed draft Regulation R052-15. The workshops were held in Carson City and Elko. The Carson City workshop was located at the Bryan Building located at 901 S. Stewart Street (Tahoe Conference Room). The Elko workshop was held at Elko City Hall, 1751 College Avenue (Counsel Chamber Room).

Six (6) members of the public attended the workshop in Carson City and four (4) members of the public attended the workshop in Elko.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at: http://www.sec.nv.gov/main/hearing_1015.htm .

Following the workshop, the SEC held a formal regulatory hearing on October 14, 2015 at the Nevada Legislative Building located at 401 South Carson Street, Room 2135. A public notice for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in Las Vegas, at the Division of Minerals in Carson City, at the Department of Wildlife, on the LCB website, on the Division of Administration website and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R052-15 were also made available at all public libraries throughout the state as well as to

individuals on the SEC mailing list and the Bureau of Mining Regulation and Reclamation's electronic mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://www.sec.nv.gov/main/hearing_1015.htm .

3. The number of persons who attended the SEC Regulatory Hearing:

- (a) Attended October 14, 2015 hearing: 21 (approximately)
- (b) Testified on this Petition at the hearing: 0
- (c) Submitted to the agency written comments: 0

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

Comments were solicited from affected businesses through e-mail, public workshops and at the October 14, 2015 SEC hearing as noted in number 2 above.

5. 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 regulation was adopted without change because the public was satisfied with the proposed amendments.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry. These regulation may result in operators of mining operations having to submit a higher reclamation project bond to cover costs associated with stabilization, management, control, or treatment of mine impacted waters. Currently, this would only apply to projects located on private land as the Bureau of Land Management (BLM) has this bonding authority for projects on public lands.

Public. The regulation will have no economic effect on the public.

7. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the Division for enforcement of the regulation.

8. 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 revisions to NAC 519A do not overlap or duplicate any regulations of other state or government agencies. The BLM has authority under 43 CFR 3809 to require bonding for mine impacted waters when the mine project facility or component is located on public land managed by the BLM. The Division does not have similar authority when mine impacted waters are associated with a facility or component located on private land. A cash project bond is accepted by the BLM as a surety to guarantee performance of reclamation obligations when the project is located on public land. The proposed regulation will give the state similar authority to accept a cash bond as a reclamation surety for projects on private land.

9. 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.

10. 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.

The adopted regulation does not address fees.