COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY
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Regulations of the

Mine Safety and Training Program

for

Tourist Mines

Effective November 30, 2002

2 C.C.R. 407-6

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Revised September 2003, August 2006

RULES AND REGULATIONS
OF THE
MINE SAFETY AND TRAINING PROGRAM
PURSUANT TO 34-21-110 C.R.S.

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Materials cited in these rules are hereby incorporated by reference. The materials incorporated in these rules by reference do not include later amendments to or editions of the incorporated materials. All materials incorporated by reference are available for inspection at State Publications Depository Libraries, through inter-library loan, and at the MSTP office located in Room 215, Centennial Building, 1313 Sherman Street, Denver, Colorado 80203. The MSTP Supervisor can provide further information regarding how the incorporated material may be obtained or examined.

These Rules are proposed in accordance with Title 34, Article 21 Sections 104 and 110 of the Colorado Revised Statutes, and establish procedures through which the Mine Safety and Training Program of the Colorado Division of Reclamation, Mining and Safety will implement the statutes. A written statement of the basis and purpose of theses Rules has been prepared and adopted by the Director of the Division of Reclamation, Mining and Safety, and is hereby incorporated in these Rules by reference pursuant to C.R.S., 24-7-103(4).

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RULE 1: DEFINITIONS

1. "Approved" means tested and accepted for a specific purpose by a nationally recognized agency.

2. "Combustible" means capable of being ignited and consumed by fire.

3. "Competent person" means a person having abilities and experience to qualify him/her to perform the duty in which he is assigned.

4. "Employee" means a person who works for wages or salary in the service of an employer.

5. "Escapeway" means a passageway by which persons may leave a mine.

6. "Explosive" means any substance classified as an explosive by the Department the Treasury, Bureau of Alcohol, Tobacco, and Firearms, 27 CFR Part 55 Subpart B-Definitions, as amended April 1, 2000, which is hereby incorporated by reference.

7. "Hazard" means a condition or situation that has potential to cause injury or loss.

8. "Insulated" means separated from other conducting surfaces by a dielectric substance permanently offering a high resistance to the passage of current and to disruptive discharge through the substance.

9. "Mine" means all lands on which minerals have been extracted, including excavations, underground passageways, shafts, tunnels and workings, structures, facilities, equipment machines or other property.

10. "MSTP" means the Mine Safety and Training Program of the Office of Active and Inactive Mines of the Colorado Division of Reclamation, Mining and Safety.

11. "MSTP Supervisor" means Mine Safety and Training Program Supervisor / Division of Reclamation, Mining and Safety.

12. "Multipurpose dry-chemical fire extinguisher" means a listed or approved multipurpose dry-chemical fire extinguisher having a minimum rating of a 2-A:10-B:C, by Underwriters Laboratories, Inc., and containing a minimum of 4.5 pounds of dry-chemical agent.

13. "Overspeed" means a speed greater than the safe speed for a particular hoist. Persons should not be hoisted at a speed faster than 2,500 feet per minute, except in an emergency.

14. "Overtravel" means travel beyond the intended stop.

15. "Safety Can" means an approved container, of not over 5 gallons capacity, having a spring-closing lid and spout cover.

16. "Scaling" means removal of insecure material from a back, rib, face, or highwall.

17. "Tourist" means a person visiting a tourist mine for recreational purposes.

18. "Tourist Mine" means any mine whose primary purpose is for tours open to the public rather than development of minerals, which the owner/operator does not have the intent to produce and sell a product which significantly affects commerce.

19. "Tourist Mine Owner/Operator" means a person or entity that owns or operates a tourist mine.

20. "Working Place" means any place in or about a mine where work is being performed.

RULE 2: GENERAL REQUIREMENTS

1. The tourist mine owner/operator shall conduct his/her operation with due regard to health and safety. No tourist mine owner/operator shall fail to provide or use such safety devices and safeguards as are reasonably necessary to protect the health and safety of his or her employees.

