

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R018-20

March 18, 2020

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

AUTHORITY: §§1 and 16, NRS 445A.425, 445A.430, 445A.465 and 445A.495; §2, NRS 445A.425 and 445A.430; §§3-5, 7, 9-11 and 13-15, NRS 445A.425 and 445A.465; §6, NRS 445A.425, 445A.465 and 445A.605; §12, NRS 445A.425, 445A.465 and 445A.495.

A REGULATION relating to mining facilities; authorizing a person to submit certain technical documents to the State Department of Conservation and Natural Resources for preapplication review; setting forth certain fees; revising the definition of “permit”; revising certain information that must be discussed with the Department by a prospective applicant for a permit before he or she may submit an application; revising certain information that must be provided with an application for a permit or application for renewal of a permit; revising provisions related to the completion or material modification of a new or existing process component or monitoring system; revising requirements relating to a final plan for permanent closure of a mining facility; revising requirements relating to a tentative plan for permanent closure of a mining facility; setting forth certain examples of modifications to an engineering design of a mining facility which do not require new public notice; eliminating certain obsolete provisions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Environmental Commission to adopt regulations for the standards of quality of the waters of this State. (NRS 445A.425, 445A.465) Under existing regulations, the Commission has adopted requirements for mining facilities to prevent and address the degradation of waters of the State resulting from mining facilities, which require a person to submit an application to the State Department of Conservation and Natural Resources if he or she wishes to: (1) obtain a permit to construct, operate and close permanently a facility; (2) obtain a permit to modify materially a process component at a facility; or (3) renew a permit to construct, operate and close permanently a facility. (NAC 445A.392, 445A.394, 445A.420) **Section 1** of this regulation provides that person who intends to submit an application for a permit to construct, operate and close permanently a facility, a major modification of an existing permit or a renewal of an existing permit, may submit certain technical documents to the Department for preapplication review. **Section 1** also requires a person who submits a technical

document for preapplication review to pay a fee of \$1,500 for the review. **Sections 3, 5 and 6** of this regulation make conforming changes.

Existing regulations establish certain fees that must accompany each application for a permit, each application to renew a permit and an annual fee for review and services. (NAC 445A.232) **Section 2** of this regulation establishes fees for the monitoring of mining facilities that have completed all physical closure activities and that are undergoing source stabilization.

Section 4 of this regulation revises the definition of “permit” to include the responsibilities and obligations of the holder of the permit during the post-closure monitoring of a mining facility.

Existing regulations require a prospective applicant for a permit to meet with a representative of the Department to discuss certain information. (NAC 445A.391) **Section 7** of this regulation provides that the discussion must also include whether the prospective applicant will submit certain technical documents to the Department for preapplication review.

Section 9 of this regulation revises the information that must be included with an application for a permit. **Section 12** of this regulation revises the information that must be included with an application for the renewal of a permit.

Existing regulations require the holder of a permit who has completed construction on a new process component or materially modified an existing process component to submit certain information to the Department. (NAC 445A.427) **Section 13** of this regulation revises the information that must be submitted to the Department and requires a person who has completed construction on a new monitoring system specified in the permit or materially modified an existing monitoring system specified in the permit to submit such information.

Existing regulations require the proposed operating plans for a mining facility to include a tentative plan for the permanent closure for all sources at the facility and for a final plan for permanent closure to be submitted to the Department at least 2 years before the anticipated closing of a process component. (NAC 445A.398, 445A.447) **Section 14** of this regulation provides that the Department may require the holder of a permit to submit a revised final plan for permanent closure under certain circumstances. **Section 10** of this regulation requires the holder of a permit to update the tentative plan for permanent closure of a mining facility under certain circumstances.

Existing regulations provide that certain modifications to the engineering design of a mining facility do not require new public notice. (NAC 445A.4155) **Section 11** of this regulation sets forth examples of modifications which do not require a new public notice.

