



NOTICE OF INTENT TO ACT UPON REGULATIONS
Notice of hearing for the Regulations of the
Division of Museums and History and the Nevada State Museum

The Division of Museums and History (DMH) and the Nevada State Museum (NSM) will hold a public hearing at 10:00 AM on March 14, 2022, by video conference. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapter 381 of the Nevada Administrative Code (LCB File LCB File No. R061-19 & No. R116-19).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. These regulations (LCB File No. R061-19) are necessary because they provide a process for NSM, in consultation with the closest affiliated tribe(s), to permit excavations of Known Native American Burial sites on private land in the State of Nevada. The regulations (LCB File No. R116-19) also provide all agencies within the DMH, a process for the repatriation of Native American human remains or other NAGPRA related cultural items, defined in 25 U.S.C. § 3001(3)(D), which are deemed abandoned property.
2. These regulations do not have an adverse or immediate or long-term direct effect on any business or the public. Although there may be a beneficial effect on Cultural Resources Management companies or individuals hired to excavate known burial sites.
3. The methods used to determine the effects on small businesses was to solicit comments on the proposed regulations by; holding three public workshops (December 13, 2018, January 24, 2019, and May 23, 2019); posting notices, with links to full text of proposed regulations, on the LCB administrative Regulations Notices webpage; full text of regulations was sent to all agencies under the Division of Museums and History, to all tribal headquarters in the State of Nevada, all Nevada Antiquities Permit holders, and other stakeholders who expressed interest in these regulations. Following these workshops suggested changes were made, resulting in several drafts of the proposed regulations.
4. Enforcement of these regulations will not result in an increased cost to the DMH or NSM.
5. These regulations overlap and duplicate the regulations of other State or local agencies. This duplication is necessary because both federal and state laws do not include a process for the excavation and consultation process for known Native American burial sites on private land, or a repatriation process for human remains and cultural items deemed abandoned property.
6. These regulations do not establish any new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the DMH and NSM may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form to the DMH, 412 East Musser Street, Suite 2, Carson City 89701, or NSM, 600 N. Carson Street, Carson City 89701, Attention: Myron Freedman and Anna Camp. Written submission must be received by DMH or NSM on or before March 1, 2022. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the DMH and NSM may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted and amended will be on file at the DMH and NSM, 412 East Musser Street, Suite 2 and 600 N. Carson Street, Carson City, Nevada, and posted on the DMH and NSM websites for inspection by members of the public. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233.0653, and on the internet at <http://www.eg.state.nv.us>. Copies of the notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption and amendment, or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Carson City

Legislative Council Bureau, 401 South Carson Street
Nevada State Library & Archives Building, 100 North Stewart Street

Websites

Legislative Council Bureau website: www.leg.state.nv.us
Division of Museums and History: <https://nvmuseums.org/>
Nevada State Museum, Carson City: <https://www.carsonnmuseum.org/>



NOTICE OF PUBLIC HEARING

Public Hearing Agenda

March 14, 2022

The Administrator of the Division of Museums and History (DMH) and Acting Director of the Nevada State Museum (NSM) will conduct a Public Hearing to adopt regulations to be added to NAC Chapter 381 on Monday, March 14, 2022, at 10:00 A.M. via videoconferencing at the following location:

Join Zoom Meeting

<https://us06web.zoom.us/j/82607720205>

Meeting ID: 826 0772 0205

One tap mobile

+12532158782,,82607720205# US (Tacoma)

+13462487799,,82607720205# US (Houston)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

Meeting ID: 826 0772 0205

Find your local number: <https://us06web.zoom.us/j/82607720205>

1. Call to Order/Introduction
2. Public Comment on proposed regulations LCB File No. R061-19 and No. R116-19
3. For possible action: Adoption of LCB File No. R061-19
4. For possible action: Adoption of LCB File No. R116-19
5. Public Comment on proposed regulations LCB File No. R061-19 and No. R116-19
6. Adjournment (For Possible Action)

People who wish to comment upon the proposed action of the DMH & NSM may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to Anna Camp, by phone at 775-687-4810 x 261, by e-mail at acamp@nevadaculture.org, or at the Nevada State Museum, 600 North Carson Street, Carson City, Nevada. Written submissions must be received by DMH or NSM by March 1, 2022. If no person who directly affected by the

proposed action appears to request time to make an oral presentation, the DMH & NSM may proceed immediately to act upon any written submissions

In accordance with NRS Chapter 241, this meeting Notice was posted at the following locations:

Carson City

Legislative Council Bureau, 401 South Carson Street

Nevada State Library & Archives Building, 100 North Stewart Street

Websites

Legislative Council Bureau website: www.leg.state.nv.us

Division of Museums and History: <https://nvmuseums.org/>

Nevada State Museum, Carson City: <https://www.carsonnmuseum.org/>

**SECOND REVISED PROPOSED REGULATION OF THE
MUSEUM DIRECTOR OF THE
NEVADA STATE MUSEUM**

LCB File No. R061-19

October 9, 2021

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

AUTHORITY: §§ 1-11 and 14, NRS 381.0069; § 12, NRS 381.0069, 381.207 and 381.223; §§ 13 and 23, NRS 381.196 and 381.203; §§ 15-22, NRS 381.196; § 25, NRS 381.203.

A REGULATION relating to historic preservation; requiring the Museum Director of the Nevada State Museum to provide notice to and consult with certain Indian tribes in certain situations; requiring the Museum Director to seek to ensure that the values, beliefs and traditions of Indian tribes are fully considered and incorporated when consulting with each applicable Indian tribe and when repatriating prehistoric native Indian human remains or funerary objects; authorizing the Museum Director to issue a permit to excavate a prehistoric Indian burial site on private land if certain conditions are satisfied; requiring the Museum Director to submit certain information to certain Indian tribes and to the Office of Historic Preservation of the State Department of Conservation and Natural Resources in certain situations; providing the notice and consultation requirements for a permit to excavate a prehistoric Indian burial site on private land; providing the process for obtaining and renewing a permit to excavate a prehistoric Indian burial site on private land, including the qualifications an applicant must satisfy for a permit to excavate a prehistoric Indian burial site on private land; providing terms and conditions that apply to such permits; providing for the enforcement of provisions relating to a permit to excavate a prehistoric Indian burial site on private land; providing certain requirements for the issuance or renewal of a permit to investigate, explore or excavate historic or prehistoric sites on federal or state land; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Museum Director of the Nevada State Museum to adopt regulations as necessary to carry out certain provisions relating to the required notice to and consultation with certain Indian tribes culturally affiliated with particular artifacts or sites, the repatriation of certain artifacts to an Indian tribe and the preservation of prehistoric and historic sites, including prehistoric Indian burial sites. (NRS 381.0069)

Existing law provides that if articles, implements or materials found or discovered during the investigation, exploration or excavation of a historic or prehistoric site on federal or state lands or any object of antiquity or collection taken from a historic or prehistoric site on federal or state lands without a permit is prehistoric native Indian human remains or funerary objects, such remains or objects must

be repatriated to the closest culturally affiliated Indian tribe. Before repatriating such remains or objects, notice and consultation with each applicable Indian tribe must occur. (NRS 381.207, 381.223) **Section 12** of this regulation requires the Museum Director or his or her designee to: (1) provide notice to and consult with each applicable Indian tribe; and (2) seek to ensure that the values, beliefs and traditions of the applicable Indian tribe are fully considered and incorporated in the consultation and repatriation process.

