

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING



February 25, 2021

IN THE MATTER OF THE )  
PROPOSED REVISION OF ) STATEMENT OF PRINCIPAL LAND  
QUALITY DIVISION ) REASONS (SOPR) FOR ADOPTON  
RULES RELATED TO THE )  
REGULATION OF ) DOCKET #: 21-4102  
NONCOAL MINING )

Noncoal Rules and Regulations, Chapter 5  
Exploration by Dozing

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**Introduction to Rule Package**

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*The authority to amend these rules is provided by Wyoming Statute (W.S.) §§ 35-11-112(a)(i), 35-11-114(b), and 35-11-402(a)(ix).*

**Summary of Proposed Amendments**

Chapter 5 Proposed Changes

A new Section 1 was created to allow for limited exploration activities for gold, silver, jade, opal, agate, diamond and titanium on three (3) acres or less. The proposed rules also allow for the sale of minerals recovered during exploration activities. Renewal of exploration licenses under the proposed rules will be limited to two successive renewals.

## CHAPTER 5

### NONCOAL

#### EXPLORATION BY DOZING

##### **Section 1. Exploration by Dozing for Operations that Affect Three Acres or Less.**

(a) Any person proposing exploration activities of three acres or less for the removal of gold, silver, jade, opal, agate, diamond or titanium shall be exempt from the requirements of Sections 2 through 5 of this Chapter. Operators shall notify the Administrator of their intent to conduct mineral exploration activities by submitting an application for a license to explore on the form furnished by the Administrator at least thirty days prior to the commencement of operations. The operator shall also notify the Inspector of Mines within the Department of Workforce Services of the location of the land to be mined and the postal address of the operator at least thirty days prior to commencing operations.

(b) A bond in the amount of \$2,500.00 per acre shall be submitted to and approved by the Administrator prior to commencing mineral exploration activities. Any exploration activities one acre or less in size shall be subject to a minimum bond in the amount of \$2,500.00. Within ninety days after receiving an application, a renewal report or a notice of increased affected acreage, the administrator may require the operator to post an additional bond per acre of affected land if he determines that such amount is necessary to ensure reclamation. The operator shall post the additional bond not later than thirty days after receipt of such notification.

(c) An exploration and reclamation plan shall be submitted with the required application for exploration on the form furnished by the Administrator. The exploration plan for the proposed disturbance shall include a plan for topsoil removal, stockpiling, a timetable for initiation and completion of reclamation. The reclamation plan shall include a plan for backfilling all pits and trenches, removal of any excess material not used for backfilling (stockpiles), highwall reduction to no greater than 3:1 slope, contouring and grading to prevent erosion, re-establishment of pre-existing drainages, replacement of topsoil, and seeding with an approved native seed mixture. All areas disturbed by the exploration activities shall be reclaimed so as to return the disturbance area to its pre-exploration conditions prior to bond release.

(d) A license to explore will be issued for one year, but the operator may file a renewal request and renewal report within thirty days before the expiration of the exploration license term on the form furnished by the Administrator. In no case shall the Administrator grant more than two successive renewals after the initial license period.

(e) Any time the total affected acres exceeds the acres estimated in the application or renewal report, the operator shall, within thirty days notify the Administrator of the increase in affected acres.

(f) Minerals discovered during exploration activities may be processed and sold at the discretion of the operator including assay material or material with an unknown market

valuation, subject to any restrictions on sale by the surface and mineral owner. Any material sold must be reported at the conclusion of operations or on a renewal report form. All requests for confidentiality shall be in accordance with Section 2(d).

(g) The license to explore shall be terminated if the operator does not commence operations within one year.

(h) For an active exploration operation with affected area that has not submitted a renewal notification in accordance with section (d), the operator shall initiate reclamation immediately and a renewal shall not be issued.

(i) The bond will be released upon completion of successful reclamation, and termination of the license.

### **Section 2 ~~1~~. Requirements.**

(a) Any person desiring to engage in exploration by dozing so as to substantially affect greater than three acres and less than forty ~~40~~ acres in any four contiguous sixteenth sections shall submit an application to the Administrator for a license ~~to explore by dozing~~.

(b) If the proposed exploration by dozing will substantially affect forty ~~40~~ or more acres in any four contiguous sixteenth sections, the ~~application shall conform to the reclamation standards and requirements governing applicant must apply for a surface mining permit~~, and the provisions of this Chapter shall not apply.