Section 15 of this regulation repeals certain provisions relating to pilot facilities, testing facilities and small-scale facilities. **Section 8** of this regulation makes conforming changes

Section 16 of this regulation clarifies that the provisions of this regulation do not apply to any documents filed with the Division for preapplication review before the date that the regulation becomes effective.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto a new section to read as follows:

1. Before submitting an application for a permit or major modification of an existing permit pursuant to NAC 445A.394 or an application to renew an existing permit pursuant to NAC 445A.420, a person may submit to the Department for preapplication review any technical document that is required to be submitted with the application pursuant to NAC 445A.394 to 445A.398, inclusive.

2. If a person submits a technical document to the Department for preapplication review pursuant to subsection 1, he or she must include with that document:

(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 will be 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.

3. A person may submit a technical document for preapplication review pursuant to this section in conjunction with a review conducted by a federal agency in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 et seq.

Sec. 2. NAC 445A.232 is hereby amended to read as follows:

445A.232 1. Except as otherwise provided in subsections 2 and 7, a nonrefundable application fee must accompany each original application for a permit, each application for a modification to a permit, other than a minor modification made pursuant to NAC 445A.263, and each application to renew a permit which is submitted to or required by the Director. The Director shall charge the following fees:

Type of Permit	Application	Fee for
Issued	Fee	Annual Review and Services
 DISCHARGE OF DOMESTIC WASTEWATER		
Less than 50,000 gallons daily	\$1,000	\$1,000
50,000 gallons or more but less than 250,000 gallons daily	1,500	1,500
250,000 gallons or more but less than 500,000 gallons daily	2,000	2,000

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
500,000 gallons or more but less than 1,000,000 gallons daily	3,000	3,000
1,000,000 gallons or more but less than 2,000,000 gallons daily	4,000	4,000
2,000,000 gallons or more but less than 5,000,000 gallons daily	6,000	6,000
5,000,000 gallons or more but less than 10,000,000 gallons daily	10,000	10,000
10,000,000 gallons or more but less than 20,000,000 gallons daily	10,000	20,000
20,000,000 gallons or more but less than 40,000,000 gallons daily	10,000	30,000

Type of Permit	Application	Fee for Annual Review and
Issued	Fee	Services
40,000,000 gallons or more daily.....	10,000	40,000
DISCHARGE OF RECLAIMED WATER OTHER THAN THROUGH A SPREADING BASIN		
Less than 50,000 gallons daily	\$750	\$750
50,000 gallons or more but less than 250,000 gallons daily	1,000	1,000
250,000 gallons or more but less than 500,000 gallons daily	1,250	1,250
500,000 gallons or more but less than 1,000,000 gallons daily	1,500	1,500

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
1,000,000 gallons or more but less than 10,000,000 gallons daily	2,000	2,000
10,000,000 gallons or more but less than 20,000,000 gallons daily	2,500	2,500
20,000,000 gallons or more but less than 40,000,000 gallons daily	3,000	3,000
40,000,000 gallons or more daily.....	3,500	3,500
 DISCHARGE OF RECLAIMED WATER THROUGH A SPREADING BASIN 		
Less than 10,000,000 gallons daily	\$10,000	\$10,000
10,000,000 gallons or more but less than		

Type of Permit	Application	Fee for Annual Review and
Issued	Fee	Services
20,000,000 gallons daily	10,000	20,000
20,000,000 gallons or more but less than		
40,000,000 gallons daily	10,000	30,000
40,000,000 gallons or more daily.....	10,000	40,000
<p>DISCHARGE FROM REMEDIATION, DEWATERING, OTHER THAN A DISCHARGE TO GROUNDWATER FROM THE DEWATERING OF A MINE, OR FROM A POWER PLANT, A MANUFACTURING OR FOOD PROCESSING FACILITY OR ANY OTHER COMMERCIAL OR INDUSTRIAL FACILITY</p>		
Cooling water only	\$2,000	\$2,000

