

STEVE SISOLAK  
Governor



**Sagebrush Ecosystem Program**

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[www.sagebrusheco.nv.gov](http://www.sagebrusheco.nv.gov)

**Kelly McGowan**, Program Manager  
**Dan Huser**, Forestry/Wildland Fire  
**Kathleen Petter**, State Lands  
**Ethan Mower**, Agriculture  
**Katie Andrie**, Wildlife

**STATE OF NEVADA**  
**Sagebrush Ecosystem Program**

**Notice of Intent to Act upon a Regulation**

**Thursday, October 3, 2019 – 1:00 p.m.**

**Nevada Department of Wildlife**  
**6980 Sierra Center Pkwy #120**  
**Reno, NV 89511**

The Sagebrush Ecosystem Program (SEP) under the Sagebrush Ecosystem Council will be holding a public hearing to solicit comments for the following proposed regulation. The purpose of the hearing is to adopt regulations to require Mitigation through the Sagebrush Ecosystem Program. Persons wishing to comment upon the proposed action of the Sagebrush Ecosystem Program may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to Sagebrush Ecosystem Program, 201 S. Roop Street, Suite 101, Carson City, NV 89701. Written submissions must be received by the Sagebrush Ecosystem Program on or before September 27, 2019. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Sagebrush Ecosystem Program may proceed immediately to act upon any written submissions.

Nevada Revised Statutes §232.162 (6)(a) provides authority for the Sagebrush Ecosystem Council to adopt regulations specific to the management of sagebrush ecosystem and the establishment and oversight of a mitigation program.

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**1. OPEN HEARING, INTRODUCTION**

**2. PUBLIC COMMENT**

Persons making comment will be asked to begin by stating their name for the record. All public comments should be as brief and concise as possible so that all who wish to speak may do so (3 minutes for individuals and 5 minutes for group representatives). Comment will not be restricted based on viewpoint.

**3. PRESENTATIONS AND DISCUSSION OF PROPOSED REGULATION –  
PUBLIC COMMENT ALLOWED**

NRS 232.162 provides authority for the Sagebrush Ecosystem Council to adopt regulations specific to the management of sagebrush ecosystem and the establishment and oversight of a mitigation program. The Sagebrush Ecosystem Council is a governor-appointed council, established to create and carry out strategies for "the conservation of the greater sage-grouse and sagebrush ecosystems in this State" as well as other strategies outlined in NRS 232.162.

The purpose of the proposed regulation is to clarify requirements to mitigate certain anthropogenic disturbance in greater sage-grouse habitat.

**4. CONSIDERATION OF ALL COMMENTS AND ADOPTION OF REGULATION – \*FOR POSSIBLE ACTION\***

**5. PUBLIC COMMENT**

Persons making comment will be asked to begin by stating their name for the record. All public comments should be as brief and concise as possible so that all who wish to speak may do so (3 minutes for individuals and 5 minutes for group representatives). Comment will not be restricted based on viewpoint.

**6. CLOSE OF HEARING**

**7. ADJOURNMENT – \*FOR POSSIBLE ACTION\***

**NOTICE: Items on this agenda may be taken in a different order than listed.**

*A copy of this Notice and the Regulations to be adopted, amended, or repealed will be on file at the State Library, 100 North Stewart Street, Carson City, Nevada, or at the Sagebrush Ecosystem Program at 201 S. Roop Street, Suite 101, Carson City, NV 89701 for inspection by members of the public during business hours. In all counties in which an office of the agency is not maintained, the proposed regulation may be reviewed and copied at the main public library, during business hours.*

*Please contact Kelly McGowan at 201 S. Roop Street, Suite 101, Carson City, NV 89701; or by calling 775-684-8600; or email [kmcgowan@sagebrusheco.nv.gov](mailto:kmcgowan@sagebrusheco.nv.gov), to obtain support material before or after the meeting. Materials will also be posted on the [sagebrusheco.nv.gov](http://sagebrusheco.nv.gov) website. The agency's small business impact statement is attached.*

*Upon adoption of any regulation, the Agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.*

*We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special accommodations or assistance at the meeting are requested, please notify our office by writing to the Sagebrush Ecosystem Program, 201 S. Roop Street, Suite 101, Carson City, NV 89701; or by calling 775-684-8600 no later than two (2) working days prior to the scheduled meeting. You can also email Kathleen Petter at [kpetter@sagebrusheco.nv.gov](mailto:kpetter@sagebrusheco.nv.gov).*

Notice of this meeting was sent to all persons on the agency's mailing list and posted at the following locations:

Department of Conservation and Natural Resources, 901 S. Stewart Street, Carson City, Nevada  
Nevada State Library and Archives, 100 S. Stewart Street, Carson City  
Department of Wildlife, 6980 Sierra Pkwy #120, Reno, NV  
Sagebrush Ecosystem Program, 201 S. Roop Street, Carson City, Nevada  
Department of Agriculture, 405 South 21<sup>st</sup> Street, Sparks, Nevada  
Department of Wildlife, 1100 Valley Road, Reno, Nevada  
Capitol Building, 101 North Carson Street, Carson City, Nevada  
Legislative Building, 401 South Carson Street, Carson City, Nevada  
Carson City Library, 900 North Roop Street, Carson City, Nevada  
Churchill County Library, 553 South Main Street, Fallon, Nevada  
Las Vegas-Clark County Library District Headquarters, 833 Las Vegas Boulevard North, Las Vegas, Nevada  
Douglas County Public Library, 1625 Library Lane, Minden, Nevada  
Elko County Library, 720 Court Street, Elko, Nevada  
Esmeralda County Library, Corner of Crook and 4<sup>th</sup> Street, Goldfield, Nevada  
Eureka County Library, 80 Monroe Street, Eureka Nevada  
Humboldt County Library, 85 East 5<sup>th</sup> Street, Winnemucca, Nevada  
Battle Mountain Branch Library, 625 South Broad Street, Battle Mountain, Nevada  
Lincoln County Library, 63 Main Street, Pioche, Nevada  
Lyon County Library System, 20 Nevin Way, Yerington, Nevada  
Mineral County Public library, 110 First Street, Hawthorne, Nevada  
Pershing County Library, 1125 Central Avenue, Lovelock, Nevada  
Storey County Treasurer and Clerk's Office, 265 B Street Drawer D, Virginia City, Nevada  
Tonopah Public Library, 167 South Central Street, Tonopah, Nevada  
Washoe County Library System, 301 South Center Street, Reno, Nevada  
White Pine County Library, 950 Campton Street, Ely, Nevada

Notice of this meeting was also posted on the Sagebrush Ecosystem Program website at: [sagebrusheco.nv.gov](http://sagebrusheco.nv.gov), the Nevada Public Notices Website at [notice.nv.gov](http://notice.nv.gov), and the Nevada State Legislature Website at [leg.state.nv.us](http://leg.state.nv.us).

