



Certification Page
Regular and Emergency Rules
 Revised June 2013

Emergency Rules *(After completing all of Sections 1 and 2, proceed to Section 5 below.)*

Regular Rules

1. General Information

a. Agency/Board Name Department of Environmental Quality - Land Quality Division (LQD)		
b. Agency/Board Address 122 West 25th Street, Herschler Building - 3W	c. City Cheyenne	d. Zip Code 82002
e. Name of Contact Person Craig Hults	f. Contact Telephone Number (307) 777-7066	
g. Contact Email Address craig.hults@wyo.gov	h. Adoption Date September 12, 2013	
i. Program Land Quality - Noncoal		

2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.

If "New," provide the Enrolled Act numbers and years enacted: **HEA0104, SEA0019 - 2013**

c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed
(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)

Chapter Number:	Short Title:	<input checked="" type="checkbox"/> New	<input checked="" type="checkbox"/> Amended	<input type="checkbox"/> Repealed
9	Permit Application Requirements for Small Mining Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10	Limited Mining Operations for Fifteen Acres or Less of Affected Land	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

d. The Statement of Reasons is attached to this certification.

e. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

3. State Government Notice of Intended Rulemaking

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the Secretary of State:	July 26, 2013
b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the Legislative Service Office:	July 26, 2013
c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the Attorney General:	July 26, 2013

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
b. A public hearing was held on the proposed rules.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

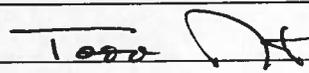
If "Yes:"	Date: September 12, 2013	Time: 1:00pm	City: Cheyenne	Location: Room B63, Herschler Building, 122 W. 25th Street, Cheyenne, WY 82002
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5. Final Filing of Rules

a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature:	September 18, 2013
b. Date on which final rules were sent to the Legislative Service Office:	September 18, 2013
c. Date on which a PDF of the final rules was electronically sent to the Secretary of State:	September 18, 2013

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual (Blue ink as per Rules on Rules, Section 7)	
Printed Name of Signatory	Todd Parfitt
Signatory Title	Director, Department of Environmental Quality
Date of Signature	September 18, 2013

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

Attorney General: 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

LSO: 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules: clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

SOS: 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

**BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL**

STATE OF WYOMING

September 12, 2013

IN THE MATTER OF THE)	
PROPOSED REVISION OF)	
THE DEPARTMENT OF)	LAND QUALITY DIVISION
ENVIRONMENTAL QUALITY)	ANALYSIS OF COMMENTS
LAND QUALITY DIVISION)	
NONCOAL RULES AND REGULATIONS)	DOCKET NO. 13- 4101

NONCOAL – Chapters 9 & 10

Noncoal Rule Package –Small Mines and Limited Mining Operations

The following is an analysis of the comments received on Noncoal Rule Package, Chapters 9 and 10. The Land Quality Division (LQD) received one comment on the proposed rules during the public comment period which ran from July 27, 2013 until September 9, 2013. All comments received are discussed in more detail below.

Wyoming Game & Fish Department

The Game and Fish Department commented that they did not have any terrestrial wildlife or aquatic resource concerns. The Game and Fish Department did not offer any substantive comments.

Wyoming DEQ Internal Reviews

During internal reviews of the proposed changes the Land Quality Division became aware that Chapter 10, Subsection 1(b), did not include a time frame for submitting notifications to landowners within one mile of the proposed operation. The revised statutory language at W.S. §35-11-401(e)(vi) states that “[a] copy of the notice shall also be mailed to all surface owners located within one mile of the proposed boundary of the limited mining operation at least thirty days before commencing operations. The Land Quality Division is therefore proposing to add this requirement into the rule language at Chapter 10, Subsection 1(b) as follows:

Chapter 10, Section 1(b) At least thirty (30) days prior to commencing operations, the operator must notify by mail all surface owners located within one (1) mile of the proposed boundary of the limited mining operation. The surface owner notification must include:

The LQD does not propose any additional changes to the rules as originally presented based on comments received.

**BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL**

STATE OF WYOMING

September 12, 2013



IN THE MATTER OF THE) PROPOSED REVISION OF) LAND QUALITY DIVISION) RULES RELATED TO THE) REGULATION OF) NONCOAL MINING)	STATEMENT OF PRINCIPAL REASONS (SOPR) FOR ADOPTON DOCKET #: 13-4101
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**Noncoal Rules and Regulations, Chapters 9 and 10
Small Mines and Limited Mining Operations**

Table of Contents

Introduction to Rule Package	i
Summary of Proposed Amendments in Rule Package	iii
Summary of March 25, 2013 Advisory Board.....	iv
Chapter 9 Draft Proposed Rules and Statement of Reasons	1
Chapter 10 Draft Proposed Rules and Statement of Reasons	3
Attachment A: Chapters 9 and 10 Strike & Underline	A-1
Attachment B: Chapters 9 and 10 Clean Version.....	B-1

Introduction to Rule Package

Several sections of the Environmental Quality Act were revised during the 2013 Wyoming Legislative session and will become effective July 1, 2013. These revisions amended requirements and standards for small mines and limited mining operations. The legislative changes were made to reflect the fact that construction projects are larger today and require more materials than was necessary in the past and also that the materials are more difficult to mine as the more easily mined resources are removed. The legislative changes also increased the amount required to bond a limited mining operation for reclamation costs. The updated amounts more accurately reflect the actual costs to reclaim these sites.