Type of Permit	Application	Fee for Annual Review and
Issued	Fee	Services
Less than 50,000 gallons of process		
water daily.....	2,500	2,500
50,000 gallons or more but less than		
250,000 gallons of process water daily.....	3,000	3,000
250,000 gallons or more but less than		
500,000 gallons of process water daily.....	4,000	4,000
500,000 gallons or more but less than		
1,000,000 gallons of process water daily.....	5,000	5,000
1,000,000 gallons or more but less than		
2,000,000 gallons of process water daily.....	6,000	6,000
2,000,000 gallons or more but less than		

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
5,000,000 gallons of process water daily	8,000	8,000
5,000,000 gallons or more but less than 10,000,000 gallons of process water daily	10,000	10,000
10,000,000 gallons or more but less than 20,000,000 gallons of process water daily	10,000	20,000
20,000,000 gallons or more but less than 40,000,000 gallons of process water daily	10,000	30,000
40,000,000 gallons or more of process water daily	10,000	40,000

DISCHARGE FROM A TREATMENT
PLANT FOR DRINKING WATER

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
Intermittent discharge of less than 100,000 gallons daily	\$500	\$500
Intermittent discharge of 100,000 gallons or more but less than 1,000,000 gallons daily	750	750
Intermittent discharge of 1,000,000 gallons or more daily	1,000	1,000
Routine discharge of less than 100,000 gallons daily	500	500
Routine discharge of 100,000 gallons or more but less than 1,000,000 gallons daily	750	750
Routine discharge of 1,000,000 gallons or more daily	1,000	1,000

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
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DISCHARGE OF WASTEWATER
FROM A CONCENTRATED ANIMAL
FEEDING OPERATION

Less than 100,000 gallons daily	\$1,500	\$1,500
100,000 gallons or more but less than 500,000 gallons daily	2,000	2,000
500,000 gallons or more daily.....	2,500	2,500

PERMIT FOR A CONCENTRATED
ANIMAL FEEDING OPERATION
THAT DOES NOT DISCHARGE
WASTEWATER

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
Area of a holding facility that is less than 10 acres.....	\$1,500	\$1,500
Area of a holding facility that is 10 acres or more but less than 20 acres	2,000	2,000
Area of a holding facility that is 20 acres or more	2,500	2,500
DISCHARGE FROM A FISH HATCHERY		
Less than 500,000 gallons daily	\$750	\$750
500,000 gallons or more but less than 2,500,000 gallons daily	1,000	1,000
2,500,000 gallons or more daily.....	1,500	1,500

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
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OTHER PERMITTED DISCHARGES

Less than 50,000 gallons daily	\$1,000	\$1,000
50,000 gallons or more but less than 250,000 gallons daily	1,500	1,500
250,000 gallons or more but less than 500,000 gallons daily	3,000	3,000
500,000 gallons or more but less than 1,000,000 gallons daily	5,000	5,000
1,000,000 gallons or more but less than 10,000,000 gallons daily	10,000	10,000

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
10,000,000 gallons or more but less than 35,000,000 gallons daily	10,000	20,000
35,000,000 gallons or more daily.....	10,000	30,000
REUSE OF SEWAGE SLUDGE		
Less than 20,000 cubic yards per year	\$1,500	\$1,500
20,000 cubic yards or more per year	3,000	3,000
REUSE OF DOMESTIC SEPTAGE.....		
	\$1,000	\$1,000
DISCHARGE FROM A RECREATIONAL LAKE		
	\$5,000	\$5,000

Type of Permit Issued	Application Fee	Fee for Annual Review and Services
TEMPORARY PERMIT	\$250	Not Applicable

2. Except as otherwise provided in this subsection and subsection 7, a nonrefundable application fee must accompany each original application for a permit and each application to renew a permit for the discharges set forth in this subsection that is submitted to or required by the Director. The Director shall charge the following fees:

Type of Discharge Permitted	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
DISCHARGE TO GROUNDWATER FROM THE DEWATERING OF A MINE			

