



**JOE LOMBARDO**  
Governor

STATE OF NEVADA  
COMMISSION ON MINERAL RESOURCES  
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**MICHAEL VISHER**  
Administrator

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Monday April 17, 2023

10:00 A.M.

**MINUTES**

Commissioners	Staff	Public
Josh Nordquist via Zoom	Mike Visher	Jake Ward-Herzik
Mary Korpi via Zoom	Rob Ghiglieri	Paul Conrad
Art Henderson via Zoom	Rebecca Tims	Sheldon Byde
Bob Felder via Zoom	Anthony Walsh, DAG	Dana Bennett
Nigel Bain via Zoom	Dustin Holcomb	Ben Serrurier
Randy Griffin via Zoom		
Stephanie Hallinan via Zoom		

**CALL TO ORDER**

10:02 AM

**ROLL CALL**

All Commissioners present.

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

There were no public comments.

**I. AGENDA**

A. **Approval of the Agenda**

**Motion to approve with no changes made by: Mary Korpi**

**Seconded by: Randy Griffin**

**Unanimously approved.**

**II. MINUTES**

A. **Approval of the February 1, 2023, meeting minutes**

**Motion to approve the February 1, 2023, minutes made by: Stephanie Hallinan**

**Seconded by: Mary Korpi**

**Unanimously approved.**

III. NEW BUSINESS

A. Executive Order 2023-003

Administrator Visher summarized Governor Lombardo's Executive Order 2023-003 for agencies to review regulations for streamlining or reductions. The second part of the executive order is for the removal of not less than 10 recommendations recommended for removal. Administrator Visher stated that the regulations have been updated in the last eight years and that it might be difficult to come up with 10 regulations for elimination. The report is due May 1<sup>st</sup> and a list of regulation changes needs to be provided in a prioritized order. This is the preliminary step in the rulemaking process. Administrator Visher stated that this is an initial review of the regulations, and if or when we move forward there will be workshops. There is nothing set in stone today and there are opportunities to make additional changes to the regulations. If there are any changes, the entire chapter will be opened. This is an initial review of the regulations.

**Nigel Bain:** Is it only regulations or costs that we see from different organizations?

**Mike Visher:** No, it's just the regulations themselves. We can't start rulemaking until the end of the session. With regards to revenue received, yes, there are opportunities unless we are at a statutory cap. The Legislative cap is \$10 per claim filing and there is no way to change that via regulation.

**Mike Visher:** Chapter 513 Page 3 section 513110 for regulation language that is proposed for removal should be highlighted in red in brackets. Administrator Visher stated section 513.110 is unnecessary and it's hard to police. This is a notice in writing from the mines. Mine Safety and Training already collects this information. Information is provided on an annual basis and Administrator Visher thinks this is sufficient. Administrator Visher stated that we get very little response on these. Administrator Visher stated this requirement is not necessary and that it's been there since 1988 and there has never been a change.

**Arthur Henderson:** If we have workshops for different regulations, will it be one workshop or separate workshops for each section?

**Mike Visher:** One workshop for each chapter of regulation change, workshops can be concurrent.

**Arthur Henderson:** The reason for this question is after reviewing these regulations, yes some of them could be removed, but as a Commission we need to evaluate whether these workshops are worthwhile use of Commission and Division time.

**Mike Visher:** Absolutely, that's a good point. This process is queuing things up for the next step. It does not require that you move forward on any of these suggested changes. We are to provide a list of the regulations for changes.

**Art:** During our evaluation, we struggled to identify these regulations recommended for change, we need to consider that as we move forward, is this a beneficial use of the Division's time to remove these regulations.

**Nigel Bain:** Does staff think they get a free flow of information from Mine Safety and Training?

**Mike Visher:** Yes and no. Right now, they are actively recruiting for an Administrator of Mine Safety and Training. They do have a database and provide us the information when requested.

**Randy Griffin:** Have some things noted for clarification or elimination, did any of these get listed when Governor Sandoval was in office and were they turned down?

**Mike Visher:** No, when Governor Sandoval put a hold on rulemaking, it was to request all the agencies to review their regulations but there was no priority list. The reporting requirements in Governor Lombardo's order is new. There have not been many changes in Chapter 513. The area that gets the most interaction is regarding the AML program.

**Mike Visher:** Any questions from the public?

There were no public questions.

**Mike Visher:** Next one is in Chapter 519A, the reclamation bond pool. In Section 519A.570 there is a requirement for someone applying for a plan to provide information regarding the company including their assets and liabilities. The requirement in Sub C Sub 5 says that it requires a certified public accountant to review it, which can be a bit burdensome. Allowing for a signed and notarized affidavit to satisfy the requirements of 3. This could be a potential risk due to a company providing false information, but that is the point of having the affidavit. Under NAC 519A we have the Bad Actors language under NDEP that disallows someone to get a reclamation permit that has walked on a prior obligation. I feel this is one way to reduce the burden and satisfy the requirements to streamline the requirements. We do not get a lot of requests for plan level bonds. How many active plan-level bonds do we have right now?