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**STATE OF NEVADA**  
**Sagebrush Ecosystem Program**

**REVISED PROPOSED REGULATION OF**  
**THE SAGEBRUSH ECOSYSTEM**  
**COUNCIL LCB File No. R024-19**

August 26, 2019

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

AUTHORITY: §§1-17, NRS 232.162.

A REGULATION relating to the greater sage-grouse; setting forth certain requirements related to the maintenance of sagebrush ecosystems and the conservation of the greater sage-grouse; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law creates the Sagebrush Ecosystem Council within the State Department of Conservation and Natural Resources and requires the Council to establish a program to mitigate damage to sagebrush ecosystems in this State by authorizing a system that awards credits to persons, federal and state agencies, local governments and nonprofit organizations to protect, enhance or restore sagebrush ecosystems. (NRS 232.162) On December 7, 2018, Governor Sandoval issued Executive Order 2018-32 which requires the Council to adopt regulations requiring compliance with the credit system.

**Sections 14 and 15** of this regulation require, with limited exception, a person or entity that proposes an activity or project that will cause an adverse impact on the greater sage-grouse or habitat of the greater sage-grouse to: (1) submit to the Sagebrush Ecosystem Technical Team certain information about the proposed activity or project; and (2) have a verifier quantify such impact in the form of debits. Once the impact on the greater sage-grouse or habitat of the greater sage-grouse is quantified and approved by the Program Manager of the Team, the person or entity is required to mitigate the adverse impact on the greater sage-grouse or habitat of the greater sage-grouse by: (1) acquiring from or creating a sufficient number of credits in the Nevada Conservation Credit System established by the Council to offset the number of debits; or (2) developing a mitigation plan that will generate enough credits to offset the debits. **Section 15** requires that any such mitigation plan be approved by the Sagebrush Ecosystem Council and sets forth certain criteria that the Council must consider in determining whether to approve the

mitigation plan.

**Section 16** of this regulation requires, under certain circumstances, that the Program Manager of the Sagebrush Ecosystem Technical Team issue to the person or entity that is proposing the activity or project a certificate of mitigation that sets forth: (1) the number of credits that the person or entity will acquire from or create in the Nevada Conservation Credit System; or (2) the mitigation plan approved by the Council. **Section 16** also requires the person or entity to whom such a certificate is issued to ensure compliance with the terms set forth in the certificate for the duration of the activity or project.

**Section 17** of this regulation requires the Sagebrush Ecosystem Technical Team to: (1) train and certify persons to be verifiers; and (2) maintain a list on the Internet website of the Sagebrush Ecosystem Program of all such verifiers.

**Sections 3-13** of this regulation define various terms related to the Nevada Conservation Credit System.

**Section 1.** Chapter 232 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 17, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 13, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Anthropogenic disturbance” means any direct or indirect adverse impact on the greater sage-grouse or the habitat of the greater sage-grouse, as determined by the Sagebrush Ecosystem Council.*

**Sec. 4.** *“Credit” means a unit of habitat conservation of the greater sage-grouse as quantified pursuant to the habitat quantification tool.*

**Sec. 5.** *“De minimis impact” means an anthropogenic disturbance for which the adverse impact on the greater sage-grouse or the habitat of the greater sage-grouse has been determined by the Sagebrush Ecosystem Council to be minor or trivial.*

Sec. 6. *“Debit” means a unit of loss or degradation of habitat of the greater sage-grouse caused by an anthropogenic disturbance as quantified pursuant to the habitat quantification tool.*

Sec. 7. *“Greater sage-grouse” means the species of bird classified as Centrocercus urophasianus.*

Sec. 8. *“Habitat quantification tool” means the science-based method of calculating debits and credits in the Nevada Conservation Credit System.*

Sec. 9. *“Nevada Conservation Credit System” means the system established by the Sagebrush Ecosystem Council pursuant to NRS 232.162 that calculates:*

- 1. Debits that will be caused by a proposed activity or a project.*
- 2. Credits that are created by persons, federal and state agencies, local governments and nonprofit organizations to protect, enhance or restore sagebrush ecosystems.*

Sec. 10. *“Program Manager” means the program manager of the Sagebrush Ecosystem Technical Team.*

Sec. 11. *“Sagebrush Ecosystem Council” means the Sagebrush Ecosystem Council created by NRS 232.162.*

Sec. 12. *“Sagebrush Ecosystem Technical Team” means the interagency technical team created by the Governor pursuant to Executive Order No. 2012-19 to support the Sagebrush Ecosystem Council.*

Sec. 13. *“Verifier” means a person trained and certified by the Sagebrush Ecosystem Technical Team to use the habitat quantification tool for the purpose of calculating:*

- 1. The debits related to an anthropogenic disturbance; and*

2. *The number of credits necessary to offset such debits.*

**Sec. 14.** 1. *Except as otherwise provided in this section and to the extent it is not prohibited by federal law:*

(a) *The provisions of sections 2 to 17, inclusive, of this regulation apply to any person or entity that proposes an activity or project that will cause an anthropogenic disturbance.*

(b) *No permit or other final approval for a project or activity that will cause an anthropogenic disturbance is effective unless the proponent of the project or activity has complied with the provisions of sections 2 to 17, inclusive, of this regulation.*

2. *The provisions of sections 2 to 17, inclusive, of this regulation do not apply to:*

(a) *A direct anthropogenic disturbance on private lands;*

(b) *An activity or project which was approved by all relevant federal agencies, state agencies and local governments before December 7, 2018, so long as the activity or project maintains compliance with any condition or requirement for any such approval;*

(c) *An activity or project with a mitigation agreement or framework agreement for greater sage-grouse signed by the United States Fish and Wildlife Service before December 7, 2018;*

(d) *A mineral exploration project which is limited to a surface disturbance of not more than 5 acres; or*

