



# STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

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## Summary of Minutes and Comments from Public Workshops on Proposed Changes to Nevada's Mining Reclamation Regulations (R044-12 / P2012-04)

Workshop locations and dates: Elko, NV, April 18, 2012  
Carson City, NV, April 24, 2012

- A review of the agenda for the public workshop was made. Participants were notified that the workshop proceedings and comments would be recorded, and the intent of the workshop was to provide an informational overview of the proposed regulation changes to the attendees. It was explained that regulatory action on the proposed regulation changes would not occur until the proposed changes were presented to the State Environmental Commission (SEC) at the next scheduled hearing on June 12, 2012.
- Workshop attendees were notified that the deadline for submission of comments, either electronically or in written format, to the Bureau of Mining Regulation and Reclamation (BMRR) would be May 14, 2012. The comments submitted and BMRR's responses to the comments would be available on the SEC website prior to the hearing.

Summary overview provided by BMRR on regulation amendment P2012-04:

- Pursuant to the Governor's Executive Order 2011-01, which involved regulatory agencies identifying regulations within their program that were outdated or no longer applicable to the overall function of their program, this regulatory amendment would repeal NAC 519A.360, Section 6. This section allows a lesser surety amount than currently required to complete required reclamation activities. The proposed amendment would also repeal NAC 519A.382 which involves submission of an annual fee or arrangement of a third-party review if a corporate guarantee is used for financial assurance. This regulation is no longer applicable since the BMRR has developed a corporate guarantee review program which involves a panel that reviews the audited financial information submitted by companies who use a corporate guarantee, and evaluates whether the corporate guarantee ratios and requirements, listed in NAC 51A.350, Section 7, are met.
- The other proposed regulation changes involve addressing several common problems encountered in reclamation, including erosion, sediment transport, and noxious weeds. Proposed revisions to NAC 519A.135, NAC 519A.265, and NAC 519A.270 would require reclamation plans to reference the use of "Best Management Practices" for erosion control and to minimize the transport and delivery of sediment to surface waters during reclamation activities. New proposed language would also be included in the aforementioned regulations that would describe methods for control of noxious weeds, as identified in NAC 555.010, during reclamation. This new proposed language would require reclamation plans to describe how noxious weeds would be controlled: using a weed-free seed mix, conducting concurrent

reclamation when feasible, and implementation of an annual weed monitoring and control program, including proposed methods to treat invasive weed species, if identified during revegetation activities.

- The proposed change to NAC 519A.215 would clarify the required information that must be submitted to the BMRR when requesting a transfer of a permit to a new operator. This additional information would include a statement explaining the how the operating company (permittee) is connected to the parent corporation (who posts the surety bond); a copy of the Nevada business license of the corporation or company; and a copy of the corporation's or company's certificate of registration with the Secretary of State.
- A provision would be added to NAC 519A.280 for the BMRR to consider comments from a local government entity that has jurisdiction for approving postmining-related uses, on private lands. The reclamation planning process does not currently take into account county requirements, and this new provision would require an operator to demonstrate that the county approves of the operator keeping buildings and infrastructure in-tact for industrial-related uses after mining.
- Revisions are also made to certain provisions related to the use of insurance as a reclamation surety instrument (NAC 519A.350). The Mining Bureau still considers an insurance policy as an option to satisfy bonding requirements. An insurance policy would have to meet the requirements of 519A regulatory program by ensuring coverage of total reclamation obligations/liabilities over the life of a project; guarantee performance for existing and proposed disturbances, and provide access to funds in a default situation or situation where an operator fails to perform. The insurance company issuing the policy would need a rating of "superior" or better, as determined by A.M. Best Company of Oldwick, New Jersey, or an equivalent rating from a nationally recognized insurance rating service, and be authorized to conduct insurance business in the State of Nevada.
- To ensure that the surety posted for reclamation obligations is sufficient, NAC 519A.360 is amended to require reclamation cost estimates reflect a third-party contractor performing the required work.

#### Comments and Responses from the Elko Workshop

Comment: For applications already submitted, would the proposed regulation changes and additional reclamation requirements apply to these submittals?

*BMRR Response: The proposed regulatory revisions would not become effective until the regulation amendment was approved and adopted by the SEC. The proposed revisions would not apply to permit modifications and applications and bond cost updates already submitted.*

#### Comments and Responses from the Carson City Workshop

Comment (1): The regulatory language proposed to be removed from NAC 519A.215, in particular, "new operator assumes responsibility for reclamation liability", seems to remove the main intent of this regulation. Although the permit transfer request form that must be submitted by a new permittee has the same language as what is being proposed to be removed, retaining the language in the regulation would be better.

*BMRR Response: The permit transfer request form does contain the same language as the regulations and this form must be signed by a new permittee agreeing to accept reclamation responsibility for reclamation of disturbances created by the existing permittee. However, BMRR agrees that a statement*

*should be contained in the NAC 519A.215 requiring a new permittee to acknowledge acceptance of responsibility for reclamation of affected or disturbed land.*

Comment (2): Regarding the approval of postmining land uses on private land, is the Bureau attempting to protect itself by taking input from a local government entity before approving proposed postmining land uses on private lands?

*BMRR Response: Yes, the BMRR would like to consider comments from a local government entity, if they have jurisdiction, regarding whether a private land owner's proposed postmining land use conforms with zoning requirements or land use planning requirements of the county, for example.*

Comment (3): It's already an economic burden for an operator to take responsibility for his own property in paying taxes and such to the county. Why does there have to be state requirement to say what a private property owner can do or not do with his property?

*BMRR Response: The goal of the mining reclamation program is to return all lands affected by mining to a productive postmining land use. The BMRR acknowledges that for mining activities on private lands, a land use after mining that may be industrial-related will probably be considered. The additional regulatory language proposed is to ensure that the proposed postmining land use agrees with the local government land use plan.*

Comment (4): The proposed language requiring that reclamation plans address monitoring and control of noxious weeds may make this a major requirement that operators must address in an additional separate report.

*BMRR Response: That is not the intent of the proposed regulation changes. The BMRR feels strongly that monitoring and control of noxious weeds should be described in reclamation plans for exploration and mining projects. This may mean that there will be a small additional cost that must be included in the reclamation bond to survey and control noxious weeds during reseeding of affected lands.*

Comment (5): Why is the specific language related to insurance as a surety instrument in NAC 519A.350 being removed in favor of more general language?

*BMRR Response: Proposed language will allow existing conditions contained in the regulation to still be evaluated but also allow some flexibility for the BMRR to evaluate the effectiveness of an insurance policy as a financial guarantee and whether such a policy would satisfy the State reclamation bonding requirements.*

Comment (6): Would the proposed changes to the regulation covering insurance as an acceptable surety instrument affect those companies who already are using insurance to satisfy bonding requirements?

*BMRR Response: An insurance policy has never been used by an operator as a financial bond for any project on private and/or public lands, thus far.*

Comment (7): Has the previous insurance regulation (NAC 519A.350) been too complex for operators to use an insurance policy as a surety instrument?

*BMRR Response: No. The problem has been that an insurance policy has not yet been proposed that provides the same financial guarantee as a surety bond or letter of credit.*