



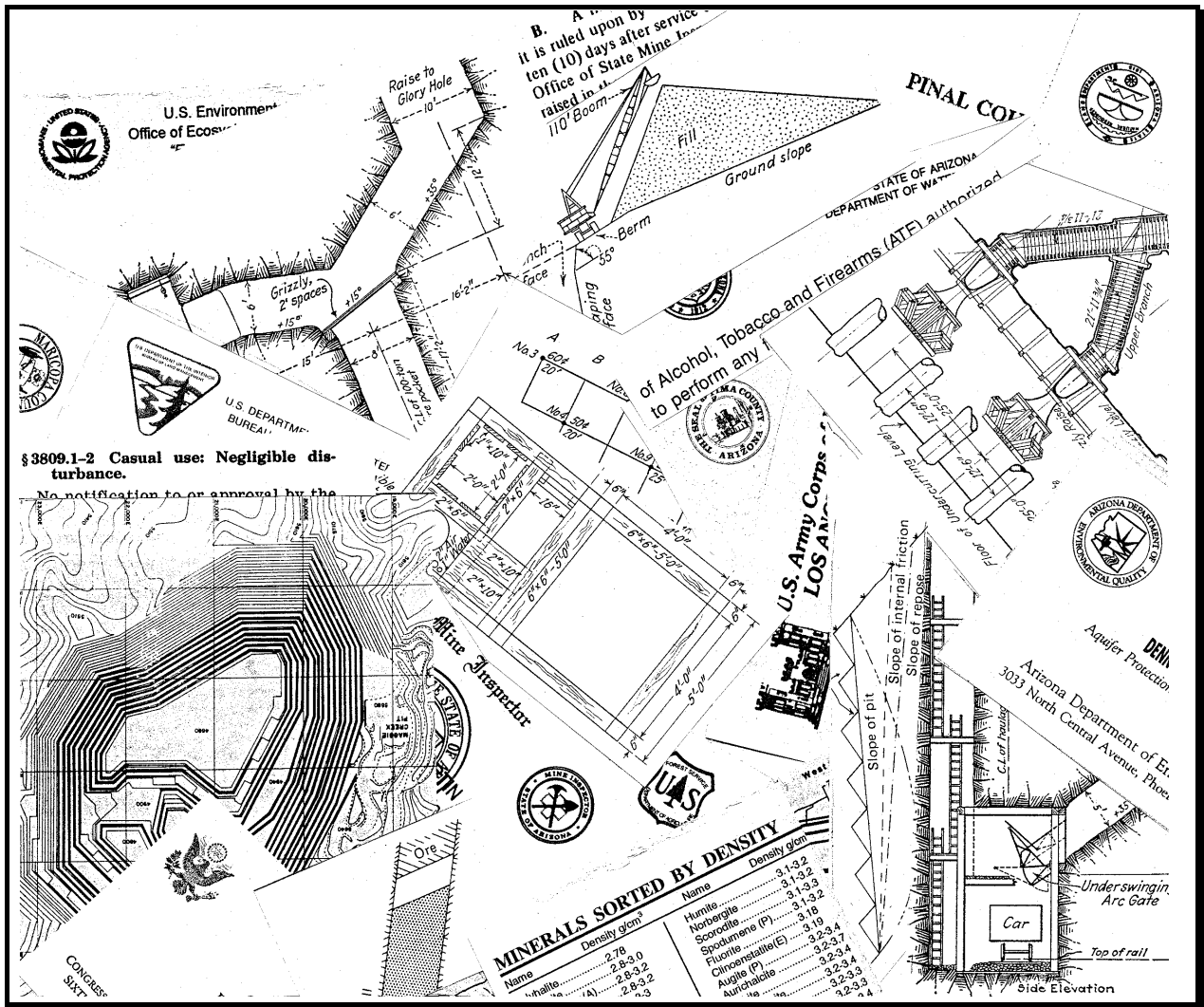
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Arizona Mining Summit

Guide to Permitting Mining Operations



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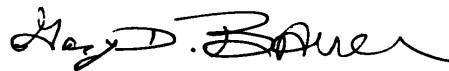
**U.S. Congressman
J.D. Hayworth
Sixth District, Arizona**

**Arizona State Mine Inspector
Douglas K. Martin**

Technical review and comments from the following individuals and agencies is gratefully acknowledged:

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this guide was developed.

Gary D. Bauer
Acting State Director

Bureau of Land Management

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Forward and Introduction

Foreword by:
Congressman J.D. Hayworth and
State Mine Inspector Douglas K. Martin

What do a “Notice,” a “Notice of Intent,” a “Notice of Intent to Hold,” a “Start Up Notice,” a “Notice of Intent to Drill” and a “Notice of Start, Stop and Move” have in common? They are all filings you will probably need to make with regulatory agencies. To add to the confusion, they are all referred to simply as “Notices” by the respective agencies if you intend to mine in Arizona. The purpose of our “Mining Summit” series is to end this confusion and streamline the permitting process.

After our first summit, we identified a need to improve communication between the regulatory agencies and the public. We also felt the need to provide the citizens of Arizona with a clear picture of the rigorous permitting process for mines in our state. This document serves as the first step in achieving our overall goals. While serving as an aid to operators, we intend this document to open communications among agencies. We hope if individual agencies have a clear picture of the entire regulatory process, they will spot areas where cooperation will streamline the permitting process while enhancing environmental safeguards.

This document is an honest attempt to present all the permits that may be required by a mining operator in Arizona. Despite our best efforts, it is probably not complete. As an operator, it is your responsibility to obtain all necessary permits. Guides such as this will help, but we recommend you contact the federal, state, county and local agencies in the area where you plan to locate your operations.

In addition to listing and describing the permits you may need, we have also provided suggestions on how to navigate the permitting process. Our suggestions focus on two crucial elements: 1) Have a good, well thought out exploration or mine plan, and 2) Communicate with regulatory agencies. Communication is essential and will save you time, money, and frustration in permitting your operations.

The preparation of this text involved considerable effort. It is important that all of us, agencies, operators and concerned citizens alike - make an effort to keep it current and accurate.

As you begin to work with this document and you find data missing, inaccurate, or out of date, we ask you to relay this information to:

Bureau of Land Management
Arizona State Office
Attn: Ralph Costa
222 N. Central Avenue
Phoenix, AZ 85004
Ph: (602) 417-9349

Revised editions of this guide are anticipated annually. The information you provide will insure that this document contains current, accurate facts.

Finally, we would be remiss if we failed to express our deep gratitude to Ralph Costa and the Bureau of Land Management for pursuing this important project. Without their interest and perseverance, it would have never been completed. We would also like to thank all of the contributing agencies for their valuable input. Your participation in the “Mining Summit” will streamline the permitting process for mineral and metal Industries in Arizona. This will allow more expeditious exploration and production.



J.D. Hayworth
U.S. Congressman
Sixth District, Arizona



Douglas K. Martin
Arizona State Mine Inspector



Congress of the United States
House of Representatives
Washington, DC 20515-0306



Permitting Suggestions

The following procedures are highly recommended. Although not required by law or regulations, these steps will assure a greater degree of success in obtaining your necessary permits. As each situation has unique circumstances, some deviations from the following steps may be required.

Step 1 Ask questions. This is the single most important step in the process. Before submitting any applications, consult with all of the permitting agencies to determine exactly what is required in a complete permit application. Inquire about background and baseline environmental data. This is very important because much of this data can only be collected over time, often during specific seasons and can greatly affect the operation start-up date.

Step 2 Develop a thorough exploration or mine plan (or notice) and project description. The exploration or mine plan (or notice) should contain all of the information required for as many permit applications as possible. Use this document as the basis for a single permit application package. Remember, it is better to send an agency more information about the project than is needed, rather than not enough. Incomplete applications ALWAYS SLOW DOWN THE PROCESS.

Do not expect or depend on the permitting agency to do significant design or engineering work to complete your application. Agencies are generally staffed to perform review work and asking them to “fill in the blanks” in your design is often more work than they are prepared to handle.

Assemble your exploration or mine plan (or notice) in a three-ring binder. Further into the process, you will be required to make changes and a 3-ring binder will make changing pages easy. Use decimal page numbers (eg. Page 1, 1.1, 2, 2.1 etc.). As changes are made, decimal page numbers will prevent you from changing the entire document simply to correct page numbers. For instance, if design elements on page 11 change, and this requires you to replace page 11 with 3 pages, number them 11, 11.1, and 11.2. Simply submit these new pages with a cover letter to each agency who has a copy of your exploration or mine plan (or notice) requesting that page 11 be replaced with the new pages.

As agencies review your exploration or mine plan (or notice) it is a certainty that one or more of them will require more information or will ask specific questions about your proposal. Be prompt with your response and provide all of the information requested. Remember, when an agency asks for this type of information, your application is often “put on hold” until the information is received.

Step 3 Apply for as many permits as your operation may require as soon as possible. This is particularly true for agencies that must employ a public notification and disclosure process as part of the permitting process. Federal agencies are required to perform a National Environmental Policy Act (NEPA) review. This process, for example, is required by law

Permitting Suggestions - Continued

for each agency and involves specific time frames required for all applications. Submitting applications to the Bureau of Land Management, Forest Service, Environmental Protection Agency and Army Corps of Engineers at the same time allows these agencies to coordinate their NEPA review, saving time and money.

Step 4 During the permitting process, avoid making changes to your project, other than those requested by the permitting agencies. Making radical design changes often sets the permitting process back to the beginning. Remember, it is your responsibility to have a well designed, complete exploration or mine plan (or notice) that you believe will work. While some agencies are required by regulation to assist you in the development of such a plan, this greatly slows the process and can add significantly to the overall processing time. **DO NOT ATTEMPT TO DESIGN YOUR ENTIRE OPERATION DURING THE PERMIT APPLICATION PROCESS. DO NOT EXPECT THIS PROCESS TO DESIGN YOUR OPERATION.**

Step 5 Changes to the exploration or mine plan (or notice) will be inevitable; be prepared. As your plan is studied by the agencies, certain modifications and/or design changes will be suggested or mandated by the permitting agency. When you are notified that such changes are required, consult with the agency as soon as possible. **REMEMBER TO KEEP ALL OF THE AGENCIES REVIEWING YOUR EXPLORATION OR MINE PLAN (OR NOTICE) INFORMED OF ANY CHANGES YOU MAKE.** Each agency must have a complete and up-to-date version of your proposal. Communications between the agencies is essential and you should take every opportunity to enhance communications.

Step 6 Finish by obtaining as many of the permits you need at the same time. Remember, generally, you cannot begin your operation until you have obtained all necessary permits. Unless you have all of your permits, having most of them is of very little benefit.

Step 7 Read and understand the conditions and requirements of your specific permits. It is essential that your operations conform to these conditions and requirements at all times.

Step 8 Keep your exploration or mine plan (or notice) “alive.” Often, as operations proceed, there are better ways of doing things. By submitting exploration or mine plan (or notice) changes using the procedures in Step 2, you can amend or modify your exploration or mine plan (or notice) as conditions dictate. Be advised, however, that individual state or federal permitting agencies may require you to modify your permits when mine plan (or notice) changes are proposed. Consult with these agencies early when planning changes to your operation.