(e) *An activity or project that the Sagebrush Ecosystem Council determines:*

(1) *Is necessary to protect public health or safety; or*

(2) *Will have a de minimis impact on greater sage-grouse and sagebrush ecosystems in this State.*

**Sec. 15. 1. Any person or entity that proposes an activity or a project that will cause an anthropogenic disturbance shall:**

**(a) Submit to the Sagebrush Ecosystem Technical Team sufficient information for determining the adverse impact the proposed activity or project will have on the greater sage-grouse or the habitat of the greater sage-grouse, including, without limitation, geographic information system data files; and**

**(b) Have the direct and indirect impacts of the anthropogenic disturbance:**

**(1) Quantified by a verifier in terms of the number of debits that the activity or project will cause. Upon completion of his or her calculations, the verifier shall submit the calculations to the Program Manager. The Program Manager shall use the habitat quantification tool and available field data to conduct a quality assurance of the calculations of the verifier not later than 30 days after the verifier submits his or her final calculations to the Program Manager. If there is a difference between the calculations by the verifier and Program Manager, the calculations of debits by the Program Manager apply to the activity or project; and**

**(2) Mitigated by:**

**(I) Acquiring from or creating a sufficient number of credits in the Nevada Conservation Credit System to offset the number of debits determined pursuant to subparagraph (1); or**

**(II) Developing a mitigation plan approved by the Sagebrush Ecosystem Council pursuant to subsection 2 that will generate enough credits to offset the direct and indirect adverse impacts the proposed activity or project will have on the greater sage-grouse or the habitat of the greater sage-grouse.**

**2. In determining whether to approve a mitigation plan, the Sagebrush Ecosystem Council must consider:**



- (a) The conservation actions that are included in the plan and the number of credits to be generated from such conservation actions;*
- (b) The location where the credits will be generated;*
- (c) The length of time necessary to generate the credits;*
- (d) The length of time the credits will be maintained;*
- (e) Whether the credit durability provisions of the plan include appropriate mechanisms to ensure that a sufficient number of credits will be maintained for the appropriate amount of time; and*
- (f) Whether the financial provisions ensure maintenance of the credits for the duration of the activity or project.*

**Sec. 16. 1.** *Upon completion of the process set forth in section 15 of this regulation, the Program Manager must issue to the person or entity that is proposing the activity or project a certification of mitigation that sets forth:*

- (a) The number of credits that the person or entity will acquire from or create in the Nevada Conservation Credit System; or*
- (b) The mitigation plan approved by the Sagebrush Ecosystem Council pursuant to section 15 of this regulation that will mitigate the direct and indirect adverse impacts that the proposed activity or project will have on the greater sage-grouse or the habitat of the greater sage-grouse.*

**2.** *The person or entity to whom a certification of mitigation is issued must ensure compliance with the terms set forth in the certification of mitigation for the duration of the activity or project.*

**Sec. 17.** *The Sagebrush Ecosystem Technical Team shall:*

- 1.** *Train and certify persons to be verifiers; and*
- 2.** *Maintain a list on the Internet website of the Sagebrush Ecosystem Program of all verifiers who have been so trained and certified for the current calendar year.*

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**STATE OF NEVADA**

**Sagebrush Ecosystem Program**

FORM 1: FORM FOR ADOPTION, FILING AMENDMENTS OR REPEAL OF COMMISSION REGULATIONS

(Provide attachments as needed)

**1. Name, address, telephone number, and signature:**

Name: Kelly McGowan

Address: 201 S. Roop St. Ste. 101, Carson City, NV 89701

E-mail Address: kmcgowan@sagebrusheco.nv.gov

Telephone Number: 775.684.8600

Date of Petition: 8/30/2019

Representative capacity and signature of petitioner, authorized individual, officer or attorney:

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**2. Specific type of petitioner (individual, partnership, corporation, government agency, or other) and the exact occupation or business, including a description of the occupation or business if necessary:**

Government Agency - Sagebrush Ecosystem Council

NRS 232.162 provides authority for the Sagebrush Ecosystem Council to adopt regulations specific to the management of sagebrush ecosystem and the establishment and oversight of a mitigation program. The Sagebrush Ecosystem Council is a governor-appointed council, established to create and carry out strategies for "the conservation of the greater sage-grouse and sagebrush ecosystems in this State" as well as other strategies outlined in NRS 232.162.

**3. Exact and specific nature of changes sought, including delineation of the regulations, statutory provisions decisions involved. May include a statement of the written term or substance of the proposed regulatory action, or a description of the subjects and issues involved:**

This will be a new regulation to mitigate certain activities that impact lands identified as greater sage-grouse habitat. The exact proposed regulation is attached to this form.

Existing law creates the Sagebrush Ecosystem Council within the State Department of Conservation and Natural Resources and requires the Council to establish a program to mitigate damage to sagebrush ecosystems in this State by authorizing a system that awards credits to persons, federal and state agencies, local governments and nonprofit organizations to protect, enhance or restore sagebrush ecosystems. (NRS 232.162) On December 7, 2018, Governor Sandoval issued Executive Order 2018-32 which requires the Council to adopt regulations requiring compliance with the credit system.

**Sections 14 and 15** of this regulation require, with limited exception, a person or entity that proposes an activity or project that will cause an adverse impact on the greater sage-grouse or habitat of the greater sage-grouse to: (1) submit to the Sagebrush Ecosystem Technical Team certain information about the proposed activity or project; and (2) have a verifier quantify such impact in the form of debits. Once the impact on the greater sage-grouse or habitat of the greater sage-grouse is quantified and approved by the Program Manager of the Team, the person or entity is required to mitigate the adverse impact on the greater sage-grouse or habitat of the greater sage-grouse by: (1) acquiring from or creating a sufficient number of credits in the Nevada Conservation Credit System established by the Council to offset the number of debits; or (2) developing a mitigation plan that will generate enough credits to offset the debits. **Section 15** requires that any such mitigation plan be approved by the Sagebrush Ecosystem Council and sets forth certain criteria that the Council must consider in determining whether to approve the mitigation plan.

**Section 16** of this regulation requires, under certain circumstances, that the Program Manager of the Sagebrush Ecosystem Technical Team issue to the person or entity that is proposing the activity or project a certificate of mitigation that sets forth: (1) the number of credits that the person or entity will acquire from or create in the Nevada Conservation Credit System; or (2) the mitigation plan approved by the Council. **Section 16** also requires the person or entity to whom such a certificate is issued to ensure compliance with the terms set forth in the certificate for the duration of the activity or project.