Type of Discharge Permitted	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
Cooling water only	\$625	\$315	\$1,000
Less than 50,000 gallons of dewatering water daily	625	315	1,500
50,000 gallons or more but less than 1,000,000 gallons of dewatering water daily	875	440	2,000
1,000,000 gallons or more but less than 5,000,000 gallons of dewatering water daily	1,000	500	2,500
5,000,000 gallons or more of dewatering water daily	1,250	625	3,000

MINING

Type of Discharge	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
Physical separation facility discharging wash water where no chemicals are added for metallurgical recovery.....	\$500	\$500	\$250
Mining facility designed to chemically process less than 18,250 tons per year for a pilot testing facility	500	500	250
Mining facility designed to chemically process 18,250 tons per year or more but less than 36,500 tons per year	1,500	1,500	2,000

Type of Discharge	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
Permitted			
Mining facility designed to chemically process 36,500 tons per year or more but less than 100,000 tons per year	4,000	4,000	4,000
Mining facility designed to chemically process 100,000 tons per year or more but less than 500,000 tons per year	6,000	6,000	8,000
Mining facility designed to chemically process 500,000 tons per year or more but less than 1,000,000 tons per year	10,000	10,000	10,000

Type of Discharge	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
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Mining facility designed to chemically process 1,000,000 tons per year or more but less than 2,000,000 tons per year	14,000	14,000	14,000
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Mining facility designed to chemically process 2,000,000 tons per year or more	20,000	20,000	20,000
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Monitoring of mining facility that has completed all physical closure activities and is undergoing source stabilization... 2,500 or the application fee for the type and processing rate of the 2,500 or the application fee for the type and processing rate of the 5,000 or the annual fee for the type and processing rate of the

Type of Discharge	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
Permitted	<i>mining facility permitted, whichever is less</i>	<i>mining facility permitted, whichever is less</i>	<i>mining facility permitted, whichever is less</i>

~~[Monitoring of closed facilities]~~

Post-closure monitoring of

<i>mining facility</i>	250	250	500
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RUNOFF OF STORM WATER

Industrial or commercial facility, including any structure, that is 5 acres to 10 acres, inclusive, in size	\$300	\$150	\$750
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Type of Discharge	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
Permitted			
Industrial or commercial facility, including any structure, that is more than 10 acres but less than 25 acres in size	600	300	750
Industrial or commercial facility, including any structure, that is more than 25 acres in size	1,000	500	750
Municipality whose population is 250,000 or less.....	600	300	750
Municipality whose population is more than 250,000.....	1,000	500	1,000

3. To determine the number of acres of a holding facility for an application fee or a fee for the annual review and services for a permit issued to a concentrated animal feeding operation

that does not discharge wastewater, the Director shall multiply the number of animals in the concentrated animal feeding operation by .0023.

4. An application fee or a fee for the annual review and services charged pursuant to subsection 1 must be based upon the limit of flow, in gallons per day, of the discharge authorized in the permit.

5. The application fee for a permit with a term of less than 5 years must be reduced by the Director in accordance with the term of the permit, but in no case may the fee be reduced by an amount equal to more than one-third of the fee set forth in this section.

6. If required, the fee for the annual review and services must be:

(a) Submitted to the Division on or before July 1 of each year; and

(b) Paid in advance for the period of review that relates to the fiscal year following payment.

7. If a storm water runoff permit is not required, the Director may refund the application fee for the permit.

8. On July 1, 2002, and on July 1 of each even-numbered year thereafter, up to and including July 1, 2010, the Director shall increase by 5 percent each fee for the annual review and services set forth in subsection 1. To determine the amount of each fee that is due on or after July 1, 2002, the Director shall multiply the fee set forth in subsection 1 by:

(a) For the fees due on July 1, 2002, and July 1, 2003, 1.05;

(b) For the fees due on July 1, 2004, and July 1, 2005, 1.1025;

(c) For the fees due on July 1, 2006, and July 1, 2007, 1.1576;

(d) For the fees due on July 1, 2008, and July 1, 2009, 1.2155; and

(e) For the fees due on or after July 1, 2010, 1.2763.