Some Common Myths About Permitting

The following is a compilation of typical misconceptions or “myths” that people hold concerning the permitting process. They are presented here to dispel these myths and assist you in understanding your role and responsibilities:

Myth: “I’ve been out here for 20 years and my operation is ‘Grandfathered’.”

Reality: The term “grandfathered” refers to the idea that an operation established before changes in the law is not governed by those changes. This is rarely the case. Generally, environmental laws require all operators to comply. Occasionally the law will provide a “grace period” or a limited amount of time to allow the operator to bring his/her operations into compliance with the law, but these periods were of a specific duration and in most cases have long since expired.

Myth: “They (land management agency) will tell me what permits to get.”

Reality: Few, if any, of the agencies involved in the permitting process are aware of all the permits that you will need to operate your mine. Each agency has only a piece of the permit puzzle. It is your responsibility to obtain the permits you will need to operate your mine. Resources such as this manual will help, but it is your responsibility to contact regulatory agencies to determine if they will require you to obtain any permits. When in doubt, ask!

Myth: “I have approval from the land management agency to mine (Notice, Plan of Operations, Lease, etc.) so I can start mining.”

Reality: This is almost never the case. An approval, or acknowledgment for notices, from the land management agency is a necessary step in the permitting process. Such an approval alone does not allow you to begin operations. You must obtain all necessary environmental and health and safety permits before beginning operations.

Myth: “I called the agency and someone there said it was okay for me to mine.”

Reality: Verbal authorizations are always suspect. Get the name of the person you are talking to and as much pertinent information as you can. Always ask for a follow-up letter to confirm your conversation. Given the complexity of the permitting process, it is doubtful that any single agency or any single individual can give you the “go ahead” to mine. The decision to begin mining is a business decision that you must make, given your legal obligation to obtain all necessary environmental and health and safety permits and on your personal knowledge of the status of your permit applications.

Some Common Myths About Permitting - Continued

Myth: “I can change something in my mine plan (or notice) without going through the trouble of changing my APP application, my 404 application, my NPDES application etc.”

Reality: Agencies routinely work together on the permitting of a mine plan (or notice). A change made in a mine plan (or notice) that is not reflected in other applications (or vice versa) is usually discovered by the agencies. In addition, members of the interested public often discover these discrepancies in the review of documents during the NEPA process. These discrepancies always slow the permitting process down and often cast serious doubt in the mind of the public concerning the integrity of the mining company and the permitting process itself.

Myth: “Once I’ve started, I can get the permits I need. The government won’t shut me down.”

Reality: Permitting agencies have a responsibility to enforce their regulations. Operators who knowingly and willfully operate without the necessary permits are subject to civil penalties, fines and possibly even prison terms in addition to being shut down. Few, if any, regulatory agencies have the authority to grant a “grace period” or interim term to allow you to operate without benefit of a permit. Once you are discovered in violation, the regulatory agencies, by law, are mandated to act.

Myth: “There is no need to make my proposal technically accurate or detailed, the agencies reviewing my mine plan (or notice) will just change everything anyway.”

Reality: All mine and exploration plans must be technically accurate and detailed. Mine plans or notices should be well engineered and complete. Never assume that the permitting process will substitute for a well engineered project. In fact, most of the time delays involved in the permitting process are due to poor or inadequate designs and proposals. Agencies are forced to ask for more information and/or reevaluate constantly changing designs as new information is gathered. This is extremely inefficient, confusing and frustrating.

Myth: “I don’t need to perform any environmental studies unless I am ordered to by an agency that is reviewing my mine plan (or notice) or permit application.”

Reality: Agencies require that mine plans (or notices) are designed and engineered to minimize environmental impacts. To prepare a well engineered mine plan (or notice) it is essential that you perform environmental studies and gather baseline data. You should use this data to develop your mine plan (or notice) prior to seeking your permits. If you wait until you begin the permit process to do this work, your project will almost certainly change to reflect the data gathered.

Overview of Major Federal Environmental Laws

The following is a brief overview of the *major* federal laws, presented in chronological order, affecting the permitting of mining operations.

Migratory Bird Treaty Act of 1918. 16 U.S.C. §§ 703 et. seq.

It is unlawful to hunt, take, capture, kill, possess, import or export any migratory birds. This includes most songbirds, doves, birds of prey and waterfowl. Any person found guilty can be arrested. The fine for this misdemeanor is \$500 or up to six months in jail. Persons pursuing mining activities including cyanide, acid, oiled ponds or sumps that result in take or kill could be subject to the above penalties.

National Historic Preservation Act of 1966. 16 U.S.C §§ 470 et. seq.

The Act establishes that prior to the commencement of construction on any project licensed or funded by the federal government, a cultural resource inventory is required. If the inventory reveals that the project may cause irreparable loss or destruction of significant scientific, prehistoric, historic or archeological resources further studies are required. Discoveries of important resources may prohibit the project from proceeding as planned. Refer to the section titled “Section Cultural Resources” in this handbook for more information.

National Environmental Policy Act of 1969 (NEPA). 42 U.S.C. §§ 4321 et. seq.

This law serves a fundamental role in environmental protection. The purpose of the Act is to declare a national policy which will encourage productive and enjoyable harmony between man and his environment and to establish a Council of Environmental Quality. NEPA forms the basis of the federal government’s decision making process by requiring full and complete disclosure of the impacts of the proposed action on the human environment.

Generally, the NEPA process begins with an initial review of the project. If the project proposed does not have readily apparent environmental consequences and is not categorically excluded from the NEPA analysis, the agency will prepare an Environmental Assessment (EA). This document analyzes the environmental impacts of the project and ends with either a Finding of No Significant Impact (FONSI) or a finding that there are significant impacts, which requires the preparation of an Environmental Impact Statement (EIS) with full public disclosure of those impacts. A FONSI would lead to the approval of the proposal without further NEPA analysis. If the agency anticipates that an undertaking may significantly effect the environment, or if a project is environmentally controversial, the agency may choose to prepare an EIS without first preparing an EA.

NEPA is not the decision making authority, it is the disclosure authority. Other statutes provide the basis for making the “decision” based on the NEPA analysis.

Overview of Major Federal Environmental Laws - Continued

Clean Air Act of 1970 with amendments in 1977 and 1990. 42 U.S.C. §§ 7401 et seq.

The Act establishes implementation plans for National primary and secondary Ambient Air Quality Standards (NAAQS), permit requirements, performance standards for new primary sources, emission standards for new hazardous air pollutants, air toxic standards and restriction preventing significant deterioration of clean air areas. Pollutant emissions from such sources as conveyor belts, wash plants, mills, smelters, refineries and fugitive dust from mining operations makes the mining industry subject to the provisions of the Act. Refer to Section 5 (Air Quality Permits) in this handbook for more information. Penalties: civil up to \$25,000 per day per violation, criminal penalties up to \$25,000 per day per violation and/or one year in jail, doubling on the second offence.

Endangered Species Act of 1973. 7 U.S.C. §§ 136; 16 U.S.C. §§ 1531 et seq.

Section 7 of the Act requires that all federal departments and agencies shall take such action as is necessary to ensure that actions authorized, funded or carried out by them do not jeopardize the continued existence of endangered species and threatened species or results in the destruction or modification of habitat of such species which is determined to be critical. Civil penalties for violation of provisions under ESA range up to \$25,000. Criminal penalties reach up to \$50,000 and one year in prison. Refer to the Section 13 (Wildlife) in this handbook for more information.

Safe Drinking Water Act of 1975. 43 U.S.C. §§ 300f et seq.

The Act requires that national health standards be established for water quality in public water systems. The Act sets drinking water standards and standards applicable to public water systems. A mine would have to comply with the Act if it provides water to more than 15 service connections or if the system regularly services at least 25 individuals on a daily basis, including miners, 60 days out of the year. The Act also provides for the protection of underground drinking water sources. Underground injections which could endanger underground drinking sources are tightly regulated. Refer to the entries titled “Aquifer Protection Permits” and “Underground Injection Control Permits” in this handbook for more information.

Federal Land Policy Management Act of 1976. 43 U.S.C. §§ 1701 et seq.

The Act provides the basis for the Bureau of Land Management (BLM) surface management regulations 43 CFR 3809. It directs the Secretary of the Interior to take any action necessary by regulation or otherwise to prevent unnecessary or undue degradation of the public lands. The Act provides the basis for mining claim surface management regulations. It also set forth the requirements for mining claim recordation.

Section 302 (Title 3) of the Act allows the Secretary of the Interior to authorize use, occupancy, and development for federal lands. This section provides the foundation for the BLM’s 43 CFR 3715 Mining Claim Use and Occupancy regulations.

Overview of Major Federal Environmental Laws - Continued

Resource Conservation and Recovery Act of 1976 (RCRA). 42 U.S.C. §§ 6901 et seq.

Management of solid wastes, including those generated by the minerals industry, are regulated under RCRA. RCRA is designed to provide a “cradle to grave” management of solid wastes disposed of through land disposal. Regulations promulgated under RCRA are at 40 CFR 240.

RCRA uses a very broad definition of “solid waste.” Because of this broad definition, essentially all mining, minerals processing and materials recycling operations fall under the jurisdiction of the Act. Most waste materials used in ancillary minerals production facilities such as shops and warehouses producing such wastes as used oil, solvents and shop wastes are regulated under the Act.

A 1980 amendment, the Bevill Amendment, specifically excluded solid wastes from the extraction, beneficiation and processing of ores and minerals from regulations as hazardous wastes under the Act. In 1988 a court decision stated that Congress did not intend the Bevill Amendment to include waste streams from smelting and refining operations. The Amendment applies only to large volume, low hazard waste such as mine overburden, waste rock, leaching residues and mill tailings. Other waste streams, such as those from refineries and smelters are probably regulated under the Act. Contact EPA for more information. Penalties for civil violations are up to \$25,000 per day per violation, criminal penalties are up to \$50,000 per day per violation and/or two years in jail. Violations causing a “knowing endangerment of human life” can be punished with a fine of up to \$250,000 and/or a 15-year sentence. Refer to Section 8 (Hazardous Materials) for more information.

Surface Mining Control and Reclamation Act of 1977 (SMCRA). 30 U.S.C. §§ 1201 et seq.

This law created a nationwide framework for regulating the effects of active surface coal mines and the surface effects of underground coal mining. This law does not apply to surface mining of any mineral other than coal. Title V of the Act establishes a permitting system for all surface coal mines. The enforcement and administration of the Act has been delegated to the Office of Surface Mining, Reclamation and Enforcement (OSMRE).

Clean Water Act of 1977. 42 U.S.C. §§ 1251 et seq.

This Act amended the Federal Water Pollution Control Act and is commonly referred to as the Clean Water Act. The main focus of the Act is to improve water quality by regulation of discharges of pollutants into navigable waters at the source. The discharge of any pollutant into navigable waters from any point source except in compliance with the Act is unlawful. For purposes of the Act, a “point source” is defined as any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged. The term “navigable waters” is so broadly defined in the Act that any discharge from a point source that enters a dry or flowing gully, wash, arroyo, creek, stream, river or lake should be presumed to be covered.