Existing law requires a person to obtain a permit issued by the Museum Director before he or she excavates a site on private lands within this State that the person knows is a prehistoric Indian burial site. (NRS 381.196) **Section 13** of this regulation provides that the Museum Director may issue a Nevada Indian Burial Site Permit for excavations on sites that are located on private lands within this State.

Existing law requires the Office of Historic Preservation of the State Department of Conservation and Natural Resources to compile and maintain an inventory of any objects, sites or information of historic, prehistoric, archeological, architectural or paleontological significance in Nevada that are deemed significant by the Administrator of the Office. (NRS 383.021) **Section 14** of this regulation requires the Museum Director or his or her designee to submit information concerning a prehistoric Indian burial site to the closest culturally affiliated Indian tribe and to the Office for the Office's consideration to include the site in the inventory if the prehistoric Indian burial site is not recorded in the inventory.

Existing law requires the Museum Director to adopt regulations governing a permit issued for the excavation of a site on private lands within this State that the person knows is a prehistoric Indian burial site. Such regulations must require notice and consultation with the applicable Indian tribes throughout the permitting process. (NRS 381.0066, 381.196) Upon receiving an application for a Nevada Indian Burial Site Permit, when renewing the Nevada Indian Burial Site Permit and throughout the process of obtaining and renewing the Nevada Indian Burial Site Permit, **section 15** of this regulation requires: (1) such notice and consultation to occur; and (2) the Museum Director to seek to ensure that the values, beliefs and traditions of the applicable Indian tribes are fully considered and incorporated in the permitting process. **Section 15** requires such notice and consultation to occur even if the applicable Indian tribes are located in a neighboring state or have ancestral land located in a neighboring state. **Section 15** provides that such consultation may vary based on the Indian tribe and the preferences of the Indian tribe and further authorizes an authorized tribal representative to act on behalf of the Indian tribe and the Museum Director to act on behalf of this State. **Section 15** provides that the authorized tribal representative is: (1) the Tribal Historic Preservation Officer of the Indian tribe; or (2) if there is no Tribal Historic Preservation Officer or if the Tribal Historic Preservation Officer is unavailable to act as such a representative, then a person who is authorized by the Indian tribe to act as such a representative and who is identified as the authorized tribal representative by the Museum Director. **Section 15** further: (1) prohibits the Museum Director from construing an applicable Indian tribe's failure to respond to such notice as consent to the issuance or renewal of the Nevada Indian Burial Site Permit; and (2) clarifies that such a failure to respond does not require the Museum Director to issue or renew the Nevada Indian Burial Site Permit.

Existing law also requires the regulations which govern the excavation of a site on private land within this State that the person knows is a prehistoric Indian burial site to: (1) set forth the process for obtaining and renewing a permit; (2) set forth the qualifications of an applicant for such a permit; (3) provide for the enforcement of the provisions relating to such a permit; and (4) fully protect the constitutional rights of property owners. (NRS 381.196) **Section 16** of this regulation authorizes the Museum Director to issue a Nevada Indian Burial Site Permit to a person who: (1) submits an application

on the form provided by the Museum Director; (2) possesses sufficient knowledge and scientific training to excavate a prehistoric Indian burial site; and (3) possesses an approved archaeological treatment plan for the proposed excavation of the prehistoric Indian burial site. **Section 16** prohibits a Nevada Indian Burial Site Permit from being issued unless the owner of the private land on which the prehistoric Indian burial site is located consents to the excavation. **Section 17** of this regulation provides certain terms and conditions that apply to: (1) the person who holds the Nevada Indian Burial Site Permit; (2) the authorized tribal representative; and (3) the applicable Indian tribe. **Section 18** of this regulation authorizes the Museum Director to impose additional terms and conditions that are adopted by the applicable Indian tribe if the excavation of the prehistoric Indian burial site involves the excavation of native Indian human remains or other cultural item of the applicable Indian tribe. **Section 19** of this regulation provides that a Nevada Indian Burial Site Permit may not be issued for a period of more than 1 year. **Section 19** authorizes a Nevada Indian Burial Site Permit to be renewed after the Museum Director or his or her designee consults with the applicable Indian tribe. **Section 20** of this regulation provides that a Nevada Indian Burial Site Permit must be voided if the permit holder fails to begin work under the Nevada Indian Burial Site Permit within 6 months after the effective date of the permit. **Section 21** of this regulation requires the Museum Director or his or her designee to report an excavation to certain entities and authorities if the Museum Director or his or her designee receives evidence that a person is excavating a prehistoric Indian burial site without having obtained a Nevada Indian Burial Site Permit so that an investigation or enforcement action may be initiated. **Section 22** of this regulation authorizes the owner of the private land on which the prehistoric Indian burial site is located or the applicant, if different than the owner of the private land, to appeal the denial of a Nevada Indian Burial Site Permit. **Section 22** additionally authorizes an applicable Indian tribe to appeal the issuance or denial of a Nevada Indian Burial Site Permit. **Section 23** of this regulation sets forth the procedure for notice and hearing with which the Museum Director must comply if the Museum Director or his or her designee has evidence that a permit holder has failed to comply with the terms and conditions set forth in **section 17** or in applicable existing law. **Section 23** authorizes the Museum Director to recover from such a permit holder reasonable attorney's fees and costs that were incurred by the Museum Director or the Division of Museums and History as part of the notice and hearing process.

Existing law requires a person to hold a valid and current permit before investigating, exploring or excavating a historic or prehistoric site on federal or state lands. (NRS 381.197)**Section 24** of this regulation provides that the Museum Director may issue a Nevada Antiquities Permit for investigations, explorations or excavations on sites that are located on federal or state lands.

Existing law authorizes the Museum Director to prescribe reasonable regulations for carrying out the investigation, exploration or excavation of a historic or prehistoric site on federal or state land. (NRS 381.203) **Sections 8 and 25** of this regulation require an applicant for a Nevada Antiquities Permit to investigate, explore or excavate a historic or prehistoric site on federal or state lands to submit an application on the form provided by the Museum Director and include a copy of the curriculum vitae for each principal investigator and each field director. **Section 25** provides the requirements with which a potential principal investigator or field director must comply to be designated as a principal investigator or field director. **Section 25** requires an applicant for the renewal of a Nevada Antiquities Permit to submit a new application on the form provided by the Museum Director and include an updated copy of the curriculum vitae for the principal investigator and field director. **Section 25** requires the Museum Director or his or her designee to complete his or her review of an application for such a permit within 30 days after receiving the completed application.

