

RULE 1: GENERAL PROVISIONS AND REQUIREMENTS - PERMIT PROCESS

1.1 DEFINITIONS

(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.

A.) IT IS NOT INTENDED THAT THIS DEFINITION OF IN SITU LEACH MINING INCLUDE EXTRACTION OR DISTURBANCE OF TRACE AMOUNTS OR DE MINIMUS AMOUNTS OF URANIUM THAT HAVE NO POTENTIAL TO AFFECT HUMAN HEALTH OR THE ENVIRONMENT WHEN SUCH EXTRACTION OR DISTURBANCE OF URANIUM OCCURS WHILE MINING ANOTHER MINERAL. IF URANIUM IS DISTURBED OR EXTRACTED DURING THE MINING OF ANOTHER MINERAL, THE OPERATOR SHALL IMMEDIATELY INFORM THE OFFICE OF THE DISTURBANCE OR EXTRACTION, AND INCLUDE ALL INFORMATION CONCERNING THE CIRCUMSTANCES OF THE DISTURBANCE OR EXTRACTION OF THE URANIUM IN A WRITTEN REPORT SUBMITTED TO THE OFFICE. AFTER NOTIFICATION TO THE OFFICE, THE OFFICE WILL DETERMINE WHETHER THE OPERATOR MUST COMPLY WITH THE IN SITU LEACH MINING AND DESIGNATED MINING OPERATION REQUIREMENTS.

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** ~~to~~ **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) (A) **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 PROSPECTOR AND DETERMINED BY THE BOARD AS PROPRIETARY, TRADE SECRET OR THAT WOULD CAUSE SUBSTANTIAL HARM TO THE COMPETITIVE POSITION OF THE PROSPECTOR, SHALL BE PROTECTED AS CONFIDENTIAL AND SHALL NOT BE A MATTER OF PUBLIC RECORD IN THE ABSENCE OF A WRITTEN RELEASE FROM THE PROSPECTOR, UNTIL THE BOARD FINDS THAT RECLAMATION HAS BEEN SATISFACTORILY COMPLETED, OR UNTIL THE BOARD RELEASES THE INFORMATION PURSUANT TO RULE 1.3(4)(A)(IV) AND (V). 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.

- (B) (I) AN APPLICANT OR PROSPECTOR MAY DESIGNATE ITS IDENTITY AS CONFIDENTIAL IF THE APPLICANT OR PROSPECTOR BELIEVES DISCLOSURE OF ITS IDENTITY WOULD CAUSE SUBSTANTIAL HARM TO ITS COMPETITIVE POSITION. IF SO DESIGNATED, THE OFFICE SHALL KEEP THE IDENTITY CONFIDENTIAL UNTIL: (1) THE APPLICANT OR PROSPECTOR FILES A WRITTEN RELEASE; (2) THE APPLICANT OR PROSPECTOR FILES THE NOTICE DESCRIBED IN SUBPARAGRAPH (II); (3) THE BOARD FINDS THAT RECLAMATION HAS BEEN SATISFACTORILY COMPLETED; OR (4) UNTIL THE BOARD RELEASES THE IDENTITY PURSUANT TO RULE 1.3(4)(A)(IV) AND (V).
- (II) IF IDENTITY IS DESIGNATED AS CONFIDENTIAL AND THE OFFICE APPROVES THE NOTICE OF INTENT TO PROSPECT, THE PROSPECTOR SHALL FILE WITH THE OFFICE QUARTERLY REPORTS IN WHICH THE PROSPECTOR JUSTIFIES CONTINUANCE OF ITS CONFIDENTIAL DESIGNATION OF ITS IDENTITY. IN ADDITION, ONCE THE PROSPECTOR BELIEVES ITS IDENTITY NO LONGER NEEDS TO BE CONFIDENTIAL, IT SHALL FORTHWITH FILE A WRITTEN NOTICE TO THE OFFICE. UPON RECEIPT, THE DIVISION SHALL TREAT THE PROSPECTOR'S IDENTITY AS PUBLIC RECORD AND POST THE IDENTITY OF THE PROSPECTOR ON THE OFFICE'S WEBSITE WITHIN TEN (10) DAYS OF RECEIPT OF THE PROSPECTOR'S NOTICE.
- (III) THE CONFIDENTIALITY DESIGNATION OF AN APPLICANT'S OR PROSPECTOR'S IDENTITY SHALL BE SUBJECT TO THE DISPUTE RESOLUTION PROCEDURES SET FORTH IN RULE 1.3(4)(A)(IV) AND (V).
- (iii) (A) UPON SUBMITTAL OF A NOTICE OF INTENT OR MODIFICATION THEREOF, EVERY APPLICANT SHALL DESIGNATE ANY INFORMATION THE APPLICANT CONSIDERS TO BE EXEMPT FROM PUBLIC

DISCLOSURE. THE OFFICE SHALL POST ON ITS WEBSITE WITHIN FIVE (5) 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.

