

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R172-12

(This draft replaces the one posted on June 29, 2012.
These provisions were previously located in LCB File No. R172-12;
they have been removed for separate consideration)

PROPOSED REGULATIONS TO BE REPEALED:

NAC 362.100 Eligibility of mining operator for accelerated depreciation. (NRS 360.090, 362.120)

1. A mining operator may petition the Nevada Tax Commission for permission to depreciate leasehold improvements, buildings, fixed machinery and fixed equipment in the accelerated manner prescribed in NAC 362.140 if the mining operator has:

(a) Complied with all applicable provisions of chapter 519A of NRS and the regulations adopted pursuant thereto;

(b) Agreed in writing to extend the time allowed for the Department to file a certificate of delinquency pursuant to NRS 360.420 to the date on which the Department completes a final audit; and

(c) Given public notice that the mining operation will close within 36 months after the date on which the petition is filed with the Commission.

2. The public notice must set forth one or more reasons for the closure and the date on which the closure is expected. The notice must be delivered personally or sent by certified mail to the county commissioners of the county in which the mining operation is located and to the Budget Division of the Department of Administration and:

(a) If the mining company is publicly held, appear in the annual reports which the company is required to provide to the Securities and Exchange Commission and which it provides to its stockholders; or

(b) If the mining company is not publicly held, be sent to all creditors whose money financed the assets for which the company is seeking permission to use the accelerated depreciation method.

NAC 362.110 Filing of petition and accompanying documents. (NRS 360.090, 362.120)

A petition to depreciate leasehold improvements, buildings, fixed machinery and fixed equipment in the accelerated manner prescribed in NAC 362.140 must:

1. Be filed with and approved by the Nevada Tax Commission before the date on which the mining operator is required to file the annual statement required by NRS 362.110.

2. Be accompanied by a copy of each public notice which was sent pursuant to NAC 362.100.

3. Be accompanied by a copy of the plan for reclamation filed with the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

4. If the mining operator filed a plan of operation with the Division of Environmental Protection of the State Department of Conservation and Natural Resources, be accompanied by the plan.

5. Be accompanied by:

(a) A notarized statement which is signed by an officer of the company; or

(b) A copy of the plan for productive use of the land after the mining has stopped, ↪ setting forth the proposed disposition of the leasehold improvements, buildings, fixed machinery and fixed equipment.

NAC 362.120 Temporary closure not acceptable justification for allowance of petition.

(NRS 360.090, 362.120) The Nevada Tax Commission will not accept closure of a mining operation because of a temporary change in economic conditions or any other closure of a mining operation which the Commission determines to be temporary as the justification for allowing a petition to depreciate leasehold improvements, buildings, fixed machinery and fixed equipment in the accelerated manner prescribed in NAC 362.140.

NAC 362.130 Permission to depreciate assets granted to specific company only. (NRS 360.090, 362.120) Permission to depreciate assets in the accelerated manner prescribed in NAC 362.140 must be granted to a specific mining company and does not follow any transfer of the assets. For the purposes of this section, a subsidiary or affiliate of a mining company is a separate company.

NAC 362.140 Manner of depreciation. (NRS 360.090, 362.120)

1. If the Nevada Tax Commission grants a petition, the leasehold improvements, buildings, fixed machinery and fixed equipment must be depreciated at the following rates:

<u>Year</u>	<u>Percentage</u>
1.....	10
2.....	20
3.....	30
4.....	40

2. The amount of the remaining depreciation allowed for the asset, less any salvage value not previously subtracted, must be multiplied annually by the allowed percentage beginning on

the date on which the first annual statement required by NRS 362.110 is filed after the date on which the petition is granted. The percentage which must be used for the first year of accelerated depreciation is 10 percent whether or not the remaining useful life of the asset is 36 months. If the mining operator acquires leasehold improvements, buildings, fixed machinery or fixed equipment after the petition is granted, such assets must be depreciated in the same manner as the existing assets using 10 percent for the first year of depreciation.

3. The salvage value of an asset must be calculated on the basis of the projected value of the asset at the time of the anticipated disposition. If excess depreciation is taken because a mining operator underestimated the salvage value of an asset, penalties and interest pursuant to NRS 360.417 must be applied to any underpayment of tax resulting therefrom.

4. The mining operator shall credit the decrease in tax liability resulting from the accelerated depreciation against the estimates or final taxes due pursuant to NRS 362.115.

NAC 362.150 Annual audits by Department; requirement of surety. (NRS 360.090, 362.120)

1. The Department may conduct annual audits of any mining operation that is allowed to depreciate its assets in the accelerated manner prescribed in NAC 362.140.

2. If the Department determines that it is possible that the mining operator will continue to process, sell or stockpile the mined product for longer than the agreed time, the Department shall require the mining operator to file a surety with the Department. The surety must be:

(a) Executed by the mining operator as principal and by a corporation qualified under the laws of this State as surety;

(b) Payable to the State of Nevada;

(c) A bond, letter of credit or any other form of security authorized by NRS 100.065; and

(d) Conditioned upon the punctual payment of all taxes on the net proceeds of mines, including all penalties and interest.

3. The total amount of the surety must not be less than the amount the Department determines to be the potential liability for taxes, penalties and interest at the time that the mining operation could continue beyond the date of closure specified in the notice required by NAC 362.100. The mining operator shall file the surety within 30 days after the Department notifies him or her of such a duty.

NAC 362.160 Duties of operator who fails to cease or reopens operation. (NRS 360.090, 362.120) If a mining operator who has been allowed to depreciate assets using the accelerated method fails to cease operations on the date of closure specified in the notice required by NAC 362.100 or at any time reopens the mining operation, the mining operator shall:

1. Notify the Department in writing within 30 days after the date agreed upon or the reopening of operations;
2. Pay to the Department within 30 days after demand the difference between the net proceeds taxes using the straight-line method of depreciation over a 20-year period and the amount paid using the accelerated method for any year in which the accelerated method was used; and
3. Pay to the Department within 30 days after demand penalties and interest pursuant to NRS 360.417.