(c) The application for a license to explore by dozing shall be made ~~upon~~ the form furnished by the Administrator, in duplicate, and shall contain the following information:

(i) ~~Name~~ The applicant's name, address and telephone number ~~of the person making the application;~~

(ii) ~~If different from the applicant,~~ The name, address and telephone number of the operator for the exploration activities; ~~person who will be present at and/or responsible for the exploration operation;~~

(iii) An original USGS topographic map, if one has been issued, showing the general area in which exploration is to be conducted, any access roads to be constructed, locations of public roads providing access to the area, dwellings, surface drainage, utilities, surface waters and impoundments, springs, land excavations to be conducted, exploratory holes to be drilled or altered, and earth and debris disposal areas. The area of activity shall be shown in more detail and distinctly outlined and identified. In lieu of a topographic map, an aerial photo of suitable scale may be substituted provided the above information is submitted and all section, township and range lines, identifying numbers, and a north arrow are added. These may be approximated where the land has not been surveyed and section corners set;

(iv) The estimated acreage of land which the applicant proposes to

substantially affect in each section;

(v) The location of the lands to be explored by legal subdivision, section, quarter section (when available), township, and range;

(vi) A general description of the land within the area covered by the license cross-referenced to the map required in (iii) above, which shall include, as nearly as possible, its surface topography and geology, surface water, vegetative cover, past and present uses, and nature and depth of the overburden, topsoil, and mineral seams;

(vii) Names and addresses of the owners of record of the surface of all land to be affected;

(viii) Names and addresses of the owners of record of the mineral rights to all land to be affected;

(ix) A reclamation plan which shall include a description of the measures to be used to comply with the requirements of Section 23 of this Chapter;

(x) A timetable showing:

(A) ~~An~~ The anticipated length of time between initial surface disturbance and the beginning of reclamation.

(B) A proposed termination date for all exploration activities. ~~A date for the completion of all reclamation activities.~~

(C) A date for the completion of all reclamation activities. ~~A proposed termination date for all exploration activities.~~

(xi) An estimate, prepared in accordance with established engineering principles, of the cost of hiring an independent contractor to accomplish the reclamation of all land in the license area which will be affected by the exploration ~~for which license is sought~~. Such estimate shall also give a breakdown of costs including the costs per acre of backfilling, replacement of topsoil, and the cost of seed or seedlings, and the planting thereof; and

(xii) Such other information as the Administrator deems necessary to enable him to ensure compliance with the Wyoming Environmental Quality Act and all rules ~~and regulations~~ adopted pursuant thereto.

(d) For the purposes of Chapter 5, the application for exploration by dozing is a report or information which, if made public, would divulge trade secrets. Upon request by the licensee, the Director and Administrator shall consider this report or information confidential pursuant to Wyoming Statute: § 35-11-1101. This shall be deemed a request to hold the information confidential only until the proposed termination date set forth in (c)(x)(C) of this Section, unless the licensee justifies a longer period of time.

### **Section 3 2. Exploration and Reclamation Standards.**

(a) Backfilling, regrading and recontouring shall be conducted in a manner consistent with Chapter 3, Section 2(b); ~~of the Land Quality Non-Coal Rules and Regulations.~~

(b) Topsoil removal and stockpiling shall precede any dozing activities, unless otherwise approved by the Administrator.

(c) ~~The~~ All vegetative cover that is removed or destroyed shall be reestablished ~~where removed or destroyed by the exploration by dozing,~~ by seeding, planting, transplanting, or by other methods approved by the Administrator in a manner consistent with Chapter 3, Section 2(d) ~~of the;~~ Land Quality Non-Coal Rules ~~and Regulations.~~

(d) All areas disturbed by dozing for the purpose of providing access (as a road or for the ease of off-road travel) shall be reclaimed in accordance with this Chapter.

(e) All acid-forming or toxic materials or materials constituting a fire, health or safety hazard uncovered during or created by ~~the exploration by dozing~~ shall be promptly treated or disposed of during the exploration activity 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 covering, burying, temporarily impounding or otherwise containing or disposing of the acid, toxic, radioactive or otherwise dangerous material.