(B) IF THE OFFICE APPROVES A NOTICE OF INTENT, THE PROSPECTOR SHALL CONTINUE TO DESIGNATE ANY INFORMATION THE PROSPECTOR BELIEVES IS EXEMPT FROM PUBLIC DISCLOSURE IN ANY WRITTEN SUBMITTALS FILED WITH THE OFFICE AFTER THE FILING OF THE NOTICE OF INTENT INCLUDING IN ANNUAL AND FINAL REPORTS. SUCH DESIGNATIONS SHALL BE SUBJECT TO THE SAME GROUNDS FOR DESIGNATION AND PROCEDURES FOR RESOLUTION OF DESIGNATION DISPUTES AS APPLY TO INFORMATION IN A NOTICE OF INTENT.

(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 MUST BE FILED WITH THE OFFICE WITHIN TEN (10) WORKING DAYS OF THE OFFICE'S POSTING OF THE NOTICE OF INTENT ON ITS WEBSITE. THE OFFICE SHALL TREAT SUCH REQUEST AS A DEFICIENCY ISSUE THAT MUST BE RESOLVED PRIOR TO APPROVAL OF THE NOTICE OF INTENT. 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 PROSPECTOR 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 PROSPECTOR 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 PROSPECTOR OF THE OFFICE'S DECISION. THE OFFICE'S DECISION SHALL BE KEPT CONFIDENTIAL. IF THE PROSPECTOR 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 MAY 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 PROSPECTOR.

(v) (A) 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 SHALL ELECTRONICALLY RECORD SUCH EXECUTIVE SESSIONS AND MAINTAIN SUCH RECORDINGS IN ACCORDANCE WITH THE OPEN MEETINGS LAW, SECTION 24-6-204, C.R.S.

(B) (I) PRIOR TO HOLDING AN EXECUTIVE SESSION, THE BOARD IN ITS DISCRETION MAY HEAR ORAL ARGUMENT IN OPEN MEETING FROM THE APPLICANT OR PROSPECTOR, THE OFFICE AND THE REQUESTING PERSON, IF APPLICABLE. 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 APPLICANT OR PROSPECTOR, 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 THAT UPHOLDS OR REVERSES IN WHOLE OR IN PART THE OFFICE DECISION. THE ORDER SHALL KEEP CONFIDENTIAL THE INFORMATION THE BOARD HAS DETERMINED SHOULD REMAIN CONFIDENTIAL.

(II) IF THE BOARD DETERMINES THAT CERTAIN INFORMATION IS PUBLIC RATHER THAN CONFIDENTIAL, THE BOARD SHALL DELAY DISCLOSURE OF SUCH INFORMATION UNTIL THIRTY (30) DAYS FROM THE DATE OF ITS WRITTEN ORDER. THE BOARD'S DECISION SHALL CONSTITUTE FINAL AGENCY ACTION FOR PURPOSES OF JUDICIAL REVIEW.

(5) ANY DISPUTE AS TO WHETHER INFORMATION IS PROPERLY DESIGNATED AS EXEMPT FROM PUBLIC DISCLOSURE SHALL BE CONSIDERED A DEFICIENCY ISSUE CONCERNING THE NOTICE OF INTENT TO CONDUCT PROSPECTING. ACCORDINGLY, THE OFFICE SHALL NOT APPROVE A NOTICE OF INTENT, AND PROSPECTING ACTIVITIES SHALL NOT BE AUTHORIZED TO COMMENCE, UNTIL THE DESIGNATION ISSUE HAS BEEN RESOLVED AND THE APPLICANT HAS SATISFIED ALL OTHER REQUIREMENTS APPLICABLE TO A NOTICE OF INTENT.

(e6) Anyone who willfully and knowingly violates the provisions of confidentiality shall be punished as provided by law.

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

3.1 RECLAMATION PERFORMANCE STANDARDS

THESE PERFORMANCE STANDARDS SHALL BE APPLICABLE TO ALL MINING OPERATIONS. PROSPECTING OPERATIONS ARE SUBJECT TO THE RELEVANT PERFORMANCE STANDARDS OF THIS RULE AS DETERMINED BY THE OFFICE.