Overview of Major Federal Environmental Laws - Continued

Under Section 208 of the Act each state must identify the areas within the state that have substantial water quality problems. Areas identified as having such problems are subject to area-wide waste treatment plans. These plans provide for the treatment and control of all point and non-point pollution sources. Section 208 has significance for mining operations because no permit under Section 402 (National Pollutant Discharge Elimination System) can be issued that conflicts with an area-wide waste treatment plan. Please refer to the entry titled “208 Consistency Review” in this handbook for more information.

A permit is required for any discharge of pollutants subject to the Act. This requirement establishes the National Pollutant Discharge Elimination System (NPDES). NPDES permits are required for all existing and new sources of pollution governed by the Act. An EIS is not required for existing sources, but a full NEPA analysis is required for new sources. Some states have the authority to administer this program, but in Arizona NPDES permits are issued by the EPA. Refer to the entry titled “(NPDES) Permits” in this handbook for more information.

Discharges of harmful quantities of hazardous substances or oil in harmful quantities is prohibited by Section 311 of the Act. Hazardous quantities for hazardous substances are specified in 40 CFR 117. A hazardous quantity of oil is an amount that “causes a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.” A spill prevention control and countermeasures (SPCC) plan is required for facilities with buried oil-storage tanks greater than 42,000 gallons or surface tanks larger than 1320 gallons. Refer to Section 4 (Explosives, Fuel and Oil) in this handbook for more information.

Section 404 of this Act regulates the discharge of dredged or fill material into waters of the U.S. This Act authorizes the U.S. Army Corps of Engineers to issue permits for the discharge of dredged or fill materials into waters of the U.S. The definition given to waters of the U.S. is so broad that any operations conducted in any dry or flowing gully, wash, arroyo, creek, stream, river or lake or wetland should be presumed to be covered in the definition. Always consult with the Corp of Engineers before conducting operations in such areas. A NEPA analysis is required for the issuance of new individual 404 permits. Refer to the entry titled “Section 404 Permit (Dredge and Fill)” in this handbook for more information.

Violations causing a “knowing endangerment of human life” can be punished with a fine of up to \$250,000 and/or a 15-year sentence.

Archaeological Resources Protection Act of 1979. 16 U.S.C. §§ 470aa *et seq.*

This act provides felony-level penalties for the actual *or attempted* unauthorized excavation, removal, damage, alteration, or defacement of any archaeological resource, more than 100 years of age, found on public lands or Indian lands. The Act also prohibits the sale, purchase, exchange, transportation, receipt or offering of any archaeological resource obtained from public lands or Indian lands in violation of any provision, rule, regulation, ordinance or permit under the Act, or under any Federal, State or local law.

Overview of Major Federal Environmental Laws - Continued

A conviction under this Act, if it is a first offense with under \$500 in damages, can bring up to one year imprisonment and/or \$100,000 in fines. Subsequent offenses, or a first offense exceeding \$500 in damages, can bring up to five years imprisonment and/or \$250,000 in fines.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). 42 U.S.C. §§ 9601 et seq.

This law focuses on the discharge of hazardous substances to the environment. The term “hazardous substance” is extremely broad covering materials that are a substantial danger to public health or the environment. These materials can exist in mine water, leachates, waste piles, mill tailings and other chemicals used in mining, mineral processing and related activities. A list of hazardous substances is published in 40 CFR 302.

The law specifically relates to abandoned or inactive operations but also applies to the unpermitted discharge of any listed substance. Discharges of hazardous solid waste at active sites are governed by RCRA. CERCLA applies to discharges of “hazardous substances” at inactive sites occurring through the effects of natural processes on discarded materials. Once a site has been identified by the EPA as a possible source of discharges of hazardous substances, further evaluation and cleanup procedures begin. **CERCLA is designed to put the obligation to pay for these procedures on those who are responsible for putting the hazardous substances at the site in the first place or on those who now own the land where the site is located. Simply obtaining an interest in mined lands such as staking a mining claim, may make you liable for the entire cost of cleanup of the land should it be shown that the site is discharging hazardous substances.** The scope of liability associated with CERCLA is enormous. Land owners may be responsible for activities that took place decades in the past.

Civil liability for a share of the costs of cleaning up a waste site. Damage to natural resources can be assessed for up to \$50 million. Civil penalties of up to \$25,000 per day per violation for specified provisions of the Act. For criminal violations, fines up to \$250,000 per day per violation and/or three years in jail for failing to notify appropriate agencies or falsely reporting an emergency spill. Subsequent violations can result in up to five years in jail.

Arizona Department of Mines and Mineral Resources

Arizona Department of Mines and Mineral Resources (ADMMR)
1502 West Washington
Phoenix, AZ 85007
(602) 255-3795

PERMITS, AUTHORIZATIONS OR FILINGS:

This department does not issue permits and is not a regulatory agency. The ADMMR function is to promote mineral resource development in Arizona.

LEGAL AUTHORITY:

A.R.S. § 27-101

ROLE OF ADMMR:

One of the main functions of ADMMR is to aid new mine operators and mineral explorationists. The staff is familiar with many of the problems incidental to new and existing operations. In addition, ADMMR welcomes the filing of activity and resource reports for the data files and library it maintains. This information is useful in answering inquiries relating to proposed and operating mines and portraying a positive image of mining to the public. ADMMR also provides testimony at public hearings in support of mineral resource development and the multiple use of public lands.

Publications:

A number of special reports, directories, circulars and mineral reports are available that provide information on mining and mineral resources in Arizona. Examples include: *Laws and Regulations Governing Mineral Rights in Arizona*, *Determination of Land Status*, *Directory of Active Mines*, *Arizona Mining Consultants*, *Directories of Federal, State, and County mine-related agencies*. A publication list is available.

EXEMPTIONS:

Not applicable.

FEES:

No fees are charged for the use of the library or data files. The staff will assist mine operators free of charge. Publications are usually sold. Contact ADMMR for prices.

AVERAGE PROCESSING TIME:

Not applicable

Section 2 Pg. 0

Land Use

Private Lands - Land Use Authorizations (Agreements)

In General:

Privately held minerals are most often developed through contractual arrangements between the land or mineral estate owner and the operator. These contracts vary widely in levels of sophistication and detail. The most obvious matter is the price. For many products such as sand and gravel or decorative rock, the price—commonly termed the royalty—is usually expressed as an amount per ton or cubic yard.

For metal bearing material the price is usually based on net smelter royalty, which considers the metal produced from the ore less certain processing costs. Other considerations include minimum annual payments, responsibilities for site permitting under the various regulatory agencies, surface disturbance considerations, reclamation of the site when the material is removed, access, insurance, limits of liabilities, guarantee of ownership, ownership of waste or by-products and any other circumstances the parties feel should be addressed formally.

Provisions for the exploration for private minerals vary widely also. These may range from relatively informal “hand shake” arrangements, to formal contracts specifying any number of details and provisions. Options to purchase or lease are often contingent on the quality and quantity of the material discovered. As with any property matters, participants should equip themselves with a thorough understanding of the situation or seek out sound professional advisors well versed in the field.

Reclamation of private lands is regulated by the Arizona State Mine Inspector through the Mined Land Reclamation Plan.

Private Lands

Mined Land Reclamation Plan (private lands)

Arizona State Mine Inspector
1700 West Washington, Suite 400
Phoenix, AZ 85007
(602)542-5971

PERMITS AND AUTHORIZATION:

Mined Land Reclamation Plan

LEGAL AUTHORITY:

A.R.S. § 27-901 et. seq.
A.A.C. R11-2-101 through R11-2-822

CONDITIONS REQUIRING PERMIT:

Reclamation plans, associated costs, and financial assurance mechanisms must be submitted and approved for all metalliferous mining units and exploration operations with surface disturbances on private lands greater than five acres. The amount of financial assurance is based on the actual estimated costs of reclamation. Financial assurance can be provided in any one of several forms, including: surety bond, certificate of deposit, cash deposit and corporate guarantee.

EXEMPTIONS:

Smelting, refining, fabricating, or other metal processing facilities and materials associated with these facilities are exempt. Surface disturbances located on state lands are exempt. Surface disturbances created prior to and not active since January 1, 1986 are exempt. Surface disturbances less than five acres in extent are exempt.

FEES:

A one-time submission fee, equal to three dollars per acre of surface disturbances covered by the plan, is assessed.

AVERAGE PROCESSING TIME:

Notification of administrative completeness or incompleteness is given within thirty days of plan submittal. A plan is either approved or disapproved within 120 days of an administratively complete determination.

**State Lands
Hardrock Exploration Permits and Leases**

Locatable / Hardrock Minerals

Arizona State Land Department
1616 West Adams
Phoenix, AZ 85007
(602)542-4628

PERMITS, AUTHORIZATIONS OR FILINGS:

Hardrock Exploration Permits
Hardrock Mining Leases

LEGAL AUTHORITY:

A.R.S. § 27-251
A.R.S. § 27-254

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Hardrock Exploration Permit:

Description: The exploration permit is issued for a period of one year subject to renewal on an annual basis and for an aggregate period not to exceed five years. During the period the permit is in effect, the permittee has the exclusive right to conduct exploration type activities on the state land covered by the permit.

Authorization: Prior to conducting any exploration activities on the land encompassed by the permit, the permittee must receive authorization from the department in the form of an approved exploration and reclamation plan. Archaeological and native plant clearances may be required for approval of the plan.

Hardrock Mining Lease:

Description: Mining leases are issued for a period of 20 years with a preferred right to renew the lease for an additional term of twenty years. Mining leases grant the exclusive right to conduct mining operations on the land covered by the lease.

Authorization: Prior to conducting any mining operations on the land covered by the lease, the lessee must receive authorization from the department in the form of an approved mining and reclamation plan.

FEES:

Hardrock Exploration Permit: An application fee of \$100 is required in order to obtain an exploration permit (A.R.S. § 37-108). A rent in the amount of \$2 per acre is required for the first year of the permit, no rent for the second year of the permit, and a rent of \$1 per acre for years three, four, and five of the permit (A.R.S. § 27-251 and A.R.S. § 27-253).

State Lands

Locatable / Hardrock Minerals - Continued

Hardrock Mining Lease: An application fee of \$100 is required for each 20 acre legal subdivision covered by the application (A.R.S. § 37-108). The lessee is also required to pay for an appraisal of the property (A.R.S. § 27-234). Appraisal costs can vary but typically cost on the order of \$10,000 per appraisal. Rents and royalties are based on the aforementioned appraisal and in the case of rents will vary directly with surface values. Rents are typically assessed at 5 percent of land value while production royalties range from two percent to eight percent of gross mineral values.

AVERAGE PROCESSING TIME:

Hardrock Exploration Permit: Permit issuance requires 30 to 45 days (A.R.S. § 27-251). Approval of an exploration plan requires 30 to 60 days.

Hardrock Mining Lease: The issuance of a mining lease generally requires six to nine months from the time of application. Approval of a mining and reclamation plan will require 60 days from the date of receipt.

**State Lands
Common Varieties Sales Agreement**

Arizona State Lands Department
1616 West Adams
Phoenix, AZ 85007
(602)542-4628

PERMITS, AUTHORIZATIONS OR FILINGS:

Common Varieties Sales Agreements

LEGAL AUTHORITY:

A.R.S. § 27-271
A.R.S. § 27-272

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

As defined by A.R.S. § 27-271, “Common Variety Minerals:”

- C Includes deposits of petrified wood, stone, pumice, pumicite or cinders, decomposed granite, sand, gravel, boulders, common clay, fill dirt and waste rock.
- C Includes deposits that, although they may have value for use in trade, manufacturing and the construction, landscaping and decorative rock industries, do not possess a distinct, special economic value for those uses beyond the normal uses of those deposits.
- C Includes material used as road base material, rip-rap, ballast, borrow, fill, facing stone, landscaping or ornamental uses and other similar uses.
- C Does not include limestone suitable for use in producing cement, metallurgical or chemical grade limestone or gypsum.

