

## Organizational Notes

Proposed rule amendments are arranged sequentially.

Text which is proposed to be deleted in the amended rule is denoted by ~~strikeout~~.

Text which is proposed to be inserted in the amended rule is denoted by **CAPITAL LETTERS**.

\*\*\* indicates no change to existing text.

**RULE 1: GENERAL PROVISIONS AND REQUIREMENTS - PERMIT PROCESS**

**1.1 DEFINITIONS**

(1)-(4) \*\*\*

**(4.5) "AFFECTED SURFACE WATER AND GROUND WATER" MEANS FOR PURPOSES OF THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN REQUIRED FOR APPLICATIONS FOR IN SITU LEACH MINING OPERATIONS THAT SURFACE WATER OR GROUND WATER AFFECTED OR POTENTIALLY AFFECTED BY SUCH MINING OPERATIONS.**

(5)-(6) \*\*\*

**(6.3) "ANALOGOUS LAW, RULE OR PERMIT" MEANS FOR PURPOSES OF VIOLATIONS AND PATTERNS OF VIOLATION REQUIRED TO BE DISCLOSED IN APPLICATIONS FOR IN SITU LEACH MINING OPERATIONS ANY FEDERAL OR STATE LAW, RULE OR PERMIT ISSUED BY THIS OR ANOTHER STATE OR THE UNITED STATES WHICH COVERS ANY OF THE ENVIRONMENTAL PROTECTIONS SET FORTH IN SECTIONS 34-32-116 AND 116.5, C.R.S.**

**(6.4) "ANNIVERSARY DATE OF THE NOTICE OF INTENT TO PROSPECT" MEANS THE DATE THE OFFICE OR BOARD ISSUES THE NOTICE OF INTENT TO PROSPECT APPROVAL AND IS THE DATE THE ANNUAL FEE SHALL BE DEPOSITED WITH THE OFFICE ON AN ANNUAL BASIS UNTIL THE OFFICE TERMINATES THE NOTICE OF INTENT TO PROSPECT.**

**(6.45) "Anniversary date of the permit" means the date the Office or Board issues the permit and is the date the annual fee shall be deposited with the Office on an annual basis until the Office or Board terminate the permit.**

(7)-(10)\*\*\*

**(11) ~~Reserved~~ "COMPARISON OF ISL MINES" MEANS THAT DESCRIPTION REQUIRED TO BE IN APPLICATIONS FOR ALL IN SITU LEACH MINING OPERATIONS OF AT LEAST FIVE (5) IN SITU LEACH MINING OPERATIONS THAT DEMONSTRATE THE ABILITY OF THE APPLICANT TO CONDUCT SUCH A PROPOSED MINING OPERATION WITHOUT ANY LEAKAGE, VERTICAL OR LATERAL MIGRATION, OR EXCURSION OF ANY LEACHING SOLUTIONS OR GROUNDWATER-CONTAINING MINERALS, RADIONUCLIDES, OR OTHER CONSTITUENTS MOBILIZED, LIBERATED OR INTRODUCED BY THE IN SITU LEACH MINING PROCESS INTO ANY GROUNDWATER OUTSIDE OF THE PERMITTED IN SITU LEACH MINING AREA.**

(12)-(13)\*\*\*

**(14) "Designated Mining Operation" means a mining operation at which:**

- (a) designated chemicals used in metallurgical processing are present on-site; or**
- (b) toxic or acid-forming materials will be exposed or disturbed as a result of mining operations; or**

- (c) acid mine drainage occurs or has the potential to occur due to mining or reclamation activities; **OR**
- (D) **URANIUM IS DEVELOPED OR EXTRACTED, EITHER BY IN SITU LEACH MINING METHODS OR BY CONVENTIONAL UNDERGROUND OR OPEN MINING TECHNIQUES.**
- (dE) The various types of Designated Mining Operations are identified in Section 34-32-112.5, C.R.S. 1984, as amended. **EXCEPT AS TO URANIUM MINING OPERATIONS, DESIGNATED MINING OPERATIONS EXCLUDE OPERATIONS THAT DO NOT USE TOXIC OR ACIDIC CHEMICALS IN PROCESSING FOR PURPOSES OF EXTRACTIVE METALLURGY AND THAT WILL NOT CAUSE ACID MINE DRAINAGE.**
- ~~(e) **Metal mining operations, permitted under Section 34-32-110, C.R.S. 1984, as amended, which do not use or store designated chemicals, shall be exempt from the requirements applicable to Designated Mining Operations, unless they have a potential to produce acid mine drainage in quantities sufficient to adversely affect any person, property or the environment. It shall be the burden of the Operator or Applicant to demonstrate to the satisfaction of the Office that such potential does not exist.**~~
- (f) Designated Mining Operations shall be identified with a "d" suffix, (i.e., 110d or 112d). **AN IN SITU LEACH MINING OPERATION UNDER SECTION 110 OR 112 SHALL BE REFERRED TO AND TREATED AS A SECTION 112D-3 OPERATION UNLESS SUCH OPERATION IS GRANTED AN EXEMPTION FROM DESIGNATED MINING OPERATION STATUS UNDER RULE 7, IN WHICH CASE SUCH OPERATION SHALL BE REFERRED TO AS AN "110 ISL" OR "112 ISL" OPERATION, AS APPROPRIATE.**
- (15) "Environmental Protection Facility" means a structure which is identified in the "Environmental Protection Plan" as designed, constructed and operated for control or containment of designated chemicals, acid mine drainage, or toxic or acid-forming materials that will be exposed or disturbed as a result of mining or reclamation operations.
- (16)-(19)\*\*\*
- (20) "Failure or Imminent Failure" means, for the purpose of emergency notification response, **~~the actual or pending release of an unauthorized or unpermitted material or liquid from any impoundment, embankment, or from any other containment facility or system where such release poses a reasonable potential for danger to human health, property or the environment.~~**
- (A) **ANY FAILURE OR IMMINENT FAILURE OF ANY IMPOUNDMENT, EMBANKMENT, OR SLOPE THAT POSES A REASONABLE POTENTIAL FOR DANGER TO ANY PERSON OR PROPERTY OR THE ENVIRONMENT OR ANY ENVIRONMENTAL PROTECTION FACILITY DESIGNED TO CONTAIN OR CONTROL CHEMICALS OR WASTE THAT ARE ACID-OR TOXIC-FORMING.**
- (B) **IN ADDITION TO (20)(A) ABOVE, ANY FAILURE OR IMMINENT FAILURE OF ANY STRUCTURE FOR IN SITU LEACH MINING OPERATIONS DESIGNED TO DETECT, PREVENT,**

**MINIMIZE OR MITIGATE ADVERSE IMPACTS ON GROUND WATER OR ON HUMAN HEALTH, WILDLIFE, OR THE ENVIRONMENT.**

**(c) FOR PURPOSES OF THIS DEFINITION, BOTH PARAGRAPHS (A) AND (B) APPLY TO IN SITU LEACH MINING OPERATIONS.**

(20.1) "Filed" means an application submitted to the Office and determined to contain the permit application information required **FOR ALL PERMITS** by Subsections 1.4.1, 1.6.2(1)(a)(i) and (b), 1.6.2(1)(g), and Subsection:

- 1.4.2(2) for a **NON IN SITU LEACH MINING** 110 or 110d for a Limited Impact operation application; or
- 1.4.5(2) for a 112 or 112d Reclamation Permit Operation application; **OR**
- **1.4.4 AND 1.4.5 FOR ALL IN SITU LEACH MINING OPERATION APPLICATIONS. NOTE: ALL IN SITU LEACH MINING OPERATIONS UNDER SECTION 110 OR 112 MUST COMPLY WITH FILING REQUIREMENTS FOR BOTH SECTION 112D DESIGNATED MINING OPERATION APPLICATIONS AND IN SITU LEACH MINING APPLICATIONS UNLESS THE APPLICANT IS GRANTED AN EXEMPTION FROM DESIGNATED MINING OPERATION STATUS. IN SUCH A CASE, THE APPLICANT NEED ONLY COMPLY WITH IN SITU LEACH MINING APPLICATION REQUIREMENTS.**

A determination by the Office that an application submitted to the Office contains the referenced application materials shall trigger the decision making periods provided under Sections 34-32-110(6), or 34-32-115(1) and 115(2), C.R.S., as appropriate. A determination that an application is filed does not constitute a determination that the application adequately meets statutory and regulatory requirements.

(21) \*\*\*

(22) "Financial Warranty" ~~shall~~ means a written promise to the Board to be responsible for reclamation costs up to the amount specified by the Board or Office or required by the Act, **TOGETHER WITH PROOF OF FINANCIAL RESPONSIBILITY.**

(23) "Independent Reviewer" is a person who is utilized by the Office to review Quality Assurance/Quality Control certification documents designated by the Office, **including BASELINE SITE CHARACTERIZATION AND MONITORING PLANS, ENVIRONMENTAL PROTECTION PLANS**, applications, Amendments and Technical Revisions. An Independent Reviewer is not an agent of the Office, Operator, Applicant, or any other person involved in the application or other hearing before the Board.

(24) \*\*\*

**(25) "IN SITU LEACH MINING" MEANS IN SITU MINING FOR URANIUM THROUGH THE IN-PLACE DISSOLUTION OF MINERAL COMPONENTS OF AN ORE DEPOSIT BY CAUSING A CHEMICAL LEACHING SOLUTION, USUALLY AQUEOUS, TO PENETRATE OR TO BE PUMPED DOWN WELLS THROUGH THE ORE BODY AND THEN REMOVING THE MINERAL-CONTAINING SOLUTION FOR DEVELOPMENT OR EXTRACTION OF THE MINERAL VALUES.**

- (26) **"IN SITU MINING" MEANS THE IN-PLACE DEVELOPMENT OR EXTRACTION OF A MINERAL BY MEANS OTHER THAN OPEN MINING OR UNDERGROUND MINING.**
- (257) "Landowner" means any individual person or persons, firm, partnership, association, corporation, or any department, division, or agency of federal, state, county, or municipal government which owns or controls the surface rights to any land area under consideration for mining or prospecting. These surface rights are separate from mineral rights which may or may not be owned and controlled by the same entity.
- (268) "Life of the Mine" means and includes, but is not limited to, those periods of time from when a permit is initially issued, that an Operator engages in or plans to continue extraction of minerals, complies with the Act and these Rules, and as long as mineral reserves remain in the mining operation. It can include limited periods of non-production or Temporary Cessation. "Life of the mine" also includes that period of time after cessation of production necessary to complete reclamation of disturbed lands as required by the Board and this article, until the Board releases, in writing, the Operator from further reclamation obligations regarding the affected land, declares the operation terminated, and releases all applicable Performance and Financial Warranties.
- (279) "Limited Impact Operation" applies to any mining operation which:
- (a) affects less than ten acres for the life of the mine; **and**
  - (b) extracts less than 70,000 tons of mineral, overburden, or combination thereof per calendar year; **AND**
  - (c) **IS NOT AN IN SITU LEACH MINING OPERATION.**
- (2830) "Limited Impact Permit" shall mean a permit issued to a Limited Impact Operation.
- (2931) "Meeting" as the term is used in these Rules, means the regular monthly session held by the Board in accordance with Section 34-32-106, C.R.S. 1984, as amended. The topics to be considered include, but are not necessarily limited to:
- (a)-(f) \*\*\*
- (302) "Mineral" means an inanimate constituent of the earth in a solid, liquid, or gaseous state which, when extracted from the earth, is useable in its natural form or is capable of conversion into a useable form as a metal, a metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For the purposes of this article, this definition does not include coal, surface or subsurface water, geothermal resources, or natural oil and gas together with other chemicals recovered therewith, but does include oil shale.
- (343) "Mining Operation" means the development or extraction of a mineral from its natural occurrences on affected land. The term includes, but is not limited to, open mining, **IN SITU MINING, IN SITU LEACH MINING, and** surface operations and the disposal of refuse from underground **MINING, and** in situ mining, **AND IN SITU LEACH MINING**. The term **ALSO** includes the following operations on affected lands: Transportation; concentrating;

milling; evaporation; and other processing. The term does not include: The exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe; the development or extraction of coal; the extraction of geothermal resources; smelting, refining, cleaning, preparation, transportation, and other off-site operations not conducted on affected land; **OR EXTRACTION OF CONSTRUCTION MATERIAL WHERE THERE IS NO DEVELOPMENT OR EXTRACTION OF ANY CONSTRUCTION MATERIAL AS THAT TERM IS DEFINED IN SECTION 34-32.5-103(3), C.R.S.**

- (324) "Modification" means any amendment or revision of any previously granted permit, including permit transfers, increases or decreases of the amount of financial warranty required by the Board, and declarations regarding temporary cessation, which is either:
- (a) \*\*\*
  - (b) \*\*\*
- (335) "Office" means the Office of Mined Land Reclamation within the Division of Reclamation, Mining and Safety (DRMS).
- (346) "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 area outside the permit area.
- (36.5) "110 ISL OPERATION" OR "112 ISL OPERATION" SHALL MEAN THOSE IN SITU LEACH MINING OPERATIONS WHICH HAVE BEEN GRANTED AN EXEMPTION FROM DESIGNATED MINING OPERATION REQUIREMENTS. OTHERWISE, 110 AND 112 IN SITU LEACH MINING OPERATIONS SHALL BE CONSIDERED AND REFERRED TO AS 112D OPERATIONS.**
- (357) "Open Mining" means the mining of minerals by removing the overburden lying above such deposits and mining directly from the deposits thereby exposed. The term includes mining directly from such deposits where there is no overburden. The term includes, but is not limited to, such practices as open cut mining, open pit mining, strip mining, quarrying, and dredging.
- (368) "Operator" means any person, firm, partnership, association, corporation, or any department, division, or agency of federal, state, county, or municipal government engaged in or controlling a mining operation.
- (3739) "Overburden" means all of the earth and other materials which lie above natural minerals and also means such earth and other materials disturbed from their natural state in the process of mining.
- (3840) "Owner of Record" means the owner or owners of a surface property interest shown on the records of the County Assessor as of the date of filing.
- (38.440.1)**"Party" means a person who demonstrates that he/she/it is directly and adversely affected or aggrieved by the conduct of a mining operation, proposed mining operation, or an order of the Board and whose interest is entitled to legal protection under the Act.

- (40.5) "PATTERN OF WILLFUL VIOLATIONS" MEANS THAT INFORMATION REQUIRED TO BE DISCLOSED IN THE APPLICATION FOR AN IN SITU LEACH MINING OPERATION THAT THE APPLICANT, OR AN AFFILIATE, OFFICER OR DIRECTOR OF THE APPLICANT, HAS OR HAS NOT DEMONSTRATED A PATTERN OF WILLFUL VIOLATIONS OF ENVIRONMENTAL PROTECTION REQUIREMENTS OF THE ACT OR THESE REGULATIONS OR A PERMIT ISSUED UNDER THE ACT OR AN ANALOGOUS LAW, RULE OR PERMIT ISSUED BY ANOTHER STATE OR THE UNITED STATES.**
- (3941)** "Performance Warranty" shall mean a written promise to the Board, by the operator, to comply with all requirements of the Act.
- (402)** "Permittee" means any person holding a mining Permit.
- (413)** "Person" means any individual, firm, partnership, joint venture, association, limited liability company, or corporation or other entity, or any department, division, or agency of federal, state, county, or municipal government.
- (424)** "Point of Compliance" means locations down-gradient of the facility or activity at which water sampling may be conducted to demonstrate compliance with applicable groundwater standards established by the Water Quality Control Commission, or permit conditions required by the Office or Board to measure compliance with the MLRB permit.
- (435)** "Prospecting" means the act of searching for or investigating a mineral deposit. "Prospecting" includes, but is not limited to, sinking shafts, tunneling, drilling core and bore holes and digging pits or cuts and other works for the purpose of extracting samples prior to commencement of development or extraction operations, and the building of roads, access ways, and other facilities related to such work. The term does not include those activities which cause no or very little surface disturbance, such as airborne surveys and photographs, use of instruments or devices which are hand carried or otherwise transported over the surface to make magnetic, radioactive, or other tests and measurements, boundary or claim surveying, location work, or other work which causes no greater land disturbance than is caused by ordinary lawful use of the land by persons not prospecting. The term also does not include any single activity which results in the disturbance of a single block of land totaling one thousand six hundred square feet or less of the land's surface, not to exceed two such disturbances per acre; except that the cumulative total of such disturbances will not exceed five acres statewide in any prospecting operation extending over twenty-four consecutive months.
- (446)** "Prospecting Notice" shall mean that notice required by the Act to engage in Prospecting.
- (407)** "Rating of 'A' or Better" means, with regard to financial warranties, that the rating organization has determined that the obligations are at least of an upper-medium grade, meaning that factors giving security to the principal and interest are considered adequate but that elements may be present which suggest the possibility of adverse effects if economic and trade conditions change.
- (458)** "Reclamation" means the employment during and after a mining operation of procedures reasonably designed to minimize as much as practicable the disruption from the mining operation and to provide for the establishment of plant cover, stabilization of soil, the

protection of water resources, or other measures appropriate to the subsequent beneficial use of such affected lands. Reclamation shall be conducted in accordance with the performance standards of the Act.

- (~~469~~) "Refuse" means all waste material directly connected with the cleaning and preparation of substances mined by a mining operation.
- (~~4750~~) "Regular Operation" applies to all mining operations not included within the definitions of Limited Impact or Prospecting Operations, specifically, any mining operation affecting ten acres or more, or extracting seventy thousand (70,000) tons or more of mineral, overburden, or combination thereof per calendar year.
- (~~4951~~) "Rolling Stock" means any portable or mobile equipment.
- (~~502~~) "Salvage Value" of Project-related fixtures or equipment means the market value of the particular fixture or equipment less any necessary costs of demolition and/or removal, as determined by the Office or Board in accordance with the requirements in Subsection 4.12.2.
- (~~543~~) "Structure; Significant, Valuable and Permanent Man-made" means a non-portable improvement to real property which has defined, current and recognizable value of an economic nature; generally including but not limited to: buildings, houses, barns, fences, above or below ground utilities, irrigation ditches, maintained or public roads, bridges, railroad tracks, cemeteries, communication antennas, pipelines, water wells, water storage structures, discharge and conveyance structures, etc.
- (~~524~~) "Technical Revision" means a change in the permit or an application, which does not have more than a minor effect upon the approved or proposed Reclamation or Environmental Protection Plan.
- (~~535~~) "Temporary Cessation" means those limited periods of non-production as specified according to Section 1.13.
- (~~546~~) "Topsoil" means the material at the surface of the earth which has been so modified and acted upon by physical, chemical, and biological agents that it will support rooted plants necessary to achieve reclamation goals.
- (~~557~~) "Two Acre Limited Impact Operation" means any mining operation, other than a Designated Mining Operation, which:
- (a) affects less than two acres for the life of the mine;
  - (b) extracts less than seventy thousand (70,000) tons of mineral, overburden, or combination thereof per calendar year;
  - (c) does not extract sand, gravel, or quarry aggregate for sale;
  - (d) is not located in or adjacent to a stream channel; ~~and~~

- (e) does not use designated chemicals, cause acid mine drainage, or does not have toxic or acid-forming materials within the Permit area.; **AND**

**(F) THE PERMIT APPLICATION FOR SUCH OPERATION WAS FILED PRIOR TO JULY 1, 1993.**

**(568)** "Vegetation Cover" means an ocular estimate of the percentage of ground covered by the above-ground living plant parts.

**(579)** "Vegetation Type" means a designation for a natural grouping of plant species named according to one or more visually dominant species.

