

RULE 1: GENERAL PROVISIONS AND REQUIREMENTS - PERMIT PROCESS

1.1 DEFINITIONS

~~(30)(33)~~ "Off-site" means ~~an area defined by a proposed or existing construction project, where such project area does not include the site of construction material extraction nor is it immediately adjacent to such site of extraction. In relation to an extraction operation, it means that the~~ area outside of the permitted affected area.

(50.1) "Special One-time Excavation 111(1)(b) Operation Permit" applies to any operation of a one-time excavation project which:

- (a) is not performed pursuant to a federal, state, county, city, town, or special district contract;
- (b) generates small quantities of excess construction materials, twenty thousand (20,000) tons or less, that are incidental to the intent of the one-time project and introduces those materials into the construction materials market;
- (c) is clearly defined, of short duration of less than one (1) year and scope;
- (d) does not employ material processing activities typically associated with mining operations, such as crushing, washing, or asphalt and concrete production, unless approved by the Office;
- (e) all extraction and export of materials are completed within twelve (12) months of permit issuance. Any Operator with a Special One-Time Excavation 111(1)(b) Operation Permit for which extraction and export activities are not completed within twelve (12) months after issuance of the permit, shall replace the Special One-Time Excavation 111(1)(b) Operation Permit with the applicable regular construction materials permit. All fee, warranty and processing requirements shall apply as a new permit application. A fee, as specified in Section 34-32.5-125(1)(a), C.R.S., shall be submitted at the time of the applicable regular construction materials permit application;
- (f) reclaims all affected lands within twelve (12) months after issuance of the permit; and
- (g) will affect thirty (30) acres or less.

1.4.2 Specific Application Requirements for 110 Limited Impact Permit Applications

(2) An application will be considered filed for the purpose of calculating the thirty (30) day decision-making time period under Section 34-32.5-110(4), C.R.S., as amended, when the application file includes all of the following submittals:

(b) one (1) original and ~~two (2) copies~~ one (1) copy, or an electronic submittal as designated and approved by the Office, of:

1.4.5 Specific Application Requirements - 112 Reclamation Permit Operations

~~(see Figure 3)~~

(2) An application will be considered filed for the purpose of calculating the decision-making time periods under Section 34-32.5-115(1), C.R.S., as amended, when the application file includes all of the following submittals:

(b) one (1) original and ~~four (4) copies of~~ one (1) copy, or an electronic submittal as designated and approved by the Office, of:

1.6.2 General Applicant Procedures

(1) The Applicant shall:

(b) Prior to submitting the application to the Office for a 112 Reclamation Permit, post notices (signs) at the location of the proposed mine site, as required by the Office, of sufficient ~~size and number~~ number and a minimum size of eleven (11) inches wide by seventeen (17) inches high, with appropriate font size, to clearly identify the site as the location of a proposed mining operation giving name, address, and phone number of the Applicant, and stating that (name of Applicant) has applied for a mining permit with the Colorado Mined Land Reclamation Board. Anyone wishing to comment on the application may view the application at the County Clerk's or Recorder's office and should send comments prior to the end of the public comment period to the Colorado Mined Land Reclamation Office, and state the Office's address, as given on the cover of these Rules. For any class of 110 Limited Impact or 111 Special Operation, the Applicant need only post notice at the location of the proposed access to the site. After having posted such notice, failure by an Applicant to maintain such notice (sign) shall not constitute just cause to deny approval of the application. At the time the application is filed with the Office, the Applicant shall provide a signed affidavit that such ~~notice (sign) was notices~~ (signs) were posted according to the provisions of this Rule.

1.10 AMENDMENT TO A PERMIT

1.10.1 112 Reclamation Permit and 110 Limited Impact Permit Amendments

- (1) Where applicable, there shall be filed with any application for a 112 Reclamation Permit amendment, attachment(s) map(s) and one (1) original and ~~four (4) copies~~ one (1) copy, or by electronic submittal as designated and approved by the Office, of the application with the same content as required for an original application, except that the Applicant will not be required to submit any information which duplicates applicable previous submittals. However, the Applicant shall clearly describe where in the original application and supporting documents the information not included in the amendment application, but necessary to render the amendment technically adequate, may be found.
- (2) A 110 Limited Impact permit amendment submittal shall include attachment(s), map(s), and one (1) original and ~~two (2) copies~~ one (1) copy, or by electronic submittal as designated and approved by the Office, of the application with the same content as required for an original application, except the Applicant will not be required to submit any information which duplicates applicable previous submittals. However, the applicant shall clearly describe where, in the original application and supporting documents, the information not included in the amendment application, but necessary to render the amendment technically adequate, may be found.