2. A daily inspection of the tourist mine by a competent person designated by the tourist mine owner/operator is required. Any hazards that may adversely affect the safety and health of all persons must be noted and corrective action taken. A record of these inspections shall be maintained and available for the inspector to examine at the tourist mine for the current and immediately preceding years. Any inspection checklist must include, but not be limited to the following:

    a. Proper ventilation (Ventilation Section, Rule 6);

    b. Ground conditions and control;

    c. Electrical hazards;

d. Mine conveyance equipment;

e. Communication system; and

f. General mine hazards.

3. Each tourist shall be informed regarding the proper conduct and procedures to follow prior to commencement of the tour, and safety awareness training must be conducted to adequately inform tourists of the hazards they may encounter while on the tour.

4. Tourist mine employees are required to receive annual safety training specific to the tourist mine site on applicable portions of these tourist mine rules. The MSTP staff will provide a general annual assistance training session for any tourist mine operators or employees. The operator will be notified of the date and location of the training. The purpose of the MSTP training is to provide guidance for the operator to more effectively provide the training for his or her employees at the mine site, and so his or her employees can more effectively carry out their required duties as outlined in these rules. The operator may also request an inspector to assist with the training at the mine site during a scheduled visit. Verification of the employees annual safety training must be maintained at the tourist mine.

5. No self-guided tours will be allowed unless the adit is less than 50 feet long or the tourist mine owner/operator has written approval from the MSTP Supervisor or his/her representative. Other considerations may make a 50-foot long or less adit ineligible for self-guided tours, as determined solely by the MSTP Supervisor or his/her representative.

6. A reasonable supply of tools and supplies must be maintained at the tourist mine site to be available for correcting unsafe conditions if encountered.

7. Access to unattended surface mine openings shall be restricted by lockable gates or doors.

8. Each tourist mine owner/operator will establish a check-in and checkout system for every employee or volunteer which will provide an accurate record of persons in the tourist mine. Tourists must be accounted for at all times by the tourist mine owner/operator guide.

9. All displays must be located in an area that is free from any hazardous condition, so that any employee's health and safety will not be jeopardized if he or she is required to maintain the display.

10. By April 1 of each year, each tourist mine owner/operator shall submit to the Mine Safety Program a preseason report, including a plan map indicating any changes from the previous year's areal map, and describing any changes in tourist routes or any other changes in operating conditions such as new or modified escape routes, mine ventilation, or barricaded areas. The following information must also be submitted in the preseason report unless it has already been submitted to the MSTP. Any changes in the following requested information from the prior year shall be noted in the pre-season report.

a. The address and phone number of the general office and the local address or addresses and phone number of the tourist mine owner/operator;

b. The name(s) of the owner(s) of the surface land rights on which the tourist mine is located;

c. The name(s) of the owner(s) of the subsurface land rights on which the tourist mine is located;

d. A statement that the operations will be conducted in accordance with these Rules;

e. A current map (plan view) of the tourist mine workings which includes all areas of the mine where tourists or employees may be exposed to mine hazards, and depicts the locations of all first aid and emergency equipment, locations of primary and secondary (if applicable) escape routes, locations of communication systems, personal protective equipment, power switches for electrical equipment including, but not limited to lights, fans, general mining supplies;

f. A current emergency procedure plan (see Rule 9);

g. An indication whether the tourist mine uses explosives, and if so, how and when such explosives are used; and

h. If the tourist mine produces a product, an explanation of how production interfaces with the tourist mine operations;

11. It shall be the duty of the tourist mine owner/operator to keep the MSTP notified of any mailing address change by promptly sending written notice of such change to the MSTP. The MSTP is entitled to assume, in the absence of such Notice, that it may proceed with the last previous address provided by the tourist mine owner/operator, and the tourist mine owner/operator will be bound by such Notice as if actually received.

12. Where a tourist mine owner/operator's official business name changes or there is a change in ownership or status, the tourist mine owner/operator shall

inform the MSTP in writing within 30 days of such change, including previous and new names of the business, previous and new ownership and operator status, and any new addresses and telephone numbers associated with such changes.

13. Prior to instituting any significant change(s) in the operation or condition of a tourist mine, the tourist mine owner/operator notify the MSTP said changes.

14. Where a tourist mine owner/operator files a petition for bankruptcy, the tourist mine owner/operator shall immediately notify the MSTP via certified mail of such filing.