**(5860)** "Working Day" means Monday through Friday, except for those days that are State holidays.

**(5961)** "1976 Act or the Act" refers to the Colorado Mined Land Reclamation Act of 1976, Section 34-32-101, et seq., C.R.S. 1984, as amended.

## 1.2 ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT

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## 1.3 PUBLIC INSPECTION OF DOCUMENTS

(1) Except as provided in **Paragraph THIS RULE 1.3(3) OR AS OTHERWISE PROVIDED BY LAW**, all applications, **NOTICES OF INTENT TO CONDUCT PROSPECTING**, public notices, inspection reports, documents, maps, exhibits, correspondence, tests, analyses, records of actions or findings of the Board or Office and other information required under ~~this law~~ **THE ACT** or these Rules shall be **promptly** made available for inspection **AS REQUIRED BY LAW UPON THE WRITTEN REQUEST OF** any member of the public at the offices of the Office, during its normal business hours.

(2) \*\*\*

(3) **AS TO MINING OPERATIONS**, An Operator may mark "CONFIDENTIAL" information supplied in a permit application disclosing the location, size, or nature of the deposit or depth and thickness of the ore body or deposit and thickness and type of overburden to be removed. **INFORMATION CONCERNING A MINING OPERATION MARKED AS CONFIDENTIAL AND DETERMINED BY THE OFFICE TO BE CONFIDENTIAL SHALL NOT BE MADE AVAILABLE TO THE PUBLIC UNLESS THE OPERATOR GIVES A WRITTEN CONSENT ON COMPANY LETTERHEAD AND SIGNED BY AN AUTHORIZED AGENT OF THE COMPANY TO RELEASE ALL OR ANY PART OF THE INFORMATION.**

**(4) (a) ~~Confidential information so marked shall not be available to the public until the mining operation is terminated, unless the Operator gives a written consent on company letterhead and signed by an authorized agent of the company to release all or any part of the information.~~ AS TO NOTICES OF INTENT TO CONDUCT PROSPECTING:**

- (bA) (i) All information in a Notice of Intent to Conduct Prospecting ***SUBMITTED AND APPROVED PRIOR TO JUNE 2, 2008***, shall be treated as confidential ***EXCEPT AS SET FORTH IN THIS SUBPARAGRAPH (I)***. Such ***CONFIDENTIAL*** information shall not be ***MADE*** available to the public ***UNLESS ~~until a finding by~~ the Board FINDS*** that reclamation ***is HAS BEEN*** satisfactorily, ***COMPLETED, OR*** unless the Operator gives a written consent to the release of all or any part of the information. ***HOWEVER, IF A PROSPECTOR USES THE NOTICE OF INTENT TO CONDUCT THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN REQUIRED FOR AN IN SITU LEACH MINING OPERATION APPLICATION, THE DESIGN AND OPERATION OF THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN, TOGETHER WITH ALL INFORMATION COLLECTED IN ACCORDANCE WITH THE PLAN, SHALL BE A MATTER OF PUBLIC RECORD.***
- (ii) ***FOR NOTICES OF INTENT TO CONDUCT PROSPECTING OR MODIFICATIONS THEREOF SUBMITTED OR APPROVED ON OR AFTER JUNE 2, 2008, ALL INFORMATION IN A NOTICE OF INTENT OR MODIFICATION OF SUCH NOTICE IS A MATTER OF PUBLIC RECORD INCLUDING, IN THE CASE OF A MODIFICATION, THE ORIGINAL NOTICE OF INTENT; EXCEPT THAT, INFORMATION RELATING TO THE MINERAL DEPOSIT LOCATION, SIZE OR NATURE, AND OTHER INFORMATION DESIGNATED BY THE OPERATOR AND DETERMINED BY THE BOARD AS PROPRIETARY, TRADE SECRET OR THAT WOULD CAUSE SUBSTANTIAL HARM TO THE COMPETITIVE POSITION OF THE OPERATOR, SHALL BE PROTECTED AS CONFIDENTIAL AND SHALL NOT BE A MATTER OF PUBLIC RECORD IN THE ABSENCE OF A WRITTEN RELEASE FROM THE OPERATOR OR UNTIL THE BOARD FINDS THAT RECLAMATION HAS BEEN SATISFACTORILY COMPLETED. HOWEVER, IF A PROSPECTOR USES THE NOTICE OF INTENT TO CONDUCT THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN REQUIRED FOR AN IN SITU LEACH MINING OPERATION APPLICATION, THE DESIGN AND OPERATION OF THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN, TOGETHER WITH ALL INFORMATION COLLECTED IN ACCORDANCE WITH THE PLAN, SHALL BE A MATTER OF PUBLIC RECORD.***
- (iii) ***UPON SUBMITTAL OF A NOTICE OF INTENT OR MODIFICATION, EVERY APPLICANT SHALL DESIGNATE ANY INFORMATION THE APPLICANT CONSIDERS TO BE EXEMPT FROM PUBLIC DISCLOSURE. THE OFFICE SHALL POST ON ITS WEBSITE WITHIN 10 DAYS OF RECEIPT OF SUCH NOTICE OR MODIFICATION ALL INFORMATION IN A NOTICE OF INTENT OR MODIFICATION EXCEPT INFORMATION THAT THE APPLICANT HAS DESIGNATED AS EXEMPT FROM DISCLOSURE.***
- (iv) (A) ***ANY PERSON MAY SUBMIT A WRITTEN REQUEST TO THE OFFICE ASKING THAT INFORMATION IN A NOTICE OF INTENT THAT A PROSPECTOR HAS DESIGNATED AS CONFIDENTIAL BE***

DISCLOSED. SUCH REQUEST SHALL SET FORTH THE SPECIFIC INFORMATION REQUESTED TO BE DISCLOSED AND THE FACTUAL AND LEGAL BASIS FOR THE PERSON'S ASSERTION THAT SUCH INFORMATION IS PUBLIC. UPON RECEIPT OF SUCH A REQUEST, THE OFFICE SHALL FORWARD THE REQUEST TO THE PROSPECTOR WITHIN THREE (3) WORKING DAYS OF RECEIPT OF THE REQUEST. IF THE OPERATOR DOES NOT CONSENT TO DISCLOSURE OF THE INFORMATION WITHIN SEVEN (7) DAYS FROM RECEIPT OF THE REQUEST, THE OFFICE SHALL KEEP THE INFORMATION CONFIDENTIAL AND INFORM THE REQUESTING PERSON IN WRITING WITHIN THREE (3) WORKING DAYS OF THE PROSPECTOR'S DECISION. WITHIN SEVEN (7) DAYS FROM THE RECEIPT OF THE PROSPECTOR'S DECISION, THE REQUESTING PERSON MAY ASK THE BOARD TO HOLD A HEARING ON WHETHER THE INFORMATION SHOULD REMAIN CONFIDENTIAL. IF THE PERSON REQUESTS A HEARING, SUCH HEARING SHALL NOT BE HELD ANY EARLIER THAN TWENTY (20) DAYS AFTER THE OFFICE HAS GIVEN NOTICE OF THE HEARING TO THE OPERATOR AND THE REQUESTING PERSON. ANY RESPONSE BY THE OFFICE OR THE PROSPECTOR TO THE REQUEST FOR DISCLOSURE SHALL BE KEPT CONFIDENTIAL AND SHALL ONLY BE SENT TO THE BOARD, OFFICE AND PROSPECTOR, AS APPLICABLE.

(B) IF THE OFFICE BELIEVES THAT A PROSPECTOR HAS NOT PROPERLY DESIGNATED INFORMATION AS CONFIDENTIAL, THE OFFICE SHALL INFORM THE OPERATOR OF THE OFFICE'S DECISION. THE OFFICE'S DECISION SHALL BE KEPT CONFIDENTIAL. IF THE OPERATOR DOES NOT CONSENT TO DISCLOSURE OF THE INFORMATION WITHIN SEVEN (7) DAYS FROM NOTICE OF THE OFFICE'S DECISION, THE OFFICE SHALL KEEP THE INFORMATION CONFIDENTIAL AND SET THE MATTER FOR HEARING BEFORE THE BOARD. THE BOARD HEARING SHALL NOT BE HELD ANY EARLIER THAN TWENTY (20) DAYS AFTER THE OFFICE HAS GIVEN NOTICE OF THE HEARING TO THE OPERATOR.

(v) THE BOARD SHALL HOLD ANY HEARING SET UNDER RULE 1.3(4)(A)(IV) IN EXECUTIVE SESSION. NO OTHER ENTITY THAN THE BOARD SHALL BE PRESENT IN THE EXECUTIVE SESSION. THE BOARD MAY DECIDE THE MATTER ON THE WRITTEN REQUEST ALONE OR ON THE OFFICE'S WRITTEN DECISION ALONE, WHICHEVER IS APPLICABLE, OR IT MAY REQUIRE THE OPERATOR, THE REQUESTING PERSON (IF APPLICABLE) AND THE OFFICE TO SUBMIT WRITTEN BRIEFS ON WHETHER THE INFORMATION SHOULD BE KEPT CONFIDENTIAL OR SHOULD BE PUBLICLY DISCLOSED. SUCH WRITTEN BRIEFS SHALL ONLY BE SUBMITTED TO THE BOARD, WHICH SHALL KEEP THEM CONFIDENTIAL. WITHIN 30 DAYS OF HOLDING A

**HEARING IN EXECUTIVE SESSION, THE BOARD SHALL ISSUE AN ORDER THAT GRANTS OR DENIES, IN WHOLE OR IN PART, THE REQUEST OR OFFICE DECISION, BUT WHICH ALSO KEEPS CONFIDENTIAL INFORMATION THE BOARD HAS DETERMINED SHOULD REMAIN CONFIDENTIAL. IF THE BOARD DETERMINES THAT CERTAIN INFORMATION IS PUBLIC RATHER THAN CONFIDENTIAL, THE BOARD SHALL DELAY DISCLOSURE OF SUCH INFORMATION UNTIL FIFTEEN (15) DAYS FROM THE DATE OF ITS WRITTEN ORDER. THE BOARD'S DECISION SHALL CONSTITUTE FINAL AGENCY ACTION FOR PURPOSES OF JUDICIAL REVIEW.**

- (eB) Anyone who willfully and knowingly violates the provisions of confidentiality shall be punished as provided by law.

## 1.4 APPLICATION REVIEW AND CONSIDERATION PROCESS

### 1.4.1 Applications -General Provisions

- (1) Application forms, attachments, maps and fees shall be submitted in accordance with the specific requirements for each permit type, except that Designated Mining Operations shall also submit an Environmental Protection Plan as outlined in Subsection 6.4.201 of these Rules **AND IN ADDITION, ALL IN SITU LEACH MINING OPERATIONS SHALL ALSO SUBMIT EXHIBITS SET FORTH IN SUBSECTIONS 6.4.21 (UNLESS EXEMPT), 6.4.22, 6.4.23, 6.4.24, AND 6.4.25.**

(2)–(6) \*\*\*

- (7) In the case of any complex Permit applications, serious unforeseen circumstances, or significant snow cover on the affected land that prevents a necessary on-site inspection, the decision date established by the Office may be extended up to sixty (60) days beyond the usual maximum limit for an operation of that particular type and size. The Office shall notify the Applicant and any persons commenting on the application, of such findings and of the new decision date as soon as possible. **THIS RULE SHALL NOT APPLY TO IN SITU LEACH MINING APPLICATIONS.**

(8) \*\*\*

- (9) ~~At the request of the Applicant To ALLOW THE APPLICANT AN OPPORTUNITY TO PROVIDE INFORMATION NECESSARY TO MEET THE ADEQUACY REQUIREMENTS OF THE OFFICE, the APPLICANT MAY REQUEST THAT THE OFFICE'S review time may be extended and the OFFICE'S decision date reset, not to exceed 365 days from the date the application was filed. The additional time may be requested to allow the Applicant an opportunity to provide information necessary to meet the adequacy requirements of the Office.~~ If, at the end of the 365 day period, the application has outstanding adequacy issues **AND THERE HAVE BEEN TIMELY FILED OBJECTIONS TO THE APPLICATION**, the Office may **ISSUE**

**A RATIONALE RECOMMENDING APPROVAL OR DENIAL OF THE APPLICATION AND SHALL** set the matter for a Board hearing. **IF THERE REMAIN ADEQUACY ISSUES AFTER 365 DAYS BUT NO OBJECTIONS TO THE APPLICATION HAVE BEEN TIMELY SUBMITTED, THE OFFICE MAY ISSUE THE DECISION ON THE APPLICATION OR SET THE MATTER FOR A BOARD HEARING.** At the hearing the Board may **AT THE REQUEST OF THE APPLICANT EXTEND THE REVIEW TIME AND DECISION DATE,** deny **THE APPLICATION,** or approve the application with or without conditions.

(10)-(12) \*\*\*

(13) Failure of an Applicant to publish the notice pursuant to Paragraph 1.6.2(1)(d) shall add a sufficient number of days for the required public notice to be accomplished. An additional time period, as determined by the Office, may be added for the Office or Board to make a decision. Such time period shall not exceed thirty (30) days for any **NON IN SITU LEACH MINING** 110 or 110d Limited Impact application, ninety (90) days for any 112/112d/**112 ISL OR 110 ISL** Reclamation Permit application without objections, or 120 days for any 112/112d/**112 ISL OR 110 ISL** Reclamation Permit application with objections.

#### **1.4.2 Specific Application Requirements - 110, 110 ISL and NON-IN SITU LEACH 110d Limited Impact Permit Applications**

(1) All general application requirements outlined in Subsection 1.4.1, shall be required for 110 and 110d Limited Impact Operations; **EXCEPT THAT ANY APPLICATION FOR A 110 IN SITU LEACH MINING OPERATION MUST BE FILED AND SHALL BE CONSIDERED AS A 112D-3 PERMIT APPLICATION PURSUANT TO SECTION 34-32-112.5(3)(D), C.R.S. AND RULE 1.4.4; HOWEVER, IF SUCH IN SITU LEACH MINING APPLICANT IS GRANTED AN EXEMPTION FROM DESIGNATED MINING OPERATION STATUS, THE APPLICATION SHALL BE LABELED A "110 ISL" OPERATION AND THE APPLICANT NEED NOT COMPLY WITH THE DESIGNATED MINING OPERATION REQUIREMENTS BUT MUST STILL COMPLY WITH ALL IN SITU LEACH MINING APPLICATION REQUIREMENTS IN RULE 1.4.4. THE PROCESS FOR OFFICE AND BOARD CONSIDERATION OF 110 ISL SHALL FOLLOW THOSE SET FORTH IN RULE 1.4.8, AND THE TWO HUNDRED AND FORTY (240) DAY DEADLINE FOR A DECISION SHALL APPLY.**

(2) An application will be considered filed for the purpose of calculating the thirty-day (30) decision-making time period under Section 34-32-110(6), C.R.S., as amended, when the application file includes all of the following submittals:

(a) \*\*\*

(b) one (1) original and two (2) copies of:

(i)-(iv) \*\*\*

- (v) an environmental protection plan as described in Subsection 6.4.201 if the operation is a designated mining operation; and
- (vi) proof of notice according to the provisions of Subsection 1.6.2(1)(a).

(3) \*\*\*

**1.4.3 Reserved**

***PRE-APPLICATION REQUIREMENTS - ALL IN SITU LEACH MINING OPERATIONS REGARDLESS OF DESIGNATED MINING OPERATION STATUS – RECLAMATION PERMIT OPERATIONS – RETENTION OF THIRD PARTY EXPERT – BASELINE SITE CHARACTERIZATION AND PLAN FOR ON-GOING MONITORING***

- (1) (A) ***ALL PROSPECTIVE APPLICANTS FOR ANY IN SITU LEACH MINING OPERATION, REGARDLESS OF SIZE OR DMO STATUS, SHALL CONFER WITH THE OFFICE PRIOR TO CONDUCTING ANY BASELINE SITE CHARACTERIZATION ACTIVITIES. AT SUCH CONFERENCE, THE PROSPECTIVE APPLICANT SHALL SUBMIT FOR THE OFFICE'S APPROVAL A PLAN FOR CONDUCTING THE BASELINE SITE CHARACTERIZATION AND FOR ON-GOING MONITORING OF THE AFFECTED LAND AND SURFACE AND GROUND WATER. THE PLAN SHALL INCLUDE ALL OF THE ACTIVITIES THE PROSPECTIVE APPLICANT PROPOSES TO CONDUCT FOR THE BASELINE SITE CHARACTERIZATION, THE METHODS OF CONDUCTING SUCH ACTIVITIES, INCLUDING THE OPERATING PROCEDURES AND STANDARDS, THE PROPOSAL FOR ON-GOING MONITORING OF AFFECTED LAND AND WATER, AND THE PROSPECTIVE APPLICANT SHALL NOT CONDUCT ANY BASELINE SITE CHARACTERIZATION ACTIVITIES UNTIL THE OFFICE APPROVES OF THE PLAN FOR CONDUCTING SUCH ACTIVITIES.***
- (B) ***IF A PROSPECTIVE APPLICANT HAS CONDUCTED BASELINE SITE CHARACTERIZATION ACTIVITIES WITHIN SIX (6) MONTHS PRIOR TO THE EFFECTIVE DATE OF THIS RULE AND PRIOR TO OBTAINING THE OFFICE'S APPROVAL OF THE PLAN FOR SUCH ACTIVITIES, THE OFFICE MAY IN ITS DISCRETION ALLOW THE PROSPECTIVE APPLICANT TO USE DATA FROM THOSE ACTIVITIES AS LONG AS THE PROSPECTIVE APPLICANT SUBMITS AND THE OFFICE APPROVES THE METHOD THE PROSPECTIVE APPLICANT USED IN CONDUCTING THE ACTIVITIES AND SUBMIT AND THE OFFICE APPROVES THE PLAN REQUIRED IN PARAGRAPH (A) ABOVE FOR FUTURE ACTIVITIES.***
- (2) ***THE OFFICE MAY RETAIN, AND THE PROSPECTIVE APPLICANT SHALL PAY THE COSTS OF, AN INDEPENDENT THIRD-PARTY PROFESSIONAL EXPERT TO OVERSEE BASELINE SITE CHARACTERIZATION, MONITOR FIELD OPERATIONS OR REVIEW ANY PORTION OF THE INFORMATION COLLECTED, DEVELOPED, OR***

**SUBMITTED FOR THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN TO BE INCLUDED IN A PERMIT APPLICATION AS FOLLOWS:**

- (A) THE OFFICE SHALL DEFINE THE SCOPE OF WORK TO BE CONDUCTED BY THE EXPERT;**
- (B) THE EXPERT SHALL SUBMIT AND THE OFFICE SHALL REVIEW ALL INVOICES FOR PAYMENT;**
- (C) THE OFFICE SHALL APPROVE INVOICES THAT ARE DOCUMENTED WITH, BUT NOT LIMITED TO, TIME SHEETS AND RECEIPTS, AND THAT REFLECT THE REASONABLE COSTS OF THE EXPERT. THE OFFICE MAY REJECT INVOICES THAT THE OFFICE BELIEVES ARE INACCURATE, UNREASONABLE OR ARE NOT SUPPORTED BY SUFFICIENT AND PROPER DOCUMENTATION. THE OFFICE SHALL SUMMARIZE IN WRITING ITS OWN COSTS FOR ITS REVIEW AND OVERSIGHT ASSOCIATED WITH THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN;**
- (D) THE PROSPECTIVE APPLICANT SHALL PAY THE REASONABLE COSTS INCURRED BY THE OFFICE AND THE EXPERT;**
- (E) THE PROSPECTIVE APPLICANT MAY OBJECT TO THE SELECTION OF A SPECIFIC EXPERT ONLY ON THE GROUNDS THAT:**
  - (I) THE EXPERT LACKS THE PROFESSIONAL QUALIFICATIONS TO ACCOMPLISH THE SCOPE OF WORK;**
  - (II) THE EXPERT HAS A CONFLICT OF INTEREST WITH THE PROSPECTIVE APPLICANT OR PROPOSED PROJECT; OR**
  - (III) THE EXPERT HAS A BIAS THAT COULD INFLUENCE THE OBJECTIVITY OF THE WORK TO BE ACCOMPLISHED;**
  - (IV) IF THE BOARD OR OFFICE CONCURS WITH THE PROSPECTIVE APPLICANT'S OBJECTION TO THE EXPERT, THE BOARD OR OFFICE SHALL SELECT A DIFFERENT EXPERT.**
- (F) IF THE PROSPECTIVE APPLICANT FAILS TO PAY ANY COSTS THE EXPERT SUBMITS AND THE OFFICE APPROVES, OR ANY COSTS THE OFFICE SUBMITS TO THE PROSPECTIVE APPLICANT FOR ITS OWN COSTS, WITHIN 30 DAYS OF NOTICE THAT SUCH COSTS ARE DUE, ANY APPLICATION THE PROSPECTIVE APPLICANT SUBMITS SHALL NOT BE CONSIDERED FILED AND THE DEADLINES FOR OFFICE REVIEW SHALL NOT BE TRIGGERED. IF THE PROSPECTIVE APPLICANT PAYS THE COSTS DUE, ANY APPLICATION SUBMITTED MAY BE CONSIDERED FILED IF PAYMENT OCCURS WITHIN THREE (3) MONTHS OF WHEN THE COSTS WERE DUE AND IF OTHER REQUIREMENTS FOR AN APPLICATION BEING CONSIDERED FILED ARE MET. IF THE**

PROSPECTIVE APPLICANT PAYS THE COSTS LATER THAN THREE (3) MONTHS OF WHEN THEY WERE DUE, THE OFFICE MAY DETERMINE THAT THE APPLICATION IS FILED, THAT THE APPLICANT MUST UPDATE THE APPLICATION OR THAT THE APPLICATION IS NOT FILED FOR REASONS OTHER THAN FAILURE TO PAY THE COSTS OF THE OFFICE AND EXPERT.