1.11 CONVERSIONS

1.11.1 Purposes and Types

- (3) Any Operator with a Special One-Time Excavation 111(1)(b) Operation Permit for which extraction and export activities are not completed within twelve (12) months after issuance of the permit, shall replace the Special One-Time Excavation 111(1)(b) Operation Permit with the applicable regular construction materials permit. All fee, warranty and processing requirements shall apply as a new permit application. A fee, as specified in Section 34-32.5-125(1)(a), C.R.S., shall be submitted at the time of the applicable regular construction materials permit application.

1.12 PERMIT TRANSFERS AND SUCCESSION OF OPERATORS

1.12.1 Approval Process

- (1) Where one Operator succeeds another at any uncompleted operation, the first Operator shall be released from all liability as to that particular reclamation operation and all

applicable Performance and Financial Warranties as to such operation shall be released if the successor Operator assumes, as part of the obligation under the Act and these Rules, all liability for the reclamation of the affected land, and the obligation is covered by replacement Performance and Financial Warranties as to such affected land. ~~The successor Operator may be required to post a Financial Warranty of a greater or lesser amount than the existing Financial Warranty dependent upon the actual site reclamation obligation.~~

1.15 ANNUAL REPORT INCLUSIONS

- (1) The Annual Report shall include all information specified on the Annual Report Form, issued in the format required by the Office, and specifically:
- (2) An Operator may request a one-time change to a date other than the anniversary date of the permit for the purpose of submitting Annual Reports. ~~If no new disturbances or reclamation have occurred during the previous year and no changes to the previous year's map are necessary, then no new map is required, provided that the Operator shall state this in the Annual Report.~~

1.16 ADDRESS CHANGE, SALE OF PROPERTY BY AN OPERATOR, CHANGE IN PROPERTY LEASE, OR BUSINESS NAME OR OWNERSHIP CHANGE, AND NOTICE OF FILING OF A PETITION IN BANKRUPTCY

- (2) Where an Operator is the owner of the lands to be mined and the Operator sells such lands, the Operator shall promptly notify the Office of such sale. Where an Operator leases the lands, the Operator shall promptly notify the Office of any substantial changes that affect right of legal entry upon the lands to be mined.

RULE 2: BOARD MEETINGS - PERMIT APPLICATION HEARINGS, DECISIONS AND APPEALS

2.6 PRE-HEARING PROCEDURES - MOTIONS, WITNESS AND EXHIBIT LISTS

- (3) All motions, responses, replies, witness lists, and exhibit lists shall identify the names, address and phone number of the submitting party, and the file number assigned to the case by the Office. If a party is represented by an attorney or other representative, the name, address and phone number of the attorney or other representative shall be provided on all documents submitted to the Board. All motions and lists shall be served on all parties and the Office at the same time they are served on the Board. The Board shall be served

through the Office of Mined Land Reclamation. ~~The Board shall be provided thirteen (13) copies, one of which shall be unbound.~~

2.8 HEARINGS

2.8.1 General Provisions - Board Hearings

(1) Except as otherwise provided by statute, the proponent of an order shall have the burden of proof, and every party to the proceeding shall have the right to present its case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be substantially prejudiced thereby, a person conducting a hearing may receive all or part of the evidence in written form. Any party who does not attend the Board Hearing forfeits its party status and all associated rights and privileges. A party may file a motion to attend the hearing via telephone pursuant to the following requirements:

(a) A party may file a request for telephonic appearance with the Board Chairman no later than fourteen (14) calendar days prior to the Hearing. The motion shall state the reason(s) for requesting to participate at the hearing by phone. The motion shall be served by mail or electronic attachment on all parties.

(b) Any party may file with the Board Chairman a response to the request for telephonic appearance. The response must be filed no later than ten (10) calendar days prior to the hearing.

(c) The Board Chairman will rule on the request for telephonic appearance at least seven (7) calendar days prior to the hearing. In the event the Board Chair does not issue a ruling on the request no later than seven (7) calendar days prior to the hearing, the request for telephonic appearance shall be deemed denied.

RULE 3: RECLAMATION PERFORMANCE STANDARDS, INSPECTION, MONITORING, AND ENFORCEMENT

3.1 RECLAMATION PERFORMANCE STANDARDS

3.1.1 Establishing Post-Mining Use

- (1) In consultation with the Landowner, where possible, and subject to the approval of the Board or Office, the Operator shall choose how the affected lands shall be reclaimed. These decisions can be for forest, rangeland, pastureland, cropland, horticultural general agriculture, home-site residential, recreational, industrial/commercial, developed water resource, wildlife habitat, or other uses, including food, shelter and ground cover for wildlife.

