

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

JULY 13, 2012



IN THE MATTER OF THE )  
PROPOSED REVISION OF )  
LAND QUALITY )  
DIVISION RULES RELATED )  
TO THE REGULATION OF )  
NONCOAL MINING )

STATEMENT OF PRINCIPAL  
REASONS (SOPR) FOR ADOPTON

DOCKET #: 12-4101

**Noncoal Rules and Regulations, Chapter 8, 9 and 10**  
**Exploration by Drilling, Small Mines and Limited Mining Operations**

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**Introduction to Rule Package**

Chapter 8, Exploration by Drilling

Chapter 8 was promulgated in 1979 and the content has remained unchanged since that time. Chapter 8 contains regulations on exploratory drilling, and provides requirements for plugging and abandonment (sealing) of drill holes after obtaining exploratory data. One of the main areas that these new rules seek to address is drill hole plugging and sealing requirements. Chapter 8 does not conform to current best management practices and standards. It allows the use of drilling mud to seal drill holes and does not require plugging to the surface. On April 5, 2010 the Wyoming State Engineers Office (SEO) adopted revised Ground Water Division Part III regulations (Water Well Minimum

Construction Standards), which included specifications for well plugging and abandonment. These changes brought the SEO's Rules and Regulations into conformance with accepted practices as set forth by the American Society for Testing and Materials (ASTM), the American Water Works Association (AWWA), and the WDEQ-WQD Chapter 11, Part G, Well Construction Standards, among others. These standards do not allow the use of drilling mud as an acceptable sealant. The SEO's list of approved grout materials and methods has been copied verbatim in these proposed rules.

Another issue that the proposed revisions rules seek to correct is that the current LQD rules do not require plugging the entire hole. The DEQ/WQD and SEO rules make no distinction between an exploration test well (e.g., an exploration hole) and a constructed water well in terms of plugging and sealing requirements. The DEQ/WQD and SEO both require that the hole be plugged or sealed by filling the entire hole from the bottom to the ground surface to preclude the well, borehole, or drill hole from acting as a vertical conduit and to prevent contamination of ground water.

LQD Noncoal Chapter 8 does not currently require the submittal of a drilling notification prior to conducting exploration drilling. The LQD has been utilizing the drilling notification process and forms to authorize exploration drilling since 1978. These revised rules codify that requirement.

A provision has been added from the statute [W.S. § 35-11-404(h)] requiring that drill holes be capped immediately after the hole is probed. Another provision has been added to require that drill holes be temporarily marked with an identification number to facilitate inspection by WDEQ-LQD staff.

Surface reclamation requirements have been split out as a separate section from the plugging and abandonment requirements for the sake of clarity. Some minor additions have been made to address the disposal of drilling wastes and contaminated materials and reclamation of access routes.

Chapter 8 currently states that a bond in the amount of \$10,000 will be posted for each exploration area. This amount is generally insufficient to cover current abandonment and reclamation costs for medium to large scale exploration programs. Therefore, the specific value of the bond has been deleted from the proposed rules to allow for establishing bond amounts to cover actual costs. The types of allowable bonding instruments have also been specified. Other proposed changes include a provision that the bond may be reduced following proper drill hole abandonment.

A provision has been added to the section on reporting of abandoned drill holes to specify that the reports will be held confidential for a five year period after bond is released. This change was made to conform to statutory changes that were made in 2007.

Chapter 8 currently contains an exception that allows drill holes on permitted mines to be left unplugged. This provision has historically been interpreted as applying only to

surface mines where the drill holes will be mined through within a short time frame. Unplugged holes are certainly not desirable in proximity to underground mines or in situ mines. Appropriate clarifications have been added in the proposed rule.

Currently Chapter 8 contains no specific provisions for installation or plugging of wells. The LQD has historically authorized wells, typically monitoring wells installed to gather baseline information in support of a mine permit application, under Drilling Notifications. However, under this approach there are no standards regarding well completion, bonding or plugging and sealing. The intent of the proposed revisions is to provide this regulatory framework for installation of baseline monitor wells.

The proposed Chapter 8 rules were provided to the Wyoming Mining Association and representatives of the uranium industry to solicit their input on the rules. Meetings were held with LQD staff and numerous industry representatives on January 18<sup>th</sup> and February 9<sup>th</sup> specifically to review and discuss Chapter 8. The proposed rules were thoroughly vetted and have been revised to reflect numerous changes and clarifications that were recommended by the group.

In summary, the purpose of this Rules package is to update Chapter 8 to meet today's best management practices related to plugging and sealing exploration drill holes, to be consistent with other State Regulatory agencies, to clarify bonding procedures and to codify provisions for authorizing the construction of baseline ground water monitoring and test wells.

#### Chapter 9, Small Mine Operations

Chapter 9 was promulgated in 1978 and the content has remained unchanged since that time. Chapter 9 is proposed for revision mainly to clarify and specify all of the permit application requirements for small mine operations and to make the rules more readable. The chapter as currently written contains numerous citations to the Environmental Quality Act to indicate what is required and what is not required for small mine permit application. The current Chapter 9 is also poorly organized, incomplete and vague in many areas. To make the chapter more readable these statutory citations have been replaced with specific requirements contained in the statute and from Chapter 2, as appropriate. This eliminates the need to continually flip back and forth between regulation and statute to determine what is required for a small mine permit application.

Additional clarifications have been provided to define the scope of this chapter and to define the various information requirements to conform to LQD's long-standing protocols for organizing permit application materials. The revised chapter is intended to be clear and comprehensive in spelling out the information required for a small mine permit application.

## Chapter 10, Limited Mine Operations

The major proposed changes to Chapter 10 are intended to clarify the proximity limitations on Limited Mine Operations or LMO's (aka ten acre exemptions) that have historically been applied through policy. Establishment of multiple LMO's in nearby areas circumvents the statutory requirements for environmental protections achieved with a mining permit. Therefore, it was necessary for LQD to establish reasonable limits to the number of LMO's an operator may have in near proximity to each other. LQD implemented a policy stating that an operator may not establish an LMO within six miles of another LMO held by the same operator and extracting the same material. This policy has been in place for years but has not been codified. The proposed rule codifies this policy.