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**Sections 3-13** of this regulation define various terms related to the Nevada Conservation Credit System.

#### **4. A statement of the need for and purpose of the proposed regulations:**

In 2015, the US Fish and Wildlife Service determined to not list the greater sage-grouse as "endangered", with stipulations. This determination was based, in part, that there were regulatory assurances in place to stem the decline of habitat loss. In order to help stem this loss, the Sagebrush Ecosystem Program created a mitigation system, which still allows for mining, oil, gas, electric, and other actions that cause a disturbance, but offsets certain impacts through off-site mitigation. The proposed regulations specify that mitigation would be a requirement, in order to help prevent key habitat loss for the greater sage-grouse, thus reducing the chance for a listing under the Endangered Species Act. With a listing, the management of the greater sage-grouse would transfer to the federal government. This regulation benefits the State of Nevada as a whole by keeping the bird and its habitat under the state's control with the state benefiting from our conservation programs.

#### **5. A statement of the:**

##### **(a) Estimated economic effect of the regulation on the business which it is to regulate:**

The proposed regulations will require mitigation for certain disturbances in greater sage-grouse habitat. The majority of greater sage-grouse habitat is located on federally managed lands with the majority of current disturbances generated through mineral production, energy development and/or linear transmission facilities. Currently, mitigation is voluntary for disturbances on federal lands and the proposed regulations will clarify that mitigation is required on federally managed lands as well as State or Locally-owned lands. The effects on industries could vary depending on the proposed disturbance and location. With this regulation, required mitigation on Federal lands and mitigation in general on State

or Locally-owned Lands would be the new requirement. However, impacts to State or Local Lands is anticipated to be insignificant given the minor amount of State or Locally-owned Lands residing within greater sage-grouse habitat and the majority of that land already being managed for recreational and conservation purposes.

**(1) Both adverse and beneficial, immediate and long-term effects:**

An adverse effect from this regulation may be increased expenditures due to more appropriate mitigation of disturbances and higher consulting costs, which will vary depending on the size and type of disturbance, the location, and past mitigation efforts. Many affected businesses have already participated in voluntary mitigation in the past, so this new regulation will have minimal to no effect on them, and would be more standardized across the state. However, providing regulatory assurances for the protection of greater sage-grouse habitat may help to ensure that the species does not become listed as an endangered species. If the greater sage-grouse were to become a listed species, environmental review costs and conservation actions for businesses could increase. Further, this would provide economic certainty for these businesses, as the requirements to mitigation change with the political atmosphere. Prior years have seen the mitigation requirements go from Net Conservation Gain to No Net Loss, from enforced by the federal agencies to completely voluntary. This regulation would clarify the mitigation requirements through the changes in policies and would keep the conservation local and consistent.

**(b) Estimated economic effect on the public:**

There is no direct adverse economic effect to the general public. However, there may be a positive monetary benefit to landowners or industries carry out certain activities to benefit greater sage-grouse habitat. Entities that improve habitat and enroll the activities in the Conservation Credit System are eligible to receive compensation for their work from entities that are required to do mitigation. In addition, the regulations will help manage for more intact landscapes long-term and improved sage-grouse and other wildlife habitats and populations that allow for better recreational benefits to the public, tourism opportunities, hunting opportunities, and preservation of Nevada's natural heritage. The regulations would also benefit consulting firms and contractors with the increased need for people to conduct on the ground verification of habitat as well as habitat conservation work on the landscape.

**(1) Both adverse and beneficial effects, immediate and long-term effects:**

Immediate impacts will see increased economic opportunities for landowners and businesses carrying out, or involved with, projects to benefit greater sage-grouse habitat. In addition to continuation of all immediate benefits listed above, long-term benefits would include more intact landscapes long-term with better recreational benefits to the public, tourism opportunities, and preservation of Nevada's natural heritage; improved sage-grouse and other wildlife habitats and populations; and better game populations and hunting opportunities. However, most importantly, the regulation will improve upon efforts to avoid a sage-grouse listing, which would likely have significant detrimental impacts to ranchers, ranching communities, agriculture, and other industries. A potential indirect adverse effect of these regulations to the general public could be an increase in the cost of industrial products and services to recover the costs of mitigation.

**(c) Estimated cost by the agency for enforcement of the proposed regulation:**

The enforcement of the regulation falls within current operations of the Sagebrush Ecosystem Program;

therefore, there will be no additional cost to the agency above the current legislatively approved budget.

- 6. A description of any regulations for 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:**

This Regulation does not duplicate any existing federal, state, or local standards regulating the same activity.

- 7. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions. The statement must include the specific citation of the federal statute or regulation requiring such adoption:**

On December 6, 2018, the Bureau of Land Management sent out Instruction Memorandum 2019-018 that stated "Except as described herein, the BLM will not impose, and will not build mechanisms for it to enforce mandatory compensatory mitigation into its official actions, authorizations to use the public lands, and any associated environmental review documents, including, but not limited to, permits, rights-of-ways, environmental impact statements, environmental assessments, and resource management plans... Any compensatory mitigation that a project proponent proposes must be voluntary, or in compliance with State requirements or other Federal requirements."

In light of IM 2019-018 and other considerations, Governor Sandoval enacted Executive Order 2018-32 requiring mitigation as a regulation in order to work towards preventing a listing of the greater sage-grouse and to continue to conserve sagebrush ecosystems.

- 8. 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 proposed regulation does not provide for new fees or increase an existing fee.

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**STATE OF NEVADA**

**Sagebrush Ecosystem Program**

**FORM 4:**

**NEVADA SAGEBRUSH ECOSYSTEM PROGRAM SMALL BUSINESS IMPACT DISCLOSURE  
PROCESS PURSUANT TO 233B "Nevada Administrative Procedures Act"**

The purpose of this Form is to provide a framework pursuant to NRS 233B.0608 for drafting and submitting a Small Business Impact Statement (SBIS) to the Sagebrush Ecosystem Council in order to determine whether a SBIS is required to be noticed and available at the public workshop. A SBIS must be completed and submitted to the Legislative Counsel Bureau for ALL adopted regulations.

Note: Small Business is defined as a "business conducted for profit which employs fewer than 150 full-time employees" (NRS 233B.0382).

