

TO: Administrator Robert Ghiglieri and the Commission on Mineral Resources

FROM: Jack Conness, Senior Regulatory and Policy Associate | Fervo Energy

DATE: May 13, 2026

SUBJECT: Supplemental Written Comments on Proposed Regulation LCB File No. R093-25 (NAC 534A)

Fervo Energy submits these supplemental comments in advance of the May 14, 2026 public hearing on LCB File No. R093-25. These comments build directly on Fervo's written comments dated May 5, 2026 and reflect the productive dialogue between Fervo and the Nevada Division of Minerals (NDOM) during a pre-hearing technical meeting held on May 7, 2026, attended by Administrator Robert Ghiglieri, Garrett Wake, Dustin Holcomb, and Fervo's technical and policy team.

That conversation meaningfully advanced our shared understanding of the operational realities of EGS development and the Division's regulatory objectives. Administrator Ghiglieri demonstrated genuine flexibility on several key provisions, including the possibility of phase-differentiated amber thresholds within the ISMP framework and confirmed that the Division's primary concern is ensuring that Nevada's EGS regulatory framework is defensible, workable, and protective of public safety. Fervo shares those goals entirely.

These supplemental comments are organized around the four specific issues where Fervo's technical team has identified targeted proposed language that would resolve the most operationally significant concerns while preserving NDOM's full oversight authority. We respectfully request that the Commission consider these proposed amendments prior to taking final action on the regulation.

If the Commission determines that additional time is needed to incorporate these amendments into the final regulatory text, Fervo formally requests that adoption of the seismicity provisions in Sections 12, 13, and 17 be postponed to a subsequent Commission meeting. As written, these provisions carry a real risk of prohibiting EGS development in Nevada before it begins. That outcome would be contrary to the purpose of this rulemaking and contrary to the state's energy and economic development goals.

Proposed Amendments

Issue 1: Amber Light Escalation Triggers Are Operationally Unworkable (Section 12(3)(b))

NDOM's Proposed Rule: Section 12(3)(b) requires that upon receiving a third amber light alert within 6 continuous months, the operator must immediately consult with the Division and submit a Form 4a for approval. This is a hardcoded statutory trigger with no adjustment for project phase or stimulation context.

The Division's own Administrator acknowledged during the May 7 meeting that stimulation activities will naturally generate elevated amber events and that the ISMP could define different thresholds for stimulation versus production phases. Fervo's operational data from Cape Station supports and extends this point: amber alert frequency does not meaningfully correlate with elevated red event probability. This is an emerging scientific finding that the earthquake science community has not yet fully incorporated. Treating amber events as cumulative regulatory strikes rather than operational data points to be managed through the ISMP contradicts the purpose of the traffic light system.

Requiring mandatory Division consultation and Form 4a approval during active stimulation also creates a practical impossibility. Frac crews operate on continuous schedules. A regulatory hold awaiting Division response is not a minor procedural step – it is a de facto project shutdown with significant non-productive time costs.

Proposed Amendment from Fervo: Replace the fixed “third alert within 6 months” trigger with a deviation-from-ISMP standard, with an explicit carve-out for expected stimulation-phase seismicity:

(b) In the event that amber light alerts occur at a frequency exceeding that anticipated in the approved Induced Seismicity Monitoring Plan, accounting for the expected increase in seismic activity during active stimulation phases, which shall be defined and documented in the approved Induced Seismicity Monitoring Plan and shall not alone constitute grounds for triggering the requirements of this paragraph, for a seismic event with an epicenter located within the monitoring radius of a geothermal well or surface projection of a lateral component of the geothermal well, the owner or operator shall:

- (1) Consult within 5 business days with the Division on measures to reduce the likelihood of any additional amber light alerts; and
- (2) Submit Form 4a to the Division for approval with the proposed measures to reduce the likelihood of additional amber light alerts.

The scientific basis for treating cumulative amber alert frequency as a meaningful predictor of red event probability has not been established and Fervo's operational data from Cape Station, one of the only active utility-scale EGS projects in the country, suggests the relationship is weaker than conventional assumptions hold. This is not a settled question in the earthquake science community. EGS-induced seismicity monitoring is a field where the industry is genuinely still writing the playbook and every project generates data that refines our understanding. Codifying a statutory trigger based on amber event frequency at this moment – before the science has matured and before a single EGS well has completed a full production cycle in Nevada – risks enshrining today's incomplete understanding into permanent law. Fervo would welcome the opportunity to present its Cape Station data to the Division and Commission in support of this position.

Issue 2: Red and Amber Light Definitions Must Include Qualitative Floors in Section 12 (Section 12(2))

NDOM's Proposed Rule: Section 12(2) requires the operator to propose – and the Division to approve – site-specific amber and red-light magnitude thresholds. The regulation currently provides no qualitative minimum definition of what constitutes a red or amber event, leaving the Division with unconstrained discretion to require thresholds as low as Magnitude 1.0 or 2.0.

