

**JANUARY 25, 2022**  
**MINUTES**

**Minutes of Meeting**  
**MINING OVERSIGHT & ACCOUNTABILITY COMMISSION**  
**January 25, 2022, 9:00 a.m.**

The meeting was held via zoom at the Nevada Department of Taxation, 1550 E. College Parkway, Carson City, Nevada, and via teleconference.

**MINING OVERSIGHT & ACCOUNTABILITY  
MEMBERS PRESENT:**

Anthony Ruiz, Chairman  
Jose Witt, Vice Chair  
Pamela Harrington  
Jerry Pfarr  
Melissa Clary

**COUNSEL TO THE COMMISSION PRESENT:**  
Henna Rasul, Senior Deputy Attorney General

**DEPT. OF TAXATION STAFF PRESENT:**

Jeffrey Mitchell, Deputy Director  
Christina Griffith  
Chali Spurlock  
Kit Sober  
Peggy Cole  
Jayna Seley

**MEMBERS OF THE PUBLIC PRESENT:**

Tom Clark  
Fermina Stevens  
Dennis Gaddy  
Drew McGregor  
Jennifer Atlas  
Christine Saunders, Progressive Leadership Alliance  
Jackie Chiaculas  
Jordan Cervalli  
Juanita McCord  
Justin Luna  
Kassandra Lissenbee  
Kevin Martindale  
Jeff Bixler, Division of Industrial Relations  
Allison Anderson, i80 Gold  
Laura Martin  
Maggie Salas Crespo  
Maria Espinoza  
Nancy Morris  
Nate Fluellen  
Victoria Carreon, Department of Industry  
Nikki Bailey-Lundhal  
Perry Faigan  
Allen Biaggi  
Allison Anderson  
Amanda  
Daniel Rothberg  
Jay Dixon  
Daniel Atkinson  
April Corbin Girus  
Cathy Erskine  
Regan Comis  
Rick Perdomo  
Tyre Gray  
Amanda Hilton, Robinson Mine  
Chris Henry  
Will Pregman, Battleborn Industry  
Marla McDade Williams  
Cinthia Moore  
Chris Daly, NSEA  
Rusty Hufford  
Patrick Donnelly  
Washoe Dems Tech Committee  
Jesse Wadhams  
Christina Erling  
Greg Lovato, NDEP  
Todd Process, NDEP  
Rob Kuczynski, NDEP  
Christy Joyce, Court Reporter

**1. ROLL CALL, ESTABLISHMENT OF QUORUM AND OPENING REMARKS**

Chairman Ruiz called the meeting to order at 9:02 a.m., quorum was confirmed. He noted this is the first quarterly meeting of the year and will be mostly informational. He mentioned they would push Agenda Item 5 to the next meeting.

Member Clary asked if the members would be able to ask questions regarding the regulations at the next meeting. Jeffrey Mitchell, with the Department of Taxation, noted there are a lot of changes being requested so they would prefer discussing it at the next meeting.

**2. PUBLIC COMMENT**

Kevin Martindale, with Millcreek Engineering, introduced himself and noted his support of mining. He asked the commission to remember the mining industry is made of people.

Nick Fluellen stressed the amount of people in the mining community and listed ways mining communities are helping.

Cassandra Lizenby, with Great Basin Resource Watch, explained their role and that her organization is the voice of the people mining affects. Their stress is on water.

Amanda Hilton, with KGHM, stressed the importance to her community the Robinson mine has. She invited the Commission to tour their mine.

Chris Henry wanted to add that Nevada has potential for additional Lithium mining and other minerals. He also added mining in Nevada benefits the entire US.

Dennis Gaddy, with L& H industrial, explained what they do.

Will Pregman, Battle Born Progress, noted his concerns about the law changes regarding taxes for mining.

Christine Saunders, Progressive Leadership Alliance, echoed Mr. Pregman's comments. She added they have sent recommendations to the governor's office to fill the Commission's vacancies.

Rusty Hufford, with a Mining Consulting firm called Wood, explained his mining experience.

Jordan Cervalli, CGF Newell, expressed her gratitude to mining for supporting her and her family. She also explained their work for the community.

**3. Review, discussion and possible action regarding October 28, 2021 meeting minutes**

Chairman Ruiz asked if there was any discussion on the previous minutes. Member Harrington noted a modification to the minutes on her comments, noting it states she is not a native Nevadan and doesn't feel that captures the breath as to why she is on this commission. She clarified that she moved to Nevada because she wanted to live here, and that she lives in rural Nevada. She would like it to instead state that she lives in rural Nevada adjacent to the heart of mining. She represents Trout unlimited to make sure the Commission looks at water issues. It also says she has done many mine cleanups but should state that she has done many mine restoration projects with streams.

Chairman Ruiz asked if the additions could be added to the minutes. Mr. Mitchell noted the commission can vote to amend and approve the minutes. Member Pfarr moved to approve the minutes as amended. Member Witt seconded the motion. Motion carried.

**4. Briefing on the role, responsibilities, and authority of the Commission by Commission Counsel, Attorney General's**

Henna Rasul explained the main function of the Mining Oversight and Accountability Commission (MOAC). She went over the history of MOAC's creation and explained the purpose of the commission. She also explained what authority MOAC has.

Ms. Rasul also explained the open meeting law and the commissions responsibility with it.

Chairman Ruiz asked what constitutes a quorum for this board. She responded that it is seven members. He confirmed then a quorum would be four, she agreed.

Member Witt asked how Agenda Items will be placed on the meeting. Ms. Rasul noted typically the Chair would do that, the public or members could also contact Mr. Mitchell for item suggestions also. Chairman Ruiz also noted those can be added during the meeting under the item for future meetings.

**5. For Discussion and Possible Action; pursuant to NRS 514A.110 review of adopted regulations**

Chairman Ruiz reiterated this item is tabled to the next meeting to give the members more time to review.

**6. For Possible Action: Agency Reports; Consideration and possible adoption of recommendations and order pursuant to NRS 514A.070**

Jeff Bixler, with the Division of Industrial Relations, gave a presentation on Mine Safety and Training.

Member Clary asked if international employees come for training to work in Nevada or elsewhere, he responded it is for both.

Member Clary asked if other states do not have as robust training as Nevada. Mr. Bixler stated some stopped their training and the Division of Industrial Relations picked it up as well as the funding for it.

Chairman Ruiz asked for major take away from the report. Mr. Bixler noted the report goes over many things he just provided. He noted safety has improved. The main part of the report is the mine directory.

Chairman Ruiz also asked about the staff ratio vs mines and if there are concerns or staffing challenges presented from COVID. Mr. Bixler stated there has been challenges but they are able to stay distanced at the mines, training in house has been a challenge. Inspections have not been bad.

Member Clary noted she would like more time to look at the report. She asked if they consider long term health effects. Mr. Bixler noted they consider it above and beyond their typical safety inspections.

Member Clary added she will look at the report more in depth when she has time.

Chairman Ruiz encouraged the members to bring questions at future meetings.

**7. For Discussion Reports and Presentations: Overview Presentation of the Nevada Division of Environmental Protection**

Greg Lovato, with the Nevada Division of Environmental Protection (NDEP) gave a presentation on mining regulation and reclamation. He stated they will focus more on reclamation than regulation. He explained what the NDEP does in relation to mining.

Member Clary noted she would love to dive into some of those processes individually in the future. She asked if he knew the percentage difference between mining on private or public lands.

Mr. Lovato stated NDEP operates on public and private lands, and it is more parallel. He estimates 90% takes place on public land. Todd Process, with NDEP, stated when it comes to bonding it is somewhat irrelevant, most mine projects are a mix of both.

Member Clary noted, in regards to the cost estimation, there is significant improvement for that and asked if there is greater detail they can receive in the future. Mr. Lovato replied they can maybe focus on reclamation at the next meeting they present at. He also added a lot of information is available on their website.

Mr. Process explained the model and how it breaks it down to assign the dollar value.

Member Clary also asked in the initial preconstruction process, how staff reconciles what is on paper and what is in the field.

Rob Kuczynski, with NDEP, responded that they do, and that staff goes through every detail.

Member Harrington noted she would like to see a lot of these topics explored more in the future. She asked for clarification on the bonding process. She also wanted to know if there were requirements on concurrent reclamation and had questions on the temporary use designation.

Mr. Lovato explained bonding companies. He does not believe they have requirements for concurrent reclamation due to fluctuating prices.

Mr. Process added the bonding companies are vetted by the federal government and explained that the industry must have a certain amount of assets set aside in addition to paying a fee. He explained it is not always feasible for mines to do concurrent reclamation while operating. He has seen some good things with the environment where concurrent reclamation has been done.

Member Harrington thanked them and agrees a lot of good concurrent reclamation is being done. She would like to see that improved. She also had questions regarding treatment, perpetuity, and pit lakes. She would like to dig into more in the future.

Mr. Lovato stated there is a need for treatment and perpetuity and the goal of permitting is to prevent the need for it. He added there is a lot of controversy over pit lakes and it is a continuing matter for many.

Member Pfarr commended Mr. Lovato and their staff for their work. He shared his appreciation with Mr. Bixler and his staff for making sure mining employees return home every day.

Member Clary proposed looking at the reclamation effort on some of the older mines and what the communities are left with. Mr. Lovato noted they would be happy to provide more information. He explained some of the things they have done and are doing to help communities around the state.

Chairman Ruiz noted his appreciation for their presentation.

8. Briefing to and from the Commission and the Department of Taxation Staff

Mr. Mitchell noted regulations are being proposed by NDEP as well as being brought forward by the Department, both will be brought to the commission. He noted the members would be polled for the next meeting and added if there are things the commission would like him to do differently to let him know.

Member Harrington asked about indigenous people being added to the Commission. Mr. Mitchell explained that resides with the boards at the governor's office and he is not privy to those proceedings.

Member Harrington asked Chairman Ruiz if there was a way they can get an update on that. Chairman Ruiz stated the final seats are filled by the majority leader and the minority leader in the Senate and then need to be approved by the governor. He does not have an update but has expressed his desire on that.

9. **For Possible Action: SCHEDULE DATE AND REVIEW AGENDA TOPICS FOR THE NEXT MEETING**

Chairman Ruiz asked for discussion on future topics. Mr. Mitchell noted the next meeting will be considered a special meeting. Reports will be at the second regular meeting. The special meeting will be reviewing regulations. He hopes to have the report on regulations that have been approved since the last meeting of MOAC.

Mr. Mitchell suggested the second or third week in February and noted Christina will send a poll to the members to confirm a date.

Chairman Ruiz stated any requests for future agenda items should be forwarded to Mr. Mitchell.

10. Public Comment

There was no public comment.

11. **For Possible Action: Adjournment**

Meeting adjourned at 10:57 a.m.

# **NDEP PRESENTATION**



NEVADA DIVISION OF  
**ENVIRONMENTAL  
PROTECTION**



Nevada Department of  
**CONSERVATION &  
NATURAL RESOURCES**

# Nevada Division of Environmental Protection

Proposed Amendments to Nevada  
Administrative Code for Mining  
Reclamation (NAC 519A.010 - .635)

**R085-021P**

February 15, 2022

**Presented by:**

*Frederick Perdomo, Deputy Administrator  
NDEP*



## PRESENTATION OBJECTIVES

1. Summarize the need and purpose for the regulations
2. Provide an overview of regulation drafting process
3. Describe the proposed regulations in general terms
4. Address notable public comments
5. Respond to questions from the Commission



# R085-21 NEED AND PURPOSE

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**Need:** R085-21 is needed to provide regulatory standards for the affidavit requirement in AB 148, including a definition of good standing which is the statutory standard on which the affidavit is based.

**Purpose:** R085-21 takes the text of AB 148 and distills it into a regulatory framework that provides:

- The regulated community with clear direction for satisfying the affidavit requirement
- The Division with evidence to determine whether the applicant or operator is in default in Nevada and in good standing in other states
- The public with assurance that the Division is not granting permits to applicants and operators that have not satisfied reclamation obligations in Nevada and other states

# R085-21 PROCESS SUMMARY

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## 2021

**September:** NDEP completes first drafts of regulations and distributes to stakeholders through the Bureau of Mining Regulation and Reclamation's e-mail LISTSERV (284 addressees).

**October:** NDEP holds meetings with stakeholders to discuss draft regulations. NDEP revises regulations as a result of these meetings.

**November 12:** NDEP submits draft regulations to the State Environmental Commission (SEC).

**November 21:** SEC sends draft regulations to the Legislative Counsel Bureau (LCB).

**November 22:** LCB publishes initial drafts of R085-21I and R086-21I in the Nevada Register.

**December 17:** NDEP posts a Notice of and Agenda for Public Workshops and a Small Business Impact Survey and through e-mail LISTSERV.

# R085-21 PROCESS SUMMARY

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2022

**January 4 and 6:** NDEP conducts public workshops with 13 in-person attendees and 59 virtual attendees.

**January 7:** SEC posts its Notice of Hearing on R085-21 and R086-21.

**January 9:** LCB publishes SEC's Notice of Hearing on R085-21 and R086-21 in the Nevada Register.

**January 11:** LCB publishes its draft of R085-21P in the Nevada Register.

**January 21:** Public Comment period ends.

**January 24:** LCB publishes its draft of R086-21P in the Nevada Register.

**January 26:** Green line changes are made to R085-21P and R086-21P based on public comments.

**February 9:** SEC approves R-085 and R086-21 with green line edits.

# AB 148 LEGISLATION SUMMARY (R085-21)

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The Legislature adopted AB 148 during the 2021 Session.

## Overview:

Prohibits issuing a reclamation permit to applicants that:

- Defaulted on a reclamation obligation in Nevada; or
- Are not in good standing with another state/federal agency

Discretion given to only issue a permit to applicants that:

- Remedy any conditions which led to the default in Nevada; or
- Remedy any issues in another state and are now in good standing

Requires an applicant to submit an affidavit stating:

- If they are in good standing with all agencies of other states, as well as with federal agencies

# R085-21 REGULATION SUMMARY

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Sec. 2: Defines "Person Who Has Controlling Interest"

Sec. 3(1): Affidavit Requirements

- a) Submitted on Division Form (draft form provided in SEC packet).
- b) Certified for in-state operations and projects.
- c) Certified for out-of-state operations and projects.
- d) Identifies operations/projects that have been in default or applicants that are not in good standing (Green lined).
- e) Discloses dates for operation/project and whether the default has been remedied or if applicant is now in good standing in other states.
- f) Includes any other information required by the Division.

Sec. 3(2): Supplemental Affidavit Requirement

- a) Submitted on Division form (draft form provided in SEC packet).
- b) Identifies project/operation in default or if applicant is not in good standing at the time the application is filed.
- c) Describes actions taken to remedy default or issues related to good standing.
- d) Includes any other information required by the Division.

Sec. 3(3): Supplemental affidavit must be submitted within one year or application is void.

# R085-21 REGULATION SUMMARY

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## Sec. 4: Default Remedy

- Provide evidence that full amount of defaulted obligation has been paid and not discharged through bankruptcy.
- Demonstrate that conditions leading to default no longer exist.

## Sec. 5: Good Standing Remedy

- Full and complete satisfaction and compliance with every condition/requirement set forth in a judgement or ordered by a state/federal agency.
- Does not discharge any debt or obligation related to reclamation through bankruptcy.

# R085-21 REGULATION APPLICABILITY

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## Exploration Projects

- Sec. 7 and 8: Requires affidavit with new application for permit. Prohibits Division from issuing a permit if prohibited under AB 148.

## Same requirements

- Sec. 9: Requests for interim permit.
- Sec. 10 and 11: New applications for mining operations.
- Sec. 14: Requests to transfer mine operations or exploration project permit.

## Permit Substitutions

- Sec. 12: Requires compliant affidavit when substituting a federally approved plan of operations for a permit to operate on public land.
- Sec. 13: Same requirement for projects on public/private land.

# R085-21 PUBLIC COMMENT

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## Regulated Community

Received verbal and written comments from the Nevada Mining Association (NvMA) and Nevada Gold Mines (NGM). Concerns were addressed in **green line** edits to the regulation and draft declaration (affidavit).

## Interested Parties' Concerns

- For international mining operations, would reclamation obligation defaults outside the U.S. be considered.
- How would the regulation apply to a subsidiary of a parent corporation.
- Good standing limited to reclamation statutes and regulations.





**QUESTIONS?**



NEVADA DIVISION OF  
**ENVIRONMENTAL  
PROTECTION**



Nevada Department of  
**CONSERVATION &  
NATURAL RESOURCES**

# Nevada Division of Environmental Protection

Proposed Amendments to Nevada  
Administrative Code for Mining  
Reclamation (NAC 519A.010 - .635)

**R086-021P**

February 15, 2022

**Presented by:**

*Todd Process*

*NDEP Bureau of Mining Regulation and  
Reclamation*



## PRESENTATION OBJECTIVES

1. Summarize the need and purpose for the regulations
2. Describe the revised existing regulations
3. Address notable public comments
4. Respond to questions from the Commission

# NAC 519A – REGULATORY PETITION RO86-21P

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## What is Proposed and Why?



