

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)*

The proposed regulations will directly impact small businesses. The proposed increase in fee will impact the overall mining industry in Nevada, which includes small business. However, the NDEP is proposing a revised fee structure that strive to minimize the economic burden on small businesses. After receiving comments from stakeholders, the regulation was amended to spread the fee increase over two years, instead one, and implement a new set of lower annual and renewal fee increases specifically for operations that use physical separation to extract gold (placer mines). This change reflects more closely the nature and lesser complexity of these operations.

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 operated under an NDEP water pollution control 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 completed several outreach events. Notices about the proposed regulation were emailed to stakeholders using the appropriate NDEP's listservs. Letters were mailed to all regulated facilities affected by the regulatory change. Each email and letter included a description of the proposed fee changes. Outreach meetings were held to introduce the proposed regulations. Participation to these meetings was both in-person and remote. Notices of the meetings were posted to the NDEP website and sent out through the NDEP's listservs. An official workshop was held in Carson City with remote access. Notice of the workshop and an invitation for comments were posted on the NDEP website, the Legislative Council Bureau's website, and the official State website. The workshop notice was emailed to an extensive distribution list maintained by NDEP Bureau of Mining Regulation and Reclamation. A summary of the workshop is available on the SEC website.

Comments were solicited from affected businesses through one public workshop and at the September 5, 2024, SEC hearing on September 5, 2024. The Division received written comments/questions from representatives from four affected businesses. Questions received from NvMA were concerned with justifications for revenue, expenditure, and reserve calculations, new positions, and level of service predictions. The NvMA also proposed several modifications to the proposed fee schedule, including a reduction in number of requested new positions, lower percent growth built into revenue projections, and development of a plan to address the current inadequate level of service. Several comments were also received from smaller businesses, generally expressing disapproval of the proposed fee increase, particularly for smaller placer mines; one suggested an option to retain an existing category for gold placer mines with a smaller increase in fees, citing less oversight required by the Division for such facilities. The Division responded to each and as a result of these comments, further amended the petition to reduce the proposed fees for certain types of mining projects. These amendments to R137-24 are being submitted as a green-line edit. A summary of comments and agency responses can be found in the NDEP Presentation to SEC for R137-24P (https://sec.nv.gov/uploads/mtg_0924/R137-24P_presentation.pdf).

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

The Division estimated the fee increase impact on each of the businesses affected. This provided an estimated fee increase for small mining operations (most likely small businesses) and large mining operations (most likely not small businesses). The proposed fees are more aligned with the size of the mining processes as they are based on the permitted annual tonnage processed. In addition, the proposed regulation creates additional categories for larger mining processing facilities. These two changes allow for a smaller fee increase for small business. The Appendix included with this SBIS shows the estimated increase in annual and renewal fees based on the permitted annual tonnage processed by the individual permits (same companies may hold several permits). There is not a direct correlation between annual tonnage processed and the number of people hired at the mine site; but tonnage processed is an approximate indicator of the size of the mining process and should provide an indication on the size of the work force.

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

a. Both adverse and beneficial effects:

The adverse effect is the increase in permit application fees and annual maintenance fees for permitted facilities. Beneficially, small businesses can expect timely application processing and outreach opportunities to assist in compliance and regulatory certainty.

b. Both direct and indirect effects:

Any economic impacts will be directly associated with the proposed fee increases. Application fees will be proportionate to the number of tons that can be processed that is permitted per the application. This provides for an equitable distribution of costs that can be associated with operating permits. Maintenance fees will be based on the number of tons that can be processed as listed on the operating permit. Lower fee increase was established for mining operations that use physical separation to extract gold (placer mines).

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. The proposed regulation is in table format making the process of determining which fees apply to facilities easier to understand.

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 fee changes assess fees to the amount of material processed that is included in the application, and maintenance fees will be proportionate to the amount of material that can be processed by the business. Because of this proposed fee structure, the fee increase burden would shift to medium and large-sized businesses that are more likely to have operations processing more material. In addition, the Division is using a 2-step approach for the implementation of the new fees. For the first year of implementation, only 50% of the increase will be effective.

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

There will be no change in the cost to the agency for enforcement of the proposed regulation. The cost of enforcement is factored into the fees charged for an application and maintenance of a water pollution control permit.

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 regulations propose increased fees and a revised fee structure. The agency anticipates collecting approximately between \$2,800,000 and \$3,600,000 in application and annual maintenance fees during the first fiscal years on implementation, of which approximately between \$1,000,000 and \$1,800,000 will be because of the proposed fee increase

The revenue collected will be used to both administer the current water pollution permit program and to build back a budget reserve that creates fiscal sustainability for the Program. Revenue will be used to help fully fund existing staff positions and 2 or 3 additional proposed new positions, to purchase necessary equipment, and to maintain acceptable levels of staff training and certification. The current water pollution program budget reserve is expected to be depleted by fiscal year 2026-27, without the proposed fee increase. Therefore, an additional goal of the regulation amendment is to build a budget reserve to support the Program during years when the mining industry may be impacted by economic downturn, consistently with The Division budget practice.


