

~~DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~LAND QUALITY DIVISION~~

CHAPTER 10

COAL EXPLORATION

Section 1. General Requirements: Exploration of 250 Tons or Less.

(a) Any person who intends to conduct coal exploration outside a permit area ~~during which and remove less than 250 tons or less of coal will be removed~~ in the area to be explored shall, before conducting the exploration, file with the Administrator a notice of intent to explore.

(b) The notice shall include:

(i) The person's name, address, and telephone number;

(ii) The name, address, and telephone number of the person who will be present at and responsible for the exploration operation;

(iii) A narrative describing the proposed exploration area and a map at a scale of 1:24,000, or greater, showing the proposed area of exploration and the general location of drill holes and trenches, existing and proposed roads, occupied dwellings, topographic features, bodies of surface water, and pipelines. ~~This description~~ The narrative shall clearly describe the areas to be disturbed as well as the natural and man-made features in and immediately around the exploration area;

(iv) ~~A statement of the~~ The proposed period of ~~the proposed~~ exploration; and

(v) ~~A description of the~~ The method of exploration to be used and the practices proposed to protect the environment and reclaim the area, including those necessary to comply with Section 3 4 of this Chapter.

Section 2. General Requirements: Exploration of More than 250 Tons or in an Area Designated as Unsuitable.

(a) Any person who intends to conduct coal exploration outside a permit area ~~during which and remove more than 250 tons of coal will be removed~~ in the area to be explored or which will take place on lands designated as unsuitable for surface mining under Chapter 17 of these rules and those protected under Chapter 12, Section 1(a)(v) of these rules shall, ~~before conducting the exploration,~~ file an application for a coal mine exploration license with ~~the Administrator~~ and obtain the approval of the Administrator ~~for an application for a coal mine exploration license~~ before conducting the exploration.

- (b) The application shall include at a minimum, the following information:
- (i) The applicant's name, address, and telephone number;
 - (ii) The name, address and telephone number of the applicant's representative who will be present at, and responsible for, conducting the exploration activities;
 - (iii) A narrative describing the proposed exploration area;
 - (iv) A narrative description of the methods and equipment to be used to conduct the exploration and reclamation;
 - (v) An estimated timetable for conducting and completing each phase of the exploration and reclamation;
 - (vi) The estimated amount of coal to be removed, a description of the methods to be used to determine the amount, and a statement explaining ~~of~~ why extraction of more than 250 tons of coal is necessary for exploration;
 - (vii) A description of historic or cultural features or resources listed or known to be eligible for listing on the National Register of Historic Places. This shall include a detailed description of all archeological and historic resources located within the areas to be directly affected by the proposed exploration activities. This shall also include any other information which the Administrator may require regarding known or possible historic or archeological resources;
 - (viii) A description of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and identified within the proposed exploration area;
 - (ix) A description of the measures to be used to comply with Section 3 4 of this Chapter;
 - (x) The name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored;
 - (xi) A map(s) at a scale of 1:24,000 or larger, showing the areas of land to be disturbed by the proposed exploration and reclamation. The map(s) shall specifically show the location of: existing roads, occupied dwellings, topographic and drainage features, bodies of surface water, and pipelines; proposed ~~locations of~~ trenches, roads, ~~and other~~ access routes, and other structures to be constructed; ~~the location of~~ proposed land excavations; ~~the location of~~ exploration holes or other drill holes or underground openings; ~~the location of~~ excavated earth or waste material disposal areas; and ~~the location of~~ critical habitats of any endangered or threatened species listed pursuant to the Endangered Species Act;

(xii) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter the area for the purpose of conducting the exploration and reclamation; and

(xiii) For any lands designated as unsuitable for surface mining under Chapter 17 or listed under Chapter 12, Section 1(a)(v) of these rules ~~Division's Coal Rules and Regulations~~, a demonstration that to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the ~~values~~ features for which those lands were designated as unsuitable for surface coal mining operations or listed under Chapter 12, Section 1(a)(v). ~~The Where applicable, the application shall include documentation of consultation~~ applicant shall document its consultation with the owner of the feature causing the land to be designated as unsuitable for surface mining under Chapter 17 or listed under Chapter 12, Section 1(a)(v), as well as the applicant's consultation ~~come under the protection of Chapter 12, Section 1(a)(v), and, when applicable,~~ with the agency with primary jurisdiction over the that feature of the land with respect to the values that caused the land to come under the protection of Chapter 12, Section 1(a)(v).