As a result of the legislative changes, the Land Quality Division (LQD) is proposing to amend its noncoal rules and regulations to conform to the new statutory requirements and

clarify rule language related to these types of operations. The following is a brief introduction to the proposed changes presented in this rule package.

Chapter 9, Small Mine Operations

The Wyoming Legislature revised W.S. §35-11-401(j) during the 2013 Legislative Session. W.S. §35-11-401(j) allows the Environmental Quality Council to modify or suspend certain requirements for small surface mining operations by rule and regulation. Chapter 9 of the LQD Noncoal Rules and Regulations details that modification or suspension of requirements as allowed under W.S. §35-11-401(j). The amendments to W.S. §35-11-401(j) increased the amount of overburden, excluding topsoil, which may be removed annually. The Legislature also excluded access roads from the annual ten acre disturbance limit placed on small mines, but retained the requirement that roads are to be covered by a reclamation bond.

Chapter 10, Limited Mine Operations

The Wyoming Legislature also revised W.S. §35-11-401(e)(vi) during the 2013 Legislative Session. W.S. §35-11-401(e)(vi) applies to limited mining operations that are exempt from the provisions of Article 4 (Land Quality Division) of the Wyoming Environmental Quality Act (EQA). The EQA was revised to: increase the bonding amounts; increase the affected acreage limitation; exclude roads used to access the limited mining operation from the disturbance limits; add requirements for providing notice to surface owners within one mile of the proposed operation; and limit the proximity to existing structures or land uses. Proposed amendments to Chapter 10 reflect the changes made to the EQA. These changes are discussed more fully in the statement of reasons.

The authority to amend these rules is provided by Wyoming Statute (W.S.) §§ 35-11-112(a)(i), 35-11-114(b), 35-11-401(j), and 35-11-406(e)(vi).

Summary of Proposed Amendments

Chapter 9 Proposed Changes

Section 1. – Proposed changes to Section 1 increase the amount of overburden an operator may remove annually from 10,000 to 35,000 cubic yards and add an exclusion for topsoil from the overburden limit. Section 1 was also revised to exclude access roads from the 10-acre affected land limitation, but retains the bonding requirements.

Section 2. – Section 2 was revised to include the requirement that access roads are included in the permitted area and must also be bonded for reclamation.

Section 7. – Section 7 was revised to include the limitations and exclusions in Section 1.

Chapter 10 Proposed Changes

Section 1. – Section 1 was revised to add a requirement that notification must be provided to the Administrator thirty (30) days prior to commencing operations. Proposed changes increase the size limitation from ten (10) to fifteen (15) acres for limited mining operations. Proposed revisions also exclude access roads from the size limitation and clarify that access roads must be bonded for reclamation. Section 1(a)(v) and Section 1(a)(vii)(D) were deleted from the information that must be included in the notification. Section 1(b) was added to include the requirement that operators must notify surface owners within one mile of the proposed operation and details what must be included in the notification.

Section 2. – Section 2 was revised to increase the bond amounts from \$1,000 per acre to \$2,000 per acre, and \$3,000 per acre for quarry type operations.

Section 4. – Section 4 was revised to add the requirement that landowner consent must be obtained for a limited mining operation that would be within 300 feet of certain structures and land uses.

Section 6. – Section 7 was revised to remove a reference to a form which is no longer applicable.

Section 8. – Section 8 was revised to be consistent with the new size limitations for limited mining operations.

Summary of March 25, 2013 Advisory Board

Recommendation:

Proceed to Environmental Quality Council with rules as presented with the provision that the introduction section of the statement of reasons be modified to describe the LQD's approach to defining quarry over time and experience.

Discussion:

During the Advisory Board meeting held on March 25, 2013, the Board Members had questions about Section 2 of Chapter 10. Specifically, the Board questioned whether the LQD had a definition for "quarry" as discussed in Section 2. Chapter 10, Section 2, sets bond amounts for quarries at \$3,000.00 per acre and all other operations at \$2,000.00 per acre. The proposed regulations mirror the new legislation which also does not define what a "quarry" is. As such, the LQD will need time to gain experience in determining when an operation will be considered a "quarry" for purposes of administering the bonding of limited mining operations.

The LQD believes that in general, the \$2,000.00 per acre will be sufficient to insure reclamation of the operation is completed as required. However, the legislature also included the requirement that quarries be bonded at \$3000.00 per acre as discussed above. As was pointed out during the Advisory Board meeting the LQD does not currently have an example of any operations that would likely be considered a quarry under the LMO regulations (pgs. 25-33, 3/25/2013 Minutes). Therefore the LQD needs time to consider those circumstances when additional bonding may be required. It is unclear whether the increased acreage limitation will result in notifications for operations that would be considered a quarry for purposes of bonding and as such it would be premature to try and craft a definition for a "quarry" to meet unknown factual situations. As was concluded during the Advisory Board the most practical means of determining if a need exists to draft a definition is to administer the rules as proposed and after a period of time reassess the need with the knowledge and experience gained during that time (pg. 33, 3/25/2013 Minutes) .

The LQD plans to take the approach discussed during the Advisory Board meeting. The Division will review new notifications and note those instances where reclamation may be more costly based on conditions on the ground. Several factors were discussed during the meeting that may be indicative of those cases where the \$3000.00 per acre bond amount may be appropriate and will be monitored as notifications are received after the effective date of the legislation. As discussed during the meeting, some initial factors that may require a higher bond are operations that require highwalls or stepped highwalls, those that require blasting, the depth of the operation or operations that would be considered "hardrock" operations as defined in Chapter 1 of the LQD's Noncoal Rules and Regulations (pgs. 25-33, 3/25/2013 Minutes). The LQD will use the examples on the

ground to determine whether a definition is needed and use those cases to help shape a definition for “quarry” if it is determined that one is necessary.