Section 1. Chapter 381 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 25, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Authorized tribal representative” means:*

- 1.** *The Tribal Historic Preservation Officer, if applicable; or*
- 2.** *If there is no Tribal Historic Preservation Officer or if the Tribal Historic Preservation Officer is unavailable to serve as the authorized tribal representative, a person who is:*
 - (a)** *Authorized by the government of the Indian tribe to engage in consultation with the Museum Director; and*
 - (b)** *Identified by the Museum Director or his or her designee pursuant to subsection 6 of section 15 of this regulation.*

Sec. 4. **1.** *Except as otherwise provided in section 11 of LCB File No. R116-19, “cultural item” means human remains, associated funerary objects, unassociated funerary objects, sacred objects or objects of cultural patrimony.*

2. *As used in this section:*

- (a)** *“Associated funerary objects” has the meaning ascribed to it in 25 U.S.C. § 3001(3)(A).*
- (b)** *“Cultural patrimony” has the meaning ascribed to it in 25 U.S.C. § 3001(3)(D).*
- (c)** *“Sacred objects” has the meaning ascribed to it in 25 U.S.C. § 3001(3)(C).*
- (d)** *“Unassociated funerary objects” has the meaning ascribed to it in 25 U.S.C. § 3001(3)(B).*

Sec. 5. *“Destructive analysis” means an analysis performed using scientific or technological techniques to evaluate the properties of a material, component or system that may cause damage to the material, component or system. Such analysis includes, without limitation, a test that uses deoxyribonucleic acid extracted from the cells of a person.*

Sec. 6. *“Indian tribe” has the meaning ascribed to it in NRS 383.011.*

Sec. 7. *“Museum Director” has the meaning ascribed to it in NRS 381.195.*

Sec. 8. *“Nevada Antiquities Permit” means the permit required pursuant to NRS 381.197 to investigate, explore or excavate a historic or prehistoric site on federal or state lands or remove any object therefrom.*

Sec. 9. “Nevada Indian Burial Site Permit” means the permit required pursuant to NRS 381.196 to excavate a prehistoric Indian burial site on private lands located within this State.

Sec. 10. “Tribal Historic Preservation Officer” means the tribal preservation official who is designated by the Indian tribe pursuant to the National Historic Preservation Act, 54 U.S.C. §§ 300101 et seq., to work on issues related to the historic preservation of items or sites relating to the Indian tribe, including, without limitation, prehistoric Indian burial sites.

Sec. 11. “Values, beliefs and traditions of the applicable Indian tribe” means the values, beliefs and traditions of the applicable Indian tribe, as defined by the applicable Indian tribe.

Sec. 12. 1. For the purpose of establishing a repatriation process to carry out the provisions of paragraph (c) of subsection 4 of NRS 381.207, if any of the articles, implements or materials found or discovered during the work described in NRS 381.207 are prehistoric native Indian human remains or funerary objects, the Museum Director or his or her designee will:

(a) Provide notice to and consult with each applicable Indian tribe as required pursuant to NRS 381.207; and

(b) Seek to ensure that the values, beliefs and traditions of the applicable Indian tribe are fully considered and incorporated in the consultation and repatriation process.

2. For the purpose of establishing a repatriation process to carry out the provisions of paragraph (c) of subsection 2 of NRS 381.223, if any object of antiquity or collection seized pursuant to NRS 381.223 is prehistoric native Indian human remains or a funerary object, the Museum Director or his or her designee will:

(a) Provide notice to and consultation with each applicable Indian tribe as required pursuant to NRS 381.223; and

(b) Seek to ensure that the values, beliefs and traditions of the applicable Indian tribe are fully considered and incorporated in the consultation and repatriation process.

3. To ensure that the values, beliefs and traditions of the applicable Indian tribe are fully considered and incorporated pursuant to paragraph (b) of subsection 1 and paragraph (b) of subsection 2, the Museum Director or his or her designee will incorporate any information or requests from the applicable Indian tribe unless a compelling circumstance prevents such incorporation. If a compelling circumstance prevents such incorporation, the Museum Director or his or her designee will:

(a) Consult with the applicable Indian tribe; and

(b) After consulting with the applicable Indian tribe pursuant to paragraph (a), provide to the applicable Indian tribe a written explanation that explains why such information or requests were not incorporated.

Sec. 13. *The Museum Director may issue a Nevada Indian Burial Site Permit if the requirements of sections 15 and 16 of this regulation are met.*

Sec. 14. *If the Museum Director receives an application for a Nevada Indian Burial Site Permit that is for a prehistoric Indian burial site that is not recorded on the inventory of cultural resources which is compiled and maintained by the Office of Historic Preservation of the State Department of Conservation and Natural Resources pursuant to NRS 383.021, the Museum Director or his or her designee will submit information regarding the site to:*

1. *The closest culturally affiliated Indian tribe, as determined in the manner set forth in NRS 381.0067; and*

2. *The Office for consideration to include the site in the inventory.*

Sec. 15. 1. *Upon receiving an application for a Nevada Indian Burial Site Permit or for the renewal of a Nevada Indian Burial Site Permit and before issuing a Nevada Indian Burial Site Permit pursuant to section 16 of this regulation or renewing a Nevada Indian Burial Site Permit pursuant to section 19 of this regulation and, at the discretion of the Museum Director, throughout the process for obtaining or renewing a Nevada Indian Burial Site Permit, as applicable, the Museum Director will:*

(a) *Provide notice to and consult with each applicable Indian tribe in the manner provided by NRS 381.0066; and*

(b) *Seek to ensure that the values, beliefs and traditions of the applicable Indian tribe are fully considered and incorporated in the permitting process, including, without limitation, providing a disclosure to the applicable Indian tribe which indicates that each tribe has the right to have their values, beliefs and traditions fully considered in the permitting process.*

2. *To determine if an Indian tribe is an applicable Indian tribe for the purposes of subsection 1, the Museum Director will determine which Indian tribe or Indian tribes have the closest cultural affiliation to the site in the manner provided by NRS 381.0067.*

3. *If the Indian tribes that have the closest cultural affiliation are located in a neighboring state or have ancestral land located in a neighboring state, the Museum Director will:*

(a) *Provide notice to and consult with each applicable Indian tribe in the manner provided by NRS 381.0066; and*

(b) *Seek to ensure that the values, beliefs and traditions of each applicable Indian tribe are fully considered and incorporated in the permitting process, including, without limitation, providing a disclosure to each applicable Indian tribe which indicates that each tribe has the right to have their values, beliefs and traditions fully considered in the permitting process.*

4. When consulting with the applicable Indian tribe pursuant to this section, the consultation may vary based on the Indian tribe and the preferences of the Indian tribe. In such consultations, the authorized tribal representative may act on behalf of the Indian tribe and the Museum Director may act on behalf of this State. When performing such consultations, the Museum Director or his or her designee will ask the applicable Indian tribe to provide to the Museum Director, the applicant and the owner of the private land on which the prehistoric Indian burial site is located:

(a) If the Indian tribe has a Tribal Historic Preservation Officer, a list that includes the Tribal Historic Preservation Officer and any other authorized tribal representatives who may act on behalf of the Indian tribe during the excavation on private land; and

(b) If the Indian tribe does not have a Tribal Historic Preservation Officer, a list of authorized tribal representatives who may act on behalf of the Indian tribe during the excavation on private land.