The revised rule also establishes the level of reclamation required for an LMO before another may be approved within the six-mile limit. Once an LMO is reclaimed to final seeding, an operator may obtain a new LMO within six miles of the reclaimed one. This has not been specified before, and requirements in the past have been that the reclaimed vegetation be established and the bond released before a LMO could be approved. Allowing operators to open a new LMO as soon as final seeding is completed encourages prompt reclamation and benefits the operator by eliminating the uncertainty of when a new pit may be opened.

The other proposed change is to eliminate the ability of "contractors" to operate within a LMO that is held by another operator. This provision was added to Chapter 10 in 2000, but has since been found to be confusing and unworkable in practice. In addition, it has been noted that the statute [W.S. 35-11-401(e)(vi)] only speaks of an "operator" and makes no provision for "contractors". LQD has therefore determined that this provision should be eliminated.

## **Summary of Proposed Amendments**

### Chapter 8 Proposed Changes

Section 1 was revised to codify the requirement that drilling notifications must be submitted prior to conducting exploration by drilling outside of a permitted mine. It is also clarified that the requirements for plugging and abandonment apply within a permitted mine. Also, this section references section 7 which authorizes construction of monitor wells outside of permitted mines.

Section 2, was substantially revised to cover drill hole abandonment requirements. The intent of the revision is to bring this chapter up to date, reflect industry standards as described in ASTM International D-5299, and generally eliminate conflicts between DEQ/LQD and DEQ/WQD and SEO Rules and Regulations. To accomplish this Section 2 was modified to eliminate any reference to the use of drilling mud as an acceptable sealant material and to require the entire drill hole be completely filled from bottom to ground surface. Acceptable grout or sealant materials are defined consistent with current SEO rules.

Section 3, now covering surface reclamation requirements, was split out as a separate section for clarity.

Section 4, now covering bond requirements, was rewritten to eliminate the flat \$10,000 bond requirement, which is insufficient for most exploration projects. Provisions were also added to provide for bond reductions after drill hole abandonment has been completed and for bond release following successful revegetation.

Section 5, now covering termination and report of operations, was revised to include the option of requiring additional reclamation of a hole(s) rather than just bond release or forfeiture. A confidentiality provision was also added to be consistent with W.S. §35-11-404(e).

Section 6, Exceptions (previously covered in section 5), has been revised to clarify that drill hole abandonment and reclamation requirements do not apply to development drilling in advance of an open pit mine. The exclusion clause regarding oil and gas exploration remains in force.

Section 7 was added to provide a regulatory framework for LQD to authorize the installation of baseline ground water monitoring and testing wells, outside of a permitted mine. Construction standards relate back to those currently approved under Chapter 11 and plugging and sealing relates back to the proposed rewrite of Sections as described above.

### Chapter 9 Proposed Changes

Chapter 9 has been largely rewritten with the intent of clarifying and spelling out all of the permit application requirements for small mine operations. Section 1 clarifies the

applicability and scope of the chapter. Sections 2-5 follow the historical format for mine permit application, i.e. adjudication information, environmental baseline data, mine plan and reclamation plan. Section 6 specifies the standards and methods for evaluating reclamation success. Section 7 clarifies the information and process required to convert a small mine permit to a regular mine permit.

#### Chapter 10 Proposed Changes

Section 6 was revised to indicate that transfers must meet the limitations on operations that are included in Section 8 and requires operators to have a Form 10 and bond in place. Section 8 was revised to incorporate policy regarding “nearby” operations to include a specific spatial limitation, i.e. the six mile rule, and thereby create greater consistency in the implementation of this section. The confusing provision allowing for “contractors” to operate within an existing LMO has been eliminated.

## **Summary of Changes to Advisory Board Draft SOPR**

### Chapter 8 Changes to Draft SOPR

1. Section 1(b) and 1(c) – These two sections were combined to form Section 1(b). No substantive changes were made to the language as presented to the Advisory Board. (Pages 10-13, 3/26/12 Advisory Board Minutes)
2. Sealant material – The use of the term “sealant materials” was discussed in relationship to the use of different terms such as “grout”. Advisory Board consensus concluded that “sealant materials” would be used as a general term and other terms would be used in more specific contexts. The LQD reviewed Chapter 8 and revised the terms as the context of the use of the terms dictated throughout the chapter. (Pages 50-54, 3/26/12 Advisory Board Minutes)
3. Sections 3(d) and 3(e) were revised to include an additional reference to Chapter 3. The two sections referred to performance standards for topsoil and subsoil replacement and revegetation standards and during the Advisory Board hearing it was concluded that these two subsections should also both refer to Chapter 3, Section 2(i) to add clarity. (Pages 35-39, 3/26/12 Advisory Board Minutes)

### Chapter 9 Changes to Draft SOPR

1. Grammatical corrections were made to Section 2(a)(xiv) and the term “operator” was replaced with “applicant” to better fit the context of the section. (Pages 61-93, 3/26/12 Advisory Board Minutes)
2. Wildlife Consultations – Chapter 9, Section 3(a)(vi) was revised to reflect the Advisory Board’s discussion about wildlife consultations. Language was crafted during the meeting that captured that discussion. (Pages 61-93, 3/26/12 Advisory Board Minutes)
3. Chapter 9, Section 5 – Several grammatical changes and clarifications were made to this section. Clarifications to Section 5 include the addition of “by the landowner” to Subsection (a)(i) to indicate that the future land uses are to be determined by the surface owner and Subsection 5(a)(viii) was revised to clarify that buildings or structures may be left in place at the request of the surface owner. (Pages 96-100, 3/26/12 Advisory Board Minutes)
4. Chapter 9, Section 6 – This subsection was revised to clarify that revegetation success will be reviewed in consultation with the surface landowner. (Pages 102 and 105, 3/26/12 Advisory Board Minutes)

### Chapter 10 Changes to Draft SOPR

No changes were made to Chapter 10 during the March 26, 2012 Advisory Board meeting and was not changed since the November 19, 2011 Advisory Board meeting.

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND QUALITY DIVISION

NONCOAL RULES AND REGULATIONS

CHAPTER 8

EXPLORATION BY DRILLING

**Section 1. Conducting of Exploration by Drilling.**

(a) Any discoverer conducting exploration by drilling within this State, shall do so in strict compliance with all the provisions of W.S. § 35-11-404 (2007 1977) and Sections 2, 3, and 4 of this Chapter. The requirements of this Chapter shall apply to exploration drilling within permitted mine operations.