Increases in reclamation permit application and annual service fees (last updated in 1990 and 2002) to account for inflation and ensure the Reclamation program continues to work effectively



Updates regulations to improve clarity and consistency



Updates regulations to ensure adequate stormwater controls to maintain long-term stability of reclaimed mine components



Updates regulations to standardize earth cover depth requirements and final slope topography for long-term stability and provide for a post-mining land use

# NAC 519A – REGULATORY PETITION RO86-21P

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## Sec. 1 - 4



Sec. 1(g) and 3(g): Requires proper financial assurance to plug the maximum number of open drill holes from exploration drilling



Sec. 2: Provides terminology clarification related to land disturbance






Sec 4: Revises application review timelines (15 days to 30 days) and allows the Division to void an application if the applicant does not provide all required information within one year

# NAC 519A – REGULATORY PETITION RO86-21P

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## Sec. 5

-  Increases application fees for reclamation permits.
-  Updates application fees based upon the Consumer Price Index for inflation from 1990 (when application fee amounts were first established)
-  The fee increases by land status are slightly more than double and are rounded to the nearest 5 cents.

Total Affected Area	Current Fee per Acre	Proposed Fee per Acre
Exploration - Public Land	\$1.50	\$3.10
Exploration - Private Land	\$2.50	\$5.15
Mining - Public Land	\$1.50	\$3.10
Mining - Private Land	\$2.50	\$5.15

# NAC 519A – REGULATORY PETITION RO86-21P

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## Sec. 6



Increases the annual service fees for reclamation permits



Updated fees based upon the Consumer Price Index for inflation from 2002 (when fee amounts were last revised)



Reflects an approximate 50% increase from the previously established 2002 fees



The increased permit application fees become effective immediately upon SEC and Legislative approval



The increased annual service fees become effective upon SEC and Legislative approval with invoices sent in mid-February 2023, and due on or before April 15, 2023

# NAC 519A – REGULATORY PETITION RO86-21P

## Sec. 6

# of Acres Affected Exploration	Current Annual Fee	Proposed Annual Fee
≤20	\$100	\$150
>20 - 100	\$500	\$750
>100 - 500	\$1,000	\$1,500
>500	\$2,000	\$3,000
# of Acres Affected Mining	Current Annual Fee	Proposed Annual Fee
≤50	\$500	\$750
>50 - 200	\$1,500	\$2,200
>200 - 500	\$3,000	\$4,500
>500 - 1000	\$4,500	\$6,800
>1000 - 2500	\$9,000	\$13,600
>2500 - 5000	\$12,000	\$18,200
>5000	\$16,000	\$24,000



# NAC 519A – REGULATORY PETITION RO86-21P

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## Sec. 7

Improves clarity of specific mining terms commonly used by industry and reclamation to determine financial assurance for mine operations:



Replaces the word “kind” with “types”; adds “on areas to be affected” and “without limitation”



Adds the word “heap” to leach pads (as industry recognizes)



Replaces the word “dumps” with “storage and disposal facilities”



Add “foundations” as a type of area affected. Buildings are typically on foundations; however, not all foundations are built for buildings.



Adds “including, without limitation, access and haul roads”; road type distinction is important to evaluate the proper reclamation costs for an access road vs. a haul road



Replaces “scrap” with “recyclable and reusable materials”



Adds “solid and hazardous wastes” for disposition

# NAC 519A – REGULATORY PETITION RO86-21P

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## Sec. 8 – 10


Sec. 8: Revise review timelines (15 days to 30 days) for permit modifications

Sec. 9: Replace existing terminology to “lawful disposition or disposal of recyclables, reusable materials, and solid and hazardous waste” to be consistent with Sec. 7

Sec. 10: Improves clarity and specificity related to activities performed for reclamation of exploration projects:

 Removes words “with the minimum surface plug required” (refers only to Chapter 534 of NRS for drill hole plugging requirements)

 Removes the word “form” and replaces it with “natural topography”

 Replaces “its disturbance” with “it was affected, unless otherwise approved by the Division;” (NRS defines the word “affected” and not the word “disturbance”)

# NAC 519A – REGULATORY PETITION RO86-21P

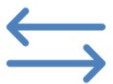
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## Sec. 11

Improves clarity and specificity related to activities performed for reclamation of mining operations, and consistency with other revised sections:



Adds “including, without limitation, access and haul roads”; replaces “form” with “natural topography”



Replaces “its disturbance” with “it was affected, unless otherwise approved by the Division”



Replaces “and development rock piles” with “storage and disposal facilities” (waste rock)



Adds specific requirement to regrade waste rock facilities and heap leach pads to a 3:1 slope unless a 3:1 slope is not achievable due to site-specific limitations



Adds requirement to construct stormwater diversions sufficient to withstand the 24-hour, 500-year event for waste rock facilities, tailings impoundments, and heap leach pads

# NAC 519A – REGULATORY PETITION RO86-21P

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## Sec. 11 (Continued)

Improves clarity and specificity related to activities performed for reclamation of mining operations, and consistency with other revised sections:



Adds specific requirement for the placement of a minimum 2-foot earth cover on mine process components (tailings impoundments, heap leach pads)



Refers to NAC 535 regarding physically rendering tailings dams incapable of impounding liquid



Establishes minimum cover requirements for foundations buried in place:

- Unbroken: 5 feet
- Broken: 3 feet




Adds hazardous wastes to types of wastes disposed off site

# NAC 519A – REGULATORY PETITION RO86-21P

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## Sec. 12

 Replaces “dumps” with “waste rock storage and disposal facilities”

 Provides consistent narrative with Sections 7 and 9: "Lawful disposition or disposal of recyclables, reusable materials, solid and hazardous wastes"; prior to abandonment of the site, these factors must be accounted for in determining surety required

# NAC 519A – REGULATORY PETITION RO86-21P

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## Sec. 13 - 14

Sec. 13: Reduces time allotted for operator to either request a decrease in surety or post the increased surety after a 3-year update determines a new surety amount (120 days to 60 days); change is consistent with federal practice of requiring surety to be posted within 60 days

Sec. 14: Clarifies conditions for release of portions of surety and to bring consistency with Division practice:



Like other sections, uses the word “affected”; removes references to “if vegetation is required”



Clarifies language allowing the Division to release up to 60% of the surety for any specific mine component upon earthwork reclamation of that structure



Clarifies language allowing the Division to release greater than 60% of the surety if the operator demonstrates the remaining surety is sufficient to complete the rest of the required work

# NAC 519A – REGULATORY PETITION RO86-21P

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## Sec. 15

Amends requirements for small mining operations to replace “dumps” with “storage and disposal facilities”; Adds “waste rock” for consistency with other amended sections

# R086-21 - PUBLIC COMMENTS

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## Regulated Community

Received verbal and written comments from NvMA and NGM. Concerns were addressed in **green line** edits to the regulation and draft declaration (affidavit).

## Public Comments

- Concern for the 2-foot earth cover, the final 3:1 slope, 500-year stormwater diversions, and the foundation cover depth that may have site-specific limitations
- Requests to maintain the 15-day document review time due to the fee increases
- Concern regarding voiding of application/fees if applicant fails to respond to Division review after one year
- Request for clarification on regulatory narrative change replacing the word "form" with "natural topography"
- Concern regarding changing the posting of the surety from 120 days to 60 days
- Request for inclusion of NAC 444A for waste disposal, recyclables, solid and hazardous waste



# R085-21 GREENLINE CHANGES

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Greenline changes represent a response to public workshop comments:

## Section 11

- Added word narrative for 3:1 slope: Final, minimum, and "based upon on site characterization and best engineering judgement"
- Added narrative for stormwater diversions, 2-foot cover, and foundations: "unless more or less protection is approved by the Division based on site characterization and best engineering judgement"

## Section 12

- Added "Lawful disposition or disposal"

## Section 13

- Added "approval of" the review "by the Division"



## HOW WOULD R-086 IMPACT OPERATIONS?



The application fees for new reclamation permits will increase and be effective when the regulatory amendment is adopted.



The annual reclamation permit fees increase will be due on or before April 15, 2023. Per regulation, a major modification fee must be the same amount as the annual fee.



A project's next 3-year reclamation cost update may need to account for the maximum number of drill holes open, the revised cover depth and re-grading requirements, and reflect an increase in the amount of the financial assurance to be posted.



If the permit application is not complete and no response to requests for information necessary to complete the application are received, the application will be voided after one year. Operators will have to re-apply and pay the fee again. This does not apply if the Division fails to act on an application or additional information is provided.



**QUESTIONS?**

**R085-21P**

**PROPOSED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R085-21**

January 26, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted. Matter in *green italics* is new after LCB draft, matter in ~~green strikethrough~~ is omitted from LCB draft.

**AUTHORITY:** §§ 1, 6 and 15, NRS 519A.160; §§ 2-5, NRS 519A.160, 519A.190, as amended by section 1 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2339, and NRS 519A.210, as amended by section 2 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2340; §§ 7-9, NRS 519A.160 and 519A.190, as amended by section 1 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2339; §§ 10 and 11, NRS 519A.160 and 519A.210, as amended by section 2 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2340; §§ 12-14, NRS 519A.160, 519A.190, as amended by section 1 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2339, NRS 519A.210, as amended by section 2 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2340, and NRS 519A.240.

A REGULATION relating to mining; setting forth the requirements for certain affidavits related to a permit to engage in an exploration project or mining operation; revising requirements for obtaining such permits; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires an applicant for a permit to engage in an exploration project or mining operation to include with the application an affidavit stating whether or not the applicant and, if the applicant is a corporation or other business entity, each person who has a controlling interest in the corporation or business entity, is in good standing with all agencies of other states and federal agencies in relation to the reclamation of exploration projects or mining operations. Existing law prohibits, with certain exceptions, the Division of Environmental Protection of the State Department of Conservation and Natural Resources from issuing a permit to engage in an exploration project or mining operation if the applicant or a person with a controlling interest in the applicant: (1) has defaulted on an obligation relating to reclamation in this State; or (2) is not in good standing with an agency of another state or a federal agency in relation to the reclamation of an exploration project or mining operation outside of this State. However, the Division may issue a permit if, as applicable: (1) the applicant pays the full amount of the defaulted obligation and demonstrates that the conditions which led to the default have been remedied and no longer exist; or (2) the applicant demonstrates that the applicant or person who

has a controlling interest has remedied all issues related to the reclamation of the exploration project or mining operation outside of this State and becomes in good standing with all agencies of the other states and federal agencies in relation to the exploration project or mining operation. (NRS 519A.190, as amended by section 1 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2339, NRS 519A.210, as amended by section 2 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2340)

Existing law requires the State Environmental Commission to adopt regulations necessary to enable the Division to carry out the provisions of the Nevada Revised Statutes relating to exploration projects and mining operations. (NRS 519A.160)

Existing regulations set forth certain requirements for an applicant or operator, as applicable, to: (1) apply for a permit for an exploration project; (2) obtain an interim permit for an exploration project conducted on private land or on public land administered by a federal land management agency; (3) apply for a permit for a mining operation; or (4) transfer a permit for an exploration project or a mining operation to a new operator. (NAC 519A.125, 519A.135, 519A.140, 519A.150, 519A.155, 519A.215) **Sections 7, 9, 10 and 12-14** of this regulation require that an applicant or operator, as applicable, also submit to the Division an affidavit attesting as to whether or not the applicant, operator or a person with a controlling interest in the applicant or operator: (1) has defaulted on an obligation related to the reclamation of an exploration project or mining operation in this State; and (2) is in good standing with agencies of other states or federal agencies in relation to the reclamation of an exploration project or mining operation outside of this State. **Section 3** of this regulation sets forth the requirements for such an affidavit.

**Section 4** of this regulation sets forth the manner in which a default on an obligation relating to reclamation of an exploration project or mining operation in this State is remedied.

**Section 5** of this regulation sets forth the manner in which an applicant, operator or person who has a controlling interest remedies issues in relation to the reclamation of an exploration project or mining operation outside of this State and becomes in good standing with a federal agency or an agency of another state.

Existing regulations prohibit the Division from granting a permit for an exploration project or mining operation to an operator who has an outstanding notice of noncompliance. (NAC 519A.130, 519A.145) **Sections 8 and 11** of this regulation prohibit the Division from also granting such a permit if prohibited from doing so pursuant to certain provisions of the Nevada Revised Statutes.

**Section 2** of this regulation defines “person with a controlling interest.” **Section 6** of this regulation indicates the proper placement of **section 2** in the Nevada Administrative Code.

**Section 1.** Chapter 519A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

**Sec. 2. 1. “Person who has a controlling interest” means:**

***(a) The president, secretary, treasurer or equivalent thereof of the corporation or business entity;***

*(b) A partner, director or trustee of the corporation or business entity; or*

*(c) A person who, directly or indirectly, possesses the power to direct the management or determine the policy of the corporation or business entity resulting from, without limitation, his or her ownership of voting stock in the corporation or business entity, a contract or any other circumstance.*

*2. The term does not include a person designated to act as a proxy, including, without limitation, an agent, bank, broker, nominee or custodian, for one or more persons who own voting stock unless the proxy otherwise has the power to direct the management or determine the policy of the corporation or business entity.*

**Sec. 3. 1.** *An affidavit submitted to the Division by an applicant or operator, as applicable, pursuant to NAC 519A.125, 519A.135, 519A.140, 519A.150, 519A.155 or 519A.215 must:*

*(a) Be submitted on the form prescribed by the Division.*

*(b) Attest as to whether or not the applicant or operator, as applicable, and, if the applicant or operator is a corporation or other business entity, each person who has a controlling interest in the corporation or business entity, has ever defaulted on an obligation related to the reclamation of an exploration project or mining operation in this State. If the applicant, operator or a person who has a controlling interest has ever defaulted, the applicant or operator must indicate whether the default has been remedied, as described in section 4 of this regulation.*

*(c) Attest as to whether or not the applicant or operator, as applicable, and if the applicant or operator is a corporation or other business entity, each person who has a controlling interest in the corporation or business entity, is in good standing with agencies of other states*

*or federal agencies relating to the reclamation of an exploration project or mining operation outside of this State.*

*(d) Identify:*

*(1) Each exploration project or mining operation in this State for which the applicant or operator, as applicable, or a person who has a controlling interest in the corporation or business entity, has defaulted on any obligation relating to reclamation pursuant to chapter 519A of NRS, including, without limitation, by forfeiting a surety or failing to pay the full costs of reclamation or any penalty assessed pursuant to NRS 519A.280.*

*(2) Each exploration project or mining operation outside of this State for which the applicant or operator, as applicable, or a person with a controlling interest in the corporation or business entity is ~~or has been~~ subject to any settlement, consent decree or any criminal, civil or administrative order or judgment for a violation of a federal or state reclamation statute or regulation which is not appealable or has otherwise become final after declination or exhaustion of all appeals therefrom.*

*(e) For each exploration project and mining operation identified pursuant to paragraph (d):*

*(1) Provide the dates during which the applicant or operator, as applicable, or a person with a controlling interest was engaged in the exploration project or mining operation.*

*(2) Indicate whether the applicant, operator or person with a controlling interest has remedied the default or become in good standing with all agencies of other states and federal agencies, as applicable, in relation to the reclamation of the exploration project or mining project.*

*(f) Include any other information required by the Division.*



*2. If an applicant, operator or person with a controlling interest remedies the default on an obligation related to reclamation or becomes in good standing with an agency of another states or a federal agency in relation to the reclamation of an exploration project or mining project outside of this State after the affidavit required pursuant to subsection 1 is submitted to the Division, the applicant, operator or person with a controlling interest, as applicable, must submit to the Division a supplemental affidavit on the form prescribed by the Division that:*

*(a) Describes with particularity the actions that the applicant, operator or person with a controlling interest, as applicable, has taken to remedy the default or lack of good standing;*

*(b) Attests that the applicant, operator or person with a controlling interest, as applicable, has remedied all issues related to the default or the lack of good standing; and*

*(c) Includes any other information required by the Division.*

*3. Failure to remedy the default or become in good standing, as applicable, and provide a supplemental affidavit pursuant to subsection 2 within 1 year after the original application date renders an application void and requires the submittal of a new application, affidavit and fee.*

*Sec. 4. For purposes of section 3 of this regulation, NRS 519A.190, as amended by section 1 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2339, and NRS 519A.210, as amended by section 2 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2340, a default on an obligation relating to reclamation of an exploration project or mining operation in this State has been remedied if:*

*1. The applicant, operator or a person who has a controlling interest pays the full amount of the defaulted obligation or provides evidence that the full amount of the defaulted obligation has been paid and not discharged through bankruptcy; and*

*2. The applicant, operator or person who has a controlling interest demonstrates that the conditions which led to the default have been remedied and no longer exist.*

**Sec. 5.** *For purposes of section 3 of this regulation, NRS 519A.190, as amended by section 1 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2339, and NRS 519A.210, as amended by section 2 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2340, an applicant, operator or person who has a controlling interest has remedied issues in relation to the reclamation of an exploration project or mining operation outside of this State and is in good standing with a federal agency or agency of another state if the applicant, operator or person who has a controlling interest, as applicable:*

*1. Fully and completely satisfies and complies with every condition or requirement that is set forth in a judgment, order, ruling or decision by a federal agency, agency of another state or a court of competent jurisdiction that is not appealable, or has otherwise become final after declination or exhaustion of all appeals including, without limitation:*

*(a) Paying any fee, penalty, fine, settlement, restitution or other obligation;*

*(b) Complying with an injunction order; and*

*(c) Providing any required financial assurance; and*

*2. Does not discharge any debt or obligation related to the reclamation of the exploration project or mining operation through bankruptcy.*

**Sec. 6.** NAC 519A.010 is hereby amended to read as follows:

519A.010 As used in NAC 519A.010 to 519A.415, inclusive, *and sections 2 to 5, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 519A.015 to 519A.095, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 7.** NAC 519A.125 is hereby amended to read as follows:

519A.125 1. The operator of an exploration project shall apply to the Division for a permit.

