

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066**

**LCB FILE R097-15**

**Practice and Procedures Before the State Board of Equalization**

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) 361 adopted by the State Board of Equalization.

**1. The Need for and Purpose of the Permanent Regulation.**

The need and purpose of the revised adopted permanent regulation, **LCB File No. R097-15 RP2**, is to update and clarify existing provisions relating to the practice and procedure in contested cases before the State Board. The adopted regulation is also intended to make State Board administrative processes related to petitions for appeal and agent authorizations consistent with Assembly Bill 452, chapter 463, Statutes of Nevada 2015 at page 2869, as codified in NRS 361.334 and NRS 361.362.

**2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Department of Taxation (Department), as staff to the State Board of Equalization (“SBE”) solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
8-26-2015	Workshop	9-11-2015	224	145
10-21-2015	Workshop	11-05-2015	233	152
6-17-2016	Hearing	7-18-2016	154	103
10-31-2016	Hearing	12-13-2016	306	193

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions. These documents were also made available on the website of the Department of Taxation, [www.tax.nv.gov](http://www.tax.nv.gov), the legislative website at [www.leg.state.nv.us](http://www.leg.state.nv.us) and the Department of Administration website at [https://notice.nv.gov/](http://https://notice.nv.gov/). These documents were also posted at the location listed in Exhibit A, attached.

Comments were received from taxpayer representatives, county assessors, and Department staff during the workshops and adoption hearing.

Please see Question 6 for a summary of comments and actions taken.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Nevada Department of Taxation, 1550 College Parkway, Carson City, Nevada 89706, or by e-mailing the Nevada Department of Taxation at [anita.moore@tax.state.nv.us](mailto:anita.moore@tax.state.nv.us)

The Legislative Counsel Bureau (LCB) completed its original review of submitted revisions on June 13, 2016. The SBE adopted the regulation at a hearing held on July 18, 2016 with two amendments and submitted the adopted regulation along with the amendments to LCB on August 3, 2016. LCB declined one of the amendments upon further review and returned the second revised draft on November 3, 2016. The SBE adopted the second revised regulation on December 13, 2016.

**3. The number of persons who:**

**(a) Attended and testified at each workshop:**

<b>Date of Workshop</b>	<b><u>Attended</u></b>	<b><u>Testified</u></b>
09-11-2015	10	6
11-05-2015	8	5

**(b) Attended and testified at each hearing:**

<b><u>Date of Hearing</u></b>	<b><u>Committee/Public Attended</u></b>	<b><u>Testified</u></b>
7-18-2016	51	5
12-13-2016	9	2

**(c) Submitted to the agency written comments:**

<b><u>Date of Workshop / Hearing</u></b>	<b><u>Number Received</u></b>
9-1-2015	6
11-7-2015	4
7-18-2016	2
12-13-2016	0

**4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit B.**

**5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected and interested local government officials, businesses and persons, by notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located.

Comments were also solicited by direct email to county officials and other interested parties lists maintained by the Department. Approximately 63% of the approximately 193 direct notices of the adoption hearing were sent to individuals or associations representing business.

In addition, the Department mailed or emailed a Small Business Impact Statement and Questionnaire prior to the workshop held on November 5, 2015 to persons and businesses on the Department's interested parties list. The Questionnaire requested input on whether the small business owner anticipates the regulation would have a direct and significant economic burden upon the business or if the regulation would directly restrict the formation, operation, or expansion of the small business. No responses were received. Because of the nature of the regulation, the Department believes there is little to no impact on a small business.

Practitioners, including attorneys and tax consultants, and county assessors commented on some or all of the proposed language changes during the workshop process and during the Adoption Hearing of the SBE. No comments from small businesses were made.

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**6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. *(This section also responds to Question 2, Summary of Comments and Actions Taken).***

The permanent regulation was adopted with changes reflecting most of the verbal and written comments made during the workshops and adoption hearing listed above. The SBE adopted the permanent regulation as revised in the workshops and adoption hearing; and believed no changes other than those made were necessary.

The Clark County Assessor requested an oath section be added to the appeal form and a statement of authority. These requests are addressed in Section 10(2)(e), Section 10(3)(a), Section 10(3)(c), and Section 10(4)(d) regarding appeals from the decisions of a county board of equalization; and Section 11(2)(e), Section 11(3)(a), and Section 11(3)(c) for all direct appeals.