Comments Received:

Powder River Basin Resource Council (PRBRC) commented that the LQD did not include the Administrator’s discretion to require the operator to post an additional bond per acre within ninety (90) days after the limited mining operation commenced operation as the revised legislation provided (pg. 21, 3/25/2013 Minutes). The LQD agreed that language should have been included in the proposed rules and as such were presented to the Advisory Board for inclusion into the rule package. PRBRC did not offer any other proposed changes to the rules as presented.

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND QUALITY DIVISION

NONCOAL RULES AND REGULATIONS

CHAPTER 9

PERMIT APPLICATION REQUIREMENTS FOR SMALL MINING OPERATIONS

Section 1. **General.**

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

Subsection (a) above was revised to provide consistency with the revised statutory language. The limitation on removal of overburden was increased from 10,000 cubic yards to 35,000 cubic yards annually. W.S. §35-11-103(e)(iv) defines overburden as “all of the earth and other materials which lie above the mineral deposit and also means such earth and other materials disturbed from their natural state in the process of mining, or mining from exposed natural deposits”. Subsection (a) was also revised to exclude topsoil from the 35,000 cubic yard limitation. W.S. §35-11-103(e)(xiv) defines topsoil as “soil on the surface prior to mining that will support plant life”. In 1998 the Wyoming Supreme Court held that the Environmental Quality Council correctly determined that “overburden” clearly and unambiguously included “topsoil” (Platte Dev. Co. v. State, Env’tl. Quality Council, 966 P.2d 972).

The proposed revisions above also remove roads used to access the mining operation from the 10-acre limitation. Access roads must be covered by a reclamation bond but are not included in the area which may be disturbed in any one year. The proposed revisions to Subsection (a) are consistent to the revised statutory language.

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

(c) The Administrator shall not accept or approve small mine permit

applications for coal mines, uranium mines, underground mines or in-situ mines.

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

Subsection (d) was revised to remove redundant language. Subsection (a) above contains a description of the size and volume limitations and therefore the language struck above is unnecessary.

Section 2. **Adjudication Information.**

...

(c) The applicant shall post a reclamation bond in the amount and in a form acceptable to the Administrator prior to approval of the small mine permit application. Roads used to access a small mining operation shall be included in the permit and bonded for reclamation liability.

Subsection 2(c) was revised to state that roads used to access the mining operation are bonded for reclamation liability and included in the permit. Changes made to the Environmental Quality Act during the 2013 Wyoming Legislative session exempted roads from the 10-acre per year size limitation, but reclamation bond amounts must include the roads as part of the estimate.

...

Section 7. **Conversion of Small Mine Permit to Regular Mine Permit.**

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

Subsection 7(a) is revised to incorporate the new limitations and exclusion which were adopted by the Wyoming Legislature during the 2013 legislative session.

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND QUALITY DIVISION

NONCOAL RULES AND REGULATIONS

CHAPTER 10

LIMITED MINING OPERATIONS

FOR ~~TEN~~ FIFTEEN ACRES OR LESS OF AFFECTED LAND

Section 1. **Commencement.**

(a) At least thirty (30) days ~~P~~prior to the commencement of surface mining operations for the removal of sand, gravel, scoria, limestone, dolomite, shale, ballast, or feldspar from an area of ~~ten~~ fifteen (15) acres or less of affected land, excluding access roads, a notification shall be submitted by the operator to the Administrator. The notification must be on forms supplied by the Division and shall contain the following:

Proposed revisions to Subsection 1(a) above adds a requirement that notification must be submitted to the Administrator at least 30 days prior to commencement of a limited mining operation. Subsection 1(a) was also edited to improve readability. Notifications must be submitted on forms supplied by the Division.

Legislative changes included an increase in size from ten to fifteen acres excluding access roads. Access roads were removed from the disturbance limit because the inclusion of access roads created an unintentional incentive to locate pits as close to existing roads as possible, which in turn created additional conflicts with nearby landowners. Removing the access roads from the disturbance limitation allows for more remote operations and thereby reduces landowner conflict. Roads used to access the operation will still be bonded for reclamation and included in the permitted acreage.

The disturbance limit was increased from ten to fifteen acres and more accurately reflects current needs related to construction materials. Construction projects are larger and require more material than when the ten acre limitation was legislated. The increase to fifteen acres and removal of haul roads from the disturbance limitation allows the limited mining operation to continue to fulfill the intended purpose of rapid access to a small amount of material. This is particularly true for highway projects where contracts are awarded very near the time at which materials are necessary.

- (i) The name, address, and telephone number of the operator.
- (ii) The written consent for the operation from the surface owner and surface lessee, if any, of the land to be affected.
- (iii) The location of the area of the operation by legal subdivision, section, township, and range. If there is no other survey, the location by protracted survey, metes and bounds, or claims.
- (iv) The mineral to be mined.
- ~~(v) The proposed commencement and completion dates of the operation.~~

Subsection 1(a)(v) was removed because the information is not required by statute and tends to be very speculative based on market conditions and project needs and therefore does not have much value in the administration and oversight of limited mining operations.

