COLORADO

Division of Reclamation, Mining and Safety

Department of Natural Resources

Guidance Document for Notice of Intent to Conduct Exploration Operations for Hard Rock Minerals

The following are instructions for the submittal of a Notice of Intent to Conduct Prospecting Operations (NOI) for Hard Rock Minerals. The information below consists of the applicability of an NOI, definition of prospecting, listing of applicable Rules and Regulations, the filing requirements, confidentiality designations, the application review procedure, financial warranty requirements, information about compliance with other laws, prospecting on Federal Land, Legal Right of Entry requirements, NOI modifications, annual reporting requirements, and general information on the completion of prospecting.

Applicability

This NOI application package is for all minerals except coal and construction materials. If you plan to conduct prospecting activities which meet these criteria, please follow the instructions provided here, in the Rules and Regulations, and in the Colorado Mined Land Reclamation Act, as required.

Definition of Prospecting:

"Prospecting" is defined in Rule 1.1(56) of the Hard Rock/Metal Mining Rules and Regulations as the act of searching for or investigating a mineral deposit. "Prospecting includes but is not limited to, sinking shafts, tunneling, drilling core and bore holes and digging pits or cuts and other works for the purpose of extracting samples prior to the commencement of development or extraction operations, and the building of roads, access ways, and other facilities related to such work. The term does not include those activities which cause very little or no disturbance, such as airborne surveys and photographs, use of instruments or devices which are hand-carried or otherwise transported over the surface to make magnetic, radioactive, or other tests and measurements, boundary or claim surveying, location work, or other work which causes no greater land disturbance than is caused by the ordinary, lawful use of the land by persons not prospecting. The term does not include any single activity which results in the disturbance of a single block of land totaling 1600 square feet or less of the land surface, not to exceed two such disturbances per acre; except that the cumulative total of such disturbances will not exceed five acres statewide in any prospecting operation extending over 24 consecutive months" (Rule 1.1.43). The Division shall determine (where there is a question) if an operation is prospecting or mining.

<u>Applicable Rules:</u>

All prospecting operations must comply with the Colorado Mined Land Reclamation Act, as amended (34-32-101 et seq. C.R.S.), and the Colorado Mined Land Reclamation Board Hard Rock/Metal Mines Rules and Regulations and amendments to those rules ("Rules"). It is your obligation to comply with the Act and Regulations. You are encouraged to obtain and review a copy of the Rules, available on our website https://drms.colorado.gov. In order to submit your application properly, it is recommended that you review the Act and:

Rule 1.1	Definitions
Rule 1.3	Public Inspection of Documents (Confidentiality and Dispute Resolution)
Rule 3.1	Reclamation Performance Standards
Rule 3.1.6	Water – General Requirements
Rule 3.3.1	Operating without an NOI – Penalty
Rule 4	Financial Warranties
Rule 5	Prospecting Requirements

<u>Filing Requirements – What do I need to Submit?</u>

To apply for an NOI to Conduct Prospecting, you may apply online through the ePermitting System or you may submit a hard copy of the application and required material to the DRMS office. To file an NOI, submit one (1) signed and completed NOI packet including Form 1 (confidential) and Form 2 (non-confidential) with maps and attachments (original signatures must be done in blue ink), electronic copy of NOI application material (without confidential information), documentation of the legal right to enter to conduct prospecting and reclamation, fully executed financial warranty, and the application fee. Review of the NOI packet will **<u>NOT</u>** begin until all required information is submitted.

<u>Additional NOI Filing Requirements for Confidentiality Designations</u>

Applicants of NOIs must specifically designate each portion of the submittal that the applicant believes should be confidential. This designation must comply with the provision of Senate Bill

228 and should include not only information relating to the mineral deposit location, size, or nature but also other information the applicant believes is proprietary or trade secrets that would cause substantial harm to the competitive position of the applicant. The applicant should distinguish in the submittal between those portions of the NOI that are confidential because they relate to the mineral deposit and those portions that the applicant believes are proprietary, trade secret or harmful to its competitive position. Those portions of the submittal that are not designated as confidential will be available as public record.