RULE 3: INSPECTION GUIDELINES

1. The MSTP Supervisor or his/her representative may at any time during reasonable business hours enter, examine and inspect any active areas of a tourist mine, any connected plant or equipment, or any part of the workings of a tourist mine that may affect the active areas.

2. The tourist mine owner/operator or designated representative may accompany the MSTP Supervisor or his/her representative while conducting inspections.

3. Any prior agreements with the MSTP Supervisor or his/her representative will not be valid after the promulgation of these rules.

RULE 4: GROUND CONTROL

1. Ground conditions that create a hazard to persons shall be taken down or supported before other work or travel is permitted in the affected area. Until corrective work is completed, the area shall be posted with a warning against entry and, when left unattended, a barrier shall be installed to impede unauthorized entry.

2. Scaling shall be performed from a location which will not expose persons to injury from falling material, or other protection from falling material shall be provided.

3. Where manual scaling is performed, a scaling bar shall be provided. This bar shall be of a length and design that will allow the removal of loose material without exposing the person performing the work to injury.

4. Rock bolts and accessories used for ground support must be in compliance with American Society for Testing Materials Publication F432-95, as amended 2001, which is hereby incorporated by reference and must be installed according to manufacturer recommendations.

5. When ground support is necessary, the support system shall be designed, installed, and maintained to control the ground in places where persons work or travel in performing their assigned tasks. Damaged, loosened, or dislodged timber or any other device used for ground support which creates a hazard to persons shall be repaired or replaced prior to any work or travel in the affected area.

RULE 5: VENTILATION

1. Air in all active working and all other areas of the tourist mine where people are required to work or travel shall contain at least 19.5% volume percent oxygen. To assure 19.5% volume percent oxygen is maintained, a test will be taken with a calibrated electronic oxygen meter. In addition to the electronic oxygen meter, a flame safety lamp may be used as a backup measuring device.

2. All underground main fans shall have controls placed at a suitable protected location remote from the fan and preferably on the surface.

3. When auxiliary fan systems are used, such systems shall minimize recirculation and be maintained to provide ventilation air that effectively sweeps the affected area.

4. Unventilated areas shall be sealed or barricaded and posted against entry.

5. Unless an approved method of detecting hydrogen gas is available, all battery charging stations will either be located on the surface or will be ventilated directly to the surface with a sufficient volume of air to prevent the accumulation of hydrogen gas.

RULE 6: FIRE PREVENTION AND CONTROL

1. Fires shall not be lit underground, except for open-flame torches. While lit, torches shall be accompanied by the necessary fire control equipment.

2. For fighting fires that could endanger persons, each tourist mine shall have:

a. Onsite firefighting equipment for fighting fires in their early stages; and

b. Onsite firefighting equipment for fighting fires beyond their early stages or prior arrangements with a local fire department to fight such fires.

3. This onsite firefighting equipment shall be:

a. Of the type, size, and quantity that can extinguish fires of any class which occur as a result of the hazards present; and

b. Strategically located, readily accessible, plainly marked, and maintained in fire ready condition.

4. Firefighting equipment shall be inspected according to the following schedules:

a. Fire extinguishers shall be inspected visually at least once a month to determine that they are fully charged and operable.

b. At least once every twelve months, maintenance checks shall be made of mechanical parts, the amount and condition of extinguishing agent and expellant, and the condition of the hose, nozzle, and vessel to determine that the fire extinguishers will operate effectively.

c. Fire extinguishers shall be hydrostatically tested according to a schedule based on the manufacturer's specifications to determine the integrity of extinguishing agent vessels.

d. Water pipes, valves, outlets, hydrants, and hoses that are part of the tourist mine's firefighting system shall be visually inspected at least once every three months for damage or deterioration and use-tested at least once every twelve months to determine that they remain functional.

5. Fire extinguishers shall be recharged or replaced with a fully charged extinguisher promptly after any discharge.

6. Whenever self-propelled equipment is used underground, a fire extinguisher shall be on the equipment. Fire extinguishers shall be of a type and size that can extinguish fires of any class in their early stages which could originate for the equipment's potential fire hazards.