If the Department determines that a sale of Common Variety Minerals is in the best interest of the trust, the state’s Constitution and Enabling Act require that natural products must be sold to the highest bidder at public auction. When a sale occurs, the Department issues a “Common Varieties Sales Agreement” authorizing the mining, processing and sale of Common Variety Minerals.

A Mine Operating Plan is required for each operation. The Plan must include discussions of both mining operations and reclamation.

EXEMPTIONS:

None

**State Lands
Common Varieties Sales Agreement - Continued**

FEES/COSTS:

Application Filing Fee: \$100 for any single, parcel located in the same section (noncontiguous parcels located within the same section or in other sections require separate application). All contiguous parcels will be under a single Sales Agreement and Plan of Operation.

Advertising Fees: Range between \$1,500 and \$2,500. It is required that each sale be advertised in two separate newspapers for 10 weeks. Each sale is always advertised in the Arizona Republic and the newspaper located the closest to the proposed mining operation.

Archaeological Surveys: Cost varies. Surveys are the responsibility of the applicant and are usually handled through contract with an authorized archeologist.

Appraisal Fees: May be required for each operation.

Royalties: Paid for products sold (normally valued on a per ton basis). The Department is required to obtain fair market value for products sold which is accomplished through the public auction process.

Rents: Based upon a percentage of the appraised land value.

Bonds and Indemnity Insurance: Amounts vary with the scope and location of the operation.

PROCESSING TIME:

Processing time can vary between six months and one year. Statute requires 10 weeks of advertising. Other factors impacting processing time are: environmental and cultural issues, mine operating plan approval and land-use conflicts.

**Federal Lands
Addresses & Phone Numbers**

U.S. Department of the Interior, Bureau of Land Management

Arizona State Office 222 N. Central Ave. Phoenix, Arizona 85004 (602) 417-9200		
Arizona Strip Field Office 345 E. Riverside Dr. St. George, UT 84790 (435) 688-3200	Phoenix Field Office 2015 W. Deer Valley Rd. Phoenix, AZ 85027 (602) 580-5500	Tucson Field Office 12661 E. Broadway Tucson, AZ 85748 (520) 722- 4289
Kingman Field Office 2475 Beverly Ave. Kingman, AZ 86401 (520) 692- 4400	Safford Field Office 711 14 th Ave. Safford, AZ 85546 (520) 348-4400	Yuma Field Office 2555 E. Gila Ridge Road Yuma, AZ 85365 (520) 317-3200
Lake Havasu Field Office 2610 Sweetwater Ave. Lake Havasu City, AZ 86406 (520) 505-1200	San Pedro Project Office 1763 Paseo San Luis Sierra Vista, AZ 85635 (520) 458-3559	

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Federal Lands - U.S. Department of Agriculture, Forest Service

Southwestern Regional Office 517 Gold Avenue Albuquerque, New Mexico 87102 (505) 842-3275					
National Forests and Ranger Districts in Arizona					
Apache-Sitgraves National Forest 309 S. Mountain View Ave. US Highway 180 Springerville, AZ 85938 (520) 333-4301	Coconino National Forest 2323 E. Greenlaw Ln. Flagstaff, AZ 86004 (520) 527-3600	Coronado National Forest 300 W. Congress, 6 th fl. Tucson, AZ 85701 (520) 670-4552	Kaibab National Forest 800 S. 6 th St. Williams, AZ 86046 (520) 635-8200	Prescott National Forest 344 S. Cortez Street Prescott, AZ 86303 (520) 771-4700	Tonto National Forest 2324 E. McDowell Rd. Phoenix, AZ 85006 (602) 225-5200
Alpine Ranger Dist. P.O. Box 469 Alpine, AZ 85920 (520) 339-4384	Beaver Creek Ranger Dist. H.C. 64, Box 240 Rimrock, AZ 86335 (520) 567-4121	Douglas Ranger Dist. 3081 W. Leslie Canyon Rd. Douglas, AZ 85606 (520) 364-3468	Chalender Ranger Dist. 501 W. Bill Williams Ave. Williams, AZ 86046 (520) 635-2676	Bradshaw Ranger Dist. 2230 E. Highway 69 Prescott, AZ 86301 (520) 445-7253	Cave Creek Ranger Dist. 40202 N. Cave Creek Scottsdale, AZ 85262 (602) 595-3300
Clifton Ranger Dist. HC 1, Box 733 Duncan, AZ 85534 (520) 687-1301	Blue Ridge Ranger Dist. HC 31, Box 300 Happy Jack, AZ 86024 (520) 477-2255	Nogales Ranger Dist. 303 Old Tucson Rd. Nogales, AZ 85621 (520) 281-2296	N. Kaibab Ranger Dist. P.O. Box 248 Fredonia, AZ 86022 (520) 643-7395	Chino Valley Ranger Dist. P.O. Box 485 Chino Valley, AZ 86323 (520) 636-2302	Globe Ranger Dist. Rt. 1, Box 33 Globe, AZ 85501 (520) 402-6200
Chevelan/Heber Ranger Dist. P.O. Box 968 Overgaard, AZ 85933 (520) 535-4481	Moron Lake Ranger Dist. 4373 S. Lake Mary Rd. Flagstaff, AZ 86001 (520) 774-1147	Safford Ranger Dist. P.O. Box 709 Safford, AZ 85548 (520) 428-4150	Tusayan Ranger Dist. P.O. Box 3088 Tusayan, AZ 86023 (520) 638-2443	Verde Ranger Dist. P.O. Box 670 Camp Verde, AZ 86322 (520) 567-4121	Mesa Ranger Dist. P.O. Box 5800 Mesa, AZ 85211 (602) 379-6446
Lakeside Ranger Dist. RR3, Box B-50 Lakeside, AZ 85929 (520) 368-5111	Peaks Ranger Dist. 5075 N Highway 89 Flagstaff, AZ 86004 (520) 526-0866	Santa Catalina Ranger Dist. 5700 N. Sabino Canyon Rd. Tucson, AZ 85750 (520) 749-8700	Williams Ranger Dist. P.O. Box 142 Williams, AZ 86046 (520) 635-2633		Payson Ranger Dist. 1009 E. Highway 260 Payson, AZ 85541 (520) 474-7900
Springerville Ranger Dist. P.O. Box 760 Springerville, AZ 85938 (520) 333-4372	Sedona Ranger Dist. P.O. Box 300 Sedona, AZ 86339 (520) 282-4119	Sierra Vista Ranger Dist. 5990 S. Highway 92 Hereford, AZ 85615 (520) 378-0311			Pleasant Valley Ranger Dist. P.O. Box 450 Young, AZ 85554 (520) 462-4300
					Tonto Basin Ranger Dist. HCO 2, Box 4800 Roosevelt, AZ 85545 (520) 467-3200

Mining Claims, all Federal Lands in Arizona

Addresses for the Recordation of Mining Claims:

Bureau of Land Management Arizona State Office 222 N. Central Ave. Phoenix, AZ 85004-9200 (602) 417-9200		
Apache County Recorder 75 W. Cleveland St. P.O. Box 425 St. Johns, AZ 85936 (520) 337-4364 ext. 235	Greenlee County Recorder 5 th and Leonard St. P.O. Box 1625 Clifton, AZ 85533 (520) 865-2632	Pima County Recorder 115 N. Church Tucson, AZ 85701 (520) 623-3177
Cochise County Recorder 4 Ledge Ave. P.O. Box 184 Bisbee, AZ 85603 (520) 432-9270	La Paz County Recorder 1112 Joshua Ave., ste. 201 Parker, AZ 85344 (520) 669-6136	Pinal County Recorder 383 N. Main P.O. Box 848 Florence, AZ 85232 (520) 868-7100
Coconino County Recorder 100 E. Burch St. Flagstaff, AZ 86001 (520) 779-6585	Maricopa County Recorder 111 S. Third Ave., ste. 103 Phoenix, AZ 85003 (602) 506-3620	Santa Cruz County Recorder 2150 N. Congress Dr. Nogales, AZ 85621 (520) 761-7800 ext. 3038
Gila County Recorder 921 Thatcher Blvd. Globe, AZ 85501 (520) 425-3231 ext. 230	Mohave County Recorder 315 Oak St. P.O. Box 70 Kingman, AZ 86402 (520) 753-0701	Yavapai County Recorder 1015 Fair St. Prescott, AZ 86305 (520) 771-3244
Graham County Recorder 800 E. Main St. Safford, AZ 85546 (520) 428-3560	Navajo County Recorder 100 E. Carter Dr. P.O. Box 668 Holbrook, AZ 86025 (520) 524-4194	Yuma County Recorder 198 Main St. Yuma, AZ 85364 (520) 329-2061

PERMITS, AUTHORIZATIONS OR FILINGS:

Mining Claims (Lode and Placer)
 Millsite Claims

LEGAL AUTHORITY:

Mining Law of 1872 as amended 30 U.S.C. §§ 22 et. seq.
 43 CFR 3830 Location of Mining Claims
 43 CFR 3833 Recordation of Mining Claims
 A.R.S. Title 27

Mining Claims, all Federal Lands in Arizona - Continued

CONDITIONS TO ESTABLISH A CLAIM:

The procedures to properly locate a mining claim are fully explained in the publication, "Laws and Regulations, Mineral Rights in Arizona," Clark et.al., published by the Arizona Department of Mines and Mineral Resources, 9th edition, 4th printing 1998. Before locating mining claims or millsites in Arizona, you should obtain a copy of the publication. It is available at:

Arizona Department of Mines and Mineral Resources
1502 W. Washington St.
Phoenix, AZ 85007
(602) 255-3791 or 1 (800) 446-4259 (Arizona Only)

In General the following applies:

Lode Claims:

1. Discover (locate) minerals in place (in solid rock).
2. Place a location monument containing a location notice on the centerline and within the boundaries of the claim. The location monument may not be a corner monument.
3. Place monuments at each corner of the claim and at the center of each claim end line. Angle points are considered to be corners.
4. May not exceed 1500 feet in length or 600 feet in width (300 ft on either side of the centerline).

Location of Placer Claims:

1. Discover minerals not in solid rock but "loose" as in free gold in gravel.
2. Place location monument containing a location notice at one corner and within the boundaries of the claim. This monument can not be a corner monument.
3. Place location monuments at each corner of the claim and angle point of the claim.
4. May not exceed 20 acres per locator with up to 8 locators. If possible, the claim must be located by legal subdivision.

Millsites

1. Must be located on ground which is non-mineral in character.
2. Cannot exceed five acres.
3. Must be located and monumented in the same manner as a placer claim.
4. The number of millsite is limited to one per lode mining claim.

Monuments:

1. Monuments may be a post 1.5 inches in cross section and projecting four feet above the surface of the ground or a stone monument three feet high. Monuments must be marked to identify the corner of the claim for which they were erected.