The Applicant must submit two separate forms. One form will contain information, including both public and confidential information (with confidential information designated as such). This complete form will be used by the Division for review and will be held as 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. All public portions of the submittal will be made available on the Division's website and in the public files. All portions of the submittal that are confidential by law, or designated by the Prospector, will remain secured from public access, i.e., not on the website and not in the Division's public files. If the Board rules that some portion of the file should be public, then that portion will be made available and no longer held from public review.

Hard Rock Rule 5.1.3 (Office Review), Rule 5.2 (Confidentiality) and Rule 1.3 (Public Inspection of Documents) will apply. These rules will guide office review of determinations regarding confidentiality designations. The Division will review the submittal for technical adequacy, including the review of the submittal in regard to information the applicant has designated as confidential. If the Division identifies any deficiencies in the submittal including any disagreement regarding the designation of confidential materials, then the Prospector will be notified by the Division in accordance with the timeframes identified in these rules, but no later than 20 working days of NOI receipt.

Disputes relating to designation of confidentiality may be resolved by the Prospector removing the confidentiality designation by the Prospector or by Board determination. The Division will not issue an approval decision until all deficiencies, including confidentiality issues, are resolved.

Processing Requirements

The Division will review the NOI and associated Financial Warranty information within twenty (20) working days of receipt by the Division. If the Prospector has not been notified of any deficiencies of the NOI Form within twenty (20) working days of receipt, prospecting operations may commence upon the approval of the financial warranty. The Prospector has sixty (60) days from the date of filing to correct any deficiencies. For activities on BLM or USFS Lands, the twenty (20) working-day period begins on the day when the appropriate Federal Land Management agency has been notified by the Prospector (see below). Incomplete NOI forms will be terminated and returned to the person or organization, if deficiencies are not corrected within 60 days of filing (Rule 5.1.3).

Financial Warranties

A financial warranty must be provided and approved prior to the entry upon lands for the purpose of prospecting. The Prospector can either file a “One Site Prospecting Financial Warranty” or a “Statewide Prospecting Financial Warranty”. The One Site Prospecting Financial Warranty is usually filed by individuals or small companies where prospecting activities are limited to a single area. It must be filed in the amount of $2,000 per acre for the land to be disturbed, or such other amount as determined by the Division, based on the projected costs of reclamation, taking into account the nature, extent, and duration of the prospecting operation and the magnitude, type and estimated cost of the planned reclamation. A Statewide Financial Warranty is usually filed by larger companies with multiple prospecting sites. It must be filed in an amount equal to the estimated cost of reclamation per acre of affected land for all anticipated sites statewide. (You may increase the statewide bond at any time in order to cover the additional or expanded prospecting activities). The financial warranty must be submitted and approved by the Division prior to entry upon lands for the purpose of prospecting. The financial warranty will be retained by the Board until the Prospector has completed reclamation of the prospecting site and has been released, in writing, of reclamation responsibility. Financial warranty forms can be downloaded from the Division’s website.

Compliance With Other Laws

Compliance with the Act and Rules and Regulations of the Mined Land Reclamation Board does not relieve you of responsibility to comply with all other applicable local, state and federal laws. We recommend that you contact the following agencies and any others to determine whether you will need to comply with their legal requirements:

- The Colorado State Historical Preservation Office regarding properties of potential historical significance;
- Colorado Division of Water Resources regarding water rights;
- Colorado Department of Public Health and the Environment, Water Quality Control Division, regarding the potential to discharge pollutants into State waters;
- Colorado Department of Public Health and the Environment, Air Pollution Control Division, regarding the potential need for a fugitive dust permit;
- U.S. Bureau of Land Management or the U.S. Forest Service if the proposed operation is on federal lands;
- U.S. Army Corps of Engineers regarding a dredge and fill (404) permit; and
- The County Planning Department for the county or counties in which the proposed operation is located.