To determine whether a SBIS must be noticed and available at the public workshop, answer the following questions:

**1. Does this proposed regulation impose a direct and significant economic burden upon a small business?** *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

Yes, See attached Small Business Impact Statement

**2. Does this proposed regulation restrict the formation, operation or expansion of a small business?** *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

Yes, See attached Small Business Impact Statement

If **Yes** to either of question 1 & 2, a SBIS must be noticed and available at the public workshop.

**FORM 4: SMALL BUSINESS IMPACT STATEMENT (NRS 233B.0609)**  
(Provide attachments as needed)

**1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary. (Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.)**

The Sagebrush Ecosystem Program sent a questionnaire out to all known affected businesses, which included, but was not limited to, mining and energy industries. It was determined that, through information from sources such as the Nevada Division of Minerals, there are sixty-six small businesses in Nevada that may be impacted by the regulations.

Of the sixty-six questionnaires sent out, two were undeliverable, and six were returned with answers. Four stated no impacts, and two stated impacts, but the type and magnitude of impacts were unknown. The Program followed up with the one of the impacted business to further discuss their concerns. Even though there was a misunderstanding as to what the regulations would require, they did voice that this might cause a financial hardship for the smaller industries, such as mineral exploration, to require mitigation on top of their initial costs.

All other entities not captured by this mailing were able to voice their concerns during the workshops on December 11, 2018 in the Guinn Room at the Capitol Building at 101 N. Carson Street, Carson City, Nevada and December 20, 2018 in Room 201 at the County Courthouse at 50 W 5th Street, Winnemucca, Nevada. The Sagebrush Ecosystem Program notified interested parties through email, sent notices for posting to eight public buildings (and all county libraries for the two hearings), and posted notice of the workshops and hearings online at the Sagebrush Ecosystem Program's website, the Legislative Counsel Bureau's site, and the State of Nevada's official site. Entities were encouraged to comment on the proposed mitigation regulation, either verbally or through written comments.

Thirty-seven people were present at the December 11 workshop, with ten people making verbal comments and one submitting written comments. Fifteen people were present at the December 20, 2019 workshop, with eight people making verbal comments and one submitting written comments. Three more sets of written comments were submitted following this final workshop.

Four sets of comments were submitted prior to the Temporary Regulations Adoption Hearing on March 19, 2019 in the PEBP room at the Bryan Building at 901 S Stewart St, Carson City, NV 89701, with thirty-four people present at the hearing. Fifteen people made verbal comments. The adoption of the temporary regulations was postponed at this hearing pending more information. One written comment was submitted after this hearing. Another adoption hearing was held on April 29, 2019 at the Nevada Department of Wildlife at 6980 Sierra Center Pkwy #120, Reno, NV 89511. Thirty-two people were present at this hearing, with thirteen making verbal comments. The temporary regulation was unanimously adopted after minor wording changes.

The workshop for the permanent regulations will be held September 19, 2019 at 9:00am in the Tahoe Room at the Richard Bryan Building at 901 S. Stewart Street, Carson City, Nevada. The hearing for the adoption of the regulations will be held on October 3, 2019 at 1:00pm at the Nevada Department of Wildlife at 6980 Sierra Center Pkwy #120, Reno, NV 89511. The Sagebrush Ecosystem Program notified interested parties through email, sent notices for posting to eight public buildings (and all county libraries for the hearing), and posted notice of the workshops and hearings online at the Sagebrush Ecosystem Program's website, the Legislative Counsel Bureau's site, and the State of

Nevada's official site. Entities were encouraged to comment on the proposed mitigation regulation, either verbally or through written comments by September 27, 2019.

Minutes of the public workshops and hearing capture the discussions held regarding both the permanent and the adopted temporary regulation. Minutes and written comments may be obtained online at [sagebrusheco.nv.gov](http://sagebrusheco.nv.gov) or from the Sagebrush Ecosystem Program at 201 S. Roop Street, Suite 101, Carson City, Nevada 89701 by contacting Kathleen Petter, Sagebrush Ecosystem Technical Team at [kpetter@sagebrusheco.nv.gov](mailto:kpetter@sagebrusheco.nv.gov). A list of names and contact information, including telephone numbers, electronic mail address, and name of entity or organization represented, for each person identified above is attached below in Appendix A. A summary of comments and responses are included below in Appendix B.

## **2. The manner in which the analysis was conducted (if an impact was determined).**

Through conversations with affected businesses prior to proposing the regulation, it was determined that the regulation would create undue hardships on Notice-level Mineral Exploration entities. Thus, the regulation was developed to allow for these types of businesses to be exempt from this regulation, as well as trivial disturbances such as ranching activities and activities located on private lands to prevent penalizing family businesses on their own lands.

As noted above, the Sagebrush Ecosystem Program attempted to contact all known small businesses who may be affected by the regulations. As the regulation would primarily affect larger industries, small businesses represented a limited population impacted by the adopted regulation. Through the comment period, the Program received three written comments, and spoke with the one that had known concerns to understand how the regulations might affect them personally. That conversation concluded that there was a misunderstanding in how the regulations would be implemented, and the only comment was that the regulation might cause a financial hardship for the smaller businesses to require mitigation on top of their initial costs.

## **3. The estimated economic effect of the proposed regulation on small businesses:**

The proposed regulations will require mitigation for certain disturbances in greater sage-grouse habitat. The majority of greater sage-grouse habitat is located on federally managed lands with the majority of current disturbances generated through mineral production, energy development and/or linear transmission facilities. Currently, mitigation is voluntary for disturbances on federal lands and the proposed regulations will clarify that mitigation is required on federally managed lands as well as State or Locally-owned lands. The effects on industries could vary depending on the proposed disturbance and location. With this regulation, required mitigation on Federal lands and mitigation in general on State or Locally-owned Lands would be the new requirement. However, impacts to State or Local Lands is anticipated to be insignificant given the minor amount of State or Locally-owned Lands residing within greater sage-grouse habitat and the majority of that land already being managed for recreational and conservation purposes.

### **a. Both adverse and beneficial, direct and indirect effects:**

An adverse effect from this regulation may be increased expenditures due to more appropriate mitigation of disturbances and higher consulting costs, which will vary depending on the size and type of disturbance, the location, and past mitigation efforts. Many affected businesses have already participated in voluntary mitigation in the past, so this new regulation will have minimal effect on them, but the mitigation would be more standardized across the state. Small industry businesses may have a difficult time with the new regulations due to the additional cost during their startup, especially mineral



exploration companies with having to regulate each small impact.