**1.4.4 ~~Reserved~~**

**SPECIFIC APPLICATION REQUIREMENTS – ALL IN SITU LEACH MINING OPERATIONS REGARDLESS OF DESIGNATED MINING OPERATION STATUS – RECLAMATION PERMIT OPERATIONS**

(1) ALL IN SITU LEACH MINING OPERATIONS ARE BY LAW DESIGNATED MINING OPERATIONS. FOR ALL APPLICATIONS FOR IN SITU LEACH MINING OPERATIONS INCLUDING THOSE FILED UNDER SECTION 34-32-110, C.R.S., THE APPLICATION REQUIREMENTS OUTLINED IN SUBSECTIONS 1.4.1 AND 1.4.5 SHALL BE REQUIRED IN ADDITION TO THE REQUIREMENTS OF THIS RULE 1.4.4; EXCEPT THAT IF SUCH APPLICANT IS GRANTED AN EXEMPTION FROM DESIGNATED MINING OPERATION STATUS, THE APPLICANT NEED NOT COMPLY WITH DESIGNATED MINING OPERATION APPLICATION REQUIREMENTS.

(2) AN APPLICATION FOR AN IN SITU LEACH MINING OPERATION WILL BE CONSIDERED FILED FOR THE PURPOSE OF CALCULATING THE DECISION-MAKING TIME PERIODS IN SECTIONS 34-32-115(1) AND 115(2), C.R.S., AS AMENDED, WHEN THE APPLICATION FILE INCLUDES ALL THE REQUIRED ITEMS SPECIFIED IN RULES 1.4.1, 1.4.5(1) AND (2) AND INCLUDES ALL OF THE FOLLOWING SUBMITTALS:

(A) A COMPARISON OF IN SITU LEACH MINES AS DESCRIBED IN RULE 6.4.21;

(B) A BASELINE SITE CHARACTERIZATION FOR THE PROPOSED PERMIT AREA AS DESCRIBED IN RULE 6.4. 22;

(C) A MONITORING PLAN AS DESCRIBED IN RULE 6.4.23;

(D) A CERTIFICATION BY THE APPLICANT REGARDING VIOLATIONS AS REQUIRED IN RULE 6.4.24.

(E) PROOF OF NOTICE ACCORDING TO THE PROVISIONS OF SUBSECTION 1.6.2(1).

(3) PROOF OF THE NOTICES REQUIRED PURSUANT TO SUBPARAGRAPHS 1.6.2(1)(D), (E) AND (F) IS NOT REQUIRED IN ORDER FOR AN APPLICATION TO BE CONSIDERED FILED, BUT SUCH PROOF MUST BE SUBMITTED TO THE OFFICE PRIOR TO THE OFFICE'S DECISION TO APPROVE AN APPLICATION PURSUANT TO SUBPARAGRAPH 1.6.2(1)(G).

**1.4.5 Specific Application Requirements – 112, ~~and~~ 112d Reclamation Permit and 112 ISL RECLAMATION PERMIT Operations (see Figure 3)**

- (1) All general application requirements outlined in Subsection 1.4.1, shall be required for a 112 and 112d Reclamation Permit Application. **FOR ALL 110 AND 112 APPLICATIONS FOR IN SITU LEACH MINING OPERATIONS, THE REQUIREMENTS OF SUBSECTIONS 1.4.1, 1.4.4 AND THIS SUBSECTION 1.4.5 SHALL BE REQUIRED; HOWEVER, IF AN APPLICANT FOR AN IN SITU LEACH MINING PERMIT IS GRANTED AN EXEMPTION FROM DESIGNATED MINING OPERATION STATUS, SUCH APPLICANT NEED ONLY COMPLY WITH IN SITU LEACH MINING REQUIREMENTS AND NOT DESIGNATED MINING OPERATION REQUIREMENTS SUCH AS THE ENVIRONMENTAL PROTECTION PLAN.**
  
- (2) An application will be considered filed for the purpose of calculating the decision-making time periods under Sections 34-32-115(1) and 115(2), C.R.S., as amended, when the application file includes all of the following submittals:
  - (a) \*\*\*
  
  - (b) one (1) original and four (4) copies of
    - (i)- (iv) \*\*\*
  
    - (v) an environmental protection plan as described in Subsection 6.4.2~~0~~**1** if the operation is a designated mining operation; and
  
    - (vi) proof of notice according to the provisions of Subsection 1.6.2(1)(a).
  
- (3) \*\*\*

**1.4.6 Office Consideration - 110, 110 ISL and 110d Limited Impact Operation Permit Applications**

- (1) **EXCEPT AS TO 110 ISL APPLICATIONS, ~~T~~he Office shall approve or deny a 110 or 110d Limited Impact application within thirty (30) days of the date the application is considered filed. APPLICATIONS FOR 110 ISL MINING OPERATIONS SHALL BE APPROVED OR DENIED WITHIN TWO HUNDRED AND FORTY (240) DAYS FROM THE DATE THE APPLICATION IS CONSIDERED FILED. However, ~~T~~HE date set for consideration by the Office FOR ANY 110 APPLICATION may be extended pursuant to provisions of Rule 1.8 (unless the submitted materials satisfy Rule 1.8.1(4)) or of Rules 1.4.1(7), (9) or (13). EXCEPT AS TO 110 ISL APPLICATIONS, ~~T~~he time for consideration shall not be extended beyond thirty (30) days after the last such change submitted under Rule 1.8. unless requested by the Applicant. FOR 110 ISL APPLICATIONS, THE TIME FOR CONSIDERATION SHALL NOT BE EXTENDED BEYOND ONE HUNDRED TWENTY (120) DAYS UNLESS REQUESTED BY THE APPLICANT.**

(2) In the event that an objection to a 110 or 110d Limited Impact permit application, submitted in the form of a protest or petition for a hearing, is received by the Office pursuant to the provisions of Rule 1.7, the Office shall proceed to issue its decision by the date set for consideration in Paragraphs 1.4.6(1), 1.4.1(9), 1.4.1(13) or 1.8. However, the Office may set the matter for a hearing before the Board, pursuant to the provisions of Section 1.4.11. **AS TO 110 ISL APPLICATIONS, IF AN OBJECTION IS FILED, THE OFFICE SHALL SET THE MATTER FOR HEARING BEFORE THE BOARD, IN WHICH CASE THE OFFICE SHALL MAKE A RECOMMENDED DECISION ON THE APPLICATION.**

(3) **UNLESS EXEMPTED FROM DESIGNATED MINING OPERATION STATUS, AN APPLICATION FOR AN IN SITU LEACH MINING OPERATION MUST BE FILED UNDER RULE 1.4.8. IF AN EXEMPTION HAS BEEN GRANTED, THE 110 ISL APPLICATION SHALL COMPLY WITH IN SITU LEACH MINING REQUIREMENTS INCLUDING FILING THE EXHIBITS REQUIRED UNDER RULES 6.22, 6.23, 6.24 AND 6.25. IN ADDITION, THE TWO HUNDRED FORTY (240) DAYS FOR A DECISION ON AN IN SITU LEACH MINING APPLICATION SHALL APPLY.**

#### 1.4.7 Reserved

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#### 1.4.8 Office Consideration - 112 Reclamation, **112 ISL** or 112d Permit Application with No Objections

(1) When a 112, **112 ISL** or 112d Reclamation Permit application has been filed, and there are no protests or petitions for a hearing on the application submitted by a party pursuant to Rule 1.7, the Office shall issue the decision to approve or deny the application, as provided for in Section 34-32-115 C.R.S., no more than ninety (90) days after ~~the~~ **A 112 OR A NON IN SITU LEACH 112D** application is filed with the Office **OR TWO HUNDRED AND FORTY (240) DAYS AFTER AN IN SITU LEACH 112D OR A 112 ISL APPLICATION IS FILED.** The Office shall not set a new date unless the date for consideration has been extended pursuant to Subsection 1.4.1(7), (9), or (13).

(2) \*\*\*

#### 1.4.9 Office Consideration - 112, **112 ISL** or 112d Reclamation Permit Application to which an Objection Has Been Received

(1) **(A)** If a timely and sufficient objection or petition for a hearing on a 112 or **A NON IN SITU LEACH 112d** Reclamation Permit Application is received by the Office from a party pursuant to Rule 1.7, the Office shall set a date for consideration of the application in conformity with the provisions of this Rule. Such date shall be no more than ninety (90) days after the application is filed with the Office. The date for consideration may be extended

pursuant to Rules 1.4.1(7), (9), or (13), or 1.8 (unless any submitted materials satisfy Rule 1.8.1(4)). Instead of a decision, the Office will issue a recommendation to the Board by the date set for Office consideration.

**(B) IF A TIMELY AND SUFFICIENT OBJECTION OR PETITION FOR A HEARING ON A 112 ISL OR A 112D IN SITU LEACH MINING OPERATION APPLICATION IS RECEIVED BY THE OFFICE FROM A PARTY PURSUANT TO RULE 1.7, THE OFFICE SHALL SET A DATE FOR CONSIDERATION OF THE APPLICATION IN CONFORMITY WITH THIS RULE. SUCH DATE SHALL BE NO MORE THAN ONE HUNDRED AND EIGHTY (180) DAYS AFTER THE APPLICATION IS FILED WITH THE OFFICE. HOWEVER, IF THE OFFICE DETERMINES AN EXTENSION IS NECESSARY FOR ITS CONSIDERATION, THE OFFICE MAY EXTEND SUCH DATE BY 30 DAYS FOR A MAXIMUM TIME FOR CONSIDERATION OF TWO HUNDRED AND TEN (210) DAYS. IN ADDITION, THE DATE FOR CONSIDERATION MAY BE EXTENDED PURSUANT TO RULES 1.4.1(9) OR (13), OR RULE 1.8. INSTEAD OF A DECISION, THE OFFICE WILL ISSUE A RECOMMENDATION TO THE BOARD BY THE DATE SET FOR OFFICE CONSIDERATION.**

(2) \*\*\*

(3) Where a **NON IN SITU LEACH MINING 112** or **NON IN SITU LEACH MINING 112d** Reclamation Permit Application is set for a hearing, the Board shall make a final decision on the application within one hundred twenty (120) days after the date the application was filed, unless the date set for consideration has been extended pursuant to Paragraphs 1.4.1(7), (9), or (13), Rule 1.8, or Section 34-32-115(2), C.R.S. **WHERE ANY IN SITU LEACH MINING RECLAMATION PERMIT APPLICATION (110, 112, OR 112 ISL) IS SET FOR HEARING, THE BOARD SHALL MAKE A FINAL DECISION ON THE APPLICATION WITHIN TWO HUNDRED AND FORTY (240) DAYS AFTER THE DATE THE APPLICATION WAS FILED, UNLESS THE DATE SET FOR CONSIDERATION HAS BEEN EXTENDED PURSUANT TO PARAGRAPHS 1.4.1 (9) OR (13), RULE 1.8, OR SECTION 34-32-115(2), C.R.S.**

(4) \*\*\*

#### **1.4.10 ~~Reserved~~**

**OFFICE AND BOARD CONSIDERATION OF APPLICATIONS FOR RECLAMATION PERMITS FOR ANY IN SITU LEACH MINING OPERATIONS REGARDLESS OF DESIGNATED MINING OPERATION STATUS.**

**(1) THE BOARD OR OFFICE MAY DENY A PERMIT APPLICATION FOR ANY IN SITU LEACH MINING OPERATION (E.G., 112D WHICH INCLUDES 110D, 112 ISL OR 110 ISL) REGARDLESS OF THE PROPOSED OPERATION'S STATUS AS A DESIGNATED MINING OPERATION:**

- (A) **BASED ON SCIENTIFIC OR TECHNICAL UNCERTAINTY ABOUT THE FEASIBILITY OF RECLAMATION;**
  - (B) **IF THE EXISTING OR REASONABLY FORESEEABLE POTENTIAL FUTURE USES FOR POTENTIALLY AFFECTED GROUND WATER, WHETHER CLASSIFIED OR UNCLASSIFIED PURSUANT TO SECTION 25-8-203, C.R.S., INCLUDES DOMESTIC OR AGRICULTURAL USES, AND THE BOARD OR OFFICE DETERMINES THE IN SITU LEACH MINING WILL ADVERSELY AFFECT THE SUITABILITY OF THE GROUND WATER FOR SUCH USES;**
  - (C) **IF THE APPLICANT OR AN AFFILIATE, OFFICER OR DIRECTOR OF THE APPLICANT, THE OPERATOR OR THE CLAIM HOLDER HAS DEMONSTRATED A PATTERN OF WILLFUL VIOLATIONS OF ENVIRONMENTAL PROTECTION REQUIREMENTS OF THIS ARTICLE, RULES PROMULGATED PURSUANT TO THIS ARTICLE, A PERMIT ISSUED PURSUANT TO THE ARTICLE, OR AN ANALOGOUS LAW, RULE, OR PERMIT ISSUED BY ANOTHER STATE OR THE UNITED STATES AS DISCLOSED IN THE APPLICATION;**
  - (D) **IF THE APPLICANT OR ANY AFFILIATE, OFFICER OR DIRECTOR OF THE APPLICANT HAS IN THE TEN YEARS PRIOR TO THE SUBMISSION OF THE APPLICATION VIOLATED THE ENVIRONMENTAL PROTECTION REQUIREMENTS OF THIS ARTICLE, RULES PROMULGATED PURSUANT TO THIS ARTICLE, A PERMIT ISSUED PURSUANT TO THE ARTICLE, OR AN ANALOGOUS LAW, RULE, OR PERMIT ISSUED BY ANOTHER STATE OR THE UNITED STATES AS DISCLOSED IN THE APPLICATION; HOWEVER,**
    - (i) **THE BOARD OR OFFICE MAY ISSUE THE PERMIT IF THE APPLICANT SUBMITS PROOF ANY SAID VIOLATION HAS BEEN CORRECTED; OR**
    - (ii) **THE BOARD OR OFFICE MAY CONDITIONALLY ISSUE THE PERMIT IF THE VIOLATION IS IN THE PROCESS OF BEING CORRECTED TO THE SATISFACTION OF THE BOARD OR OFFICE OR IF THE APPLICANT HAS FILED OR IS PRESENTLY PURSUING A DIRECT ADMINISTRATIVE OR JUDICIAL APPEAL TO CONTEST THE VALIDITY OF THE ALLEGED VIOLATION. AN APPEAL OF AN APPLICANT'S RELATIONSHIP TO AN AFFILIATE SHALL NOT QUALIFY AS AN APPEAL TO CONTEST THE ALLEGED VIOLATION. FURTHER, IF THE VIOLATION IS NOT SUCCESSFULLY ABATED OR IF THE VIOLATION IS UPHeld ON APPEAL, THE BOARD OR OFFICE SHALL REVOKE THE CONDITIONALLY ISSUED PERMIT.**
- (2) **THE BOARD OR OFFICE SHALL DENY A PERMIT APPLICATION FOR AN IN SITU LEACH MINING OPERATION:**

- (A) *IF THE APPLICANT FAILS TO DEMONSTRATE THAT RECLAMATION CAN AND WILL BE ACCOMPLISHED IN COMPLIANCE WITH ARTICLE 32 OF TITLE 34, C.R.S., INCLUDING THE PROTECTION OF GROUND WATER AND OTHER ENVIRONMENTAL RESOURCES AND HUMAN HEALTH; OR*
- (B) *IF THE APPLICANT FAILS TO DEMONSTRATE BY SUBSTANTIAL EVIDENCE THAT IT WILL RECLAIM ALL AFFECTED GROUND WATER FOR ALL WATER QUALITY PARAMETERS THAT ARE SPECIFICALLY IDENTIFIED IN THE BASELINE SITE CHARACTERIZATION REQUIRED IN RULE 1.4.4, OR IN THE STATEWIDE RADIOACTIVE MATERIALS STANDARDS OR TABLES 1 THROUGH 4 OF THE BASIC STANDARDS FOR GROUND WATER AS ESTABLISHED BY THE COLORADO WATER QUALITY CONTROL COMMISSION, TO EITHER OF THE FOLLOWING:*
  - (i) *PREMINING BASELINE WATER QUALITY OR BETTER, AS ESTABLISHED BY THE BASELINE SITE CHARACTERIZATION REQUIRED BY RULE 1.4.4; OR*
  - (ii) *THAT QUALITY WHICH MEETS THE STATEWIDE RADIOACTIVE MATERIALS STANDARDS AND THE MOST STRINGENT CRITERIA SET FORTH IN TABLES 1 THROUGH 4 OF THE BASIC STANDARDS FOR GROUND WATER AS ESTABLISHED BY THE COLORADO WATER QUALITY CONTROL COMMISSION.*

**1.4.11 Administrative Appeal - of an Office Decision**

- (1) Any person who can demonstrate that he/she/it is directly and adversely affected or aggrieved by an action of the Office, including a decision to grant or deny a permit application, other than an application considered under the provisions of Paragraph 1.4.9 *OR A COST ESTIMATE DETERMINATION FOR OIL SHALE OR IN SITU LEACH MINING APPLICATIONS UNDER THE PROVISIONS OF SUBPARAGRAPH (3) IN THIS RULE 1.4.11*, and whose interests are entitled to legal protection under the Act may petition for a hearing before the Board on such action within:

(a)-(d) \*\*\*

- (2) \*\*\*

- (3) *A PERMIT APPLICANT FOR AN OIL SHALE OR ANY IN SITU LEACH MINING OPERATION MAY APPEAL TO THE BOARD THE OFFICE'S COST ESTIMATE TO REVIEW SUCH AN APPLICATION DONE PURSUANT TO RULE 1.5.2(1) BY FILING A PETITION FOR A HEARING BEFORE THE BOARD WITHIN TEN (10) DAYS FROM THE DATE THE DIVISION MAILED THE COST ESTIMATE TO THE APPLICANT. THE PETITION FOR HEARING SHALL SET FORTH THE LIST OF ISSUES THE APPLICANT BELIEVES SHOULD BE CONSIDERED BY THE BOARD AND THE SPECIFIC FACTUAL AND LEGAL BASIS FOR THE APPEAL. THE PETITION FOR A HEARING SHALL SPECIFY THE APPLICATION OR FILE NUMBER ASSIGNED BY THE OFFICE.*

**THE HEARING SHALL NOT BE HELD ANY SOONER THAN 20 DAYS AFTER NOTICE IS GIVEN TO THE PERMIT APPLICANT.**

- (34)** The Office shall give notice of any Formal Board Hearing to consider an appeal according to the provisions of Subparagraph 1.6.1(4).
- (45)** The Office may determine whether to hold a pre-hearing conference dependent upon the number of parties to the Formal Board Hearing and/or complexity of the issues, or the Board may so direct the Office as the Board sees fit.

