



## **Bureau of Mining Regulation and Reclamation**

### **Guidance for Preapplication Review**

The purpose of this document is to provide guidance for mining facilities regarding the following:

1. The purpose of the preapplication review process;
2. The types of mining facilities that may benefit from preapplication review;
3. The types of documents suitable for preapplication review;
4. Distinguishing a preapplication review from other applications and/or submittals;
5. Requirements for submittal of documents for preapplication review.

Recent revisions to Nevada Administrative Code (NAC) 445A allow mining facilities to submit technical documents required to be included with a Water Pollution Control Permit (WPCP) application pursuant to NAC 445A.394 to 445A.398, inclusive, to the Bureau of Mining Regulation and Reclamation (BMRR) for review prior to submitting a WPCP application. This optional process is referred to as preapplication review. A \$1,500 fee for each preapplication review submittal applies, which includes BMRR's review of a technical document and any supplemental information or subsequent revisions made to the document.

Existing regulation NAC 445A.391, which requires a prospective applicant for a new WPCP to meet with a BMRR representative before submitting an application, has also been revised to require discussion of "*whether the prospective applicant will submit any technical documents to the Department for preapplication review*". The revisions to NAC 445A are in effect but have not been codified as of 26 August 2020. The full text of these regulatory changes may be found on the website of the Nevada Legislature at [BMRR Mining Regulation 2020 Updates](#)

NAC 445A.394 requires that an application for a WPCP to construct, operate and close a Nevada mining facility must include information characterizing the site and the project. The characterization must include, among other items, an assessment of the geological and hydrogeological conditions, an evaluation of the overburden, waste rock and ore for their potential to release pollutants, and engineering and operating plans sufficient to ensure protection of waters of the State from degradation. Depending on the location, size, and complexity of a mining facility, gathering and presenting this information requires pre-planning, completion of scientific studies, data analysis, and interpretation of results by skilled professionals. Significant time, financial, and human resources are expended, and the resulting documents are often, by necessity, highly technical and densely packed with information. As such, they require significant time and attention for agency review and evaluation.

For mining facilities on public land, Federal review requires site assessments and evaluations completed in accordance with the National Environmental Policy Act of 1969 (NEPA). Because Federal and State permitting timelines are divergent, and reviews of technical information and decisions are made independently, permitting delays and conflicts between State and Federal agencies can result. Coordination between State and Federal agencies during their respective permitting processes is critical to minimizing misunderstandings and conflicts. BMRR recognizes that the NEPA process generally begins well in advance of WPCP application. The preapplication review process is intended to facilitate coordinated, timely reviews of technical information related to a new WPCP, or renewal or major modification of an existing WPCP, prior to submittal of the WPCP application.

While the preapplication review process is available to, and optional for, all mining facilities, it is likely to principally benefit large mining facilities, which in Nevada, are almost always located entirely or partially on public land. A combination of public and privately owned land is common. For these facilities, the preapplication review process facilitates concurrent review among agencies, minimizing conflicts and reducing the need for document revisions late in the review process.

For the purposes of preapplication review, a technical document refers to a document required to be submitted with an application pursuant to NAC 445A.394 to 445A.398, inclusive, that provides detailed information characterizing a facility, operations, or evaluating potential to degrade waters of the State. Examples of technical documents include but are not limited to work plans, drafts, and revisions of:

- Pit lake studies
- Ecological risk assessments;
- Hydrogeological evaluations;
- Groundwater models;
- Attenuation studies; and
- Waste rock characterization and management plans.

Other technical documents may be considered for preapplication review on a case-by-case basis.

A \$1,500 fee is applicable for each technical document submitted for preapplication review. For example, a mining facility may submit a work plan for a pit lake study, a draft of the study, and revisions to the study. The single \$1,500 fee covers BMRR's review of all iterations of the single document. If a mining facility were to submit a pit lake study and a waste rock characterization and management plan, two separate \$1,500 fees would apply.

A mining facility may determine whether submittal of a technical document is considered a preapplication review subject to the \$1,500 fee by considering whether the document is:

- Submitted in advance of a planned or anticipated WPCP application, renewal, or major modification; and
- Intended to satisfy a requirement pursuant to NAC 445A.394 to 445.398.

The preceding items distinguish submittals for preapplication review from other types of submittals and/or applications. Documents submitted outside of this context are not considered preapplication reviews and are not subject to the preapplication review fee. Other fees, pursuant to NAC 445A.232 and NAC 445A.418, may apply.

Each submission for preapplication review must include:

- a. A statement identifying the submission as a request for preapplication review of the document;
- b. The name, location and mailing address of the facility, owner, operator and authorized agent;
- c. The name of the owner of the land or mining claim or claims on which the facility is or will be located, as applicable;
- d. The rate at which the facility is or anticipates chemically processing ore in tons of ore per year, as applicable; and
- e. A nonrefundable fee of \$1,500 for the document, which includes the Department's review of any supplemental information or subsequent revisions made to the document.

Updated 9/10/2020