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Director



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Interim Deputy Administrator

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS

**NOTICE OF PUBLIC WORKSHOP TO SOLICIT COMMENTS ON
PROPOSED REGULATIONS
LCB File No. R033-20
October 19, 2020 at 10:00 a.m.
(THIS IS NOT A NOTICE OF INTENT TO ACT ON A REGULATION)**

You are hereby given notice that the Division of Industrial Relations of the Department of Business and Industry, State of Nevada (“Division”) will conduct a public workshop on proposed permanent regulations amending Chapter 512 of the Nevada Administrative Code (“NAC”) on Monday, October 19, 2020 at 10:00 a.m. This meeting will be held *via* a Webex meeting only. Webex allows for video and teleconferencing. Pursuant to Governor Sisolak’s March 22, 2020 Declaration of Emergency Directive 006, the requirement contained in NRS 241.023(1)(b), that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate, is suspended in order to mitigate against the possible exposure or transmission of the COVID-19 (Corona Virus). Accordingly, any person planning to participate in the meeting must participate by using the Webex Access information immediately below.

Webex Access

Meeting number (access code): 133 171 5694 Meeting password: REGS

Tap to join from a mobile device (attendees only)
+1-415-655-0001,1331715694## US toll

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<https://nvbusinessandindustry.webex.com/nvbusinessandindustry/k2/j.php?MTID=t153b8d8e6547c41e7209d34ee3f1c8c3>

Global call-in numbers:
<https://nvbusinessandindustry.webex.com/nvbusinessandindustry/globalcallin.php?MTID=t1fdf65e15814d96286ed1b3e301f6411>

Access Code: 133 171 5694

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Pursuant to NRS 233B.608 and 233B.609, the Division is providing the following statements pertaining to the workshop on the proposed additions and amendments to Chapter 512 of the NAC.

The need and purpose of the proposed revisions to regulations: *The Division of Industrial Relations, Mine Safety and Training Section (“MSATS”) shall adopt regulations for mine health and safety as necessary to provide safe and healthful working conditions at mines. The proposed regulations; authorize any qualified Division staff to inspect elevators, boilers and pressure vessels at mine sites; clarify NRS 512.160 regarding opening and closing mine operations; amend the definition of “Operators” in NAC 512.100; and update contact information, among other matters.*

The estimated economic effect of the proposed regulations on (a) regulated businesses and (b) the public, including, stated separately: (i) adverse and beneficial effects; and (ii) immediate and long-term effects:

(a) Regulated businesses:

(i) Adverse and beneficial effects:

The Division anticipates no adverse effects, either direct or indirect, on regulated businesses as the result of these regulations. The adverse effects, if any, are difficult to determine at this time. There will be no direct or indirect cost to regulated or small businesses.

The Division believes that there will be no beneficial effects, either direct or indirect, on regulated or small businesses as the result of these regulations.

(ii) Immediate and long-term effects:

The Division does not anticipate any immediate effects, either adverse or beneficial, on regulated or small businesses as a result of these regulations. There will be no direct or indirect costs to regulated or small businesses.

The Division does not anticipate any long-term effects, either adverse or beneficial, on regulated or small businesses as a result of these regulations. There will be no direct or indirect costs to regulated or small businesses.

(b) The public:

(i) Adverse and beneficial effects:

The Division anticipates no adverse effects, either direct or indirect, on the public as the result of these regulations. There will be no direct or indirect cost to the public.

The Division believes that there will be no beneficial effects, either direct or indirect, on the public as the result of these regulations.

(ii) Immediate and long-term effects:

The Division does not anticipate any immediate effects, either adverse or beneficial, on the public as a result of these regulations. There will be no direct or indirect costs to the public.

The Division does not anticipate any long-term effects, either adverse or beneficial, on the public as a result of these regulations. There will be no direct or indirect costs to the public.

The estimated cost to the Division for enforcement of the proposed regulations: *The Division does not anticipate incurring any additional cost for these proposed permanent regulations.*

The Division believes that the proposed regulation does not overlap or duplicate any existing regulation. *The proposed regulation is not required by federal law and there is no equivalent federal law.*

The proposed regulation does not establish a new fee or increase an existing fee. *The proposed regulation does not provide for a new fee or increase an existing fee payable to the Division.*

A copy of the proposed language for LCB File No. R033-20, may be obtained at the Workshop or downloaded from the Division of Industrial Relations' website: <http://dir.nv.gov/MCS/Home>. Before the Public Workshop, persons may submit written comments to Donald C. Smith, Esq., Senior Division Counsel, Division of Industrial Relations, 3360 W. Sahara Avenue, #250, Las Vegas, Nevada 89102 or by email to donalddsmith@dir.nv.gov.

