

Form #4

Small Business Impact Disclosure and Statement

Approved 5-2-2014



NEVADA
**STATE ENVIRONMENTAL
COMMISSION**

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 for drafting and submitting a Small Business Impact Statement (SBIS) to the State Environmental Commission (SEC) and to determine whether a SBIS is required to be noticed and available at the public workshop. A SBIS must be completed and submitted to the Legislative Counsel Bureau for ALL adopted regulations.

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

To determine whether a SBIS must be noticed and available at the public workshop, answer the following questions:

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

Yes, the proposed regulations will directly impact small businesses. The proposed regulation will impact all mining projects that have fluid management stabilization in their reclamation permits and sureties (for example, for the presence at the site of heap leach pads or tailings) or maintain artificial body of water containing chemicals directly associated with the processing of ore (and therefore are required to obtain a permit from the Department of Wildlife, as per NRS 502.390). This includes small businesses. The proposed regulation is requesting that these projects will contribute to the Fund an annual amount equivalent to 1 percent of their current surety estimate for the stabilization of the fluids (for those mine projects that have fluid management stabilization in their sureties) or \$5,500 (for those mine projects that do not have fluid management stabilization but have a permit from the Department of Wildlife). The fees will be collected until a new targeted maximum Fund balance of \$15,000,000 is reached, which the Division estimates it will take approximately 10 years.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

No. Small businesses may continue to apply for and operate under an NDEP mining reclamation permit.

If **Yes** to either of question 1 & 2, a SBIS must be noticed and available at the public workshop.

FORM 4: SMALL BUSINESS IMPACT STATEMENT (NRS 233B.0609)
(Provide attachments as needed)

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 identified as a small business.)

The Division will complete outreach activities with the mining industry. Notices about the proposed regulation will be emailed to stakeholders using primarily the Bureau of Mining Reclamation and Regulation and other NDEP's listservs, as appropriate. Letters will be mailed to all regulated facilities affected by the regulatory change. Each email and letter will include a description of the regulation and proposed fee changes. Outreach meetings will be held to introduce the proposed regulations. Notices of the meetings will be posted to the NDEP website and sent out through the NDEP's listservs. An official workshop will be held in Carson City with remote access. Notices of the workshop and an invitation for comments will be posted on the NDEP website, the Legislative Council Bureau's website, and the official State website. The workshop notice will be also emailed to an extensive distribution list maintained by NDEP Bureau of Mining Regulation and Reclamation. A summary of the workshop will be posted on the SEC website.

2. The manner in which the analysis was conducted (if an impact was determined).

The fees will apply to most mining projects, with the exclusion of those, like exploration projects, that do not have process fluid management and do not have a permit from the Department of Wildlife. Given the wide range of operation size and workforce across the mining industry, the Division determined that mining operation that have fewer than 150 full-time employees will be impacted by the fees proposed by this regulation.

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

a. Both adverse and beneficial effects:

Each mining operation that meets the criteria proposed in this regulation will be required to pay a fee equivalent to 1 percent of the estimated process fluid management surety or \$5,500 until the Fund reaches a balance of \$15,000,000, approximately for 10 years. While not a direct beneficial effect on small businesses, the proposed regulation will guarantee that the Fund will be financially sustainable and that sudden and unexpected defaults of mine projects will not result in environmental harm or degradation of water in Nevada, with potential large societal costs associated with environmental remediation. Indirect beneficial effects include ensuring a sustainable mining industry in the State of Nevada through avoidance of environmental harm.

b. Both direct and indirect effects:

Any economic impacts will be directly associated with the proposed fees.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of the methods. (Include a discussion of any considerations of the methods listed below.)

A. Simplification of the proposed regulation:

The proposed regulation is simple and concise.

B. Establishment of different standards of compliance for a small business:

The proposed regulation does not establish standards of compliance.

C. Modification of fees or fines so that a small business is authorized to pay a lower fee or fine:

The proposed regulation assesses fees based on a percentage of the surety held for the process fluid management or by assigning a fix fee of \$5,500. The Division estimates that most likely small businesses will have smaller fluid management sureties and therefore pay lower fees or pay \$5,500. This latter amount is lower than the lowest fee estimated for mining projects with fluid management sureties (approximately \$10,000). The \$15,000,000 target balance for the Fund was spread out over approximately 10 years to minimize impact.

There will be no change in the cost to the agency for enforcement of the proposed regulation.

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

6. 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.

The total annual amount expected to be collected annually is approximately \$1,200,000 to \$1,600,000 (depending on inflation and increase in fluid management costs across the 10 years). The amount expected to be collected in 10 years is \$13,600,000. The fees will be exclusively deposited into the Trust Fund for Short-Term Fluid Management and used according to NAC 519A.392

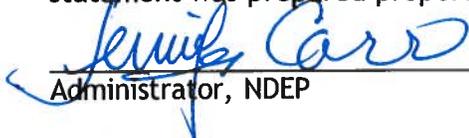
7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide an explanation of why such duplicative or more stringent provisions are necessary.

The proposed regulation amendments do not duplicate nor are more stringent than existing federal, state or local regulatory requirements.

8. The reasons for the conclusions regarding the impact of a regulation on small businesses.

Please, see responses to previous questions.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and the information contained in this statement was prepared properly and is accurate.



Administrator, NDEP



Date

Supporting Documents



Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.

<http://www.leg.state.nv.us/Statutes/77th2013/Stats201314.html#Stats201314page2304>