(b) Prior to conducting any exploration by drilling outside of a permitted mine operation, the discoverer shall provide notification (Drilling Notification) and a reclamation bond acceptable to the Administrator. Construction of water wells outside of a permitted mine operation may be authorized under a drilling notification in accordance with Section 7 and in compliance with applicable requirements of the Wyoming State Engineer's Office. The Drilling Notification shall be in a form as specified by the Administrator and shall include information describing the approximate number and depth of holes to be drilled and a map showing approximate hole locations within the exploration area. The Administrator shall review the notification and the bond and notify the discoverer in a timely manner not to exceed 60 days from receipt whether the drilling is approved or additional information is required.

*Subsection (b) is a combination of two sections that were combined in an effort to improve readability. No substantive changes were made to the rule language as the second sentence was its own subsection and has merely been inserted into the paragraph above.*

**Section 2. General Drill Hole Abandonment Completion and Restoration Requirements.**

(a) All drill holes sunk for the purpose of conducting exploration by drilling, including those drilled within a permitted mine operation, shall be capped, sealed or plugged in the manner described hereinafter.

(i) ~~Drill holes shall be plugged in the manner described in W.S. §~~



35-11-404(c)(i) to prevent adverse changes in water quality or quantity.

(ii) ~~To prevent adverse changes in water quality or quantity, drill holes shall be sealed in the manner described in W.S. § 35-11-404(c)(ii) which shall include but not be limited to:~~

~~(A) Drilling muds used to seal exploration drill holes shall meet the following specifications, when using procedures provided in the latest current edition of American Petroleum Institute Standard Procedures for Testing Drilling Fluids:~~

~~(I) Ten minute gel strength of at least 20 lbs/100 sq. ft.~~

~~(II) Filtrate volume not to exceed 13.5 cc.~~

~~(B) For drill holes in gravel, scoria (clinker) or other materials resulting in lost circulation (drilling fluids cannot be circulated to the surface), the discoverer may use drill cuttings or other earthen materials to adequately backfill the hole.~~

~~(C) The Administrator and Director may approve other procedures at the request of the discoverer.~~

~~(iii) Drill holes shall be capped in the manner described in W.S. § 35-11-404(c)(iii) to ensure the safety of people, livestock, wildlife, and machinery in the area.~~

(b) Drill holes that have artesian flow of groundwater to the surface shall be plugged with cement-based sealant material, as specified and in the manner described below, to prevent fluid communication and adverse changes in water quality or quantity.

*Based discussions during the March 26, 2012 Advisory Board meeting regarding the meaning of sealant materials vs. grout or other types of sealant it was decided that “sealant materials” would be the more general term and “grout” would be used in instances where specific recipes were discussed.*

(c) Drill holes that have encountered any ground water or saturated stratum shall be sealed utilizing sealant materials and emplacement methods as prescribed hereinafter to prevent fluid communication and adverse changes in water quality or quantity.

(d) “Sealant materials” are materials that are stable, have low permeability and possesses minimum shrinking properties such that they are optimal sealing materials for well plugging and drill hole abandonment. Sealant materials shall be either: 1) a fluid mixture of water plus a cement-based or bentonite-based material, or 2) a dry bentonite-

based material, either chips or pellets specifically designed for sealing drill holes. Sealant materials shall meet the technical requirements for making a proper seal, shall meet applicable recognized industry standards—and shall be prepared according to manufacturer’s directions for specific site requirements. The following are approved sealant materials:

(i) Neat Cement Slurry must consist of a mixture of Portland Cement and not more than 6 gallons of clean water per bag (1 cubic foot or 94 pounds) of cement;

(ii) Sand Cement Slurry must consist of a mixture of Portland Cement, sand, and water in the proportion of not more than 1 part by weight of sand to 1 part of cement with not more than 6 gallons of clean water per bag of cement (1 cubic foot or 94 pounds);

(iii) Concrete Slurry must consist of a mixture of Portland Cement, sand and gravel aggregate, and water in the proportion of not more than 1 part by weight of aggregate to 1 part of cement with not more than 6 gallons of clean water per bag of cement;

(iv) Cement/Bentonite Slurry must consist of a mixture of cement and bentonite in the proportion of not more than 6.5 gallons of water and 3 to 5 pounds of powdered bentonite per 94-pound sack of Portland cement;

(v) High Solids Bentonite Slurry means an inorganic mixture with a slurry density of 9.4 lbs./gal. minimum (20%) by weight of solids bentonite, with polymers, water, or other additives for the yield/rate control, which forms a low permeability seal (not greater than  $1 \times 10^{-7}$  cm/sec), and is mixed to the manufacturer’s specifications; and

(vi) Nonslurry Bentonite must consist of chipped or pelletized bentonite varieties specifically designed to be used to seal drill holes.

(vii) Abandonment Gel means a mixture of bentonite with polymers and other additives and water in the proportion of one (1) barrel of water to 15 pounds of abandonment material with a minimum slurry density of 8.6 lbs./ gal. Abandonment Gel used to seal boreholes shall meet the following specifications when using American Petroleum Institute Standard Procedures for Testing Drilling Fluids:

(A) Ten minute gel strength of at least 20 lbs. / 100 sq. ft.

(B) Filtrate volume not to exceed 13.5 cc.

(C) Minimum Marsh Funnel viscosity of 60 sec. / quart.

(e) Sealant materials shall be emplaced in a manner that provides a water tight seal utilizing one of the following approved methods:

(i) By placing sealant materials by drill pipe, tremie pipe, or similar device in an upward direction from the bottom of the drill hole to within approximately five (5) feet of the ground surface; or

(ii) By placing nonslurry bentonite from the bottom of the drill hole to within approximately five (5) feet of the ground surface. Nonslurry bentonite shall not be utilized unless the drill hole is four inches or greater in diameter and less than 500 feet in depth and the material must be placed in such a manner that a bridge does not occur. Nonslurry bentonite may not be placed in more than 300 feet of standing liquid.

(f) For any hole that has been sealed with a sealant material, the discoverer responsible for sealing the drill hole shall:

(i) Measure the depth of the top of the sealant material column with the appropriate equipment after sufficient time (minimum 24 hours) has been allowed for the column of sealant material to set up; and

(ii) If the column of sealant material has dropped or fallen back, the discoverer shall continue to install sealant material until the top of the sealant material column remains at least 50 feet above the top of the uppermost saturated groundwater stratum; and

(iii) Install uncontaminated fill material, drill cuttings or one of the approved sealant materials listed herein from the top of the sealant material column to within approximately 5 feet of the ground surface.