- (vi) A USGS topographic map:

(A) ~~Each~~ The notification ~~(Form 10)~~ submitted to the Administrator must be accompanied by an original quadrangle map (photo copies or other similar copies are not acceptable unless prior approval is obtained from the Land Quality Division).

Proposed Subsection 1(a)(v)(A) above was edited for clarity. The "Form 10" language was dropped because the form designation is a remnant of a former naming convention and is no longer accurate.

(B) The following information shall be shown on the quadrangle map:

(I) A legal description of the ~~ten~~ fifteen (15) acres or less of land to be affected.

(II) If any previous mining has taken place, or is taking place, within the ~~ten~~ fifteen (15) acres or less to be affected, show the location and identity of this mining as an existing mining operation.

Subsections (I) and (II) were revised to reflect the new disturbance limitation of fifteen acres.

(III) Show any existing or proposed access or haul roads

into, or away from the proposed mining operation. Any roads to be constructed or upgraded by the operator shall be included as part of the ~~ten-acre~~ operation from that point that they provide exclusive service and shall be covered by a reclamation bond but are not included in the fifteen (15) acres of affected land limitation.

Subsection (III) was revised to clarify that access roads are not included in the fifteen acre limitation but must be covered by a reclamation bond. The section was also revised to remove the reference to “ten acre” operations.

(vii) The operator shall provide a description of the proposed mining operation. This description shall include:

- (A) Number of acres to be affected.
- (B) Maximum depth to which mining will occur.
- (C) Depth to groundwater where known.
- ~~(D) Brief description of the mining operation(s) and methods.~~

Subsection (D) above has been deleted because mining methods for limited mining operations are fairly consistent among operations and the inclusion of this information has become unnecessary to affectively administer oversight of these operations. The LQD’s current notification form contained a brief description of the typical mining method used for limited mining operations. The notification form did not however ask for a description of the mining method, it was merely included as a statement that did not require any input from the operator and therefore was of little value to the Land Quality Division.

(D E) The premining and proposed postmining land use.

(viii) A sworn statement that all information contained in the notification is true and correct to the best knowledge of the operator.

Subsection headings were revised above to reflection the removal of current subsection (v) above.

(b) At least thirty (30) days prior to commencing operations, the operator must notify by mail all surface owners located within one (1) mile of the proposed boundary of the limited mining operation. The surface owner notification must include:

(i) A copy of the notification submitted to the Administrator in Subsection (a) above;

above; and

(ii) A copy of the map submitted in compliance with Subsection (a)(v)

(iii) The name, postal address and telephone number of the operator.

Proposed Subsection (b) above is intended to specify the operation of the new statutory requirements. W.S. §35-11-401(e)(vi) was revised to include a requirement that all surface owners within one mile of the proposed operation be provided with a copy of the notification. Notification to surface owners must include a copy of the notification sent to the Administrator in Subsection 1(a), a copy of the map submitted in Subsection 1(a)(v) and the name, postal address and telephone number of the operator.

Section 2. **Bond.**

The operator shall file a bond pursuant to W.S. § 35-11-401(e)(vi)(B) in the amount of two thousand dollars (\$2,000.00) per acre, except for quarries for which the bond amount shall not exceed three thousand dollars (\$3,000.00) per acre of affected land. Roads used to access the mining operation must be included in the acreage total when calculating bond amounts. Within ninety (90) days after limited mining operations commence, the Administrator may require the operator to post an additional bond per acre of affected land if it is determined that such amount is necessary to insure reclamation. The operator shall post the additional bond not later than thirty (30) days after receipt of such notification.

Subsection 2 above was revised to reflect the new section headers in W.S. §35-11-401(e)(vi) which was reorganized. W.S. §35-11-401(e)(vi) was also amended to include increased amounts per acre for reclamation bonds. The legislature raised the amount from \$1000/acre to \$2,000/acre for limited mining operations, except for quarries which will be bonded at \$3,000/acre. And finally Section 2 was revised to include the new discretion of the Administrator to post an additional bond within 90 days after the LMO has commenced operation and the requirement that this bond must be received not later than 30 days after notification.

See also the Advisory Board discussion on page (iv) of this Statement of Reasons for further discussion regarding Section 2 as proposed. The Advisory Board recommended that the Statement of Reasons be revised to include a discussion regarding how this section will be administered and whether the LQD needed a definition for “quarry” (See pages 25-33, March 25, 2013 Minutes). Page (iv) summarizes that discussion.

...

Section 4. **Operation.**

...

(d) The affected lands shall not be within three hundred (300) feet of any existing occupied dwelling, home, public building, school, church, community or institutional building, park or cemetery unless the landowner's consent has been obtained.

Subsection (d) above was added to be consistent with the revised statutes related to limited mining operations. The revised statute, W.S. §35-11-401(e)(vi)(A), adds a requirement that landowner consent is necessary if a limited mining operation is proposed within three hundred feet of building or other development as listed above. This limitation is consistent with limitations currently applied to other types of mining operations regulated by the Land Quality Division.

...

Section 6. **Transfers**

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

The form name was removed from Section 6 and was replaced by a term that is used elsewhere in the Division's rules and regulations and the Wyoming Environmental Quality Act.

...

Section 8. **Limitation of Operations.**

(a) The operator will not be allowed to:

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

(ii) Conduct more than one operation of ~~ten~~ fifteen (15) acres or less within any six-mile radius when the two operations are to mine the same mineral, so as to circumvent the general requirements of the Environmental Quality Act. The Administrator may allow two operations for the same mineral within the six-mile radius

if one of the operations has completed reclamation work and is awaiting bond release. Complete reclamation for the purposes of this section means backfilling, grading, topsoil application and final seeding activities have been completed.