↪ In establishing the annual fee for the review and services pursuant to this subsection, the Director shall round to the nearest dollar.

9. The Director may allow a holder of a permit to pay any fee required by subsection 1 pursuant to a payment plan if the holder of the permit submits a petition to the Division, on a form prescribed by the Division, which demonstrates that the payment of the fee in a lump sum would cause financial hardship to the holder of the permit.

10. As used in this section:

(a) “Concentrated animal feeding operation” has the meaning ascribed to it in 40 C.F.R. § 122.23.

(b) “Domestic septage” has the meaning ascribed to it in 40 C.F. R. § 503.9.

(c) “Sewage sludge” has the meaning ascribed to it in 40 C.F.R. § 503.9.

Sec. 3. NAC 445A.350 is hereby amended to read as follows:

445A.350 As used in NAC 445A.350 to 445A.447, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445A.351 to 445A.385, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. NAC 445A.368 is hereby amended to read as follows:

445A.368 “Permit” means a written document issued pursuant to NRS 445A.300 to 445A.730, inclusive, which describes the responsibilities and obligations of the holder of the permit during the construction, operation, ~~and~~ temporary or permanent closure , *and post-closure monitoring* of a facility.

Sec. 5. NAC 445A.387 is hereby amended to read as follows:

445A.387 1. NAC 445A.350 to 445A.447, inclusive, *and section 1 of this regulation* apply to facilities that have the potential to degrade the waters of the State. Surface disturbance

activities such as stripping and the stockpiling of ore, when conducted in a manner which presents an insignificant potential to degrade waters of the State are not subject to those sections. NAC 445A.350 to 445A.447, inclusive, *and section 1 of this regulation* do not apply to facilities involved solely in the mining and processing of sand and gravel, cinders, diatomaceous earth, slate, shale, gypsum, clay or crushed stone.

2. NAC 445A.350 to 445A.447, inclusive, *and section 1 of this regulation* do not replace or in any way affect the responsibility of a person to comply with any other regulations and rules of practice and procedure administered by the Department or any other governmental agency.

3. A permit issued pursuant to NAC 445A.350 to 445A.447, inclusive, *and section 1 of this regulation* may be revoked for noncompliance with the provisions of NAC 445A.350 to 445A.447, inclusive, *and section 1 of this regulation* in accordance with the procedures established in NRS 445A.600.

Sec. 6. NAC 445A.388 is hereby amended to read as follows:

445A.388 Any person aggrieved by an action taken by the Department pursuant to NAC 445A.350 to 445A.447, inclusive, *and section 1 of this regulation* may appeal to the Commission in accordance with NRS 445A.605.

Sec. 7. NAC 445A.391 is hereby amended to read as follows:

445A.391 Before submitting an application for a permit, a prospective applicant must meet with a representative of the Department to discuss:

1. The proposed location of the facility;
2. The operating plans for the process components; and
3. The physical characteristics of the facility's proposed site as required on the application for the permit.

4. Whether the prospective applicant will submit any technical documents to the Department for preapplication review pursuant to section 1 of this regulation.

Sec. 8. NAC 445A.392 is hereby amended to read as follows:

445A.392 1. Except as otherwise provided in subsection 2, a person wishing to construct or modify materially a process component at a facility must file an application for a permit pursuant to NAC 445A.394.

2. Persons wishing to construct a ~~{small-scale facility,}~~ placer mining facility or other facility which relies solely on physical separation methods to process ore may file an abbreviated application for a permit pursuant to NAC ~~{445A.410 or}~~ 445A.414. ~~{, as applicable.}~~ The application must be accompanied by the appropriate fee as required by NAC 445A.232.

Sec. 9. NAC 445A.398 is hereby amended to read as follows:

445A.398 The proposed operating plans for a facility must include:

1. A description of the mineral processing circuit which includes a flow chart of the facility and the range of operating conditions for which the process components were designed.