(f) Procedures shall be implemented to avoid constituting a public nuisance, endangering the public safety, human or animal life, property, and plant life in and adjacent to the license area, including but not limited to fencing all pits and refuse or waste areas to protect the surface owner's on-going operations.

**Section 4 3. Timetables.** Reclamation and restoration shall begin as early as practicable so as to prevent unnecessary erosion, sedimentation, and pollution. In no event shall reclamation begin later than the end of the ~~special~~ license period unless the Administrator approves such a delay in writing.

### **Section 5 4. License Issuance ~~and Renewal.~~**

(a) Within ~~30~~ thirty days following receipt of a complete license application ~~for a license to explore,~~ the Administrator shall notify the applicant of the required bond amount ~~of bond to be required for the applicant.~~ Such bond shall be in an amount sufficient to pay all costs which would be incurred by the State ~~in the event it is necessary for the State to forfeit such bond and to accomplish reclamation of~~ reclaim the affected area including access roads, drill pads, and exploration pits.

(i) Upon receipt of a satisfactory bond in the amount required by the Administrator, the Administrator shall approve the application if it is otherwise in order and shall return a duplicate to the applicant to serve as his license to explore by dozing. ~~No holder of a license to explore shall produce and save or sell any minerals from within the license area without first~~

obtaining a permit and license to mine. The only material which may be removed from the permit area shall be that necessary for assay and testing purposes.

(ii) ~~It shall be the~~ The operator's responsibility to shall inform the Administrator ~~whenever an increase in the bond is necessary should the~~ whenever the amount of affected land increases greater than the amount ~~be greater than that~~ estimated in the license application. The Administrator shall notify the applicant of the increased bond amount and the ~~The operator shall take immediate~~ submit the required bond increase within thirty days of notification steps to obtain an increase in the amount of the bond for such contingencies.

(iii) Minerals discovered during exploration activities may be processed and sold at the discretion of the operator including assay material or material with an unknown market valuation, subject to any restrictions on the sale by the surface or mineral owner. Any material sold must be reported on the Annual Report form.

(b) The Administrator may deny the issuance of a license to explore by dozing if he finds any one of the following:

(i) ~~If the application is in violation of the intent of the Wyoming Environmental Quality Act, which is to reclaim the land to use equal to or higher than the highest previous use;~~

(ii) ~~If~~ The application is incomplete;

(iii) ~~If the bond is insufficient to reclaim the area listed within the license as to be affected;~~

(~~iv~~ ii) ~~If~~ The operation will irreparably harm lands which lie within an area designated by the Council as of unique and irreplaceable, historical, archaeological, scenic or natural value; and

(~~v~~ iii) ~~If~~ The information submitted by the operator is found to be intentionally misrepresentative; or

(iv) The application otherwise violates the Wyoming Environmental Quality Act or the Land Quality Non-Coal Rules.

(c) The license to explore shall last no longer than one year, but may be renewed annually. In no case shall the Administrator grant more than two successive renewals after the initial license period. Renewal reports shall be filed within ~~30~~ thirty days before the anniversary date of the license on forms provided by the Land Quality Division and shall include:

(i) Name of licensee and license number;

(ii) Location of area by section, quarter section (when available), township, and range;

- (iii) Number of acres disturbed during the last year;
- (iv) Estimated number of acres to be disturbed in the next ~~12~~ twelve months;
- (v) Updated maps;
- (vi) Current status of reclamation performed; and
- (vii) Estimated cost of reclaiming all the existing disturbance existing disturbance land and lands to be disturbed during the renewal period ~~and the estimated cost of completing reclamation of unreleased lands disturbed during prior periods of time.~~

**Section 6 5. Bond release and forfeitures. ~~Forfeiture and Release of Bonds.~~** Bonds shall be released in accordance with W.S. § 35-11-414(g). Forfeiture proceedings ~~and release of bonds~~ shall be equivalent to ~~that~~ the procedure set forth in W.S. §§ 35-11-421 through 35-11-422. ~~3~~ substituting therein “person engaging in exploration by dozing” for “operator” and “exploration by dozing” for “surface mining”.

**CONCLUSION**

The Environmental Quality Council, in accordance with the authority granted to it by Wyoming Statute (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 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. The 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 \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Environmental Quality Council

\_\_\_\_\_  
Printed Name