(c) Within ~~30~~ thirty days after submittal of an application for a license to explore under this Section, the Administrator will notify the applicant whether the application is complete. Upon a determination that the application is ~~administratively~~ complete, the Administrator shall require the applicant to publish a notice of filing in a newspaper of general circulation in the county of the proposed exploration area. The notice shall state the name and address of the person seeking approval, the filing date of the application, the address where written comments on the application may be submitted, the closing date of the comment period, and a description of the area of exploration. ~~Any person having an interest which is or may be adversely affected shall have the right to file written comments on the application within 30 days from the date of publication.~~

Section 3. — Approval of Applications for Exploration of More than 250 Tons or in an Area Designated as Unsuitable for Surface Coal Mining Operations.

(a) ~~No later than 40 days after newspaper publication, the Administrator shall notify the applicant, any appropriate government agencies and other commenters, in writing of his intention to approve the application, or if he has denied it. If the application is denied, the notice shall include a statement of the reasons for denial. A copy of the notice shall also be posted at the district office covering the area for the proposed exploration.~~

(b) ~~Any person having an interest which is or may be adversely affected by the decision of the Administrator shall have the right to file written objections to the application within 30 days after the notification. Such persons shall have the opportunity for administrative and judicial review as outlined in W.S. § 35-11-406(k). The final decision, to issue or deny the license, shall be done in accordance with W.S. § 35-11-406(p). If there are no objections, the Administrator shall promptly approve and issue the license in accordance with (c) immediately below.~~

(d) Any interested person shall have the right to file written objections to the application within thirty days from the date of publication. The Director shall consider any objections, conduct an informal conference upon request, and make a decision on the application in accordance with Wyoming Statute (W.S.) § 35-11-406(p).

~~(e e)~~ The ~~Administrator~~ Director shall approve a complete application and issue the license only if the Administrator finds in writing that the exploration and reclamation:

(i) Will be conducted in accordance with Section 3 4 of this Chapter;

(ii) Will not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or result in the destruction or adverse modification of critical habitat of those species; ~~and~~

(iii) Will not adversely affect any cultural or historical resources listed on the National Register of Historic Places, pursuant to the National Historic Preservation Act, as amended, unless the proposed exploration has been approved by the Administrator and the agency with jurisdiction over such matters; and

(iv) With respect to exploration activities on any lands designated as unsuitable for surface coal mining under Chapter 17 or protected listed under Chapter 12, Section 1(a)(v) of these rules ~~Division's Coal Rules and Regulations~~, will minimize interference, to the extent technologically or economically feasible, with the values features for which those lands were designated as unsuitable for surface coal mining operations or listed under Chapter 12, Section 1(a)(v). Before making this finding, the Administrator shall provide reasonable opportunity to the owner of the feature causing the land to come under the protection of Chapter 17 or Chapter 12, Section 1(a)(v), and, ~~when~~ where applicable, to the agency with primary jurisdiction over ~~the~~ that feature of the land with respect to the values that caused the land to come under the protection of Chapter 12, Section 1(a)(v), to comment on whether the finding is appropriate.

Section 3 4. Exploration and Reclamation Performance Standards.

(a) Any person who conducts coal exploration operations which substantially disturb the natural land surface shall minimize environmental damage to the area by complying with the requirements of this Section.

(b) Backfilling, regrading, and recontouring shall be conducted as ~~is~~ necessary to promptly return the affected land to its approximate original contour.

(c) Topsoil removal, storage, and redistribution practices shall be used, including those measures designed to assure successful revegetation.

(d) Revegetation shall be conducted by seeding or planting to the same seasonal variety native to the areas disturbed, so as to encourage stabilization of the affected land and prompt recovery of a diverse, effective, and permanent vegetative cover.

(e) Critical habitats of threatened or endangered species identified pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall not be disturbed during coal exploration. Crucial or important habitat for wildlife shall not be disturbed during coal exploration unless written evidence of consultation with the Wyoming Game and Fish Department and any resulting recommendations are submitted to the Administrator as part of either a notice of intent to explore under Section 1 of this Chapter or a coal an exploration license application under Section 2 of this Chapter or ~~notice of intent to explore application.~~

(f) Diversions shall be made in accordance with Chapter 4, Section 2 of these rules.