W.S. §35-11-401(e)(vi) was amended to set the disturbance limit to fifteen acres and Subsection 8(a)(ii) was revised to be consistent with the statutory limits.

CONCLUSION

The Environmental Quality Council, in accordance with the authority granted to it by W.S. § 35-11-112 As Amended, and having complied with the provision of the Wyoming Administrative Procedures Act, find as follows:

1. These rules provide for the regulation of noncoal mining and reclamation operations in accordance with the requirements of W.S. § 35-11-101 through W.S. § 35-11-1803, As Amended (Wyoming Environmental Quality Act).
2. The Department of Environmental Quality, Land Quality Division, Noncoal Rules and Regulations are necessary and appropriate to preserve and exercise the primary responsibilities and rights of the State of Wyoming; to retain for the State the control over its air, land, and water resources and secure cooperation between agencies of the State and Federal Government in carrying out the policy and purposes of the Environmental Quality Act.
3. These Land Quality Division Noncoal Rules and Regulations are reasonable and necessary for the effectuation of the Wyoming Environmental Quality Act, W.S. § 35-11-101 through W.S. § 35-11-1803, As Amended.
4. These Land Quality Division Noncoal Rules and Regulations are necessary and appropriate to protect the public health, safety, welfare, and environment of the State of Wyoming.

Dated this 12th day of September, 2013.



Environmental Quality Council

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND QUALITY DIVISION

NONCOAL RULES AND REGULATIONS

CHAPTER 9

PERMIT APPLICATION REQUIREMENTS FOR SMALL MINING OPERATIONS

Section 1. **General.**

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

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

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

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

Section 2. **Adjudication Information.**

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

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

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

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

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

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

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

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

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

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

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

(D) The nearest town, village or city.

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

(ix) A map at an appropriate scale showing the boundaries of the permit area and the lands to be affected, and including the following features within and adjacent to the permit area:

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

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

(C) Buildings, structures and dwellings;

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

(E) An outline of all areas previously disturbed by surface or underground mining.

(x) The mineral or minerals to be mined;

(xi) The estimated dates of commencement and termination of the proposed permit operation;

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

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

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

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

(c) The applicant shall post a reclamation bond in the amount and in a form

acceptable to the Administrator prior to approval of the small mine permit application. Roads used to access a small mining operation shall be included in the permit and bonded for reclamation liability.

Section 3. Environmental Baseline Information.

(a) The permit application shall include a general description of the land within the permit area, which shall include the following information:

(i) A description of the present land use(s) within the permit boundary;

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

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

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

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

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

(vii) A copy of the appropriate National Wetlands Inventory Map with the permit area and disturbance boundary delineated. If potential wetlands exist that will be disturbed or impacted by mine related activity, then the applicant shall perform a wetland

delineation according to Army Corps of Engineers accepted procedures. If the proposed operation will avoid any impact to the potential wetland, either through direct disturbance or by affecting the watershed, then this should be clearly stated in the mine plan.

Section 4. Mine Operations Plan.

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

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

(ii) A map showing the location of all activities associated with the operation including roads, mine pit areas, out-of-pit spoil piles, waste water ponds, temporary drainage diversions, settling ponds, stockpiles for topsoil, overburden, ore, product and waste, plant site and other processing facilities;

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

(iv) A description of how topsoil and subsoil will be salvaged, stockpiled, and conserved for reclamation, including an estimate of the depth and volume of topsoil and subsoil to be salvaged on an annual basis;

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

(vi) A description of all waste materials that may be generated by the operation and plans for their storage and disposal. Only waste materials classified as Clean Fill shall be disposed within the mine permit area. Written permission from the landowner shall be required. Clean fill, for the purposes of this Chapter, means only uncontaminated natural soil materials, rock, hardened asphalt rubble, brick and concrete rubble with no protruding rebar. All other waste materials shall be taken off-site for disposal at an authorized disposal site;

(vii) The procedures proposed to avoid constituting a public nuisance,

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

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

Section 5. Reclamation Plan.

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

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

(ii) Plans for grading and contouring suitable for the proposed land uses after reclamation, which shall include statements as to the maximum slope that will be created and a plan to reestablish the surface drainage;

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

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

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

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

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

(C) Documentation that the size of the impoundment and the expected quantity and quality of water will be suitable for the proposed uses. If the applicant

is unable to demonstrate to the satisfaction of the Administrator that the water quantity and quality will be suitable for the proposed use, the applicant shall provide an alternate plan; and

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

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

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

(viii) Method of disposal of all buildings and structures erected or utilized for the operation and description of any buildings and structures that will be left in place at the request of the surface owner;

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

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

Section 6. Evaluation of Revegetation Success.

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

Section 7. Conversion of Small Mine Permit to Regular Mine Permit.

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

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

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND QUALITY DIVISION

NONCOAL RULES AND REGULATIONS

CHAPTER 10

LIMITED MINING OPERATIONS

FOR ~~TEN~~ FIFTEEN ACRES OR LESS OF AFFECTED LAND

Section 1. **Commencement.**

(a) At least thirty (30) days ~~P~~prior to the commencement of surface mining operations for the removal of sand, gravel, scoria, limestone, dolomite, shale, ballast, or feldspar from an area of ~~ten~~ fifteen (15) acres or less of affected land, excluding access roads, a notification shall be submitted by the operator to the Administrator. The notification must be on forms supplied by the Division and shall contain the following:

(i) The name, address, and telephone number of the operator.