**1.4.12 Appeal of 112 and 112d (INCLUDING IN SITU LEACH MINING RECLAMATION PERMITS,) 112 ISL OR 110 ISL Reclamation Permit Application Denial**

If the Office issues a decision to deny an application for a 112 ~~or~~ 112d (**INCLUDING IN SITU LEACH MINING**), **112 ISL OR 110 ISL** Reclamation Permit, it shall schedule the application for a hearing before the Board unless the Applicant decides to withdraw the application. Such hearing shall be scheduled prior to the deadline for a final decision on the application pursuant to Section 34-32-115(2), C.R.S., and Subparagraph **1.4.8(2)**, 1.4.9(1), **OR 1.4.9** (3) ~~or 1.4.8(2)~~ above, and shall be conducted in conformance with the provisions of Section 24-4-105, C.R.S.

(a)-(b) \*\*\*

**1.4.13 Automatic Application Approval**

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**1.5 FEES**

**1.5.1 General Provisions - Application Fees**

On and after July 1, 1994, a fee shall be paid by the Applicant **OF PERMIT FOR A DESIGNATED MINING OPERATION** at the time an Environmental Protection Plan is submitted for review and approval to the Office.

The fee shall be applied to both existing and new Designated Mining Operations and shall reimburse the Office for the estimated cost to the Office for processing certification and administrative review of such permit applications. The fees shall be as follows, based upon the level of effort: **FOR ENVIRONMENTAL PROTECTION PLANS FILED BEFORE JULY 1, 2007**, not less than eight hundred seventy-five dollars (\$875) and not more than nine thousand dollars (\$9,000) pursuant to Section 34-32-127(2)(a)(I)(M), C.R.S. **FOR ENVIRONMENTAL PROTECTION PLANS FILED ON OR AFTER JULY 1, 2007, THE FEE SHALL NOT BE LESS THAN ONE THOUSAND DOLLARS (\$1,000) AND NOT MORE THAN TEN THOUSAND THREE HUNDRED FIFTY DOLLARS (\$10,350).**

**1.5.2 FEES FOR IN SITU LEACH MINING OPERATIONS AND OIL SHALE MINING OPERATIONS**

- (1) *FOR APPLICATIONS FOR IN SITU LEACH MINING OPERATIONS OR OIL SHALE MINING OPERATIONS THE FEES SHALL BE AS FOLLOWS EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS RULE 1.5.2:*
  - (A) *FOR APPLICATIONS FOR NEW PERMIT OPERATIONS – THE FEE SHALL BE THAT LISTED IN SUBSECTION 1.5.5(8);*
  - (B) *FOR APPLICATIONS FOR AN AMENDMENT TO A PERMIT SHALL BE THAT LISTED IN SUBSECTION 1.5.6(4);*
  - (C) *FOR APPLICATIONS FOR REVISIONS TO PERMITS OTHER THAN AMENDMENTS, THE FEE SHALL BE THAT LISTED IN SUBSECTION 1.5.7(4).*
- (2) *IF THE COSTS TO REVIEW APPLICATIONS FOR NEW PERMIT OPERATIONS, AMENDMENTS TO PERMITS OR REVISION FOR PERMITS EXCEED TWICE THE FEE FOR SUCH APPLICATION, THE APPLICANT SHALL PAY THE ADDITIONAL COSTS. THE COSTS SHALL INCLUDE THOSE OF THE OFFICE, ANOTHER DIVISION OF THE DEPARTMENT INVOLVED IN THE REVIEW, AND ANY CONSULTANT OR OTHER NONGOVERNMENTAL AGENTS THAT HAVE SPECIFIC EXPERTISE ON THE ISSUE IN QUESTION. THE OFFICE SHALL INFORM THE APPLICANT THAT THE COST OF REVIEW MAY EXCEED TWICE THE AMOUNT OF THE LISTED FEE AND SHALL PROVIDE THE APPLICANT WITH AN ESTIMATE OF THE ACTUAL COSTS WITHIN TEN (10) DAYS AFTER THE OFFICE'S RECEIPT OF THE APPLICATION. AN APPEAL OF THIS ESTIMATE MAY BE MADE TO THE BOARD PURSUANT TO RULE 1.4.11(3).*

#### **1.5.23 Fees for Existing Operations - Technical Revisions**

- (1) Designated Mining Operations which qualify for permits under Section 34-32-110, C.R.S. 1984, as amended, which shall be referred to as "110d" permits - ~~\$1,006 875~~;
- (2) Designated Mining Operations which qualify for permits under Section 34-32-112, C.R.S. 1984, as amended, but which affect less than fifty (50) acres and extract less than one (1) million tons per year, which shall be referred to as "112d-1" permits - ~~\$1,006 875~~;
- (3) Designated Mining Operations which qualify for permits under Section 34-32-112, C.R.S. 1984, as amended, which do not qualify as 112d-1 permits, but which affect less than one hundred (100) acres and extract less than five (5) million tons per year, which shall be referred to as "112d-2" permits - ~~\$1,006 875~~; and
- (4) any other Designated Mining Operation which shall be referred to as "112d-3" permits - ~~\$1,006 875~~.

#### **1.5.34 Fees for Existing Operations - Permit Amendments**

- (1) Designated Mining Operations which qualify for permits under Section 34-32-110, C.R.S. 1984, as amended, which shall be referred to as "110d" permits - ~~\$1,500~~**1,750**;
- (2) Designated Mining Operations which qualify for permits under Section 34-32-112, C.R.S. 1984, as amended, but which affect less than fifty (50) acres and extract less than one (1) million tons per year, which shall be referred to as "112d-1" permits - ~~\$2,000~~**2,300**;
- (3) Designated Mining Operations which qualify for permits under Section 34-32-112, C.R.S. 1984, as amended, which do not qualify as 112d-1 permits, but which affect less than one hundred (100) acres and extract less than five (5) million tons per year, which shall be referred to as "112d-2" permits - ~~\$3,500~~**4,025**; and
- (4) any other Designated Mining Operation which shall be referred to as "112d-3" permits - ~~\$6,500~~**7,475**.

#### **1.5.45 Fees for New Operations**

For purposes of these Rules, "new operations" are defined as operations that submit(ted) applications for permits after July 1,1994.

- (1) Designated Mining Operations which qualify for permits under Section 34-32-110, C.R.S. 1984, as amended, which shall be referred to as "110d" permits - ~~\$2,500~~**2,875**;
- (2) Designated Mining Operations which qualify for permits under Section 34-32-112, C.R.S. 1984, as amended, but which affect less than fifty (50) acres and extract less than one (1) million tons per year, which shall be referred to as "112d-1" permits - ~~\$3,500~~**4,025**;
- (3) Designated Mining Operations which qualify for permits under Section 34-32-112, C.R.S. 1984 as amended, which do not qualify as 112d-1 permits, but which affect less than one hundred (100) acres and extract less than five (5) million tons per year, which shall be referred to as "112d-2" permits - ~~\$6,000~~**6,900**; and
- (4) any other Designated Mining Operation which shall be referred to as "112d-3" permits - ~~\$8,000~~**9,200**.

#### **1.5.56 Fees for New Operations - Technical Revisions**

- (1) Designated Mining Operations which qualify for permits under Section 34-32-110, C.R.S. 1984, as amended, which shall be referred to as "110d" permits - ~~\$1,000~~**875**;

- (2) Designated Mining Operations which qualify for permits under Section 34-32-112, C.R.S. 1984, as amended, but which affect less than fifty (50) acres and extract less than one (1) million tons per year, which shall be referred to as "112d-1" permits - ~~\$1,006,875~~;
- (3) Designated Mining Operations which qualify for permits under Section 34-32-112, C.R.S. 1984, as amended, which do not qualify as 112d-1 permits, but which affect less than one hundred (100) acres and extract less than five (5) million tons per year, which shall be referred to as "112d-2" permits - ~~\$1,006,875~~; and
- (4) any other Designated Mining Operation which shall be referred to as "112d-3" permits - ~~\$1,006,875~~.

#### **1.5.67 Fees for New Operations - Permit Amendments**

- (1) Designated Mining Operations which qualify for permits under Section 34-32-110, C.R.S. 1984, as amended, which shall be referred to as "110d" permits - ~~\$2,000,300~~;
- (2) Designated Mining Operations which qualify for permits under Section 34-32-112, C.R.S. 1984, as amended, but which affect less than fifty (50) acres and extract less than one (1) million tons per year, which shall be referred to as "112d-1" permits - ~~\$2,500,875~~;
- (3) Designated Mining Operations which qualify for permits under Section 34-32-112, C.R.S. 1984, as amended, which do not qualify as 112d-1 permits, but which affect less than one hundred (100) acres and extract less than five (5) million tons per year, which shall be referred to as "112d-2" permits - ~~\$4,000,600~~; and
- (4) ~~ANY~~ other Designated Mining Operation which shall be referred to as "112d-3" permits - ~~\$7,000,050~~.
- (5) Fees for all other applications for new Permits or Modifications to existing Permits are as specified in Section 34-32-127, C.R.S. 1984, as amended.

#### **1.5.78 Annual Fees**

Each year, on the anniversary date of the permit, the Permittee shall submit the appropriate annual fee specified in Section 34-32-127(2)(a), C.R.S.

### **1.6 PUBLIC NOTICE PROCEDURES**

#### **1.6.1 Office/Board Procedures - Permit Application Decision Dates**

- (1) The Office shall give such notice **OF THE DECISION DATE FOR APPLICATIONS** for all types of mining operations, including applications for:

(a) 110 and **NON-IN SITU LEACH MINING** 110d Limited Impact Operations;

(b) 112 and 112d Reclamation Operations~~;~~;

**(c) 110 ISL AND 112 ISL MINING OPERATIONS.**

(2)-(4) \*\*\*

### 1.6.2 General Applicant Procedures

(1) The Applicant shall:

(a) \*\*\*

(b) Prior to submitting the application to the Office for a 112, ~~or~~ 112d, **110 ISL OR 112 ISL** Reclamation Permit, post notices (signs) at the location of the proposed mine site, as required by the Office, of sufficient size and number 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, at the address given on the cover of these Rules and Regulations. For any class of 110 or 110d Limited Impact operation **OTHER THAN A 110 ISL OPERATION**, the Applicant need only post notice (sign) at the location of the proposed access to the site. After having posted such notice (sign), failure by an Applicant to maintain such notice 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 posted according to the provisions of this Rule.

(c) Prior to submitting the application to the Office and/or prior to submitting amendments to the application, place for public review a copy of the application and amendments, without confidential items, with the Clerk or Recorder of the county or counties in which the affected land is located, and provide proof as required by Section 6.3.9 for 110 and **NON-IN SITU LEACH MINING** 110d Limited Impact Operations and Section 6.4.18 for 112, ~~or~~ 112d, **110 ISL OR 112 ISL** Reclamation Operations.

(d) \*\*\*

(e) The Applicant shall mail or personally serve a copy of the notice provided for in Rule 1.6.2(1)(d) immediately after the first publication to:

(i) all Owners of Record of the surface and mineral rights of the affected land; ~~and~~

(ii) the Owners of Record of all land surface within 200 feet of the boundary of the affected lands; ~~AND;~~

**(iii) IF THE PROPOSED OPERATION IS ANY IN SITU LEACH MINING OPERATION, THE OWNERS OF RECORD OF ALL LAND SURFACE WITHIN THREE (3) MILES OF THE BOUNDARY OF THE AFFECTED LAND.**

(f) \*\*\*

(g) Proof of Notice may be by submitting return receipts of a Certified mailing or by proof of personal service. An application will be considered filed by the Office when the Applicant supplies the proper application fee, a signed affidavit that all notices as provided for in Paragraph 1.6.2(1)(b) have been posted, and the application meets the applicable requirements of Rules 1.4.1, 1.4.2, or 1.4.5. Prior to Office consideration of the application, proof of notice provided for in Subparagraphs 1.6.2(1)(d), (e), and (f) must be received by the Office.

(2) \*\*\*

### 1.6.3 Specific Provisions - 110 and **NON-IN SITU LEACH MINING** 110d Limited Impact Permit Applications and Conversions of Two Acre Limited Impact Permits

(1) The following Notice Rules and the notice requirements of Rule 1.6.2 also apply to applications for:

(a) new 110 and **NON-IN SITU LEACH MINING** 110d Limited Impact Permit Applications; or

(b) conversions of Two Acre Limited Impact Permits to 110 and **NON-IN SITU LEACH MINING** 110d Limited Impact Permits.

(2) \*\*\*

(3) \*\*\*

**(4) THIS RULE IS NOT APPLICABLE TO PERMIT APPLICATIONS UNDER SECTION 34-32-110 THAT ARE FOR IN SITU LEACH MINING OPERATIONS. APPLICATIONS FOR IN SITU LEACH MINING OPERATIONS SHALL FOLLOW THE NOTICE REQUIREMENTS FOR 112D-3 PERMIT APPLICATIONS IN RULE 1.6.5. IF SUCH**

**APPLICATION IS GRANTED AN EXEMPTION FROM DESIGNATED MINING OPERATION STATUS, THE APPLICANT MUST STILL COMPLY WITH ALL IN SITU LEACH MINING APPLICATION REQUIREMENTS AND SHALL FOLLOW THE PROCEDURES FOR 112 PERMITS.**

**1.6.4 Reserved**

\*\*\*

**1.6.5 Specific Provisions - 112, ~~and~~ 112d, 110 ISL AND 112 ISL Reclamation Permit Applications**

(1) \*\*\*

(2) \*\*\*

**1.6.6 Conditions that Require New Notice to the Public**

\*\*\*

**1.7 SUBMISSION OF COMMENTS AND PETITIONS FOR A HEARING**

**1.7.1 General Provisions**

(1) \*\*\*

(2) In order for statements supporting or objecting to an application, petitions for a hearing, and/or submissions to become a party to be considered timely, the following deadlines shall apply:

(a) In the case of a 112, ~~or~~ 112d, **110 ISL OR 112 ISL** Reclamation Permit Application, such written comments, protests, and petitions for a hearing must be **submitted RECEIVED BY THE OFFICE** not more than twenty (20) calendar days after the last date for the newspaper publication of notice of the application provided for in Rules 1.6.2(1)(d) and 1.6.5(1). Written comments, protests and/or petitions must contain the name, mailing address and telephone number of the interested parties. The Office shall set the matter for a hearing before the Board upon timely receipt of a written objection, protest, or petition for a hearing under this Rule.

(b) ~~In the case of a 110 or 110d Limited Impact Permit application, such~~ **EXCEPT FOR 110 IN SITU LEACH MINING PERMIT APPLICATIONS, WHICH MUST FOLLOW THE APPLICATION PROCESS FOR 112D PERMIT APPLICATIONS OR IF EXEMPT FROM DESIGNATED MINING OPERATION STATUS, 112 PERMIT APPLICATIONS,** written comments, protests or petitions for a hearing **AS TO A 110 OR NON-IN SITU LEACH MINING 110D LIMITED IMPACT PERMIT**

**APPLICATION** must be received by the Office not more than ten (10) days after the last date for newspaper publication of notice of the application provided for in Rules 1.6.2(1)(d) and 1.6.3(3). The written comment, protest and/or petition must contain the name, mailing address and telephone number of the interested parties. The Office may set the matter for a hearing before the Board upon timely receipt of a written petition for a hearing under this Rule, but in any case shall approve or deny the permit application within thirty (30) days of the date the Office considers the application filed according to the provisions of Rules 1.4.1 or 1.8. If the Office does not set the matter for a hearing, any person directly and adversely affected or aggrieved by the Office's decision to grant or deny the 110 or **NON-IN SITU LEACH MINING** 110d Limited Impact Permit application and whose interests are entitled to legal protection under the Act may appeal the Office's decision pursuant to Rule 1.4.11.

(3) \*\*\*

**1.7.2 Specific Provisions - 110 Limited Impact and **NON IN SITU LEACH MINING** 110d Limited Impact Designated Mining Operations Applications**

(1) **EXCEPT FOR 110 IN SITU LEACH MINING OPERATION PERMIT APPLICATIONS, WHICH SHALL FOLLOW THE PROCEDURES FOR 112D PERMIT APPLICATIONS OR IF EXEMPT FROM DESIGNATED MINING OPERATION STATUS, THE PROCEDURES FOR 112 PERMIT APPLICATIONS,** Comments shall be submitted in accordance with Paragraph 1.7.1.

(2) \*\*\*

**1.7.3 Reserved**

\*\*\*

**1.7.4 Specific Provisions - 112, ~~and~~ 112d, **110 ISL AND 112 ISL** Reclamation Permit Applications**

(1) \*\*\*

(2) \*\*\*

**1.8 AMENDMENTS AND TECHNICAL REVISIONS TO A PERMIT APPLICATION**

**1.8.1 General Provisions - 110 And 110d Limited Impact or 112 And 112d **OR 110 IS AND 112 ISL** Reclamation Permit Applications**

(1) \*\*\*

(2) \*\*\*

(3) Any amendment or technical revision to an application shall constitute a new filing for the sole purposes of determining the date for the consideration of the application by the Office, and for the deadline for a final decision on the application. The provisions of Rule 1.6.6 shall apply to submitted amendments. ~~and The~~ provisions of Rules 1.8.2 ~~or 1.8.4~~ shall apply to technical revisions for 110 and **NON-IN SITU LEACH MINING 110d Limited Impact**, ~~or AND THE PROVISIONS OF RULE 1.8.4 SHALL APPLY TO TECHNICAL REVISIONS FOR ALL IN SITU LEACH MINING APPLICATIONS (REGARDLESS OF DESIGNATED MINING OPERATION STATUS)~~, 112 and 112d Reclamation Permit applications, ~~respectively~~.

(4) \*\*\*

(5) \*\*\*

(6) \*\*\*

#### **1.8.2 Technical Revisions to 110 or **NON IN SITU LEACH MINING 110D** Limited Impact Permit Applications**

The Office shall set a new date for the consideration of a technical revision to an application for a 110 or **NON-IN SITU LEACH MINING 110d Limited Impact** permit only as necessary to afford an adequate opportunity for a review of the technical revision by the Office and by any interested members of the public. **THIS RULE 1.8.2 DOES NOT APPLY TO TECHNICAL REVISIONS FOR IN SITU LEACH MINING PERMIT APPLICATIONS. TECHNICAL REVISIONS TO IN SITU LEACH MINING PERMIT APPLICATIONS MUST FOLLOW THE PROCEDURAL REQUIREMENTS FOR 112D PERMIT APPLICATIONS OR IF EXEMPT FROM DESIGNATED MINING OPERATION STATUS, 112 PERMIT APPLICATIONS.**

#### **1.8.3 Reserved**

\*\*\*

#### **1.8.4 Technical Revisions to 112, ~~or~~ 112d, **110 ISL OR 112 ISL** Reclamation Permit Applications**

(1) Written objections to the application:

The Office shall not set a new date for consideration of an application for a 112, ~~or~~ 112d, **110 ISL OR 112 ISL** Reclamation Permit for which it has received written objections, any earlier than twenty (20) days after the date of filing of a technical revision to the application, unless the Applicant, **THE OFFICE** and all parties agree on an earlier date.