Prospecting of Federal Land

The Division has entered into cooperative agreements with the U.S. Bureau of Land Management (BLM) or the U.S. Forest Service (USFS) to coordinate the review of NOIs and the posting of financial warranties. The primary goal is to ensure that the agencies minimize duplication of functions and thereby minimize regulatory duplication imposed upon prospecting operations. The Division assumes the primary responsibility for the administration, review, and permitting of NOIs. The Prospector is required to document that the NOI has been sent to the BLM or the USFS. Upon receipt of the NOI, the Division will notify the appropriate BLM or USFS office and forward a copy of the NOI. Processing of the NOI will not begin until the Prospector has submitted evidence acceptable to the Division that the NOI was sent to the BLM or USFS.

Legal Right of Entry

Prospectors are required to provide documentation of the legal right to enter to conduct prospecting and reclamation, for Owners of Record described in Rule 1.6.2(1)(e)(i). This may include a copy of a lease, deed, abstract of title, a current tax receipt, or a signed statement by the Landowner(s) acknowledged by a Notary Public stating that the Prospector has legal right to enter to conduct prospecting and reclamation. Where prospecting activities will occur on unpatented claims located on Federal Land, the source of legal right to enter shall be in the form of an approved permit for prospecting operations from the BLM or USFS, as applicable. Prospectors are encouraged to complete the Federal permitting process prior to submitting an NOI to the Division.

Plan Modifications

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, include confidentiality designations, and a fee for $86. 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 SB 228, 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 should also designate the information in the original NOI that it believes is confidential if it has not already done so.

The Division shall determine (where there is a question) if an NOI can be modified or requires the filing of a new NOI in accordance with Rule 5.1.1(2). If the Division determines that the proposed modification (or new NOI) requires the posting of an additional reclamation bond amount to cover increased costs of reclamation caused by the modification (or new NOI), the NOI holder must submit and the Division must approve the supplemental or additional bond to cover such increased reclamation costs before the NOI holder may undertake any additional or different activities described in the modification (or new NOI). A separate prospecting notice shall be filed with the Office for each non-contiguous land survey quarter section in which a proposed prospecting activity is to occur. The requirement for separate notices may be waived by the Office for good cause (Rule 5.1.1).

Annual Reports:

Effective as of December 31, 2006, Annual Reports are required for all active prospecting operations. By the anniversary date of each year that the NOI is in effect, the Prospector must file an annual reclamation report detailing the prospecting and reclamation activities that occurred during that year and whether prospecting has been completed (Rule 5.6). Annual Reports filed on or after June 2, 2008 shall be a matter of public record unless designated by the Prospector as confidential pursuant to the provision of Rule 1.3. Failure to submit an Annual Report for two (2) consecutive years shall constitute evidence of abandonment of the prospecting activities. The report must be accompanied by an annual fee in the amount of $86.00.

Reclamation:

Reclamation shall be completed in a timely manner and within five (5) years of completion of prospecting activities (Rule 5.1.2(g)). The time period to complete site reclamation commences on the date that prospecting has been completed, as stated in the Annual Report. New or significantly upgraded roads, structures, or other features on private lands that are planned to be retained following prospecting may be identified in the NOI submittal and may be excluded from the financial warranty amount at the discretion of the office. The Prospector must submit a notarized letter from the landowner requesting that the roads, structures or other features remain on site and demonstrate that it meets the applicable County zoning and code requirements.

Release of Financial Warranty and Termination of the NOI:

Upon completion of any phase of reclamation, you should consult Rule 3.1 for reclamation standards and Rule 4.16 for details on how to request a reclamation responsibility release from the NOI. Following the completion of reclamation, the Prospector may request a release of the reclamation responsibility sent by certified mail. The Division will conduct an inspection within 30 days of receiving the request (or as soon thereafter as weather conditions permit). If the operation is located on Public Land, the Division will coordinate the inspection with the appropriate land management agency.