**Rob Ghiglieri:** Six.

**Mike Visher:** When was the last time we got an application for one?

**Rob Ghiglieri:** Last year, and we've had one inquiry since.

**Mike Visher:** Bonds should be whole after five years has passed and then there is no liability to the state; during the first five years there is a decrease in liability to the State. The higher the bond amount, the more the company must provide upfront. Bond pool is still quite healthy, we have over a million dollars in excess funding capacity. I feel the affidavit is sufficient, rather than having to pay a CPA to review the financial statements might be burdensome.

**Bob Felder and Mike Visher:** Held a discussion in the differences between publicly traded companies and private companies. There are differences in the disclosures of their annual reports for publicly traded companies and most of their financial information is already online. The use of the affidavit would only be applicable for publicly traded companies and more due diligence would be required on privately traded companies. The proposed change would impact fewer overall companies if the allowance of the affidavit was for publicly traded companies only.

**Stephanie Hallinan:** Is there an opportunity to retain the change under C5 but propose to remove the number 4 A and portions of B?

**Mike Visher:** Yeah. Whatever changes we make we are not held to; these are just proposals. We will revisit these changes and it will need to go to the Legislative Counsel Bureau for legal review before we do the workshop.

**Mike Visher:** Any questions from the public?

There were no questions.

**Mike Visher:** Oil and gas Chapter 522, section 522.232. The proposed change is to eliminate number 5, which is the notification to the Division of the use of any casing or casing material previously used in the hydraulic fracturing operation in another well.

**Arthur Henderson:** There is no restriction to use casing within the regulations and this is just a notification from them to use casing. Since there is no restriction there is no need for a notification.

**Mike Visher:** Casing needs to meet the minimum specs in number 4. Feels this is redundant and not necessary.

**Arthur Henderson:** Again, this was a search to meet the executive order, but I don't recommend that we go through rulemaking just to remove this item.

**Mike Visher:** Any questions for the proposed deletion of number 5?

There were no questions from the commissioners.

**Mike Visher:** Any comments from the public for the proposed deletion of number 5?

There were no public comments.

**Mike Visher:** On the same page and further down the NDEP web link for the reporting of spills has changed. This is an update to remove the link and provide the current link for reporting of spills to the website. Any discussion on this update?

No public comments

**Mike Visher:** Section 522.345 number 1 is proposed for removal. Art, do you want to provide an overview of why?

**Arthur Henderson:** NAC 522.345 lists only 5 different ways that gas from an oil well may be used. I feel this is restrictive. We should not limit these to 5, because at any time gas may be used for different uses, and if we use number 2, to make sure no gas is wasted.

**Josh Nordquist:** I want to clarify the removal of the language saying that no gas shall escape unless approved by the Division.

**Arthur Henderson:** Correct

**Mike Visher:** Any other questions from the Commission on the deletion of this language?

There were no other questions from the Commission.

**Mike Visher:** Are there any comments or questions from the public regarding the proposed deletion of this language?

There was no public comment.

**Mike Visher:** Chapter 534A, section 534A.205 speaks to the requirement for the location of an individual well to be surveyed by a licensed surveyor. Administrator Visher stated that with the advent of GPS and the accuracy that we have now and that the wells are being inspected, he feels this language is no longer necessary. It would be a cost savings to the operator. This information is already provided in the completion report as to the location of the well. Any comments or concerns?

**Josh Nordquist:** The certified plat must be filed with the Division within 30 days after the completion of the construction of the well. It is just a notification at that point. The location of the well before it is created, also has to be submitted?

**Mike Visher:** It's already part of the application process, information is already received before they drill. Certified plat is not necessary. Any questions from the public regarding the proposed deletion of this section?

There were no public comments.

**Mike Visher:** Section 534A.310 recommendation is to lengthen the time from 30 days to 90 days. As a result of increased use of core on geothermal drilling and the time it takes to process the core internally.

**Arthur Henderson:** 30 or 90 days after the well is completed. When do you consider it completed?

**Mike Visher:** The well is completed when the rig is released.

**Mike Visher:** Any other comments or questions from the Commission?

There were no comments or questions from the Commission.

**Mike Visher:** Any other comments or questions from the public?

There were no comments or questions from the public.

**Mike Visher:** Chapter 534B, section 534B.100, this is one that we recognized as the most important and most impactful for the lithium brine explorers, is the requirement to have a licensed water well driller at the rig at all times when the rig is in operation, when in reality, what we really want is to have them there anytime the well is being drilled, constructed, or plugged. There are often times when the water is being sampled, pumping the water, and there is no change to the characteristics of the well. Having that additional cost of a water well driller when the water is just being sampled is burdensome. There is no new language to add. Questions or comments from the Commission?