7. Transformer stations, storage and dispensing areas for combustible liquids, pump rooms, and hoist rooms shall be provided with fire protection of a type, size, and

quantity that can extinguish fires of any class in their early stages which could occur as a result of the hazards present.

8. Storage of fuel and combustible liquids for underground and surface must comply with 30 CFR 57.4462 and 30 CFR 57.4430, as amended July 1, 2001, which are hereby incorporated by reference.

9. Small quantities of flammable liquids drawn from storage shall be kept in safety cans labeled to indicate the contents.

10. Any new surface building or other similar structures within 100 feet of tourist mine openings shall be in compliance with 30 CFR 57.4533, as amended July 1, 2001, which is hereby incorporated by reference.

11. Any new mine entrance shall comply with 30 CFR 57.4560, as amended July 1, 2001, which is hereby incorporated by reference.

12. Compressed gas cylinders shall not be stored in rooms or areas used or designated for storage of flammable or combustible liquids, including grease. Gauges and regulators used with oxygen or acetylene cylinders shall be kept clean and free of oil and grease.

13. Battery charging stations will not be located at or near a potential electrical arcing source.

RULE 7: EXPLOSIVES

1. Explosives shall be stored and handled in accordance with applicable state and federal laws.

2. Use and handling of explosives shall be prohibited during normal tour hours.

3. Portable magazines containing explosives shall not be located at or near the tour route and permanent magazines must remain locked during normal tour hours.

RULE 8: EMERGENCY AND EVACUATION PROCEDURES

1. An emergency procedure plan shall be in place for events that can reasonably be expected to occur at the tourist mine. The plan will be submitted to the MSTP

Supervisor for his/her approval. The plan shall include but not be limited to the following key concerns:

a. Fires;

b. Roof or ground falls;

c. Water inundation;

d. Explosions;

e. Availability of emergency communication and transportation facilities;

f. Emergency power and ventilation;

g. Instructions showing how to evacuate all areas of the mine;

h. Location of rescue personnel and equipment; and

i. Emergency Medical Service (EMS) procedures and notification of proper authorities to include the MSTP Supervisor.

2. A map or diagram of the tourist mine will be posted and maintained at or near the tourist mine entrance. The map or diagram will show the normal direction of principle airflow, location of escape routes, location of existing telephones, and locations of refuge chambers, if they exist.

3. Escape routes shall be marked with conspicuous and easily read direction signs that clearly indicate the ways of escape in the event of an emergency underground and in structures or buildings on the surface.

4. At least once every twelve months, all persons who work underground shall be instructed in the escape and evacuation plans and procedures and fire warning signal in effect at the tourist mine. Whenever a change is made in escape and evacuation plans and procedures for any area of the mine, all persons affected shall be instructed in the new plans or procedures.

5. Tourist mine owners/operators shall notify the MSTP as soon as reasonably practicable, but not later than twenty-four (24) hours after the tourist mine owner/operator has knowledge of any emergency situation that seriously endangers the health and safety of the public or the employees at the tourist mine.

RULE 9: EQUIPMENT AND MACHINERY REQUIREMENTS

1. All haulage equipment including mantrips shall be maintained to meet or exceed the original manufacturer's safety standards with special attention paid to braking systems (primary and secondary), fire suppression systems, electrical systems, guards, and other safety devices.

2. Mobile equipment to be used during a shift shall be inspected by the equipment operator before being placed in operation on that shift. Defects on any equipment, machinery or tools that affect safety shall be corrected in a timely manner.

3. Moving machine parts shall be guarded to protect persons from contacting gears, sprockets, chains, drive, head, tail, and take-up pulleys, flywheels, coupling, shafts, fan blades, and similar moving parts that can cause injury.

4. Guards on and around machines, and equipment shall be constructed in a manner that they will withstand the vibration, shock, and wear to which they will be subjected during normal operation.

5. Guards shall be maintained securely in place, and not create a hazard by their use, while machines or equipment are being operated, except when testing or making adjustments which cannot be performed without removal of the guard.

6. Repairs or maintenance on machinery or equipment shall be performed only after the power is off, and the machinery or equipment blocked against hazardous motion. Machinery or equipment motion or activation is permitted to the extent that adjustments or testing cannot be performed without motion or activation, provided that persons are effectively protected from hazardous motion.