However, providing regulatory assurances for the protection of greater sage-grouse habitat may help to ensure that the species does not become listed as an endangered species. If the greater sage-grouse were to become a listed species, environmental review costs and conservation actions for businesses could increase. Further, this would provide economic certainty for these businesses, as the requirements to mitigation change with the political atmosphere. Prior years have seen the mitigation requirements go from Net Conservation Gain to No Net Loss, from enforced by the federal agencies to completely voluntary. This would regulation the mitigation requirements through the changes in policies and would keep the conservation local and consistent.

This regulation could benefit the formation of new small businesses, with increased need for local environmental consulting companies, contractors, and mitigation bankers as the businesses begin to comply with the mitigation requirements and more conservation is completed to fulfill those requirements.

**4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of the methods. (Include a discussion of any considerations of the methods listed below.)**

In response to comments received, the Sagebrush Ecosystem Program considered methods to minimize the burden of the regulation on the most affected small businesses, thus waiving the regulation for Notice-level Exploration or mineral exploration that only disturbs less than five acres of land, which made up a good majority of the small mineral exploration companies' impacts. Initial comments indicated that the regulations have the potential to cause financial impacts on small businesses, but the respondents were unsure of the extent of the possible impacts. Internal considerations have been made to assist with the financial impacts by allowing phasing in of the mitigation requirements, but that is to be considered within the "mitigation plan" portion of the regulation. Other considerations were made to exempt direct impacts on private lands in addition to the *de minimis* impacts exemption in order to reduce or avoid financial hardships on small operations on their own lands.

**5. The estimated cost to the agency for enforcement of the proposed regulation. (Include a discussion of the methods used to estimate those costs.)**

The enforcement of the regulation falls within current operations of the Sagebrush Ecosystem Program; therefore, there will be no additional cost to the agency above the current legislatively approved budget.

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

The proposed regulation does not provide for new fees or increase an existing fee.

**7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide and explanation of why such duplicative or more stringent provisions are necessary.**

On December 6, 2018, the Bureau of Land Management sent out Instruction Memorandum 2019-018 that stated " Except as described herein, the BLM will not impose, and will not build mechanisms for it to enforce, mandatory compensatory mitigation into its official actions, authorizations to use the public lands, and any associated environmental review documents, including, but not limited to, permits, rights-of-ways, environmental impact statements, environmental assessments, and resource management plans... Any compensatory mitigation that a project proponent proposes must be voluntary, or in compliance with State requirements or other Federal requirements"

In light of IM 2019-018 and other considerations, Governor Sandoval enacted Executive Order 2018-32 requiring mitigation as a regulation in order to work towards preventing a listing of the greater sage-grouse and to continue to conserve sagebrush ecosystems.

**8. The reasons for the conclusions regarding the impact of a regulation on small businesses.**

After an analysis of the 66 impacted businesses that the Program is aware of, and subsequent comments from small and large businesses alike, it was determined that the regulations have the potential to cause financial impacts on smaller businesses, but the extent of those impacts are unknown. Two workshops and two hearings were held to acquire more comments from the public and affected businesses. The workshops and hearings confirmed the desire to avoid financial hardships on small mineral exploration companies and to avoid mitigation requirements on trivial disturbances, so exemptions were put in place to relieve them of this financial burden.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and the information contained in this statement was prepared properly and is accurate.

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Kelly McGowan, Program Manager, Sagebrush Ecosystem Program

Date

<http://www.leg.state.nv.us/Statutes/77th2013/Stats201314.html#Stats201314page2304>