5. If the Indian tribe has a Tribal Historic Preservation Officer, the Tribal Historic Preservation Officer is the authorized tribal representative for the Indian tribe. If the Indian tribe does not have a Tribal Historic Preservation Officer or if the Tribal Historic Preservation Officer is unavailable to act as the authorized tribal representative, the authorized tribal representative is the person who is:

(a) Included on the list provided in subsection 4; and

(b) Identified by the Museum Director pursuant to subsection 6.

6. If the Indian tribe does not have a Tribal Historic Preservation Officer or if the Tribal Historic Preservation Officer is unavailable to act as the authorized tribal representative, the Museum Director or his or her designee will identify the person from the list provided pursuant to subsection 4 who will act as the authorized tribal representative for the excavation for which a Nevada Indian Burial Site Permit is issued. If the person who is identified to act as the authorized tribal representative becomes unavailable during the excavation for which a Nevada Indian Burial Site Permit is issued, the Museum Director or his or her designee will identify another person from the list who will act as the authorized tribal representative. Upon identifying the person to act as the authorized tribal representative, the Museum Director will forward the information of the authorized tribal representative to the applicant and the owner of the private land on which the prehistoric Indian burial site is located.

7. To ensure that the values, beliefs and traditions of each applicable Indian tribe are fully considered and incorporated pursuant to paragraph (b) of subsection 1 and paragraph (b) of subsection 3, the Museum Director will incorporate any information or requests from each applicable Indian tribe unless a compelling circumstance prevents such incorporation. If

a compelling circumstance prevents such incorporation, the Museum Director or his or her designee will:

(a) Consult with the applicable Indian tribe; and

(b) After consulting with the applicable Indian tribe pursuant to paragraph (a), provide to each applicable Indian tribe a written explanation that explains why such information or requests were not incorporated.

8. If an applicable Indian tribe fails to respond to the Museum Director after receiving notice pursuant to this section, the Museum Director will not construe such failure to respond as consent to the issuance or renewal of a Nevada Indian Burial Site Permit. Such failure to respond does not require the Museum Director to issue or renew a Nevada Indian Burial Site Permit.

9. As used in this section, “neighboring state” means Arizona, California, Idaho, Oregon and Utah.

Sec. 16. 1. *Except as otherwise provided in subsection 3, after providing notice to and consulting with each applicable Indian tribe pursuant to section 15 of this regulation, the Museum Director may issue a Nevada Indian Burial Site Permit pursuant to NRS 381.196, as amended by section 1 of Assembly Bill No. 103, chapter 234, Statutes of Nevada 2021, at page 1087, to an archaeologist or archaeological company that:*

(a) Submits an application on the form provided by the Museum Director;

(b) Possesses sufficient knowledge and scientific training to excavate a prehistoric Indian burial site and such knowledge and training is at least as sufficient as required by paragraph (c) of subsection 1 of NRS 381.203 for a Nevada Antiquities Permit; and

(c) Possesses an archaeological treatment plan for the proposed excavation of the prehistoric Indian burial site that is approved by the Museum Director.

2. Before approving an archaeological treatment plan required pursuant to paragraph (c) of subsection 1, the Museum Director will consult with the closest culturally affiliated Indian tribe, as determined in the manner set forth in NRS 381.0067. The Indian tribe must submit any proposed changes to the archaeological treatment plan not later than 30 days after the Museum Director consults with the Indian tribe.

3. The approved archaeological treatment plan for the proposed excavation that is required pursuant to paragraph (c) of subsection 1 must include, without limitation, a plan for the repatriation of native Indian human remains or other cultural item of an Indian tribe found or discovered during the excavation and, if such items cannot be repatriated, a burial plan for the native Indian human remains. The plan for repatriation must:

(a) Follow the repatriation process set forth in 25 U.S.C. § 3001, et seq.; and

(b) Seek to ensure that the values, beliefs and traditions of the applicable Indian tribe are fully considered and incorporated in the repatriation process.

4. To ensure that the values, beliefs and traditions of the applicable Indian tribe are fully considered and incorporated in the repatriation process pursuant to paragraph (b) of subsection 3, the Museum Director will incorporate any information or requests received from the applicable Indian tribe unless a compelling circumstance prevents such incorporation. If a compelling circumstance prevents such incorporation, the Museum Director or his or her designee will:

(a) Consult with the applicable Indian tribe; and

(b) After consulting with the applicable Indian tribe pursuant to paragraph (a), provide to the applicable Indian tribe a written explanation that explains why such information or requests were not incorporated.

5. A Nevada Indian Burial Site Permit may not be issued pursuant to this section unless the owner of the private land on which the prehistoric Indian burial site is located consents to the excavation.

Sec. 17. 1. A person to whom a Nevada Indian Burial Site Permit is issued pursuant to section 16 of this regulation shall:

(a) Handle any native Indian human remains or other cultural item of an Indian tribe in the manner determined by the applicable Indian tribe pursuant to paragraph (b) of subsection 4.

(b) Ensure that during the excavation of the prehistoric Indian burial site, any native Indian human remains or other cultural item of an Indian tribe excavated at the site is treated with dignity and respect, as determined by the applicable Indian tribe, at all times.

(c) As determined by the Museum Director in consultation with the applicable Indian tribes, avoid any unnecessary disturbance, physical modification or separation of native Indian human remains or other cultural item of an Indian tribe.

(d) When native Indian human remains or other cultural item of an Indian tribe are found during the excavation and if the authorized tribal representative is not present, notify the Museum Director or his or her designee. The Museum Director, or his or her designee, will notify the authorized tribal representative and provide 7 calendar days for the authorized tribal representative to respond and notify the Museum Director, or his or her designee, whether, pursuant to subsection 3, the authorized tribal representative will inspect or review the native Indian human remains or other cultural item of the applicable Indian tribe or conduct a ceremony or other activity used to express condolences at the excavation site, in accordance with the values, beliefs and traditions of the applicable Indian tribe, or both.

(e) Ensure that the excavation site is secured and not disturbed by the public during the excavation.

(f) Pursuant to the approved archaeological treatment plan for the proposed excavation of the prehistoric Indian burial site required by paragraph (c) of subsection 1 of section 16 of this regulation, repatriate to the closest culturally affiliated Indian tribe, as determined in the manner set forth in NRS 381.0067, any native Indian human remains or other cultural item of an Indian tribe as soon as possible after the remains or item is excavated. If the remains or item cannot be repatriated, the person to whom a Nevada Indian Burial Site Permit is issued pursuant to section 16 of this regulation shall ensure that any native Indian human remains are buried pursuant to the burial plan for native Indian human remains required by subsection 3 of section 16 of this regulation.