The Clark County Assessor requested a definition for affiliate and other minor changes. The request is addressed in Section 9(1), Section 4(1); and Section 6(2).

Two taxpayer representatives requested rephrasing regarding documentation demonstrating the authority of the petitioner to file. The request is addressed in Section 4. One also commented that no supporting documentation showing authority

to file is needed unless the owner is an entity. Another representative made similar comments to make the form simpler and to delete reference to a proposed requirement to provide sufficient documentation to demonstrate the authority of the petitioner. Both comments are addressed Sections 10(2)(e) and 10(3)(a).

Comments from the State Board's attorney were addressed in various sections throughout the regulation, and in particular the inclusion of language relating to the verification statement was addressed in Section 10(3)(c) and Section 11(3)(c) and 4(d).

Comments from an attorney regarding whether a Nevada licensed attorney should be subject to the SBOE agent authorization regulation were considered but not adopted after discussion at the workshop and written comments from another attorney who stated that absent language in the statute creating such exception for attorneys, agent authorization forms must be submitted naming the attorney as authorized to act on behalf of the parcel owner.

The Clark County Assessor requested the phrase in Section 2 (2) to be amended to say "Person employed" to include, *without limitation*. The request was also made to change Section 10(2)(i)(6) from "commercial land" to "*commercial property*." Both requests were addressed.

An attorney commented at the adoption hearing Section 2 should be more permissive, as not every member of a limited liability company or a trustor of a trust has ownership, control, or possession of the property. The State Board addressed the comment by adding "may" to the language, thus allowing the State Board discretion in interpreting the terms "owner" and "person employed."

The attorney further commented that Section 6 of the regulation permitting the "person employed" to represent the owner in all related hearings and matters of the appeal was beyond the authority provided in NRS 361.362. The State Board did not adopt the recommendation to delete Sections 5 and 6. The notice of the adoption hearing stated that there was a need to update and clarify existing provisions relating to the practice and procedure in contested cases before the Board, primarily, but not exclusively, to reflect the changes made in NRS 361.362. Other topics besides those listed in NRS 361.362 were intended to be addressed. For example, NRS 361.385 provides that any person is entitled to "appear" in person or by his or her agent or attorney. Sections 5 and 6 clarify that an appearance by an attorney or representative is deemed to include the authority to represent the owner in all related hearings and matters, receive all notices, enter into stipulations or withdraw the appeal unless the written authorization specifies a limitation in that authority.

The attorney further commented that Section 3 was beyond the scope of authority granted to the State Board. Section 3 states that the same rules of procedure provided in NRS 361.362 for appeals from county boards be deemed to apply to direct appeals. The State Board did not adopt the recommendation to delete Section 3. NRS

361.375(9) provides that the State Board may adopt regulations governing the conduct of its business. The State Board desired to treat direct appeals initiated under NRS 361.360(3) and NRS 361.403 in the same manner as appeals from the decisions of county boards. In addition, NRS 361.362 specifically references NRS 361.360, which includes direct appeals pursuant to NRS 361.360(3). To not treat appeals brought under NRS 361.403 would be discriminatory to utility and transportation companies.

A taxpayer from Washoe County purporting to represent all taxpayers commented that the information required to fill out the appeal form as provided in the regulations diminish the ability of taxpayers to successfully appeal to the State Board and complicates the appeal process. The taxpayer further commented that NRS 360.291(1)(c), the Taxpayer Bill of Rights, provides that the taxpayer has the right to provide the minimum documentation and other information as may reasonably be required by the Department to carry out its duties. The State Board did not adopt the recommendation to delete the requirements for information.

Following is a table comparing the information required prior to the adoption of the regulation and following the adoption of the regulation, and the reason for the request for information, also responding to why the regulation was adopted without change for those categories.