7. Mobile equipment will be equipped with a manually operated horn or other audible warning device. If the equipment operator has an obstructed view to the rear, a backup alarm will be provided.

8. Shelter holes shall be:

    a. Provided at intervals adequate to assure the safety of persons along underground haulageways where continuous clearance of at least 30 inches cannot be maintained from the farthest projection of moving equipment on at least one side of the haulageway; and

b. At least four feet wide, marked conspicuously, and provide a minimum 40-inch clearance form the farthest projection of moving equipment.

c. Shelter holes shall not be used for storage unless a 40-inch clearance is maintained.

RULE 10: PERSONAL PROTECTION

1. Adequate first-aid materials, including stretchers and blankets shall be provided at places convenient to all working areas. Water or neutralizing agents shall be available where corrosive chemicals or other harmful substances are stored, handled, or used.

2. All persons shall wear suitable hard hats when in or around a mine or plant where falling objects may create a hazard.

3. All persons shall wear suitable protective footwear when in or around an area of a mine or plant where a hazard exists which could cause an injury to the feet.

4. All persons shall wear safety glasses, goggles, face shields, or other suitable protective devices when in or around an area of a mine or plant where a hazard exists which could cause injury to unprotected eyes.

5. All persons who may be momentarily exposed to sound levels in excess of 85 dBa shall be provided with hearing protection. When using dual hearing protection, all persons shall not be exposed to sound levels in excess of 115 dBa over an eight-hour period of time. Noise control by engineering or administrative controls must be implemented when any person may be momentarily exposed to an excess of 140 dBa (impact noise).

6. All persons who are exposed to concentrations of airborne contaminants of excessive levels shall be protected with the appropriate respiratory protective equipment. Acceptable levels of contaminants are those set by MSHA in Title 30 CFR Part 57 Subpart D – Air Quality, Radiation, and Physical Agents, as amended July 1, 2001, which is hereby incorporated by reference.

7. Employees required to work in isolated areas of the mine away from the tour route must wear or carry an approved self rescue device and his or her own electric cap lamp.

8. If in question, the tourist mine owner/operator, with assistance from the MSTP Supervisor or his/her representative, shall evaluate when and where the appropriate personal protective equipment is required. The necessary equipment must be made available for employees and tourists.

RULE 11: COMMUNICATION

1. A communication system must be maintained for the purpose of an effective way of communicating between surface and underground operations.

2. A communication system must be maintained for the purpose of contacting the local EMS system in the event of a mine emergency.

RULE 12: ELECTRICAL

1. Electrical equipment and circuits shall be provided with switches or other controls. Such switches or controls shall be of approved design and construction and shall be properly installed.

2. Circuits shall be protected against overload by fuses or circuit breakers of the correct type and capacity.

3. Permanent splices and repairs made in power cables, including the ground conductor, where provided, shall be:

    a. Mechanically strong with electrical conductivity as near as possible to that of the original;

    b. Insulated to a degree at least equal to that of the original, and sealed to exclude moisture; and

    c. Provided with damage protection as near as possible to that of the original, including good bonding to the outer jacket.

4. Power wires and cables shall be insulated adequately where they pass into or out of electrical compartments. Cables shall enter metal frames of motors, splice boxes, and electrical compartments only through proper fittings. When insulated wire, other than cables, passes through metal frames, the holes shall be substantially bushed with insulated bushings.

5. Telephone and low-potential signal wire shall be protected, by isolation or suitable insulation, or both, from contacting energized power conductors or any other power source.

6. All electrical equipment or components must have a ground wire or be properly grounded.

7. Battery charging stations shall be equipped with a separate ground conductor from the charging unit to the battery unit while charging.

RULE 13: PERSONNEL HOISTING

1. The construction of any headframe and the material used therein shall be sufficiently strong and durable to assure its withstanding any strain put upon it. All headframes shall be so designed that they will withstand a greater load than the calculated breaking strength of all hoisting attachments.

2. Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used.

3. Hoists shall be anchored securely.

4. Belt, rope, or chain shall not be used to connect driving mechanisms to man hoists.

5. Any hoist used to hoist persons shall be equipped with a brake or brakes capable of holding its fully loaded cage, skip, or bucket at any point in the shaft.