(ii) The written consent for the operation from the surface owner and surface lessee, if any, of the land to be affected.

(iii) The location of the area of the operation by legal subdivision, section, township, and range. If there is no other survey, the location by protracted survey, metes and bounds, or claims.

(iv) The mineral to be mined.

~~(v) The proposed commencement and completion dates of the operation.~~

(vi) A USGS topographic map:

(A) ~~Each~~ The notification ~~(Form 10)~~ submitted to the Administrator must be accompanied by an original quadrangle map (photo copies or other similar copies are not acceptable unless prior approval is obtained from the Land Quality Division).

(B) The following information shall be shown on the quadrangle map:

(I) A legal description of the ~~ten~~ fifteen (15) acres or less of land to be affected.

(II) If any previous mining has taken place, or is taking place, within the ~~ten~~ fifteen (15) acres or less to be affected, show the location and identity of this mining as an existing mining operation.

(III) Show any existing or proposed access or haul roads into, or away from the proposed mining operation. Any roads to be constructed or upgraded by the operator shall be included as part of the ~~ten-acre~~ operation from that point that they provide exclusive service and shall be covered by a reclamation bond but are not included in the fifteen (15) acres of affected land limitation.

(vi) The operator shall provide a description of the proposed mining operation. This description shall include:

(A) Number of acres to be affected.

(B) Maximum depth to which mining will occur.

(C) Depth to groundwater where known.

~~(D) Brief description of the mining operation(s) and methods.~~

(D E) The premining and proposed postmining land use.

(vii) A sworn statement that all information contained in the notification is true and correct to the best knowledge of the operator.

(b) At least thirty (30) days prior to commencing operations, the operator must notify by mail all surface owners located within one (1) mile of the proposed boundary of the limited mining operation. The surface owner notification must include:

(i) A copy of the notification submitted to the Administrator in Subsection (a) above;

(ii) A copy of the map submitted in compliance with Subsection (a)(v) above; and

(iii) The name, postal address and telephone number of the operator.

Section 2. **Bond.**

The operator shall file a bond pursuant to W.S. § 35-11-401(e)(vi)~~(vii)~~(B) in the amount

of two thousand dollars (\$2,000.00) per acre, except for quarries for which the bond amount shall not exceed three thousand dollars (\$3,000.00) per acre of affected land. Roads used to access the mining operation must be included in the acreage total when calculating bond amounts. Within ninety (90) days after limited mining operations commence, the Administrator may require the operator to post an additional bond per acre of affected land if it is determined that such amount is necessary to insure reclamation. The operator shall post the additional bond not later than thirty (30) days after receipt of such notification.

Section 3. **Annual Reports.**

The operator shall file annual reports pursuant to W.S. § 35-11-401(k).

Section 4. **Operation.**

(a) A sign shall be posted and maintained at the entrance of the operation that, at a minimum, clearly shows:

- (i) The name, address, and telephone number of the operator;
- (ii) The name of the operator's local authorized agent; and
- (iii) The LQD limited mining operation number.

(b) All topsoil from affected lands shall be saved and stockpiled in such a manner to minimize wind and water erosion. Such stockpiles shall be clearly identified by a sign.

(c) In no case shall any materials be pushed or dumped over natural escarpments.

(d) The affected lands shall not be within three hundred (300) feet of any existing occupied dwelling, home, public building, school, church, community or institutional building, park or cemetery unless the landowner's consent has been obtained.

Section 5. **Reclamation.**

(a) After the mining operations have ceased or within 30 days after the abandonment of the mining operation, the operator shall notify the Administrator of such fact and commence reclamation and restoration. Provided however, that immediate reclamation will not be required if the landowner advises the Department in writing of his intent to further utilize the product of the mine, and if he assumes the obligation of reclamation and furnishes an appropriate bond to the Administrator.

(i) The operation will be considered to be abandoned if any of the following occur:

(A) The individual, partnership, or corporation conducting the operation goes out of business.

(B) No further mining or reclamation work has been done from one annual report to the next.

(C) The mineral being mined has been exhausted.

(D) The period of time for which the surface owner (or lessee) gave permission has expired and a written extension has not been obtained.

(b) The reclamation of the affected lands shall be in accordance with the following:

(i) Reclamation shall be consistent with the proposed postmining land use.

(ii) On commencement of reclamation the topsoil shall be redistributed evenly over the affected area.

(iii) The affected land shall be reclaimed using sound agricultural practices. Surface preparation of affected areas to be seeded, seed types, amounts, methods of seeding and time shall be subjected to approval by the Division prior to seeding.

(iv) Mulching and/or fertilization may be required at the Administrator's discretion to ensure revegetation.

(v) Petroleum wastes and other toxic materials shall be disposed of by methods which ensure that topsoil, vegetation, surface water and groundwater are not contaminated.

(vi) For soft rock operations, final slopes shall be gentle enough to allow for contour seeding and final topography shall be approved by the Division, provided that the final slope shall not be greater than a ratio of 3:1.

(vii) For hard rock operations, whenever possible, the highwall shall be reduced to no greater than a 3:1 slope. The operator must demonstrate the stability of any steeper slope or of any remaining highwall, so that the reclaimed area is left in a condition so as not to create a potential erosion problem or safety hazard to the public or wildlife. Slopes, including any remaining highwall, shall be modified to blend as much as possible to the native landscape.

