

**REVISED PROPOSED REGULATION OF
THE COMMISSION ON MINERAL RESOURCES**

LCB File No. R127-15

January 7, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-6, NRS 513.063 and 513.094.

A REGULATION relating to mines; increasing the fee for certain filings; revising provisions related to rating and ranking dangerous conditions; revising requirements for posting warning signs of and securing dangerous conditions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Administrator of the Division of Minerals of the Commission on Mineral Resources to establish by regulation a fee, not to exceed \$4 per claim, to establish a program to: (1) discover dangerous conditions related to mines no longer in operation; (2) rank the danger of the conditions; and (3) identify the owners or other persons responsible for the conditions. (NRS 513.094) **Section 1** of this regulation increases the amount of that fee from \$2.50 to \$4 per claim.

Existing regulations establish a schedule for rating the location of a dangerous condition related to a mine which is no longer in operation. (NAC 513.330) **Section 2** of this regulation provides that the Administrator or his or her representative may under certain circumstances assign a different rating.

Existing regulations establish a schedule of deadlines by which a person responsible for a dangerous condition is required to secure the condition upon notification of the condition. (NAC 513.380) **Section 4** of this regulation extends the duty to secure a dangerous condition to the owner of the real property on which the condition is located. **Section 4** also adds minimal hazards to the schedule, requiring the posting of a warning sign near dangerous conditions ranked as such within 180 days after the owner or responsible person was notified of the condition by the Commission on Mineral Resources.

Existing regulations set forth certain methods by which a dangerous condition must be secured. (NAC 513.390) **Section 5** of this regulation revises the list of methods which are acceptable and requires the owner or responsible person to maintain the structure used to secure the condition. **Section 5** also provides that the Administrator or his or her representative may approve the modification of the method of securing a dangerous condition to accommodate site-specific features or characteristics.

Section 1. NAC 513.315 is hereby amended to read as follows:

513.315 The amount of the additional fee that is imposed on filings pursuant to subsection 1 of NRS 513.094 is ~~1\$2.501~~ \$4 per claim.

Sec. 2. NAC 513.330 is hereby amended to read as follows:

513.330 The location of a dangerous condition must be rated in the following manner:

1. One point must be assigned to a dangerous condition located at least 5 miles from an occupied structure or a public road maintained by some governmental entity.
2. Two points must be assigned to a dangerous condition located between 1 and 5 miles from an occupied structure or a public road maintained by some governmental entity.
3. Three points must be assigned to a dangerous condition located 1/2 to 1 mile, inclusive, from a town.
4. Four points must be assigned to a dangerous condition located not more than 1/2 mile from a town or not more than 1 mile from an occupied structure or a public road maintained by some governmental entity.
5. Five points must be assigned to a dangerous condition located within a town or within 100 feet of an occupied structure or a public road maintained by some governmental entity.

↪ The Administrator or his or her representative may assign a different rating to a dangerous condition in a location if other factors affecting accessibility warrant the modification, but the rating for a dangerous condition in a single location may not be scored higher than five points.

Sec. 3. NAC 513.360 is hereby amended to read as follows:

513.360 Dangerous conditions must be ~~rated~~ ranked as follows:

1. A dangerous condition with a total number of 2 or 3 points is a minimal hazard;

2. A dangerous condition with a total number of 4 or 5 points is a low hazard;
3. A dangerous condition with a total number of 6 or 7 points is a moderate hazard; and
4. A dangerous condition with a total number of at least 8 points is a high hazard.

Sec. 4. NAC 513.380 is hereby amended to read as follows:

513.380 ~~{Upon notification}~~ *If notified by the Commission* of the existence of a dangerous condition, the *owner or* responsible person shall:

1. *Post within 180 days a warning sign in a prominent location near a dangerous condition ranked as a minimal hazard; and*

2. *In the manner prescribed in NAC 513.390:*

(a) Secure within 180 days a dangerous condition ~~{rated}~~ *ranked* as a low hazard;

~~{2.}~~ (b) Secure within 120 days a dangerous condition ~~{rated}~~ *ranked* as a moderate hazard; and

~~{3.}~~ (c) Secure within 60 days a dangerous condition ~~{rated}~~ *ranked* as a high hazard. ~~{~~
→ ~~in the manner prescribed in NAC 513.390.}~~

Sec. 5. NAC 513.390 is hereby amended to read as follows:

513.390 ~~{A}~~

1. *Except as otherwise provided in subsection 4, a dangerous condition ranked as a low, moderate or high hazard* must be secured by one or more of the following:

~~{1.}~~ (a) A barricade ~~{made of wood, metal or plastic, set in place in a solid manner with an orange warning sign attached.~~

~~—2.—~~ *A fence} or other structure, including, without limitation, a structure consisting of metal posts and four strands of barbed wire, or other durable materials,* constructed to prevent a person or animal from accidentally exposing himself or herself to the dangerous condition.

~~13.1~~ (b) Permanently anchored seals constructed of material not subject to rapid decomposition and, if used to secure a vertical opening, strong enough to support the weight of any person or animal.

~~14.1~~ (c) Backfilling so that no void spaces remain.

2. In addition to securing a dangerous condition pursuant to subsection 1, if the dangerous condition ranked as a low, moderate or high hazard is secured only by the method set forth in paragraph (a) of subsection 1, the owner or responsible person must post a warning sign in a prominent location near the dangerous condition. The warning sign must be posted within the period set forth in subsection 2 of NAC 513.380 for securing the dangerous condition.

3. Regardless of the method used pursuant to subsection 1 to secure a dangerous condition, the owner or responsible person shall maintain the integrity of that structure.

4. The Administrator or his or her representative may approve the modification of a method of securing a dangerous condition to accommodate features or characteristics that are specific to the location of the dangerous condition.

Sec. 6. NAC 513.260 and 513.370 are hereby repealed.

TEXT OF REPEALED SECTIONS

513.260 “Fence” defined. (NRS 513.094) “Fence” has the meaning ascribed to it in subsection 5 of NRS 207.200.

513.370 Posting warning sign. (NRS 513.094) A dangerous condition regardless of its ranking must be posted with a warning sign mounted on an orange post. The sign must be posted within 30 days after the responsible person is notified by the county sheriff of the existence of the condition.