3.1.1 Establishing Post-Mining Use

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 3.1.5

3.1.6 Water – General Requirements

(1)-(3) ***

(4) THE OFFICE MAY REQUIRE THE SUBMISSION OF BASELINE SITE CHARACTERIZATION DATA PRIOR TO THE INITIATION OF PROSPECTING OR MINING, INCLUDING BUT NOT LIMITED TO, AMBIENT GROUNDWATER AND SURFACE WATER QUALITY DATA SUFFICIENT TO CHARACTERIZE POTENTIALLY IMPACTED WATERS.

- (5) *DRILLING PITS USED TO SUPPORT PROSPECTING OR MINING SHALL BE CONSTRUCTED AND OPERATED TO PROTECT PUBLIC HEALTH, SAFETY, WELFARE AND THE ENVIRONMENT, INCLUDING SOIL, WATERS OF THE STATE, INCLUDING GROUNDWATER, AND WILDLIFE, FROM SIGNIFICANT ADVERSE ENVIRONMENTAL, PUBLIC HEALTH, OR WELFARE IMPACTS. IN ITS DISCRETION, THE OFFICE MAY REQUIRE THE USE OF PIT LINERS, FENCING, NETTING OR OTHER MEASURES TO PROTECT PUBLIC HEALTH, SAFETY, WELFARE AND THE ENVIRONMENT.*

3.1.7 Groundwater - Specific Requirements

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

(a)-(d) ***

- (E) *FOR ANY IN 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.*

(F) *ALSO, IN ESTABLISHING, DESIGNING AND IMPLEMENTING A GROUND WATER RECLAMATION PLAN, IN SITU LEACH MINING OPERATORS SHALL USE BEST AVAILABLE TECHNOLOGY.*

(G) *IN ADDITION, 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) Establishing permit, **OR NOTICE OF INTENT TO CONDUCT PROSPECTING (NOI)**, conditions, including numeric protection levels, protective of unclassified groundwater uses.
- (a) Pursuant to the procedures specified in Paragraph 3.1.7(3), permit **OR NOI** conditions shall be established for each operation that may have a reasonable potential to adversely affect the quality of a specified area that has not been classified by the WQCC. Such permit **OR NOI** conditions may be in the form of numeric protection levels, practice-based permit **OR NOI** conditions, or both.
 - (b) Points of compliance for numeric protection levels shall be set pursuant to Paragraph 3.1.7(5).
 - (c) Permit **OR NOI** conditions, whether practice-based or numeric protection levels, shall be established as follows:
 - (i) The permit **OR NOI** conditions shall be protective of the existing and reasonably potential future uses of the groundwater that may be affected. The WQCC's groundwater quality table values (The Basic Standards For Ground Water CCR 1002-41), shall be used as a guide in establishing the permit **OR NOI** conditions.
 - (ii) Where ambient groundwater quality exceeds values for protection of existing and reasonably potential future uses of groundwater, such as groundwater table values or other numeric criteria, permit **OR NOI** conditions shall be established to protect those uses against further lowering of groundwater quality.
- (3) Procedures for establishing permit **OR NOI** conditions to protect the quality of unclassified groundwater.
- (a) New operations and modifications of existing permits **OR NOIS**: Any application **OR NOTICE** for a new operation, or an application for a modification of an existing permit **OR NOI** which modification has a reasonable potential to adversely affect the quality of unclassified groundwater, that is approved by the Office or the Board on or after September 1, 1993, shall include permit **OR NOI** conditions pursuant to Paragraph 3.1.7(2).
 - (b) Existing operations: For operations subject to a permit **OR NOI** issued before September 1, 1993, which permit **OR NOI** is not the subject of an application or a modification as described in Subparagraph 3.1.7(3)(a), permit **OR NOI** conditions shall be established as follows:

- (i) Upon a determination that a violation of a permit *OR NOI* provision affecting groundwater quality has occurred, the Board may order the Operator to submit an application *OR NOI* to modify the permit *OR NOI* to comply with Paragraph 3.1.7(2), and may set reasonable schedule for submittal of such application *OR NOI*. Nothing in this Rule shall be construed to limit the Board's authority under Section 34-32-124, C.R.S. 1984, as amended.