2. The person to whom a Nevada Indian Burial Site Permit is issued pursuant to section 16 of this regulation shall not:

(a) Unless otherwise requested by the authorized tribal representative, collect any sediments in direct contact with native Indian human remains or any soil samples from the excavation site.

(b) Unless otherwise requested by the authorized tribal representative, use destructive analysis on any native Indian human remains or other cultural item of an Indian tribe.

(c) Violate paragraph (b) of subsection 3 of NRS 383.180 by publicly displaying or exhibiting native Indian human remains, except during a funeral ceremony.

(d) Unless disclosure is otherwise authorized pursuant to 16 U.S.C. § 470hh(a) or disclosure is necessary to conduct the excavation, as determined by the Museum Director in consultation with the applicable Indian tribe, make available to the public information concerning the nature and location of the excavation site or any native Indian human remains or other cultural item of an Indian tribe found at the excavation site.

3. The authorized tribal representative, upon receiving the notification pursuant to paragraph (d) of subsection 1, may:

(a) Inspect and review native Indian human remains or other cultural item of an Indian tribe at the excavation site in situ for the purpose of identifying native Indian human remains or other cultural item of an Indian tribe.

(b) Notify the Museum Director, or his or her designee, that the authorized tribal representative wishes to conduct a ceremony or other activity used to express condolences, in accordance with the values, beliefs and traditions of the Indian tribe. The Museum Director, or his or her designee, will notify the owner of the private land on which the prehistoric Indian burial site is located and, upon obtaining the consent of the owner of the private land on which the excavation is being conducted, notify the authorized tribal representative that he

or she may conduct the ceremony or other activity at the excavation site, in accordance with the values, beliefs and traditions of the applicable Indian tribe.

4. The applicable Indian tribe:

(a) May, with the consent of the owner of the private land on which the prehistoric Indian burial site is located, station an observer at the excavation site during the excavation of the prehistoric Indian burial site. If the owner of the land on which the prehistoric Indian burial site is located consents, the applicable Indian tribe may charge the owner of the land for the costs incurred by the applicable Indian tribe to pay the observer.

(b) Shall, before the excavation begins, determine, in consultation with the person to whom a Nevada Indian Burial Site Permit is issued pursuant to section 16 of this regulation, how native Indian human remains or other cultural item of an Indian tribe are to be handled during the excavation.

Sec. 18. *In addition to the terms and conditions set forth in section 17 of this regulation, the Museum Director may impose terms and conditions adopted by the applicable Indian tribe if the excavation of the prehistoric burial Indian site involves the excavation of native Indian human remains or other cultural item of the applicable Indian tribe.*

Sec. 19. 1. *A Nevada Indian Burial Site Permit may not be issued for a period of more than 1 year.*

2. *A Nevada Indian Burial Site Permit may be renewed for an additional period of time upon application by the person to whom the Nevada Indian Burial Site Permit was issued. Before renewing a Nevada Indian Burial Site Permit pursuant to this subsection, the Museum Director or his or her designee will consult with the applicable Indian tribe.*

Sec. 20. *Failure to begin work under a Nevada Indian Burial Site Permit within 6 months after the effective date of the Nevada Indian Burial Site Permit shall render the permit void without any order or action from the Museum Director.*

Sec. 21. *If the Museum Director or his or her designee receives evidence that a person is excavating a prehistoric Indian burial site without having obtained a Nevada Indian Burial Site Permit, the Museum Director or his or her designee will report the excavation to the Division of State Parks of the State Department of Conservation and Natural Resources, and personnel thereof, the sheriffs in their respective counties, the Nevada Highway Patrol or any other peace officer, as applicable, so that an investigation or enforcement action may be initiated pursuant to NRS 381.221.*

Sec. 22. 1. *The owner of the private land on which a prehistoric Indian burial site is located or the applicant for the Nevada Indian Burial Site Permit, if different than the owner of the private land, may appeal the denial of a Nevada Indian Burial Site Permit. Such an appeal must be filed with the Administrator within 10 business days after the denial of the*

Nevada Indian Burial Site Permit. The Administrator will notify the applicable Indian tribe of an appeal made pursuant to this subsection.

2. The applicable Indian tribe may appeal the issuance or denial of a Nevada Indian Burial Site Permit. Such an appeal must be filed with the Administrator within 10 business days after the issuance or denial. If an appeal of an issuance of a permit is filed pursuant to this subsection, the excavation of the prehistoric Indian burial site must be stayed until the appeal is resolved.

Sec. 23. 1. *If the Museum Director or his or her designee has evidence that is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs that a person to whom a Nevada Indian Burial Site Permit or a Nevada Antiquities Permit is issued has failed to comply with the provisions of section 17 of this regulation or with NRS 381.195 to 381.227, inclusive, as applicable, the Museum Director may schedule a permit revocation hearing.*

2. The Museum Director or his or her designee will provide written notice to the person described in subsection 1 pursuant to NRS 233B.121 and 241.034.

3. After providing written notice pursuant to subsection 2, the Museum Director will hold a permit revocation hearing pursuant to NRS 233B.121 to 233B.150, inclusive.

4. Unless otherwise directed by the Museum Director, upon receiving written notice pursuant to subsection 2, the person who is described in subsection 1 shall cease all work on the investigation, exploration or excavation, as applicable.

5. If, after the permit revocation hearing is held and any appeals are considered, it is determined that the person described in subsection 1 failed to comply with the provisions of section 17 of this regulation or with NRS 381.195 to 381.227, inclusive, as applicable, the Museum Director:

(a) Will revoke the Nevada Indian Burial Site Permit or Nevada Antiquities Permit, as applicable.

(b) May recover from the person reasonable attorney's fees and costs that were incurred by the Museum Director or the Division as part of carrying out the provisions of this section.

6. As used in this section, "costs" means:

(a) Costs of an investigation.

(b) Costs for photocopies, facsimiles, long distance telephone calls and postage and delivery.

(c) Fees for court reporters at any depositions or hearings.

(d) Fees for expert witnesses and other witnesses at any depositions or hearings.

(e) Fees for necessary interpreters at any depositions or hearings.

(f) Fees for service and delivery of process and subpoenas.

(g) Expenses for research, including, without limitation, reasonable and necessary expenses for computerized services for legal research.

Sec. 24. *The Museum Director may issue a Nevada Antiquities Permit if the applicant for such a permit meets the requirements of section 25 of this regulation.*

Sec. 25. 1. *An applicant for a Nevada Antiquities Permit must submit an application on the form provided by the Museum Director and include, without limitation, a copy of the curriculum vitae for each principal investigator and each field director.*

2. *An applicant may designate more than one person for the roles of principal investigator and field director.*

3. *Before being designated as a principal investigator by the applicant, the person whom the applicant is considering to be a principal investigator:*

(a) Must satisfy the applicable Professional Qualifications Standards promulgated by the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation that are available at the Internet address http://www.nps.gov/history/local-law/arch_stnds_9.htm.