2. A plan for the management of process fluids which describes the methods to be used for the monitoring and controlling of all process fluids. The plan must provide a description of the means to evaluate the conditions in the fluid management system so as to be able to quantify the available storage capacity for meteoric waters and to define when and to what extent the designed containment capacity has been exceeded.

3. A plan for monitoring the facility which describes:

(a) The water quality in the area;

(b) The monitoring locations the applicant proposes to sample routinely in order to evaluate surface and groundwater at the site that may be affected by the operation of the facility;

(c) An analytical profile of each surface and groundwater that may be affected by the operation of the facility; and

(d) The locations of the leak detection systems, the frequency for sampling these systems and the analytical profile to be used for evaluation of the samples.

4. A plan for the management of waste rock which:

(a) Presents representative characterization data and sample locations from the waste rock that will be mined at the facility;

(b) Evaluates whether there is a potential for the waste rock to degrade the waters of the State;

(c) Describes the size and location of all proposed waste rock storage facilities;

(d) Describes the sampling and analysis protocols that will be used to verify the character of the waste rock once it is mined at the facility; and

(e) If the information required pursuant to paragraphs (a) to (d), inclusive, indicates that there is a potential for the waste rock to degrade the waters of the State, describes the management protocols or engineered containment, or both, which will be used to eliminate the potential degradation over both the short term and long term.

5. A plan for responding to emergencies which:

(a) Describes what actions must be initiated and by whom as a result of various possible failures in the fluid management system which would result in releases of pollutants; and

(b) Is designed to minimize the environmental impact resulting from the release of process fluids.

6. A temporary closure plan resulting from conditions described in subsection 1 of NAC 445A.444 which describes the activities which must be maintained during the time of closure.

7. A tentative plan for the permanent closure of the facility which describes the procedures, methods and schedule for stabilizing spent process materials and all other sources at the facility.

The plan must : ~~include:~~

(a) ***Include:***

(1) Procedures for characterizing spent process materials as they are generated;

~~(b)~~ (2) The procedures to stabilize all process components and all other sources at the facility with an emphasis on stabilizing spent process materials and the estimated cost for the procedures; and

~~(c)~~ (3) Conceptual closure plans for all sources at the facility with sufficient detail to support an initial estimate of the cost of executing the plan for reclamation determined pursuant to NAC 519A.360.

(b) ***Be updated and resubmitted to the Department if the holder of the permit:***

(1) ***Submits a request to modify a plan for reclamation pursuant to NAC 519A.295 and the requested modification will affect the conceptual closure plans. The revised plan must be submitted with the request to modify the plan for reclamation.***

(2) ***Makes any other change to the facility or operating plans that requires submitting new information to the Department pursuant to NAC 445A.392, 445A.420 or 445A.427.***

Sec. 10. NAC 445A.4155 is hereby amended to read as follows:

445A.4155 1. A modification to the engineering design of a facility for which a permit has been granted by the Department does not require a new public notice if:

(a) The modification to the engineering design requires review by the Department pursuant to NAC 445A.350 to 445A.447, inclusive ~~(1)~~, ***and section 1 of this regulation;*** and

(b) The Department determines that the modification to the engineering design is not a modification of such significance as to constitute a “minor modification” or a “major modification,” as those terms are described in NAC 445A.416 and 445A.417, respectively.

2. A modification to the engineering design described in subsection 1 may not extend the term of the permit.

3. *Examples of modifications to the engineering design of a facility which do not constitute a major or minor modification and do not require a new public notice pursuant to subsection 1 include, without limitation:*

(a) A change to process fluid containment;

(b) A proposal to construct or modify materially a beneficiation or non-beneficiation process component;

(c) A material modification that significantly deviates from a previously approved design during construction;

(d) A change to a previously approved design that requires a revised analysis of structural stability in an engineering design report pursuant to NAC 445A.397;

(e) A proposed increase of process solution flow in excess of a maximum design rate previously authorized in the permit;

(f) A proposed change requiring the permit to be revised, which may include a change to monitoring requirements, monitoring frequency, the schedule of compliance or permit limitations;

(g) A change to the operating plans if the change alters the potential to degrade the waters of the State; and

(h) Proposed drilling or reprocessing of closed process components.