During the May 7 meeting, it was confirmed that NDOM intentionally left magnitude thresholds undefined to preserve site-specific flexibility. Fervo supports that approach. However, the absence of any qualitative definitional floor creates unacceptable investment risk: a future administrator could impose a Magnitude 2.0 red light threshold – which could amount to a daily operational event in active EGS development and would effectively prohibit the technology in Nevada.

Proposed Amendment from Fervo: Fervo proposes embedding qualitative definitions of red and amber light events directly in Section 12 so they govern the threshold-setting process, not just Section 17's shutdown authority. This creates a lower-bound guardrail without specifying a number, preserving full site-specific flexibility while preventing an arbitrarily low threshold from being imposed. New language to Section 12(2) should include:

1. For the purposes of this section and section 17 of this regulation, the following definitions apply and shall govern the Division's review and approval of thresholds proposed in the Induced Seismicity Monitoring Plan:
 - a. A "red light alert" indicates a seismic event with an epicenter within the monitoring radius of a geothermal well which:
 - i. (i) is directly attributable to the operation of the geothermal well; and

- ii. (ii) poses an acute and immediate danger to the health and safety of the public near the geothermal well or has potential to cause significant property damage to structures in proximity to the geothermal well.
- b. An "amber light alert" indicates a seismic event with an epicenter within the monitoring radius of a geothermal well which:
 - i. (i) is directly attributable to the operation of the geothermal well; and
 - ii. (ii) indicates an acute and significant increase in induced seismicity above natural seismic levels in proportion to the red-light alert level that warrants heightened operational caution and monitoring, but which does not present an immediate danger to the health and safety of the public or significant risk of damage to property.
- c. The Division shall not approve thresholds in an Induced Seismicity Monitoring Plan that are inconsistent with the definitions above and shall not require thresholds lower than those supported by the site-specific seismological data and applicable scientific standards submitted pursuant to section 13 of this regulation.

This language directly mirrors the public health and safety standard already present in Section 17, ensuring the two sections are internally consistent. It does not specify any magnitude number – it simply prevents the Division from imposing a threshold that would be triggered by events that pose no actual danger to public safety.

Issue 3: Cumulative Administrative Burden Threatens Project Viability (Sections 12 and 13)

NDOM's Proposed Rule: Section 12 requires a separately approved ISMP for each geothermal well planned to be stimulated, mandatory Division consultation upon hitting amber thresholds, and Administrator approval before any seismic monitoring stations may be removed or replaced. Section 13 requires a full seismicity forecast model, five years of regional seismic event data, and third-party monitoring agreements accompanying each ISMP submission.

Fervo's Comment: Each of these requirements may appear reasonable in isolation, but taken together, they impose a level of administrative overhead that is disproportionate to the current state of EGS development in Nevada and inconsistent with how EGS projects actually operate. EGS wells are stimulated in batches of 3-6 at a time, often within 2,000 feet of each other, sharing identical geologic conditions, the same monitoring infrastructure, and the same seismic risk profile. The deliverables required under Section 13(1) and 13(2) taken together – including reservoir condition assessments, geologic

characterization, baseline seismic modeling, seismicity forecasting, and population exposure analyses – constitute a significant and costly body of work. Applied per-well rather than per-project, the cumulative burden of these requirements alone risks making Nevada EGS economically unviable. Mandatory real-time Division consultation during active stimulation is similarly incompatible with field operations: frac crews operate on continuous schedules where pausing to await a regulatory response is not a procedural step but a project-stopping event. And requiring formal Administrator approval every time a sensor is relocated or swapped creates a backlog of minor permitting actions that burdens both the operator and the Division without any corresponding safety benefit. Critically, this framework was designed for a mature, stable industry – not one where standard practices are still being written in real time.

Proposed Amendment from Fervo: Fervo notes that Section 12(1) already includes the following permissive language: "The owner of the geothermal resource or the operator of more than one geothermal well may submit an Induced Seismicity Monitoring Plan for all geothermal wells which are planned to be stimulated in a project area." Fervo requests that this language be strengthened and clarified to make clear that a single project-area ISMP is the default and expected submission for any operator developing multiple wells within a project area, rather than an optional exception. As currently written, the permissive "may" creates ambiguity that could be used to require per-well ISMPs in practice.

Fervo further requests that the Commission direct NDOM to work with industry stakeholders prior to final adoption to develop a streamlined, project-area-based ISMP framework that: (1) permits a single ISMP submission covering all wells planned to be stimulated within a project area; (2) limits mandatory Division consultation to situations that cannot be addressed through pre-approved ISMP protocols; and (3) replaces the Administrator approval requirement for monitoring system changes with a notification requirement, allowing operators to adjust equipment while keeping the Division informed.

