

June 25, 2007

P2007-01, NMCP Fees

FORM # 4, Part 1

**NEVADA STATE ENVIRONMENTAL COMMISSION
SMALL BUSINESS IMPACT DISCLOSURE PROCESS
PURSUANT TO 233B "Nevada Administrative Procedures Act"**

Note: Small Business is defined as a "business conducted for profit which employs fewer than 150 full-time or part-time employees" (NRS 233B.0382).

RE: Proposed Amendment to NAC 445B.3611-.3689, Nevada Mercury Air Emissions Control Program
By: Nevada Division of Environmental Protection (NDEP), Bureau of Air Pollution Control

1. Does this proposed regulation impose a direct and significant economic burden upon a small business?

YES. These amendments carry out the intent of legislation passed during the 2007 legislative session. AB 115 requires the State Environmental Commission (SEC) to "adopt regulations prescribing the appropriate fee to be imposed on the operator of a mine with the potential to emit mercury, and the schedule for payment of the fee." The revenue generated is directed to pay the cost of two full-time employees whose responsibilities will include ensuring compliance with the Nevada Mercury Air Emissions Control Program (NMCP). The law specifies that the fees will be paid by each operator of a mine with the potential to emit mercury.

The proposed regulation will affect each stationary source that conducts precious metal mining and operates one or more thermal units that emit mercury, regardless of the size of the source. The annual maintenance fee for each thermal unit that emits mercury will increase and will be subject to an adjustment factor of 2 percent compounded annually to account for inflation.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? ANSWER: NO.

3. If **Yes** to either of questions 1 & 2, the following action must be taken:

A. Was a small business impact statement prepared and was it available at the public workshop(s). ANSWER: YES.

B. Attach the Small Business Impact Statement (part 2) as part of Form #4 upon

submission of the proposed regulation to the State Environmental Commission when Form #1 (petition to the Commission) is submitted. ANSWER: ATTACHED.

SMALL BUSINESS IMPACT STATEMENT
FORM #4 - Part 2
(NRS 233B.0609)

1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary. *(Attach copies of the comments received and copies of any workshop attendance sheets noting which are small businesses.)*

The NDEP worked closely with the Nevada Mining Association (NvMA), which represents all mining interests in Nevada, in developing the revised fee structure. All permitted mining sources (approximately 600) were sent notification of the public workshop in Elko on July 10, 2007. The purpose of the workshop is to receive public comments, which are subsequently evaluated and incorporated into the amendments.

Copies of any written comments received and workshop attendance sheets will be available from NDEP, Bureau of Air Pollution Control at (775) 687-9356 or by e-mailing amalone@ndep.nv.gov.

2. The estimated economic effect of the proposed regulation on small businesses.

The 2007 legislature passed Assembly Bill No. 115 requiring the addition of two full-time employees whose responsibilities include ensuring compliance with the NMCP. Two full-time employees will cost \$250,000 per year, plus an additional \$32,500 in fiscal year 2008 for initial equipment costs. The NDEP expects to hire these new staff by January 1, 2008. The law specifies that these costs will be borne by the sources that are subject to the program. As recommended by the NvMA, the additional costs will be divided equally among the owners or operators of all existing thermal units that emit mercury.

3. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses. *(Include a discussion of any considerations of the methods listed below.)*

A.B. 115 specifies that the fees will be paid by each operator of a mine with the potential to emit mercury. The NDEP worked closely with the Nevada Mining Association (NvMA), which represents all mining interests in Nevada, in developing the revised fee structure.

4. The estimated cost to the agency for enforcement of the proposed regulation. *(Include a discussion of the methods used to estimate those costs.)*

Pursuant to A.B. 115, the agency is required to hire two new staff to ensure compliance with the NMCP. The estimated cost for two additional full-time employees is \$250,000 per year. The cost for new staff in FY 2008 will be prorated for 6 months. Additional FY 2008 costs will include initial equipment costs of approximately \$32,500.

5. If this regulation provides for a new fee or increases an existing fee, the total annual amount the agency expects to collect and manner in which the money will be used.

An additional \$32,500 will be collected in FY 2008 for start-up equipment, as well as \$125,000, for two new staff employed for 6 months of FY 2008. The new staff will ensure compliance with the NMCP. An additional \$250,000 will be collected each year thereafter to fund the two new positions.

6. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide an explanation of why the proposed regulation is duplicative or more stringent and why it is necessary.

The proposed regulations do not duplicate and are no more stringent than what is established by federal, state or local law.

This small business impact disclosure is being made available at public workshops being held in Elko on July 10, 2007. Copies may also be obtained by calling the Bureau of Air Pollution Control at (775) 687-9356 or e-mailing amalone@ndep.nv.gov.

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