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Jim Ruby, Executive Secretary
Environmental Quality Council

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND QUALITY DIVISION

NONCOAL RULES AND REGULATIONS

CHAPTER 9

PERMIT APPLICATION REQUIREMENTS FOR SMALL MINING OPERATIONS

Section 1. **General.**

(a) Small mine operations are defined pursuant to W.S. § 35-11-401(j) as surface mining operations that remove no more than thirty-five thousand (35,000) cubic yards of overburden, excluding topsoil, and disturb no more than ten (10) acres of land in any one year, excluding roads used to access the mining operation.

(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) Prior to the commencement of a small surface mining operation 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.

Section 2. **Adjudication Information.**

(a) Each application for a small mine permit shall include the following:

(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) A legal description of the proposed permit area by legal subdivision, section, township and range. If the permit area or any portion thereof cannot be properly described using legal subdivisions then the permit area shall be described by protracted survey or metes and bounds description, which shall be accompanied by a map prepared by a licensed surveyor;

(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) 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) 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:

(A) 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 if the maximum expected depth of 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) An outline of all areas previously disturbed by surface or underground mining.

(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;

(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. The procedures contained in W.S. § 35-11-406(d) through (m) and (o) and (p) shall apply.

(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. Roads used to access a small mining operation shall be included in the permit and bonded for reclamation liability.

Section 3. Environmental Baseline Information.

(a) 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;

(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 a list of species and a ranking of their relative abundance in each vegetation type. The applicant shall submit labeled photographs to demonstrate each vegetation type and to document areas of sparse vegetation and any areas containing noxious weeds. Locations photographed 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;

(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:

(i) A description of the nature and scope of the proposed operation, including roads to be constructed, mining technique, equipment, method of operation to be used, and a projected schedule for the operation;

(ii) 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) A description of how topsoil and subsoil will be salvaged, stockpiled, and 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;

(ii) 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 surface drainage;

(iii) 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 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:

(A) 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;

(B) 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;

(C) 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

(D) 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) Species to be seeded, seeding rates, seeding methods, description of any other revegetation treatments to be employed, a schedule for seedbed preparation and seeding and protective measures against grazing animals;

(viii) 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;

(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 7. Conversion of Small Mine Permit to 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 thirty-five thousand (35,000) cubic yards of overburden, excluding topsoil, per year or affect more than ten (10) acres of land per year, excluding roads used to access the mining operation, 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) An appropriate reclamation bond.

(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.