**Josh Nordquist:** Water well drillers, is that defined as licensed?

**Mike Visher:** Yes, that is a challenge for some of the operators when there is a push to find a licensed water well driller to be at the site at all times. It is logistically and financially challenging. Are there any questions from the Commission?

There were no questions from the Commission.

**Mike Visher:** Any questions from the public?

There were no questions from the public.

**Mike Visher:** Section 534B.125, the requirements for plugging of the boreholes. Oftentimes it isn't always possible to remove the casing. Sometimes you can't get it out of the ground. Requesting to eliminate this requirement. It doesn't change how the well is plugged. This will provide some flexibility by eliminating this requirement.

Any questions from the Commission on this language?

There were no questions from the Commission.

**Mike Visher:** Any questions from the public?

There were no questions from the public.

**Arthur Henderson:** Do we have the date of the last changes that were made to the NACs?

**Mike Visher:** The changes are listed at the bottom of the section. I would like to thank former Administrator Perry for visiting every chapter and updating the regulations. We have been very good at reviewing our regulations every ten years. And that is the challenge we are in with this executive order.

**Arthur Henderson:** I think it's important that we comply with the executive order, but now it's up to them to decide if we need to continue with rulemaking.

**Mike Visher:** Regulations need to be ranked in order of priority. It's part of the process of the review. I am happy to hear the discussion of the top priorities of the regulations that are being proposed. What are the ones that are the highest priority from the Commission?

**Josh Nordquist:** I would refer back to the order that the focus is not to impede economic development and to focus on things that have a cost impact.

**Mike Visher:** Absolutely. The ones that are for removal, we do have to rank them in descending order of priority.

**Arthur Henderson:** I give tremendous accolades to the Division for their due diligence to the Governor's order, but due to the extreme effort to find regulations that could be removed, and our history of keeping our regulations current, I suggest we give this list to the Governor to show compliance but recommend to not make changes at this time to better use the resources of the Division.

**Randy Griffin:** Could you describe what it takes to go through rulemaking?

**Mike Visher:** It's a process. Rulemaking is governed by a process to make sure the public is able to provide comment in a public setting and for the agency to engage with the stakeholders. It does create an increase in staff workload to manage the rulemaking process. He stated the two proposed changes in NAC 534B would have the most impact and the industry would likely be supportive of these changes.

**Arthur Henderson:** For clarification, once an NAC is open and you go to a workshop, everything is fair game, correct?

**Mike Visher:** That is true, but it still must meet the requirements and intent of the NRS.

**Arthur Henderson:** Today is the public and stakeholder's meeting to propose what they would like to see changed?

**Mike Visher:** Yes, in regard to the executive order. We are soliciting feedback from interested parties, the public and stakeholders. We are not held to any outcome of this meeting besides the requirement that the report is due May 1<sup>st</sup>.

**Josh Nordquist:** Agrees with the importance of NAC 534B but would like the outcome to also echo Art's comments on not recommending pursuing the changes. Part of the order is we need to provide a list, and we need to send a reminder of the resources that it takes to proceed with rulemaking.

**Mike Visher:** I think we could do that. There are a couple that we would like to remove, and the remainder are prioritized as stated in the executive order. We would prefer not to move forward making those changes at this time.

**Mary Korpi:** I agree with going in that direction. We look to Art for the oil and gas and to the Chairman on the geothermal and the input on how important the changes would have an impact to the staff at the Division.

**Anthony Walsh:** I'm absolutely fine with this proposed procedure.

**Arthur Henderson:** Could we have Tier 1 be NAC 534B and Tier 2 would be the rest?

**Mike Visher:** Yes, we could do something like that.

**Nigel Bain:** To go along with Commissioner Henderson's statement with the previous work history of Administrator Perry who worked as a regulator and while in industry subservient to the rules, he had a good understanding of both sides of the issue. He had focused on making the rules the NDOM had as effective and efficient as possible.

**Mike Visher:** Propose to prioritize 1. 534B.100, 2. 534B.125, 3. 534A.205, 4. 522.345, 5. 522.232, 6. 513.110, 7. 519A.570, 8. NAC534A.310, and 9. NAC522.232.

**Stephanie Hallinan:** Agreed with the ranking.

**Nigel Bain:** Agreed with the proposal.

**Josh Nordquist:** Do we need a motion?

**Mary Korpi:** Wants the motion to include Art's previous statement with the list.

**Anthony Walsh:** Generally, make a motion to approve the report as written or modified to send to the Governor's office.

**Josh Nordquist:** Motion to the Division to provide the report to the Governor's office per the executive order a prioritized list of regulation changes reviewed today and attach a statement from the Division stating the regulations were reviewed and updated within the last 10 years, and that the rulemaking process is not advised due to the understanding of the amount of work and resources required to make these changes.

**Seconded by:** Arthur Henderson  
**Unanimously approved.**

**COMMENTS BY THE GENERAL PUBLIC**

There were no public comments.

**ADJOURNMENT**

**11:22am**