(g) If a hole is drilled without the use of drilling fluids and the bottom of the hole is above the preexisting natural elevation of the uppermost saturated groundwater stratum, the drill hole shall be abandoned by completely backfilling from the bottom of the drill hole to the surface with uncontaminated earthen material or drill cuttings or approved grout materials described herein. When using uncontaminated earthen material or drill cuttings as a backfill material, this material should be emplaced in a manner to promote settling and compaction and to minimize voids caused by bridging. If the drill hole is backfilled to the natural ground surface with dry nonslurry materials then no surface cap is necessary.

(h) All drill holes shall be backfilled to the surface with dry nonslurry materials or capped with a concrete cap set at least 2 feet below the ground surface and then backfilled to the surface with native earthen materials to ensure the safety of people, livestock, wildlife, and machinery in the area.

(i) Drill holes shall be capped or backfilled immediately after drilling and

probing in accordance with W.S. 35-11-404(h). If it is necessary to temporarily delay the abandonment or keep the drill hole open for any reason, the drill hole must be securely covered with a temporary cap in a manner which will prevent injury to persons or animals. Drill holes shall not be left open for more than 30 days without specific authorization from the Administrator.

(j) For inspection and verification purposes, each drill hole shall be marked with a temporary marker that clearly identifies the name of the discoverer and the hole number until bond release is authorized. Holes shall not be marked with rebar, metal pipe or metal posts which could pose a hazard to people, livestock, wildlife or equipment.

(k) The Administrator may approve other drill hole abandonment procedures, and/or sealant materials, at the request of the discoverer.

~~(b) Each drill site as defined in Chapter 1, shall be restored as nearly as possible to its original condition, including:~~

~~(i) Excess drilling mud and drill cuttings or any acid-forming or toxic materials uncovered during or created by exploration by drilling shall be properly disposed of so as not to constitute a fire, health, or safety hazard during or after the exploration by drilling;~~

~~(ii) To the extent possible, any surface preparation of the drill site shall be accomplished in a manner consistent with Chapter 3, Section 2(b), Land Quality Rules and Regulations;~~

~~(iii) To the extent possible, topsoil removal and stockpiling shall precede any excavation within the drill site in a manner consistent with Chapter 3, Section 2(c), Land Quality Rules and Regulations; and~~

~~(iv) To the extent possible, the discoverer shall reestablish the vegetative cover where vegetation has been removed or destroyed within the drill site by seeding, planting, transplanting, or by other adequate methods in a manner consistent with Chapter 3, Section 2(d), Land Quality Rules and Regulations.~~

~~(e) All lands, including access roads or terrain damaged in gaining access to or clearing the site, or lands whose natural state has been substantially disturbed as a result of the exploration by drilling, shall be restored as nearly as possible to their original condition, including reseeding if grass or other crop was destroyed.~~

*Section 2 was rewritten to be consistent with the test hole plugging and sealing requirements contained in DEQ/WQD Rules and Regulations Chapter 11, Part G, Section 70; the recently approved SEO Rules and Regulations Part III and standards contained in American Society for Testing and Materials (ASTM) D-5299. In so doing any reference to the*

*term “drilling mud” has been removed and acceptable plugging and sealing materials have been defined consistent with the SEO Part III regulations.*

*The proposed regulations also require that holes be plugged and sealed bottom to top. The purpose for this requirement is three-fold: (1) to minimize the potential for any future settlement of the surface cap which could cause injury to humans, livestock, or wildlife, (2) to eliminate a vertical conduit that could allow contamination of ground water or at the very least soils deep within the profile, and (3) as described above, to be in conformance with DEQ/WQD and SEO standards. While the proposed changes were intended to address all exploration drilling in general, care was taken to differentiate between drilling operations that did and those that did not penetrate an aquifer. As such, the abandonment practices used for shallow auger type drilling in dry formations, such as in bentonite exploration, where drill cuttings are used for backfill, remain in effect.*

*Language was added to Section 2 concerning drill hole identification, which is a practice required under Chapter 11 for abandoned wells within in situ mine permit areas and is currently employed by bentonite and in situ uranium operators in their exploration programs.*

### **Section 3. Reclamation of Drill Sites and Affected Lands.**

(a) Drill sites and associated Light-use roads, as defined in Chapter 1, shall be restored as nearly as possible to their original condition.

(b) All drilling fluids, drill cuttings and geologic samples shall be confined and buried below grade to the extent possible. Excess drilling mud and drill cuttings or any acid-forming or toxic materials uncovered during or created by exploration by drilling, including petroleum contaminated soils, shall be properly disposed of so as not to constitute a fire, health, or safety hazard during or after the exploration by drilling.

(c) To the extent possible, any surface preparation of the drill site shall be accomplished in a manner consistent with Chapter 3, Section 2(b), Land Quality Noncoal Rules and Regulations.

(d) To the extent possible, topsoil removal and stockpiling shall precede any excavation within the drill site and associated light-use roads in a manner consistent with Chapter 3, Section 2(c) and 2(i), Land Quality Noncoal Rules and Regulations.

(e) To the extent possible, the discoverer shall reestablish the vegetative cover where vegetation has been removed or destroyed within the drill site and associated light-use roads by seeding, planting, transplanting, or by other adequate methods in a manner

consistent with Chapter 3, Section 2(d) and 2(i), Land Quality Noncoal Rules and Regulations.

*Subsections (d) and (e) were revised to include a reference to Chapter 3, Section 2(i) to clarify that the performance standards for roads are also applicable as discussed during the March 26, 2012 Advisory Board meeting.*

(f) All lands, including access roads or terrain damaged in gaining access to or clearing the site, or lands whose natural state has been substantially disturbed as a result of the exploration by drilling, shall be restored as nearly as possible to their original condition, including reseeding if grass or other crop was destroyed.