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 previous explanation and Appendix.

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.


Jennifer Carr (Oct 3, 2024 17:17 PDT)

Administrator, NDEP

Oct 3, 2024

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>

Appendix

The following two graphs show the estimated **increase** in annual fees for each of the mining water pollution control permits subject to the proposed regulation. The permits are ordered by the permitted tonnage processed. As described in the main text, the tonnage processed is not a direct indicator of the number of full-time employees, but it's an approximate indicator of size of the mining process and should provide an indication of the size of the work force.

Figure 1: Proposed annual fee increases (starting with fiscal year 2027) as a function of permitted tonnage processed for each mining operation. Only mining operations that use chemical separation or physical separation to extract material other than gold are shown. Operations with smaller tonnage processed will see the smallest increase in fees. Vertical bars identify the 25th, 50th, and 75th percentiles in the distribution of permits. For example, the first vertical bar identifies the first 25% of permits.

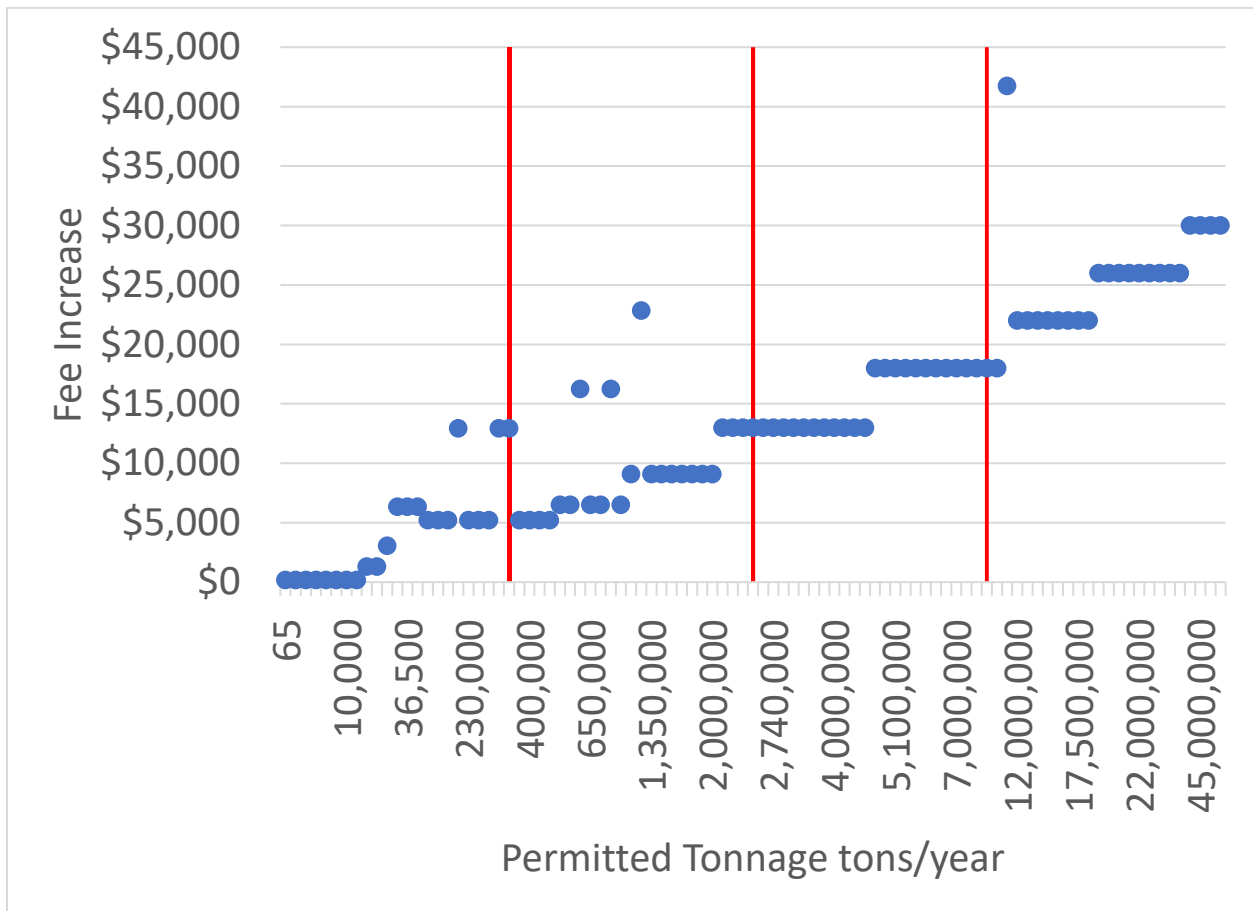


Figure 2: Proposed annual fee increases (starting with fiscal year 2027) as a function of permitted tonnage processed for each mining operation. Only mining operations that use physical separation to extract gold (placer mines) are shown. Operations with smaller tonnage processed will see the smallest increase in fees.