Mining Claims, all Federal Lands in Arizona - Continued

Recordation:

1. Draw a map or sketch of each claim to be to be filed in the county together with your location notice.
2. File your location notice in the county where the claims are situated within 90 days of the date of location.
3. File an exact copy of the location notice in the BLM State Office within 90 days of the date of location.

FEES:

New claim fees: Location fee \$25, Service fee \$10 and Maintenance Fee \$100. These fees are paid to the BLM at the time of filing.

By August 31st of each year you must pay a \$100 maintenance fee for the subsequent assessment year or;

File a waiver from the payment of the maintenance fee. If qualified for this waiver, you must complete \$100 worth of assessment work prior to September 1 and you must file an Affidavit of Labor with the BLM and in the county where the claim is located by December 30th of the same year. There is a \$5 per claim fee required by the BLM to file an Affidavit of Labor or Notice of Intent to Hold.

The fees charged by the counties varies. Consult the Recorders Office in the county where your claim is located for more information.

**Federal Lands, Bureau of Land Management (BLM)
BLM Notices, Plans of Operation and Occupancy (Mining Claims)**

PERMITS, AUTHORIZATIONS OR FILINGS:

Notices, Plan of Operations, Concurrence for Occupancy

LEGAL AUTHORITY:

Mining Law of 1872 as amended, 30 U.S.C. §§ 22 et. seq.

PL -167 of 1955, 30 U.S.C §§ 601 et. seq.

Federal Land Policy Management Act of 1976, 43 U.S.C. §§ 1701 et. seq.

43 CFR 3715 and 43 CFR 3802, 3809.

Note:

Locatable minerals are those minerals that may be located and removed from federal lands under authority of the general Mining Law of 1872, as amended. They include all “valuable mineral deposits” not specifically excluded by various statutes enacted subsequent to 1872. In general, the locatable minerals are those hardrock minerals which are mined and processed for the recovery of metals. They also include certain nonmetallic minerals and uncommon varieties of mineral materials.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Notices are required whenever mechanized earth moving equipment will be used or blasting will be done. Total surface disturbance must be five acres or less.

Plans of Operations are required whenever surface disturbance will be greater than 5 acres. When the surface owner and the mining claimant cannot reach agreement on proposed mining activities on lands where the surface estate was granted under the Stockraising Homestead Act, plans of operations are required for any activity above casual use.

Plans of Operations are required for any activity above casual use in wilderness areas, areas of critical environmental concern, wild and scenic rivers and areas closed to off-road vehicle use.

Concurrence for occupancy is required whenever residential occupancy is proposed or when fences, gates or signs will be used to restrict public access or when structures (permanent or temporary) that could be used for shelter in nonemergency situations are placed on a mining claim, millsite, or federal lands. To obtain concurrence, a claimant must submit a 43 CFR 3715 filing.

It is the claimant or operator’s responsibility to prepare a complete notice or plan of operations or 43 CFR 3715 filing. BLM is required to assist the claimant in developing methods to prevent unnecessary or undue degradation.

Mining operators must conform to Off-Road Vehicle (ORV) designations (open, closed, limited to certain routes or time periods) and regulations while on BLM public lands, pursuant to 43 CFR 8340.

BLM Notices, Plans and Occupancy for Mining Claims - Continued

ORV designations for specific areas can be obtained from the BLM office administering the lands in question. Areas closed to ORV use require a plan of operations to be approved before this type of equipment can be used in a mining operation. Notices properly filed and approved plans of operation constitute authorization under 43 CFR 8340.

EXEMPTIONS:

Operations consisting of casual use (minimal surface disturbance, not involving mechanized earth moving equipment or blasting), and those that do not involve occupancy are allowed without contacting the BLM.

Notices are not required where the BLM does not administer the surface estate (split estate lands).

Plans of Operations are not required on split estate lands, EXCEPT on those lands where title to the surface was patented under the Stockraising Homestead Act, unless surface owner consent has been obtained.

Concurrence for Occupancy is not required for split estate lands or Federal lands administered by an agency other than the BLM.

FEES:

No fees associated with the filing of a notice, plan of operations or a 43 CFR 3715 filing. Notices, plans of operations and 43 CFR 3715 filings are processed in the order they are received.

To speed the processing of a plan of operations or a 43 CFR 3715 filing, a claimant may elect to pay for an outside contractor to prepare any necessary environmental documents. The cost for these services can run from thousands to millions of dollars for a full Environmental Impact Statement (EIS), which analyzes a large plan of operations.

AVERAGE PROCESSING TIME:

A claimant or operator may begin work 15 calendar days after filing a notice provided that all other local, state and federal permits have been obtained. Occasionally, the BLM may notify the operator, within 15 days, that the notice is incomplete. In these cases, an operator may not begin operations until 15 days after a complete notice is sent to the BLM.

BLM will contact a claimant filing a plan of operations within 30 days. This notification will advise that the plan is approved, or that an additional period, up to 60 days, is required for review, or that the plan cannot be approved until 30 days after a final environmental statement has been prepared and filed with the Environmental Protection Agency (EPA) or 30 days after BLM has complied with other applicable statutes. For a large or environmentally complex plan of operations, the preparation of a final environmental statement may take several years.

A claimant or operator that is requesting to occupy a mining claim is subject to the same time constraints as a plan of operations.

Federal Lands, U.S. Forest Service (F.S.)

F. S. - Notice of Intent to Operate and Plans of Operation (Mining Claims)

PERMITS, AUTHORIZATIONS OR FILINGS:

Notice of Intent to Operate, Plan of Operations

LEGAL AUTHORITY:

Mining Law of 1872 as amended 30 U.S.C. §§ 22 et. seq.

PL -167 of 1955, 30 U.S.C §§ 601 et. seq.

Federal Land Policy Management Act of 1976, 43 U.S.C. §§ 170 et. seq.

36 CFR 228, Subpart A for “locatable” minerals.

Note:

Locatable minerals are those minerals that may be located and removed from Federal lands under authority of the general Mining Law of 1872, as amended. They include all “valuable mineral deposits” not specifically excluded by various statutes enacted subsequent to 1872. In general, the locatable minerals are those hardrock minerals which are mined and processed for the recovery of metals. They also include certain nonmetallic minerals and uncommon varieties of mineral materials.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The requirements for mining activities on National Forests are specified in the Code of Federal Regulations (36 CFR 228, Subpart A). These regulations require that anyone proposing to prospect for or mine locatable minerals that might cause disturbance of surface resources to file a “Notice of Intention to Operate” with the local Forest Service office. This will generally be the appropriate District Ranger Office. If the Forest Service determines that such operations will cause a significant disturbance to the environment, the operator must submit a proposed Plan of Operations. The Plan must describe such things as the type of operation proposed and how it will be conducted; proposed roads or access routes and means of transportation; and the time period during which the proposed activities will take place. All operations must be conducted in a manner that will minimize adverse environmental impacts and take into consideration requirements for meeting air and water quality standards and solid waste disposal, harmony with scenic values, protection of fish and wildlife habitats and minimization of road construction damage. The Plan of Operations must also indicate the measures to be taken to rehabilitate areas where mining activities have been completed. An operator shall also be required to furnish a bond commensurate with the expected cost of rehabilitation. Details of the requirements for a Plan of Operations are given in 36 CFR 228, subpart A or 36 CFR 228.4 (c).

EXEMPTIONS:

The numerous statutes and associated rules and policies governing mining on National Forests are comprehensive in nature and generally do not allow for exemptions.

F. S. Notice of Intent to Operate and Plans of Operation (Mining Claims) Continued

FEES:

There are no fees associated with processing notices of intent or plans of operations needed for locatable minerals. A bond is required for a plan of operations, in an amount that would be adequate to reclaim the surface resources. In addition, the Forest Service may require an applicant to submit environmental information and may authorize an applicant to prepare an environmental assessment (40 CFR 1506.5) to expedite the review and approval of a plan.

AVERAGE PROCESSING TIME:

The length of time required to analyze and render a decision varies considerably depending on the type of operation proposed, public issues, and potential environmental impacts. The Forest Service must comply with the National Environmental Policy Act (NEPA) and its appeal regulations at 36 CFR 215 concerning notice, comment and appeal procedures for projects on National Forest System lands. The hardrock "locatable" regulations at 36 CFR 228, subpart A, contain time limits under which the Forest Service must respond to operating proposals. The Forest Service appeal regulations however, published in 1993, can supercede the timing limits set out in the locatable regulations. If the proposal is large in scope, controversial with the public, could potentially impact important Forest resources, and requires the involvement of numerous other agencies, the process can take a number of years.

**SURFACE MINING REGULATIONS
FOREST SERVICE AND BLM**

TOPIC	FOREST SERVICE	BUREAU OF LAND MANAGEMENT
Regulations	36 CFR 228, Subpart A (locatable minerals)	43 CFR 3802 (Wilderness Study Areas - only two in Arizona) 43 CFR 3809 (All other Public Land including Designated Wilderness Areas in conjunction with Wilderness Regulations) also 43 CFR 3809 standards apply to Stock Raising Homestead Lands 43 CFR 3715 All Public Lands where BLM is the managing agency for both the surface and mineral estates.
Casual Use	N/A	Casual use definition applicable only to 43 CFR 3809. For activities below regulatory threshold (e.g., sampling with a rock hammer or short term tent camping less than 15 days), no Notice or Plan required. No definition of casual use under 43 CFR 3802. Occupancies over 15 days in any 90 day period require concurrence under 43 CFR 3715 regardless of surface disturbing activities.
Notice	All activities that might cause surface disturbance require a Notice of Intent to Operate (36 CFR 228.4 (a)). Such notice of intent shall be submitted to the District Ranger having jurisdiction over the area in which the operations will be conducted. If the District Ranger determines that such operations will likely cause <u>significant disturbance</u> of surface resources, the operator must submit a proposed Plan of Operations.	Five acres or less total disturbance on lands outside Wilderness, Wild-Scenic Rivers, Areas of Critical Environmental Concern, etc. No Notices allowed under 43 CFR 3802. Contents of a Notice described at 43 CFR 3715.3-2 and 43 CFR 3809.1-3 and 43 CFR 3715 for occupancies. Review time frame for notices is 15 days. Notices that incorporate 43 CFR 3715 occupancies are not subject to this time frame for concurrence of the occupancy.