2. The application must include:

(a) The applicant's name, address and telephone number;

(b) If the applicant is a corporation or other business entity which is required to have a registered agent, the name, address and telephone number of its registered agent and its principal officers or partners;

(c) A complete plan for reclamation;

(d) The estimate of the cost of executing the plan for reclamation required by NAC 519A.360;

(e) A statement that the applicant agrees to assume responsibility for the reclamation of any surface area affected by his or her exploration project;

(f) A map which depicts the area to be covered by the surety; ~~and~~

(g) For the purpose of calculating the amount of the surety, the average number of drill holes to be left open at any one time during the life of the project ~~+~~; *and*

*(h) An affidavit that meets the requirements set forth in section 3 of this regulation.*

3. The application must be accompanied by the fee charged by the Division for an application for the issuance of a permit required by NAC 519A.225.

**Sec. 8.** NAC 519A.130 is hereby amended to read as follows:

519A.130 1. A permit for an exploration project is valid for the life of the project unless it is suspended or revoked by the Division.

2. If a permit for an exploration project is included in a permit for a mining operation, it is valid for the life of the operation.

3. ~~A~~ *The Division shall not issue a* permit ~~{must not be issued}~~ to an ~~{operator who}~~ *applicant if:*

(a) *The applicant* has an outstanding notice of noncompliance issued pursuant to NAC 519A.400 ~~H~~; *or*

(b) *The Division is otherwise prohibited from issuing the permit pursuant to NRS 519A.190, as amended by section 1 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2339.*

**Sec. 9.** NAC 519A.135 is hereby amended to read as follows:

519A.135 1. The Division may grant an interim permit for an exploration project conducted on private land if:

(a) The operator requests the interim permit in writing ~~H~~ *and submits with the request an affidavit that meets the requirements set forth in section 3 of this regulation;*

(b) The project contains a disturbance on affected land which is greater than 5 acres but less than 20 acres within a 1-mile radius of the center of the project, including all lands, both public and private, associated with the project;

(c) The project employs best management practices during operation and reclamation to control erosion and minimize the transport and delivery of sediment to surface water, which must be the best management practices described in the *State of Nevada Handbook of Best Management Practices* or practices equivalent thereto;

(d) The operator files an application for a permit with the Division, including the information required in subsection 2 of NAC 519A.125 before disturbing and not reclaiming 5 acres of land;

- (e) The operator provides surety which is acceptable to the Division;
- (f) The operator files the fee required by NAC 519A.225 and submits the statement required by paragraph (e) of subsection 2 of NAC 519A.125;
- (g) The operator does not have an outstanding notice of noncompliance issued pursuant to NAC 519A.400; ~~and~~
- (h) The operator is not in violation of the provisions of:
  - (1) Chapter 519A of NRS;
  - (2) NAC 519A.010 to 519A.415, inclusive ~~and~~, *and sections 2 to 5, inclusive, of this regulation*; or
  - (3) An approved plan for reclamation ~~and~~; *and*
- (i) *The Division is not otherwise prohibited from issuing the operator a permit for an exploration project pursuant to the provisions of NRS 519A.190, as amended by section 1 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2339.*

2. The Division may grant an interim permit for an exploration project conducted on public land administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency if:

- (a) The operator requests the interim permit in writing ~~and~~ *and submits with the request an affidavit that meets the requirements set forth in section 3 of this regulation*;
- (b) The project contains a disturbance on affected land which is greater than 5 acres but less than 20 acres within a 1-mile radius of the center of the project, including all lands, both public and private, associated with the project;
- (c) The operator submits to the Division a plan for reclamation approved by the applicable federal land management agency before disturbing and not reclaiming 5 acres of land;

(d) The operator demonstrates that a surety acceptable to the applicable federal agency has been filed;

(e) The operator files the fee required by NAC 519A.225 and submits the statement required by paragraph (e) of subsection 2 of NAC 519A.125;

(f) The operator does not have an outstanding notice of noncompliance issued pursuant to NAC 519A.400; ~~and~~

(g) The operator is not in violation of the provisions of:

(1) Chapter 519A of NRS;

(2) NAC 519A.010 to 519A.415, inclusive ~~and~~, *and sections 2 to 5, inclusive, of this regulation;* or

(3) An approved plan for reclamation ~~and~~; *and*

*(h) The Division is not otherwise prohibited from issuing the operator a permit for an exploration project pursuant to the provisions of NRS 519A.190, as amended by section 1 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2339.*

3. An operator meeting the requirements of subsection 1 or 2 may proceed with the exploration project while the Division processes the application for a permit.

4. An interim permit granted pursuant to this section remains in effect until:

(a) A final permit is issued or denied; or

(b) The interim permit is revoked or suspended,

↳ by the Division.

**Sec. 10.** NAC 519A.140 is hereby amended to read as follows:

519A.140 1. The operator of a mining operation shall apply to the Division for a permit.

2. An application must include:

- (a) The applicant's name, address and telephone number;
- (b) If the applicant is a corporation or other business entity which is required to have a registered agent, the name, address and telephone number of its registered agent and its principal officers or partners;
- (c) A complete plan for reclamation;
- (d) The estimate of the cost of executing the plan for reclamation required by NAC 519A.360;
- (e) A statement that the applicant agrees to assume responsibility for the reclamation of any surface area affected by his or her mining operation;
- (f) A map which depicts the area to be covered by the surety;
- (g) For the purpose of calculating the amount of the surety, the average number of drill holes to be left open at any one time during the life of the project; ~~and~~
- (h) The fee charged by the Division for an application for and the issuance of a permit required by NAC 519A.225 ~~+~~; *and*
- (i) An affidavit that meets the requirements set forth in section 3 of this regulation.*

**Sec. 11.** NAC 519A.145 is hereby amended to read as follows:

519A.145 1. A permit issued for a mining operation is valid for the life of the operation unless it is suspended or revoked by the Division.

2. Upon request by the applicant, a permit for mining must include all exploration activities conducted within the project area.

3. ~~A~~ *The Division shall not issue a* permit ~~for mining must not be issued~~ to an ~~operator who~~ *applicant if:*

*(a) The applicant* has an outstanding notice of noncompliance issued pursuant to NAC 519A.400 ~~†~~; *or*

*(b) The Division is otherwise prohibited from issuing the permit pursuant to NRS 519A.210, as amended by section 2 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2340.*

**Sec. 12.** NAC 519A.150 is hereby amended to read as follows:

519A.150 *1.* If an exploration project ~~†and†~~ *or* mining operation ~~†take†~~ *takes* place on public lands administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency ~~†~~:

~~†—A†~~, *an applicant may substitute the* plan of operations which has been approved by the federal agency ~~†may be substituted†~~ for the application for a permit required by NAC 519A.125 or 519A.140 ~~†and if it†~~ *if*:

*(a) The plan of operations* is accompanied with a surety which is acceptable to the Division and includes a plan for reclamation of all affected land ; ~~†, it is deemed to be a complete application for a permit;†~~ and

*(b) The applicant submits with the plan of operations an affidavit that meets the requirements set forth in section 3 of this regulation.*

2. Evidence of a surety filed with the federal agency may be substituted for the surety required by NAC 519A.350.

**Sec. 13.** NAC 519A.155 is hereby amended to read as follows:

519A.155 *1.* If an exploration project ~~†and†~~ *or* mining operation takes place on a site which includes privately owned land and public land administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency ~~†~~:



~~1. A~~, *an applicant may substitute the* plan of operations which has been approved by the federal agency ~~[may be substituted]~~ for the application for a permit required by NAC 519A.125 or 519A.140 if ~~[the]~~ :

*(a) The plan sets forth reclamation practices for both the public and privately owned lands;  
and*

*(b) The applicant submits with the plan an affidavit that meets the requirements set forth in section 3 of this regulation.*

2. The memorandum of understanding entered into by the Division and the federal agency must provide for the review by the Division of those portions of the plan of operations regarding privately owned land so that the Division can determine if they are consistent with the requirements of NAC 519A.010 to 519A.415, inclusive ~~[and]~~, *and sections 2 to 5, inclusive, of this regulation.*

3. Evidence of a surety approved by the federal agency may be substituted for the surety required by NAC 519A.350 if the surety is in an amount for the public and privately owned land which is acceptable to the Division.

**Sec. 14.** NAC 519A.215 is hereby amended to read as follows:

519A.215 1. The Division shall transfer a permit to a new operator if the new operator submits to the Division:

(a) A written request to transfer the permit, which must include, with respect to the parent corporation, subsidiary corporation or other company receiving the permit as a result of the transfer:

(1) A statement that the corporation or company agrees to assume responsibility for the reclamation of any affected land which is the subject of the existing permit;

(2) A statement explaining the corporate structure of the corporation or company;

(3) A copy of the state business license of the corporation or company; and

(4) A copy of the certificate of registration of the corporation or company which is filed with the Secretary of State;

(b) If the exploration project or mining operation is on privately owned land, a surety to ensure that reclamation will be completed;

(c) If the exploration project or mining operation is on public land administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency, evidence that a surety acceptable to that agency has been filed; ~~land~~

(d) If the exploration project or mining operation is on privately owned and public land administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency either:

(1) Evidence that a surety acceptable to the federal agency has been filed with the agency which covers reclamation of all disturbed land, including privately owned and public land; or

(2) A surety to cover:

(I) The cost of reclamation on privately owned land, in a form and amount acceptable to the Division; and

(II) Evidence that a surety acceptable to the Bureau of Land Management, the United States Forest Service or another federal land management agency has been filed with the agency for reclamation of land ~~+~~; *and*

*(e) An affidavit that meets the requirements of section 3 of this regulation.*

2. ~~The~~ *Except as otherwise provided in subsection 3, the* Division shall transfer a permit to a new operator within 30 days after it receives the information and documentation required by subsection 1 unless the current operator requests that the transfer be made on a later date.

3. The Division shall not transfer a permit to an operator ~~who~~ *if*:

(a) *The operator* is in violation of any provision of:

~~(a)~~ (1) NAC 519A.010 to 519A.415, inclusive ~~;~~

~~(b)~~ , and sections 2 to 5, inclusive, of this regulation;

(2) Chapter 519A of NRS; or

~~(e)~~ (3) An approved plan for reclamation,

↪ and ~~to whom~~ a notice of noncompliance has been served and remains outstanding pursuant to NAC 519A.400.

*(b) The Division is otherwise prohibited from issuing the operator a permit pursuant to the provisions of NRS 519A.190, as amended by section 1 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2339, or NRS 519A.210, as amended by section 2 of Assembly Bill No. 148, chapter 385, Statutes of Nevada 2021, at page 2340.*

**Sec. 15.** This regulation becomes effective on the later of:

1. April 1, 2022; or

2. The date upon which this regulation is filed with the Secretary of State.

**R086-21P**

**PROPOSED REGULATION OF**  
**THE STATE ENVIRONMENTAL COMMISSION LCB File No. R086-21**

January 24, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted. Matter in *green italics* is new after LCB draft, matter in ~~green-strikethrough~~ is omitted from LCB draft.

AUTHORITY: § 1, NRS 519A.160 and 519A.190; §§ 2, 5, 6 and 13-15, NRS 519A.160; § 3, NRS 519A.160 and 519A.210; §§ 4 and 12, NRS 519A.160, 519A.190 and 519A.210; §§ 7-9, NRS 519A.160 and 519A.230; §§ 10 and 11, NRS 519A.140 and 519A.160.

A REGULATION relating to mining; revising provisions related to the surety that is required for an exploration project or mining operation; revising provisions related to an interim permit for an exploration project; revising the deadlines for requesting and submitting additional information related to an application for a permit for an exploration project or mining operation; revising certain fees related to exploration projects and mining operations; making various changes related to a plan for reclamation; revising provisions related to the abandonment of a site; revising the authority of the Division of Environmental Protection of the State Department of Conservation and Natural Resources to request an operator of an exploration project or mining operation to perform certain types of reclamation; revising certain information that an operator of a small mining operation must submit to the Division; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the State Environmental Commission to adopt regulations necessary for the Division of Environmental Protection of the State Department of Conservation and Natural Resources to carry out provisions of law related to mining operations or exploration projects. (NRS 519A.160)

Existing law sets forth certain application requirements for a permit to engage in an exploration project or a mining operation, including, without limitation, requiring that the applicant file with the Division a bond or other surety in a form approved by the Administrator of the Division and in an amount required by the regulations adopted by the Commission. (NRS 519A.190, 519A.210) Existing regulations require that the application must include, for purposes of calculating the amount of the surety, the average number of drill holes to be left open at any one time during the life of the project. (NAC 519A.125, 519A.140) **Sections 1 and**

**3** of this regulation require instead that the application include, for purposes of calculating the amount of the surety, the maximum number of drill holes to be left open at any one time during the life of the project.

Existing regulations authorize the Division to grant an interim permit for an exploration project conducted on private land or on public land administered by a federal land management agency under certain circumstances, including, without limitation, that the project contains a disturbance on affected land which is greater than 5 acres but less than 20 acres within a 1-mile radius of the center of the project, including all lands, both public and private, associated with the project. (NAC 519A.135) **Section 2** of this regulation provides instead that the Division may grant such an interim permit if the project proposes to affect greater than 5 acres but less than 20 acres of land within a 1-mile radius of the center of the project, including all lands, both public and private, associated with the project.

Existing regulations require the Division to review an application for a permit to engage in an exploration project or a mining operation and notify the applicant if additional information is required within 15 days after the receipt of the application. If the applicant provides additional information to complete an application, the Division is required to notify the applicant if more additional information is required within 15 days after receipt of the additional information. (NAC 519A.165) **Section 4** of this regulation provides that the Division has 30 days to review an application and notify the applicant if additional information is required. **Section 4** also provides that the Division has 30 days to notify the applicant if more additional information is required after receipt of the additional information. **Section 4** further provides that, with certain exceptions, failure to provide all information required for a determination of completeness within 1 year after the application date renders an application void and requires the submittal of a new application and fee.

Existing regulations set forth the: (1) fees for an application for a permit for an exploration project or mining operation; and (2) annual fees for services rendered by the Division for an exploration project or mining operation. (NAC 519A.225, 519A.335) **Sections 5 and 6** of this regulation revise these fees.

Existing law requires a person who desires to engage in a mining operation to file with the application for a permit and with the Division of Minerals of the Commission on Mineral Resources a plan for reclamation. (NRS 519A.210) Existing regulations set forth the requirements for a plan for reclamation. (NAC 519A.270) **Section 7** of this regulation revises such requirements.

Existing regulations authorize an operator to request a modification to a plan for reclamation. The Division is required to review a request for a major modification to a plan for reclamation or a minor modification to a plan for reclamation of a mining operation and notify the applicant if additional information is required within 15 days after the receipt of the request. If the applicant provides additional information to complete a request, the Division must notify the applicant if more additional information is required within 15 days. The Division is further required to issue a notice of intent to allow or deny the request within 15 days after the later of certain events. (NAC 519A.295) **Section 8** of this regulation provides instead that the Division:

(1) has 30 days to review a request for a modification and request additional information; (2) has 30 days after receipt of the additional information to notify the applicant if more additional

information is required; and (3) has 30 days after the later of certain events to issue a notice of intent to allow or deny the request for a modification.