Sec. 11. NAC 445A.396 is hereby amended to read as follows:

445A.396 An application for a permit must include:

1. A summary of the historical monthly averages of rainfall obtained from the nearest recording station to the site adjusted for conditions at the site;
2. The 24-hour storm events with an interval of recurrence of 10 years, 25 years, ~~and~~ 100 years ~~and~~ *and 500 years*;
3. The diurnal temperature variation from the nearest recording station to the site adjusted for conditions at the site; ~~and~~
4. Results from testing samples from the facility's mine site which are representative of the overburden, waste rock and ore at the proposed mine site that have ~~:~~

~~—(a) Characterized~~ *characterized and evaluated* the samples ~~by a multi-element spectrographic assay or an equivalent~~ *for their potential to release pollutants using the following* analytical ~~procedure; and~~

~~—(b) Evaluated the samples for their potential to release pollutants.~~ *procedures:*

(a) A meteoric water mobility procedure and Profile I analysis conducted using ASTM E2242-13, "Standard Test Method for Column Percolation Extraction of Mine Rock by the Meteoric Water Mobility Procedure," available from ASTM International, P.O. Box C700, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <https://www.astm.org>, for the price of \$50, or the most recently promulgated version thereof that is approved in writing by the Department and scientifically demonstrated as achieving equivalent performance to the ASTM E2242-13 method in determining Profile I constituent concentrations; and

(b) The Nevada Modified Sobek Procedure, available from the State Department of Conservation and Natural Resources, 901 South Stewart Street, Carson City, Nevada 89701 or at the Internet website of the Division of Environmental Protection of the Department; and

5. If the results from testing samples pursuant to subsection 4 indicate a humidity cell test is also required, results from the humidity cell test conducted using ASTM D5744-18, “Standard Test Method for Laboratory Weathering of Solid Materials Using a Humidity Cell,” available from ASTM International, P.O. Box C700, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <https://www.astm.org>, for the price of \$72, or the most recently promulgated version thereof that is approved in writing by the Department and scientifically demonstrated as achieving equivalent performance to the ASTM D5744-18 method or another procedure, version or method approved in writing by the Department and scientifically demonstrated as achieving equivalent performance to the ASTM D5744-18 method in evaluating the potential of a sample to release pollutants.

Sec. 12. NAC 445A.420 is hereby amended to read as follows:

445A.420 1. A permit may be renewed by the Department if the holder of the permit submits an application to renew the permit. The application must:

- (a) Be filed at least 120 days before the expiration of the existing permit;
- (b) Include the renewal fee required by NAC 445A.232; ~~and~~
- (c) *The name, location and mailing address of the facility, owner, operator and authorized agent;*
- (d) *The legal structure of the applicant, including, without limitation, whether the applicant is a sole proprietorship, partnership or corporation;*

(e) The name of the owner of the land or mining claim or claims on which the facility is located;

(f) Documentation that notice of the development has been provided to the local board of county commissioners;

(g) The rate at which the facility chemically processes ore in tons of ore per year; and

(h) Include any new information to update information previously submitted to the Department ~~§~~, including, without limitation, any information previously submitted to the Department pursuant to this section or NAC 445A.394, 445A.414 or 445A.427.

2. A permit for a facility which is inactive because of an unplanned closure may be renewed once if the holder of the permit demonstrates that the conditions under which the permit was issued will continue and the design life of the process components will not be exceeded.

3. If the Department has not issued a new permit as of the expiration of the existing permit, the holder of the permit may continue to operate the facility pursuant to the terms and conditions of the existing permit until a new permit is issued by the Department.