## Appendix A. List of all Attendees by Workshop or Hearing

Sign in Sheets Compilation					
Workshop 12/11/2018	*Known Small Businesses				
Name	Organization	Phone	Email	Business Address	Comments (Verbal/Written)
Allen Biaggi	Sagebrush Ecosystem Council	775.781.2112		201 South Roop Street Suite 101, Carson City, Nevada 89701	V
Bettina Scherer	Conservation Districts	775.684.2717	<a href="mailto:bscherer@dcnr.nv.gov">bscherer@dcnr.nv.gov</a>	901 South Stewart Street Suite 1003, Carson City, Nevada 89701	
Bradley Crowell	NV Department of Conservation and Natural Resources		<a href="mailto:bcrowell@dcnr.nv.gov">bcrowell@dcnr.nv.gov</a>	901 South Stewart Street Suite 1003, Carson City, Nevada 89701	
Brian Amme	Bureau of Land Management	775.861.6590	<a href="mailto:bamme@blm.gov">bamme@blm.gov</a>	1340 Financial Blvd, Reno, Nevada 89502	V
Britt Johnson	Sunrise Minerals LLC*		<a href="mailto:Britt.bbr@gmail.com">Britt.bbr@gmail.com</a>		
Bryan Stockton	Attorney General	775.684.1228	<a href="mailto:bstockton@ag.nv.gov">bstockton@ag.nv.gov</a>	100 N Carson St, Carson City, Nevada 89701	
Carolyn Swed	US Fish and Wildlife Service		<a href="mailto:carolyn_swed@fws.gov">carolyn_swed@fws.gov</a>	1340 Financial Blvd, Reno, Nevada 89502	
Cheva Gabor	US Forest Service		<a href="mailto:chevalgabor@fs.fed.us">chevalgabor@fs.fed.us</a>	1200 Franklin Way, Sparks, Nevada 89431	
Chris MacKenzie	Sagebrush Ecosystem Council			201 South Roop Street Suite 101, Carson City, Nevada 89701	V
Don Siecke	Kelmore Development		<a href="mailto:don@kelmoredevelopment.com">don@kelmoredevelopment.com</a>		
Doug Busselman	NV Farm Bureau	775.870.3349	<a href="mailto:doug@nvfb.org">doug@nvfb.org</a>	2165 Green Vista Drive #205, Sparks, Nevada 89431	V/W
Floyd Rathbun	FIMCorp.	775.423.4267	<a href="mailto:Rathbun@phonewave.net">Rathbun@phonewave.net</a>		
Gail Ross	Barrick Gold of North America		<a href="mailto:gsross@barrick.com">gsross@barrick.com</a>	905 West Main Street, Elko, Nevada 89801	
Gary Roeder	Natural Resources Conservation Service	775.857.8500	<a href="mailto:gary.roeder@nv.usda.gov">gary.roeder@nv.usda.gov</a>	1365 Corporate Blvd, Reno, Nevada 89502	
Ginger Peppard	Elko Mining Group	775.223.2677	<a href="mailto:gingerpeppard@elkomininggroup.com">gingerpeppard@elkomininggroup.com</a>	9650 Gateway Dr #202, Reno, Nevada 89521	
J. A. Vacca	Bureau of Land Management	775.681.6613	<a href="mailto:jvacca@blm.gov">jvacca@blm.gov</a>	1340 Financial Blvd, Reno, Nevada 89502	
Jasmine Kleiber	NV Department of Wildlife	775.688.1561	<a href="mailto:jkleiber@ndow.org">jkleiber@ndow.org</a>	6980 Sierra Center Pkwy #120, Reno, Nevada 89511	
Jeremy Drew	Resource Concepts Inc./Nevada Association of Counties	775.883.1600	<a href="mailto:jeremy@rei-nv.com">jeremy@rei-nv.com</a>	340 N Minnesota Street, Carson City, Nevada 89703	
Jeremy Sokulsky	Environmental Incentives	530.841.2980	<a href="mailto:jsokulsky@enviroincentives.com">jsokulsky@enviroincentives.com</a>	3351 Lake Tahoe Blvd # 2, South Lake Tahoe, California 96150	
Jim Lawrence	NV Department of Conservation and Natural Resources		<a href="mailto:lawrence@dcnr.nv.gov">lawrence@dcnr.nv.gov</a>	901 South Stewart Street Suite 1003, Carson City, Nevada 89701	
Karen Boeger	NV Backcountry Hunters and Anglers	775.722.4249	<a href="mailto:rboegeroll@gmail.com">rboegeroll@gmail.com</a>		
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Meghan Brown	NV Department of Agriculture		<a href="mailto:m.brown@agri.nv.gov">m.brown@agri.nv.gov</a>	405 21st Street, Sparks, Nevada 89431	
Mike Visher	NV Division of Minerals	775.684.7044	<a href="mailto:mvisher@minerals.nv.gov">mvisher@minerals.nv.gov</a>	400 W King Street # 106, Carson City, Nevada 89703	
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Steven Boies	Sagebrush Ecosystem Council			201 South Roop Street Suite 101, Carson City, Nevada 89701	V
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William Molini	Sagebrush Ecosystem Council			201 South Roop Street Suite 101, Carson City, Nevada 89701	V
Workshop 12/20/2018					
Name	Organization	Phone	Email	Business Address	Comments (Verbal/Written)
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Doug Busselman	NV Farm Bureau	775.870.3349	<a href="mailto:doug@nvfb.org">doug@nvfb.org</a>	2165 Green Vista Drive #205, Sparks, Nevada 89431	V
Hunter Burkett	Pheasants Forever and Natural Resources Conservation Service	775.843.3669	<a href="mailto:hburkett@pheasantsforever.org">hburkett@pheasantsforever.org</a>	1200 E Winnemucca Blvd, Winnemucca, Nevada 89445	
Jim French	Humboldt County Commission	775.843.8327	<a href="mailto:jfrench6472@sbcglobal.net">jfrench6472@sbcglobal.net</a>	50 W 5th Street #205, Winnemucca, Nevada 89445	V
Joe Sicking	NV State Conservation Commission and Paradise Sonoma Conservation District	775.427.3234	<a href="mailto:sickings@gmail.com">sickings@gmail.com</a>		V
Joel Lenz	Governor's Office of Economic Development	775.430.1059	<a href="mailto:jlenz@diversifynevada.com">jlenz@diversifynevada.com</a>	808 West Nye Lane, Carson City, Nevada 89703	
Kim Summers	RDD Inc.	775.304.6214	<a href="mailto:knottcreekranch@gmail.com">knottcreekranch@gmail.com</a>		V
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Thad Ballard	Wells Rural Electric Co.*	775.752.0926	<a href="mailto:tballard@wrec.coop">tballard@wrec.coop</a>	1322 Chestnut Street, Carlin, Nevada 89822	V/W
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Hearing 03/19/2019					
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Karin West	Nevada Department of Transportation	775.888.7682	<a href="mailto:kwest@dot.nv.gov">kwest@dot.nv.gov</a>		
Matt Magaletti	Bureau of Land Management	775.861.6472	<a href="mailto:mmagalet@blm.gov">mmagalet@blm.gov</a>	1340 Financial Blvd, Reno, Nevada 89502	
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Sherman Swanson	Sagebrush Ecosystem Council	775.233.6221	<a href="mailto:sswanson@cabnr.unr.edu">sswanson@cabnr.unr.edu</a>	201 South Roop Street Suite 101, Carson City, Nevada 89701	V
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Susan Ellsworth	US Forest Service	775.355.5313	<a href="mailto:susan.ellsworth@usda.gov">susan.ellsworth@usda.gov</a>	1200 Franklin Way, Sparks, Nevada 89431	V
Tony Wasley	Nevada Department of Wildlife			6980 Sierra Center Pkwy #120, Reno, Nevada 89511	V
William Molini	Sagebrush Ecosystem Council			201 South Roop Street Suite 101, Carson City, Nevada 89701	V
Hearing 04/29/2019					
Name	Organization	Phone	Email	Business Address	Comments (Verbal/Written)
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Bevan Lister	Sagebrush Ecosystem Council			201 South Roop Street Suite 101, Carson City, Nevada 89701	
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Cheva Gabor	US Forest Service		<a href="mailto:chevalgabor@fs.fed.us">chevalgabor@fs.fed.us</a>	1200 Franklin Way, Sparks, Nevada 89431	V
Chris MacKenzie	Sagebrush Ecosystem Council			201 South Roop Street Suite 101, Carson City, Nevada 89701	V
Erica Freese	Stantec	775.530.3311	<a href="mailto:erica.freese@stantec.com">erica.freese@stantec.com</a>	6995 Sierra Center Pkwy, Reno, Nevada 89511	
Floyd Rathbun	FIMCorp.	775.423.4267	<a href="mailto:Rathbun@phonewave.net">Rathbun@phonewave.net</a>		
Gail Ross	Barrick Gold of North America		<a href="mailto:gsross@barrick.com">gsross@barrick.com</a>	905 West Main Street, Elko, Nevada 89801	
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J. A. Vacca	Bureau of Land Management	775.681.6613	<a href="mailto:jvacca@blm.gov">jvacca@blm.gov</a>	1340 Financial Blvd, Reno, Nevada 89502	
J.J. Goicoechea	Sagebrush Ecosystem Council			201 South Roop Street Suite 101, Carson City, Nevada 89701	V
Jake Tibbits	Eureka County		<a href="mailto:jtibbits@eurekacountynv.gov">jtibbits@eurekacountynv.gov</a>		
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Sherman Swanson	Sagebrush Ecosystem Council	775.233.6221	<a href="mailto:sswanson@cabnr.unr.edu">sswanson@cabnr.unr.edu</a>	201 South Roop Street Suite 101, Carson City, Nevada 89701	V
Steven Boies	Sagebrush Ecosystem Council			201 South Roop Street Suite 101, Carson City, Nevada 89701	V
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William Molini	Sagebrush Ecosystem Council			201 South Roop Street Suite 101, Carson City, Nevada 89701	