*This section on surface reclamation was broken out as a separate section from the drill hole abandonment requirements for the sake of clarity. Minor additions were made to address several ubiquitous problems associated with exploration drilling operations: containment of drilling mud, disposal of petroleum contaminated soils, and reclamation of access routes.*

### **Section 4 3. Bond.**

(a) In order to assure and secure performance of the discoverer's obligations, each discoverer shall agree to post ~~and keep posted~~ a bond ~~in the amount of \$10,000~~ for each exploration area. The amount of the bond shall be computed in accordance with established engineering principles, for accomplishing proper drill hole abandonment and surface restoration in accordance with the standards set out in this Chapter. ~~This amount may be reduced when the discoverer demonstrates to the satisfaction of the Administrator, a lesser estimate, computed in accordance with established engineering principles, for accomplishing proper hole completion and surface restoration in accordance with the standards set out in this Chapter.~~

(b) The bond amount for any drill holes or any portion of the exploration area may be reduced when the discoverer demonstrates to the satisfaction of the Administrator that drill hole abandonment has been accomplished in accordance with the standards set out in this Chapter. The amount by which the bond is reduced may be returned to the discoverer or applied towards additional drilling. The bond for any drill sites or any portion of the exploration area may be released when reclamation has been completed and the Administrator finds that vegetation has been re-established. All bonds shall be signed by the discoverer as principal, by a good and sufficient corporate surety licensed to do business in the State, and be made payable to the State of Wyoming.

(e) ~~In lieu of a bond, the discoverer may deposit Federally insured certificates of deposit payable to the Department of Environmental Quality, cash or government securities or all three.~~

(c) The Administrator may accept the bond of the discoverer itself without separate surety when the discoverer demonstrates to the satisfaction of the Administrator substantial compliance with the applicable provisions of Chapter 6 44, Land Quality Noncoal Rules and Regulations.

*This section was modified to eliminate the reference to a flat \$10,000.00 bond as it is inadequate to address the large scale exploratory drilling performed by interests contemplating in situ operations or other major exploration projects. A provision has been added to allow for the bond to be reduced following proper abandonment of the drill holes. The reference to Chapter 11 on self-bonding has been corrected and reference to the deposit being payable to the DEQ has been removed.*

#### **Section 5 4. Termination and Report of Operations.**

(a) Within 12 months after the completion and proper abandonment of any exploration drill hole compliance with 2(a) and sufficient compliance with 2(b) and (c) so that full compliance can be predicted by the Administrator, the discoverer shall comply with the reporting requirements of W.S. § 35-11-404(e) or (f). The report shall be in a form as specified by the Administrator. After receipt of such report, the Administrator shall have one year to inspect and evaluate the hole completion and surface restoration abandoned drill holes, drill sites, and access routes and make a determination of whether to release the bond to the discoverer, require additional reclamation, or institute forfeiture proceedings. The abandoned drill hole reports shall be held as confidential for a period of five years from the date of filing. The period may be extended for additional five (5) year periods upon request of the person filing the report.

(b) Forfeiture proceedings and release of bonds shall be according to the procedure set forth in W.S. §§ 35-11-421 through 35-11-423; substituting therein “discoverer” for “operator;” “surface restoration” for “reclamation;” and “exploration by drilling” for “surface mining.”

(c) Failure to so inspect and evaluate abandoned drill holes shall constitute a decision by the Administrator that the discoverer has complied with this Chapter for release of bond purposes only. This one year limitation shall not be construed to alter or affect W.S. § 35-11-404(k)-(n), or any other rights of action against the discoverer granted pursuant to the statutory provisions of the Wyoming Environmental Quality Act.

*Section 4 (a) was revised to include an option for the Administrator to require additional reclamation of a hole(s) rather than just bond release or forfeiture. A confidentiality provision was added because many of the areas currently considered for exploration have already been subject to*

*extensive drilling activity. By allowing the abandoned drill hole information to remain confidential ad infinitum, the department may be encouraging additional drilling, which only increases the potential for impacts to ground water. It is thought that making the information available after five years may result in a reduced amount of drilling in the future.*

#### **Section 6 5. Exceptions.**

This Chapter shall not apply to holes drilled in conjunction with development within an existing permitted mine operation or for the purpose of conducting oil and gas exploration operations. Sections 2 and 3 of this Chapter, relating to drill hole abandonment and site reclamation, shall not apply to holes drilled in conjunction with open-pit development within an existing permitted surface mine operation that are within 500 feet of the active pit and are projected to be mined through within 12 months of drilling. This Chapter shall not apply to holes drilled for the purpose of conducting oil and gas exploration operations. Specific exceptions from certain requirements of this Chapter shall also be preserved in accordance with W.S. § 35-11-404(g) and (h).

*Section 5 was rewritten primarily because DEQ/LQD Noncoal Rules and Regulations Chapter 11, In Situ Mining, references Chapter 8 for plugging and sealing of exploratory drill holes. Section 5 as currently written, waives the requirement for plugging and sealing of drill holes within any mine permit area. To resolve this contradiction, this Section was revised to clarify that only drill holes that will be mined through within 12 months by an advancing open-pit mine will be allowed to remain open and unplugged. The exemption for oil and gas exploration is also retained.*

#### **Section 7. Installation of Wells for Collection of Baseline Information.**

(a) Construction of wells may be authorized by the Administrator under a Drilling Notification for the purpose of collecting ground water baseline data in preparation of a mine permit application.

(b) Prior to installation, the discoverer is encouraged, but not required, to submit a plan for review by the Administrator that describes the location and completion details of each proposed well. The Administrator shall review the plan and respond within 30 days.

(c) Wells shall be permitted in accordance with requirements of the State Engineer's Office, in accordance with W.S. 35-11-404 (c)(iv).

(d) Wells shall be constructed according to the standards contained in Chapter 11, Sections 6(b), 6(c), 6(d), 6(e), and 6(f), Land Quality Noncoal Rules and Regulations.



(e) Provisions shall be made such that each well is secured to prevent contaminant entry.

(f) Adequate bond shall be provided to assure that all wells are properly plugged and sealed and the sites restored.

(g) Well plugging and sealing and site reclamation shall follow the procedures outlined in Sections 2 and 3. Well casing shall be cut off at least two (2) feet below ground surface and any pump and associated appurtenances removed, as applicable, before the well is plugged and sealed.

(h) Well abandonment reports shall be filed with the Administrator and the State Engineer's Office within 12 months of abandonment.