Existing regulations set forth the manner for abandonment of a site, which must, without limitation, ensure public safety by, if applicable, removing or burying structures, equipment, reagents or scrap. (NAC 519A.315) **Section 9** of this regulation requires instead that the abandonment of a site ensure public safety by, if applicable, lawfully disposing of recyclables, reusable materials and solid and hazardous wastes.

**Sections 10 and 11** of this regulation revise certain types of reclamation that the Division may require an operator of an exploration project or mining operation to perform.

Existing regulations require an operator to provide surety in an amount sufficient to ensure reclamation of: (1) the entire area to be affected by his or her project or operation; or (2) a portion of the area to be affected if, as a condition of the issuance of the permit, filing additional surety is required before the operator disturbs land not covered by the initial surety. The amount of surety must be based on an estimate of the cost of executing the plan for reclamation which would be incurred by the state or federal agency having jurisdiction over the land. In determining the cost for executing the plan for reclamation, the operator is required to consider certain activities. (NAC 519A.360) **Section 12** of this regulation revises the activities that are required to be considered.

Existing regulations require an operator to, at least every 3 years, review the amount of surety filed to cover the cost of reclamation to determine whether it is still adequate to execute the approved plan for reclamation taking inflation into consideration. Within 120 days after review, the operator is required to request a decrease in the surety or increase the surety. (NAC 519A.380) **Section 13** of this regulation provides instead that within 60 days after review, the operator is required to request a decrease in the surety or increase the surety.

Existing regulations authorize, under certain circumstances, the Division to release a surety either in whole or in part at the request of the operator. (NAC 519A.385) **Section 14** of this regulation revise the circumstances where the Division may release a surety.

Existing regulations require an operator of a small mining operation to submit to the Division certain information, including a sketch or topographic map of the operation depicting areas to be affected and the nature of the disturbances including, in relevant part, waste rock dumps. (NAC 519A.410) **Section 15** of this regulation eliminates the requirement to include waste rock dumps and requires instead the sketch or topographic map to include waste rock storage and disposal facilities.

**Section 1.** NAC 519A.125 is hereby amended to read as follows:

519A.125 1. The operator of an exploration project shall apply to the Division for a permit.

2. The application must include:

(a) The applicant's name, address and telephone number;

(b) If the applicant is a corporation or other business entity which is required to have a registered agent, the name, address and telephone number of its registered agent and its principal officers or partners;

(c) A complete plan for reclamation;

(d) The estimate of the cost of executing the plan for reclamation required by NAC 519A.360;

(e) A statement that the applicant agrees to assume responsibility for the reclamation of any surface area affected by his or her exploration project;

(f) A map which depicts the area to be covered by the surety; and

(g) For the purpose of calculating the amount of the surety, the ~~average~~ *maximum* number of drill holes to be left open at any one time during the life of the project.

3. The application must be accompanied by the fee charged by the Division for an application for the issuance of a permit required by NAC 519A.225.

**Sec. 2.** NAC 519A.135 is hereby amended to read as follows:

519A.135 1. The Division may grant an interim permit for an exploration project conducted on private land if:

(a) The operator requests the interim permit in writing;

(b) The project ~~contains a disturbance on affected land which is~~ *proposes to affect* greater than 5 acres but less than 20 acres *of land* within a 1-mile radius of the center of the project, including all lands, both public and private, associated with the project;

(c) The project employs best management practices during operation and reclamation to control erosion and minimize the transport and delivery of sediment to surface water, which



must be the best management practices described in the *State of Nevada Handbook of Best Management Practices* or practices equivalent thereto;

(d) The operator files an application for a permit with the Division, including the information required in subsection 2 of NAC 519A.125 before disturbing and not reclaiming 5 acres of land;

(e) The operator provides surety which is acceptable to the Division;

(f) The operator files the fee required by NAC 519A.225 and submits the statement required by paragraph (e) of subsection 2 of NAC 519A.125;

(g) The operator does not have an outstanding notice of noncompliance issued pursuant to NAC 519A.400; and

(h) The operator is not in violation of the provisions of:

(1) Chapter 519A of NRS;

(2) NAC 519A.010 to 519A.415, inclusive; or

(3) An approved plan for reclamation.

2. The Division may grant an interim permit for an exploration project conducted on public land administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency if:

(a) The operator requests the interim permit in writing;

(b) The project ~~contains a disturbance on affected land which is~~ *proposes to affect* greater than 5 acres but less than 20 acres *of land* within a 1-mile radius of the center of the project, including all lands, both public and private, associated with the project;

(c) The operator submits to the Division a plan for reclamation approved by the applicable

federal land management agency before disturbing and not reclaiming 5 acres of land;

(d) The operator demonstrates that a surety acceptable to the applicable federal agency has been filed;

(e) The operator files the fee required by NAC 519A.225 and submits the statement required by paragraph (e) of subsection 2 of NAC 519A.125;

(f) The operator does not have an outstanding notice of noncompliance issued pursuant to NAC 519A.400; and

(g) The operator is not in violation of the provisions of:

(1) Chapter 519A of NRS;

(2) NAC 519A.010 to 519A.415, inclusive; or

(3) An approved plan for reclamation.

3. An operator meeting the requirements of subsection 1 or 2 may proceed with the exploration project while the Division processes the application for a permit.

4. An interim permit granted pursuant to this section remains in effect until:

(a) A final permit is issued or denied; or

(b) The interim permit is revoked or suspended,

↳ by the Division.

**Sec. 3.** NAC 519A.140 is hereby amended to read as follows:

519A.140 1. The operator of a mining operation shall apply to the Division for a permit.

2. An application must include:

(a) The applicant's name, address and telephone number;

(b) If the applicant is a corporation or other business entity which is required to have a

registered agent, the name, address and telephone number of its registered agent and its principal officers or partners;

(c) A complete plan for reclamation;

(d) The estimate of the cost of executing the plan for reclamation required by NAC 519A.360;

(e) A statement that the applicant agrees to assume responsibility for the reclamation of any surface area affected by his or her mining operation;

(f) A map which depicts the area to be covered by the surety;

(g) For the purpose of calculating the amount of the surety, the ~~average~~ *maximum* number of drill holes to be left open at any one time during the life of the project; and

(h) The fee charged by the Division for an application for and the issuance of a permit required by NAC 519A.225.

**Sec. 4.** NAC 519A.165 is hereby amended to read as follows:

519A.165 1. The Division shall review an application for a permit and notify the applicant if additional information is required within ~~15~~ *30* days after the receipt of the application. The notice must state the additional information which is required.

2. If the applicant provides additional information to complete an application, the Division shall notify the applicant if more additional information is required within ~~15~~ *30* days after receipt of the additional information. The notice must state the additional information which is required.

*3. Failure of an applicant to provide all required information within 1 year after the application date renders an application void and requires the submittal of a new application*

*and fee. A new application and fee will not be required if the Division fails to act in a timely manner or if the applicant can demonstrate that circumstances beyond the applicant's control prevented the applicant from submitting the required information.*

**Sec. 5.** NAC 519A.225 is hereby amended to read as follows:

519A.225 1. An applicant for a permit for an exploration project shall submit to the Division an application fee of:

(a) ~~One dollar and fifty cents~~ *Three dollars and ten cents* for each *proposed* acre of affected and unreclaimed public land included in the plan for reclamation; and

(b) ~~Two dollars and fifty cents~~ *Five dollars and fifteen cents* for each *proposed* acre of affected and unreclaimed privately owned land included in the plan for reclamation.

2. An applicant for a permit for a mining operation shall submit to the Division an application fee of:

(a) ~~One dollar and fifty cents~~ *Three dollars and ten cents* for each *proposed* acre of affected and

unreclaimed public land administered by a federal land management agency and included in the plan for reclamation; and

(b) ~~Two dollars and fifty cents~~ *Five dollars and fifteen cents* for each *proposed* acre of affected and unreclaimed privately owned land included in the plan for reclamation.

**Sec. 6.** NAC 519A.235 is hereby amended to read as follows:

519A.235 1. On or before April 15, 1991, and on or before April 15 of each year thereafter, an operator of an exploration project or a mining operation shall submit to the Division for services rendered by the Division the applicable fees required by this section.

2. For each exploration project which is active on October 1, 1990, and for which a permit has been issued by the Division or an application for a permit has been submitted to the Division, the operator shall submit to the Division:

(a) If the total affected area is 20 acres or less, a fee of ~~100~~ **150**.

(b) If the total affected area is more than 20 acres but not more than 100 acres, a fee of ~~500~~ **750**.

(c) If the total affected area is more than 100 acres but not more than 500 acres, a fee of ~~1,000~~ **1,500**.

(d) If the total affected area is more than 500 acres, a fee of ~~2,000~~ **3,000**.

3. For each mining operation which is active on October 1, 1990, and for which a permit has been issued by the Division or an application for a permit has been submitted to the Division, the operator shall submit to the Division:

(a) If the total affected area is 50 acres or less, a fee of ~~500~~ **750**.

(b) If the total affected area is more than 50 acres but not more than 200 acres, a fee of ~~1,500~~ **2,200**.

(c) If the total affected area is more than 200 acres but not more than 500 acres, a fee of ~~3,000~~ **4,500**.

(d) If the total affected area is more than 500 acres but not more than 1,000 acres, a fee of ~~4,500~~ **6,800**.

(e) If the total affected area is more than 1,000 acres but not more than 2,500 acres, a fee of ~~9,000~~ **13,600**.

(f) If the total affected area is more than 2,500 acres but not more than 5,000 acres, a fee of

~~+\$12,000.+~~ ***\$18,200.***

(g) If the total affected area is more than 5,000 acres, a fee of ~~+\$16,000.+~~ ***\$24,000.***

**Sec. 7.** NAC 519A.270 is hereby amended to read as follows:

519A.270 The plan for reclamation for a mining operation must include:

1. A topographic map of the area of the operation depicting:

(a) The boundaries of the area of the operation;

(b) Surface ownership of the land within the area of the operation;

(c) The areas to be affected in sufficient detail so that they can be located from the ground;

(d) The ~~kind~~ ***types*** of disturbances ~~+~~ ***on the areas that will be affected,*** including ~~+~~,

***without limitation:***

(1) Tailings impoundments;

(2) ~~Leach~~ ***Heap leach*** pads;

(3) Waste rock ~~dumps;~~ ***storage and disposal facilities;***

(4) Buildings ~~+~~ ***and foundations;***

(5) Roads ~~+~~, ***including, without limitation, access and haul roads;*** and

(6) All other surface facilities; and

(e) A description of the land within the area of operation which was affected by:

(1) An operation conducted by a previous operator and which is inactive on the date on which the application for a permit for an operation is filed;

(2) The current operator before January 1, 1981, and which is inactive on the date on which the application for a permit for an operation is filed;

(3) The current operator before January 1, 1981, and which is active on the date on

which the application for a permit for an operation is filed;

(4) The current operator on or after January 1, 1981, but before October 1, 1990, and which is inactive on the date on which the application for a permit for an operation is filed; and

(5) The current operator on or after January 1, 1981, but before October 1, 1990, and which is active on the date on which the application for a permit for an operation is filed.

2. A description of any land within the area of operation:

(a) On which the operation is active on or after October 1, 1990; and

(b) Comprising access roads which were created before January 1, 1981.

3. The location of any surface water body within one-half-mile down gradient of the operation which may be impacted by excess sedimentation resulting from the mining operations.

4. An estimate of the number of acres affected by each type of disturbance.

5. A proposed productive postmining use of the land.

6. A proposed schedule of the time for initiation and completion of activities for reclamation.

7. The proposed postmining topography.

8. The technical criteria used to determine the final gradient and stability of slopes created or affected by the mining operation.

9. The proposed methods to be used in reclaiming impoundments used during the operation.

10. A statement of any constraints on the estimated time to complete reclamation caused by the residual moisture content or physical or chemical qualities of impoundments.

11. The kinds of access roads and their estimated width and length which will be built and the manner in which they will be reclaimed.

12. A description of the best management practices employed during operation and reclamation to control erosion and minimize the transport and delivery of sediment to surface water, which must be the best management practices described in the *State of Nevada Handbook of Best Management Practices* or practices equivalent thereto.

13. The proposed revegetation of the land for its postmining land use, including:

- (a) A plan for the management of topsoil and growth medium;
- (b) A list of each species of vegetation;
- (c) The rate of seeding of vegetation;
- (d) The type of fertilizer and mulch to be used;
- (e) When the planting will occur; and
- (f) The proposed methods to monitor and control noxious weeds as described in NAC

555.010 during reclamation.

14. The proposed disposition of:

- (a) Buildings;
- (b) Equipment;
- (c) Piping;
- (d) ~~Scrap;~~ *Recyclables and reusable materials;*
- (e) *Solid and hazardous wastes;*
- (f) Reagents; and
- ~~(f)~~ (g) Any other equipment and materials.



15. A description of any surface facilities such as buildings or roads which will not be reclaimed.

16. A description of any necessary monitoring and maintenance of fences, signs and other structures which will be performed by the operator on the reclaimed land.

17. A description of any reclamation which is necessary because of instream mining.

18. A description of any necessary stabilization, management, control or treatment of mine- impacted waters.

19. A statement of the effect that the proposed reclamation will have on future mining in the area.

20. A statement setting forth the effect that the proposed reclamation will have on public safety.

**Sec. 8.** NAC 519A.295 is hereby amended to read as follows:

519A.295 1. An operator may request a modification to a plan for reclamation:

(a) By submitting to the Division a written request and those portions of the application for a permit which are applicable to the requested modification, including, *without limitation*, a revision to the calculated cost of executing the plan for reclamation and the amount of surety, if applicable; and

(b) For any reason, including ~~†~~, *without limitation*:

(1) A proposed change in the postmining land use;

(2) The addition of a new disturbance to the affected land; and

(3) Proposed changes to the methods and techniques which will be used for reclamation.

2. The Division shall review a request for a major modification to a plan for reclamation or

a minor modification to a plan for reclamation of a mining operation and notify the applicant if additional information is required within ~~15~~ 30 days after the receipt of the request. The notice must state the information which is required.

3. If the applicant provides additional information to complete a request, the Division shall notify the applicant if more additional information is required within ~~15~~ 30 days after receipt of the additional information. The notice must state the additional information which is required.

4. The Division shall issue a notice of intent to allow or deny the request within ~~15~~ 30 days after the later of:

- (a) The close of the period for public comment provided in NAC 519A.190; or
- (b) The receipt of the request for modification and the corresponding fees.

5. If the request for a modification is denied, the Division shall notify the applicant of:

- (a) The reasons for denial; and
- (b) The time allowed and procedures for appealing the decision pursuant to NAC 519A.415.

6. A request for a minor modification to a plan for reclamation of an exploration project shall be approved or denied, and the reason for denial given, within ~~10~~ 30 days after the request for modification is submitted.

**Sec. 9.** NAC 519A.315 is hereby amended to read as follows:

519A.315 1. The abandonment of a site must be conducted in a manner which ensures public safety, encourages techniques to minimize adverse visual effects and establishes a safe and stable condition suitable for the productive postmining use of the land.

2. In selecting appropriate activities for reclamation for a particular site, techniques which minimize adverse visual impact must be considered.

3. As used in this section, “ensures public safety” includes minimizing hazards in areas to which the public may have legal access by, if applicable:

(a) ~~Removing or burying structures, equipment, reagents or scrap;~~ *Lawfully disposing of Lawful disposition or disposal of recyclables, reusable materials, and solid and hazardous waste;*

(b) Sealing or securing shafts, tunnels and adits pursuant to NAC 513.390;

(c) Plugging drill holes;

(d) Leaving slopes in a structurally stable condition; and

(e) Restricting access to areas which cannot practicably be made safe.

4. As used in this section, “stable condition” means a condition that is resistant to excessive erosion and is structurally competent to withstand normal geologic and climatic conditions without significant failure that would be a threat to public safety and the environment.

**Sec. 10.** NAC 519A.340 is hereby amended to read as follows:

519A.340 The Division may, if appropriate, request an operator of an exploration project to reclaim:

1. Roads and drill pads by:

(a) Recontouring or regrading to round off, cut and fill slopes;

(b) Removing culverts;

(c) Ripping or scarifying the surface;

- (d) Constructing water bars;
  - (e) Revegetation; and
  - (f) Restoring or stabilizing drainage areas and streambeds.
2. Drill holes from exploration by plugging the holes ~~{with the minimum surface plug required}~~ pursuant to ~~{chapter}~~ *chapters* 534 of NRS ~~{}~~ *and NAC*.
3. Trenches and pits by:
- (a) Backfilling and regrading to approximate the ~~{form}~~ *natural topography* of the land before ~~{it}~~ *the land* was ~~{disturbed;}~~ *affected, unless otherwise approved by the Division;*
  - (b) Regrading to make the land stable; and
  - (c) Revegetation.