**SURFACE MINING REGULATIONS
FOREST SERVICE AND BLM**

TOPIC	FOREST SERVICE	BUREAU OF LAND MANAGEMENT
Plan	<p>If proposed operations will likely cause significant disturbance of surface resources, a Plan of Operations must be submitted (36 CFR 228.4 (a)). Contents of the Plan of Operations are described at 36 CFR 228.4 (c).</p> <p>A plan of operations can be submitted initially and independently of a notice if significant disturbance of surface resources is anticipated by the proponent.</p>	<p>More than five acres total surface disturbance on lands subject to 43 CFR 3809. Contents of a Plan described at 43 CFR 3715.3-2 and 43 CFR 3802.1-4 and 43 CFR 3809.1-4. All activities which occur in a Wilderness, Wilderness-Study Area, Wild-and-Scenic River, etc. need a Plan of Operation regardless of their size or type.</p>
Bonding	<p>Any operator who conducts operations under an approved plan of operations will be required to furnish a bond in an amount specified by the authorized officer. In calculating bonds, the authorized officer shall consider the estimated cost of stabilizing, rehabilitating and reclaiming areas disturbed by the operations.</p>	<p>Not required for notices. Bond amounts for plans of operation at 100 percent of the cost to perform reclamation by BLM or a third party contractor.</p>

**SURFACE MINING REGULATIONS
FOREST SERVICE AND BLM**

TOPIC	FOREST SERVICE	BUREAU OF LAND MANAGEMENT
Closure and Bond Release	<p>The operator and agency should ensure that all requirements of the approved Plan of Operation are met and that the environmental effects of the operations are as predicted in the NEPA document. When all or part of reclamation has been completed in accordance with the approved plan, the authorized officer may release that portion of the reclamation bond which covers the work, providing it meets standards established in the Plan of Operations.</p>	<p>The operator and agency should ensure that all requirements of the notice or approved plan are met. When all of these conditions are met, the authorized officer will release the bond.</p>
NEPA	<p>Forest Service mining regulations contain guidelines for environmental protection, (36 CFR 228.8) and require the Forest Service to conduct an analysis which meets NEPA requirements. This analysis is the basis upon which the agency requires changes or modifications to the plan of operations if needed and serve as a basis for development of required mitigation measures.</p>	<p>3809 regulations require that at a minimum, an Environmental Assessment (EA) is to be prepared for all plans of operation to determine if an EIS is required. No NEPA review required for casual use or Notice level operations. Unless those operations involve occupancy as defined by 43 CFR 3715. Any operation involving occupancy under 43 CFR 3715 requires NEPA analysis. Most occupancies at the casual use and notice level in Arizona are covered by a programmatic EA. Operations disturbing more than 640 acres always require an EIS.</p>

**SURFACE MINING REGULATIONS
FOREST SERVICE AND BLM**

TOPIC	FOREST SERVICE	BUREAU OF LAND MANAGEMENT
Non-Compliance	Operators failure to comply with 36 CFR 228 regulations or approved operating plans, which results in surface resource damage, will result in being served a Notice of Non-Compliance. Continued non-compliance can result in court actions. In cases where unnecessary or unreasonable damage is occurring and where reasonable attempts fail to obtain an operating plan or to secure compliance with an approved operating plan, the operator may be cited for criminal violation (36 CFR 261 or 262).	Operator failing to comply with 43 CFR 3715 or 43 CFR 3809 may be served a Notice of Non-Compliance. Operators with a record of non-compliance must file an plan of operations and post bonds for 100 percent of reclamation costs even if their activities affect 5 acres or less. State Bonds cannot be used to met this requirement. Law suits in Federal District Court are needed for operators that ignore a BLM order that is upheld by IBLA. 3715 provides additional recourse to criminal penalties.
Residential Occupancy	A claimant to an unpatented mining claim is entitled to uses of the surface that are reasonably necessary to the accomplishment of a bona fide prospecting, exploration, mining and processing of locatable minerals. In order for structures to be authorized under the U.S. mining laws and regulations requiring the management of surface resources, two conditions must be met. First, the structure must be reasonably necessary for use in prospecting, mining or processing of locatable mineral resources and, second, the structure must be covered by an approved operating plan. Occupancy is generally not authorized except in special cases.	Can occur at casual use level, under a Notice or a Plan when requirements of 43 CFR 3715 are met. Generally no occupancy authorized except in cases where production is occurring continuously and/or there is a need to protect the public, equipment or valuable minerals from accidents, theft or loss.

**SURFACE MINING REGULATIONS
FOREST SERVICE AND BLM**

TOPIC	FOREST SERVICE	BUREAU OF LAND MANAGEMENT
Resolution of Unauthorized Use and Occupancy.	Upon a finding that the occupancy or use is not reasonably incident to mining, or approved in an approved plan of operations, willing cooperation in resolving the trespass will be sought. A notice of non-compliance and/or legal remedies will be utilized as needed.	Upon a finding that the occupancy or use is not reasonably incident to mining, four avenues for resolution of trespass: 1) Temporary Suspension Order 2) Cessation Order 3) Notice of Non-Compliance 4) Authorization by other means
Appeals	<p>Related NEPA decisions are subject to appeal in accordance with 36 CFR 215 regulations for those actions on Forest Service lands. Decisions affecting authorization for mining activities are subject to appeal by the proponent under 36 CFR 251 regulations. The proponent may appeal under 251 or 215, but not both.</p> <p>Matters such as mining claim validity are heard before the Department of the Interior, Office of Hearings and Appeals.</p>	<p>Appeal filed with the decision issuing office. The appeal by an operator is reviewed by the State Director under 43 CFR 3809.4. Decisions of the State Director appealed to the Interior Board of Land Appeals (43 CFR Part 4). Where questions of fact need to be resolved in 3809 cases, there is a hearing before Administrative Law Judge, with appeal of adverse decision to the IBLA. 3802 appeals go directly to IBLA.</p> <p>3715 Notices of Non-Compliance, Suspension Orders and Cessation Orders are appealed directly to IBLA.</p> <p>Appeals filed by a third party for a 3809 action are sent directly to IBLA.</p>

**SURFACE MINING REGULATIONS
FOREST SERVICE AND BLM**

TOPIC	FOREST SERVICE	BUREAU OF LAND MANAGEMENT
Undue or Unnecessary Degradation	N/A	Surface disturbance greater than what would normally result when an activity is being accomplished by a prudent operator in usual, customary, and proficient operations of similar character and taking into consideration the effects of operations on other resources and land uses, including those resources outside the area of operations. Failure to initiate and complete reasonable mitigation measures, including reclamation of disturbed areas or creation of a nuisance may constitute unnecessary or undue degradation. Failure to comply with applicable environmental protection statutes and regulations thereunder will constitute unnecessary or undue degradation.

Federal Lands

Bureau of Land Management - BLM Salable Minerals - Mineral Materials Contracts

PERMITS, AUTHORIZATIONS OR FILINGS:

Sampling and Testing, Free Use Permits, Nonexclusive Sales, Sales Contracts for Saleable Materials.

LEGAL AUTHORITY:

Materials Act of 1947, 30 U.S.C. § 601, as amended.

PL -167 of 1955, 30 U.S.C §§ 601 et. seq.

Federal Land Policy Management Act of 1976, 43 U.S.C. §§ 1701 et. seq.

43 CFR 3600.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The Materials Act authorizes the Secretary of the Interior to sell “common varieties” sand, stone, gravel, pumice, pumicite, cinders and clay. In 1955, Public Law 167 (PL167) was passed to prohibit further location of common variety minerals under the mining law. PL167 states that common varieties of sand, stone, gravel, pumice, pumicite or cinders and no deposit of petrified wood (as specified by the Petrified Wood Act of 1962) shall be deemed a valuable deposit within the meaning of the mining law and cannot be used to give effective validity to any mining claim. In other words, these materials can not be located with a mining claim but must be purchased with a mineral materials sales contract issued by the BLM. Prices are set by an appraisal based on the market price for similar types of minerals.

A letter of authorization is required whenever an entity wishes to extract a bulk sample for examination and/or testing from BLM administered lands, prior to pursuing a free use permit or sales contract.

Mining and reclamation plans may be required by the authorized officer for free use permits and sales contracts for exclusive sites. Mineral material sales are discretionary actions. In split estate situations where the federal government owns the mineral estate, BLM will normally only sell with the consent of the surface owner.

EXEMPTIONS:

Free use permits may be issued to non-profit or governmental agencies. There are no other exemptions from obtaining rights from BLM to sample, test and mine sand, gravel, decorative landscape rock, cinders, clay, scoria or other mineral materials.

BLM Salable Minerals - Mineral Materials Contracts Continued

FEES:

There are no fees associated with the filing of a free use or sales permit application. If a mining plan is required, it is the applicant's or permittee's responsibility to prepare a complete plan and to cover all necessary expenses. To speed the processing of a permit application, the applicant may elect to pay for an outside contractor, selected by the BLM, to prepare any necessary environmental documents including environmental clearances such as cultural clearances. The cost for these services can run from more than a thousand dollars into several hundred thousand dollars for an Environmental Impact Statement (EIS), which normally analyzes a sale of 640 acres or more.

AVERAGE PROCESSING TIME:

Processing a request for a Letter of Authorization to conduct sampling and testing, and a free use permit or sale involving five acres or less and no more than 50,000 cubic yards, takes less than 30 days to process. This is because only minimal environmental documentation is required.

In addition, sales from BLM designated "community pits," where BLM has prepared the necessary environmental review work in advance, can be processed quickly.

Larger sales or free use permits may take as little as two months to as much as several years depending on the level of environmental documentation that is required to analyze the proposal.

Forest Service - F. S. Salable Minerals - Mineral Material Contracts

PERMITS, AUTHORIZATIONS OR FILINGS:

Prospecting Permits, Free Use Permits, Nonexclusive Sales, Sale Contracts for Mineral Materials.

LEGAL AUTHORITY:

Materials Act of 1947, 30 U.S.C. § 601, as amended.

PL -167 of 1955, 30 U.S.C §§ 601 et. seq.

Federal Land Policy Management Act of 1976, 43 U.S.C. §§ 1701 et. seq.

36 CFR 228 Subpart C.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The Materials Act authorizes the Secretary of the Interior to sell “common varieties” of sand, stone, gravel, pumice, pumicite, cinders and clay. In 1955, Public Law 167 (PL167) was passed to prohibit further location of common variety minerals under the mining law. PL167 states that “common varieties of sand, stone, gravel, pumice, pumicite or cinders and no deposit of petrified wood (as specified by the Petrified Wood Act of 1962) shall be deemed a valuable deposit within the meaning of the mining law and cannot be used to give effective validity to any mining claim. In other words, these materials cannot be located with a mining claim but must be purchased with a mineral materials sales contract issued by the Forest Service. Prices are set by an appraisal based on the fair market value for similar types of minerals. Uncommon varieties of these minerals may qualify as locatable under the Mining Law of 1872.

The Forest Service has the authority to dispose of common varieties of mineral materials from lands under its jurisdiction and to specify the terms and conditions of operations. A Forest Service permit is required prior to any exploration activity for these minerals. If a suitable deposit is located, the Forest Service weighs the relative values of the surface and mineral resources and determines if the site should be operated. The Forest Service sets the terms and conditions of operation and enters into sale contracts.

EXEMPTIONS:

Under certain circumstances the Forest Service may issue free use permits for the disposal of mineral materials to a non-profit entity or agency.

AVERAGE PROCESSING TIME:

The length of time required to analyze and render a decision varies considerably depending on the type of operation proposed, public issues and potential environmental impacts. The Forest Service must comply with the National Environmental Policy Act (NEPA). If the proposal is simple in nature, such as the removal of relatively small quantities of a mineral material such as sand, the entire process may be categorically excluded from documentation in an environmental impact statement or environmental assessment (Forest Service Handbook 1909.15). If the proposal is large in scope, controversial with the public, could potentially impact important Forest resources, and require the involvement of numerous other agencies, the process can take a number of years.

Federal Lands

Leasing of Solid Minerals (Other than Coal or Oil Shale) - BLM Lands and Lands administered by other Federal Agencies, including the Forest Service, National Park Service, and the Department of Defense.