Section 6. **Transfers**

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

Section 7. Release of Bonds and Forfeiture of Bonds.

Bond release. Forfeiture and cancellation shall be handled as provided in W.S. §§ 35-11-417 through 35-11-424.

Section 8. Limitation of Operations.

(a) The operator will not be allowed to:

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

(ii) Conduct more than one operation of ~~ten~~ fifteen (15) acres or less within any six-mile radius when the two operations are to mine the same mineral, so as to circumvent the general requirements of the Environmental Quality Act. The Administrator may allow two operations for the same mineral within the six-mile radius if one of the operations has completed reclamation work and is awaiting bond release. Complete reclamation for the purposes of this section means backfilling, grading, topsoil application and final seeding activities have been completed.

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND QUALITY DIVISION

NONCOAL RULES AND REGULATIONS

CHAPTER 9

PERMIT APPLICATION REQUIREMENTS FOR SMALL MINING OPERATIONS

Section 1. **General.**

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

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

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

(d) Prior to the commencement of a small surface mining operation an application shall be submitted to the Administrator in duplicate on forms supplied by the Division. Each application shall contain the information as set out in this Chapter and in a format as required by the Administrator.

Section 2. **Adjudication Information.**

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

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

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

(iii) A sworn statement that the applicant has not forfeited a bond posted

for reclamation purposes and that all statements contained in the permit application are true and correct to the best knowledge of the applicant;

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

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

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

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

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

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

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

(D) The nearest town, village or city.

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

(ix) A map at an appropriate scale showing the boundaries of the permit area and the lands to be affected, and including the following features within and adjacent to the permit area:

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

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

(C) Buildings, structures and dwellings;

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

(E) An outline of all areas previously disturbed by surface or underground mining.

(x) The mineral or minerals to be mined;

(xi) The estimated dates of commencement and termination of the proposed permit operation;

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

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

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

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

(c) The applicant shall post a reclamation bond in the amount and in a form

acceptable to the Administrator prior to approval of the small mine permit application. Roads used to access a small mining operation shall be included in the permit and bonded for reclamation liability.

Section 3. Environmental Baseline Information.

(a) The permit application shall include a general description of the land within the permit area, which shall include the following information:

(i) A description of the present land use(s) within the permit boundary;

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

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

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

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

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

(vii) A copy of the appropriate National Wetlands Inventory Map with the permit area and disturbance boundary delineated. If potential wetlands exist that will be disturbed or impacted by mine related activity, then the applicant shall perform a wetland

delineation according to Army Corps of Engineers accepted procedures. If the proposed operation will avoid any impact to the potential wetland, either through direct disturbance or by affecting the watershed, then this should be clearly stated in the mine plan.

Section 4. Mine Operations Plan.

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

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

(ii) A map showing the location of all activities associated with the operation including roads, mine pit areas, out-of-pit spoil piles, waste water ponds, temporary drainage diversions, settling ponds, stockpiles for topsoil, overburden, ore, product and waste, plant site and other processing facilities;

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

(iv) A description of how topsoil and subsoil will be salvaged, stockpiled, and conserved for reclamation, including an estimate of the depth and volume of topsoil and subsoil to be salvaged on an annual basis;

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

(vi) A description of all waste materials that may be generated by the operation and plans for their storage and disposal. Only waste materials classified as Clean Fill shall be disposed within the mine permit area. Written permission from the landowner shall be required. Clean fill, for the purposes of this Chapter, means only uncontaminated natural soil materials, rock, hardened asphalt rubble, brick and concrete rubble with no protruding rebar. All other waste materials shall be taken off-site for disposal at an authorized disposal site;

(vii) The procedures proposed to avoid constituting a public nuisance,

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

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

Section 5. Reclamation Plan.

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

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

(ii) Plans for grading and contouring suitable for the proposed land uses after reclamation, which shall include statements as to the maximum slope that will be created and a plan to reestablish the surface drainage;

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

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

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

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

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

(C) Documentation that the size of the impoundment and the expected quantity and quality of water will be suitable for the proposed uses. If the applicant

is unable to demonstrate to the satisfaction of the Administrator that the water quantity and quality will be suitable for the proposed use, the applicant shall provide an alternate plan; and

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

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

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

(viii) Method of disposal of all buildings and structures erected or utilized for the operation and description of any buildings and structures that will be left in place at the request of the surface owner;

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

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

Section 6. Evaluation of Revegetation Success.

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

Section 7. Conversion of Small Mine Permit to Regular Mine Permit.

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

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

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND QUALITY DIVISION

NONCOAL RULES AND REGULATIONS

CHAPTER 10

LIMITED MINING OPERATIONS

FOR FIFTEEN ACRES OR LESS OF AFFECTED LAND

Section 1. **Commencement.**

(a) At least thirty (30) days prior to the commencement of surface mining operations for the removal of sand, gravel, scoria, limestone, dolomite, shale, ballast, or feldspar from an area of fifteen (15) acres or less of affected land, excluding access roads, a notification shall be submitted by the operator to the Administrator. The notification must be on forms supplied by the Division and shall contain the following:

(i) The name, address, and telephone number of the operator.

(ii) The written consent for the operation from the surface owner and surface lessee, if any, of the land to be affected.

(iii) The location of the area of the operation by legal subdivision, section, township, and range. If there is no other survey, the location by protracted survey, metes and bounds, or claims.

(iv) The mineral to be mined.