**Sec. 11.** NAC 519A.345 is hereby amended to read as follows:

519A.345 The Division may, if appropriate, require an operator of a mining operation to reclaim:

1. Roads, *including, without limitation, access roads and haul roads*, and drill pads by:
- (a) Recontouring or regrading to round off, cut and fill slopes ~~{to the original contour or}~~ to approximate the ~~{form}~~ *natural topography* of the land before ~~{its disturbance;}~~ *the land was affected, unless otherwise approved by the Division;*
  - (b) Removing culverts;
  - (c) Ripping or scarifying the surface;
  - (d) Constructing water bars;
  - (e) Revegetation; and
  - (f) Restoring or stabilizing drainage areas or streambeds.

2. Drill holes from exploration by plugging the holes ~~with the minimum surface plug required~~ pursuant to ~~chapter~~ *chapters* 534 of NRS ~~and~~ *NAC*.
3. Waste *rock storage* and ~~development rock piles~~ *disposal facilities* by:
  - (a) ~~Regrading to round off sharp edges, enhance the stability, reduce susceptibility to erosion and~~ *Except as otherwise provided in this paragraph, regrading to a final slope with a minimum horizontal-to-vertical ratio of 3H:1V. If a horizontal-to-vertical ratio of 3H:1V is not achievable due to a site-specific limitation, the Division may, based on site characterization and best engineering judgment, require regrading to a minimum achievable slope based on the site conditions in order to round off sharp edges, enhance stability, reduce susceptibility to erosion and* facilitate efforts for revegetation. ~~and~~
  - (b) Revegetation ~~and~~ *of the recontoured surface area.*
  - (c) ~~Diverting runoff; and~~ *Constructing one or more stormwater diversions that are sufficient to withstand the runoff from a 24-hour storm event with a 500-year recurrence interval, unless more or less protection is approved by the Division based on site characterization and best engineering judgment.*
  - (d) Implementing measures to stabilize, manage, control or treat mine-impacted waters.
4. Dams for tailings ~~ponds~~ *storage and disposal facilities* by:
  - (a) ~~Covering with waste rock;~~ *Placing a cover which:*
    - (1) *Must be a minimum of 2 feet;*
    - (2) *Must include, without limitation, topsoil or growth medium; and*
    - (3) *May include, without limitation, waste rock;*

*unless more or less protection is approved by the Division based on site characterization and*

*best engineering judgment.*

- (b) Revegetation; and
- (c) ~~{Rendering}~~ **Decommission of** the dam ~~{incapable of storing any mobile fluid in a quantity~~

~~which could pose a threat to the stability of the dam or to public safety.}~~ **pursuant to chapter 535 of NAC.**

- 5. ~~{Impoundments for tailings}~~ **Tailings impoundments** by:

- (a) Regrading to promote runoff and reduce infiltration;
- (b) ~~{Covering with waste rock,}~~ **Placing a cover which:**
  - (1) Must be a minimum of 2 feet;**
  - (2) Must include, without limitation, topsoil or growth medium; and**
  - (3) May include, without limitation, waste rock;**

**↪ unless more or less protection is approved by the Division based on site characterization and best engineering judgment.**

- (c) Revegetation ~~{;}~~ **of the recontoured surface area;**
- (d) Process fluid stabilization; and
- (e) ~~{Diverting runoff.}~~ **Constructing one or more stormwater diversions that are sufficient**

**to withstand the runoff from a 24-hour storm event with a 500-year recurrence interval, unless more or less protection is approved by the Division based site characterization and best engineering judgment.**

- 6. ~~{Heaps from leaching}~~ **Heap leach pads** by:

- (a) ~~{Regrading to enhance structural stability, promote runoff, reduce infiltration and-~~

~~control erosion;~~ *Except as otherwise provided in this paragraph, regrading to a final slope with a minimum horizontal-to-vertical ratio of 3H:1V. If a horizontal-to-vertical ratio of 3H:1V is not achievable due to a site-specific limitation, the Division may, based on site characterization and best engineering judgment, require regrading to a minimum achievable slope based on the site conditions in order to round off sharp edges, enhance stability, reduce susceptibility to erosion and facilitate efforts for revegetation.*

(b) ~~{Covering with waste rock;}~~ *Placing a cover which:*

*(1) Must be a minimum of 2 feet;*

*(2) Must include, without limitation, topsoil or growth medium; and*

*(3) May include, without limitation, waste rock;*

*↪ unless more or less protection is approved by the Division based on site characterization and best engineering judgment.*

(c) *Revegetation ~~{;}~~ of the recontoured surface area.*

(d) *Process fluid stabilization . ~~{; and}~~*

(e) ~~{Diverting runoff.}~~ *Constructing one or more stormwater diversions that are sufficient to withstand the runoff from a 24-hour storm event with a 500-year recurrence interval unless more or less protection is approved by the Division based on site characterization and best engineering judgment.*

7. *Solution ponds, settling ponds and other nontailings impoundments by:*

(a) *Backfilling and regrading to approximate the natural ~~{land form;}~~ topography of the land before the land was affected; and*

(b) *Restoring the regime of the surface water to the regime that existed before the*

~~{disturbance-}~~ *land was affected.*

8. Buildings, foundations, facilities, structures and other equipment by:

(a) Demolishing to the level of the foundation and burying the demolished items on the site in conformance with applicable requirements for the disposal of solid waste;

(b) ~~{Salvaging and sale;}~~ *Ensuring that:*

*(1) Any unbroken foundation that is to remain in place is covered with a minimum of 5 feet of waste rock, topsoil or growth medium; and*

*(2) Any broken foundation that is to remain in place is covered with a minimum of 3 feet of waste rock, topsoil or growth medium;*

*↳ unless more or less protection is approved by the Division based on site characterization and best engineering judgment.*

(c) Disposal off of the site in conformance with applicable requirements for the disposal of solid ~~{waste; and}~~ *and hazardous wastes; and*

(d) Continuing use in a manner consistent with the postmining land use.

9. Open pit mines by:

(a) Performing activities that will provide for public safety;

(b) Stabilizing pit walls or rock faces where required for public safety;

(c) Constructing and maintaining berms, fences or other means of restricting access;

(d) Implementing measures to stabilize, manage, control or treat mine-impacted waters;

(e) Creating a lake for recreational use, wildlife or other uses; and

(f) Revegetation.

↳ Reclamation of open pits or rock faces does not require backfilling although backfilling in



whole or in part with waste rock from an adjacent mining operation may be encouraged if backfilling is feasible and does not create additional negative environmental impacts.

10. Underground mines by:

- (a) Sealing shafts, adits, portals and tunnels to prevent access;
- (b) Constructing and maintaining berms, fences or other means of restricting access; and
- (c) Implementing measures to stabilize, manage, control or treat mine-impacted waters.

***11. As used in this section, “decommission” has the meaning ascribed to it in NAC 535.045.***

**Sec. 12.** NAC 519A.360 is hereby amended to read as follows:

519A.360 1. The operator shall provide surety in an amount sufficient to ensure reclamation of:

- (a) The entire area to be affected by his or her project or operation; or
- (b) A portion of the area to be affected if, as a condition of the issuance of the permit, filing additional surety is required before the operator disturbs land not covered by the initial surety.

2. The amount of surety required must be based on an estimate of the cost of executing the plan for reclamation which would be incurred by the state or federal agency having jurisdiction over the land.

3. The operator’s estimate of the cost for reclamation must be based on either:

- (a) The costs of equipment rental, operation and labor which are appropriate for the geographic area undergoing reclamation and which would otherwise be incurred by a third-party contractor who performed the reclamation;

- (b) Estimated costs provided by an outside contractor; or

(c) Any other method which is acceptable to the Administrator, the Bureau of Land Management, the United States Forest Service or another federal land management agency, if applicable.

4. In determining the cost of executing the plan for reclamation, the operator shall consider all activities in the plan for reclamation that are required by NAC 519A.010 to 519A.415, inclusive, or chapter 519A of NRS, including, if appropriate:

- (a) Earth moving, regrading, stabilization of heaps and  ~~dumps,~~ *waste rock storage and disposal facilities*, recontouring of roads and erosion control;
- (b) Process fluid stabilization;
- (c) Stabilization, management, control and treatment of mine-impacted waters;
- (d) Revegetation, preparation of seedbed and planting;
- (e) Demolition of buildings and other structures;
- (f)  ~~Removal and disposal or salvage of buildings, structures, equipment, piping, scrap and reagents;~~ *Lawful disposition or disposal of recyclables, reusable materials, and solid and hazardous wastes*;
- (g) Any ongoing or long-term activities which are required to:
  - (1) Maintain the effectiveness of reclamation or are necessary in lieu of reclamation; or
  - (2) Ensure the continuation of post-reclamation stabilization, management, control and treatment of mine-impacted waters to protect the waters of this State,↳ including, without limitation, periodic clean-out of sediment basins and ponds used to collect mine-impacted waters or maintenance of berms and fences which are used to prevent access to areas which pose a threat to the public safety;

(h) Equipment mobilization and demobilization; and

(i) Administration and management by the Division, the Bureau of Land Management, the United States Forest Service and another federal land management agency, if applicable.

5. In determining the cost of executing the plan for reclamation, the operator shall not consider the cost of any activity not included in the plan for reclamation or not required by NAC 519A.010 to 519A.415, inclusive, or chapter 519A of NRS. This subsection does not limit in any way the authorities of the Bureau of Land Management, the United States Forest Service or another federal land management agency to require surety for purposes other than those of NAC 519A.010 to 519A.415, inclusive, and chapter 519A of NRS.

**Sec. 13.** NAC 519A.380 is hereby amended to read as follows:

519A.380 1. Within 3 years after the effective date of the permit and at least every 3 years thereafter, an operator shall review the amount of surety filed to cover the cost of reclamation to determine whether it is still adequate to execute the approved plan for reclamation taking inflation into consideration.

2. The operator shall:

(a) Notify the Division, the Bureau of Land Management, the United States Forest Service and another federal land management agency, if appropriate, of the results of the review of the surety; and

(b) Within ~~120~~ 60 days after *approval of the review by the Division*:

(1) Request a decrease in the surety; or

(2) Increase the surety,

↳ to execute the plan for reclamation.

**Sec. 14.** NAC 519A.385 is hereby amended to read as follows:

519A.385 1. The Division may release a surety either in whole or in part at the request of the operator.

2. The entire surety must not be released until all of the requirements of the permit have been fulfilled, except that:

(a) A portion of the surety covering ~~the~~ *a specific* reclamation ~~of~~ *activity for* a discrete ~~part~~ *type* of ~~a~~ disturbance ~~must~~ *on affected land may* be released when the requirements of the permit regarding the ~~discrete part of the disturbance~~ *affected land* have been fulfilled.

~~(b) That portion of the surety covering a discrete activity must be released when the requirements of the permit regarding that discrete activity have been fulfilled.~~

~~(c) Except as otherwise provided in subsection 3, if revegetation is part of the plan for reclamation, not more than 60 percent of the posted surety must may be released upon completion of the earthwork. After revegetation has been performed by the operator on the regraded lands, according to the approved plan for reclamation, the Division may release an additional 25 percent of the surety.~~ The remaining surety must not be released until all requirements of the permit have been satisfied.

~~(d) (c)~~ Upon transfer of a permit to a new operator and upon acceptance of the required surety from the new operator, the Division shall release the surety posted by the original operator.

3. ~~Percentages greater than those specified in paragraph (c) of subsection 2~~ *More than*

*60 percent of the posted surety* may be released *pursuant to paragraph (b) of subsection 2* if the operator demonstrates that the remaining surety is sufficient to ensure completion of the required reclamation.

4. Within 30 days after receiving a request ~~for~~ *to* release ~~off~~ a surety, the agency holding the surety, or its ~~designated~~ *registered* agent pursuant to ~~NRS~~ *NAC* 519A.140, shall inspect the permitted exploration project or mining operation to determine whether the operator has fulfilled the requirements of his or her permit and either:

(a) Release the surety or portion thereof as requested; or

(b) Notify the operator that the requested surety will not be released, the reasons why and the measures necessary to satisfy the requirements of the permit.

5. If a request to release is denied, the operator may appeal the decision pursuant to NAC 519A.415.

6. The 30 days within which an agency must respond to a request to release a surety pursuant to subsection ~~3~~ *4* may be extended if weather conditions prevent an inspection of the reclaimed area.

**Sec. 15.** NAC 519A.410 is hereby amended to read as follows:

519A.410 1. The operator of a small mining operation shall submit to the Division:

(a) A sketch or topographic map of the operation depicting:

(1) The boundaries of the project area;

(2) Surface ownership within the project area;

(3) Areas to be affected and the nature of the disturbances including, *without limitation*, tailings impoundments, leach pads, waste rock ~~dumps,~~ *storage and disposal facilities*,

buildings, roads and all other surface facilities;

(4) Areas within the project area which were previously affected by activities other than those of the operator or which will not be subject to additional or continuing disturbance because of his or her activities;

(5) The location of any body of surface water within one-half-mile down gradient from the operation which may be impacted by excess sedimentation resulting from the mining operations; and

(6) The location of access roads that were created before January 1, 1981.

(b) An estimate of the acreage affected by each type of disturbance set forth pursuant to subparagraph (3) of paragraph (a).

(c) A proposed postmining use of the land and general description of the manner in which the postmining use of the land will be attained by reclamation.

2. The information and documentation required by subsection 1 must be submitted:

(a) By October 1, 1991, for a small mining operation which is active on October 1, 1990; or

(b) Before disturbance of the surface for a new small mining operation.

3. If 5 acres or more of land will be affected by a small mining operation in a calendar year, the operator of the small mining operation must, before such land is affected, obtain a permit for a mining operation pursuant to the provisions of this chapter and chapter 519A of NRS. In applying for a permit for the mining operation, the operator must include in the plan for reclamation required pursuant to NAC 519A.140 all land previously affected by the small mining operation.

**ASSEMBLY**

**BILL 148**

Assembly Bill No. 148—Assemblymen Peters, Watts, Bilbray-Axelrod; Anderson, Carlton, Cohen, Martinez, Nguyen and Torres

CHAPTER.....

AN ACT relating to mining; revising the application requirements for obtaining a permit to engage in an exploration project or mining operation; prohibiting certain persons from obtaining such a permit; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law prohibits a person from engaging in certain exploration projects or mining operations without a permit issued for that purpose by the Division of Environmental Protection of the State Department of Conservation and Natural Resources. (NRS 519A.180, 519A.200) Existing law further: (1) requires certain information to be included in an application for such a permit, including the name and address of the applicant and, if the applicant is a corporation or other business entity, the name and address of its principal officers; and (2) prohibits the issuance of such a permit to an applicant who is in default on any obligation relating to reclamation. (NRS 519A.190, 519A.210)

**Sections 1 and 2** of this bill require an applicant for such a permit who is a corporation or business entity to submit with the application the name and address of each person who has a controlling interest in the corporation or business entity. **Sections 1 and 2** further require an applicant to submit an affidavit that states whether or not the applicant and each person who has a controlling interest in the corporation or business entity is in good standing with all agencies of other states and federal agencies in relation to the reclamation of exploration projects or mining operations outside of this State.

**Sections 1 and 2** prohibit the issuance of a permit to any applicant that is a corporation or other business entity if any person who has a controlling interest in the corporation or business entity has or previously had a controlling interest in another corporation or business entity that has defaulted on any obligation relating to reclamation unless the applicant: (1) pays the full amount of the defaulted obligation or provides evidence of satisfaction of the defaulted obligation; and (2) demonstrates that the conditions which led to the default have been remedied and no longer exist.

**Sections 1 and 2** further prohibit the issuance of a permit if the applicant or, if the applicant is a corporation or other business entity, a person who has a controlling interest in the corporation or business entity is not in good standing with an agency of another state or a federal agency in relation to the reclamation of an exploration project or mining operation outside of this State unless the applicant or person who has a controlling interest remedies all issues relating to the reclamation of the exploration project or mining operation outside of this State and becomes in good standing with all agencies of the other state and federal agencies in relation to the reclamation of the exploration project or mining operation outside of this State.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** NRS 519A.190 is hereby amended to read as follows:

519A.190 ***1.*** A person who desires to engage in an exploration project must:

~~[(1)]~~ ***(a)*** File with the Division, upon a form approved by it, an application for a permit. The application must include:

~~[(a)]~~ ***(I)*** The name and address of the applicant and, if ***the applicant is*** a corporation or other business entity ~~[, the]~~ :

***(I)*** ***The name and address of*** ~~its principal officers and its]~~ ***each person who has a controlling interest in the corporation or business entity; and***

***(II)*** ***The name and address of the*** registered agent ***of the corporation or business entity*** for service of process;

~~[(b)]~~ ***(2)*** An exploration map or sketch in sufficient detail to enable the Division to locate the area to be explored and to determine whether significant environmental problems are likely to result;

~~[(e)]~~ ***(3)*** The kinds of prospecting and excavation techniques that will be used in the exploration project; ~~and~~

~~—(d)]~~ ***(4)*** ***An affidavit stating whether or not the applicant and, if applicable, each person who has a controlling interest in the corporation or business entity is in good standing with all agencies of other states and federal agencies in relation to the reclamation of exploration projects outside of this State; and***

***(5)*** Any other information required by the regulations adopted by the Commission pursuant to NRS 519A.160.

~~[(2)]~~ ***(b)*** Pay to the Division the application fee established in the regulations adopted by the Commission pursuant to NRS 519A.160.