<b>Comparison of Items of Information Requested Prior and After Adoption of Regulation</b>			
<b>Prior to Adoption</b>	<b>After Adoption</b>	<b>Citation</b>	<b>Reason for Addition</b>
The name of the petitioner	Name of property owner as it appears on assessment roll and name of petitioner	NAC 361.701(2)(a), 361.7012(1)(a); 361.7018(2)(a) Sections 10, 11, 12 of the regulation	With the new definition of “owner”, the petitioner may not be the same as the person listed on the assessment roll. This information facilitates understanding who is appealing the property.
None	Title of petitioner	NAC 361.701(2)(b), 361.7012(1)(b) Sections 10 and 11 of the regulation	To help identify whether the person may be the “person employed,” e.g., John Doe, Manager for XYZ Company.
Daytime phone number	Daytime phone number & alternate telephone number and fax <i>if available</i>	NAC 361.701(2)(c), 361.7012(2)(c), 361.7018(2)(c) Sections 10, 11, 12 of the regulation	Many taxpayers prefer to be called on their cell rather than landline. This assists timely communication. “If available” means it is not required.
None	Entity organization type	NAC 361.701(2)(e)(1), 361.7012(2)(e)(1),	<i>Applies only to property owners who are not natural persons.</i> This assists understanding the

		361.7018(2)(b)(1) Sections 10,11,12 of the regulation	relationship of the petitioner to the owner of record.
None	Name of state where entity organized	NAC 361.701(2)(e)(2), 361.7012(2)(e)(2), 361.7018(2)(b)(2) Sections 10, 11, 12 of the regulation	<i>Applies only to property owners who are not natural persons.</i> NRS 361.362(3) provides for a written objection by the assessor. Listing the state where the entity is organized facilitates verification by the assessor if there is a question about the legitimacy of the organization petitioning on behalf of the recorded owner.
None	Whether entity is a non-profit organization	NAC 361.701(2)(e)(3), 361.7012(2)(e)(3), 361.7018(2)(b)(3) Sections 10,11, 12 of the regulation	<i>Applies only to property owners who are not natural persons.</i> NRS 361.362(3) provides for a written objection by the assessor. Listing the non-profit status facilitates verification by the assessor if there is a question about the legitimacy of the organization petitioning on behalf of the recorded owner.
Assessor's parcel number	Assessor's parcel number & physical address of property; including county and city.	NAC 361.701(2)(f), 361.7012(2)(f), 361.7018(2)(f), Sections 10, 11, 12 of the regulation	The SBE routinely describes the property subject to appeal in its decision letters, including the city and county where the property is located. Having it on the form reduces administrative burden on staff to locate information in the record, if it exists (and it often is not included particularly for personal property).
Assessor's parcel number	Indication of whether appeal involves more than one property, and the APN for each property	NAC 361.701(2)(h), 361.7012(2)(h), 361.7018(2)(h) Sections 10, 11, 12 of the regulation	Appeals frequently involve dozens of properties, e.g., vacant land subdivisions. Usually petitioners attach a list to the form. The answer aids staff to ensure they have received the entire list, because sometimes the list gets separated from the petition form.
None	Category of use	NAC 361.701(2)(i) and 361.7012(2)(i) Sections 10 and 11	The information assists staff in categorizing the appeals so that properties of a similar nature are

		of the regulation	heard at about the same time. Placing properties of a similar nature at the same time on the agenda enhances uniform decision making by the State Board.
The roll	Fiscal year and type of assessment roll	NAC 361.701(2)(j), 361.7012(2)(j), 361.7018(2)(i) Sections 10, 11, 12 of the regulation	No change, just clarification
Value	Taxable and assessed value for each component	NAC 361.701(2)(k) and 361.7012(2)(k) Sections 10 and 11 of the regulation	No change, just clarifies both taxable and assessed value is needed for the component of property being appealed. Sometimes the taxpayer only wants to appeal the land value or the improvement value but not both.
None	Citation to section authorizing appeal to State Board	NAC 361.701(2)(l) and 361.7012(2)(l) Sections 10 and 11 of the regulation	The list of authorities is provided on the appeal form, and all that is necessary is to check the correct box. The form has been this way since at least 2010. The regulation simply recognizes current, long-standing practice. The information assists the State Board in understanding which rule of law applies to the case.
Brief statement of relief sought	Brief description of the issues and contentions that constitute the basis of the appeal	NAC 361.701(2)(m) and 361.7012(2)(m) Sections 10 and 11 of the regulation	No change, just clarifies what a brief statement includes
Name of county board, case number, date case heard by CBE	Same	NAC 361.701(2)(n) Section 10 of the regulation. Not applicable in direct appeals.	No change. The information assists staff in requesting the case record from the county clerk.
None	Description of petitioner's relationship to owner of property	NAC 361.701(3)(a), 361.7012(3)(a), 361.7018(2)(e) Sections 10, 11, 12 of the regulation	NRS 361.334 expanded the definition of owner. The relationship of the petitioner to the owner was the crux of the many procedural appeals heard by the State Board which led to the