Issue 4: Section 17 Must Require Objective Data and Provide a Clear Resumption Pathway (Sections 12 and 17)

NDOM's Proposed Rule: Section 17(1) authorizes the Administrator to issue shutdown orders based on a finding that stimulation activities "may pose" immediate danger – a subjective standard. Section 17(4) requires an in-person meeting in Carson City within 30 days. No resumption pathway exists. Additionally, Section 12(3)(c)(2) requires that upon a red-light alert, the operator must "immediately decrease the pressure of the fluids injected into the well with the goal of ending the injection."

Fervo's Comment:

Fervo's May 5 comments proposed striking Section 17 entirely and relying solely on the ISMP framework. Following the May 7 discussion, Fervo understands that NDOM requires some statutory backstop authority. Fervo accepts that position and proposes the following targeted amendments that preserve NDOM's authority while making it objective and workable.

Fervo also notes two additional concerns with Section 17 as currently written. First, the immediate cessation language in Section 12(3)(c)(2) is not only operationally blunt, but potentially counterproductive from a seismic safety standpoint. Abruptly halting high-rate injection can itself trigger induced seismicity in certain reservoir conditions. A graduated, stepped-down response grounded in the operator's pre-approved ISMP is both safer and more consistent with DOE protocols.

Second, the broad statutory shutdown authority codified in Section 17 creates significant project financing risk. Lenders and project financiers evaluating EGS investments in Nevada will scrutinize any provision that grants a regulator unconstrained authority to halt operations – potentially indefinitely and without a defined resumption pathway. As currently written, Section 17 represents exactly that kind of open-ended risk, and could deter the capital investment that Nevada's geothermal industry depends on to grow.

Proposed Amendment from Fervo:

- Section 12(3)(c)(2): Replace the immediate pressure reduction mandate with a requirement to implement the graduated mitigation measures specified in the approved ISMP, which may include pressure reduction and, where the data warrants, cessation of injection.
- Section 17(1): Replace “may pose” with an objective data standard. Any shutdown order must be grounded in seismic data from a reputable source identified in the approved ISMP, not a subjective administrative finding.
- Section 17(4): Replace the mandatory in-person Carson City meeting with a remote consultation within 30 days, preceded by a data submission within 15 days. This preserves meaningful Division review while eliminating the operational burden of a mandatory in-person proceeding.
- Section 17(5) – The current regulation contains no mechanism for an operator to restart operations after a shutdown order. This creates an open-ended regulatory limbo that is incompatible with project financing and investor commitments. Proposed language for Section 17(4) and new Section 17(5) and 17(6):

4. Following receipt of an order issued pursuant to subsection 1 or 2, the owner of a geothermal resource or the operator shall:

(a) Execute a mandatory operational pause to allow induced seismicity to stabilize, during which the operator shall continue monitoring in accordance with the approved Induced Seismicity Monitoring Plan;

(b) Submit to the Division, within 15 days of receipt of the order, a written report including the seismic data obtained in accordance with the Induced Seismicity Monitoring Plan for the 6 months immediately preceding the date the order was issued, together with a proposed operational adjustment or resumption plan; and

(c) Schedule a consultation with the Division, which may be conducted remotely, to be held within 30 days of receipt of the order, to review the submitted data and proposed plan.

5. Following the mandatory operational pause required pursuant to subsection 4(a), the owner of the geothermal resource or the operator may resume operations upon demonstrating to the Division that:

(a) seismicity has stabilized below the amber light threshold established in the approved Induced Seismicity Monitoring Plan;

(b) the conditions that prompted the order have been addressed in the operational adjustment plan submitted pursuant to subsection 4(b); and

(c) resumption presents no imminent danger to the health and safety of the public or significant risk of property damage.

6. If, following the consultation, the owner or operator and the Division cannot reach agreement on an operational adjustment or resumption plan, the Division shall present the matter to the Commission as a disputed order.

Request for Postponement if Amendments Cannot Be Incorporated

Fervo recognizes that NDOM and the Commission have invested significant time and effort in developing LCB File No. R093-25 and we do not make this request lightly. However, if the proposed amendments to Sections 12, 13, and 17 described herein and in previous comments cannot be incorporated into the regulatory text prior to or at the May 14 hearing, Fervo formally requests that the Commission postpone final action on the seismicity provisions and schedule a technical working session with industry stakeholders to finalize language that is both protective and workable.

As Administrator Ghiglieri acknowledged during the May 7 discussion, EGS technology is evolving rapidly, and the science of induced seismicity monitoring is advancing alongside it. Fervo is actively developing operational approaches – including adaptive traffic light systems – that may significantly change how threshold-based monitoring is conducted within the next 12–18 months. Locking in a rigid statutory framework now, before even a single EGS well has completed a production cycle in Nevada, risks codifying an approach that will be obsolete before it is fully tested.

Nevada has a genuine opportunity to lead the nation in responsible, utility-scale EGS development. The amendments proposed herein are designed to ensure that both operators and the Division have the tools to realize that potential. Fervo remains committed to working collaboratively with NDOM and the Commission and welcomes the opportunity to discuss any of these comments at the May 14 hearing.

Respectfully submitted,

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