

# Permanent Regulation - Informational Statement

A Permanent Regulation Related to Mining

Legislative Review of Adopted Permanent Regulations as Required  
by Administrative Procedures Act, NRS 233B.066

## State Environmental Commission (SEC) Permanent No: R046-18

### Permanent Regulation R046-18:

§§1-12, 14, 16, 17 and 19-26, NRS 445A.425 and 445A.465; §13, NRS 445A.425, 445A.465 and 445A.590; §15, NRS 445A.425, 445A.465 and 445A.495; §18, NRS 445A.425, 445A.430 and 445A.465.

### SPECIFIC CHANGES:

The NDEP amended NAC 445A with clarifying definitions, elimination of pilot testing, addition of clarifying language related to waste rock management plans and the use of preliminary conceptual closure plans for initial reclamation bonding, clarification for when a closure permit can be terminated, revision of physical separation regulations, inclusion of the term “Engineering Design Change,” revision of the limitations for degradation of water, revision to the required oversight of mines during project closure, and revisions to allow the Division to take certain actions to prevent degradation of waters of the State when planned or unplanned temporary closure is not appropriately managing process fluids.

### 1. Need for Regulation:

It is important to update the mining water pollution control regulations as the program evolves to ensure that waters of the state are protected for the long term. The regulation amendments are needed to add and improve definitions that will better facilitate the regulatory process. In addition, revising and strengthening the physical separation regulations will allow for permitting activities to focus on chemical facilities that have a greater potential to degrade waters of the state. Removing regulations regarding pilot scale and testing facilities that are not effective allows for NDEP to focus time and resources more effectively on the regulations that are necessary to protect waters of the State. There is a need to better define the various aspects of closure and to develop more robust closure planning early in the life of mining facilities. Improved closure planning leads to improved reclamation and closure cost estimate for up front bond determinations to ensure that waters of the State are protected for the long term. Lastly, the ability for the Division to act to prevent

degradation of waters of the State from improperly managed fluids is vital during planned or unplanned mine closures.

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

On April 19, 25, and 26, 2018 NDEP conducted public workshops on regulation R046-18. The workshops were held in Tonopah, Elko, and Winnemucca. The workshop location in Tonopah was at the Nye County Commissioners Building, 101 Radar Street. The workshop location in Elko was at the Elko City Hall, 1751 College Avenue and the workshop location in Winnemucca was at the Humboldt County Court House, 50 West 5<sup>th</sup> Street.

Forty (40) members of the public attended the workshops, in total.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at: [http://sec.nv.gov/main/hearing\\_0518.htm](http://sec.nv.gov/main/hearing_0518.htm).

Following the workshop, the SEC held a formal regulatory hearing on June 27, 2018 at the Legislative Building, Room 3138, located at 401 South Carson Street and video-conferenced in Las Vegas at the Grant Sawyer Building, Room 4412E, located at 555 East Washington Ave. A public notice for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at NDEP in Las Vegas, at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R046-18 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list and the Bureau of Mining Regulation & Reclamation electronic mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: [http://sec.nv.gov/main/hearing\\_0518.htm](http://sec.nv.gov/main/hearing_0518.htm).

**3. The number of persons who attended the SEC Regulatory Hearing:**

- (a) Attended June 27, 2018 hearing: 25 (approximately)
- (b) Testified on this Petition at the hearing: 1

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(c) Submitted to the agency written comments: 0

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

Comments were solicited from affected businesses through e-mail, public workshops and at the June 27, 2018 SEC hearing as noted in number 2 above.

**5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was adopted with changes. The SEC determined it would adopt the regulation with all proposed modifications except the public notice component, which the SEC requested NDEP bring to a future meeting.

**6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.**

Regulated Business/Industry. The regulations will allow for a slight reduction in permitting costs for physical separation facilities due to a reduction in site characterization requirements. Clear and concise regulations assist mining companies in their determination to invest in mining in Nevada by allowing them to determine the outcome of their mining projects with the knowledge of what is expected of them to comply and protect waters of the state. The program oversight is a cradle to grave program that begins with exploration and ends with the permanent final closure of a facility.

Public. The regulation will have no economic impact on the public.

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

Enforcing Agency. The regulation will have no economic impact on NDEP.

**8. 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.**

The regulation does not overlap any other State or federal regulations.

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

The regulation is no more stringent than what is established by federal law.

**10. 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 address new fees.