(b) Must have experience in archaeology in the Great Basin region or in the Southwest region of the United States.

(c) Must have experience in or knowledge of the region or county where he or she may work under the Nevada Antiquities Permit.

(d) Must have experience working with Indian tribes.

4. *Before being designated as a field director by the applicant, the person whom the applicant is considering to be a field director:*

(a) Must demonstrate experience as a field director of a project in which he or she oversaw the day-to-day conduct of fieldwork, including, without limitation, the supervision of crew chiefs.

(b) Must have experience in archaeology in the Great Basin region or in the Southwest region of the United States.

(c) Must have experience in or knowledge of the region or county where he or she may work under the Nevada Antiquities Permit.

(d) Must have experience working with Indian tribes.

(e) May be registered with the Register of Professional Archaeologists.

5. To renew a Nevada Antiquities Permit pursuant to NRS 381.211, the applicant must submit a new application on the form provided by the Museum Director and include, without limitation, an updated copy of the curriculum vitae for each principal investigator and each field director.

6. The Museum Director, or his or her designee, will complete his or her review of an application for the issuance or renewal of a Nevada Antiquities Permit within 30 days after receiving a completed application.

7. As used in this section:

(a) "Field director" means a person who is responsible for the day-to-day conduct of fieldwork at a historic or prehistoric site.

(b) "Principal investigator" means a person who is in charge of the investigation, exploration or excavation of a historic or prehistoric site.

**REVISED PROPOSED REGULATION OF THE ADMINISTRATOR OF THE DIVISION
OF MUSEUMS AND HISTORY OF THE DEPARTMENT OF TOURISM AND
CULTURAL AFFAIRS**

LCB File No. R116-19

October 9, 2021

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

AUTHORITY: §§ 1-11, NRS 233B.040 and 381.009.

A REGULATION relating to historic preservation; providing that certain types of property cannot be deemed abandoned property; providing the manner in which the Administrator of the Division of Museums and History of the Department of Tourism and Cultural Affairs, or his or her designee, may determine if abandoned property is native Indian human remains or another cultural item of an Indian tribe for repatriation purposes; requiring the Administrator to seek to ensure that the values, beliefs and traditions of Indian tribes are fully considered and incorporated when consulting with an applicable Indian tribe and when repatriating native Indian human remains or another cultural item of an Indian tribe; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) authorizes each agency of the Executive Department of State Government to adopt reasonable regulations to aid it in carrying out the functions assigned to it by law; and (2) requires each agency to adopt such regulations as are necessary to the proper execution of those functions. (NRS 233B.040)

Existing law provides the manner in which the Division of Museums and History of the Department of Tourism and Cultural Affairs may acquire or repatriate property that is deemed abandoned property. (NRS 381.009) **Section 10** of this regulation provides that this existing law governing abandoned property does not apply to federal property, state property or tribal property.

If abandoned property is native Indian human remains or another cultural item of an Indian tribe, existing law requires the Administrator of the Division to return the human remains or other cultural item to the closest culturally affiliated Indian tribe in the manner provided by a repatriation process that is adopted in regulation, if a request for repatriation is made. Before repatriating such remains or items, the Administrator must provide certain notice and consult with each applicable Indian tribe. (NRS 381.009) **Section 11** of this regulation provides the manner in which the Administrator, or his or her designee, will determine if abandoned property is native Indian human remains or another cultural item of an Indian tribe for repatriation purposes. Specifically, **section 11** requires the Administrator or his or her designee to employ a qualified specialist to determine if the abandoned property is native Indian human remains or another cultural item of an Indian tribe. If the abandoned property is determined to be such remains or items, **section 11** requires the Administrator to: (1) provide notice to and consult with each applicable Indian tribe; (2) follow the repatriation process set

forth in federal statute; and (3) seek to ensure that the values, beliefs and traditions of the applicable Indian tribe are fully considered and incorporated in the consultation and repatriation process. If the abandoned property is determined not to be such remains or items, **section 11** authorizes the Administrator or his or her designee to allow the abandoned property to become part of the collection of a museum or otherwise handle the property in accordance with the policies approved by the Division.

Section 1. Chapter 381 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 11, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Abandoned property” means any property deemed to be abandoned pursuant to NRS 381.009.*

Sec. 4. *“Destructive analysis” means an analysis performed using scientific or technological techniques to evaluate the properties of a material, component or system that may cause damage to such material, component or system. Such analysis includes, without limitation, a test that uses deoxyribonucleic acid extracted from the cells of a person.*

Sec. 5. 1. *“Federal property” means property that is:*

(a) Found on or removed from public lands; and

(b) Owned by the Federal Government.

2. *As used in this section, “public lands” means:*

(a) Lands which are owned and administered by the United States as part of:

(1) The National Park System;

(2) The National Wildlife Refuge System;

(3) The National Forest System; or

(4) The Bureau of Land Management; and

(b) All other lands, the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution.

Sec. 6. *“Indian tribe” has the meaning ascribed to it in NRS 383.011.*

Sec. 7. 1. *“State property” means property that is:*

(a) Found on or removed from state land; and

(b) Owned by this State.

2. As used in this section, "state land" has the meaning ascribed to it in NRS 383.425.

Sec. 8. 1. "Tribal property" means property that is:

(a) Found on or removed from Indian lands; and

(b) Owned by an Indian tribe.

2. As used in this section, "Indian lands" means land of an Indian tribe, or a person who is Indian, which is either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or a person who is Indian.

Sec. 9. "Values, beliefs and traditions of the applicable Indian tribe" means the values, beliefs and traditions of the applicable Indian tribe, as defined by the applicable Indian tribe.

Sec. 10. The provisions of NRS 381.009 do not apply to federal property, state property or tribal property.

Sec. 11. 1. To determine if abandoned property is native Indian human remains or another cultural item of an Indian tribe for the purposes of subsection 4 of NRS 381.009, the Administrator or his or her designee will employ a qualified specialist to determine if the abandoned property is native Indian human remains or another cultural item of an Indian tribe.

2. A qualified specialist may use destructive analysis only as a last resort, as determined by the Administrator or his or her designee in consultation with the applicable Indian tribes, in making his or her determination pursuant to subsection 1.

3. For the purpose of establishing a repatriation process pursuant to paragraph (c) of subsection 4 of NRS 381.009, if the abandoned property is determined to be native Indian human remains or another cultural item of an Indian tribe pursuant to subsection 1, the Administrator or his or her designee will:

(a) Provide notice to and consult with each applicable Indian tribe as required pursuant to NRS 381.009;

(b) Follow the repatriation process set forth in 25 U.S.C. § 3001, et seq.; and

(c) Seek to ensure that the values, beliefs and traditions of the applicable Indian tribe are fully considered and incorporated in the consultation and repatriation process.