Sec. 13. NAC 445A.427 is hereby amended to read as follows:

445A.427 Within 30 days after completing construction on a new process component *or monitoring system specified in the permit* or materially modifying an existing process component ~~§~~ *or monitoring system specified in the permit*, the holder of the permit shall submit *a report* to the Department ~~§~~ *for review and approval which must include, without limitation:*

1. As-built drawings of the process component ~~§~~ *or monitoring system specified in the permit and identification of any deviations from the previously approved design;*

2. A summary of the *quality assurance and* quality control procedures which were carried out during construction ~~[- and]~~ *and the associated test results;*

3. The final operating plans required by NAC 445A.398 which have been revised to reflect modifications made during construction ~~[-]~~, *including, without limitation, any necessary updates to the tentative plan for permanent closure of the facility; and*

4. The locations of all monitoring points set forth in the permit, which must be expressed in meters and decimals of meters, using the Nevada Coordinate System of 1983 in accordance with the requirements of chapter 327 of NRS.

Sec. 14. NAC 445A.447 is hereby amended to read as follows:

445A.447 1. Plans for permanent closure are required for all sources at a facility.

2. A final plan for permanent closure of any source which has been identified as a process component must be submitted to the Department at least 2 years before the anticipated permanent closure of that process component.

3. Sources which have not been classified as process components must be evaluated at the end of their operating life to determine the potential for pollutants from these sources to migrate and degrade the waters of the State under the final proposed site conditions and must be closed in accordance with the *State Handbook of Best Management Practices* prepared pursuant to NAC 445A.336.

4. The Department may require the holder of a permit to revise a previously approved final plan for permanent closure if, based on new information received by the Department, the Department determines that the final plan for permanent closure will not achieve chemical stabilization, source removal or mitigation of a process component.

Sec. 15. NAC 445A.370, 445A.377 and 445A.410 are hereby repealed.

Sec. 16. Section 1 of this regulation does not apply to any technical document filed with the Division of Environmental Protection of the State Department of Conservation and Natural Resources for preapplication review before the date that this regulation is filed with the Secretary of State.

TEXT OF REPEALED SECTIONS

445A.370 “Pilot facility” and “testing facility” defined. (NRS 445A.425, 445A.465)

“Pilot facility” or “testing facility” means a facility which is constructed principally to obtain data on the effectiveness of the beneficiation process to determine:

1. The feasibility of developing a body of ore; or
2. The optimum operating conditions of the process.

445A.377 “Small-scale facility” defined. (NRS 445A.425, 445A.465) “Small-scale facility” means a facility which chemically processes less than 36,500 tons of ore per year and no more than 120,000 tons of ore for the life of the project at any one permitted site.

445A.410 Permit for small-scale facility: Contents of application; limitation on holding; applicability of minimum design criteria. (NRS 445A.425, 445A.465)

1. An application for a permit to construct, operate and close permanently a small-scale facility must contain:

(a) The information required by paragraphs (a) to (e), inclusive, of subsection 2 of NAC 445A.394;

(b) Site information consisting of:

(1) The distance from the surface to groundwater;

(2) A topographic map which identifies all surface waters, waterways and springs within 1/2 mile of the site; and

(3) A description of the general character of the soil and geologic formations which lie beneath and adjacent to the proposed processing site;

(c) A description of and the criteria for the design of the containment system for the individual process components, including plans, schematics and cross-section diagrams of the process components which identify those components which provide for the containment of process fluids; and

(d) A copy of the draft operating plan for the facility which describes:

(1) The chemicals to be used in the beneficiation process;

(2) The methods which are proposed for controlling process fluids so that no discharges occur;

(3) The systems which are proposed for detecting leaks and monitoring the facility;

(4) The actions that will be taken if process fluids escape the fluid management system;

(5) The methods which are proposed to stabilize processed materials before they are disposed of or during the permanent closure of the facility; and

(6) The procedures which are to be instituted to ensure that the facility poses no threat to the environment when there is no activity at the facility or when there is a temporary closure.

2. A person may not concurrently hold more than one permit for a small-scale facility if the facilities are within 1 mile of each other.

3. The minimum design criteria in NAC 445A.433 to 445A.438, inclusive, apply to small-scale facilities.