~~[(3)]~~ ***(c)*** Agree in writing to assume responsibility for the reclamation of any surface area damaged as a result of the exploration project.

~~[(4. Not be in default of any other obligation relating to reclamation pursuant to this chapter.]~~

~~—5.]~~ ***(d)*** File with the Division a bond or other surety in a form approved by the Administrator and in an amount required by the regulations adopted by the Commission pursuant to NRS 519A.160.

2. *Except as otherwise provided in subsections 3 and 4, the Division shall not issue a permit to engage in an exploration project pursuant to this section to an applicant if:*

*(a) The applicant has defaulted on any obligation relating to reclamation pursuant to this chapter, including, without limitation, by forfeiting a surety or failing to pay the full costs of reclamation or any penalty assessed pursuant to NRS 519A.280;*

*(b) For an applicant who is a corporation or other business entity, any person who has a controlling interest in the corporation or business entity has or previously had a controlling interest in another corporation or business entity that defaulted on any obligation relating to reclamation pursuant to this chapter, including, without limitation, by forfeiting a surety or failing to pay the full costs of reclamation or any penalty assessed pursuant to NRS 519A.280; or*

*(c) The applicant or, if the applicant is a corporation or other business entity, a person who has a controlling interest in the corporation or business entity is not in good standing with an agency of another state or a federal agency in relation to the reclamation of an exploration project outside of this State.*

3. *The Division may issue a permit to engage in an exploration project pursuant to this section to an applicant described in paragraph (a) or (b) of subsection 2 if the applicant:*

*(a) Pays to the Division the full amount of the defaulted obligation described in paragraph (a) or (b) of subsection 2, as applicable, or provides evidence of satisfaction of that defaulted obligation; and*

*(b) Demonstrates to the Division that any conditions which led to the default have been remedied and that such conditions no longer exist.*

4. *The Division may issue a permit to engage in an exploration project pursuant to this section to an applicant described in paragraph (c) of subsection 2 if the applicant demonstrates to the Division that the applicant or person who has a controlling interest in the corporation or business entity has remedied all issues related to the reclamation of the exploration project outside of this State and becomes in good standing with all agencies of the other state and federal agencies in relation to the reclamation of the exploration project.*

5. *As used in this section, "person who has a controlling interest" means:*

*(a) The president, secretary, treasurer or equivalent thereof of the corporation or business entity;*

*(b) A partner, director or trustee of the corporation or business entity; or*

*(c) A person who, directly or indirectly, possesses the power to direct the management or determine the policy of the corporation or business entity resulting from, without limitation, his or her ownership of voting stock in the corporation or business entity, a contract or any other circumstance.*

*↳ The term does not include a person designated to act as a proxy, including, without limitation, an agent, bank, broker, nominee or custodian, for one or more persons who own voting stock unless the proxy otherwise has the power to direct the management or determine the policy of the corporation or business entity.*

**Sec. 2.** NRS 519A.210 is hereby amended to read as follows:

519A.210 **1.** A person who desires to engage in a mining operation must:

~~1-1~~ *(a) File with the Division, upon a form approved by it, an application for a permit for each location at which the person will conduct operations. The application must include:*

~~1-a~~ *(1) The name and address of the applicant and, if **the applicant is** a corporation or other business entity ~~[-, the]~~ :*

*(I) The name and address of ~~[its principal officers and its]~~ each person who has a controlling interest in the corporation or business entity; and*

*(II) The name and address of the registered agent of the corporation or business entity for service of process;*

~~1-b~~ *(2) A completed checklist developed by the Division pursuant to NRS 519A.220; ~~and~~*

~~1-c~~ *(3) An affidavit stating whether or not the applicant and, if applicable, each person who has a controlling interest in the corporation or business entity is in good standing with all agencies of other states and federal agencies in relation to the reclamation of mining operations outside of this State; and*

*(4) Any other information required by the regulations adopted by the Commission pursuant to NRS 519A.160.*

~~2~~ *(b) Pay to the Division the application fee established in the regulations adopted by the Commission pursuant to NRS 519A.160.*

~~3~~ *(c) Agree in writing to assume responsibility for the reclamation of any land damaged as a result of the mining operation.*

~~4. Not be in default of any other obligation relating to reclamation pursuant to this chapter.~~

~~5~~ *(d) File with the Division a bond or other surety in a form and amount required by the regulations adopted by the Commission pursuant to NRS 519A.160.*

~~[6.]~~ (e) File with the Division of Minerals of the Commission on Mineral Resources a copy of the plan for reclamation which is filed with the application pursuant to ~~[subsection 1.]~~ paragraph (a), on the same day the application is filed with the Division.

2. *Except as otherwise provided in subsections 3 and 4, the Division shall not issue a permit to engage in a mining operation pursuant to this section to an applicant if:*

(a) *The applicant has defaulted on any obligation relating to reclamation pursuant to this chapter, including, without limitation, by forfeiting a surety or failing to pay the full costs of reclamation or any penalty assessed pursuant to NRS 519A.280;*

(b) *For an applicant who is a corporation or other business entity, any person who has a controlling interest in the corporation or business entity has or previously had a controlling interest in another corporation or business entity that defaulted on any obligation relating to reclamation pursuant to this chapter, including, without limitation, by forfeiting a surety or failing to pay the full costs of reclamation or any penalty assessed pursuant to NRS 519A.280; or*

(c) *The applicant or, if the applicant is a corporation or other business entity, a person who has a controlling interest in the corporation or business entity is not in good standing with an agency of another state or a federal agency in relation to the reclamation of a mining operation outside of this State.*

3. *The Division may issue a permit to engage in a mining operation pursuant to this section to an applicant described in paragraph (a) or (b) of subsection 2 if the applicant:*

(a) *Pays to the Division the full amount of the defaulted obligation described in paragraph (a) or (b) of subsection 2, as applicable, or provides evidence of satisfaction of that defaulted obligation; and*

(b) *Demonstrates to the Division that any conditions which led to the default have been remedied and that such conditions no longer exist.*

4. *The Division may issue a permit to engage in a mining operation pursuant to this section to an applicant described in paragraph (c) of subsection 2 if the applicant demonstrates to the Division that the applicant or person who has a controlling interest in the corporation or business entity has remedied all issues related to the reclamation of the mining operation outside of this State and becomes in good standing with all agencies of the other state and federal agencies in relation to the reclamation of the mining operation.*

5. *As used in this section, “person who has a controlling interest” means:*

*(a) The president, secretary, treasurer or equivalent thereof of the corporation or business entity;*

*(b) A partner, director or trustee of the corporation or business entity; or*

*(c) A person who, directly or indirectly, possesses the power to direct the management or determine the policy of the corporation or business entity resulting from, without limitation, his or her ownership of voting stock in the corporation or business entity, a contract or any other circumstance.*

*↳ The term does not include a person designated to act as a proxy, including, without limitation, an agent, bank, broker, nominee or custodian, for one or more persons who own voting stock unless the proxy otherwise has the power to direct the management or determine the policy of the corporation or business entity.*

**Sec. 3.** 1. This section becomes effective upon passage and approval.

2. Sections 1 and 2 of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On April 1, 2022, for all other purposes.

**DRAFT**  
**AFFIDAVIT**  
**FORM OF**  
**RECLAMATION**  
**APPLICATIONS**

## AFFIDAVIT REQUIREMENT

### 1. SUMMARY OF AFFIDAVIT REQUIREMENT

An applicant for a reclamation permit in the State of Nevada must submit, in addition to all other supporting materials, an affidavit that attests as to whether or not the applicant or operator, as applicable, and, if the applicant or operator is a corporation or other business entity, each person who has a controlling interest in the corporation or business entity:

- Has ever defaulted on an obligation related to the reclamation of an exploration project or mining operation in this State; and
- Is in good standing with agencies of other states or federal agencies relating to the reclamation of an exploration project or mining operation outside of this State.

Importantly, the applicant or operator or person who has controlling interest must (1) identify any exploration projects and/or mining operations that are or were in default in this State or are not in good standing in another state related to reclamation; and (2) for those exploration projects and mining operations, if any, state whether or not the default or conditions which resulted in a lack of good standing have been remedied. If no remedy has occurred, the applicant or operator must, within one year from the date the affidavit is filed with the Division, remedy the default or issues that resulted in a lack of good standing and submit a supplemental affidavit certifying that a remedy has occurred and describing the remedy with particularity. Failure to submit a timely supplemental affidavit renders the application void and a new application, affidavit, and fee must be submitted to the Division.

Please see AB 148 (2021) and R085-021 (2022) for additional details on the affidavit requirement.

### 2. DEFINITIONS/TERMS

“Person who has a controlling interest” means:

- (a) The president, secretary, treasurer or equivalent thereof of the corporation or business entity
- (b) A partner, director or trustee of the corporation or business entity; or
- (c) A person who, directly or indirectly, possesses the power to direct the management or determine the policy of the corporation or business entity resulting from, without limitation, his or her ownership of voting stock in the corporation or business entity, a contract or any other circumstance.

The term does not include a person designated to act as a proxy, including, without limitation, an agent, bank, broker, nominee or custodian, for one or more persons who own voting stock unless the proxy otherwise has the power to direct the management or determine the policy of the corporation or business entity.

*See*, AB148, § 5 (2021); R085-021, § 1 (2022).

“Person” means a natural person, any form of business or social organization and any other nongovernmental legal entity including, but not limited to, a corporation, partnership, association, trust or unincorporated organization.

NRS 0.039 (1985).

## AFFIDAVIT REQUIREMENT (CONTINUED)

## 2. DEFINITIONS/TERMS (CONTINUED)

### “Remedy”

A default on an obligation relating to reclamation of an exploration project or mining operation in this State has been remedied if:

1. The applicant, operator or a person who has a controlling interest pays the full amount of the defaulted obligation or provides evidence that the full amount of the defaulted obligation has been paid and not discharged through bankruptcy; and

2. The applicant, operator or person who has a controlling interest demonstrates that the conditions which led to the default have been remedied and no longer exist.

R085-021, § 4 (2022).

An applicant, operator or person who has controlling interest has remedied issues in relation to the reclamation of an exploration project or mining operation outside of this State and is in good standing with a federal agency or agency of another state if the applicant, operator, or person who has controlling interest, as applicable:

1. Fully and completely satisfies and complies with every condition or requirements that is set forth in a judgment, order, ruling or decision by a federal agency, agency of another state or a court of competent jurisdiction that is not appealable, or has otherwise become final after declination or exhaustion of all appeals including without limitation:

(a) Paying any fee, penalty, fine, settlement, restitution or other obligation;

(b) Complying with an injunction order; and

(c) Providing any required financial assurance; and

2. Does not discharge any debt or obligation related to the reclamation of the exploration project or mining operation through bankruptcy.

R-085-21, § 5 (2022).

## 3. ENCLOSURES

A. Form Declaration (DRAFT)

B. Form Supplemental Declaration (DRAFT)

C. Attachment 1, Informational Statement for Declaration (DRAFT)

D. Attachment 2, Informational Statement for Supplemental Declaration (DRAFT)



DECLARATION  
MADE IN ACCORDANCE WITH  
AB 148 (2021) AND R085-21

1. I am the applicant or operator or an authorized representative of the applicant or operator and I am submitting this declaration in accordance with (Check Applicable Box)  NAC 519A.125  519A.135  519A.140  519A.150  519A.155  519A.215.

2. I or the corporation or business entity I represent, including its person(s) who has/have controlling interest (Check Applicable Boxes; Check "Have/Is Not" if not applicable)

Have  Have Not: Defaulted on any obligation relating to the reclamation pursuant to NRS and NAC Chapter 519A in the State of Nevada.

Is  Is Not: Currently Ssubject to any settlement, consent decree or any criminal, civil or administrative order or judgment for a violation of a federal or state reclamation statute or regulation outside of the State of Nevada which is not appealable or has otherwise become final after declination or exhaustion of all appeals therefrom.

Complete Paragraph 3 and Attachment 1 only if you or the corporation or business entity you represent, including its person(s) who has/have controlling interest, checked "have" or "is" under paragraph 2. (Check Box, if applicable)

3.  I or the corporation or business entity I represent, including its person(s) who has/have controlling interest, submit with this Declaration, Attachment 1, which completely and accurately identifies:

- a) Each exploration project or mining operation for which I or the corporation or business entity I represent, including its person(s) who has/have controlling interest, engaged that: (i) Defaulted on any obligation relating to reclamation pursuant to NRS and NAC Chapter 519A in the State of Nevada; (ii) Is subject to any settlement, consent decree or any criminal, civil or administrative order or judgment for a violation of federal or state reclamation statute or regulation outside the State of Nevada which is not appealable or has otherwise become final after declination or exhaustion of all appeals therefrom;
- b) The dates that I or the corporation or business entity that I represent, including its person(s) who has/have controlling interest, engaged in the exploration project(s) or mining operation(s) identified in subparagraph (a); and
- c) Whether or not I or the corporation or business entity I represent, including its person(s) who has/have controlling interest, have remedied the default in the State of Nevada or become in good standing with all agencies of other states and federal agencies related to each exploration project and mining operation identified under subparagraph (a).

4. Declaration (Check Applicable Box)

- Executed in the State of Nevada: I declare under penalty of perjury that the foregoing is true and correct.
- Executed outside the State of Nevada but in the United States or its Territories: I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.
- Executed outside the United States and its Territories: I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory or insular possession subject to the jurisdiction of the United States.

Executed on the \_\_\_\_\_ (date) day of \_\_\_\_\_ (month), \_\_\_\_\_ (year), at \_\_\_\_\_ (city or other location and state), \_\_\_\_\_ (country).

By: \_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Affiliation with Applicant/Operator)

COMPLETE A SUPPLEMENTAL DECLARATION IF YOU OR THE CORPORATION OR BUSINESS ENTITY YOU REPRESENT, INCLUDING ITS PERSON(S) WHO HAS/HAVE CONTROLLING INTEREST, HAVE NOT REMEDIED A DEFAULT IN THIS STATE OR BECOME IN GOOD STANDING WITH ALL AGENCIES OF OTHER STATES OR FEDERAL AGENCIES. THE SUPPLEMENTAL DECLARATION MUST BE SUBMITTED WITHIN ONE YEAR OF THE DATE THIS DECLARATION IS FILED WITH THE DIVISION.

SUPPLEMENTAL DECLARATION

MADE IN ACCORDANCE WITH  
AB 148 (2021) AND R085-21

5. I am the applicant or operator or an authorized representative of the applicant or operator and I am submitting this Supplemental Declaration in accordance with (Check Applicable Box)  NAC 519A.125  519A.135  519A.140  519A.150  519A.155  519A.215.
6. I or the corporation or business entity I represent, including its person(s) who has/have controlling interest submit with this Supplemental Declaration, Attachment 2, which completely and accurately identifies:
- a) Each exploration project or mining operation identified in paragraph 3(a) that had not remedied a default in the State of Nevada or become in good standing with agencies of other states and federal agencies as of the date I or the corporation or business entity I represent filed the Declaration with the Division in accordance with NAC 519A.125, 519A.135, 519A.140, 519A.150, 519A.155 or 519A.215, as identified in paragraphs 1 and 5;
  - b) Whether I or the corporation or business entity I represent, including its person(s) who has/have controlling interest, have remedied the default in the State of Nevada or become in good standing with all agencies of other states and federal agencies related to each exploration project and mining operation identified under subparagraph (a); and
  - c) The actions that I or the corporation or business entity I represent, including its person(s) who has/have controlling interest, have taken to remedy the default in the State of Nevada or become in good standing with all agencies of other states and federal agencies related to each exploration project and mining operation identified in subparagraph (a).

7. Declaration (Check Applicable Box)

- Executed in the State of Nevada: I declare under penalty of perjury that the foregoing is true and correct.
- Executed outside the State of Nevada but in the United States or its Territories: I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.
- Executed outside the United States and its Territories: I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory or insular possession subject to the jurisdiction of the United States.

Executed on the \_\_\_\_\_ (date) day of \_\_\_\_\_ (month), \_\_\_\_\_ (year), at \_\_\_\_\_ (city or other location and state), \_\_\_\_\_ (country).