PERMITS, AUTHORIZATIONS OR FILINGS:

- Prospecting Permit
- Preference Right Lease
- Exploration License
- Competitive Lease

LEGAL AUTHORITIES

Mineral Leasing Act of 1920, as amended, 30 U.S.C §§ 181 et. seq.
Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C §§ 351 et. seq.
Section 402 of Reorganization Plan No. 3 of 1946.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Solid Leasable Minerals are those minerals which are subject to leasing under the authority of the statutes listed above. Included in this group of minerals are phosphate; chlorides, sulphates, carbonates, borates, silicates and nitrates of sodium and potassium; sulphur (in Louisiana and New Mexico); gilsonite, including all vein type hydrocarbons; all minerals (except salable minerals) on acquired lands; and, asphalt (in Oklahoma). Acquired lands are those lands, including mineral estates, which are not public domain lands and which the United States obtained through purchase, donation or condemnation, and includes lands previously disposed of under the public land laws including the General Mining Law of 1872, as amended.

In areas where prospecting or exploratory work is necessary to determine the existence of mineral deposits, prospecting permits and preference right (noncompetitive) leasing procedures are involved. In areas which are known to be valuable for the occurrence of mineral deposits, exploration licenses may be issued. Exploration licenses authorize exploration of known, unleased deposits to obtain geologic, engineering, and mineral reserve data. Such lands may be leased only by competitive bidding to the qualified bidder who offers the highest acceptable bonus bid. If the surface is administered by a federal agency other than the BLM, permits or leases shall only be issued after the BLM has consulted with the appropriate land management agency.

EXEMPTIONS:

None

FEES:

Fees associated with prospecting permits, preference right leases, exploration licenses, and competitive leases include filing fees, rental payments, production royalties and bonus bids.

Leasing of Solid Minerals (Other than Coal or Oil Shale) - Continued

AVERAGE PROCESSING TIME:

The length of time required to process applications for prospecting permits, preference right leases, exploration licenses, and competitive leases will vary, depending on the type of operation proposed, public issues and the potential environmental effects. The process may take several years, in some cases.

Coal Leasing on Federal Lands.

(For a list of lands not available for leasing, please refer to Federal Regulations 43 CFR 3400.2)

PERMITS, AUTHORIZATIONS OR FILINGS:

Exploration License, Competitive Lease, Lease by Application.

LEGAL AUTHORITIES:

Mineral Leasing Act of 1920, as amended, 30 U.S.C §§ 181 *et. seq.*

Federal Coal Leasing Amendments Act of 1976, as amended, 90 Stat. 1083-1092

43 CFR 3400.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Coal exploration licenses authorize exploration of known, unleased coal deposits to obtain geologic, engineering, and reserve data. Exploration licenses authorize removal of only such quantities of coal which are necessary for analysis and study.

The Federal Coal Lease Amendments Act of 1976 requires that all federal coal be leased competitively, either on government initiative or in response to applications. Such lands may be leased only by competitive bidding to the qualified bidder who offers the highest acceptable bonus bid. Specific tracts are delineated, analyzed for environmental impacts and scheduled for lease sale by Departmental initiative. The Secretary of Interior makes the final leasing decisions after considering the recommendations of the Regional Coal Team, and consulting with state governors, affected Indian Tribes and any other surface management agencies.

The lease by application process is designed to make coal available for leasing in response to applications submitted by private industry. Leasing by application may occur outside of designated coal production regions, or within designated coal production regions under emergency situations.

The leasing process for federal coal is very complicated and beyond the scope of this publication. Please refer to Federal Regulations 43 CFR 3400 for additional information.

EXEMPTIONS:

None

FEES:

Fees associated with exploration licenses and coal leases include filing fees, rental payments, production royalties and bonus bids.

AVERAGE PROCESSING TIME:

The length of time required to analyze and render a decision and issue exploration licenses and leases will vary considerably, depending on the type of operation proposed, public issues and potential environmental impacts. The entire process can take several years.

Bonding Requirements

Federal Lands

Operations conducted on Mining Claims:

Bureau of Land Management

Presently, the only agencies with authority to require a bond for operations conducted on lands administered by the BLM in Arizona are the BLM and the ADEQ. The ADEQ requires a bond for operations that require an Aquifer Protection Permit (APP). This bond is required to ensure that operations conducted under an APP are closed (ended) in a manner to prevent contamination or degradation of ground water resources. BLM requires a bond for the protection and restoration of surface resources. Because these two bonds are for the protection of different resources and they are administered by different agencies with different bond release standards, BLM Arizona does not consider these bond to represent a case of “double bonding.” Double bonding occurs when two different agencies require a bond for essentially the same reclamation.

For Notice level operations: BLM does not require financial guarantees (bonds) for notice level operations, unless the operators have a record of non-compliance prompting the need for a mandatory plan and bond.

For Plan level operations: BLM requires operators to furnish bonds for the surface reclamation of operations conducted under a plan of operations. BLM Arizona requires that the operator furnish a bond equal to 100 percent of the cost for BLM or a third party contractor to complete all the reclamation activities outlined in the approved plan.

Forest Service

Any operator required to file a Plan of Operations, must furnish a bond (36 CFR 228.13) prior to approval of the plan. The purpose of the bond is to assure compliance with the reclamation provisions of the regulations [36 CFR 228.8 (g)] and the operating plan. The amount of the bond will be determined on a case by case basis, and shall be based on the estimated cost of the work needed to stabilize, rehabilitate and reclaim surface resources disturbed by the mining operation. If the operator fails to do the work, the bond will be used by the Forest Service to do the work or have it done. The Forest Service will accept several different types of bonding instruments including: certificates of deposits, savings accounts, irrevocable letters of credit, corporate sureties, cash and U.S. Treasury Bills.

Throughout the life of the Plan of Operations, the bond will be reviewed for adequacy and, if necessary, adjusted to conform to changing conditions as needed. When a portion of the reclamation has been satisfactorily completed, the amount of the bond may be reduced. When all reclamation work has been completed, the bonding instrument will be released by the Forest Service. Where other agencies require bonds for reclamation purposes within the National Forests, every effort is made to avoid double bonding.

Bonding Requirements - Continued

Operations Conducted with a Mineral Materials Contract:

Bureau of Land Management

The BLM requires a performance bond of not less than \$500 or 20 percent of the total contract value, whichever is greater, for a contract of \$2,000 or more, except for contract sales made from community pits when reclamation fees are paid. The value of the performance bond will cover reclamation costs as well as contract costs not to exceed 20 percent of the contract value.

Forest Service

The Forest Service requires a bond to ensure performance of payment and reclamation. For sales of 10,000 cubic yards or more, a bond of not less than 10 percent of the total contract price or value of estimated production, plus reclamation costs is required. For sales under 10,000 cubic yards, bond requirements are at the discretion of the authorized officer.

Operations Conducted on Federal Leases:

Coal Leases: BLM does not have responsibility for reclamation bonds on a Federal Coal Lease. Reclamation bonds are under the jurisdiction of the Surface Mine Control and Reclamation Act (SMCRA) administered by the Office of Surface Mining (OSM). The bond held by BLM in the case of a federal coal lease is to protect against default on the terms and conditions of the lease (rents and royalties). Lease bond amounts are calculated on the basis of rents and royalties and are to protect the government in case the lease holder defaults on the terms of the lease.

Non Coal Leases: Individual permit and lease bond amounts are established on a case by case basis by the BLM. Minimum bond amounts are set forth in the regulations for specific minerals. All permits and leases require a bond.

Drilling & Water Use

Notice of Intention to Drill

Arizona Department of Water Resources (ADWR)
500 N. Third Street
Phoenix, AZ 85004
(602) 417-2470

PERMITS, AUTHORIZATIONS OR FILINGS:

Notice of Intention to Drill and Abandon an Exploration Well
Notice of Intention to Drill, Deepen, Replace, or Modify a Well

LEGAL AUTHORITY:

A.R.S. § 45 Waters, Article 10 Wells

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

A notice of intent is required for any manmade openings in the earth through which water may be withdrawn or obtained from beneath the surface of the earth, including water wells, monitor wells and piezometer wells. It shall also apply to geothermal wells to the extent provided by A.R.S. § 45-591.01 and all exploration wells and grounding or cathodic protection holes greater than 100 feet in depth.

EXEMPTIONS:

A Notice of Intent is not required for the following activities:

1. Manmade openings in the earth not commonly considered to be wells, such as construction and mining blast holes, underground mines and mine shafts, open pit mines, tunnels, septic tank systems, caissons, basements and natural gas storage cavities.
2. Injection wells and vadose zone wells which are subject to regulation by the Arizona Department of Environmental Quality.
3. Oil, gas and helium wells drilled pursuant to the provisions of Title 27, A.R.S..
4. Drilled bore holes in the earth **less than 100 feet** in depth which are made for purposes other than withdrawing or encountering groundwater, such as exploration wells and grounding or cathodic protection holes; **except in the event that groundwater is encountered** in the drilling of the bore hole.

FEES:

The filing fee for a Notice of Intention to Drill is \$10. There is no filing fee for a Notice of Intention for abandonment.

AVERAGE PROCESSING TIME:

ADWR has a maximum of 15 days to process notices.

Appropriations of Surface Water

Arizona Department of Water Resources
500 N. Third Street
Phoenix, AZ 85004
(602) 417-2442

PERMITS, AUTHORIZATIONS OR FILINGS:

Appropriations of Surface Water

LEGAL AUTHORITY:

Appropriable water as defined in A.R.S. § 45-141(A) is subject to appropriation and beneficial use by the public. Its use is governed by the provisions of Title 45, Chapter 1, A.R.S. Appropriation of water for mining purposes, a recognized beneficial use in Arizona, requires that an application for permit to appropriate be made to ADWR. The application requirements are discussed in A.R.S. § 45-152. If reservoir construction is contemplated, the applicant must also comply with A.R.S. § 45-161.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

In addition to the universal application requirements listed in A.R.S. § 45-152(A), an application for a permit to appropriate public water for mining purposes must include the location and character of the mine to be served and the methods of supplying and utilizing the waters (A.R.S. § 45-152[B]5). If the water use includes reservoir storage, the application must include a description of the retention structure, the capacity of the reservoir, and a description of the lands to be submerged. If the size of the dam falls within the jurisdiction of the Dam Safety Section of ADWR, a permit for storage will not be issued until the dam is approved by that Section.

Applications for permit to appropriate public water must be approved by the Director and are assessed on the following grounds:

1. Potential conflicts with vested water rights.
2. Potential threats to public safety.
3. Potential threats to public interest and welfare. A.R.S. § 45-153 [A].

The approval or rejection of a permit to appropriate is an administrative action which is subject to the Uniform Administrative Appeal Procedure statutes.

Individuals initiating new uses are also encouraged to register their new water rights under Title 45, Chapter 1, Article 9. These statutes govern General Stream Adjudications in Arizona and require that all potential claimants in a general stream adjudication register their claims by filing a Statement of Claimant (A.R.S. § 45-254).

Appropriations of Surface Water - Continued

FEES:

A.A.C. R12-15-151 establishes various fees for processing applications for permits. To appropriate surface water for an application in excess of 50 acre-feet per year, the application fee is \$75 plus \$50 for issuance of the certificate. An application to sever and transfer a water right is \$500.