Other					
Name	Organization	Phone	Email	Business Address	Comments (Verbal/Written)
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Jeremy Drew	Resource Concepts Inc./Nevada Association of Counties	775.883.1600	<a href="mailto:jeremy@rei-nv.com">jeremy@rei-nv.com</a>	340 N Minnesota Street, Carson City, Nevada 89703	W
Jake Tibbits	Eureka County		<a href="mailto:jtibbits@eurekacountynev.gov">jtibbits@eurekacountynev.gov</a>		W
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Jeremy Drew	Resource Concepts Inc./Nevada Association of Counties	775.883.1600	<a href="mailto:jeremy@rei-nv.com">jeremy@rei-nv.com</a>	340 N Minnesota Street, Carson City, Nevada 89703	W
Small Business Impact Statements					
Name	Organization	Phone	Email	Business Address	Impacted (Y/N); Reasons
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Michelle Henrie	NGP Blue Mountain (Cyrq Energy)*	801.875.4200	<a href="mailto:michelle.henrie@cyrgenergy.com">michelle.henrie@cyrgenergy.com</a>	136 South Main Street Suite 600, Salt Lake City, Utah 84101	No
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## Appendix B. Summary of Comments and Responses

Comment	Commenter	Resolution
Ensure public works/Safety /Routine administrative or emergency functions are exempt and the regulations would not inhibit other agencies' work or conservation activities.	NACO / Pam Robinson (Governor's Office) / Brian Amme (BLM) / Humboldt County Commission	Incorporated at the 04/29/2019 Adoption Hearing.
Allow previous proponent driven mitigation plans to be considered under approved existing mitigation programs if they can demonstrate net conservation gain (BEA, McEwann and Lithium NV specifically). Allow flexibility in "existing" by removing the word.	Lithium Nevada / Barrick Gold / McEwan Mining / State Conservation Commission (ish) / NV Mining Association	Listed as such in the regulations but must work with the SETT and SEC in order to ensure the validity of the project.
Ensure the regulations are required on public lands too. There needs to be an MOA or MOU put into place.	NV Farm Bureau / Wells Rural Electric Company / SEC Member Lister	Out of the Regulation's authority, however MOU is under development with the State and the BLM.
What would trigger the regulation? NEPA, EA, or EIS is suggested.	Wells Rural Electric Company / Richard Perry (NDM)	Anything that requires state or federal review, approval, or authorization is the trigger, which included NEPA. We wanted to capture anything, even non-NEPA projects.
Ensure that those who have participated in the CCS be protected should the sage-grouse be listed in the future.	Wells Rural Electric Company	Out of the Regulation's authority
Don't make this too complicated and harder to fulfill than the previous fed regulations were; ensure on the ground conservation.	Wells Rural Electric Company / Humboldt County Commission	Addressed at the 03/19/2019 and 04/29/2019 Adoption Hearings.
Need a way to fulfill mitigation requirements should the CCS credits not be available.	Barrick Gold	Included in the regulations under a mitigation plan.
Define "Notice Level exploration" (<=5acres)	SEC Member Molini	Term removed.
Remove "Existing Mitigation Program" and state the Barrick Enabling Agreement and Newmont's Conservation Framework Agreement only to be more stringent.	Kim Summers (Credit Producers) / Crawford Cattle / Barrick Gold	Completed and added language to specify all activities using any mitigation framework authorized by the U.S. Fish and Wildlife Service prior to December 7, 2018.
Lock in language that states that projects with standing mitigation agreements by a certain date can utilize their agreements, but any new or not yet signed agreements must utilize the CCS, BEA, or CFA. Date either the adoption of the regulation or the signing of the EO.	SEC Member Biaggi / Kim Summers (Credit Producers)	Included in the regulations.
Ensure all de minimus activities are captured as exemptions	SEC Member Biaggi	Listed as an exemption.
Figure out how to mitigate in checkerboard areas with private and public lands intermixed in the project	SEC Member Boies	Already outlined in the CCS Manual.
Ensure all disturbances are captured under "state agency review, approval, or authorization"	SEC Member Swanson / SEC Member Lister	Incorporated and Adopted.
The regulations should fall under the authority of the Sagebrush Ecosystem Council	NV Farm Bureau	Included in the regulations.
Minor wording changes	Allen Biaggi / USFS / NV Mining Association / Barrick Gold / SEC Members / USFWS	Incorporated or Considered
Clarify the Statutory Authority, not AB 461 or Executive Order	NV Mining Association / Allen Biaggi	Considered on 03/19/2019 Adoption Hearing
Questions the Authority on Federal Lands and requests exact mechanisms be identified and stated	NV Mining Association / Allen Biaggi	See section 302 of Federal Lands Policy and Management Act regarding "undue degradation", and 3809.5 regulations regarding preventing "undue degradation".
Clarify "Indirect Impacts" and "Any other...deemed important" and "de minimis" to be more close-ended	NV Mining Association / Allen Biaggi	Changes made at 03/19/2019 Adoption Hearing.
Add timeframes and outline an appeal process, confirmation or rejection of mitigtaiion plans should be in writing	NV Mining Association / Allen Biaggi	Timeframe added 03/19/2019, appeal process is outlined in NRS 233B.130 through judicial review.
Add "between private companies and the DOI and all amendments thereafter" to Section 5, after the BEA and CFA are mentioned.	NV Mining Association / Allen Biaggi	Changes made at 03/19/2019 Adoption Hearing.
Add wording if the bird is listed to give the state and landowners protection.	SEC Member Lister	Considered on 03/19/2019 Adoption Hearing