After the comments have been reviewed and considered, the Division will give notice of intent to act on the regulation and conduct one or more public hearings to solicit written and/or oral comments, data, and views on the proposed regulation.

Persons with disabilities who require special accommodations or assistance at the workshop must notify Lisa Olson, at the Mine Safety and Training Section, 400 W. King Street, #210, Carson City, Nevada 89703, or by calling (702) 684-7085 by 5:00 p.m., Thursday, October 15, 2020.

The requirements set forth in NRS 241.020(4)(a) for the posting of agendas for public meetings was suspended in Governor Sisolak's March 22, 2020 Declaration of Emergency Directive 006. This notice has been posted on Nevada's notice website: <http://leg.state.nv.us/App/Notice/A/>; and the Division's website: <http://dir.nv.gov/Meetings/Meetings>, as set forth in NRS 241.020(4)(b) and (4)(c).

**PROPOSED REGULATION OF THE
ADMINISTRATOR OF THE
DIVISION OF INDUSTRIAL RELATIONS OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R033-20

September 24, 2020

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

AUTHORITY: §§1-3, 5-8 and 10, NRS 512.131; §§4, 9, 11 and 12, NRS 455C.110 and 512.131.

A REGULATION relating to public safety; requiring an operator of a mine to notify the Administrator of the Division of Industrial Relations of the Department of Business and Industry of certain activities relating to the opening and closing of mine operations; providing for the use of the inspection services of the Mechanical Compliance Section of the Division to conduct certain inspections of mines; requiring an operator of a mine to report certain accidents, injuries and illnesses to the chief administrative officer of the Mine Safety and Training Section of the Division; requiring all potable water heaters to be inspected externally periodically; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires an operator of a mine to notify and provide certain information to the Administrator of the Division of Industrial Relations of the Department of Business and Industry before opening and upon closing mine operations. (NRS 512.160) **Section 3** of this regulation sets forth certain activities which the Administrator deems to be included in the opening and closing of mine operations.

Existing law requires the Administrator or his or her designee to inspect and investigate mines in this State for certain issues relating to safety. (NRS 512.170) **Section 4** of this regulation: (1) provides for the use of the inspection services of the Mechanical Compliance Section of the Division to conduct such inspections; and (2) requires the Mine Safety and Training Section of the Division to reimburse the Mechanical Compliance Section for the actual expenses incurred in performing those inspections. **Section 9** of this regulation revises the definition of “inspector” to include an employee of the Mechanical Compliance Section who is performing such an inspection.

Section 6 of this regulation revises the definition of an operator of a mine. (NAC 512.100)

Existing regulations require an operator of a mine to: (1) report to the Administrator a serious accident that occurs at the mine; and (2) submit to the Administrator a report relating to an investigation of a serious accident, occupational injury or occupational illness that occurs at the mine. (NAC 512.193) **Section 8** of this regulation requires such reports to be made to the chief administrative officer of the Mine Safety and Training Section of the Division.

Existing regulations require a lined potable water heater to be inspected externally at least once every 2 years. (NAC 512.570) **Section 11** of this regulation revises this provision to require all potable water heaters to be inspected externally at least once every 2 years.

Sections 2, 5, 7 and 10 make conforming changes.

Section 1. Chapter 512 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *“Mechanical Compliance Section” has the meaning ascribed to it in NAC 455C.012.*

Sec. 3. *For the purposes of subsection 3 of NRS 512.160, the Administrator deems the opening and closing of mine operations to include, without limitation:*

- 1. The construction, repair or demolition of any private ways or roads appurtenant to a mine; and*
- 2. The operation, construction, repair or demolition of any structures, equipment, machinery, apparatus or other property upon the surface or underground used to facilitate the work of exploring, developing or extracting minerals or mineral commodities, other than solid fuels, in or from any deposit.*

Sec. 4. 1. *In carrying out his or her duties to inspect pursuant to NRS 512.170 and 512.180, the Administrator may authorize and use the inspection services of the Mechanical Compliance Section to conduct an inspection of equipment, machinery or apparatus which would otherwise be subject to the jurisdiction of the Mechanical Compliance Section if such equipment, machinery or apparatus was not located at a mine as defined in NRS 512.006.*

2. If the Administrator uses the inspection services of the Mechanical Compliance Section pursuant to subsection 1:

(a) The Mechanical Compliance Section must present the Enforcement Section with an invoice for the actual expenses incurred in performing the inspection services rendered; and

(b) The Enforcement Section shall reimburse the Mechanical Compliance Section for those expenses.

Sec. 5. NAC 512.010 is hereby amended to read as follows:

512.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 512.013 to 512.140, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 6. NAC 512.100 is hereby amended to read as follows:

512.100 “Operator” has the meaning ascribed to it in NRS 512.007 ~~[]~~, *and includes, without limitation:*

1. Any person or organization commencing, operating, controlling or supervising any mining activity; and

2. Any individual, owner, lessor, lessee, agent, manager, worker, contractor, subcontractor, independent contractor, partnership, association or corporation or subsidiary of a corporation charged with the responsibility for the support of the operation of a mine.