(g) All drill holes shall meet the requirements of Chapter 14, Section 3, ~~Chapter 14, Land Quality Rules and Regulations~~ of these rules.

(h) Vehicular travel and road construction, maintenance, and reclamation shall meet the requirements of Chapter 4, Section 2, ~~Chapter 4, Land Quality Rules and Regulations~~ of these rules.

(i) Toxic or acid-forming materials shall be handled and disposed of in accordance with Chapter 4, Section 2(c), ~~Chapter 4, Land Quality Rules and Regulations~~ of these rules.

(j) Activities shall be conducted to minimize disturbance to the prevailing hydrologic balance, including, at a minimum, sediment control measures or sedimentation ponds, ~~which~~ that comply with Chapter 4, Section 2(e)(ii)(A) and Chapter 4, Section 2(f) of these rules.

(k) Facility removal shall be conducted in accordance with Chapter 4, Section 2(m) of these rules.

Section 4 5. Additional Requirements.

~~Where the p~~Proposed coal exploration operations activity falls that include activities within that activity described as exploration by dozing or exploration by drilling, any requirements imposed by the Act or the regulations which may be additional to the above described requirements, including the bonding requirement, may be applicable to the proposed operation shall also meet the requirements of W. S. § 35-11-404 and Chapter 14 of these rules. The Administrator shall make a determination, on a case by case basis, as to whether any additional requirements shall be imposed.

Section 5 6. Public Availability of Information.

(a) ~~Except for trade secrets, as defined in Chapter 1, Section 2, Land Quality Rules and Regulations, all information submitted under this Chapter shall be made available for public inspection and copying at the Land Quality Division of the Department of Environmental Quality. For confidentiality, the person submitting the information must request in writing that it be kept confidential and that it meets the requirements for "trade secrets."~~

(b) Information requested to be held confidential shall not be made publicly available until after notice and opportunity to be heard is afforded persons both seeking and opposing disclosure of the information.

Section 7. ~~Existing Operations.~~

~~The exploration and reclamation performance standards contained in Section 5 shall apply to all coal exploration operations which substantially disturb the natural land surface two months after final approval of a State program pursuant to Section 503 of P.L. 95-87.~~

Section 6 8. Commercial Use or Sale of Coal Extracted under a Coal Exploration License.

(a) Except as provided under subparagraph (b) below, any person who intends to commercially use or sell coal extracted during coal exploration operations under an exploration license; shall first obtain a permit to conduct surface coal mining operations for those operations.

(b) ~~With the prior written approval of the Administrator, no permit to conduct surface coal mining operations is required for the sale or commercial use of a licensee may sell or commercially use coal extracted during exploration operations if such sale or commercial use is for coal testing purposes only. The person conducting the exploration shall file an application for such approval with the Administrator. The application shall demonstrate~~ To obtain approval for sale or commercial use, the licensee shall submit an application demonstrating that the coal testing is necessary for the development of a surface coal mining and reclamation operation for which a surface coal mining operations permit application is to be submitted in the near future, and that the proposed sale or commercial use or sale of coal extracted during exploration operations is solely for the purpose of testing the coal. The application shall contain the following:

(i) The name of the testing firm and the locations at which the coal will be tested;

(ii) ~~If the coal will be sold directly to, or commercially used directly by, the intended end user, a statement from the~~ A statement from the intended end user of the coal, or an agent or broker, describing or if the coal is sold indirectly to the intended end user through an agent or broker, a statement from the agent or broker. The statement shall include:

(A) The specific reason for the test, including why the coal may be so different from the intended user's other coal supplies as to require testing;

(B) The amount of coal necessary for the test and why a lesser amount is not sufficient; and

(C) A description of the specific tests that will be conducted;

(iii) ~~Evidence that sufficient reserves of coal are available to the person conducting exploration or its principals for future commercial use or sale to the intended end user, or agent or broker of such user identified above, to demonstrate~~ demonstrating that the amount of coal to be removed is not the total reserve, but ~~is a sampling of a larger reserves~~ large enough to adequately supply the intended end user; and-

(iv) An explanation ~~as to~~ why other means of exploration, such as core drilling, are not adequate to determine the quality of the coal ~~and/or~~ the feasibility of developing a surface coal mining operation.