4. To fully consider and incorporate the values, beliefs and traditions of the applicable Indian tribe pursuant to paragraph (c) of subsection 3, the Administrator will incorporate any information or requests from the applicable Indian tribe unless a compelling circumstance

prevents such incorporation. If a compelling circumstance prevents such incorporation, the Administrator will:

(a) Consult with the applicable Indian tribe; and

(b) After consulting with the applicable Indian tribe pursuant to paragraph (a), provide to the applicable Indian tribe a written explanation that explains why such information or requests were not incorporated.

5. The repatriation process described in subsection 3 divests the Division of title to the abandoned property, including literary rights, in the native Indian human remains or another cultural item of an Indian tribe.

6. If the abandoned property is determined not to be native Indian human remains or another cultural item of an Indian tribe pursuant to subsection 1, the Administrator or his or her designee may:

(a) Allow the abandoned property to become part of the collection of a museum; or

(b) Otherwise handle the property in accordance with the policies approved by the Division.

7. As used in this section:

(a) "Cultural item" has the meaning ascribed to it in NRS 381.009.

(b) "Qualified specialist" means a person who satisfies the applicable Professional Qualifications Standards promulgated by the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation that are available at the Internet address http://www.nps.gov/history/local-law/arch_stnds_9.htm.



**SMALL BUSINESS IMPACT STATEMENT
LCB FILE NO. R061-19**

LCB File No. R061-19 Small Business Impact Statement pursuant to NRS 233B.0608

This small business impact statement is made pursuant to NRS 233B.0608(3) and complies with the requirements of NRS 233.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulations on a small business and provides the reasons for the conclusions of the agency in section 4.8 below followed by the certification by the person responsible for the agency.

- 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:

The Nevada State Museum (NSM) solicited comment on the proposed regulations by 1) holding public workshops on December 13, 2018, January 24, 2019, and May 23, 2019, 2) posting notices, with links to full text of the proposed regulations, on the LCB Administrative Regulations Notices webpage, 3) full text of the proposed regulations was sent to all agencies under the Division of Museums and History, to all tribal headquarters in the State of Nevada, all Nevada Antiquities Permit holders, and other stakeholders who expressed interest in these regulations (i.e., Las Vegas Valley Water District, Nevada Mining Association, State Historic Preservation Office, and Nevada Indian Commission)

Following these workshops suggested changes were made, resulting in several drafts of the proposed regulations.

- 2. The manner in which the analysis was conducted.**

ANSWER:

Pursuant to NRS 233B.0608(2)(a), the NSM solicited information regarding the impacts on small businesses in Nevada that may be negatively affected by the regulations. Currently the NSM has received no response that indicates negative impacts on small businesses.

The Nevada State Museum solicited information about the impacts of this regulations on small businesses in several ways. We determined that Cultural Resources Management (CRM) companies permitted to do archaeology in Nevada are considered small businesses. The regulations require that private property owners who have knowledge of burial sites on their property would first obtain an Indian Burial Site Permit before legally doing groundbreaking work on their property. The regulations also uphold the rights of the private property owner during this process. To obtain an Indian Burial Site permit, the property owner must first apply with the Museum Director and demonstrate that the person(s) conducting work on the private property owners land, possesses sufficient knowledge and scientific training to excavate a prehistoric burial site. In turn, the property owner is required to hire a CRM company to meet these requirements.

To further our outreach to private property owners potentially affected by these regulations, we contacted Rebecca Palmer, Administrator/State Historic Preservation Officer (SHPO) on October 26, 2021, to inquire about a list of private property owners with known burial sites on their land. According to Ms. Palmer while SHPO maintains a geographical database (i.e., Nevada Cultural Resource Information System [NVCRIS]) containing archaeological site locations, NVCRIS does not contain burial site locations, therefore no list of private property containing known burial sites exists.

A Small Business Impact Questionnaire was provided along with a copy of the proposed regulations and was sent through the Nevada State Museum's listserv, which includes 72 active Nevada Antiquities Permit holders. The response period for the questionnaire was from December 17, 2021, to December 27, 2021. The Questionnaire asked:

1. Have you reviewed and do you understand the Indian Burial Site permit regulations?
2. Do you think these regulations will have an impact on your business?
3. Do you believe the impact of these regulations will be positive or negative? Please explain.

We received three returned surveys, all stating that the regulations would have no negative impact on their businesses, but instead positive impacts due to the requirement that property owners would hire CRM companies or individuals with required credentials and knowledge. One survey expressed concern about the costs to the private property owners.

On December 29, 2021, we contacted the U.S. Small Business Administration. Deputy District Director for the Nevada District Office, Saul Ramos responded, and referred us to Elizabeth Hill, Native American Liaison. I have not been contacted since this initial email.

Any other person interested in obtaining a copy of the summary may mail in a request to:

Nevada State Museum, Carson City
Anthropology Program
Anna J. Camp
600 North Carson Street
Carson City, NV 89701

3. The estimated economic effect of the proposed regulations on small business that it is to regulate including, without limitation:

a) both adverse and beneficial effects; and

ANSWER:

No adverse economic effects were identified.

The beneficial effects are for CRM companies and individuals who are hired by private property owners based on their expertise to excavate known burial sites.

b) both direct and indirect effects.

ANSWER:

The direct and indirect economic effects of this regulations will be positive for CRM companies and individuals with expertise in archaeological excavation, bioarchaeology, and tribal consultation.

4. **A description of the methods that the agency considered to reduce the impact of the proposed regulations on small businesses and a statement regarding whether the agency actually used any of those methods.**

ANSWER:

The NSM anticipates no significant adverse economic impact from R061-19 on small businesses, therefore no alternative methods of regulations are deemed necessary.

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

ANSWER:

The NSM has estimated there will be no costs for the enforcement of the proposed regulations.

6. **If the proposed regulations provide 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:

There is no estimated fee expected as a result of these regulations.

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

ANSWER:

The enforcement of the regulations falls within current operations of the Department; therefore, there will be no additional cost to the agency above the current legislative approved budget.

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 regulations do not provide new or increased fees.

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 regulations include provisions that duplicate the Native American Graves Protection and Repatriation Act (NAGPRA), except NAGPRA applies only to federal lands. State and private lands in Nevada are exempt from NAGPRA compliance. These regulations require a NAGPRA-like process for excavation of known burial sites on private and state lands.

The proposed regulations also include provisions that duplicate or overlap NRS 383.150 – 383.190. While the NSM regulations include a process for the excavation of known burial sites on private land in Nevada, if, however any unanticipated discoveries of human remains made, then NRS 383.150 – 383.190 goes into effect.

8. **The reason for the conclusion of the agency regarding the impact of a regulation on small business and the reason for the agency's conclusions.**

ANSWER:

In its analysis of the regulations, the NSM did not perceive or find evidence of a direct and significant economic burden on small businesses. It also found no evidence that the proposed regulations would restrict the formation, operation, or expansion of small businesses.