By: \_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Affiliation with Applicant/Operator)

ATTACHMENT 1: PAGE \_\_\_\_  
INFORMATIONAL STATEMENT

Applicant/Operator  Person Who Has Controlling Interest Name:

\_\_\_\_\_  
Mining or Exploration Project(s) Name and Address/Location:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dates Engaged in Exploration Project or Mining Operation:  
\_\_\_\_\_

Has  Has Not: Remedied Default or Become in Good Standing

Applicant/Operator  Person Who Has Controlling Interest Name  Same as above:  
\_\_\_\_\_

Mining or Exploration Project(s) Name and Address/Location:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dates Engaged in Exploration Project or Mining Operation:  
\_\_\_\_\_

Has  Has Not: Remedied Default or Become in Good Standing

Applicant/Operator  Person Who Has Controlling Interest Name  Same as above:  
\_\_\_\_\_

Mining or Exploration Project(s) Name and Address/Location:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dates Engaged in Exploration Project or Mining Operation:  
\_\_\_\_\_

Has  Has Not: Remedied Default or Become in Good Standing

[PROVIDE ADDITIONAL PAGES AS NEEDED TO COMPLETE THE INFORMATIONAL STATEMENT]

ATTACHMENT 2: PAGE \_\_\_\_

INFORMATIONAL STATEMENT

Applicant/Operator  Person Who Has Controlling Interest Name:

Mining or Exploration Project(s) Name and Address/Location:

Dates Engaged in Exploration Project or Mining Operation:

Has Remedied Default or Become in Good Standing

Description of Actions to Remedy Default or Become in Good Standing:

Applicant/Operator  Person Who Has Controlling Interest Name  Same as above:

Mining or Exploration Project(s) Name and Address/Location:

Dates Engaged in Exploration Project or Mining Operation:

Has Remedied Default or Become in Good Standing

Description of Actions to Remedy Default or Become in Good Standing:

[PROVIDE ADDITIONAL PAGES AS NEEDED TO COMPLETE THE INFORMATIONAL STATEMENT]

**R130-21P**

**DEPARTMENT OF TAXATION PROPOSED CHANGES TO  
REGULATION OF THE NEVADA TAX COMMISSION**

**(Adopted January 24, 2022)**

**LCB File No. R130-21**

December 23, 2021

EXPLANATION – Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) *green bold italics* is amended language in the first revisions of the original bill proposed to be retained in this bill and (6) orange double underlining is deleted language in the first revisions of the original bill proposed to be retained in this amendment.

AUTHORITY: §§ 1, 3-10, 16, 19 and 22, NRS 360.090; §§ 2 and 21, NRS 360.090, NRS 360.417, as amended by section 43 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1280, and section 30 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1277 (NRS 363D.210); § 11, NRS 360.090 and sections 17 and 62 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1272 and 1297 (NRS 363D.085); § 12, NRS 360.090 and sections 14 and 26 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1271 and 1275 (NRS 363D.070 and 363D.170); § 13, 17 and 18, NRS 360.090 and section 4 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1269 (NRS 363D.020); § 14, NRS 360.090 and section 10 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1271 (NRS 363D.050); § 15, NRS 360.090 and section 23 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1274 (NRS 363D.140); § 20, NRS 360.090 and section 25 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1274 (NRS 363D.160); § 23, NRS 360.090 and section 27 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1276 (NRS 363D.180).

A REGULATION relating to taxation; establishing provisions for the administration, calculation and payment of the tax imposed on the Nevada gross revenue of certain entities engaged in the business of extracting gold or silver, or both, in this State; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law imposes an annual tax on each business entity engaged in the business of extracting gold or silver, or both, in this State whose Nevada gross revenue in a taxable year exceeds \$20,000,000. (Section 25 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1274 (NRS 363D.160)) **Section 9** of this regulation defines this tax for the purposes of this regulation as the “~~gold and silver excise~~ **mining education tax.**” **Sections 1-6** of this regulation provide for the administration of the ~~gold and silver excise~~ **mining education tax** by the Department of Taxation in the same manner as other taxes are administered by the Department.

Existing law: (1) establishes the 12-month period beginning on January 1 and ending on December 31 of each calendar year as the taxable year for the purposes of the ~~gold and silver~~ **mining education** tax; and (2) provides that the ~~gold and silver~~ **mining education** tax applies to the taxable year beginning on January 1, 2021, and ending on December 31, 2021, and each subsequent calendar year. (Sections 17 and 62 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1272 and 1297 (NRS 363D.085) **Section 11** of this regulation specifies that the ~~first~~ taxable year for the ~~gold and silver~~ **mining education** tax is the calendar year beginning on January 1, ~~2021~~, and ending on December 31, ~~2021~~, and that each ~~subsequent taxable year begins on January 1 and ends on December 31 of each subsequent calendar year.~~

Under existing law, the amount of Nevada gross revenue of a business entity on which the ~~gold and silver~~ **mining education** tax is imposed is calculated by taking the amount of the gross revenue of the business entity, subtracting various deductions from that amount, then situsing the adjusted amount to this State. (Section 12 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1271 (NRS 363D.060)) **Section 12** of this regulation interprets the term “fiduciary duty” for the purposes of a deduction from the gross revenue of a business for the revenue of a business entity that is required by fiduciary duty to be distributed to another person or entity. (Sections 14 and 26 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1271 and 1275 (NRS 363D.070, 363D.170)) **Section 13** of this regulation interprets the term “intangible investments” for the purposes of the exemption from the ~~gold and silver~~ **mining education** tax for a person whose activities within this State are confined to the owning, maintenance and management of the person’s intangible investments or of the intangible investments of certain persons or statutory trusts or business trusts. (Section 4 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1269 (NRS 363D.020)) **Section 14** of this regulation establishes the circumstances under which a good or service is provided on a complimentary basis for the purposes of the exclusion of the value of such goods or services from the gross revenue of a business entity. (Section 10 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1271 (NRS 363D.050))

Existing law requires each person responsible for maintaining the records of a taxpayer who is subject to the ~~gold and silver~~ **mining education** tax to: (1) keep such records as may be necessary to determine the amount of tax owed by the taxpayer; (2) preserve those records for 4 years or until any litigation or prosecution regarding the tax is finally determined, whichever is later; and (3) make the records available for inspection by the Department upon demand at reasonable times during regular business hours. Existing law further authorizes the Department to adopt regulations specifying the types of records which must be kept to determine the amount of tax owed by the taxpayer. (Section 23 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1274 (NRS 363D.140)) **Section 15** of this regulation specifies the records that a person responsible for maintaining the records of a taxpayer is required to keep for the purpose of determining the amount of tax owed by the taxpayer.

**Section 16** of this regulation requires a business entity subject to the ~~gold and silver~~ **mining education** tax to use the same method of accounting for the purposes of the tax as the business entity uses for the purposes of its federal income taxes.

**Section 17** of this regulation provides that the ~~gold and silver~~ **mining education** tax is a tax imposed on the Nevada gross revenue of a business entity engaged in the business of extracting **and selling** gold or silver, or both, in this State, **on or after July 1, 2021**. **Section 17** also: (1) defines gold and silver for the purposes of determining whether a business entity is engaged in the business of extracting gold or silver, or both, in this State; (2) establishes that a

business entity is engaged in the business of extracting gold or silver, or both, if the business entity realizes gross revenue from the sale of gold or silver, or both, extracted by the business entity in this State; and (3) provides that in determining whether a business entity is engaged in the business of extracting gold or silver, or both, in this State, the Department is required to consider the activities of the business entity and not activities of other entities in which the business entity owns an interest. Finally, **section 17** provides that a business entity whose primary source of gross revenue is realized from the sale of gold or silver, or both, extracted in this State is not subject to the tax if the gross revenue realized from the gold or silver, or both, extracted in this State is sourced to one or more subsidiaries of the business entity in which the business entity has an ownership or controlling interest and such subsidiaries are subject to and pay the ~~gold and silver excise~~ **mining education** tax.

**Section 18** of this regulation establishes the types of business entities that constitute a business entity for the purposes of the ~~gold and silver excise~~ **mining education** tax.

**Section 19** of this regulation establishes the manner in which a business entity is required to convert a foreign currency into United States dollars when a contract for the sale of gold or silver, or both, establishes the sales price for gold or silver in a currency other than the United States dollar.

Existing law requires a business entity that is engaged in the business of extracting gold or silver, or both, in this State whose Nevada gross revenue in a taxable year exceeds \$20,000,000 to: (1) file with the Department, on or before April 1 immediately following the end of the taxable year, a return in a form prescribed by the Department; and (2) remit the amount of gold and silver excise due. (Section 25 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1274 (NRS 363D.160)) **Section 20** of this regulation requires such a business entity to file with the Department a Nevada ~~Gold and Silver Excise~~ **Mining Education** Tax Return on or before the due date established by existing law and requires the first such return filed by a business entity to identify each: (1) location for which the Division of Environmental Protection of the State Department of Conservation and Natural Resources has issued the permit required by existing law to authorize the business entity to engage in a mining operation to extract gold or silver, or both, at the location; and (2) geographically separate operation where gold or silver, or both, is extracted by the business entity for which a separate statement of gross yield and claimed net proceeds from such extraction is filed for the purposes of the tax on the net proceeds of minerals.

Under existing law, the Department is authorized to waive all or part of any interest or penalty, or both, imposed on a taxpayer who fails to make a timely payment of a tax if the Executive Director of the Department or a hearing officer finds that the failure to make a timely payment was the result of circumstances beyond the taxpayer's control and occurred despite the exercise of ordinary care and without intent. (NRS 360.419) Existing law further provides that if the Department determines that an overpayment of the ~~gold and silver excise~~ **mining education** tax was made intentionally or by reason of carelessness, the Department must not allow the taxpayer to receive interest on the overpayment. (Section 30 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1277 (NRS 363D.210)) **Sections 2 and 21** of this regulation provide that:

~~(1) if the failure to pay the gold and silver excise tax in a timely manner was caused by reliance on the taxpayer's calculations for its most recent federal income tax return, Nevada Gold and Silver Excise Tax Return or statements regarding gross yield and net proceeds for the purposes of the tax on the net proceeds of minerals, the Department may waive all or part of the penalty or interest, or both, imposed on the taxpayer. ; and (2) if an overpayment of the commerce tax was caused by such reliance, the overpayment is deemed to be made intentionally~~



~~or by reason of carelessness, the Department must not allow the taxpayer to receive interest on the overpayment.~~

**Section 22** of this regulation provides for the payment under protest of the ~~gold and silver~~ **mining education** tax, without the waiver of any claim relating to the amount of tax due.

Existing law imposes an annual commerce tax on the Nevada gross revenue of certain business entities engaged in a business in this State, at a rate that is based on the industry in which a business entity is primarily engaged. (Chapter 363C of NRS) **Section 23** of this regulation provides that the rules for situsing the gross revenue of a business entity to Nevada for the purposes of the commerce tax apply to the situsing of the gross revenue of a business entity to Nevada for the purposes of the ~~gold and silver~~ **mining education** tax.

**Section 1.** NAC 360.395 is hereby amended to read as follows:

360.395 The penalty imposed pursuant to NRS 360.417 for the late payment of tax provided for in chapter 362, 363A, 363B, 363C, 369, 370, 372, 372A, 377, 377A, 444A or 585 of NRS *or sections 2 to 40, inclusive, of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1269-79 (NRS 363D.010-363D.310, inclusive)* or any fee provided for in NRS 482.313 must be in the amount of:

1. If the payment is not more than 10 days late, 2 percent of the amount of the tax or fee due.
2. If the payment is more than 10 days late but not more than 15 days late, 4 percent of the amount of the tax or fee due.
3. If the payment is more than 15 days late but not more than 20 days late, 6 percent of the amount of the tax or fee due.
4. If the payment is more than 20 days late but not more than 30 days late, 8 percent of the amount of the tax or fee due.
5. If the payment is more than 30 days late, 10 percent of the amount of the tax or fee due.

**Sec. 2.** NAC 360.397 is hereby amended to read as follows:

360.397 1. Except as otherwise provided in NAC 360.398 and 363C.250 ~~†~~ *and section 21 of this regulation*, a taxpayer or the taxpayer's agent may request the waiver or reduction of

the penalty or interest, or both, by submitting to the Department a written statement signed under oath by the taxpayer or the taxpayer's agent which sets forth the facts and circumstances surrounding the failure of the taxpayer to make the payment in a timely manner.

2. The Department shall not consider a request made pursuant to subsection 1 until the taxpayer has paid in full the tax or fee upon which the interest or penalty is assessed.

**Sec. 3.** NAC 360.438 is hereby amended to read as follows:

360.438 1. A person may request that the Commission compromise the liability of the person for a tax, contribution, premium, fee, interest or penalty assessed pursuant to the provisions of chapter 360, 360B, 362, 363A, 363B, 363C, 368A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS *or sections 2 to 40, inclusive, of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1269-79 (NRS 363D.010-363D.310, inclusive)* as administered or audited by the Department by submitting to the Department, on a form prescribed by the Department, an offer to compromise the liability of the person.

2. An offer to compromise the liability of a person submitted pursuant to subsection 1 must include:

(a) A statement of the grounds upon which the compromise is sought and any other information to support the offer;

(b) Copies of such financial information and documentation as may be required by the Department, including, without limitation, financial statements, bank records, accounting ledgers and a statement or explanation of any assets that may be acquired by the person pursuant to the resolution of a pending claim, cause of action, settlement or insurance disbursement, inheritance or an unsatisfied judgment or court order;

(c) An affirmation, signed under penalty of perjury, attesting to the truthfulness and accuracy of all information and documentation submitted with the offer to compromise; and

(d) A written statement signed by the person consenting to suspend any and all statutory periods of limitation relevant to the collection of the liability of the taxpayer or the seizure, attachment, garnishment or execution upon property or assets of the taxpayer to satisfy the liability of the taxpayer during the period in which the Commission considers whether to accept or reject the offer of compromise.

3. The Department shall review, analyze and verify an offer of compromise and any accompanying information and documentation submitted pursuant to subsection 1.

4. If, after reviewing, analyzing and verifying the offer pursuant to subsection 3, the Department determines that:

(a) The offer does not comply with subsection 1 or does not include adequate supporting information and documentation, the Department shall return the offer to the person who submitted the offer with a written explanation of the deficiencies.

(b) Except as otherwise provided in paragraph (c), the offer complies with subsection 1, the Department shall forward to the Commission the offer and the recommendation of the Department as to whether the Commission should accept or reject the offer.

(c) The offer complies with subsection 1 and the Department will recommend that the Commission reject the offer, the Department shall advise the person submitting the offer in writing that the Department will recommend that the Commission reject the offer before forwarding the offer and the recommendation of the Department to the Commission pursuant to paragraph (b). A person so advised may withdraw the offer.

5. Except as otherwise provided in this subsection, if a person submits an offer pursuant to subsection 1, the Department shall cease, and shall not commence, any action related to the collection of the liability of the taxpayer or the seizure, attachment, garnishment or execution upon property or assets in satisfaction of the liability until the Commission accepts or rejects the offer. If the Department determines that the offer submitted pursuant to subsection 1 was offered for the purpose of delaying or avoiding the collection of the liability of the person, the Department may continue or commence any action related to the collection of the liability of the taxpayer or the seizure, attachment, garnishment or execution upon property or assets in satisfaction of the liability.

6. The Commission will review an offer received from the Department pursuant to subsection 4 and issue a written decision as to whether the Commission accepts or rejects the offer of compromise.

7. If the written decision of the Commission issued pursuant to subsection 6 is the acceptance of the offer of compromise, the Commission may:

(a) Make the acceptance of the offer contingent upon the satisfaction of conditions as the Commission deems appropriate, including, without limitation, that all or part of the amount of the compromise be paid within a specific time frame.

(b) Allow the person submitting the offer to pay the amount of the compromise in reasonable installments. If the Commission allows the person submitting the offer to pay the amount of the compromise in reasonable installments, the Commission may make the acceptance of the offer contingent upon the person complying with the schedule of installment payments.

8. If the Commission makes the acceptance of an offer of compromise contingent upon the satisfaction of a condition pursuant to subsection 7, the Commission will hold a hearing before

finally accepting or rejecting the offer to determine whether the conditions upon the acceptance of the offer were satisfied. If the Commission determines that the conditions upon the acceptance of the offer were satisfied, the Commission will issue a written decision to accept the offer of compromise. If the Commission determines that the conditions upon the acceptance of the offer were not satisfied, the Commission will issue a written decision specifying the manner in which such conditions failed to be satisfied.

9. Except as otherwise provided in subsection 10, after the Commission has accepted an offer of compromise and the person has tendered the full amount of money offered in the compromise, the compromise will be deemed to be an accord and satisfaction of the liability of the person for that liability which is the subject of the compromise.

10. If, after a hearing, the Commission determines that the acceptance by the Commission of an offer of compromise was procured through fraud, misrepresentation or concealment or resulted from a mutual mistake of fact, the Commission may issue a written decision to reinstate the liability of the taxpayer in the amount originally assessed by the Department. The written decision of the Commission is a final decision for the purposes of judicial review.