*Current LQD Rules and Regulations do not provide a formal permitting mechanism for the installation of baseline ground water monitoring and test wells that are needed in order to prepare a mine permit or R&D application. The DEQ/LQD has allowed for well installation under Drilling Notifications, but there are currently no regulatory standards for well construction or abandonment under a Drilling Notification. Assuming the operator proceeds with a mine permit application, the majority of such wells will be utilized in the proposed operation. Thus, it stands to reason that they should be constructed according to the standards established for an operating facility, hence the reference to Chapter 11. Well plugging and sealing requirements utilize the same procedures outlined in the Section 2 rewrite.*

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND QUALITY DIVISION

NONCOAL RULES AND REGULATIONS

CHAPTER 9

~~NONCOAL~~

PERMIT APPLICATION REQUIREMENTS FOR SMALL MINING OPERATIONS

*Chapter 9 has been largely rewritten with the intent of clarifying and spelling out all of the permit application requirements for small mine operations. Section 1 clarifies the applicability and scope of the chapter. Sections 2-5 follow the historical format for mine permit application, i.e. adjudication information, environmental baseline data, mine plan and reclamation plan. Section 6 specifies the standards and methods for evaluating reclamation success. Section 7 clarifies the information and process required to convert a small mine permit to a regular mine permit.*

Section 1. ~~Mining Permit Requirements~~ General.

(a) Small mine operations are defined pursuant to W.S. § 35-11-401(j) as surface mining operations that remove no more than 10,000 cubic yards of overburden, topsoil and subsoil, and disturb no more than 10 acres of land in any one year.

(b) This Chapter sets out the information required for small mine permit applications. The requirements of Chapter 2, Regular Mine Permit Applications, shall not apply to small mine operations. The requirements of Chapter 3, Environmental Protection Performance Standards, shall apply to small mine operations, except as specifically noted herein.

(c) The Administrator shall not accept or approve small mine permit applications for coal mines, uranium mines, underground mines or in-situ mines.

(~~d~~ a) Prior to the commencement of a small surface mining operation involving not more than 10,000 cubic yards of overburden, topsoil and subsoil, and ten acres of affected land in any one year, an application shall be submitted to the Administrator in duplicate on forms supplied by the Division. Each application shall contain:–the information as set out in this Chapter and in a format as required by the Administrator.

*The revision presented above is the result of a court decision stating that the definition of “overburden” as provided in W.S. § 35-11-103(e)(iv) clearly and unambiguously included topsoil. And that gravel mine*

*operators include topsoil in calculating the amount of overburden disturbed each year at each small mining operation. (Reference the footnotes to W.S. § 35-11-103 for the court's decision.) The definition of "overburden" in the statutes "means all of the earth and other materials which lie above the mineral deposit..." Therefore subsoil is also included in the volume of material removed above the mineral deposit.*

## **Section 2. Adjudication Information.**

(a) Each application for a small mine permit shall include the following: All information required in W.S. § 35-11-406(a) except:

(i) The name and address of the applicant, and, if the applicant is a partnership, association, or corporation, the names and addresses of all managers, partners and executives directly responsible for operations in this state;

(ii) A sworn statement that the applicant has the right and power by legal estate owned to mine from the land for which the permit is desired;

(iii) A sworn statement that the applicant has not forfeited a bond posted for reclamation purposes and that all statements contained in the permit application are true and correct to the best knowledge of the applicant;

(iv) The names and last known addresses of the owners of record of the surface and mineral rights on the land to be covered by the proposed permit. If more than one landowner is included, then a map shall be provided to illustrate land ownership;

(v) The names and last known addresses of the owners of record of the surface rights on the lands adjacent to the proposed permit area . Adjacent means all lands within one-half mile of the proposed permit area. If more than one landowner is included, then a map shall be provided to illustrate land ownership;

(vi) An instrument of consent from the surface landowner , if different from the owner of the mineral estate, to the proposed mining and reclamation plan. If surface owner consent cannot be obtained, the options contained in W.S. § 35-11-406(b)(xii) shall apply;

(vii) An identification of the lands to be included in the permit area to include:

(A) ~~W.S. § 35-11-406(a)(vi)(A) is modified to require the location~~ A legal description of the proposed permit area by legal subdivision, section, township and range. If there is no other survey, the permit area or any portion thereof cannot be properly described using legal subdivisions then the permit area shall be described give the location by protracted survey and map, or metes and bounds

description, which shall be accompanied by a map prepared by a licensed surveyor; claim number and mining district.

(B) The name, if any, by which such lands or any part thereof are known;

(C) The total number of acres in the area covered by the permit application and the approximate number of acres to be affected by the proposed operation; and

(D) W.S. § 35-11-406(a)(vi)(D) is suspended. The nearest town, village or city.

(viii) A United States Geological Survey topographic map at a scale of 1:24,000 if available, or an equivalent map, clearly identifying the boundaries of the proposed permit area, including access roads, and illustrating the surrounding area at least one-half (1/2) mile in all directions from the permit area;

(ix) W.S. § 35-11-406(a)(ix) is modified to require only: A map at an appropriate scale showing the boundaries of the permit area and the lands to be affected, and including the following features within and adjacent to the permit area:

(i) A map based upon public records showing the boundaries of the land to be affected.

(A) The names of any surface waters, including lakes, ponds, streams, springs, canals, drainages, irrigation ditches and water courses within and adjacent to the proposed permit area;

(B) Water wells on and within one-half mile of the permit area shall be located on a map where if the maximum expected depth of disturbance the mine pit is within 20 feet of or below the water table;

(C) Buildings, structures and dwellings;

(D) Roads, railroads, public or private rights-of-way or easements, utility lines, oil wells and gas wells; and

(E) A map to show an outline of all areas previously disturbed by surface or underground mining or which will be affected by future underground mining as a guide to potential subsidence problems.

(x) The mineral or minerals to be mined;

(xi) The estimated dates of commencement and termination of the

proposed permit operation;

(xii) A written statement from the appropriate city and/or county agency documenting that the proposed mining operation does not conflict with existing city regulations/ordinances or county zoning/planning provisions;

*Subsection (xii) above was added based on counties in Wyoming having adopted Special Use Permits for mining to ensure the mine operations meet specific city or county regulations that are outside of the scope of Article 4 of the Wyoming Environmental Quality Act. Often these requirements relate to specific local concerns such as noise, traffic, hours of operation and other potential public nuisance issues. This permit requirement would document that the city or county requirements have been met and will help to alleviate potential public concerns that might otherwise result in objections to the mine permit application.*

(xiii) If the proposed operation will affect any lands within 300 feet of any existing occupied dwelling, home, public building, school, church, community or institutional building, park or cemetery, the written consent of the appropriate landowner shall be provided; and

(xiv) A filing fee of one hundred dollars (\$100.00) plus ten dollars (\$10.00) for each acre in the requested permit, but the maximum fee for any single permit shall not exceed two thousand dollars (\$2,000.00). The permit is amendable without public notice or hearing if the area sought to be included by amendment does not exceed twenty percent (20%) of the total permit acreage, is contiguous to the permit area and if the applicant includes all of the information necessary in the amendment application that is required in this section including a mining and reclamation plan acceptable to the Administrator. The fee for a permit amendment shall be two hundred dollars (\$200) plus ten dollars (\$10.00) for each acre not to exceed two thousand dollars (\$2,000).

