

Intertech Services Corporation

Capacity of the State of Nevada to Undertake Environmental Protection Programs

Presented to the Nevada Public Land
Management Task Force

Carson City, Nevada

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Nevada State Agencies with Key Environmental Regulatory Authority

- Nevada Department of Conservation and Natural Resources
 - Nevada Division of Environmental Protection
 - Bureau of Air Pollution Control
 - Bureau of Mining Regulation and Reclamation
 - Bureau of Water Pollution Control
 - Nevada Environmental Commission
 - Nevada Division of Forestry
- Nevada Commission On Minerals
 - Nevada Division of Minerals
- Public Utilities Commission of Nevada

Nevada Department of Conservation and Natural Resources

A. Nevada Division of Environmental Protection

1. Bureau of Air Pollution Control (<http://ndep.nv.gov/bapc/>)

- Mission

- The mission of the Bureau of Air Pollution Control (BAPC) is to achieve and maintain levels of air quality which will protect human health and safety, prevent injury to plant and animal life, prevent damage to property, and preserve visibility and the scenic, esthetic and historic values of the State.
- This mission is accomplished through reasonable, fair and consistent implementation of state and federal air quality rules and regulations.

- Statutory Authority

- The authority for BAPC to implement air pollution control requirements has been established in Nevada Revised Statutes (NRS) 445B.100 through 445B.825, inclusive, and NRS 486A.010 through 486A.180, inclusive.
- The BAPC has jurisdiction of air quality programs over all counties in the State **except for Washoe and Clark Counties**. These counties have their own distinct Air Quality jurisdictions with the BAPC retaining jurisdiction of (only) fossil fuel-fired units that generate steam for electrical production.

- Air Quality Permitting

- The permitting branches in the Bureau of Air Pollution Control issues air quality operating permits to stationary and temporary mobile sources that emit regulated pollutants to ensure that these emissions do not harm public health or cause significant deterioration in areas that presently have clean air.
- This is achieved by stipulating specific permit conditions designed to limit the amount of pollutants that sources may emit into the air as a regular part of their business processes.

- Air Quality Permitting (Continued)
 - Any process/activity that is an emission source requires an air quality permit.
 - Nevada Revised Statute (NRS) 445B.155 defines an emission source as "any property, real or personal, which directly emits or may emit any air contaminant.
 - " NRS 445B.110 defines an "air contaminant" as "any substance discharged into the atmosphere except water vapor and droplets."
 - A permit is not be required if activities, pieces of equipment or storage containers will not cause emissions other than steam or water particles.
 - The following thresholds apply to the various air quality permit types:
 - **Class 1** - Typically for facilities that emit more than 100 tons per year for any one regulated pollutant or emit more than 25 tons per year total HAP or emit more than 10 tons per year of any one HAP or is a PSD source or major MACT source.
 - **Class 2** - Typically for facilities that emit less than 100 tons per year for any one regulated pollutant and emit less than 25 tons per year total HAP and emit less than 10 tons per year of any one HAP.
 - **Class 3** - Typically for facilities that emit 5 tons per year or less in total of regulated air pollutants and emit less than one-half ton of lead per year, and must not have any emission units subject to Federal Emission Standards (ie: NSPS, NESHAPS, MACT, etc.)
 - **SAD** - Surface Area Disturbance of >5 acres.
 - **General / COLA** - Temporary portable equipment for road and highway construction at a location < 12 months.