3.1.3 Time Limit and Phased Reclamation

All reclamation shall be carried to completion by the Operator with all reasonable diligence, and each phase of reclamation shall be completed within five (5) years from the date the Operator informs the Board or Office that such phase has commenced, or from the date the Office has evidence that mining or exploration has ceased, unless extended by the Board or Office. The 5-year period may be applied separately to each phase as it is commenced throughout the life of the mine.

3.1.9 Topsoiling

- (2) Where practicable, woody vegetation present at the site shall be removed from or appropriately incorporated into the existing topsoil prior to excavation within the affected areas. The Operator should make a reasonable effort to ensure that existing vegetation is put to a beneficial use such as firewood, mulching, lumber, etc.

3.1.10 Revegetation

- (1) In those areas where revegetation is part of the Reclamation Plan, land shall be revegetated in such a way as to establish a diverse, effective, and long-lasting vegetative cover that is capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer, and is at least equal in extent of cover to the natural vegetation of the surrounding area. Except for certain post mining land uses approved by the Board or Office, the use of species native to the region shall be emphasized. Greater emphasis on non-native species may be proposed for intensively managed forestry and range uses.

3.1.12 Signs and Markers

- (1) At the entrance of the mine site the Operator shall post a sign, which shall be clearly visible from the access road, with a minimum size equaling eight hundred and sixty-four (864) square inches, such as twenty-four (24) inches in height and thirty-six (36) inches in width, with appropriate font size, with the following:

- (a) the name of the Operator and the operation name;
- (2) The boundaries of the affected area will be marked by monuments or other markers that are clearly visible and adequate to delineate such boundaries.
 - (a) for Limited Impact 110 Operations and Special 111 Operations the permit boundary for the purposes of this Rule shall be considered the affected area;
 - (b) for ~~Special 111 Special Operations and~~ Regular 112 Reclamation Operations the area proposed to be disturbed by mining operations for which a Financial Warranty and Performance Warranty have been posted shall be the affected area.

RULE 5: **EXPLORATION OPERATIONS**

5.1 NOTICE OF INTENT TO CONDUCT EXPLORATION OPERATIONS

5.1.2 Application Requirements

Such notice form shall contain the following:

- (a) date of filing of the Notice of Intent;
- (b) ~~person conducting exploration – name, address, and phone number of person or organization doing the exploration~~ the name, address, and telephone number of the Person conducting exploration;
- (c) ~~contact – name, address, and phone number of person in the organization who should be contacted concerning reclamation~~ the name address, and telephone number of the a person to contact concerning the information in the NOI and reclamation of lands affected by exploration;
- (d) a description of lands, including:
 - (i) the site name, if applicable;
 - (ii) the location, by each quarter section, section, township and range. ~~If more than one township is involved, give the one which includes most of the affected lands~~;
 - (iii) where Public Land is involved, specify the land management agency, mailing address and telephone number;

- (iii) ~~estimated acreage of land surface to be disturbed~~ the estimated acreage of land surface to be affected by the exploration activities to include areas affected by access along routes for which reclamation is the responsibility of the Person conducting exploration; and
- (iv) a U.S.G.S. 7.5 minute quadrangle, or similar map of adequate scale, ~~which locates the exploration site(s) that:~~

 - (A) identifies the proposed exploration site(s) or activity areas involving surface disturbance. Activity areas may include all drill holes, mud pits, excavations, trenches, and explorations roads; and
 - (B) includes sufficient detail to identify and locate all known exploration features and facilities that may be affected and those that are not anticipated to be affected. This includes the location of all drill holes, mud pits, excavations, trenches, and exploration roads.
- (v) provide documentation of the legal right to enter to conduct exploration and reclamation, for Owners of Record described in Rule 1.6.2(1)(e)(i). This may include a copy of a lease, deed, abstract of title, a current tax receipt, or a signed statement by the Landowner and acknowledged by a Notary Public stating that the Person conducting exploration has legal right to enter to conduct exploration and reclamation.
- (e) ~~date of commencement—the~~ approximate date of anticipated commencement and the date of completion of the above-described exploration activity. Completion of activities and commencement of reclamation shall not exceed five (5) years unless approved by the Office or Board;
- (f) ~~type of operation—describe the type of operations which will be undertaken in conducting the exploration operations. For example: "The exploration operations will involve drilling, trenching, bulk sample removal, shaft sinking, etc.," or "The drilling will be conducted by use of a truck mounted rig, mud drilling, air drilling, etc.;"~~ a narrative description of the methods to be used to conduct the exploration operation, including, but not limited to, the types and uses of equipment, drilling, road or other access route construction, excavations, and other site disturbance activities;
- (g) ~~reclamation measures—state~~ the measures to be taken to reclaim any affected land consistent with the applicable requirements of Section Rule 3.1. Such reclamation must be completed within five (5) years of the completion of exploration activities notice provided for in Rule 5.6;