- ii) The Office shall follow the pre-enforcement procedure set out below before requiring an Operator who is in compliance with all permit *OR NOI* provisions and regulation requirements related to groundwater quality to modify the permit *OR NOI*. The Office may bring an enforcement action under Section 34-32-116(7), C.R.S. 1984, as amended, or earlier version thereof. Such enforcement action may result in a finding of a violation of that statutory provision upon finding that there is or may be a reasonable potential for degradation of groundwater quality that adversely affects existing or reasonable potential future uses of such groundwater. The Office shall follow the pre-enforcement procedure outlined below before bringing such an enforcement action:
 - (A) When the Office has reason to believe, based on evidence, that there is or may be a reasonable potential for degradation of groundwater quality that adversely affects uses, the Office shall notify the Operator of the evidence and of the possible need to modify the permit *OR NOI* to include permit *OR NOI* conditions that comply with Paragraph 3.1.7(2). necessary information, and shall allow a minimum of 90 days for the Operator to respond. Following a response from an Operator provided with notice under this Section 3.1, the Office shall allow a reasonable period to negotiate appropriate permit *OR NOI* conditions with the Operator pursuant to Paragraph 3.1.7(2).

 - (B) The Office may bring an enforcement action if the Operator fails to respond within the time specified, or the Office and the Operator do not negotiate appropriate permit *OR NOI* conditions within a reasonable period of time, pursuant to Subsubparagraph 3.1.7(3)(b)(ii)(A). Upon finding a violation of the Act, or Rules promulgated thereunder, the Board may modify the permit *OR NOI* to include groundwater protection provisions in compliance with Paragraph 3.1.7(2).

 - (C) The pre-enforcement procedures described in this Subsubparagraph 3.1.7(3)(b)(ii) shall not apply if there is an imminent danger to the

health, safety, and general welfare of the people of this state. In such a case, the Office may immediately initiate an enforcement action and may seek a cease and desist order. This provision shall not be construed to prevent the Water Quality Control Division from pursuing its remedies under Section 25-8-307, C.R.S. (1989).

- (4) Procedures for establishing compliance with standards promulgated by the WQCC.
 - (a) Existing permits **OR NOIS** affecting groundwater, subject to existing groundwater quality standards. The Office shall provide notice to operations subject to a permit **OR NOI** issued prior to January 31, 1994 if such operation has a reasonable potential to exceed groundwater quality standards promulgated by the WQCC. Such existing groundwater quality standards may include standards applicable to groundwater that has been classified by the WQCC, interim narrative standards and state-wide standards for certain pollutants. The notice shall provide the Operator with a reasonable opportunity to respond and modify the permit **OR NOI** if necessary, to establish permit **OR NOI** conditions adequate to implement such groundwater standards.
 - (b) WQCC standards promulgated after a permit ~~is issued~~ **OR NOI IS ISSUED**: If there is a reasonable potential to exceed groundwater quality standards promulgated after the permit ~~is issued~~ **OR NOI IS ISSUED** the Office shall provide the Operator with notice of the applicable groundwater quality standards. The Operator shall be afforded a reasonable opportunity to submit an application **OR FILE A NOTICE** to modify the permit **OR NOI** as necessary to implement such groundwater quality standards.
 - (c) Permit **OR NOI** conditions established pursuant to Subparagraphs 3.1.7(4)(a) and (b) shall include a reasonable schedule of compliance. Such permit **OR NOI** conditions may be in the form of numeric protection levels, practice-based permit **OR NOI** conditions, or both.
 - (d) If an Operator has a reasonable potential to exceed groundwater quality standards promulgated by the WQCC, the Operator shall modify the permit **OR NOI** as necessary to implement such standards in compliance with this Subsection, 3.1.7, within a reasonable period of time after receiving a Notice issued pursuant to Subparagraphs 3.1.7(4)(a) and (b). If the Operator fails to do so the Office may initiate an enforcement action to enforce compliance with this Rule and establish any necessary permit **OR NOI** conditions.