11. The acceptance of an offer of compromise by the Commission pursuant to this section shall not be deemed to be a limitation on the rights and remedies of the Department with respect to any person not named or identified in the offer of compromise.

**Sec. 4.** NAC 360.440 is hereby amended to read as follows:

360.440 1. If a taxpayer fails to file a return as required by the applicable provisions of chapter 360, 362, 363C, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS *or sections 2 to 40, inclusive, of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1269-79 (NRS 363D.010-363D.310, inclusive)* and he or

she wishes to disclose that fact voluntarily to the Commission, the taxpayer or the taxpayer's representative must file with the Department an application for voluntary disclosure on a form prescribed by the Commission before the Department has initiated an audit or investigation of the taxpayer.

2. The Commission will not accept an application filed pursuant to subsection 1 until the application has been approved and signed by the Director. The Director shall not approve and sign the application until he or she has verified that the Department did not initiate an audit or investigation of the taxpayer before the date that the taxpayer filed an application with the Department pursuant to subsection 1. An application is deemed to be filed with the Department on the date the application is received by the Department.

3. After the Director has signed and approved the application, the Commission will provide the taxpayer with a copy of the approved application.

4. For the purposes of subsection 2, the Department has initiated an audit or investigation of a taxpayer if the Department has:

(a) Contacted the taxpayer by telephone, in person or in writing regarding a possible tax liability; or

(b) Given the taxpayer written notice that an audit will be conducted by the Department concerning liability for the type of tax that the taxpayer wishes to disclose voluntarily pursuant to this section.

**Sec. 5.** NAC 360.444 is hereby amended to read as follows:

360.444 The Commission will not consider the tax liability of a taxpayer as being voluntarily disclosed if, after filing an application for voluntary disclosure pursuant to NAC 360.440, the taxpayer:

1. Within 90 days after the taxpayer has received a copy of the approved application, fails to file with the Department the delinquent tax returns for the tax owed for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application was filed pursuant to NAC 360.440;

2. Within 90 days after the taxpayer has received a copy of the approved application, fails to pay any tax owed for the period described in subsection 1;

3. Fails to make a good faith effort to comply with the applicable provisions of chapter 360, 362, 363C, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, *sections 2 to 40, inclusive, of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1269-79 (NRS 363D.010-363D.310, inclusive)*, including, without limitation, registering with the Department, filing tax returns, paying any tax liability and remitting any taxes collected; or

4. Fails to provide an accurate estimate of his or her tax liability in the application for voluntary disclosure filed pursuant to NAC 360.440. The taxpayer shall be deemed to have provided an inaccurate estimate of his or her tax liability if:

(a) The tax liability provided in the application for voluntary disclosure is less than the taxpayer's actual tax liability by 10 percent or more; and

(b) The taxpayer is unable to demonstrate to the Department that he or she made a good faith effort to report accurately his or her tax liability in the application for voluntary disclosure.

**Sec. 6.** NAC 360.584 is hereby amended to read as follows:

360.584 NAC 360.550 to 360.598, inclusive, apply to online registration, filing and payment by electronic transfer of money for taxes, fees, interest, penalties or other charges provided for in chapters 360, 361, 362, 363A, 363B, 363C, 368A, 369, 370, 372, 372A, 374,

377, 377A and 444A of NRS *and sections 2 to 40, inclusive, of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1269-79 (NRS 363D.010-363D.310, inclusive)* and to any fee provided for in NRS 482.313 or chapter 680B of NRS.

Sec. 7. Chapter 363D of NAC is hereby amended by adding thereto the provisions set forth as sections 8 to 23, inclusive, of this regulation.

Sec. 8. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 9 and 10 of this regulation have the meaning ascribed to them in those sections.*

Sec. 9. “~~Gold and silver excise tax~~ Mining Education Tax” means the tax imposed by sections 2 to 40, inclusive, of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1269-79 (NRS 363D.010-363D.310, inclusive).

Sec. 10. “Nevada ~~Gold and Silver Excise~~ Mining Education Tax Return” means the return filed with the Department pursuant to section 25 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1274 (NRS 363D.160) and section 20 of this regulation.

Sec. 11. *For the purposes of the ~~gold and silver excise~~ mining education tax, the taxable year is a calendar year, ~~the period beginning on January 1, 2021, and ending on December 31, 2021, and the 12-month period beginning on January 1 and ending on December 31 of each subsequent calendar year.~~*

Sec. 12. *For the purposes of determining whether revenue received by a business entity is pass-through revenue pursuant to paragraph (a) of subsection 1 of section 14 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1271 (NRS 363D.070) that may be deducted from the gross revenue of the business entity pursuant to subsection 4 of section 26 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1275 (NRS*



363D.170), “fiduciary duty” means a duty arising from a relationship governed by the provisions of NRS 162.010 to 162.140, inclusive.

Sec. 13. For the purposes of the exemption from the ~~gold and silver excise~~ mining education tax set forth in paragraph (m) of subsection 2 of section 4 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1270 (NRS 363D.020), the term “intangible investments” includes, without limitation, the intangible investments described in that paragraph and an interest in any entity, including, without limitation, a trust, S corporation, partnership, limited-liability company or other entity in which a person owns an interest, regardless of whether that person controls or participates in the management of the entity in which the person owns an interest.

Sec. 14. For the purposes of the exclusion from the gross revenue of a business entity set forth in paragraph (c) of subsection 3 of section 10 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1271 (NRS 363D.050), goods or services are provided on a complimentary basis if the goods or services are provided at no charge, in exchange for points or credits earned pursuant to a program under which points or credits are earned or awarded to the customers of a business entity or in exchange for a coupon, voucher or certificate.

Sec. 15. 1. Pursuant to section 23 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1274 (NRS 363D.140), to determine the amount of the liability of a taxpayer for the ~~gold and silver excise~~ mining education tax, the person responsible for maintaining the records of the taxpayer must maintain the following records of the taxpayer for the period specified in paragraph (b) of subsection 1 of section 23 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1274 (NRS 363D.140):

(a) A general ledger with transaction detail for gold and silver revenue accounts in Microsoft Excel format.

*(b) A trial balance.*

*(c) A chart of accounts.*

*(d) Each federal and state tax return, including each original return and any amended return.*

*(e) The work papers relating to each federal and state tax return, including, without*

*limitation, a reconciliation of the accounting records reflecting any adjustments in reported amounts.*

*(f) Bank statements.*

*(g) Invoices.*

*(h) Cash receipts.*

*(i) Contracts.*

*(j) Journal records.*

~~*(k) Inventory records that pertain to the extraction, processing and selling of gold or silver, or both.*~~

~~*(k)*~~ *(k) Proof of affiliation with other persons or entities, such as federal forms 851, K-1 and SEC 10-K schedule of affiliates.*

~~*(m)*~~ *(l) Any other documentation the Department may require to determine the amount of the liability of a taxpayer for the ~~gold and silver excise~~ mining education tax.*

*Sec. 16. A business entity's method of accounting for gross revenue for a taxable year for the purposes of determining the amount of the ~~gold and silver excise~~ mining education tax owed by the business entity must be the same as the business's method of accounting for federal income tax purposes for the business's federal taxable year which includes that calendar quarter. If a business entity's method of accounting for federal income tax purposes changes, its method of accounting for gross revenue pursuant to sections 2 to 40, inclusive, of*

*Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1269-79 (NRS 363D.010-363D.310, inclusive), must be changed accordingly.*

*Sec. 17. 1. The ~~gold and silver excise~~ mining education tax is a tax imposed on a business entity engaged in the business of extracting and selling gold or silver, or both, in this State occurring on and after July 1, 2021. For the purposes of the ~~gold and silver excise~~ mining education tax:*

*(a) Gold or silver has the meaning ascribed to it in section 8 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1270 (NRS 363D.040) and includes, without limitation, dore bars, slurry and refined ore.*

*(b) A business entity is engaged in the business of extracting gold or silver, or both, in this State if the business entity realizes any gross revenue during a taxable year from the sale of gold or silver, or both, extracted by the business entity in this State.*

*2. To determine whether a business entity is engaged in the business of extracting gold or silver, or both, in this State, the Department must consider the activities of the business entity and not the activities of any other entity in which the business entity owns an interest. A business entity, including, without limitation, a joint venture, whose primary source of gross revenue is realized from the sale of gold or silver, or both, extracted in this State is not subject to the ~~gold and silver excise~~ mining education tax if the gross revenue of the business entity from the sale of gold or silver, or both, extracted in this State is sourced to one or more subsidiaries of the business entity that the business entity owns or controls and that are subject to and pay the ~~gold and silver excise~~ mining education tax. Any gross revenue realized by a business entity described in this subsection from any of its subsidiaries is pass-through revenue and is not subject to the ~~gold and silver excise~~ mining education tax.*

3. “Pass-through revenue” has the meaning ascribed to it in section 14 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1271 (NRS 363D.070).

4. “Subsidiary” means a member of an affiliated group as defined in section 14(2)(a) and (b) of AB495.

Sec. 18. 1. Except as otherwise provided in subsection 3 and sections 2 to 40, inclusive, of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at pages 1269-79 (NRS 363D.010-363D.310, inclusive), for the purposes of the ~~gold and silver excise~~ mining education tax, a person or other entity is a business entity if the person is:

(a) An entity organized pursuant to title 7 of NRS or another equivalent statute of this State or another jurisdiction, other than an entity organized pursuant to chapter 82 or 84 of NRS.

~~(b) A state, national, domestic or foreign bank, whether organized under the laws of this State, another state or another country, or under federal law.~~

~~(c) A savings and loan association or savings bank, whether organized under the laws of this State, another state or another country, or under federal law.~~

(d) A partnership governed by chapter 87 of NRS or another equivalent statute of this State or another jurisdiction.

(e) A registered limited-liability partnership registered with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive.

(f) A business association.

(g) A joint venture, except a joint operating or co-ownership arrangement which meets the requirements of 26 C.F.R. § 1.761-2(a)(3), Treas. Reg. § 1.761-2(a)(3), that elects out of federal partnership treatment as provided by 26 U.S.C. § 761(a), or *as otherwise provided in section 17(3) (2).*

*(h) A joint stock company.*

*(i) A holding company.*

*(j) A natural person who is required to file with the Internal Revenue Service a:*

*(1) Schedule C (Form 1040), Profit or Loss from Business, or its equivalent or successor form;*

*(2) Schedule E (Form 1040), Supplemental Income and Loss, or its equivalent or successor form, if an activity of the natural person is reported on Part I of that Schedule; or*

*(3) Schedule F (Form 1040), Profit or Loss from Farming, or its equivalent or successor form.*

*(k) Any other person engaging in a business of **extracting gold or silver or both** in this State.*

*2. For the purpose of determining whether a person or other entity is a business entity, a person or other entity is not a business entity if the person or entity is listed in subsection 2 of section 4 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1269 (NRS 363D.020), regardless of whether the person or entity is engaging in a business **of extracting gold or silver or both** in this State.*

*3. As used in this section:*

*(a) "Holding company" means an entity that confines its activities to owning stock in, and supervising management of, other companies.*

*(b) "Joint stock company" means a common-law unincorporated business enterprise of natural persons possessing common capital with ownership interests represented by shares of stock.*

*(c) "Joint venture" means a partnership engaged in the joint prosecution of a particular transaction for mutual profit.*

~~*(d) "subsidiary" means a member of an affiliated group as defined in section 14(2)(a)*~~

~~and (b) of AB495.~~

Sec. 19. *If a contract for the sale of gold or silver extracted by a business entity in this State establishes the sales price of the gold or silver in a currency other than the United States dollar, in calculating the amount of the gross revenue realized from the sale of the gold or silver, the business entity must convert the sales price into United States dollars using the average exchange rate for the taxable year, as determined using Forex Exchange.*

Sec. 20. 1. *Each business entity whose Nevada gross revenue in a taxable year exceeds \$20,000,000 must file with the Department a Nevada ~~Gold and Silver Excise~~ Mining Education Tax Return for that taxable year pursuant to subsection 2 of section 25 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1274 (NRS 363D.160).*

2. *A business entity's gross revenue is computed as provided in section 26 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1270 (NRS 363D.020) and a business entity is entitled to deductions from its gross revenue as provided in subsections 1 through 19 of section 26 which includes amounts for any gross revenue realized from the sale or transfer of a mineral other than gold or silver and any amount of any pass-through revenue of the business entity.*

~~2.~~ 3. *Each business entity shall submit with the first Nevada ~~Gold and Silver Excise~~ Mining Education Tax Return filed with the Department a report that identifies each:*

(a) *Location for which the business entity has been issued a permit to engage in a mining operation pursuant to NRS 519A.210; and*

(b) *Geographically separate operation where gold or silver, or both, is extracted by the business entity for which a separate statement is filed pursuant to NRS 362.110.*

Sec. 21. 1. *The Department may waive or reduce the penalty or interest, or both, for a late payment of the ~~gold and silver excise~~ mining education tax under the grounds set forth*

~~in NAC 360.396. for the waiver or reduction of any penalty or interest, or both, for a late payment of the gold and silver excise tax, the Department may waive or reduce the penalty or interest, or both, for a late payment of the gold and silver excise tax if:~~

~~(a) The Nevada Gold and Silver Excise Tax Return for which the late payment is being made was timely filed;~~

~~(b) The Department determines that the late payment was made because, in calculating the Nevada gross revenue of the taxpayer, the taxpayer or the taxpayer's agent relied on:~~

~~(1) The gold and silver excise tax calculations of the taxpayer for the immediately preceding taxable year and the taxpayer has paid an amount of gold and silver excise tax for the current taxable year that is at least equal to the gold and silver excise tax paid by the taxpayer for the immediately preceding taxable year; or~~

~~(2) The federal income tax calculations of the taxpayer for the most recent federal tax year of the taxpayer; and~~

~~(c) The taxpayer timely paid at least 90 percent of the amount of gold and silver excise tax owed by the taxpayer for the current taxable year.~~

~~2. In determining whether to waive or reduce the penalty or interest, or both, for a late payment pursuant to subsection 1, the Department may consider whether the amount of Nevada gross revenue reported on the Nevada Gold and Silver Excise Tax Return for which the late payment was made is:~~

~~(a) Greater than the gross yield during the immediately preceding calendar year from the operation for which the Nevada Gold and Silver Excise Tax Return was filed, as reported to the Department in the statement filed with the Department pursuant to NRS 362.110 for that operation for the immediately preceding calendar year; or~~

~~(b) The same as, or similar to, the revenue reported on the federal income tax return of the~~

~~taxpayer for the most recent taxable year.~~

~~3-2.~~ A taxpayer or the taxpayer's agent may request the waiver or reduction of the penalty or interest, or both, pursuant to subsection 1 by submitting to the Department any federal income tax return, Nevada ~~Gold and Silver Excise~~ Mining Education Tax Return or statement filed pursuant to NRS 362.110 on which the taxpayer or taxpayer's agent relied and a written statement signed under oath by the taxpayer or the taxpayer's agent which establishes that the taxpayer qualifies for the relief requested.

~~4-3.~~ The Department shall not consider a request made pursuant to subsection ~~3-2~~ until the taxpayer has paid in full the tax or fee upon which the interest or penalty is assessed.

~~5-4.~~ ~~If an overpayment of the gold and silver excise mining education tax was made because, in calculating the Nevada gross revenue of the taxpayer, the taxpayer or the taxpayer's agent relied on the information described in paragraph (b) of subsection 1, the overpayment must be deemed to be made intentionally or by reason of carelessness for the purposes of section 30 of Assembly Bill No. 495, chapter 249, Statutes of Nevada 2021, at page 1277 (NRS 363D.210), and the Department must not allow any interest on the overpayment.~~

Sec. 22. A business entity may pay under protest the ~~gold and silver excise~~ mining education tax, without waiving or otherwise affecting any right of the business entity to recover any amount determined, through appropriate legal action taken by the business entity against the Department, to have been in excess of the amount of tax lawfully payable.

Sec. 23. The provisions of NAC 363C.310 to 363C.590, inclusive, set forth the method for situsing to this State the gross revenue from the provision of certain services for the purposes of the ~~gold and silver excise~~ mining education tax. NAC 363C.310 to 363C.590, inclusive, are not intended to set forth a comprehensive list of services but provides the method for situsing to this State the gross revenue from each service listed. If a service is not specifically listed in



*NAC 363C.310 to 363C.590, inclusive, the provisions of those sections providing the method for situsing a similar service may provide guidance. The provision of a service that is not listed in NAC 363C.310 to 363C.590, inclusive, or similar to a service listed in those sections may be handled on a case-by-case basis, the revenue from such a service must be sitused to this State in accordance with NRS 363C.220. The Department reserves the right to review and adjust any situsing of gross revenue made by a business entity.*