6. The operating mechanism of the clutch of every man-hoist drum shall be provided with a locking mechanism, or interlocked electrically or mechanically with the brake to prevent accidental withdrawal of the clutch.

7. Automatic hoists shall be provided with devices that automatically apply the brakes in the event of a power failure.

8. All personnel hoists shall be provided with devices to prevent overtravel. When utilized in shafts exceeding 100 feet in depth, such hoists shall also be provided with overspeed devices.

9. Where creep or slip may alter the effective position of safety devices, friction hoists shall be equipped with synchronizing mechanisms that recalibrate the overtravel devices and position indicators.

10. An accurate and reliable indicator of the position of the cage, skip, bucket, or cars in the shaft shall be provided.

11. Hoist controls shall be placed or housed so that the noise from machinery or other sources will not prevent hoistmen from hearing signals.

12. Flanges on drums shall extend radially a minimum of 4 inches or three rope diameters beyond the last wrap, whichever is the lesser.

13. Where grooved drums are used, the grooves shall be of suitable size and pitch for the ropes used.

14. Each hoist shall be equipped with a manually operable switch that will initiate emergency braking action to bring the conveyance and the counterbalance safely to rest. This switch shall be located within reach of the hoistman in case the manual controls of the hoist fail.

15. When an overtravel by-pass switch is installed, the switch shall function so as to allow the conveyance to be moved through the overtravel position when the switch is held in the closed position by the hoistman. The overtravel bypass switch shall return automatically to the open position when released by the hoistman.

16. If guide ropes are used in shafts for personnel hoisting applications, the nominal strength (manufacturer's published catalog strength) of the guide rope at installation shall meet the minimum value calculated as follows: Minimum Value = Static Load x 5.0.

17. At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum rope strength values obtained by the formulas in 30 CFR 57.19021, as amended July 1, 2001, which is hereby incorporated by reference.

18. After initial rope stretch but before visible wear occurs, the rope diameter of newly installed wire ropes shall be measured at least once in every third interval of active length and the measurements averaged to establish a baseline for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

19. Wire rope shall be attached to the load by a method that develops at least 80 percent of the nominal strength of the rope.

20. The standard code of hoisting signals recognized by the State of Colorado (34-21-109 C.R.S.) shall be adopted and used at each mine.

21. A legible signal code shall be posted prominently in the hoist house within easy view of the hoistmen, and at each place where signals are given or received.

22. A hoistman training and procedures plan must be developed by the tourist mine owner/operator for personnel that may operate the hoist. The tourist mine owner/operator shall ensure that any person operating a hoist is physically competent to perform the duty. The training and procedures plan along with documentation of the training must be made available for the MSTP inspector to examine.

23. Only experienced hoistmen shall operate the hoist except in cases of emergency and in the training of new hoistmen.

24. A systematic procedure of inspection, testing, and maintenance of shaft and hoisting equipment shall be developed and followed. If it is found or suspected that any part is not functioning properly, the hoist shall not be used until the malfunction has been located and repaired or adjustments have been made.

25. At the time of completion, the person performing inspections, tests, and maintenance of shafts and hoisting equipment required shall certify, by signature and date, that they have been completed. A record of any part that is not functioning properly shall be made and dated. Certifications and records shall be retained at the tourist mine for one year.

26. Parts used to repair hoists shall have properties that will ensure the proper and safe function of the hoist.

27. Examinations:

    a. When the tourist mine is operating, at least once every fourteen-calendar days, each wire rope in service shall be visually examined along its entire active length for visible structural damage, corrosion, and improper lubrication or dressing. In addition, visual examination for wear and broken wires shall be made at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change-of-layer regions. When any visible condition that results in a reduction of rope strength is present, the affected portion of the rope shall be examined on a daily basis.

    b. Before any tourist, employee, or tourist mine owner/operator is hoisted with a newly installed wire rope or any wire rope that has not been examined in the previous fourteen-calendar days, the wire rope shall be examined in accordance with paragraph (a) of this section.