(2) \*\*\*

## 1.9 TECHNICAL REVISION TO A PERMIT

\*\*\*

## 1.10 AMENDMENT TO A PERMIT

- (1) Where applicable, there shall be filed with any application for a 112, ~~or~~ 112d, **110 ISL OR 112 ISL** Reclamation Permit amendment, attachment(s), map(s), and one (1) original and four (4) copies 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 or **NON-IN SITU LEACH MINING OPERATION** 110d Limited Impact permit amendment submittal shall include attachment(s), map(s), and one (1) original and two (2) copies 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.
- (3) The amendment application shall be accompanied by a basic fee as specified in Section 34-32-127, C.R.S. 1984, as amended. **AMENDMENT APPLICATIONS FOR ANY IN SITU LEACH MINING OPERATIONS SHALL BE ACCOMPANIED BY THE BASIC FEE FOR A 112D AMENDMENT APPLICATION OR A 112 AMENDMENT APPLICATION IF THE OPERATION HAS BEEN EXEMPTED FROM DESIGNATED MINING OPERATION STATUS.**
- (4) \*\*\*
- (5) \*\*\*

## 1.11 CONVERSIONS

### 1.11.1 Purposes and Types

- (1) A conversion is an application to change an existing permit to another type of permit such as changing a 110 or **NON IN SITU LEACH MINING** 110d Limited Impact Permit to a 112 or **NON IN SITU LEACH MINING** 112d Reclamation Permit. **A CONVERSION SHALL NOT BE AVAILABLE FOR ANY 110 OPERATION THAT INVOLVES IN SITU LEACH MINING OPERATIONS; A NEW 112 PERMIT WILL BE REQUIRED FOR SUCH IN SITU LEACH MINING OPERATIONS, REGARDLESS OF DESIGNATED MINING OPERATION STATUS. IF A 110 ISL PERMIT APPLICATION HAS BEEN APPROVED THROUGH THE 112 PERMIT PROCESS, SUCH 110 ISL PERMIT MAY BE CONVERTED TO A 112 ISL PERMIT PURSUANT TO THIS RULE 1.11.**

(2) \*\*\*

### 1.11.2 Application Process

(1) \*\*\*

(2) \*\*\*

(3) \*\*\*

(4) When an Operator is requesting a conversion from a Designated Mining Operation to a Non-designated Mining Operation, the application shall include a demonstration, satisfactory to the Office, that:

(a) \*\*\*

(b) any toxic or acidic residue, waste, contaminated containment systems from such chemicals have been removed or detoxified sufficiently to meet any applicable state or federal environmental compliance standards; ~~and~~

(c) acid mine drainage and toxic or acid-forming materials have been handled according to the requirements of the Environmental Protection and Reclamation Plans where such requirements are appropriate; ~~;~~ **AND**

**(d) NO URANIUM IS BEING MINED AT THE SITE.**

### 1.11.3 Conversion of a Two Acre Limited Operation

\*\*\*

## 1.12 PERMIT TRANSFERS AND SUCCESSION OF OPERATORS

### 1.12.1 Approval Process

(1) \*\*\*

(2) Requests for permit transfers and succession of Operators must be submitted on "Request for Transfer of Mineral Permit and Succession of Operators" forms provided by the Board. **TO BE CONSIDERED FILED,** ~~EE~~Each request must include an executed Performance Warranty and applicable replacement Financial Warranty.

(a) \*\*\*

(b) \*\*\*

- (3) Approval of a permit transfer and succession of Operator request shall be given by the Office if it finds that the successor Operator is capable of assuming all responsibility for the conditions included under the original permit. Notice of Permit Transfer will be acknowledged in the monthly activity report attached to the monthly Board agenda.

#### 1.12.2 Denial and Appeal Process

\*\*\*

### 1.13 TEMPORARY CESSATION

#### 1.13.1 through 1.13.4

\*\*\*

#### 1.13.5 Notice by Operator

- (1) If the Operator plans to, or does, temporarily cease production of the mining operation for one hundred eighty (180) days or more, the Operator must file a Notice of Temporary Cessation in writing, to the Office. ***AN OPERATOR CONDUCTING ANY IN SITU LEACH MINING OPERATION, REGARDLESS OF DESIGNATED MINING OPERATION STATUS, SHALL FILE THE NOTICE OF TEMPORARY CESSATION AT LEAST THIRTY (30) DAYS PRIOR TO CEASING OPERATIONS; SUCH NOTICE SHALL SET FORTH THE REASONS FOR THE TEMPORARY CESSATION AND THE EXPECTED DURATION OF THE TEMPORARY CESSATION.***
- (a) Initial period shall be the first five years of Temporary Cessation beginning with the 180 day period of production cessation~~==~~; ***EXCEPT THAT IN THE CASE OF ANY IN SITU LEACH MINING OPERATION:***
- (I) IF THE BOARD OR OFFICE BELIEVES THAT THE EXPECTED DURATION OF TEMPORARY CESSATION WILL BE OF SUCH LENGTH THAT THE BOARD OR OFFICE BELIEVES THAT GROUND WATER RECLAMATION SHOULD COMMENCE, THE BOARD OR OFFICE MAY SO ORDER.***
- (II) IN ADDITION, AN IN SITU LEACH MINING OPERATOR MUST IMMEDIATELY COMMENCE GROUND WATER RECLAMATION IF (A) PRODUCTION OPERATIONS PERMANENTLY CEASE OR (B) ANY SUBSURFACE EXCURSION OF GROUND WATER OUTSIDE OF THE AFFECTED AREA IS DETECTED PURSUANT TO THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN AND SUCH EXCURSION CONTAINS CHEMICALS USED IN OR MOBILIZED BY SUCH OPERATION OR OTHERWISE FAILS TO MEET GROUND WATER STANDARDS APPLICABLE TO IN SITU LEACH MINING OPERATIONS.***

(b) The second five year period of Temporary Cessation shall begin at the end of the initial period of Temporary Cessation; **EXCEPT THAT IN THE CASE OF ANY IN SITU LEACH MINING OPERATION:**

**(i) IF THE BOARD OR OFFICE BELIEVES THAT THE EXPECTED DURATION OF TEMPORARY CESSATION WILL BE OF SUCH LENGTH THAT THE BOARD OR OFFICE BELIEVES THAT GROUND WATER RECLAMATION SHOULD COMMENCE, THE BOARD OR OFFICE MAY SO ORDER.**

**(ii) IN ADDITION, THE OPERATOR MUST IMMEDIATELY COMMENCE GROUND WATER RECLAMATION IF (A) PRODUCTION OPERATIONS PERMANENTLY CEASE OR (B) ANY SUBSURFACE EXCURSION OF GROUND WATER OUTSIDE OF THE AFFECTED AREA IS DETECTED PURSUANT TO THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN AND SUCH EXCURSION CONTAINS CHEMICALS USED IN OR MOBILIZED BY SUCH OPERATION OR OTHERWISE FAILS TO MEET GROUND WATER STANDARDS APPLICABLE TO IN SITU LEACH MINING OPERATIONS.**

(2) The Notice of Temporary Cessation for the initial period shall include the following:

(a) \*\*\*

(b) \*\*\*

(c) \*\*\*

(d) the measures to be taken to comply with reclamation requirements and/or other activities related to the performance standards of Section 3.1 while the mine is in Temporary Cessation; ~~and~~

(e) demonstration that the existing Financial Warranty is adequate to cover the reclamation liability; **AND**

**(F) FOR AN IN SITU LEACH MINING OPERATION, A DESCRIPTION OF THE GROUND WATER MONITORING AND PUMPING REGIME THAT WILL BE MAINTAINED DURING THE PERIOD OF CESSATION OF OPERATIONS.**

(3) The Notice for the second period shall include the following:

(a) \*\*\*

(b) \*\*\*

- (c) demonstration of continued commitment to conduct mining operations at the site by the end of the second five year period;  
**AND**
- (D) FOR AN IN SITU LEACH MINING OPERATION, A DESCRIPTION OF THE GROUND WATER MONITORING AND PUMPING REGIME THAT WILL BE MAINTAINED DURING THE PERIOD OF CESSATION OF OPERATIONS.**
- (4) Prior to the Board Hearing to consider the request for the second five year period of Temporary Cessation, the Office shall:
  - (a) conduct an inspection of the site to verify compliance with the Act and Mineral Rules and Regulation**S**;
  - (b) review the permit file for complaints against the operation and the status of resolution of those complaints;
  - (c) report to the Board at the Hearing comments by any owner of affected land or local government comments.
- (5) \*\*\*
- (6) **EXCEPT AS TO IN SITU LEACH MINING OPERATIONS, T**he requirement of a Notice of Temporary Cessation shall not apply to Operators who resume the mining operation within one (1) year and have included in the permit applications a statement that the affected lands are to be used for less than one hundred eighty (180) days per year.

**1.13.6 Board/Office Procedure**

- (1) \*\*\*
- (2) The Board, at said meeting and in consultation with the Operator and other interested parties, may take whatever action(s) it deems necessary and are authorized by law, including but not necessarily limited to:
  - (a) \*\*\*
  - (b) \*\*\*
  - (c) determination that the mining operation is not in a state of temporary cessation; ~~or~~
  - (d) continuance of the matter for another month or more to allow the Operator to revise the Notice of Temporary Cessation and/or to allow the Office staff to conduct a site inspection or otherwise review the matter as necessary; **OR**

- (E) **ORDER THE OPERATOR OF AN IN SITU LEACH MINING OPERATION TO BEGIN GROUND WATER RECLAMATION AS SET FORTH IN RULE 1.13.5.**
  
- (3) (A) **EXCEPT AS TO ANY IN SITU LEACH MINING OPERATION, ~~WH~~When no reclamation or performance standard issues or problems are indicated in the Notice of Temporary Cessation or by field or file inspection, and no concerns are expressed by interested persons, the Notice shall not be placed on the agenda or heard by the Board. In such cases, the county and appropriate municipality will be notified and the fact of the receipt of the Notice by the Office will be acknowledged in the monthly activity report attached to the monthly agenda.**
  
- (B) (i) **AS TO ANY IN SITU LEACH MINING OPERATION, UPON RECEIVING A NOTICE OF TEMPORARY CESSATION OR A NOTICE REGARDING A SECOND FIVE YEAR PERIOD OF TEMPORARY CESSATION, THE OFFICE SHALL DETERMINE WHETHER GROUND WATER RECLAMATION SHOULD OR MUST BEGIN PURSUANT TO RULE 1.13.5. IF THE OFFICE DETERMINES THAT GROUND WATER RECLAMATION SHOULD OR MUST COMMENCE, THE OFFICE SHALL NOTIFY THE OPERATOR IN WRITING WITHIN TEN (10) WORKING DAYS FROM THE DATE THE OFFICE RECEIVED THE NOTICE.**
  
- (ii) **IF THE OPERATOR DISAGREES WITH THE OFFICE'S DETERMINATION THAT GROUND WATER RECLAMATION SHOULD OR MUST COMMENCE, THE OPERATOR MAY APPEAL SUCH DETERMINATION TO THE BOARD PURSUANT TO RULE 1.4.11. THE BOARD SHALL HEAR SUCH APPEAL AT ITS NEXT REGULARLY SCHEDULED MEETING THAT IS AT LEAST TWENTY (20) DAYS AFTER THE OFFICE RECEIVES THE APPEAL, UNLESS THE OFFICE AND THE OPERATOR AGREE OTHERWISE, OR UNLESS THE BOARD ORDERS OTHERWISE.**

**1.13.7 Application Requirements - Substitute for Notice of Temporary Cessation**

Where certain mining operations have periods of inactivity exceeding one hundred eighty (180) days, ~~the Operator~~ **A PERMIT APPLICANT** may include in the permit application, amendment or technical revision, the information otherwise required when filing a Notice of Temporary Cessation. (Please see Rules 6.3.3(a) or 6.4.4(e).) If approved by the Board or Office, such Notice in the permit shall serve as a substitute for the Notice of Temporary Cessation with the following conditions:

- (a) The Operator must report to the Board through the Annual Report:
  - (i)-(iii) \*\*\*
  
- (B) **THIS RULE SHALL NOT APPLY TO IN SITU LEACH MINING OPERATIONS.**

### 1.13.8 Five Year Term of Temporary Cessation

- (1) **EXCEPT AS PROVIDED IN RULE 1.13.5 CONCERNING IN SITU LEACH MINING OPERATIONS, ~~AA~~** permit granted pursuant to these Rules shall continue in effect as long as:
  - (a) \*\*\*
  - (b) \*\*\*
- (2) \*\*\*

### 1.13.9 Ten Year Limitation for Temporary Cessation

\*\*\*

## 1.14 TERMINATION

### 1.14.1 Permit Termination

- (1) \*\*\*
- (2) In the event the Operator is not in compliance with the provisions of Subparagraph 1.14.1(1), the Board shall provide a reasonable opportunity for the Operator to meet with the Board to present the full case and further provide reasonable time for the Operator to bring violations into compliance. Such hearings and procedures shall be in compliance with the requirements of Subsection 3.3.2; or at such hearings the Board may:
  - (a) declare termination of the life of the mine according to the provisions of this Rule and after finding a violation in accordance with Subsection 3.3.2, **OR IN THE CASE OF AN IN SITU LEACH MINING OPERATION, DECLARE TERMINATION OF THE LIFE OF THE MINE BASED ON AN ORDER TO COMMENCE GROUND WATER RECLAMATION**; or
  - (b) declare that a mining operation is in a state of Temporary Cessation, establishing a commencement date **AND ANY ADDITIONAL PERMIT CONDITIONS**, as necessary, according to a review of the facts.

### 1.15 ANNUAL REPORT INCLUSIONS

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

\*\*\*

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

**2.1 through 2.5**

\*\*\*

**2.6 PREHEARING PROCEDURES - MOTIONS, WITNESS AND EXHIBIT LISTS**

The provisions of this Rule 2.6 shall apply to the Applicant and any entity that has party status **FOR ANY 112, 112D, 110 ISL OR 112 ISL APPLICATION.**

(1) \*\*\*

(2) \*\*\*

(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~~ **(15)** copies, one of which shall be unbound.

**2.7 PRE-HEARING CONFERENCES**

\*\*\*

**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 ATTEND THE HEARING VIA TELEPHONE IF THE PARTY FILES A**

**REQUEST WITH THE BOARD CHAIRMAN AT LEAST FIVE (5) WORKING DAYS BEFORE THE HEARING AND THE BOARD CHAIRMAN APPROVES SUCH REQUEST PRIOR TO THE HEARING AND DETERMINES THE FACILITIES AT THE SITE OF THE HEARING ALLOW FOR A CONFERENCE CALL. A PARTY MAY NOT APPEAR AT A FORMAL BOARD HEARING BY PROXY.**

(2)-(5) \*\*\*

### **2.8.2 Board Decision**

(1) \*\*\*

(2) Every such decision rendered by the Board at a hearing shall thereupon become the **FINAL** decision **ON SUCH MATTER** ~~of the Board and Office.~~

(3)-(4) \*\*\*

## **2.9 RECONSIDERATION OF BOARD DECISIONS**

### **2.9.1 Cause for Seeking Reconsideration**

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### **2.9.2 Petition Submission**

\*\*\*

### **2.9.3 Consideration of Petition**

The Board may grant or deny the petition based solely on the written submittal in support of the petition or written opposition thereto, or the Board may, in its discretion, grant the parties, as defined in Rules 1.1(~~39-40.1~~) and 1.7.1, an opportunity to present oral arguments. The Office staff shall act as staff to the Board, except on matters related to enforcement.

### **2.9.4 Automatic Denial of Petition**

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### **2.9.5 Time Limitations**

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

**3.1 RECLAMATION PERFORMANCE STANDARDS**

**3.1.1 Establishing Post-Mining Use**

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**3.1.2 Reclaiming Substituted Land**

Reclamation shall be required on all the affected land except that the Operator may substitute land previously mined and owned by the Operator but not otherwise subject to the Mined Land Reclamation Act, or the Operator may reclaim an equal number of acres of any land previously mined, but not owned by the Operator, if the Operator has not previously abandoned unreclaimed mining lands. Such exchanges can be done only with the approval of the Board and the Owner of the land to be reclaimed. ***THE BOARD AND OFFICE SHALL NOT APPROVE SUCH AN EXCHANGE FOR LANDS AFFECTED BY ANY 110 OR 112 URANIUM OR IN SITU LEACH MINING OPERATION.***

**3.1.3 Time Limit and Phased Reclamation**

***(1) FOR ANY IN SITU LEACH MINING OPERATIONS, RECLAMATION OF GROUND WATER IN ACCORDANCE WITH THE APPROVED RECLAMATION PLAN SHALL BEGIN IMMEDIATELY UPON:***

***(A) THE DETECTION PURSUANT TO THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN OF ANY SUBSURFACE EXCURSION OF GROUND WATER OUTSIDE OF THE AFFECTED AREA CONTAINING CHEMICALS USED IN OR MOBILIZED BY SUCH OPERATION OR THE GROUND WATER OUTSIDE THE AFFECTED LAND OTHERWISE FAILS TO MEET GROUND WATER STANDARDS APPLICABLE TO IN SITU LEACH MINING OPERATIONS; OR***

***(B) THE CESSATION OF PRODUCTION OPERATIONS, UNLESS THE OPERATOR HAS FILED A NOTICE OF TEMPORARY CESSATION AS REQUIRED BY RULE 1.13.5(1) AND THE BOARD HAS NOT ORDERED RECLAMATION OF GROUND WATER TO COMMENCE UNDER RULE 1.13.***

**(2)** 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, 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.

### 3.1.4 through 3.1.6

\*\*\*

### 3.1.7 Groundwater - Specific Requirements

- (1) Standards and conditions applicable to classified and unclassified groundwater.

(a)-(d) \*\*\*

**(E) IN ANY SITU LEACH MINING OPERATIONS: OPERATORS OF ALL URANIUM EXTRACTION OPERATIONS USING IN SITU LEACH MINING OR RECOVERY METHODS SHALL RECLAIM ALL AFFECTED GROUND WATER FOR ALL WATER QUALITY PARAMETERS THAT ARE SPECIFICALLY IDENTIFIED IN THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN REQUIRED BY RULE 1.4.4, OR IN THE STATEWIDE RADIOACTIVE MATERIALS STANDARDS OR TABLES 1 THROUGH 4 OF THE BASIC STANDARDS FOR GROUND WATER AS ESTABLISHED BY THE COLORADO WATER QUALITY CONTROL COMMISSION, to either of the following:**

**(i) PREMINING BASELINE WATER QUALITY OR BETTER, AS ESTABLISHED BY THE BASELINE SITE CHARACTERIZATION AND MONITORING PLAN REQUIRED BY RULE 1.4.4; OR**

**(ii) THAT QUALITY WHICH MEETS THE STATEWIDE RADIOACTIVE MATERIALS STANDARDS AND THE MOST STRINGENT CRITERIA SET FORTH IN TABLES 1 THROUGH 4 OF THE BASIC STANDARDS FOR GROUND WATER AS ESTABLISHED BY THE COLORADO WATER QUALITY CONTROL COMMISSION.**

**(iii) IN ESTABLISHING, DESIGNING AND IMPLEMENTING A GROUND WATER RECLAMATION PLAN, THE IN SITU LEACH MINING OPERATOR SHALL USE BEST AVAILABLE TECHNOLOGY.**

**(iv) IN SITU LEACH MINING OPERATORS SHALL TAKE ALL NECESSARY STEPS TO PREVENT AND REMEDIATE ANY DEGRADATION OF PREEXISTING GROUND WATER USES DURING THE PROSPECTING, DEVELOPMENT, EXTRACTION AND RECLAMATION PHASES OF THE IN SITU LEACH MINING OPERATION.**

(2)-(7) \*\*\*

- (8) Release of Reclamation Liability: An Operator shall demonstrate, to the satisfaction of the Office, that reclamation has been achieved so that existing and reasonably potential future uses of groundwater are protected. **OPERATORS OF ANY IN SITU LEACH MINING OPERATIONS SHALL**

**RECLAIM GROUND WATER AS REQUIRED IN SUBSECTION (1)(E) OF THIS RULE  
3.1.7.**

(9) \*\*\*

For additional performance standards related to water, see Subsections 3.1.5 and 3.1.6.