(b) Notification and publication requirements. ~~Upon written notification by the Division that the application is complete, the following procedure shall be followed: The procedures contained in W.S. § 35-11-406(d) through (m) and (o) and (p) shall apply.~~

~~(i) W.S. § 35-11-406(d) shall be met.~~

~~(ii) All requirements of W.S. § 35-11-406(j) shall be met except the applicant shall cause notice of the application to be published once a week for only two consecutive weeks in a newspaper of general circulation in the location of the proposed operation.~~

~~(e) All requirements of W.S. § 35-11-406(k) shall be met.~~

(c) The applicant shall post a reclamation bond in the amount and in a form acceptable to the Administrator prior to approval of the small mine permit application.

### **Section 3. Environmental Baseline Information.**

(a) W.S. § 35-11-406(a)(vii) is modified to require only The permit application shall include a general description of the land within the permit area, which shall include the following information:

(i) A description of the present land use(s) within the permit boundary including a map at the same scale as the postmining map showing the contours of the proposed permit area and the surrounding lands;

(ii) A map of vegetation types, range sites or ecological response units and a range site-range condition survey, or equivalent, on the proposed permit area, including along with a list of species and a ranking of their relative abundance in each vegetation type. The applicant is encouraged to shall submit labeled photographs to demonstrate each vegetation type and to document areas of sparse vegetation and any areas containing noxious weeds. Locations photographed should shall be shown on the vegetation map;

(iii) A description of any surface waters within the proposed permit area including estimated average flow rates, storage volume of any reservoirs and associated water rights within the permit area of any stream, reservoir, or lake. Depth to the groundwater within the mine area shall be stated, including a description of how the groundwater depth was determined; indicated.

(iv) A soil map which identifies the soil types, sampling locations, and proposed salvage depths;

(v) A report describing the soil types and their suitability for reclamation and depths and volume of suitable topsoil present on the proposed affected lands. Also, a description of the subsoil and/or overburden material existing between the topsoil and mineral seams;

(vi) The applicant shall consult with both the Wyoming Game and Fish Department and the U.S. Fish and Wildlife Service prior to submission of the permit application and shall address their recommendations relative to wildlife surveys, monitoring and mitigation in the mine permit application as required by State and Federal law. Copies of all correspondence to and from these agencies shall be included in the permit application. The Administrator shall also consult with both wildlife agencies during the review of the mine permit application to insure that their recommendations are addressed to the extent that they are within the scope of the Act; and

(vii) A copy of the appropriate National Wetlands Inventory Map with

the permit area and disturbance boundary delineated. If potential wetlands exist that will be disturbed or impacted by mine related activity, then the applicant shall perform a wetland delineation according to Army Corps of Engineers accepted procedures. If the proposed operation will avoid any impact to the potential wetland, either through direct disturbance or by affecting the watershed, then this should be clearly stated in the mine plan.

#### **Section 4. Mine Operations Plan.**

(a) The application shall include a mining plan which shall include the following information:

(ii) ~~In addition to~~ A description of the nature and scope of the proposed operation, including roads to be constructed, mining technique, equipment, and method of operation to be used, and a projected schedule for the operation ~~each operator shall supply all information required in W.S. § 35-11-406(b) except:~~

(ii) ~~W.S. § 35-11-406(b)(v) is modified to require only a~~ A map showing the location of all activities associated with the operation including roads, mine pit areas, out-of-pit spoil piles, waste water ponds, temporary drainage diversions, settling ponds, stockpiles for topsoil, overburden, ore, product and waste, plant site and other processing facilities;

(iii) Typical cross sections as appropriate to illustrate the proposed mine area, oriented perpendicular to each other and showing the natural ground surface elevation, top and bottom of the mineral seam, the maximum expected depth of mining and the approximate elevation of the groundwater table;

(iv) ~~W.S. § 35-11-406(b)(viii) is modified to require only a~~ A description of how topsoil and subsoil will be salvaged, stockpiled, and ~~replaced during conserved for~~ reclamation, including an estimate of the depth and volume of topsoil and subsoil to be salvaged on an annual basis;

(v) A plan for ensuring that all acid forming, or toxic material, or materials constituting a fire, health or safety hazard uncovered during or created by the mining process are promptly treated or disposed of during the mining process in a manner designed to prevent pollution of surface or subsurface water or threats to human or animal health and safety. Such method may include, but not limited to covering, burying, impounding or otherwise containing or disposing of the acid, toxic, radioactive or otherwise dangerous material;

(vi) A description of all waste materials that may be generated by the operation and plans for their storage and disposal. Only waste materials classified as Clean Fill shall be disposed within the mine permit area. Written permission from the landowner shall be required. Clean fill, for the purposes of this Chapter, means only

uncontaminated natural soil materials, rock, hardened asphalt rubble, brick and concrete rubble with no protruding rebar. All other waste materials shall be taken off-site for disposal at an authorized disposal site;

(vii) The procedures proposed to avoid constituting a public nuisance, endangering the public safety, human or animal life, property, wildlife and plant life in or adjacent to the permit area. The plan shall include fencing as necessary to prevent unauthorized access of persons, livestock or wildlife and to protect the surface owner's ongoing operations; and

(viii) The methods of diverting surface water around the affected lands where necessary to effectively control pollution or unnecessary erosion.