(v) A USGS topographic map:

(A) The notification submitted to the Administrator must be accompanied by an original quadrangle map (photo copies or other similar copies are not acceptable unless prior approval is obtained from the Land Quality Division).

(B) The following information shall be shown on the quadrangle map:

(I) A legal description of the fifteen (15) acres or less of land to be affected.

(II) If any previous mining has taken place, or is taking place, within the fifteen (15) acres or less to be affected, show the location and identity of this mining as an existing mining operation.

(III) Show any existing or proposed access or haul roads into, or away from the proposed mining operation. Any roads to be constructed or upgraded by the operator shall be included as part of the operation from that point that they provide exclusive service and shall be covered by a reclamation bond but are not included in the fifteen (15) acres of affected land limitation.

(vi) The operator shall provide a description of the proposed mining operation. This description shall include:

- (A) Number of acres to be affected.
- (B) Maximum depth to which mining will occur.
- (C) Depth to groundwater where known.
- (D) The premining and proposed postmining land use.

(vii) A sworn statement that all information contained in the notification is true and correct to the best knowledge of the operator.

(b) At least thirty (30) days prior to commencing operations, the operator must notify by mail all surface owners located within one (1) mile of the proposed boundary of the limited mining operation. The surface owner notification must include:

(i) A copy of the notification submitted to the Administrator in Subsection (a) above;

(ii) A copy of the map submitted in compliance with Subsection (a)(v) above; and

(iii) The name, postal address and telephone number of the operator.

Section 2. **Bond.**

The operator shall file a bond pursuant to W.S. § 35-11-401(e)(vi)(B) in the amount of two thousand dollars (\$2,000.00) per acre, except for quarries for which the bond amount shall not exceed three thousand dollars (\$3,000.00) per acre of affected land. Roads used to access the mining operation must be included in the acreage total when calculating bond amounts. Within ninety (90) days after limited mining operations commence, the Administrator may require the operator to post an additional bond per acre of affected land if

it is determined that such amount is necessary to insure reclamation. The operator shall post the additional bond not later than thirty (30) days after receipt of such notification.

Section 3. **Annual Reports.**

The operator shall file annual reports pursuant to W.S. § 35-11-401(k).

Section 4. **Operation.**

(a) A sign shall be posted and maintained at the entrance of the operation that, at a minimum, clearly shows:

- (i) The name, address, and telephone number of the operator;
- (ii) The name of the operator's local authorized agent; and
- (iii) The LQD limited mining operation number.

(b) All topsoil from affected lands shall be saved and stockpiled in such a manner to minimize wind and water erosion. Such stockpiles shall be clearly identified by a sign.

(c) In no case shall any materials be pushed or dumped over natural escarpments.

(d) The affected lands shall not be within three hundred (300) feet of any existing occupied dwelling, home, public building, school, church, community or institutional building, park or cemetery unless the landowner's consent has been obtained.

Section 5. **Reclamation.**

(a) After the mining operations have ceased or within 30 days after the abandonment of the mining operation, the operator shall notify the Administrator of such fact and commence reclamation and restoration. Provided however, that immediate reclamation will not be required if the landowner advises the Department in writing of his intent to further utilize the product of the mine, and if he assumes the obligation of reclamation and furnishes an appropriate bond to the Administrator.

(i) The operation will be considered to be abandoned if any of the following occur:

(A) The individual, partnership, or corporation conducting the operation goes out of business.

(B) No further mining or reclamation work has been done from one annual report to the next.

(C) The mineral being mined has been exhausted.

(D) The period of time for which the surface owner (or lessee) gave permission has expired and a written extension has not been obtained.

(b) The reclamation of the affected lands shall be in accordance with the following:

(i) Reclamation shall be consistent with the proposed postmining land use.

(ii) On commencement of reclamation the topsoil shall be redistributed evenly over the affected area.

(iii) The affected land shall be reclaimed using sound agricultural practices. Surface preparation of affected areas to be seeded, seed types, amounts, methods of seeding and time shall be subjected to approval by the Division prior to seeding.

(iv) Mulching and/or fertilization may be required at the Administrator's discretion to ensure revegetation.

(v) Petroleum wastes and other toxic materials shall be disposed of by methods which ensure that topsoil, vegetation, surface water and groundwater are not contaminated.

(vi) For soft rock operations, final slopes shall be gentle enough to allow for contour seeding and final topography shall be approved by the Division, provided that the final slope shall not be greater than a ratio of 3:1.

(vii) For hard rock operations, whenever possible, the highwall shall be reduced to no greater than a 3:1 slope. The operator must demonstrate the stability of any steeper slope or of any remaining highwall, so that the reclaimed area is left in a condition so as not to create a potential erosion problem or safety hazard to the public or wildlife. Slopes, including any remaining highwall, shall be modified to blend as much as possible to the native landscape.

Section 6. **Transfers**

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

Section 7. Release of Bonds and Forfeiture of Bonds.

Bond release. Forfeiture and cancellation shall be handled as provided in W.S. §§ 35-11-417 through 35-11-424.

Section 8. Limitation of Operations.

(a) The operator will not be allowed to:

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

(ii) Conduct more than one operation of fifteen (15) acres or less within any six-mile radius when the two operations are to mine the same mineral, so as to circumvent the general requirements of the Environmental Quality Act. The Administrator may allow two operations for the same mineral within the six-mile radius if one of the operations has completed reclamation work and is awaiting bond release. Complete reclamation for the purposes of this section means backfilling, grading, topsoil application and final seeding activities have been completed.