**3.1.8 through 3.1.13**

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**3.2 INSPECTION AND MONITORING**

\*\*\*

**3.3 ENFORCEMENT AND PROCEDURES**

\*\*\*

**RULE 4: PERFORMANCE WARRANTIES AND FINANCIAL WARRANTIES**

**4.1 GENERAL PROVISIONS**

\*\*\*

**4.2 FINANCIAL WARRANTY LIABILITY AMOUNT**

**4.2.1 Adequacy of Financial Warranties**

(1)-(3) \*\*\*

(4) In any single year during the life of the permit, the amount of required Financial Warranties shall not exceed the estimated cost of fully reclaiming all lands to be affected in said year, plus all lands, affected in previous permit years and not yet fully reclaimed. **IN THE CASE OF ANY IN SITU LEACH MINING OPERATION, THE FINANCIAL WARRANT SHALL ALSO INCLUDE THE ESTIMATED COST OF FULLY RECLAIMING GROUND WATER.** For the purpose of this Paragraph (4), reclamation costs shall be computed with reference to current reclamation costs. The amount of the Financial Warranty shall be sufficient to assure the completion of reclamation of affected lands, **AND IN THE CASE OF ANY IN SITU LEACH MINING, GROUND WATER,** if the Office has to complete such reclamation due to forfeiture. Reclamation includes all measures taken to assure the protection of water resources, including costs to cover necessary water quality protection, treatment and monitoring as may be required by Permit, these Rules or the Act.

(5) \*\*\*

(6) \*\*\*

#### 4.2.2 Specific Provisions - 110 and *NON-IN SITU LEACH MINING* 110d Limited Impact Operations

(1) \*\*\*

(2) *EXCEPT FOR IN SITU LEACH MINING PERMITS, T*he Financial Warranty for any Limited Impact Permit which is filed pursuant to Section 34-32-110(2), C.R.S., including those which are automatically issued as a result of Office inaction within 30 days pursuant to the Act (Section 34-32-110(7), C.R.S.) shall be in an amount equal to the estimated cost of reclamation.

(3) \*\*\*

#### 4.2.3 Permit Conversion

The conversion of any 110 or *NON IN SITU LEACH MINING* 110d Limited Impact Permit into any 112 or *NON IN SITU LEACH MINING* 112d Reclamation Permit shall require a Financial Warranty in an amount equal to the estimated cost of reclamation.

#### 4.2.4 Reserved

\*\*\*

#### 4.2.5 Specific Provisions - 112 ~~and~~ 112d, *110 ISL AND 112 ISL* Reclamation Permit Operations

(1) The Financial Warranty for any 112, ~~or~~ 112d, *110 ISL AND 112 ISL* Reclamation Permit shall be in an amount to be determined by the Board in accordance with the guidelines set forth herein.

(2) The Financial Warranty for any 112, ~~or~~ 112d, *110 ISL AND 112 ISL* Reclamation Permit which is automatically issued as a result of Board inaction *WITHIN TWO HUNDRED FORTY (240) DAYS FOR ANY IN SITU LEACH MINING APPLICATION AND* within the one hundred twenty (120) day period *FOR NON IN SITU LEACH MINING 112 AND 112D PERMIT APPLICATIONS* pursuant to the Act shall be in an amount equal to two thousand dollars (\$2,000.00) for each acre of Affected Land, or other such amount as the Board may determine at a subsequent hearing.

(3) \*\*\*

#### 4.2.6 Specific Provisions - Prospecting Notice

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#### 4.3 through 4.16

\*\*\*

#### 4.17 RELEASE OF PERFORMANCE AND FINANCIAL WARRANTIES FOR MINING OPERATIONS

##### 4.17.1 Operator Requirements

- (1) The Operator of any mining operation ~~possessing a Two-Acre Limited Impact Permit, or a 110 or 110d Limited Impact Permit, or a 112 or 112d Reclamation Permit~~ may file a written notice of completion of reclamation and request for release of reclamation responsibility with the Office whenever an Operator believes any or all requirements of the Act, the Rules and Regulations, and the approved reclamation plan have been completed with respect to any or all of the Affected Lands.

(2)-(4) \*\*\*

##### 4.17.2 through 4.17.4

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#### 4.18 through 4.20

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### **RULE 5: PROSPECTING OPERATIONS**

#### 5.1 NOTICE OF INTENT TO CONDUCT PROSPECTING OPERATIONS

##### 5.1.1 General Provisions

- (1) Any person or organization desiring to conduct prospecting, as defined in Rule 1.1(4~~35~~), shall, prior to entry upon the prospecting lands, file with the Office a Notice of Intent to Conduct Prospecting (NOI) on a form provided by the Board. A separate prospecting notice shall be filed with the Office for each non-contiguous Land Survey Quarter Section in which a proposed prospecting activity is to occur. The requirement for separate notices may be waived by the Office for good cause.
- (2) If the Office determines that the prospecting proposed in the NOI is instead "mining," the Office shall notify the person or organization in writing. ~~Any appeal of~~ **ONLY THE APPLICANT OF THE NOI MAY APPEAL THE OFFICE'S** ~~this~~ **determination. ~~shall follow the procedures set forth~~ THE APPLICANT SHALL USE THE PROCEDURES SET FORTH in Rule 1.4.11 FOR SUCH APPEAL.**
- (3) \*\*\*

### 5.1.2 Application Requirements

The NOI form (Rule 5.1.1(1)) shall, at a minimum, contain the following:

(a)-(g) \*\*\*

- (H) (I) *DESIGNATION OF INFORMATION BELIEVED BY THE APPLICANT TO BE CONFIDENTIAL INCLUDING INFORMATION RELATING TO THE MINERAL DEPOSIT LOCATION, SIZE OR NATURE, AND INFORMATION BELIEVED BY THE APPLICANT TO BE PROPRIETARY OR TRADE SECRET OR THAT WOULD CAUSE SUBSTANTIAL HARM TO THE COMPETITIVE POSITION OF THE APPLICANT. THE APPLICANT SHALL DISTINGUISH IN THE SUBMITTAL BETWEEN THOSE PORTIONS OF THE NOI THAT ARE CONFIDENTIAL BECAUSE THEY RELATE TO MINERAL DEPOSIT LOCATION, SIZE OR NATURE AND THOSE PORTIONS OF THE NOI THE APPLICANT BELIEVES ARE PROPRIETARY, TRADE SECRET OR HARMFUL TO ITS COMPETITIVE POSITION. THOSE PORTIONS OF THE NOI THAT ARE NOT DESIGNATED AS CONFIDENTIAL WILL BE AVAILABLE AS PUBLIC RECORD.*
- (II) *THE APPLICANT MUST SUBMIT TWO SEPARATE FORMS. ONE FORM WILL CONTAIN ALL INFORMATION, INCLUDING BOTH PUBLIC AND CONFIDENTIAL INFORMATION (WITH CONFIDENTIAL INFORMATION DESIGNATED AS SUCH). THIS COMPLETE FORM WILL BE USED BY THE OFFICE FOR REVIEW AND WILL BE HELD CONFIDENTIAL. THE SECOND FORM WILL CONTAIN ONLY THE INFORMATION THE APPLICANT BELIEVES IS PUBLIC WITH THE APPLICANT REDACTING ALL INFORMATION TO BE HELD AS CONFIDENTIAL.*
- (I) *THE APPLICANT MUST SUBMIT THE NOI IN BOTH IN PAPER AND ELECTRONIC FORM. THE OFFICE SHALL POST ON ITS WEBSITE THE NOI UPON SUBMITTAL EXCEPT THOSE PORTIONS OF THE SUBMITTAL DESIGNATED BY THE APPLICANT AS CONFIDENTIAL.*
- (J) *MODIFICATIONS TO AN EXISTING NOI MUST BE SUBMITTED IN WRITING AND APPROVED IN ADVANCE OF SUCH ACTIVITY. MODIFICATIONS SHALL BE REVIEWED BY THE BOARD OR OFFICE IN THE SAME MANNER AS NEW NOIS, USE THE SAME NOI FORM, AND INCLUDE CONFIDENTIALITY DESIGNATIONS. PROSPECTORS MUST FILL OUT SECTIONS OF THE NOI FORM THAT WILL CHANGE AND INDICATE THE SECTIONS THAT WILL NOT CHANGE. PROSPECTORS MUST DESIGNATE EACH PORTION OF THE MODIFIED NOI THEY BELIEVE ARE TO REMAIN CONFIDENTIAL. PLEASE NOTE THAT UNDER SECTION 34-32-113, C.R.S., ALL INFORMATION PROVIDED TO THE BOARD IN AN NOI OR A MODIFICATION OF AN NOI IS A MATTER OF PUBLIC RECORD INCLUDING, IN THE CASE OF A MODIFICATION, THE ORIGINAL NOTICE OF INTENT, UNLESS THAT INFORMATION RELATES TO THE MINERAL DEPOSIT LOCATION, SIZE, OR NATURE OR IS DESIGNATED BY THE PROSPECTOR AS PROPRIETARY OR TRADE SECRETS OR THAT WOULD CAUSE SUBSTANTIAL HARM TO THE COMPETITIVE*

**POSITION OF THE PROSPECTOR. ACCORDINGLY, THE PROSPECTOR MUST ALSO DESIGNATE THE INFORMATION IN THE ORIGINAL NOI THAT IT BELIEVES IS CONFIDENTIAL IF IT HAS NOT ALREADY DONE SO.**

**(K) ANY DISPUTE CONCERNING WHETHER INFORMATION IN A NOI IS CONFIDENTIAL OR PUBLIC SHALL BE RESOLVED BY FOLLOWING THE PROCEDURES SET FORTH IN RULE 1.3.**

**(L)** a statement that prospecting will be conducted pursuant to the terms and conditions listed on the approved NOI form.

### 5.1.3 Office Review

\*\*\*

## 5.2 CONFIDENTIALITY

### 5.2.1 ~~Preconditions for Release of Confidential~~ NOI Information

**(1) FOR NOIS SUBMITTED OR APPROVED ON OR BEFORE JUNE 2, 2008, A**ll information provided to the Office in a NOI shall be protected as confidential information by the Board and not be a matter of public record in the absence of written release from the Prospector or upon a finding by the Board that reclamation is satisfactory, or the site has been abandoned as set forth in Rule 5.6(2). If the site is abandoned, the information in the NOI not subject to the provisions of Rule 5.2.2 may be used by the Office to ensure that the reclamation requirements of the NOI have been met. Notice of a Board determination that a prospect site under a NOI has been abandoned will be sent by certified mail to the prospector at the last known address.

**(2) FOR NOTICES OF INTENT TO CONDUCT PROSPECTING OR MODIFICATIONS THEREOF SUBMITTED OR APPROVED ON OR AFTER JUNE 2, 2008, ALL INFORMATION IN A NOTICE OF INTENT OR MODIFICATION OF SUCH NOTICE IS A MATTER OF PUBLIC RECORD INCLUDING, IN THE CASE OF A MODIFICATION, THE ORIGINAL NOTICE OF INTENT; EXCEPT THAT, INFORMATION RELATING TO THE MINERAL DEPOSIT LOCATION, SIZE OR NATURE, AND OTHER INFORMATION DESIGNATED BY THE OPERATOR AND DETERMINED BY THE BOARD AS PROPRIETARY OR TRADE SECRETS OR THAT WOULD CAUSE SUBSTANTIAL HARM TO THE COMPETITIVE POSITION OF THE OPERATOR SHALL BE PROTECTED AS CONFIDENTIAL AND SHALL NOT BE A MATTER OF PUBLIC RECORD IN THE ABSENCE OF A WRITTEN RELEASE FROM THE OPERATOR OR UNTIL A FINDING BY THE BOARD THAT RECLAMATION IS SATISFACTORY. SUCH INFORMATION DESIGNATED AS EXEMPT FROM PUBLIC DISCLOSURE SHALL REMAIN CONFIDENTIAL UNTIL THE BOARD DETERMINES OTHERWISE PURSUANT TO THE PROVISIONS OF RULE 1.3.**

### 5.2.2 Portions of NOI File to Remain Permanently Confidential

**(1) FOR NOIS FILED BEFORE JUNE 2, 2008, T**he following drillhole information remains permanently confidential;

- (a) all drillhole information contained within the temporary abandonment reports, required in accordance with Rule 5.4.3;
- (b) all drillhole information contained in the final reports in accordance with Rule 5.7(1);
- (c) all drillhole information contained in the annual reports in accordance with Rule 5.6; and
- (d) all drillhole information contained in inspection reports.

**(2) FOR NOIS OR MODIFICATIONS THEREOF FILED ON OR AFTER JUNE 2, 2008, THE INFORMATION DESCRIBED IN THIS RULE 5.2.2, INCLUDING IN THE CASE OF A MODIFICATION, THE INFORMATION IN THE ORIGINAL NOI, SHALL BE PUBLICLY AVAILABLE UNLESS DESIGNATED BY THE PROSPECTOR AS CONFIDENTIAL. THE PROVISIONS OF RULE 1.3 SHALL APPLY FOR A REQUESTED BOARD DETERMINATION AS TO WHETHER INFORMATION DESIGNATED BY THE PROSPECTOR AS CONFIDENTIAL SHOULD REMAIN CONFIDENTIAL.**

### 5.3 through 5.5

\*\*\*

### 5.6 ANNUAL REPORT

- (1) An annual report must be submitted by ~~December 31<sup>st</sup>~~ **THE ANNIVERSARY DATE OF THE NOTICE OF INTENT TO PROSPECT** for each year following the filing of the NOI until a reclamation responsibility release is granted. ~~For NOIs filed prior to the effective date of these amended rules, the first annual report is due December 31, 2006.~~ The prospector shall mail to the Office an ~~confidential~~ annual report containing the following information:

(a)-(h) \*\*\*

- (2) \*\*\*

**(3) ANNUAL REPORTS FILED BEFORE JUNE 2, 2008, SHALL BE CONFIDENTIAL. ANNUAL REPORTS FILED ON OR AFTER JUNE 2, 2008, SHALL BE A MATTER OF PUBLIC RECORD.**

### 5.7 FINAL REPORT

- (1) \*\*\*

- (2) \*\*\*

- (3) **AS TO FINAL REPORTS FILED BEFORE JUNE 2, 2008, T**he final report and all information contained therein shall be confidential in nature and shall not be matter of public record. **AS TO FINAL REPORTS FILED ON OR AFTER JUNE 2, 2008,**

**THE FINAL REPORT AND ALL INFORMATION CONTAINED THEREIN SHALL BE A MATTER OF PUBLIC RECORD.**

(4) \*\*\*

**5.8 NO WAIVER OF ~~SPECIFIC REPORTING ADMINISTRATIVE~~ REQUIREMENTS REGARDING ~~AQUIFERS~~**

The Director of the Office may **NOT** waive **ANY OF** the administrative **REPORTING** provisions of ~~THIS Rules 5.4.2(6) and 5.4.4(c) which pertain to aquifers (report requirements) upon approval of a written request submitted to the Director 5.~~

**RULE 6: PERMIT APPLICATION EXHIBIT REQUIREMENTS**

**6.1 REQUIREMENTS FOR SPECIFIC OPERATIONS**

**6.1.1 General Provisions**

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**6.1.2 110 or *NON-IN SITU LEACH MINING* 110d Limited Impact and 112, ~~or~~ 112d, *110 ISL OR 112 ISL* Reclamation Operations**

\*\*\*

**6.1.3 Reserved**

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**6.1.4 Requirements for All Designated Mining Operations *AND REQUIREMENTS FOR ALL IN SITU LEACH MINING OPERATIONS***

In addition to all other required Exhibits, as described in Sections 6.3 and 6.4, all Designated Mining Operations shall also provide an Exhibit ~~TU~~ - Environmental Protection Plan pursuant to Rule 6.4.24. Exhibit ~~TU~~ may be modified as provided in Subsection 7.2.5. ***ALSO, IN ADDITION TO THE EXHIBITS DESCRIBED IN SECTIONS 6.3, 6.4 AND 6.4.21, ALL IN SITU LEACH MINING OPERATIONS SHALL ALSO PROVIDE THE EXHIBITS IN SECTIONS 6.4.22, 6.4.23, 6.4.24 AND 6.4.25.***

**6.2 GENERAL REQUIREMENTS OF EXHIBITS**

\*\*\*

**6.3 SPECIFIC PERMIT APPLICATION EXHIBIT REQUIREMENTS - 110 and *NON IN SITU LEACH MINING OPERATIONS* 110d LIMITED IMPACT OPERATIONS**

***THE FOLLOWING EXHIBITS SHALL BE REQUIRED FOR 110 AND NON IN SITU LEACH MINING 110D LIMITED IMPACT OPERATIONS; 110 IN SITU LEACH MINING PERMIT APPLICATIONS SHALL***

**COMPLY WITH 112D PERMIT APPLICATIONS INCLUDING COMPLYING WITH THE REQUIREMENTS OF RULE 6.4. IF AN IN SITU LEACH MINING OPERATION HAS BEEN EXEMPTED FROM DESIGNATED MINING OPERATION STATUS, IT STILL MUST COMPLY WITH ALL EXHIBITS REQUIRED FOR IN SITU LEACH MINING OPERATIONS.**

**6.3.1 EXHIBIT A - Legal Description and Location Map**

\*\*\*

**6.3.2 EXHIBIT B - Site Description**

\*\*\*

**6.3.3 EXHIBIT C - Mining Plan**

\*\*\*

**6.3.4 EXHIBIT D - Reclamation Plan**

(1) \*\*\*

(2) All 110 or **NON IN SITU LEACH MINING** 110d Limited Impact applications must provide an estimate of the actual costs to reclaim the site based on what it would cost the State of Colorado using an independent contractor to complete reclamation. (Such estimates are not required for activities contemplated by the operator and approved by the Office to be outside the scope of the proposed reclamation plan.) The unit costs should include estimates for the following activities as appropriate to the operation: backfilling, grading, topsoil application, seeding, mulching, fertilization, and labor to complete reclamation. Determine and specify the point during the operation when the site has reached a point of maximum disturbance. The cost to reclaim the site to the specifications of the Reclamation Plan at this point must be estimated. Unit costs (cost per cubic yard), volumes, haul or push distances, and grades must be included when backfilling and grading are part of the Reclamation Plan. Volume and unit costs for finish grading, subsoil and topsoil application must be provided in terms of cost per cubic yard. The estimated cost for fertilizer, seed and mulch acquisition and application must be provided as cost per acre.