2. Bureau of Mining Regulation and Reclamation (<http://ndep.nv.gov/bmrr/index.htm>)
- Regulation Branch
 - Statutory Authority
 - The Regulation Branch regulates mining in Nevada under the authority of the Nevada Revised Statutes (NRS) 445A.300-NRS 445A.730 and the Nevada Administrative Code (NAC) 445A.350-NAC 445A.447.
 - Water Pollution Control Permit
 - The branch issues a Water Pollution Control Permit (WPCP) to an operator prior to the construction of any mining, milling or other beneficiation process activity. The need for a WPCP is not dependent on whether or not a discharge is intended, or the quantity of ore to be extracted or processed.
 - All local, State, and Federal laws and regulations must be complied with, including reporting requirements and permit requirements for activities that are not regulated by the WPCP; e.g., air emissions.
 - Issuance of a WPCP does not relieve the operator of the responsibility to secure the approval of any other State, Federal, or local agencies.
 - Regulation Branch
 - Statutory Authority
 - The Reclamation Branch regulates mining in Nevada under the authority of the Nevada Revised Statutes (NRS) 519A.010 - NRS 519A.290 and the Nevada Administrative Code (NAC) 519A.010 - NAC 519A.415.
 - Reclamation Permit
 - The branch issues a Reclamation Permit to an operator prior to construction of any exploration, mining, milling or other beneficiation process activity that proposes to create disturbance over 5 acres or remove in excess of 36,500 tons of material from the earth.
 - Aggregate or sand pit operations excluded from obtaining a reclamation permit pursuant to NAC 519A.080.

3. Bureau of Water Pollution Control (<http://ndep.nv.gov/bwpc/index.htm>)

- Mission
 - The mission of the Bureau of Water Pollution Control (BWPC) is to protect the waters of the State from the discharge of pollutants.
 - The BWPC regulates all discharges to waters of the State through issuing permits and enforcing the State's water pollution control (WPC) laws and regulations.
- Water Pollution Permits
 - surface water discharge
 - state water pollution control (groundwater discharge)
 - stormwater discharge
 - underground injection control.

4. State Environmental Commission (<http://sec.nv.gov/index.htm>)

- Statutory Authority
 - The statutory authority for the Commission is contained in NRS 445B.200. This statute defines the composition of the Commission as an eleven member board whose primary function is to act as a quasi-judicial and quasi-legislative board for approval of regulations as well as the disposition of appeals for the Nevada Division of Environmental Protection. The Commission is composed of the following public officials and Governor's appointed representatives:
 - Members by Statute:
 - The Director of the Department of Wildlife;
 - The State Forester Firewarden;
 - The State Engineer;
 - The Director of the State Department of Agriculture;
 - The Administrator of the Division of Minerals of the Commission on Mineral Resources;
 - A member of the State Board of Health to be designated by that Board;

- Governor's Appointed Representatives:
 - One member must be a General engineering contractor or a general building contractor licensed pursuant to chapter NRS 624;
 - One member must possess expertise in performing mining reclamation; and
 - One member must possess experience and expertise in advocating issues relating to conservation;
 - Two members representing the public at large.
- Functions
 - Rule Making
 - The State Environmental Commission (SEC) acts on "Regulatory Petitions" proposed by the Nevada Division of Environmental Protection (NDEP). These Petitions (i.e., proposed regulations) are initiated to further define existing state law contained in the (Nevada Revised Statutes) and or new laws enacted by the Nevada Legislature.
 - Regulatory Petitions may address new or revised environmental standards, adoption of certain federal regulations, approval of new permitting fees, incorporation of federal required plans, and other functions necessary for the proper execution of state and federal laws and regulations.

- Appeals
 - The SEC also hears and decides contested cases through appeals. Appeals typically address final decisions made by the Division of Environmental Protection regarding various enforcement actions and permits.
 - The SEC can also ratify air pollution enforcement settlements and it may levy civil penalties in air pollution enforcement actions when no agreement has been reached with the Division of Environmental Protection.
- Declaratory Orders and Advisory Opinions
 - Any member of the public may petition the Environmental Commission for a declaratory order or an advisory opinion as to the applicability of any statutory provision, commission regulation, or decision.

