

BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

NOTICE OF PUBLIC RULEMAKING HEARING

IN THE MATTER OF Amendments to the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations, 2 CCR 407-1, regarding Temporary Cessation, Production and to address the requirements of House Bill 19-1113

TO ALL INTERESTED PARTIES AND TO WHOM IT MAY CONCERN:

The Colorado Mined Land Reclamation Board (“Board”) will consider promulgation of new rules and amendments proposed by the Division of Reclamation, Mining and Safety (“Division”) to the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal and Designated Mining Operations, 2 CCR 407-1. The Division’s draft proposed new and amended rules are attached hereto as **Appendix A**. The Division’s draft proposed Statement of Basis and Purpose is attached hereto as **Appendix B**.

The Board will promulgate the new rules and amendments to the Colorado Mined Land Reclamation Act, C.R.S. 34-32-101, et.seq., to implement House Bill 19-1113 related to perpetual water treatment, annual water quality reporting and the elimination of self-bonding. The Board will also consider proposed changes that relate to Temporary Cessation to address inconsistencies and ambiguities in existing regulations and create a clearer administrative process for regulation of Temporary Cessation. The Board will also consider amendments to the regulations to define “Production”. Finally, the Board will consider amending areas of the existing rules that need clarification, correction or to reflect new information or current practice or procedure. Please note that the Board may accept, reject or modify any or all of the Division’s proposed new rules and amendments, or may propose its own new rules and amendments.

The Division’s Proposed New Rules and Amendments are also set forth in their entirety at the Division’s website rulemaking page:
<https://drms.colorado.gov/2022-hard-rock-rulemaking>

Throughout the formal rulemaking process, the Division’s website rulemaking page will provide formal notice to interested persons and Parties regarding important dates, pre-hearing conference date(s) and hearing officer orders, filing deadlines, and other information concerning the rulemaking hearing and process.

**STATUTORY AUTHORITY FOR PROPOSED
NEW RULES AND AMENDMENTS**

The General Assembly delegated broad rulemaking authority to the Board respecting the administration of the Act at Section 34-32-106(1)(c), C.R.S. (Board has the duty to develop and promulgate standards for land reclamation plans), and Section 34-32-108(1), C.R.S. (Board has the authority to adopt and promulgate reasonable rules and regulations regarding administration of the Mined Land Reclamation Act). In addition, the General Assembly passed House Bill 19-1113, which set forth new statutory requirements and increased the regulatory authority of the Board and the Division (codified at Sections 34-32-116, 117 and 122 C.R.S).

NOTICE IS HEREBY GIVEN that the Board has scheduled the above entitled matter for a rulemaking hearing as follows:

Date: Wednesday/Thursday, May 18-19, 2022.

Time: Wednesday 9:00 a.m.

Place: Department of Natural Resources
1313 Sherman Street, Room 318
Denver, CO 80203

The Rulemaking Hearing will take place virtually via Zoom. The Board and staff may convene in person, but Parties and interested person will participate virtually only. In order to receive an authorization code to attend the hearing, please contact Camie Mojar via telephone at 303-866-3567, ext. 8136 or by the email: Camille.mojar@state.co.us.

All others may view the hearing via the MLRB YouTube Channel:
<https://www.youtube.com/channel/UCDrrAO8bIPFIowce-yH1fWA>

PUBLIC PARTICIPATION

The Board encourages all interested persons to participate in the rulemaking hearing by providing their comments, opinions, or recommendations regarding the matters to be addressed in this rulemaking, either orally at the hearing or in writing prior to the hearing. Although oral testimony or comments from those with Party status and other interested persons will be received at the hearing, the time available for such oral testimony or statements will be limited. Oral testimony or statements at the hearing should primarily summarize written material previously submitted.

Party Status: To participate in this rulemaking as a Party, a person or organization must file a written request for Party Status with the Board that shall include the following information: (1) name of the applicant and their representative (if different); (2) the street address, e-mail address, and telephone numbers of the applicant or their representative; and (3) a brief summary of any policy, factual, or legal issues the applicant has with the proposed regulations.