(a)-(c) \*\*\*

**6.3.5 EXHIBIT E - Map**

(1) \*\*\*

(2) Mining Plan Map

(a) outline and label the permit boundaries, described in Exhibit A - Legal Description; for all 110 and **NON IN SITU LEACH MINING** 110d Limited Impact Operations, the Office considers the area bounded by the permit boundary to be analogous to the affected area;

(b)-(f) \*\*\*

(3) \*\*\*

**6.3.6 EXHIBIT F - List of Other Permits and Licenses Required**

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

\*\*\*

**6.3.8 EXHIBIT H - Municipalities Within a Two-mile Radius**

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**6.3.9 EXHIBIT I - Proof of Filing with County Clerk**

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**6.3.10 EXHIBIT J - Proof of Mailing of Notices to Board of County Commissioners and Soil Conservation District**

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**6.3.11 EXHIBIT K - Reserved**

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**6.3.12 EXHIBIT L - Permanent Man-Made Structures**

\*\*\*

**6.4 SPECIFIC EXHIBIT REQUIREMENTS - 112, **112 ISL OR 110 ISL** RECLAMATION OPERATION AND 112d DESIGNATED MINING OPERATIONS**

***THE FOLLOWING EXHIBITS ARE REQUIRED FOR ALL APPLICATIONS FOR ANY IN SITU LEACH MINING OPERATION, 112 MINING OPERATION AND NON IN SITU LEACH MINING 112D DESIGNATED MINING OPERATION. IF ANY IN SITU LEACH MINING OPERATION IS EXEMPTED FROM DESIGNATED MINING OPERATION STATUS, THE APPLICATION MUST STILL COMPLY WITH THIS RULE:***

**6.4.1 through 6.4.10**

\*\*\*

**6.4.11 EXHIBIT K - Climate**

Provide a description of the significant climatological factors for the locality, and where determined appropriate by the Office on a case-by-case basis provide the required information of Paragraph 6.4.2~~0~~**1**(13).

**6.4.12 through 6.4.18**

**6.4.19 *EXHIBIT S – PROOF OF MAILING NOTICES TO AFFECTED OWNERS***

***PROOF THAT NOTICE OF THE PERMIT APPLICATION WAS SENT TO***

- (1) OWNERS OF RECORD OF THE SURFACE AND MINERAL RIGHTS OF THE AFFECTED LAND;***
- (2) OWNERS OF RECORD OF ALL SURFACE LAND WITHIN TWO HUNDRED (200) FEET OF THE BOUNDARY OF THE AFFECTED LAND; AND***
- (3) IF THE PROPOSED OPERATION IS ANY IN SITU LEACH MINING OPERATION, THE OWNERS OF RECORD OF ALL LAND SURFACE WITHIN THREE (3) MILES OF THE BOUNDARY OF THE AFFECTED LAND, PURSUANT TO RULE 1.6.2(1)(E).***

**6.4.~~19~~**20** EXHIBIT ~~S~~**T** - Permanent Man-Made Structures**

\*\*\*

**6.4.2~~0~~**1** EXHIBIT ~~T~~**U** - Designated Mining Operation Environmental Protection Plan**

- (1) The Environmental Protection Plan shall describe how the Operator/Applicant will assure compliance with the provisions of the Act and Rules in order to protect all areas that have the potential to be affected by designated chemicals, toxic or acid-forming materials or acid mine drainage, ***OR THAT WILL BE OR HAVE THE POTENTIAL TO BE AFFECTED BY URANIUM MINING.*** In addition, the plan shall include an Emergency Response Plan that complies with Sections 34-32-103(4.9) and 34-32-116.5(5), C.R.S. 1984, as amended, and Section 8.3, for designated chemicals used on site, and appropriate measures recommended by the Colorado Division of Wildlife (DOW) for the protection of wildlife from damage from designated chemicals, toxic or acid-forming materials and acid mine drainage.
  - (a) An Environmental Protection Plan is not required to address proposed or permitted activities that do not involve, affect, or influence the storage, handling, or disposal of the designated chemicals and that do not disturb toxic or acid-forming materials,

and that do not cause, or have the potential to cause, generation of acid mine drainage **UNLESS SUCH PROPOSED OR PERMITTED ACTIVITIES INVOLVE URANIUM MINING IN WHICH CASE AN ENVIRONMENTAL PROTECTION PLAN SHALL BE REQUIRED.**

(b) In order to protect the public and the environment from the adverse effects of **URANIUM MINING**, designated chemicals, acid or toxic producing materials or acid mine drainage, the Board may consider whether there is a potential for adverse impacts.

(c) Such a determination will evaluate, specifically, the potential for adverse impacts from any:

(i)\*\*\*<sup>(iv)</sup>

(v) stock piles, temporary or permanent; ~~or~~

(vi) land application sites; **OR**

**(vii) IN SITU LEACH OPERATIONS.**

(d) \*\*\*

(e) \*\*\*

(2) Maps - An Environmental Protection Plan shall identify on map(s), sketch(es), plan(s) or other equivalent representations, the locations where designated chemicals, toxic or acid-forming materials, which will be used, stored, handled, exposed, disturbed or disposed of within the permit area, and existing or potential sources of acid mine drainage. **THE ENVIRONMENTAL PROTECTION PLAN SHALL ALSO IDENTIFY ON MAPS, SKETCHES, PLANS OR OTHER EQUIVALENT REPRESENTATIONS, THE LOCATIONS WHICH WILL BE OR HAS THE POTENTIAL TO BE AFFECTED BY URANIUM MINING OPERATIONS.** The locations shall be shown in accurate relationship to topography and other project facilities within the permit area. The Operator/Applicant may submit this information as a map accompanying this Exhibit or include the information on the maps required as Exhibit C in this Subsection, 6.4.3.

(3) \*\*\*

(4) Other Permits and Licenses - The Environmental Protection Plan shall:

(a) \*\*\*

(b) \*\*\*

(c) When such permits, **FOR URANIUM MINING, OR** for the use, handling, storage or disposal of designated chemicals or acid

mine drainage-forming materials within the permit area, are obtained after the submission of the Environmental Protection Plan, the Operator/Applicant will provide the Office the same information within thirty (30) days of receipt.

- (d) The Board reserves the right to deny an application for a Permit or Modification to an existing Permit where there is substantial evidence that the operation is or may be contrary to the laws or regulations of this state, or the United States, including but not limited to all federal, state, and local permits, licenses and approvals. The Board may continue the consideration of the application, or condition approval, pending final resolution of the matter. ***IN ADDITION, AS TO ANY IN SITU LEACH MINING APPLICATIONS, THE BOARD MAY OR SHALL, WHICHEVER IS APPLICABLE, DENY ANY SUCH PERMIT APPLICATION IN ACCORDANCE WITH THE PROVISIONS OF RULE 1.4.10.***

(5)-(8) \*\*\*

(9) Groundwater Quality Data -

(a) \*\*\*

- (b) Submit, at a minimum, groundwater quality data collected during five (5) successive calendar quarters or as specified by the Division, as may be necessary to adequately characterize baseline conditions. This baseline data shall be sufficient to provide for the proper design of facilities, to serve as a basis for the evaluation of reclamation performance standards, and to ensure the adequacy of Environmental Protection Facility design, maintenance and operation. ***IN THE CASE OF AN IN SITU LEACH MINING OPERATION, A PERMIT APPLICANT MUST DESIGN AND CONDUCT A SCIENTIFICALLY DEFENSIBLE GROUND WATER, SURFACE WATER AND ENVIRONMENTAL BASELINE SITE CHARACTERIZATION AND MONITORING PLAN FOR THE PROPOSED MINING OPERATION, WHICH AT A MINIMUM INCLUDES FIVE (5) SUCCESSIVE CALENDAR QUARTERS OF WATER QUALITY DATA, PRIOR TO SUBMITTING THE PERMIT APPLICATION.***

(c) \*\*\*

(10) \*\*\*

(11) Surface Water Quality Data -

(a) \*\*\*

- (b) Submit surface water quality and flow data collected during a minimum of five (5) successive calendar quarters and such other

additional data, or a period specified by the Office, as may be necessary to adequately characterize baseline conditions. This baseline data shall be sufficient to provide for the proper design of facilities, to serve as a basis for the evaluation of reclamation performance standards success, and to insure the adequacy of environmental protection facility design, maintenance and operation. Where surface water samples are not available during the specified time period due to climatic condition, the Office must be contacted so that other alternatives may be agreed upon, **EXCEPT THAT IN THE CASE OF AN IN SITU LEACH MINING OPERATION, A PERMIT APPLICANT MUST DESIGN AND CONDUCT A SCIENTIFICALLY DEFENSIBLE GROUND WATER, SURFACE WATER AND ENVIRONMENTAL BASELINE SITE CHARACTERIZATION AND MONITORING PLAN FOR THE PROPOSED MINING OPERATION, WHICH AT A MINIMUM INCLUDES FIVE (5) SUCCESSIVE CALENDAR QUARTERS OF WATER QUALITY DATA, PRIOR TO SUBMITTING THE PERMIT APPLICATION.**

(c) \*\*\*

(12) Water Quality Monitoring Plan - where necessary to demonstrate that the Environmental Protection Plan requirements are being met, **OR IF THE MINING OPERATION INVOLVES URANIUM MINING,** a water quality monitoring plan shall be proposed for both surface and groundwater. The intent of the proposed water quality monitoring plan shall be to demonstrate that all environmental protection facilities designed to protect water quality are functioning as designed and whether the operation is in compliance with all applicable surface water and groundwater standards and Permit conditions. Where a Colorado Discharge Permit System (CDPS) discharge permit exists or has been applied for, such permit may be adequate to satisfy the requirements of this Subsection. **IN ADDITION, FOR AN IN SITU LEACH MINING OPERATION, THE REQUIRED GROUND WATER, SURFACE WATER AND ENVIRONMENTAL BASELINE SITE CHARACTERIZATION AND MONITORING PLAN MUST BE DESIGNED TO THOROUGHLY CHARACTERIZE PRE-MINING CONDITIONS; DETECT ANY SUBSURFACE EXCURSIONS OF GROUND WATER CONTAINING CHEMICALS USED IN OR MOBILIZED BY SUCH OPERATION; AND EVALUATE THE EFFECTIVENESS OF POST-MINING RECLAMATION AND GROUND WATER RECLAMATION.**

(13) \*\*\*

(14) Geochemical Data and Analysis - include appropriate geochemical evaluations of any material that will be exposed by mining, placed in on-site solution containment systems or facilities, stockpiled, or disposed of on the affected land, and that **INVOLVES URANIUM MINING OR** has the potential to cause acid mine drainage or to release designated chemicals, or toxic or acid-forming materials.

(a) \*\*\*

- (b) Such evaluations shall be conducted on materials that are representative of the composition of the **MINERAL**, rocks or materials that are exposed or to be exposed during the proposed life of the mining operations.
  - (c) \*\*\*
  - (d) Such evaluations shall be performed on both ore and overburden, and shall identify the most reasonable sources, probable fate, and transport mechanisms of metal and acid-producing minerals that may be mobilized by ordinary weathering reactions that are likely to prevail after mining and reclamation operations have ceased. Such analyses may include only those tests that are necessary to satisfy the conditions of Subsection 6.4.201(14)(c), and such evaluations may be prioritized, in descending order of importance, as follows:
    - (i)-(iv) \*\*\*
  - (e) \*\*\*
- (15) Construction Schedule Information - provide a detailed construction schedule for the following:
- (a) all facilities designed to contain or transport **URANIUM OR URANIUM BY-PRODUCTS**, toxic or acid-forming materials or designated chemicals used in the extractive metallurgical process; and
  - (b) \*\*\*
- (16) \*\*\*
- (17) Plant Growth Medium (Soils) - where revegetation is part of the Reclamation Plan, and in order to assure that acceptable plant growth medium is preserved, and to determine what soil amendments may be necessary to promote reclamation, the Operator/Applicant shall:
- (a) \*\*\*
  - (b) \*\*\*
  - (c) provide, for each soil map unit, in tabular form, all data from analyses of representative samples of surface and subsurface soil units as to:
    - (i) \*\*\*
    - (ii) \*\*\*

(iii) \*\*\*

(iv) provide, as an alternative to Subsubparagraph 6.4. 291 (17)(c), a plan of experiments to determine the type, form and amount of any soil amendments that may be necessary to fulfill the requirements of the Reclamation Plan.

(18) Wildlife protection - In addition to the performance requirements of Section 3.1, the Office or Board shall require the Operator to describe measures to minimize or prevent harm or damage to wildlife species and habitat, including:

(a) \*\*\*

(b) describe measures to prevent wildlife from coming into contact with **URANIUM OR URANIUM BY-PRODUCTS**, designated chemicals, toxic or acid-forming chemicals or areas with acid mine drainage.

(19) \*\*\*

**6.4.22 EXHIBIT V – COMPARISON OF ISL MINES REQUIRED FOR ALL IN SITU LEACH MINING APPLICATIONS REGARDLESS OF DESIGNATED MINING OPERATION STATUS.**

**IN ADDITION TO ALL OTHER REQUIRED EXHIBITS, ALL IN SITU LEACH MINING APPLICATIONS SHALL INCLUDE THIS EXHIBIT U:**

**(1) THE COMPARISON OF ISL MINES SHALL DESCRIBE AT LEAST FIVE (5) IN SITU LEACH MINING OPERATIONS THAT DEMONSTRATE THE APPLICANT’S ABILITY TO CONDUCT THE PROPOSED MINING OPERATION WITHOUT LEAKAGE, VERTICAL OR LATERAL MIGRATION, OR EXCURSION OF ANY LEACHING SOLUTIONS OR GROUND WATER CONTAINING MINERALS, RADIONUCLIDES, OR OTHER CONSTITUENTS MOBILIZED, LIBERATED OR INTRODUCED BY THE MINING OPERATION INTO ANY GROUND WATER OUTSIDE OF THE PERMITTED IN SITU LEACH MINING AREA. THE APPLICANT NEED NOT BE INVOLVED WITH ANY OF THE FIVE (5) OPERATIONS. THE COMPARISON OF ISL MINES SHALL DESCRIBE:**

**(A) THE METHODS OF MINING EMPLOYED IN EACH STAGE OF EACH OF THE FIVE REFERENCED IN SITU LEACH MINING OPERATIONS SPECIFICALLY INCLUDING THE METHODS RELATED TO ANY POTENTIAL EFFECT ON GROUND WATER, AND COMPARE THESE METHODS TO THOSE PROPOSED IN THE APPLICATION;**

**(B) THE GROUND WATER MONITORING AND PROTECTION MEASURES USED AT EACH OF THE FIVE REFERENCED MINING OPERATIONS AND COMPARE THOSE MEASURES TO THE MEASURES IN THE APPLICATION;**

(C) ANY KNOWN ACCIDENTS, FAILURES, LEAKS, RELEASES OR SPILLS THAT AT ALL AFFECTED GROUND WATER AT EACH OF THE FIVE REFERENCED MINING OPERATIONS.

(2) THE INFORMATION PROVIDED IN THE COMPARISON OF ISL MINES MAY BE OBTAINED FROM PUBLICLY AVAILABLE OR NON-CONFIDENTIAL SOURCES. THE APPLICANT SHALL USE REASONABLE EFFORTS TO OBTAIN SUCH INFORMATION INCLUDING RESEARCH AND REVIEW OF PUBLICLY AVAILABLE DOCUMENTS AND CONTACT WITH THE OPERATORS OF THE FIVE REFERENCED OPERATIONS TO REQUEST INFORMATION.

**6.4.23 EXHIBIT W – BASELINE SITE CHARACTERIZATION - ALL IN SITU LEACH MINING OPERATIONS, REGARDLESS OF DESIGNATED MINING OPERATION STATUS.**

IN ADDITION TO ALL OTHER REQUIRED EXHIBITS, APPLICATIONS FOR IN SITU LEACH MINING OPERATIONS SHALL INCLUDE THIS EXHIBIT V.

(1) AN APPLICANT FOR AN IN SITU LEACH MINING OPERATION PERMIT SHALL DESIGN AND CONDUCT A SCIENTIFICALLY DEFENSIBLE BASELINE SITE CHARACTERIZATION FOR AFFECTED SURFACE WATER, AFFECTED GROUND WATER AND THE ENVIRONMENT PRIOR TO FILING A PERMIT APPLICATION FOR AN IN SITU LEACH MINING OPERATION. AT LEAST 180 DAYS PRIOR TO CONDUCTING ANY ACTIVITY UNDER THE BASELINE SITE CHARACTERIZATION, THE PROSPECTIVE APPLICANT SHALL CONFER WITH THE OFFICE AND OBTAIN THE OFFICE'S APPROVAL OF THE APPLICANT'S PROPOSED BASELINE SITE CHARACTERIZATION. THE BASELINE SITE CHARACTERIZATION MUST AT A MINIMUM INCLUDE FIVE (5) QUARTERS OF MONITORING DATA AND MUST BE INCLUDED IN THE PERMIT APPLICATION IN ORDER FOR THE APPLICATION TO BE CONSIDERED COMPLETE. AT A MINIMUM, THE BASELINE SITE CHARACTERIZATION SHALL THOROUGHLY CHARACTERIZE THE PRE-MINING SITE CONDITIONS INCLUDING:

(A) A DESCRIPTION OF THE FOLLOWING ASPECTS OF THE PROPOSED MINING OPERATION:

- (i) PHYSIOGRAPHIC CONDITIONS;
- (ii) GEOLOGIC AND HYDROGEOLOGIC CONDITIONS;
- (iii) SURFACE WATER CONDITIONS; AND
- (iv) GROUND WATER CONDITIONS.

(B) A SITE INSPECTION REPORT THAT INCLUDES:

- (i) A NARRATIVE DESCRIPTION OF SITE OBSERVATIONS;

- (II) INTERVIEWS WITH REGULATORY AGENCIES HAVING JURISDICTION OVER THE SITE INCLUDING THE REGULATORY HISTORY OF THE SITE;
  - (III) A NARRATIVE DESCRIPTION OF THE RESULTS OF A DOCUMENT REVIEW CONCERNING THE SITE; AND
  - (IV) A SYNOPSIS OF ANY PREVIOUS ENVIRONMENTAL OR ENFORCEMENT INVESTIGATIONS.
- (C) ANALYSIS OF THE RESULTS OF THE BASELINE SITE CHARACTERIZATION, INCLUDING A DESCRIPTION OF FACTORS OR CONDITIONS THAT REQUIRE FURTHER INVESTIGATION IN ORDER TO DESIGN APPROPRIATE RECLAMATION MEASURES.

**6.4.24 EXHIBIT X - MONITORING PLAN – ALL IN SITU LEACH MINING OPERATIONS REGARDLESS OF DESIGNATED MINING OPERATION STATUS**

*IN ADDITION TO ALL OTHER REQUIRED EXHIBITS, ANY APPLICATIONS FOR IN SITU LEACH MINING APPLICATIONS SHALL INCLUDE THIS EXHIBIT W.*

- (1) AN APPLICANT FOR A PERMIT FOR ANY IN SITU LEACH MINING OPERATION SHALL DESIGN AND CONDUCT A MONITORING PLAN FOR AFFECTED LANDS AND AFFECTED GROUND AND SURFACE WATER PRIOR TO SUBMITTING AN APPLICATION FOR SUCH OPERATION. PRIOR TO CONDUCTING ANY ACTIVITIES IN THE MONITORING PLAN, THE PROSPECTIVE APPLICANT SHALL CONFER WITH AND OBTAIN THE APPROVAL OF THE OFFICE OF THE PROPOSED MONITORING PLAN. THE MONITORING PLAN MUST BE IN THE PERMIT APPLICATION IN ORDER FOR THE APPLICATION TO BE CONSIDERED FILED. THE MONITORING PLAN SHALL BE SUFFICIENT TO DETECT ANY SUBSURFACE EXCURSIONS OF GROUND WATER CONTAINING CHEMICALS USED IN OR MOBILIZED BY THE MINING OPERATION. IN ADDITION, THE MONITORING PLAN SHALL INCLUDE AN EVALUATION OF THE EFFECTIVENESS OF POST-MINING RECLAMATION AND GROUND WATER RECLAMATION PLANS.