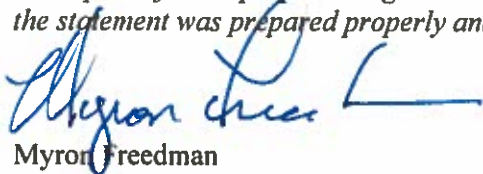
9. The methods used by the agency in determining the impact of the regulations on small business and the reason for the agency's conclusions.

ANSWER:

The NSM, through its staff and legal counsel, examined the regulations and determined that it is not likely to, 1) “impose a direct and significant economic burden upon small businesses,” or 2) “directly restrict the formation, operation, or expansion of small businesses.”

In reaching these conclusions, the NSM solicited comment on the regulations by 1) posting notice, with a link to the full text of the proposed regulations to the LCB Administrative Regulations Notice webpage, 2) posted a copy of the full text of the proposed regulations to the NSM and Museums and History website, along with the minutes following the initial workshop on December 13, 2018, 3) posted notice to the Nevada Public Notice website, operated by the Department of Administration, with a link back to the full proposed regulations text, 4) sent announcements of the three workshops along with the full proposed regulations text to the 27 federally recognized tribes in Nevada, peripheral tribes located in states bordering Nevada (i.e., Fort Mojave of Arizona, California, and Nevada, Bishop Tribe of California, Owens Valley Paiute, California, Mono Tribe of California, and Susanville Rancheria, California) and other tribal entities (i.e., Inter Tribal Council, Nevada Indian Commission, and Las Vegas Indian Center).

I hereby certify that to the best of my knowledge or belief a concerted effort was made to determine the impact of these proposed regulations on small businesses and that the information contained in the statement was prepared properly and is accurate.

A handwritten signature in blue ink, appearing to read "Myron Freedman", with a long horizontal flourish extending to the right.

Myron Freedman
Administrator
Division of Museums and History



**SMALL BUSINESS IMPACT STATEMENT
LCB FILE NO. R116-19**

LCB File No. R116-19 Small Business Impact Statement pursuant to NRS 233B.0608

This small business impact statement is made pursuant to NRS 233B.0608(3) and complies with the requirements of NRS 233.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulations on a small business and provides the reasons for the conclusions of the agency in section 4.8 below followed by the certification by the person responsible for the agency.

- 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:

The Division of Museums and History (DMH) worked in conjunction with the Nevada State Museum (NSM) to solicit comment on the proposed regulations by 1) holding public workshops on December 13, 2018, January 24, 2019, and May 23, 2019, 2) posting notices, with links to full text of the proposed regulations, on the LCB Administrative Regulations Notices webpage, 3) full text of the proposed regulations was sent to all agencies under the Division of Museums and History, to all tribal headquarters in the State of Nevada, all Nevada Antiquities Permit holders, and other stakeholders who expressed interest in these regulations (i.e., Las Vegas Valley Water District, Nevada Mining Association, State Historic Preservation Office, and Nevada Indian Commission)

Following these workshops suggested changes were made, resulting in several drafts of the proposed regulations.

- 2. The manner in which the analysis was conducted.**

ANSWER:

Pursuant to NRS 233B.0608(2)(a), the DMH and NSM solicited information regarding the impacts on small businesses by holding three Public Workshops and posting notices for those workshops. Full text of the regulations was also sent to all 27 Federally recognized tribes, the Nevada Antiquities Permit holders, and other stakeholders. Currently the DMH and NSM has received no response that indicates negative impacts on small businesses.

Any other person interested in obtaining a copy of the summary may mail in a request to:

Nevada State Museum, Carson City
Anthropology Program
Anna J. Camp
600 North Carson Street
Carson City, NV 89701

3. The estimated economic effect of the proposed regulations on small business that it is to regulate including, without limitation:

a) both adverse and beneficial effects; and

ANSWER:

No adverse economic effects were identified.

b) both direct and indirect effects.

ANSWER:

There are no direct and indirect economic effects of these regulations because they pertain only to agencies within the Department of Museums and History.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulations on small businesses and a statement regarding whether the agency actually used any of those methods.

ANSWER:

The DMH and NSM anticipates no significant adverse economic impact from R116-19 on small businesses, therefore no alternative methods of regulations are deemed necessary.

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

ANSWER:

The DMH and NSM has estimated there will be no costs for the enforcement of the proposed regulations.

6. If the proposed regulations provide 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:

There is no estimated fee expected as a result of these regulations.

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

ANSWER:

The enforcement of the regulations falls within current operations of the Department; therefore, there will be no additional cost to the agency above the current legislative approved budget.

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 regulations do not provide new or increased fees.

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 regulations do not include provisions which duplicate or are more stringent than federal, state, or local standards.

- 8. The reason for the conclusion of the agency regarding the impact of a regulation on small business and the reason for the agency's conclusions.**

ANSWER:

In its analysis of the regulations, the DMH and NSM did not perceive, and found no evidence of a direct and significant economic burden on small businesses. It also found no evidence that the proposed regulations would restrict the formation, operation, or expansion of small businesses.

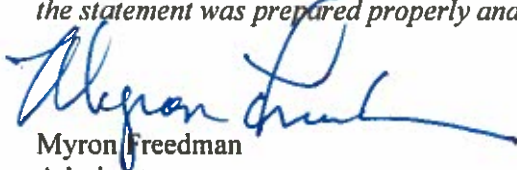
- 9. The methods used by the agency in determining the impact of the regulations on small business and the reason for the agency's conclusions.**

ANSWER:

The DMH and NSM, through its staff and legal counsel, examined the regulations and determined that it is not likely to, 1) "impose a direct and significant economic burden upon small businesses," or 2) "directly restrict the formation, operation, or expansion of small businesses."

In reaching these conclusions, the DMH and NSM solicited comment on the regulations by 1) posting notice, with a link to the full text of the proposed regulations to the LCB Administrative Regulations Notice webpage, 2) posted a copy of the full text of the proposed regulations to the DMH and NSM website, along with the minutes following the initial workshop on December 13, 2018, 3) posted notice to the Nevada Public Notice website, operated by the Department of Administration, with a link back to the full proposed regulations text, 4) sent announcements of the three workshops along with the full proposed regulations text to the 27 federally recognized tribes in Nevada, peripheral tribes located in states bordering Nevada (i.e., Fort Mojave of Arizona, California, and Nevada, Bishop Tribe of California, Owens Valley Paiute, California, Mona Tribe of California, and Susanville Rancheria, California) and other tribal entities (i.e., Inter Tribal Council, Nevada Indian Commission, and Las Vegas Indian Center).

I hereby certify that to the best of my knowledge or belief a concerted effort was made to determine the impact of these proposed regulations on small businesses and that the information contained in the statement was prepared properly and is accurate.



Myron Freedman
Administrator
Division of Museums and History