- (h) a statement that exploration will be conducted pursuant to the terms and conditions listed on the approved form; and
- (i) an application fee as specified in Section 34-32.5-125(a)(IX), C.R.S.

5.1.3 Office Review

Upon receipt by the Office of a NOI to Conduct Exploration, the Office shall timely notify the Person conducting exploration, in writing, of receipt of the NOI.

(a) Review of a NOI and associated Financial Warranty information is required by the Office within twenty (20) working days of receipt by the Office. If the Person conducting exploration has not been notified of any deficiencies of the NOI form or Financial Warranty by the Office within twenty (20) working days of receipt by the Office of the NOI, exploration operations may commence. For activities on BLM or USFS lands, the twenty (20) working day period begins when the Office has received notification from the appropriate federal land management agency that they have received the notice of proposed activities, or the Office has otherwise determined that the appropriate federal land management agency has received the notice.

(b) If the Office has notified the Person conducting exploration within twenty (20) working days of receipt of a NOI that it has not been filed in accordance with Rule 5.3, has been deemed complex, or of deficiencies in the Financial Warranty, the Person conducting exploration shall address all identified deficiencies or complexities within sixty (60) days of the Office notification. If the NOI deficiencies or Construction Materials Rule 5 complexities are not addressed within sixty (60) days, the Office may terminate the NOI file. The Office shall notify the Person conducting exploration of such termination.

(c) (i) The Office shall send notice of its decision on a NOI to the Person conducting exploration;

(ii) A prospective Person conducting exploration may appeal an Office determination within five (5) business days from the date the Office sends notice of its decision;

(iii) The Board shall hear any such appeal at its next regularly scheduled meeting that is at least ten (10) calendar days from the date of such appeal; and

(iv) The Office's determination shall not take effect until the expiration of the five (5) business days allowed for an appeal, or, in the case of an appeal, until the Board issues its decision.

5.8 ANNUAL REPORT AND FEE

(1) An annual report must be submitted by the anniversary date of the Notice of Intent (NOI) approval for each year until a reclamation responsibility release is granted. The Annual Report shall include all information specified on the Annual Report Form, in the format required by the Office. The annual report shall contain:

(a) an updated map showing the location of all holes drilled, any roads constructed, areas disturbed and areas reclaimed to date, including identification of disturbance and reclamation activities which have occurred in the preceding year. Exploration disturbance and reclamation must be identified on a site map of adequate scale to field locate these areas, which may include:

(i) coordinates reported in latitude and longitude in degrees, minutes and seconds or in decimal degrees to an accuracy of at least five (5) decimal places (e.g., latitude 37.12345 N, longitude 104.45678 W); or

(ii) coordinates based on the Universal Transverse Mercator (UTM) North American Datum (NAD). For UTM, the Prospector will need to specify NAD 1927, NAD 1983 or WGS 84, and the applicable zone, measured in meters.

(2) On the anniversary date of the Notice of Intent (NOI) approval, the ~~Permittee Person~~ conducting exploration shall ~~deliver~~ submit to the Office an annual fee as specified in Section 34-32.5-125(b)(iv), C.R.S.

RULE 6: PERMIT APPLICATION EXHIBIT REQUIREMENTS

**6.3 SPECIFIC PERMIT APPLICATION EXHIBIT REQUIREMENTS - 110 OR 110(6)
LIMITED IMPACT and 111 SPECIAL OPERATIONS**

6.3.3 EXHIBIT C - Mining Plan

The purpose of the mining plan is to describe how mining will affect the permit area for the duration of the operation. This plan must be correlated to Exhibit E - Map. The description of the mining plan must be adequate to satisfy the requirements of ~~Section-Rule~~ 3.1 and demonstrate compliance with Rule 3. At a minimum, the Operator/Applicant must include the following information:

- (g) specify the dimensions of any existing or proposed roads that will be used for the mining operation. Describe any improvements necessary on existing roads and the specifications to be used in the construction of new roads. New or improved roads must be included as part of the affected lands and permitted acreage. Affected land shall not include off-site roads which existed prior to the date on which notice was given or permit application was made to the office and which were constructed for purposes unrelated to the proposed mining operation and which will not be substantially upgraded to support the mining operation. Describe any associated drainage and runoff conveyance structures to include sufficient information to evaluate structure sizing;

6.3.7 EXHIBIT G - Source of Legal Right-to-Enter

Provide ~~a description of the basis for legal right of entry to the site and documentation of the legal right to enter~~ to conduct mining and reclamation, for Owners of Record described in Rule 1.6.2(1)(e)(i). This may ~~be include~~ a copy of ~~access a~~ lease, deed, abstract of title, ~~or a~~ current tax receipt, or a signed statement by the Landowner(s) and acknowledged by a Notary Public stating that the Operator/Applicant has legal right to enter ~~and to conducting mining and reclamation. mine is also acceptable.~~

6.3.12 EXHIBIT L - Permanent Man-Made Structures

~~Where the mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the Applicant shall either:~~ Where the affected lands are within two hundred (200) feet of any significant, valuable and permanent man-made structure, the applicant shall:

- (a) provide a notarized agreement between the Applicant and the Person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or

- (b) where such an agreement cannot be reached, the Applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or
- (c) where such structure is a utility, the applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility.

6.4 SPECIFIC EXHIBIT REQUIREMENTS - 112 RECLAMATION OPERATION

6.4.4 EXHIBIT D - Mining Plan

The mining plan shall supply the following information, correlated with the affected lands, map(s) and timetables:

- (j) Specify the dimensions of any existing or proposed roads that will be used for the mining operation. Describe any improvements necessary on existing roads and the specifications to be used in the construction of new roads. New or improved roads must be included as part of the affected lands and permitted acreage. Affected land shall not include off-site roads which existed prior to the date on which notice was given or permit application was made to the office and which were constructed for purposes unrelated to the proposed mining operation and which will not be substantially upgraded to support the mining operation. Describe any associated drainage and runoff conveyance structures to include sufficient information to evaluate structure sizing.

6.4.7 EXHIBIT G - Water Information

- (1) If the operation is not expected to directly affect surface or groundwater systems, a statement and sufficient demonstration of that expectation shall be submitted.

6.4.9 EXHIBIT I - Soils Information

- (1) In consultation with the Soil Conservation Service Natural Resources Conservation Service (NRCS) or other qualified person, the Operator/Applicant shall indicate on a map (in Exhibit C) or by a statement, the general type, thickness and distribution of soil over the affected land. Such description will address suitability of topsoil (or other material) for establishment and maintenance of plant growth. The above information shall satisfy "completeness" requirements for purposes of determination of date of filing.
- ~~(2)~~ If necessary, at its discretion, the Board may require additional information on soils or other growth media to be stockpiled and used in revegetation to be submitted subsequent to the filing and notification of "completeness" of the application.

6.4.14 EXHIBIT N - Source of Legal Right to Enter

~~The source of the Operator's/Applicant's legal right to enter and initiate a mining operation on the affected land. (Same requirements as Rule 6.3.7). Provide documentation of the legal right to enter to conduct mining and reclamation, for Owners of Record described in Rule 1.6.2(1)(e)(i). This may include a copy of a lease, deed, abstract of title, a current tax receipt, or a signed statement by the Landowner and acknowledged by a Notary Public stating that the Operator/Applicant has legal right to enter to conduct mining and reclamation.~~

6.4.19 EXHIBIT S - Permanent Man-made Structures

~~Where the mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the applicant may either-Where the affected lands are within two hundred (200) feet of any significant, valuable and permanent man-made structure, the applicant shall:~~

- (a) provide a notarized agreement between the applicant and the person(s) having an interest in the structure, that the applicant is to provide compensation for any damage to the structure; or
- (b) where such an agreement cannot be reached, the applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or
- (c) where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility.

6.5 GEOTECHNICAL STABILITY EXHIBIT

- (1) On a site-specific basis, an Applicant shall be required to provide a geotechnical evaluation of all geologic hazards that have the potential to affect any proposed impoundment, slope, embankment, highwall, or waste pile within the affected area. A geologic hazard is one of several types of adverse geologic conditions capable of causing damage or loss of property and life. The Applicant may also be required to provide a geotechnical evaluation of all geologic hazards, within or in the vicinity of the affected lands, ~~that which~~ may be de-stabilized or exacerbated by mining or reclamation activities.