c. At least once every six months, nondestructive tests shall be conducted to the active length of the rope, or rope diameter measurements shall be made

i. Wherever wear is evident;

ii. Where the hoist rope rests on sheaves at regular stopping points;

iii. Where the hoist rope leaves the drum at regular stopping points; and

iv. At drum crossover and change-of-layer regions.

d. At the completion of each examination required by paragraph (a) of this section, the person making the examination shall certify, by signature and date, that the examination has been made. If any condition listed in paragraph (a) of this section is present, the person conducting the examination shall make a record of the condition and the date. Certification and records of examinations shall be retained for one year.

e. The person making the measurement or nondestructive tests as required by paragraph (c) of this section shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

f. Hoistmen shall examine their hoists and shall test overtravel, deadman controls, position indicators, and braking mechanisms at the beginning of each shift.

g. Before hoisting persons and to assure that the hoisting compartments are clear of obstructions, empty hoist conveyances shall be operated at least one round trip after:

i. Any hoist or shaft repairs or related equipment repairs that might restrict or obstruct conveyance clearance;

ii. Any oversize or overweight material or equipment trips that might restrict or obstruct conveyance clearance;

iii. Blasting in or near the shaft that might restrict or obstruct conveyance clearance; or

iv. Remaining idle for one shift or longer.

28. When a manually operated hoist is used, a qualified hoistman shall remain within hearing of the telephone or signal device at all times while any person is underground.

29. When automatic hoisting is used, a competent operator of the hoist shall be readily available at or near the hoisting device while any person is underground.

RULE 14: ILLUMINATION

1. Adequate illumination shall be provided for all tourists in and around all walkways and areas they are required to travel, both underground and on the surface.

2. Every tour guide shall carry an operable individual electric lamp while conducting an underground tour.

RULE 15: OTHER SAFETY AND HEALTH REQUIREMENTS

1. At all tourist mines:

    a. Workplaces, passageways, storerooms, and service rooms shall be kept clean and orderly;

    b. The floor of every workplace shall be maintained in a clean and, so far as possible, dry condition. Where wet processes are used, drainage shall be maintained, and false floors, platforms, mats, or other dry standing places shall be provided where practicable; and

    c. Every floor, working place, and passageway shall be kept free from protruding nails, splinters, holes, or loose boards, as practicable.

2. Toilet facilities:

    a. Shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel.

    b. Shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet rooms will be occupied by no more than one person at a time and can be locked from the inside.

3. Where restricted clearance creates a hazard to any person, the restricted clearance shall be conspicuously marked.

4. Guardrails shall be provided and maintained to protect persons from endangerment where a drop-off exists of sufficient grade or depth that may cause the person or persons to fall.

5. No persons shall be assigned or permitted to perform work alone in any area where hazardous conditions exist that could endanger his or her safety.

6. No employees shall be under the influence of alcohol or controlled substances while on duty, except under the direction of a licensed physician. Tourist mine owners/operators and employees shall ensure that no persons visibly under the influence of alcohol or narcotics will be allowed on mine property.

7. No firearms shall be permitted in a tourist mine.

8. No persons shall smoke or use an open flame where flammable or combustible liquids or greases are stored. Readily visible signs prohibiting smoking and open flames shall be posted where a fire or explosion hazard exists.

9. Any toxic materials used at the mine site shall be plainly marked or labeled so as to positively identify the nature of the hazard and the protective action required. Material Safety Data Sheets must also be maintained and made available for all toxic material.

10. In cases where, in the opinion of the MSTP Supervisor or his/her representative, the enforcement of any order or rule would not materially increase the safety of employees and would cause undue hardship on a tourist mine owner/operator, exceptions may be made at the discretion of the MSTP Supervisor or his/her representative. To be effective, such exceptions shall be stated in writing. A reply regarding the approval or denial of the request, with or without conditions, will be mailed to the requesting party within 30 days of receipt of the written request.

11. These rules are not intended to and do not limit or affect the duty or obligation of the tourist mine owner/operator to correct any unsafe condition or procedure existing at a tourist mine.

12. When actively involved in extraction of material or advancement of the adit, the tourist mine owner/operator must also comply with any health and safety standards that apply to their specific operation as set forth in the Safety and Health Standards of the Federal Regulations 30 CFR Parts 56,57, and 58, as amended July 1, 2001, which are hereby incorporated by reference.

