

Enforcing Nevada's Environmental Laws

Bad things can happen legally for any mining company that is found to be violating the conditions of their Water Pollution Control Permit or the state's strict environmental laws. The State of Nevada has numerous environmental statutes and regulations that must be followed by all mine operators. Requirements in Water Pollution Control Permits and Reclamation Permits are also binding. Compliance is determined during site inspections performed by the Division, usually quarterly, and by the review of quarterly monitoring reports submitted by the operator.

While most mining companies in Nevada operate in a responsible and conscientious manner, incidents do occur on occasion. These can range from a small accidental release of a chemical to a major spill or a gross permit violation. Regardless of the incident, an investigation is conducted by the mine operator and the Division. Any operator that is found to be operating negligently or unlawfully will be held accountable and will be required to correct the violation and mitigate any environmental impacts. As a case in point, Nevada mine operators are required to clean up all chemical spills to the environment. Except for the smallest spills, the Division oversees the cleanup and requires analyses to confirm that the contaminated soil or water has been cleaned up to approved concentrations.

The Division follows a progressive enforcement policy. If the violation is minor and isolated, the Division will work with the operator to correct the problem informally. However, if the violation is severe or if there is a history of non-compliance, the Division may issue a formal enforcement action called a "Finding of Alleged Violation and Order" (FOAV). The "Finding" part outlines the regulations and Permit requirements and the evidence that a violation has occurred. The "Order" is a set of actions the violator must perform by specified dates to bring the facility back into regulatory compliance.

The enforcement action will include a "Show Cause" meeting wherein the violator is given the opportunity to come to the Division offices to tell their side of the story; this is followed by a "Penalty Panel." The Penalty Panel is made up of four Division bureau chiefs who review the case and decide on a settlement offer in lieu of a court action. The dollar amount of the settlement offer is based on the severity of the violation(s) and other factors.

The operator may wish to conduct a Supplemental Environmental Project (SEP) instead of paying a fine. Any SEP proposal must be estimated to cost at least 125% of the settlement offer. For example, if a settlement offer is for \$10,000, then the SEP estimate must be for a minimum of \$12,500. An SEP may be any project that is not connected to the violation, nor benefits the violator. It can be for any number of different projects that benefit wildlife or the environment. Please see the Division's SEP page at [NDEP Supplemental Environmental Projects](#) for more information.

Payment of the settlement offer does not eliminate the operator's responsibility to remediate any remaining environmental impacts. Once the non-compliance is fully addressed by the operator, the FOAV is closed. If the violator does not respond to the Order, he or she is referred to the Nevada State Attorney General for court action including maximum penalties (\$25,000 per violation per day). However, most mining companies do not progress to this step, but instead elect to clean up the environmental impacts with Division oversight and pay the settlement offer or complete an SEP project.