Sec. 7. NAC 512.150 is hereby amended to read as follows:

512.150 1. The provisions of NAC 512.150 to 512.178, inclusive, *and sections 3 and 4 of this regulation* are designed to protect life, promote health and safety and prevent accidents in mines in Nevada. These sections apply to all open-pit or underground metal and nonmetallic mine and sand, gravel and crushed stone operations.

2. These standards do not appear in 30 C.F.R. Parts 55 to 57, inclusive, or in NAC 512.010 to 512.140, inclusive. Therefore, operators should refer to NAC 512.150 to 512.178, inclusive, *and sections 3 and 4 of this regulation* as supplemental to the other applicable federal and state standards mentioned in this subsection.

3. A violation of a provision of NAC 512.150 to 512.178, inclusive, *or section 3 or 4 of this regulation* subjects the operator or worker to a notice or order pursuant to NRS 512.190.

Sec. 8. NAC 512.193 is hereby amended to read as follows:

512.193 1. An operator of a mine shall report a serious accident that occurs at the mine immediately to the ~~Administrator~~ *Chief* at ~~[(775) 687-5243.] (775) 684-7085.~~

2. An operator shall:

(a) Investigate any serious accident, occupational injury or occupational illness that occurs at the mine; and

(b) Submit a report relating to the investigation to the ~~Administrator~~ *Chief* within 10 business days after the serious accident, *occupational* injury or occupational illness occurs.

3. As used in this section:

(a) “Occupational illness” means an illness or disease of a worker which may have resulted from working at the mine or for which an award of compensation is made.

(b) “Occupational injury” means an injury to a worker which occurs at a mine for which medical treatment is administered, or which results in death, or loss of consciousness, inability to perform all job duties on any day after an injury, temporary assignment to other duties, or transfer to another job.

Sec. 9. NAC 512.529 is hereby amended to read as follows:

512.529 “Inspector” means ~~an~~ *a*:

1. A boiler inspector employed by the Enforcement Section ~~H~~; or

2. *An employee of the Mechanical Compliance Section performing any inspection service pursuant to section 4 of this regulation.*

Sec. 10. NAC 512.560 is hereby amended to read as follows:

512.560 The Administrator may delegate any duties which the Administrator is assigned pursuant to NAC 512.500 to 512.594, inclusive, *or section 4 of this regulation* to the Mine Safety and Training Section of the Division, or its successor.

Sec. 11. NAC 512.570 is hereby amended to read as follows:

512.570 1. An internal inspection conducted pursuant to this section must consist of as complete an examination as can reasonably be made of the internal and external surfaces of a boiler or pressure vessel while it is not operating and must not be conducted until any plates for a manhole or handhole or other closures of openings used for an inspection are removed. An external inspection conducted pursuant to this section must consist of an examination of the external surfaces of a boiler or pressure vessel and must be performed while the boiler or pressure vessel is in operation. An inspection conducted pursuant to this section must include operational testing of all controls and safety devices.

2. A power boiler and a high-pressure, high-temperature boiler must be inspected internally, if the construction and design of the boiler so allows, at least once each year and externally approximately 6 months after the date of the internal inspection. If an internal inspection is not possible, such a boiler must be inspected externally at least once every 6 months.

3. A low-pressure steam boiler must be inspected externally at least once every year and internally, if the construction and design of the boiler so allows, at least once every 2 years.

4. A hot water heating boiler and a hot water supply boiler must be inspected externally at least once every 2 years and internally, if the construction and design of the boiler so allows, at the request of the inspector or special inspector.

5. A ~~lined~~ potable water heater must be inspected externally at least once every 2 years.

6. Any other fired pressure vessel for which a frequency of inspection is not specified in subsections 1 to 5, inclusive, must be inspected internally, if the construction and design of the pressure vessel so allows, at least once each year.

7. Except as otherwise provided in this section, a pressure vessel must be inspected externally at least once every 3 years.

8. An inspector or special inspector may require any boiler or pressure vessel to be prepared for inspection if, in his or her opinion, an inspection is necessary to determine whether the boiler or pressure vessel is operating in a safe manner.

9. As used in this section:

(a) “Fired pressure vessel” means a vessel other than a boiler in which steam or vapor pressure is generated in excess of 15 pounds per square inch by direct firing with a solid, liquid or gaseous fuel or by an electric heating element.

(b) ~~“Lined potable”~~ *“Potable”* water heater” means a fired heater for the storage of water which has a corrosion-resistant lining and is used to supply potable hot water.