- (e) Permits, **NOIS** or applications to modify a permit, **OR FILINGS TO MODIFY A NOI** shall not be approved unless such permit, **NOI**, or modification includes conditions adequate to implement all groundwater quality standards promulgated by the WQCC applicable to such permit, **NOI**, or modification.
- (5) Any Operator, on a voluntary basis, may submit information concerning the protection of the quality of groundwater affected by the operation to the Office. The Operator may submit such information and a plan for monitoring, where appropriate, including monitoring at points of compliance, for the Office's consideration. The information submitted must satisfy the requirements of Paragraphs 3.1.7(6) and (7). Such voluntary submission by an Operator shall be considered a Technical Revision provided the submittal satisfies Section 1.8, **OR NOI MODIFICATION**.
- (6) Points of Compliance:
 - (a) In order to evaluate protection afforded groundwater quality, comply with groundwater standards, or to demonstrate compliance with permit **OR NOI** conditions established by the Office to protect groundwater quality, one or more points of compliance shall be established. Through incorporation into a permit **OR NOI** and on a schedule approved by the Office, an Operator shall comply with groundwater quality standards established by the Water Quality Control Commission at points of compliance.
 - (i) Where the Water Quality Control Commission has not established standards, then any permit **OR NOI** condition established by the Board or Office to protect groundwater quality shall be demonstrated to be met at points of compliance or as specified in the **ISSUED NOI OR** approved permit.
 - (b) Where groundwater quality standards have been established, the point of compliance shall be established according to the following criteria:
 - (i) for existing facilities at which an adverse impact to groundwater quality could occur, the point of compliance will be set as follows:
 - (A) at some distance hydrologically down-gradient from the facility or activity that is causing, or which has the potential to cause, the contamination, and selecting that distance closest to the facility or activity, considering the technological feasibility of meeting the requirements for protecting water quality:

- (I) a specified distance, as determined by Paragraph (B) below;
 - (II) the hydrologically down-gradient limit of the area in which contamination has been identified; or
 - (III) the facility permit boundary.
- (B) In determining a specified distance the Office shall take into consideration the following factors;
- (I) the classified use, established by the Water Quality Control Commission, for any groundwater or surface water which could be impacted by contamination from the facility;
 - (II) the geologic and hydrologic characteristics of the site, such as depth to groundwater, groundwater flow direction and velocity, soil types, surface water impacts, and climate;
 - (III) the toxicity, mobility, and persistence in the environment of the contaminants used or stored at the facility and which could reasonably be expected to be discharged from the facility;
 - (IV) the potential of the site as an aquifer recharge area; and (V) recommendations submitted by the facility owner or Operator, including technical and economic feasibility.

(ii) For any new facility or new activity which may cause an adverse impact on groundwater quality, the point of compliance will be set as follows:

- (A) unless modified by the Office as specified in Paragraph (B) below, the point of compliance will be set at the hydrologically down-gradient limit of the area below the facility or activity potentially impacting groundwater quality.

(B) The point of compliance determined in Paragraph (A) above may be modified by the Office on a case-by-case basis with consideration of the following factors:

- (I) the classified use, established by the Water Quality Control Commission, for any groundwater or surface water which could be impacted by contamination from the facility;
- (II) the geologic and hydrologic characteristics of the site, such as depth to groundwater, groundwater flow direction and velocity, soil types, surface water impacts, and climate;
- (III) the toxicity, mobility, and persistence in the environment of contaminants used or stored at the facility which could reasonably be expected to be discharged from the facility;
- (IV) the potential of the site as an aquifer recharge area; and
- (V) recommendations submitted by the facility owner or Operators including technical and economic feasibility.

(7) Groundwater Monitoring:

- (a) For existing operations through permit **OR NOI** modifications, and for new permit applications, **OR NOI FILINGS** a groundwater monitoring program shall be required on a case-by-case basis where an adverse impact on groundwater quality may reasonably be expected.
- (b) If groundwater monitoring is required, the Operator shall include the following information as part of a permit application, **NOI FILING**, or permit **OR NOI** modification ~~to an existing permit~~:
 - (i) a map that accurately locates all proposed groundwater sample points and any locations that are proposed as a point of compliance;

- (ii) the method of monitoring well completion where monitoring wells are required;
 - (iii) method of sampling, frequency of sampling and reporting to the Office;
 - (iv) parameters analyzed, water quality analysis methods, and quality control and quality assurance methods;
 - (v) formations, aquifers or strata to be sampled;
 - (vi) identify the potential sources of groundwater contamination that will be monitored by each point of compliance monitoring point;
 - (vii) a time-schedule for implementation; and
 - (viii) ambient groundwater quality data sufficient to characterize potentially impacted groundwater quality.
- (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. ***IN ADDITION, 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) An Operator must provide the Office a written report within five (5) working days when there is evidence of groundwater discharges exceeding applicable groundwater standards or permit ***OR NOI*** conditions imposed to protect groundwater quality when these other conditions are explicitly identified in the permit ***OR NOI*** as requiring such notice.