RULE 16: ENFORCEMENT PROVISIONS

1. Whenever the MSTP has reason to believe that there has been a violation of an Order or regulation issued under State statute or these Rules, the MSTP Supervisor or representative shall note such violation in the inspection report signed by the tourist mine owner/operator, a copy of which is given to the tourist mine owner/operator. If the tourist mine owner/operator has not remedied the violation to the satisfaction of the MSTP Supervisor or representative within the time specified in the inspection report, the MSTP Supervisor or representative may issue an immediate Cease and Desist Order until the condition is satisfactorily remedied. In lieu of closing the entire mine, depending on the nature of the violation, the MSTP has the discretion to close any portion of the mine where unsafe conditions exist that could adversely affect the health and safety of the public and the employees at the tourist mine.

2. If the MSTP Supervisor or his/her representative determines there is an imminent or substantial danger to the public or employees, he/she may issue an immediate cease and desist order.

3. In the event the tourist mine owner/operator fails to comply with a Cease and Desist Order, the MSTP may request the Attorney General to bring suit for a temporary restraining order, a preliminary injunction, or a permanent injunction to prevent any further or continued violation of such order.

4. If the tourist mine owner/operator has been issued a Cease and Desist Order. the operator may continue operating the mine **only** for the purpose of bringing the tourist mine into satisfactory compliance with the provisions of these Rules. Once the tourist mine is in complete compliance to the satisfaction of the MSTP, the MSTP shall consider vacating the Cease and Desist Order.

5. The MSTP shall utilize the applicable provisions of Section 105 of the Colorado Administrative Procedures Act, § 24-4-105, C. R. S., when conducting hearings regarding violations and appeals of violations from tourist mine owners/operators.

    a. Any tourist mine owner/operator may appeal an order from the MSTP to the Director of the Division of Reclamation, Mining and Safety (DRMS). Any such appeal must be made in writing to the DRMS Director within thirty (30) days of the order. Any appeal shall be heard by the DRMS Director not less than thirty (30) days from the date the appeal is filed. Failure to appeal to the DRMS Director in writing within thirty (30) days of the order shall constitute a waiver of any appeal rights a tourist mine owner/operator may have had. A tourist mine owner/operator may request an expedited hearing if he/she has been issued a Cease and Desist. Failure of a tourist mine

owner/operator to appeal within thirty (30) days of an order by the MSTP shall render that order final agency action and may be appealed by a tourist mine owner/operator and subject to judicial review in accordance with the procedures of Section 106 of the Colorado Administrative Procedures Act, 24-4-106 C. R. S.

b. Any person affected or aggrieved by an order of the MSTP shall be admitted as a party to the hearing, provided such person files a written request with the DRMS Director, setting forth a brief and plain statement of facts which entitle that person to be admitted and the matters which that person claims should be decided. Such a written request must be submitted within thirty (30) days of the MSTP order. Tourist mine owners/operators and the MSTP shall be automatically granted status as parties to any appeal.

c. Any decision by the DRMS Director, after hearing on an appeal of an order by the MSTP, shall be final agency action as established in Section 106 of the Colorado Administrative Procedures Act, 24-4-106, C. R. S. and subject to judicial review in accordance with the provisions of that section.

RULE 17: CHANGE OF NAME - LEGAL EFFECT

1 Any statute enacted prior to or on August 9, 2006 changing the name of the Division of Minerals and Geology to the Division of Reclamation, Mining and Safety, shall not impair the legal status or effect of any and all permits, permit obligations, financial warranties, performance warranties, contracts, property rights and/or any other obligations or legal relationships that were entered into between any entity or individual and the Division of Minerals and Geology prior to the name change. All such obligations will remain legally binding and shall not be impaired by any such name change. Any statute enacted after August 9, 2006 changing the name of the Division of Reclamation, Mining and Safety to any other name, shall not impair the legal status or effect of any and all permits, permit obligations, financial warranties, performance warranties, contracts, property rights and/or any other obligations or legal relationships that were entered into between an entity or individual and the Division of Reclamation, Mining and Safety prior to such name change. All such obligations will remain legally binding and shall not be impaired by any such name change.