Deadline for Request for Party Status: Any request for Party Status must be filed electronically no later than 5:00 p.m. on Thursday, April 14, 2022.

Non-Party Participation: Persons who do not desire Party Status, but would like to participate in the rulemaking process, will be able to make their views known to the Board either by submitting written comments in advance of the rulemaking hearing, or by speaking during the public comment period allotted during the rulemaking hearing. Depending on the number of people seeking to make oral comments at the hearing, the Board may limit such comments. Organized groups of individuals are urged to identify one spokesperson. The Board will consider all submissions.

Deadline for filing non-party written public comments is May 2, 2022.
Written comments must be submitted electronically at:
<https://forms.gle/5bgyPEPGw9e2BQ5KA>

Non-Parties who would like to address the Board during the Rulemaking Hearing must notify the Board Administrator via e-mail at camille.mojar@state.co.us by May 9, 2022.

PARTY PREHEARING STATEMENTS, ALTERNATIVE PROPOSED RULES, REBUTTAL STATEMENTS AND MOTIONS

Prehearing Statement: Each Party is strongly encouraged to file a Prehearing Statement. Prehearing Statement must include comments, legal and factual issues, and evidence and argument that the Party wants the Board to consider regarding the proposed new rules and amendments. Prehearing Statements are limited to 15 double-spaced pages, 12-point font. This 15-page limit does not include exhibits to be used during the formal rulemaking hearing.

Deadline for filing Prehearing Statement is April 21, 2022, 5:00 p.m.

Alternative Proposed Rules: In addition to filing a Prehearing Statement, Parties may file Alternate Proposed Rules to be adopted by the Board in lieu of or in addition to all or a portion of the Division's proposed new rules and amendments. **Alternate Proposed Rules must be filed along with Party Pre-Hearing Statements, due April 21, 2022, 5:00 p.m.**

Alternate proposed rules may only be considered by the Board if the subject matter of the alternate proposed rules is consistent with and fits within the subject matter and scope of the rulemaking hearing. Any alternate proposed rule must include the following information: (1) a clear statement of the alternate proposed rule; (2) a statement of the Board's authority to promulgate the alternate proposed rule; (3) a statement describing how the alternate proposed rule is consistent with and fits within the subject matter and scope of the proposed rulemaking and (4) a clear and concise statement of the basis and purpose for the alternate proposed rule.

Rebuttal Statements: Any Party and Division staff may file a Rebuttal Statement to Prehearing Statements. Additionally, any comment or response to Alternate Proposed Rules shall be included in that Party's Rebuttal Statement. Rebuttal Statements shall be limited to 5 double-spaced pages, 12-point font.

Deadline for filing a Rebuttal Statement is May 5, 2022, 5:00 p.m.

FILING AND SERVICE REQUIREMENTS

All filings for this rulemaking shall be submitted electronically to <https://forms.gle/5bgyPEPGw9e2BQ5KA> . All filed comments, and Party statements and alternative rules will be placed on the DRMS website rulemaking page: <https://drms.colorado.gov/2022-hard-rock-rulemaking>, for public review by close of business the day following any deadline.

All Party filings shall be served via email to all other Parties. The Party list will be available on the DRMS website rulemaking page after the April 14, 2022 deadline.

The Board or Hearing Officer may take actions to modify any date or filing deadline in this Notice. Such modification will be done via Order, and notice will be provided to Parties of record and posted to the DRMS website rulemaking page. The Board may take actions, including without limitation, modifying or amending the existing rules described or proposed herein and making conforming modifications to other rules, which it determines are reasonably necessary.

In accordance with the Americans with Disabilities Act, if any party requires special accommodations as a result of a disability for this hearing, please contact Camille Mojar at camille.mojar@state.co.us, prior to the hearing and arrangements

will be made. Copies of the current and proposed Rules are available on the DRMS homepage at <http://mining.state.co.us> or available upon request at the Division Office.

**MINED LAND RECLAMATION BOARD
OF THE STATE OF COLORADO**