			change in law in 2015. With this information stated under penalty of perjury, there is little reason to question the validity of the appeal. The number of appeals on procedural issues was greatly reduced because of this single piece of information provided under penalty of perjury.
Attest statement and signature	Verification statement under penalty of perjury and signature	NAC 361.701(3)(c), 361.7012(3)(c), 361.7018(2)(l) Sections 10, 11, 12 of the regulation	Provides opportunity to verify that the petition includes the appointment of an authorized agent and that the signatory is the person who owns, controls or possesses the property or is a person employed by owner or affiliate acting within the scope of his employment. Because these statements are made under penalty of perjury, there is no need to “prove” with additional documentation that the person signing was authorized to appeal, further reducing procedural appeals.

**7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

***Adverse and Beneficial Effects***

The adopted regulation clarifies the rules of practice and procedure before the State Board of Equalization. The regulation presents no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public and does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this analysis, the Department considered that the economic benefit derived from a streamlined appeal process outweighed the cost of completing the appeal form or agent authorization with the requested additional information.



### ***Immediate and Long-Term Effects***

The immediate and long-term effects will be to improve efficiency and reduce costs associated with the administration of appeals in contested cases before the State Board.

**8. The estimated cost to the agency for enforcement of the adopted regulation.**

The Department does not anticipate any cost to the agency for enforcement.

**9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendments duplicate.

**10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The State Board of Equalization is not aware of any provision in this regulation which is also governed by federal regulation.

**11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The regulation does not provide for a new fee, and does not increase an existing fee.

**12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restricted the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

Please see attached Small Business Impact Statement.

**Exhibit A**  
**List of Locations where Notices were posted:**

Department of Taxation  
1550 College Parkway  
Carson City, NV

Department of Taxation  
Grant Sawyer Building, Suite 1300  
555 E. Washington Avenue  
Las Vegas, NV

Department of Taxation  
4600 Kietzke Lane  
Building L, Suite 235  
Reno, NV

Department of Taxation  
2550 Paseo Verde Parkway, Suite  
180  
Henderson, NV  
Nevada Gaming Control Board  
1919 College Parkway

Carson City, NV  
Nevada Gaming Control Board  
Grant Sawyer State Office Building  
555 East Washington Avenue  
Las Vegas, NV

Legislative Counsel Bureau  
4041 South Carson Street  
Carson City, NV

Clark County Government Center  
500 South Grand Central Parkway  
Las Vegas, NV

Nevada State Library and Archives  
100 N. Stewart Street  
Carson City, NV

Nevada Attorney General's Office  
100 North Carson Street  
Carson City, NV

In addition, the notices were faxed to the following libraries for posting:

Amargosa Valley Library  
829 E. Farm Road  
Amargosa Valley, NV

Boulder City Library District  
701 Adams Blvd  
Boulder City, NV

Clark County Library  
1401 East Flamingo Road  
Las Vegas, NV

Churchill County Library  
553 South Maine Street  
Fallon, NV 89406

Douglas County Library  
1625 Library Lane  
Minden, NV

Elko County Library  
720 Court Street  
Elko, NV

Esmeralda County Library District  
Goldfield Public Library  
Corner of Crook and Fourth Street  
Goldfield, NV 89013-0430

Henderson District Public Libraries  
Paseo Verde Library  
280 S. Green Valley parkway  
Henderson, NV 89012

Humboldt County Library  
85 East Fifth Street  
Winnemucca, Nevada 89445

Lincoln County Library  
63 Main Street  
Pioche, NV 89043-0330

Mineral County Library  
First & "A" Street  
Hawthorne, NV 89415

Pahrump Community Library  
701 East Street  
Pahrump, NV 89048

Pershing County Library  
1125 Central Avenue  
Lovelock, NV

Round Mountain Public Library  
73 Hadley Circle  
Round Mountain, NV

White Pine County Library  
950 Campton Street  
Ely, NV