

Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

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

State Environmental Commission Permanent No: R085-21

The Nevada State Environmental Commission (SEC) offers the following informational statement for R085-21P in compliance with the requirements of NRS 233B.066.

1. Need for Regulation:

R085-21P amends NAC Chapter 519A to add new and amend existing regulations to implement Assembly Bill 148 adopted during the 2021 legislative session.

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.

The Nevada Division of Environmental Protection (Division) provided notice of public workshops for R085-21I on December 17, 2021, in accordance with NRS 233B.061. The Division held an in-person workshop in the Tahoe Conference Room on the second floor of the Bryan Building, 901 South Stewart Street, Carson City, Nevada, on January 4, 2022, and a virtual workshop on January 6, 2022, to present the substance of and receive public comment on R085-21I. Thirteen members of the public attended the in-person workshop, and 59 members of the public attended the virtual workshop.

The minutes of each workshop, which includes the names of the participants and a summary of the comments for certain participants, is posted on the SEC website.¹ The Legislative Counsel Bureau (LCB) published its draft, R085-21P, in the Nevada Register on January 11, 2022. The Division accepted written comments on R085-21I and R085-21P up to January 21, 2022. The Division received written comments from the Nevada Mining Association, Nevada Gold Mines, and Jerritt Canyon Gold concerning R085-21P (see attached).

On February 9, 2022, the SEC held a virtual regulatory hearing to consider possible action on R085-21P. The SEC posted its public notice, which included a link² to access R085-21P and pertinent documents and information supporting the regulation, for the

¹ <https://sec.nv.gov/meetings/sec-regulatory-meeting-february-9-2022>

² <https://sec.nv.gov/meetings/sec-regulatory-meeting-february-9-2022>

regulatory hearing at the State Library in Carson City, the Division's offices in Carson City and Las Vegas, all county libraries throughout the state, the Division of Minerals, the Department of Agriculture; and on the LCB website, the Division of Administration's website, and the SEC website.

The SEC sent the notice to its email distribution list and published the public notice in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting.

3. SEC Regulatory Hearing on February 9, 2022:

(a) Number of Persons in Attendance: 47 (approximately)

(b) Number of Persons that Provided Testimony: 3

1. Frederick Perdomo on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9301
fperdomo@ndep.nv.gov
2. Todd Process on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9408
tprocess@ndep.nv.gov
3. Allen Biaggi on behalf of the Nevada Mining Association
(775) 781-2112
freelpeak@gmail.com

(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.

The Division provided notice of public workshops for R085-211 on December 17, 2021. In that notice, the Division provided a link to a small business impact survey. The Division held an in-person public workshop on January 4, 2022, and a virtual public workshop on January 6, 2022. The Division received verbal comments from the regulated community during those workshops and received three written comments from Nevada Mining Association, Nevada Gold Mines, and Jerritt Canyon Gold on or around January 21, 2022, which was the deadline for public comment. The minutes for the workshops are posted on the SEC's website.³ The minutes, in part, summarize comments from the regulated community. The written comments from Nevada Mining Association, Nevada Gold Mines, and Jerritt Canyon Gold are provided as part of this informational statement. The Division also provided hard copies of and a link to a small business

³ <https://sec.nv.gov/meetings/sec-regulatory-meeting-february-9-2022>

impact survey during the public workshops. The Division did not receive a survey from the regulated community or interested persons.

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.

Based on written comments received from Nevada Mining Association and Nevada Gold Mines, the Division made an edit to Section 3 subsection 1(d)(2) of R085-21P prior to the February 9, 2022 hearing. The Commissioners unanimously adopted R085-21P with the Division's proposed edit to Section 3 subsection 1(d)(2). The Commissioners and members of the public did not express a specific concern with the proposed edit to Section 3 subsection 1(d)(2) or the remaining text of the regulation.

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 economic impact from the regulatory amendments proposed in R085-21P are not expected to be more than what was foreseeable from the adoption of AB148.

Public. The regulatory amendments in R085-21P are expected to have no economic impact on the public.

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

Enforcing Agency. The regulatory amendments proposed in R085-21P are not expected to result in additional cost to the Division.

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 regulatory amendments in R085-21P do not overlap, duplicate, or conflict with any regulations of other government agencies.

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

Sections 12 and 13 of R085-21P require an applicant or operator to submit an affidavit that meets the requirements set forth in Section 3 of R085-21P for exploration projects and mining operations that are on public land and some combination of public and private land. The affidavit is specific to Nevada's permitting process and is an additional condition for receiving Division approval of a federal plan of operations.

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.

This regulation does not address fees.