

# Permanent Regulation - Filing Statement

A Regulation Relating to Mining Reclamation

Legislative Review of Adopted Regulations as Required  
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

## State Environmental Commission (SEC) LCB File No: R044-12

**Petition R044-12:** The Nevada Division of Environmental Protection (NDEP) is proposing to amend certain sections of state regulations contained in NAC 519A that govern reclamation of land subject to mining operations. Pursuant to the Governor's Executive Order 2011-01, this regulation repeals the provision that allows a lesser surety amount than currently required to complete certain reclamation activities. The proposed regulation would remove requirement for submission of an annual fee or arrangement of a third-party review if a corporate guarantee is used for financial assurance.

The regulation further requires reclamation plans to reference use of "Best Management Practices" for erosion and sediment control as well as describe methods for noxious weed control during reclamation. Revisions are also made to certain provisions related to the use of insurance as a reclamation surety. The regulation further clarifies information needed for the transfer of a permit, it requires reclamation cost estimates to reflect a third-party contractor performing the work, and it adds a provision that NDEP consider comments from local land use management agencies regarding postmining private land uses.

**1. 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.**

In April 2012 staff from NDEP conducted public workshops on LCB's Proposed Draft Regulation R044-12. The workshops were conducted at the following locations.

Elko  
April 18, 2012  
3:00 p.m. - 5:00 p.m.  
Elko City Hall  
Council Chamber Room  
1751 College Ave.  
Elko, NV 89801

Carson City  
April 24, 2012  
2:00 p.m. - 4:00 p.m.  
DCNR, Bryan Building  
5<sup>th</sup> Floor Conference Center  
901 S. Stewart St.  
Carson City, NV 89701

Seven (7) specific comments were presented to NDEP staff at the workshop by the individuals listed below.

Elko Workshop:

Clark Burton - Barrick Gold; Ruby Hill Mine  
Peter Keefe - SRK Consulting  
Michael Christopher - US Gypsum

Carson City Workshop:

Nathan Robison - Robison Engineering  
John Hadder - Great Basin Resource Watch  
Art Wilson - Art Wilson Company

The questions presented and NDEP staff responses are contained in the summary minutes of the workshop, which are posted on the SEC website at:

[http://sec.nv.gov/docs/r044-12\\_workshop\\_summary\\_minutes.pdf](http://sec.nv.gov/docs/r044-12_workshop_summary_minutes.pdf)

Following the workshop, the SEC held a formal regulatory meeting on June 12, 2012. The meeting was held as a video conference in Carson City and Las Vegas. The meeting location in Carson City was the Bryan Building, 901 South Stewart Street (2nd floor, Tahoe Room). In Las Vegas the meeting location was the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230.

A public notice and agenda for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas, at the Department of Wildlife in Reno, and at the Division of Minerals in Carson City.

Copies of the agenda, the public notice, and the proposed permanent regulation R044-12 were also made available to all public libraries throughout the state as well as to individuals on the SEC mailing lists.

The public notice for the permanent 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://sec.nv.gov/main/hearing\\_0612.htm](http://sec.nv.gov/main/hearing_0612.htm)

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

- (a) Attended June 12, 2012 hearing: 20 (approx.)
- (b) Testified on this Petition at the hearing: 2
- (c) Submitted to the agency written comments: 0

**3. 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 at the public workshop and at the June 12<sup>th</sup> Commission hearing as noted in number 1 above.

**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 regulation was adopted without changes.

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

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community.

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

There will be no additional costs to the agency for enforcement of the proposed 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.**

While the regulation is no more stringent than what is established by federal law, it does overlap with other regulations of the Federal Bureau of Land Management (43 CFR 3809). Specifically, the reclamation cost estimate required by the regulation represents the cost which would be incurred by the state or federal agency having jurisdiction over the mining lands proposed for reclamation.

**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 not more stringent than any federal regulation or guidance.

**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.**

The regulation does not address specific fees.