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

3.1.8 through 3.1.13

RULE 5: PROSPECTING OPERATIONS

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 MAY DESIGNATE ITS IDENTITY AS CONFIDENTIAL IF THE APPLICANT BELIEVES THAT DISCLOSING ITS IDENTITY WOULD CAUSE SUBSTANTIAL HARM TO ITS COMPETITIVE POSITION. THE REQUIREMENTS AND PROVISIONS OF RULE 1.3(4)(B) SHALL APPLY TO ANY DESIGNATION AS TO IDENTITY. 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 WITHIN FIVE (5) DAYS OF 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.

(M) PRIOR TO SUBMITTING THE NOI TO THE OFFICE, THE PROSPECTOR SHALL SEND A NOTICE TO THE LOCAL BOARD OF COUNTY COMMISSIONERS IN THE AREA OF THE PROPOSED PROSPECTING ACTIVITIES USING INFORMATION THE PROSPECTOR DESIGNATES AS NON-CONFIDENTIAL.

(i) THE PROSPECTOR SHALL INCLUDE PROOF OF SUCH NOTICE WITH THE NOI AT THE TIME THE NOI IS SUBMITTED TO THE OFFICE.

(ii) SUCH NOTICE SHALL BE IN THE FORM OF A RETURN RECEIPT OF A CERTIFIED MAILING OR A DATE-STAMPED COPY OF THE NOTICE ACKNOWLEDGING RECEIPT BY THE APPROPRIATE LOCAL BOARD.

(iii) SUCH NOTICE SHALL INFORM THE APPROPRIATE LOCAL BOARD THAT ADDITIONAL NON-CONFIDENTIAL INFORMATION REGARDING THE PROPOSED PROSPECTING ACTIVITIES WILL BE AVAILABLE FOR REVIEW AT THE OFFICE'S WEBSITE.

5.1.3 Office Review

Upon receipt by the Office of a NOI to Conduct Prospecting, the Office shall timely notify the prospector, in writing, of receipt of the NOI. **THE OFFICE SHALL POST ON ITS WEBSITE THE NOI WITHIN FIVE (5) DAYS OF SUBMITTAL EXCEPT THOSE PORTIONS OF THE SUBMITTAL DESIGNATED BY THE APPLICANT AS CONFIDENTIAL. ANY PUBLIC COMMENT OR REQUEST FOR DISCLOSURE OF INFORMATION DESIGNATED AS CONFIDENTIAL FILED PURSUANT TO RULE 1.3(4)(IV(A)) REGARDING THE NOI MUST BE RECEIVED BY THE OFFICE NO LATER THAN TEN (10) WORKING DAYS AFTER THE NOTICE IS POSTED ON THE OFFICE WEBSITE.**

(a) Review of a NOI and associated Financial Warranty information is required by the Office within twenty (20) working days of receipt by the Office. If the Prospector has not been notified of any deficiencies of the NOI form, **INCLUDING NOTICE OF A DISPUTE REGARDING CONFIDENTIALITY PURSUANT TO RULE 1.3 WHICH WILL BE TREATED AS A DEFICIENCY OF THE NOI,** or Financial Warranty by the Office within twenty (20) working days of receipt by the Office of the NOI, prospecting operations may commence. For activities on BLM or USFS lands, the twenty (20)

working day period begins when the Office has received notification from the appropriate federal land management agency that they have received the notice of proposed activities, or the Office has otherwise determined that the appropriate federal land management agency has received the notice.

(B) IF A CHALLENGE TO CONFIDENTIALITY HAS OCCURRED PURSUANT TO THE PROCESS SET FORTH IN RULE 1.3, AND THE BOARD HAS DETERMINED THAT CERTAIN INFORMATION IS PUBLIC RATHER THAN CONFIDENTIAL, UPON THE EXPIRATION OF THE THIRTY (30) DAY DELAY PERIOD UNDER RULE 1.3 (4)(A)(V)(B)(II), THE OFFICE SHALL POST THE NEWLY RELEASED INFORMATION ON THE OFFICE WEBSITE WITHIN FIVE (5) WORKING DAYS. ANY PUBLIC COMMENT REGARDING THE NEWLY RELEASED INFORMATION MUST BE RECEIVED BY THE OFFICE NO LATER THAN TEN (10) WORKING DAYS AFTER THE NEW INFORMATION IS POSTED ON THE OFFICE WEBSITE.

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

(eD) Any appeal of an Office determination shall follow the procedures set forth in Rule 1.4.11.

RULE 6: PERMIT APPLICATION EXHIBIT REQUIREMENTS

6.4.19 RESERVED 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).