### **Section 5. Reclamation Plan.**

(a) The application shall include a reclamation plan describing the proposed future land use or uses and a plan whereby the applicant will reclaim all of the affected lands to the proposed future use or uses. The reclamation plan shall include the following:

(i) A statement of the proposed uses of the land by the landowner after reclamation;

*Subsection (i) was revised to clarify that the landowner states what the proposed uses of the land will be after reclamation.*

(ii) ~~W.S. § 35-11-406(b)(ii) is modified to also~~ Plans for grading and contouring suitable for the proposed land uses after reclamation, which shall include statements as to the maximum slope that will be created and a plan to reestablish the ~~original~~ surface drainage;

(iii) ~~E) W.S. § 35-11-406(b)(vii) is modified to allow~~ A postmine contour map at an appropriate scale showing the proposed contours of the affected area after completion of proposed reclamation. ~~¶The Administrator to~~ may waive this requirement if requested by the ~~applicant-operator~~ and the degree of surface disturbance is small. Typical cross sections oriented perpendicular to each other shall be provided to show the original natural ground surface, the maximum depth of mining, the maximum horizontal extent of mining, and the proposed reclamation surfaces and slopes;

(iv) The methods of reclamation for effective control of erosion, siltation and pollution of affected stream channels and stream banks by the mining operations;

(v) If the reclamation plan proposes a permanent water impoundment, the applicant must provide the following information:



(I) The applicant shall consult with and comply with all applicable requirements of the Wyoming State Engineer's Office. Copies of correspondence and any permit from the State Engineer shall be provided;

(II) Plans demonstrating that the impoundment has been designed to insure permanent stability and that the slopes and contouring will prevent safety hazards and allow for safe access for all water users, including livestock and wildlife;

(III) Documentation that the size of the impoundment and the expected quantity and quality of water will be suitable for the proposed uses. If the applicant is unable to demonstrate to the satisfaction of the Administrator that the water quantity and quality will be suitable for the proposed use, the applicant shall provide an alternate plan; and

(IV) The applicant may be required to monitor the water in the impoundment following construction to demonstrate that the quantity and quality are suitable for the proposed uses.

(vi) Plans for topsoil replacement and seedbed preparation, including the depth of subsoil and topsoil to be applied and the methods for preparing a proper seedbed;

~~(vii B) W.S. § 35-11-406(b)(iii) is modified to Species to be seeded, seeding rates, seeding methods, description of any other revegetation treatments to be employed, also include a description of the methods and a schedule of for seedbed preparation and seeding, the amounts of plants to be used, and protective measures against grazing animals;~~

~~(viii C) W.S. § 35-11-406(b)(iv) is suspended. Method of disposal of all buildings and structures erected or utilized for the operation and description of any buildings and structures that will be left in place at the request of the surface owner;~~

*Proposed Subsection (viii) was revised during the March 26, 2012 Advisory Board meeting to clarify that a landowner may request that buildings or structures be left in place.*

~~(G) W.S. § 35-11-406(b)(x) is suspended.~~

(ix) A projected timetable for accomplishment of the reclamation plan;  
and

(x) An itemized estimate of the cost to reclaim all lands to be affected during the first 12 months of operation.

## **Section 6. Evaluation of Revegetation Success.**

Revegetation success shall be evaluated by the Administrator utilizing qualitative methods, no sooner than the fifth growing season following completion of reclamation. In consultation with the landowner revegetation shall be deemed successful when: 1) the established vegetation species are self-renewing; 2) the total vegetative cover of perennial species, excluding noxious weeds, and any species in the approved seed mix is at least equal to the total vegetative cover of perennial species, excluding noxious weeds, on the area before mining; and 3) the species diversity and composition are suitable for the approved postmining land uses.

*Section 6 above was revised during the March 26, 2012 Advisory Board meeting to clarify that the landowner is consulted in determining revegetation success.*

## **Section 27. Conversion of Small Mine Permit to Standard Regular Mine Permit.**

(a) If an operator, holding a valid mining permit under W.S. § 35-11-401(j) for a small mining operation, intends to expand his operation within the approved permit area to remove more than 10,000 cubic yards of overburden, topsoil and subsoil, per year or affect more than ten acres of land per year, the operator shall submit an application for a permit revision and obtain approval for the expansion prior to the time when he intends to exceed the established limits. The application shall include the following information:

- (i) Application on forms supplied by the Division,
- (ii) Revised mining and reclamation plans and schedules,
- (iii) Revised maps, in such detail as required by the Administrator,
- (iv) Updated environmental baseline information in such detail as required by the Administrator,
- (v) and An appropriate reclamation bond. to the Land Quality Division.

(b) The provisions of W.S. § 35-11-406(d), (j) and (k) will be required. Any public hearing shall apply only to the request of the operator to expand his operation, and the valid small mining permit already held by the operator will not be affected.

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND QUALITY DIVISION

NONCOAL RULES AND REGULATIONS

CHAPTER 10

LIMITED MINING OPERATIONS

FOR TEN ACRES OR LESS OF AFFECTED LAND

*No changes are proposed for Sections 1-5 of Chapter 10.*

...

Section 6. **Transfers and Other Authorized Operators**

(a) The right to operate under a limited mining exemption may be transferred to a new operator with written approval of the existing operator and written acceptance by the Administrator, provided the new operator submits a new Form 10 and bond required for the new operation and assumes the reclamation liability of the existing operator and does not violate the limitations provided in Section 8 below.

~~(b) The operator may allow contractors to operate within its limited mining area provided notice is given to the Division and the contractor meets the other requirements of the Division, including the filing of Form 10.~~

*The revision is proposed above to clarify that an operator must also comply with the limitations found in Section 8 below. Section (b) is proposed for deletion because the requirements in (a) make it necessary for any “operators” of a limited mining exemption must submit a new Form 10. The revision in (b) also clarifies rule language which is undefined in the regulations (“contractors”), by requiring that all “operators” must have a Form 10 and bond in place prior to mining activities.*

...

*No changes are proposed for Section 7 of Chapter 10.*

Section 8. **Limitation of Operations.**

(a) The operator will not be allowed to:

(i) Conduct more than one operation under W.S. § 35-11-401(e)(vi) within adjacent areas when the operations are to mine the same minerals, or

(ii) Conduct ~~nearby~~ more than one operations of ten acres or less within any six-mile radius when the two operations are to mine the same mineral, so as to circumvent the general requirements of the Environmental Quality Act. The Administrator may allow two operations for the same mineral within the six-mile radius if one of the operations has completed reclamation work and is awaiting bond release. Complete reclamation for the purposes of this section means backfilling, grading, topsoil application and final seeding activities have been completed.

*The proposed revision above is intended to clarify that the Land Quality Division interprets “nearby” to mean a six mile radius in connection with multiple operations mining the same mineral by the same operator. The proposed revision also allows for an operator to operate a second operation if the first operation has been reclaimed and is awaiting bond release.*