B. Nevada Division of Forestry (<http://forestry.nv.gov/forestry-resources/protection-of-timberland-trees-and-flora/>)

- Authority
 - NRS 527 This regulation allows the State Forester Firewarden to oversee the following:
 - Protection of Timbered Lands
 - Protection of Trees and Flora
 - Protection of Christmas Trees, Cacti and Yucca
 - Controlled Fires
 - Control of Forest Insects and Diseases
 - Use of Mechanical Devices for Harvesting Pine Nuts or Cones from Pinon Trees
 - Protection and Propagation of Selected Species of Native Flora
 - Forest and Range Renewable Natural Resources

- Permits Required
 - Removal or Possession Permit: A person proposing to remove or possess any Christmas tree, cactus or yucca for commercial purposes on any state, county or privately owned lands shall notify the State Forester Firewarden and obtain a permit to do so
 - Shipping Permit: Christmas trees, cacti or yucca which are removed or possessed for commercial purposes in Nevada and which are to be transported by railroad or other means to other localities in or out of the State of Nevada must be accompanied by a shipping permit issued by the State Forester Firewarden, or the State Forester Firewarden's duly authorized agent.
 - Pinion Pine Nut Harvesting Permit: It is unlawful for any person, firm, company or corporation to use a mechanical device to harvest cones or pine nuts from a pinon tree on lands owned by or under the control of the State of Nevada, or on any private lands without a written permit therefore from the owner or occupant of the land or the authorized agent of the owner or occupant.
- Protection and Propagation of Selected Species of Native Flora
 - NRS 527.260 to 527.300, inclusive, is to provide a program for the conservation, protection, restoration and propagation of selected species of flora and for the perpetuation of the habitats of such species.
 - A species or subspecies of native flora shall be regarded as threatened with extinction when the State Forester Firewarden, after consultation with competent authorities, determines that its existence is endangered and its survival requires assistance because of overexploitation, disease or other factors or because its habitat is threatened with destruction, drastic modification or severe curtailment.
 - Any species declared to be threatened with extinction shall be placed on the list of fully protected species, and no member of its kind may be removed or destroyed at any time by any means except under special permit issued by the State Forester Firewarden.

Nevada Commission on Minerals - Division of Minerals (<http://minerals.state.nv.us/>)

A. Mission

- The Nevada Division of Minerals, a part of the Commission on Mineral Resources, is responsible for administering programs and activities to promote, advance, and protect mining and the development and production of petroleum and geothermal resources in Nevada.
- The Division's mission is to conduct activities to further the responsible development and production of the State's mineral resources to benefit and promote the welfare of the people of Nevada.
- The seven-member Commission on Mineral Resources is a public body appointed by the Governor and directs mineral-related policy for the Division and advises the Governor and Legislature on matters relating to mineral resources.
 - The Commission on Mineral Resources Board is funded from fees collected from the Mining, Geothermal, and Oil & Gas industries.
 - Responsible for advising the Governor and Legislature on mineral related issues.

B. Regulation

- Oil, gas, and geothermal drilling activities and well operations
 - Permitting, inspecting, and monitoring all oil, gas, and geothermal drilling activities on both public and private lands in Nevada.
 - Monitors production of oil, gas, and geothermal resources to insure proper management and conservation.
- Abandoned mine lands
 - Identifying and ranking dangerous conditions at mines that are no longer operating
 - Securing dangerous orphaned mine openings.

Public Utilities Commission of Nevada (PUCN) (http://puc.nv.gov/Utilities/UEPA_Permits/)

- Utility Environmental Protection Act (UEPA) permit
 - NRS 704.865 mandates the PUCN issue permits for all utility projects over a certain scale, including energy generation projects (over 70MW), transmission projects (over 200kV), as well as large water and sewer utility projects
 - The permit regulates location, environmental impacts, and creates a process by which stakeholders including local governments, individuals, and representatives of environmental groups, can be parties to the approval process
 - In order to approve any UEPA permit, the PUC must find that, amongst other things, the project has “minimum adverse effects on the environment” and that “the facility will serve the public interest”
 - As part of the UEPA process, the Nevada Division of Environmental Protection and the Nevada Department of Conservation and Natural Resources must also review any application for a UEPA permit

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