**6.4.25 EXHIBIT Y - CERTIFICATION OF PRIOR AND CURRENT VIOLATIONS – ALL IN SITU LEACH MINING OPERATIONS REGARDLESS OF DESIGNATED MINING OPERATION STATUS**

*IN ADDITION TO ALL OTHER REQUIRED EXHIBITS, ANY PERMIT APPLICATION FOR AN IN SITU LEACH MINING OPERATION SHALL INCLUDE THIS EXHIBIT W.*

- (1) APPLICANTS FOR A PERMIT FOR ANY IN SITU LEACH MINING OPERATIONS SHALL INCLUDE IN THEIR APPLICATION A CERTIFICATION OF PRIOR AND CURRENT VIOLATIONS THAT INCLUDES:

- (A) **A CERTIFIED STATEMENT BY THE APPLICANT THAT THE APPLICANT OR AN AFFILIATE, OFFICER, OR DIRECTOR OF THE APPLICANT HAS NOT VIOLATED ENVIRONMENTAL PROTECTION REQUIREMENTS OF THE ACT AND THESE REGULATIONS, A PERMIT ISSUED UNDER THE ACT, OR ANY ANALOGOUS LAW, RULE OR PERMIT ISSUED BY ANOTHER STATE OR THE UNITED STATES WITHIN A PERIOD OF TEN YEARS PRIOR TO THE DATE OF THE SUBMISSION OF THE APPLICATION;**
  - (B) **A CERTIFIED STATEMENT BY THE APPLICANT THAT THE APPLICANT OR AN AFFILIATE, OFFICER, OR DIRECTOR OF THE APPLICANT, THE OPERATOR, OR THE CLAIM HOLDER HAS NOT COMMITTED A PATTERN OF WILLFUL VIOLATIONS OF THE ENVIRONMENTAL PROTECTION REQUIREMENTS OF THE ACT, REGULATIONS, A PERMIT ISSUED UNDER THE ACT AND REGULATIONS, OR AN ANALOGOUS LAW, RULE, OR PERMIT ISSUED BY ANOTHER STATE OR THE UNITED STATES.**
- (2) **IF THE APPLICANT IS NOT ABLE TO CERTIFY AS REQUIRED BY SUBSECTION (1) OF THIS RULE, THE APPLICANT SHALL DESCRIBE THE CIRCUMSTANCES OF THE VIOLATIONS OR PATTERN OF VIOLATIONS INCLUDING:**
- (A) **A DESCRIPTION OF THE NATURE OF THE VIOLATION INCLUDING THE GOVERNMENTAL AGENCY THAT FOUND THE VIOLATION, WHERE AND WHEN IT TOOK PLACE, THE TYPE OF MINE INVOLVED, ANY CORRECTIVE ACTIONS AND FINES IMPOSED FOR SUCH VIOLATION, THE STATUS OF THE VIOLATION AND ANY CORRECTION ACTIONS AND FINES IMPOSED FOR SUCH VIOLATION, AND ANY PENDING ADMINISTRATIVE OR JUDICIAL ACTION RELATED TO THE VIOLATION;**
  - (B) **A DESCRIPTION OF THE PATTERN OF VIOLATIONS INCLUDING AS TO EACH VIOLATION IN THE PATTERN OF VIOLATIONS, THE GOVERNMENTAL AGENCY THAT FOUND THE VIOLATION, THE TYPE OF MINING OPERATION INVOLVED, WHERE AND WHEN THE VIOLATION TOOK PLACE, THE CORRECTIVE ACTIONS AND FINES IMPOSED FOR SUCH VIOLATION, THE STATUS OF THE VIOLATION AND ANY CORRECTIVE ACTIONS AND FINES IMPOSED FOR SUCH VIOLATION, AND ANY PENDING ADMINISTRATIVE OF JUDICIAL ACTION RELATED TO THE VIOLATION;**
  - (C) **CONTACT INFORMATION FROM EACH FEDERAL OR STATE AGENCY INVOLVED IN EACH VIOLATION OR EACH PATTERN OF VIOLATIONS INCLUDING THE NAME OF THE AGENCY, THE NAME OF A PERSON IN THAT AGENCY THAT CAN CONFIRM THE VIOLATION OR PATTERN OF VIOLATION INFORMATION THE APPLICANT HAS SUBMITTED AND THE CONTACT PERSON'S TELEPHONE NUMBER AND ADDRESS.**
  - (D) **ANY OTHER INFORMATION REQUESTED BY THE OFFICE OR BOARD ABOUT THE VIOLATIONS OR PATTERN OF VIOLATIONS.**

- (3) **TO CONSTITUTE A CERTIFIED STATEMENT THE APPLICANT MUST ATTEST TO THE TRUTHFULNESS OF THE STATEMENT IN A FORM APPROVED BY THE BOARD.**

6.5 **GEOTECHNICAL STABILITY EXHIBIT**

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**RULE 7: DESIGNATED MINING OPERATIONS**

7.1 **GENERAL PROVISIONS**

7.1.1 **Exemption from Rule**

Mining operations that are not Designated Mining Operations are ~~exempt~~ **EXCLUDED** from this Rule 7, except as provided ~~for~~ in Section 6.1, of these Rules.

7.1.2 **Effective Date *AND APPLICABILITY* of Rule**

***EXCEPT FOR IN SITU LEACH MINING OPERATIONS, T***he effective date of this Subsection of the Rule 7 and all of its Subsections is July 1, 1994 (Section 34-32-116.5(3)(B), C.R.S. 1984, as amended). Any Operator/Applicant may voluntarily choose to comply with any part, or all, of this Rule at any time prior to July 1, 1994. ***AS TO IN SITU LEACH MINING OPERATIONS, ALL EXISTING AND FUTURE IN SITU LEACH MINING OPERATIONS ARE BY LAW DESIGNATED MINING OPERATIONS. THEREFORE, THE PROCEDURE TO DETERMINE WHETHER A MINING OPERATION CONSTITUTES A DESIGNATED MINING OPERATION IS NOT APPLICABLE TO IN SITU LEACH MINING OPERATIONS AND SUCH OPERATIONS ARE SUBJECT TO ALL DESIGNATED MINING OPERATION REQUIREMENTS AND REGULATIONS. HOWEVER, SUCH OPERATIONS MAY REQUEST AN EXEMPTION FROM DESIGNATED MINING OPERATION STATUS AS PROVIDED IN RULE 7.2.6. IF SUCH EXEMPTION IS GRANTED, THE OPERATOR SHALL ONLY BE EXEMPT FROM DESIGNATED MINING OPERATION REQUIREMENTS; ALL IN SITU LEACH MINING OPERATION REQUIREMENTS SHALL CONTINUE TO APPLY.***

7.1.3 **Compliance Requirements**

(1) \*\*\*

(2) In addition to submitting the Reclamation Plan required by Section 116 of the Act (Section 34-32-116, C.R.S. 1984, as amended) in compliance with Rule 6, all Designated Mining Operations, as determined pursuant to this Rule 7 ***OR IF AN OPERATION IS AN IN SITU LEACH MINING OPERATION,*** shall submit to the Office an Environmental Protection Plan, the content of which is specified by Rule 6, for Office review and approval. ***AS TO IN SITU LEACH MINING OPERATIONS, A PERMIT APPLICANT MUST INCLUDE AN ENVIRONMENTAL PROTECTION PLAN IN THE APPLICATION UNLESS SUCH APPLICANT REQUESTS AND OBTAINS AN EXEMPTION PURSUANT TO RULE 7.2.6 AT THE TIME OF SUBMITTING THE APPLICATION.***

#### 7.1.4 Environmental Protection Plan Requirements

\*\*\*

### 7.2 DETERMINATION OF DESIGNATED MINING OPERATIONS

#### 7.2.1 General Provisions

- (1) \*\*\*
- (2) For administrative purposes, such as Annual Fees and inspection schedules, the occurrence at a mine site of any activity that is a Designated Mining Operation activity will have the effect of making the entire mining operation a Designated Mining Operation, unless exempted ~~by Subparagraph 1-1(12)(e)~~ **UNDER RULE 7.2.6.**
- (3) Such operations, so designated, must submit an Environmental Protection Plan as specified in Subsection 6.4. **4921.**
- (4) Any person that does not agree with an Office determination of non-designation **MADE OUTSIDE OF THE PROCEDURES SET FORTH IN RULE 7.2.2** may petition the Board to hold a Formal Public Hearing, where such person has factual evidence that the operation may be a Designated Mining Operation and such person makes that information available to the Office, Board and Applicant at the time such petition is filed with the Office. Such hearing shall follow the process described in Section 2.5 **EXCEPT THAT THE HEARING SHALL NOT BE SET AN EARLIER THAN 20 DAYS FROM WHEN THE PETITION IS FILED. IF THE OFFICE DETERMINATION OCCURS PURSUANT TO RULE 7.2.2, THEN A PERSON WHO MAY BE ADVERSELY AFFECTED OR AGGRIEVED BY THE OFFICE'S DETERMINATION OF NON-DESIGNATION MAY FILE AN APPEAL TO THE BOARD PURSUANT TO RULE 7.2.7 OR MAY FILE A PETITION TO INTERVENE IN ANY APPEAL BROUGHT BY THE OPERATOR CONCERNING SUCH OPERATOR'S STATUS AS A DESIGNATED MINING OPERATION.**

#### 7.2.2 Notification of Designation or Pending Designation by Office

- (1) \*\*\*
- (2) Upon receipt of the Office notice, the Operator of an existing mining operation shall:
  - (a) within sixty (60) days file a demonstration that the existing permit application for the operation contains the necessary elements of an Environmental Protection Plan, Subsection 6.4. **4921.** This showing by the Operator shall satisfy the applicable portions of Sections 34-32-116 and 116.5, C.R.S. 1984, as amended, and the applicable portions of Rules 3, 6 and 7. Upon notice that the

existing permit application does not contain the elements of an Environmental Protection Plan, the Operator shall either:

(b) \*\*\*

(c) \*\*\*

(3) \*\*\*

### 7.2.3 Operator/Applicant Concurs with Designation

\*\*\*

### 7.2.4 Operator/Applicant Disputes Designation

(1) If an Operator/Applicant so notified does not agree with the Office that the existing or proposed mining operation is a Designated Mining Operation, the Operator/Applicant shall appeal, in writing, to the Office within thirty (30) days of the Office notice, **SETTING FORTH THE SPECIFIC REASONS FOR THE OPERATOR/APPLICANT'S DISAGREEMENT. THE OPERATOR/APPLICANT'S APPEAL SHALL INCLUDE ALL FACTUAL EVIDENCE TO SUPPORT ITS ARGUMENTS.**

(a)-(b) \*\*\*

(2) \*\*\*

### 7.2.5 Existing Permit - Adequate for an Environmental Protection Plan

(1) **EXCEPT FOR IN SITU LEACH MINING OPERATIONS,** If an existing permit contains the necessary elements of an Environmental Protection Plan, the Office or the Board will deem the existing permit to be adequate to comply with the Environmental Protection Plan requirement, (Section 34-32-116.5(4)(a), C.R.S. 1984, as amended).

(2) The Office may require that the Operator provide an Environmental Protection Plan, as an Exhibit separate from the existing Reclamation Plan and clearly marked as the Environmental Protection Plan. New information may not be required, provided the Plan complies with Subsection 6.4.1921 and this Rule 7. The Environmental Protection Plan submission shall reference appropriate portions of the existing permit application, but shall be clear and concise and shall adequately address those issues that the Environmental Protection Plan is to address.

(3) \*\*\*

### 7.2.6 Exemption from Designation

(1) \*\*\*

- (2) Nothing in the Board Exemption shall exempt an Operator where site conditions or circumstances change, or are not as presented by the Operator in an application or at a Board Hearing on the proposed or existing activities. **IN ADDITION, AN EXEMPTION UNDER THIS RULE FROM DESIGNATED MINING OPERATION REQUIREMENTS DOES NOT EXEMPT THE OPERATION FROM ANY OTHER APPLICABLE REQUIREMENTS. FOR EXAMPLE, AN EXEMPTION SHALL NOT EXEMPT AN IN SITU LEACH MINING OPERATION FROM THE REQUIREMENTS PERTAINING TO IN SITU LEACH MINING OPERATIONS INCLUDING BUT NOT LIMITED TO THOSE CONTAINED IN RULES 3.1.3, 3.1.7 AND 6.4. IF AN IN SITU LEACH MINING OPERATION IS GRANTED AN EXEMPTION, IT SHALL BE REFERRED TO AS A "110 ISL" OPERATION OR "112 ISL" OPERATION (AS APPLICABLE) RATHER THAN AS A 112D OPERATION.**

### 7.2.7 Appeal of Determination

Any person that may be **ADVERSELY AFFECTED OR** aggrieved by the final Office determination as to the status of a mining operation **being, or** not being, a Designated Mining Operation may appeal such Office determination to the Board **PURSUANT TO RULE 1.4.11.**

### 7.2.8 through 7.2.11

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## 7.3 ENVIRONMENTAL PROTECTION FACILITIES - DESIGN AND CONSTRUCTION REQUIREMENTS

### 7.3.1 Construction

(1)-(4) \*\*\*

- (5) No chemicals **used in the extractive metallurgical process** or toxic or acid-forming materials shall be placed in constructed facilities until the Board or Office accepts the certification of the facility, or phase thereof, that precedes placement.

### 7.3.2 Construction - Acceptance of Certification

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### 7.3.3 Cessation of Construction

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## 7.4 FACILITY CERTIFICATION AND INSPECTION

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**RULE 8: EMERGENCY RESPONSE PLAN FOR ~~DESIGNATED~~ ALL MINING OPERATIONS - EMERGENCY NOTIFICATION BY OPERATORS, AND EMERGENCY RESPONSE AUTHORITY OF THE OFFICE**

**8.1 SITUATIONS THAT REQUIRE EMERGENCY NOTIFICATION BY THE OPERATOR**

Operators shall notify the Office, as soon as reasonably practicable, but no later than twenty-four (24) hours, after the Operator has knowledge of a failure or imminent failure of ~~either~~ **ANY** of the following:

- (a) any impoundment, embankment, stockpile or slope that poses a reasonable potential for danger to human health, property or the environment; ~~and~~
- (b) **FOR A DESIGNATED MINING OPERATION**, any Environmental Protection Facility designed to contain or control designated chemicals or process solutions as identified in the permit~~;~~;
- (c) **FOR IN SITU LEACH MINING OPERATIONS, ANY STRUCTURE DESIGNED TO PREVENT, MINIMIZE, OR MITIGATE THE ADVERSE IMPACTS TO HUMAN HEALTH, WILDLIFE, GROUND OR SURFACE WATER OR THE ENVIRONMENT; AND**
- (d) **FOR IN SITU LEACH MINING OPERATIONS, ANY STRUCTURE DESIGNED TO DETECT, PREVENT, MINIMIZE, OR MITIGATE ADVERSE IMPACTS ON GROUND WATER.**

**8.2 OPERATOR'S GENERAL NOTIFICATION RESPONSIBILITIES FOR REPORTING EMERGENCY CONDITIONS**

**8.2.1 Emergency Reporting Procedure**

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**8.2.2 Emergency Notification Information Required**

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**8.2.3 Follow-up Notice Requirements**

As soon as practicable after an emergency situation or condition is reported and addressed, **BUT NO LATER THAN FIVE (5) WORKING DAYS**, the Operator shall provide a written report of the event to the Office. The report shall provide a description of:

(a)-(e) \*\*\*

**8.3 EMERGENCY RESPONSE PLAN FOR DESIGNATED CHEMICALS **AND URANIUM OR URANIUM BY-PRODUCTS****

In compliance with Subsection 6.4.**4921**, describing the purpose of an Environmental Protection Plan, Operators/Applicants of Designated Mining Operations shall be required

to have on file with the Office an up-to-date Emergency Response Plan for designated chemicals. It shall be the Operator's/Applicant's sole responsibility to provide timely updates of responsible personnel and their phone numbers to the Office.

### **8.3.1 Non-Designated Mining Operations Exempted**

Operations that **DO NOT INVOLVE URANIUM MINING OR THAT** do not have or will not use designated chemicals, as defined in Rule 1.1(13), are specifically exempted from the requirements of this Rule 8.3.

### **8.3.2 Minimum Requirements - Submitting Other Agency Plans**

Operators/Applicants that are required to submit an Emergency Response Plan, may submit all or portions of a plan required by another state, local or federal agency that has been required of the Operator if it substantially conforms to the following minimum requirements:

- (a) \*\*\*
- (b) an outline of response procedures to be followed by mine or plant personnel in the event of an emergency involving designated chemicals **ACIDIC OR TOXIC MATERIALS, OR URANIUM OR URANIUM BY-PRODUCTS;**
- (c)-(d) \*\*\*

### **8.3.3 Post-Emergency Event Monitoring Plan**

\*\*\*

## **8.4 EMERGENCY RESPONSE AUTHORITY OF THE OFFICE**

### **8.4.1 Responsibilities of the Office**

The Office may:

- (a)-(d) \*\*\*
- (e) **AS TO DESIGNATED MINING OPERATIONS,** operate the Environmental Protection Facility utilizing any or all portions of the Financial Warranty established for such purpose. Such funds shall be available for the state to operate any portion of the Environmental Protection Facilities, or other facilities as may be necessary, to terminate an emergency as defined by these Rules. In responding to an emergency, the Board or Office will first use funds available as appropriate from the Emergency Response Cash Fund prior to utilizing any or all portions of the Permittee's Financial Warranty.

#### 8.4.2 Office's Determination that an Emergency Exists

The Office may exercise its emergency authority to respond to situations at mining or mineral processing facilities. The determination may be based upon the following:

- (a) \*\*\*
- (b) \*\*\*
- (c) an Operator fails or refuses to respond to a Board Order requiring corrective actions for:
  - (i) any failure or imminent failure of any impoundment, embankment, stockpile, or slope identified in the permit;
  - (ii) any Environmental Protection Facility or measure, identified in the Permit, designed for the control or containment of acid or toxic producing materials or designated chemicals;
  - (iii) any specific Permit condition which is intended to protect human health, property or the environment;
  - (iv) **ANY STRUCTURE FOR AN IN SITU LEACH MINING OPERATION DESIGNED TO DETECT, PREVENT, MINIMIZE OR MITIGATE ADVERSE IMPACTS ON GROUND WATER;**
  - (v) **ANY STRUCTURE USED IN CONNECTION WITH AN IN SITU LEACH MINING OPERATION DESIGNED TO DETECT, PREVENT, MINIMIZE, OR MITIGATE ADVERSE IMPACTS ON HUMAN HEALTH, WILDLIFE, OR THE ENVIRONMENT.**

#### 8.5 through 8.7

\*\*\*

#### 8.8 EMERGENCY RESPONSE COST RECOVERY

The Executive Director may seek recovery of costs expended in carrying out the provisions of this Rule 8. The State shall bear the burden of proof for any violations or cost recovery actions brought against a party(ies) identified in this Section 8.8. Recovery may be sought for funds expended from the cash fund from any and all of the following:

- (a) \*\*\*
- (b) the Operator, **IF DIFFERENT FROM THE PERMITTEE**, conducting activities or allowing activities that caused the emergency situation; or
- (c) \*\*\*

**RULE 9:      CHANGE OF NAME – LEGAL EFFECT**

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