Sec. 12. NAC 512.575 is hereby amended to read as follows:

512.575 1. A contractor shall submit a written notice to the Administrator before installing a boiler or pressure vessel in this State that is constructed in a manner that meets the standards of this State, the American Society of Mechanical Engineers or the National Board. Except for an

existing *boiler or pressure vessel* or a reinstalled boiler or pressure vessel, a boiler or pressure vessel must not be installed in this State unless it has been registered with the National Board.

2. Except as otherwise provided in subsection 4, the notice of installation of a boiler or pressure vessel must include the American Society of Mechanical Engineers' data report of the manufacturer concerning the construction of the boiler or pressure vessel, or an equivalent standard which is approved by the National Board, unless the boiler is constructed of cast iron.

3. A notice of installation of a new boiler or pressure vessel must include the plans and specifications of the boiler room in which the boiler or pressure vessel is being installed which designates the location of the boiler or pressure vessel and which complies with the requirements of NAC 512.579.

4. Before a secondhand *boiler or pressure vessel* or portable boiler or pressure vessel may be installed or shipped for installation into this State, the owner or user or the contractor installing the boiler or pressure vessel must submit to the Administrator a notice of installation. The notice of installation must include, without limitation, a report of inspection. The report of inspection must be prepared by a person who holds a commission and who inspected the boiler or pressure vessel. The fittings and appurtenances of the boiler or pressure vessel must comply with the requirements for the installation of a new boiler or pressure vessel.

5. As used in this section:

(a) "Existing boiler or pressure vessel" means any boiler or pressure vessel constructed, installed, placed in operation or contracted for use in this State before January 28, 2000.

(b) "Portable boiler ~~or~~ *or pressure vessel*" means a boiler *or pressure vessel* that is intended primarily for temporary use and has a construction that allows it to be moved readily from one location to another.

(c) “Reinstalled boiler or pressure vessel” means a boiler or pressure vessel removed from its original setting and reinstalled at the same location or at a new location with or without a change of ownership.

(d) “Secondhand boiler or pressure vessel” means a boiler or pressure vessel that has changed ownership and has been moved since its original installation.

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DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS

SMALL BUSINESS IMPACT STATEMENT
AS REQUIRED BY NRS 233B.0608 AND 233B.0609
LCB FILE NO. R033-20
October 1, 2020

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

1. Describe the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

ANSWER: To determine whether the proposed regulations are likely to have an impact on small businesses, the Division considered the purpose and scope of the proposed regulations. The proposed regulations; authorize any qualified Division staff to inspect elevators, boilers and pressure vessels at mine sites; clarify NRS 512.160 regarding opening and closing mine operations; amend the definition of “Operators” in NAC 512.100; and update contact information, among other things. Based on this review, the Division determined that this regulation will have no direct effect on small businesses, either adverse or beneficial, and will also have no indirect effect on small businesses, either adverse or beneficial.

2. The manner in which the analysis was conducted.

ANSWER: As noted in Answer 1, above, there will be no direct or indirect financial effect on small businesses, either adverse or beneficial.

3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

- (a) Both adverse and beneficial effects; and**
- (b) Both direct and indirect effects.**

ANSWER: The Division anticipates no adverse or beneficial effects, either direct or indirect, on small businesses as the result of the adoption of this regulation.

4. Describe 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 those methods.

CARSON CITY
400 West King Street
Suite 400
Carson City, NV 89703
(775) 684-7270

LAS VEGAS
3360 West Sahara Avenue
Suite 250
Las Vegas, NV 89102
(702) 486-9080

ANSWER: Because there will be no impact on small businesses in general, there are no methods available to reduce the impact the Division could have considered.

5. The estimated cost to the agency for enforcement of the proposed regulation.

ANSWER: There is no additional cost to the agency for enforcement of this regulation.

6. If the proposed 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.

ANSWER: The proposed regulation does not provide for a new fee or increase an existing fee payable to the Division.

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

ANSWER: The proposed regulation does not include any provisions which duplicate or are more stringent than existing federal, state, or local standards.

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

ANSWER: The Division complied with NRS 233B.0608 by considering the purpose and scope of the proposed amendments. The proposed regulations; authorize any qualified Division staff to inspect elevators, boilers and pressure vessels at mine sites; clarify NRS 512.160 regarding opening and closing mine operations; amend the definition of "Operators" in NAC 512.100; and update contact information, among other matters. The Division made a concerted effort to determine whether the proposed regulations impose a direct or significant economic burden upon small businesses, or directly restricts the formation, operation, or expansion of a small business. The Division determined that these regulations will have no effect on small businesses and will not restrict the formation, operation or expansion of small businesses.

I, VICTORIA CARREON, Administrator of the Division of Industrial Relations, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement was prepared properly and is accurate.

DATED this 18th day of October, 2020.


VICTORIA CARREON, Administrator