

Nevada Division of Environmental Protection (NDEP)

Summary Overview of Assembly Bill 40

February 28, 2025

Purpose: The intent of AB 40 is largely two-fold: (1) protect both the natural resources and financial resources of the State; and (2) ensure clear and transparent scope of NDEP authority for solid and hazardous waste management. Key provisions are summarized herein.

NRS 519A – Reclamation of Land Subject to Mining Operations (Sections 1-20)

- Section 10: Provides NDEP with authority to issue an order to temporarily suspend a reclamation permit when the permittee lacks capacity to manage mining process fluids in compliance with the law, and when the situation poses an imminent threat to human health, safety, or the environment. It includes provisions for an appeal process, reinstatement conditions for the permit, and reimbursement of State expenses if NDEP must intervene. The Amendment allows for partial permit suspension and clarifies reinstatement provisions.
- Section 11: The mining industry has a robust program for setting financial assurance (e.g. bonds) for mine reclamation. This key provision strengthens NDEP’s ability to recover costs when addressing imminent threats, or when a permittee’s financial assurance is deficient for the amount required to reclaim a site by authorizing NDEP to file a lien on the permit holder’s personal and real property at a facility. This ensures the state can secure debts when financial assurance is deficient or when NDEP has expended funds and the State needs to secure those debts against assets of the permittee. The language is modeled after existing Nevada law and similar statutes in five other western states. The Amendment narrows the original lien triggers, refines the scope of provisions, and clarifies the processes and procedures for imposing and releasing a lien.
- Section 18: This section clarifies and memorializes the State’s authority to review a mining Plan of Operations processed by a federal agency. The Plan of Operations provides the mine’s plan and establishes required financial assurance for the project. NDEP seeks to have a clearer role to ensure State input is actively part of the plan of operations and reclamation cost estimate review process. The Amendment consolidates two prior subsections related to mining projects located in whole or in part on federal land and refines process expectations for NDEP’s role within the federal procedure while respecting federal authority.

NRS 444 – Sanitation – Collection and Disposal of Solid Waste (Sec’s 21-32.5)

The language in solid waste (NRS 444) and hazardous waste (NRS 459) aims to shift the focus from waste disposal to comprehensive waste management as new industry sectors emerge in Nevada’s growing economy. NDEP is also working to apply lessons from Nevada’s history and proactively develop tools to prevent adverse environmental and financial impacts from unsuccessful business ventures.

- Section 22: This new definition for a Solid Waste Management Facility became the focus of broader updates to NRS 444. The Amendment clarifies how waste is managed under

current law and enhances transparency for industry. The original 1971 laws focused on disposal of waste, but with the growing complexity of types of facilities that manage, dispose of, or recycle waste, NDEP will develop regulations through the State Environmental Commission to address management activities that could present hazards if improperly managed.

- Section 24 & 25: These sections establish financial assurance requirements for solid waste management facilities (Sec.24) and grant NDEP authority to file a lien (Sec.25) on personal and real property of an owner or operator of such facility when NDEP must act and expend funds to protect public health, safety, or the environment. In the Amendment, Section 24 remains unchanged, while Section 25 aligns with those referred to in Section 11.
- Section 28: This section explicitly prohibits hazardous waste from being disposed at a municipal solid waste landfills by a “very small quantity generator.” The Amendment restores some original language changed by the Legislative Council Bureau and simplifies the prohibitory language.

NRS 459 – Hazardous Materials – Disposal of Hazardous Waste (Sec’s 33-55)

Hazardous waste is a subset of solid waste, so broader themes discussed above continue in this sector.

- Section 34: This section defines “recycling” of hazardous waste and incorporates that change into the definition of Management of Hazardous Waste in Section 39. The Amendment refines the definition of “recycling” as well as other definitions to align with the same theme of “management” of waste.
- Section 35: This section establishes lien provisions for hazardous waste facilities, similar to those described for mining (Sec.11) solid waste (Sec.25). The Amendment includes language similar to Sections 11 and 25.
- The Amendments throughout NRS 459 shift from simply adding the concept of “recycling” (the language as introduced) to a broader concept of “management,” ensuring Nevada can responsibly adjust to new and emerging waste processes and technologies. This approach maintains transparency and accountability through adoption of regulations for each unique waste management sector.