AVERAGE PROCESSING TIME:

A permit to appropriate water must be reviewed for completeness within 30 days and a substantive review must be completed in 420 days, totaling an overall time frame of 450 days. Permits for reservoir storage must be reviewed for completeness within 30 days and substantive review completed by 420 days. Severance and transfer of water rights must be completed in an overall time frame of 420 days, including 30 days for completeness review and 390 days for substantive review.

Withdrawal and Use of Groundwater

Arizona Department of Water Resources
500 North Third Street
Phoenix, AZ 85004
(602) 417-2470

PERMITS, AUTHORIZATIONS OR FILINGS:

Withdrawal and Use of Groundwater

LEGAL AUTHORITY:

Use of groundwater in Arizona is subject to Chapter 2 of the A.R.S. and is administered by the Arizona Department of Water Resources.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Outside of active management areas, the use of groundwater may be used for any reasonable and beneficial use. Inside active management areas groundwater use may be withdrawn and used only in accordance with the allocation and use concepts described in the Groundwater Code. Groundwater rights for mines may be obtained through the acquisition of a Groundwater Withdrawal Permit, a Type 1 Non-Irrigation Grandfathered Right (GFR), or a Type 2 Non-Irrigation GFR. Before a new well may be drilled, a well construction permit must be obtained pursuant to A.R.S. § 45-599.

Groundwater Withdrawal Permits are issued for a specific duration and amount of water when GFRs are not available. A specific category of groundwater withdrawal permit is for mineral extraction and metallurgical processing (A.R.S. § 45-514). A mineral extraction permit is issued when other sources of supply are insufficient or would incur an unreasonable cost.

A Type 1 Non-Irrigation GFR applies to land that has been retired from irrigation after January 1, 1965 in anticipation of specific non-irrigation use (A.R.S. § 45-463). A Type 1 GFR may not be transferred to another location, although water pumped from the original location may be transported to a new location. A Certificate of Grandfathered Right is issued for these rights by the Arizona Department of Water Resources.

A Type 2 Non-Irrigation GFR is a right to use non-irrigation withdrawals of groundwater equal to the maximum groundwater withdrawal and use for any one year during the five year period prior to 1980 (A.R.S. § 45-4640). Certificates of Grandfathered Rights for Type 2 Non-Irrigation GFRs are transferrable anywhere within the active management area.

Withdrawal and Use of Groundwater - Continued

Conservation Requirements for Mines Inside AMAs

Chapter 2, Article 9 of the A.R.S. establishes a series of management plans applicable within the five active management areas (AMA). These plans establish conservation requirements for all water users within the AMAs. One of the regulated sectors is mining. Conservation requirements in the management plans for metal mines include provisions to:

1. Regulate transport tailings density.
2. Reduce water loss from tailings impoundments.
3. Minimize water use in leaching processes.
4. Prepare a long-range conservation plan.

Exemptions are provided when these requirements conflict with other environmental regulations. An alternative program is also provided if the mine demonstrates that the best available conservation technologies consistent with reasonable economic return are being applied to the mine.

FEES:

There are various fees associated with groundwater withdrawal applications and well drilling set forth in A.A.C. R12-15-151, including an application for groundwater withdrawal permit (\$150 submitted with the application and \$50 with the issuance of the permit), application for hydrologic testing (\$50), conveyance of a groundwater withdrawal permit (\$35) and the registration of an existing well (\$10). A notice of intent to drill a new non-exempt well is \$10. A permit for a new non-exempt well or the enlargement of an existing well is \$80.

AVERAGE PROCESSING TIME:

The deadlines for processing Type 1 and Type 2 GFRs are 120 days, including 30 days to determine completeness and 90 days for substantive review. The time frame for processing groundwater withdrawal permits are 30 days for completeness and 70 days for substantive review. The time frame for processing a Notice of Intention (NOI) to drill, deepen or modify a well is 15 days (A.R.S. § 45-596.D.) after receipt of a complete and correct notice. The time frame for processing a non-exempt well permit is 60 days (A.R.S. § 45-599.D.) after receipt of a complete and correct application.

Construction, Enlargement, Repair, Alteration, or Removal of Dams

Arizona Department of Water Resources
500 North Third Street
Phoenix, AZ 85004
(602) 417-2445

PERMITS, AUTHORIZATIONS OR FILINGS:

Construction, Enlargement, Repair, Alteration, or Removal of Dams

LEGAL AUTHORITY:

Chapter 6 of the A.R.S. delineates the responsibility of the Arizona Department of Water Resources regarding the supervision of dams and reservoirs. A.R.S. § 45-1202 states that “All dams shall be under the jurisdiction of the director of water resources.”

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

A dam is defined in A.R.S. § 45-1201 as:

“Any artificial barrier, including appurtenant works for the impounding or diversion of water except those barriers for the purpose of controlling liquid borne material, 25 or more feet in height or the storage capacity of which will be more than 50 acre feet, but does not include any such barrier which is or will be less than six feet in height, regardless of storage capacity, or which has or will have a storage capacity not in excess of 15 acre feet, regardless of height.”

A.R.S. § 45-1202 states that: “It is unlawful to construct, repair, operate, maintain, enlarge, remove or alter any dam except upon approval of the director.” Application procedures and inspection procedures during construction are specified in subsequent sections. A.R.S. § 45-1212.A, states that: “Supervision over maintenance and operation of dams to safeguard life and property is vested exclusively in the director.” A.R.S. § 45-1212 continues by defining the ability of the director to enforce remedial actions when a dam is determined to be dangerous.

JURISDICTIONAL DAMS:

A jurisdictional dam is either 25 feet or greater in height or has capacity to store more than 50 acre-feet, except that:

If a dam is less than six feet in height, regardless of storage capacity, it is exempt and is not jurisdictional.

If a dam has 15 acre-feet or less of storage capacity, regardless of height, it is exempt and is not jurisdictional.

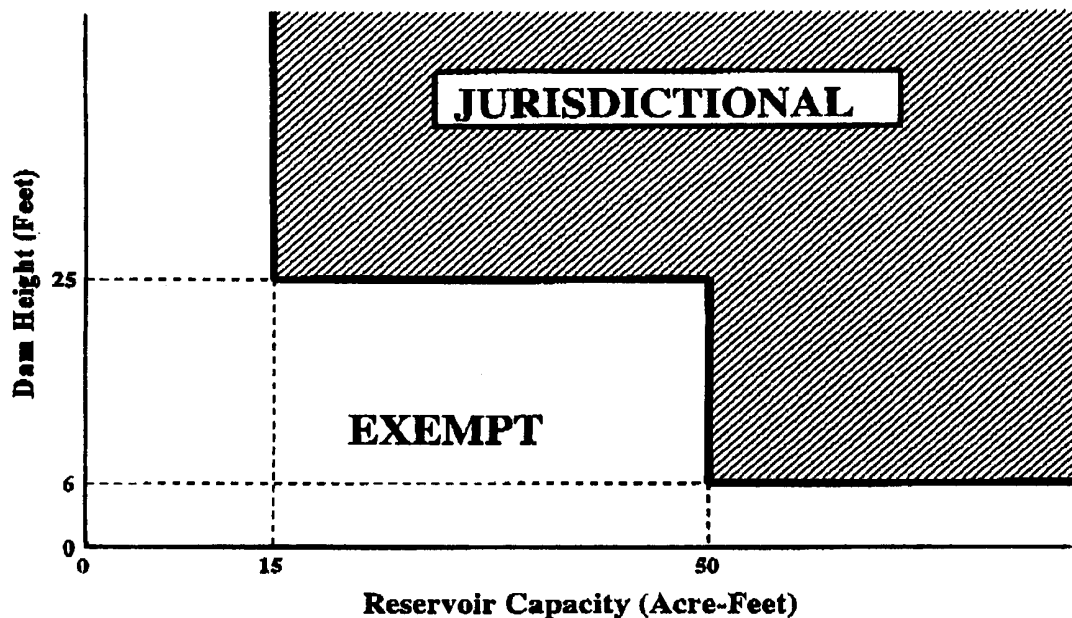
Construction, Enlargement, Repair, Alteration, or Removal of Dams - Continued

Height: Equals the vertical distance measured from the lowest elevation of the outside limit of the dam (usually the downstream toe) to the emergency spillway crest, or top of emergency spillway gates if so equipped. In unusual circumstances where a dam does not have an emergency spillway, the height is measured to the crest of the dam.

Capacity: Equals the storage capacity of the reservoir when the storage level is at the crest of the emergency spillway, or at the top of permanently mounted emergency spillway gates in closed position. In usual circumstances where a dam does not have an emergency spillway, the capacity is measured to the crest of the dam.

FEES:

JURISDICTIONAL DAM CHART:



A.R.S. § 45-1204 authorizes the director to collect a filing fee “based on the estimated cost of the dam but in no event shall the fee exceed two percent of the estimated cost.” A.A.C. R12-15-151 sets the application filing fee for the first \$100,000 of dam cost at two percent of the estimated cost, 1.5 percent for the next \$400,000, one percent of the next \$400,000, and one half percent for the remainder over \$1,000,000. The fee for a safety inspection is \$100 plus \$2 per foot of dam height per inspection.

AVERAGE PROCESSING TIME:

Completeness review for the construction, enlargement, repair, alteration, or removal of a dam must be completed within 120 days and substantive review within 60 days (R12-15-401).

Wastewater Reuse Permit

Arizona Department of Environmental Quality (ADEQ)
Water Permits Section, Reuse and Federal Permits Section
3033 North Central Avenue
Phoenix, AZ 85012
(602) 207-4675 or 1-(800) 234-5677 ext. 4675

PERMITS, AUTHORIZATIONS OR FILINGS:

Wastewater Reuse Permit

LEGAL AUTHORITY:

A.R.S. § 49-104.B.13

A.R.S. § 49-141.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Owners and operators of wastewater treatment plants desiring to reuse treated wastewater, or the owner/operator of a wastewater irrigation (reuse) area must contact ADEQ for an application.

An application consists of a general facility description, and technical information pertaining to effluent quality, water balance, blending volumes, application rates and reuse category. All wastewater treatment plants also require an aquifer protection permit.

EXEMPTIONS:

Industrial wastewater reuse may be exempt if the reuse meets certain requirements. All plans for the reuse of waste water must be reviewed by ADEQ for applicability to the APP requirements.

FEES:

Initial fee is \$1,400. Final billing and refund is based on the time spent by ADEQ permitting staff in processing the application.

AVERAGE PROCESSING TIME:

The application must be received at least 120 days prior to the proposed reuse activity. The process time for the permit depends upon the complexity of the proposal. Public notice and a 30 day comment period are required. The permit is issue for a period of five years.

Dry Well Registration

Arizona Department of Environmental Quality (ADEQ)
Water Permits Section, Industrial and Stormwater Unit
3033 North Central Avenue
Phoenix, AZ 85012
(602) 207-4686 or 1-(800) 234-5677 ext. 4686

PERMITS, AUTHORIZATIONS OR FILINGS:

Dry Well Registration

LEGAL AUTHORITY:

A.R.S. § 49-245-02
A.R.S. § 49-331-336
A.R.S. § 49-250.23
A.R.S. § 49-201.5

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The purpose of registration is to minimize groundwater impacts and ensure that only storm water enters a dry well.

New dry wells must be registered with ADEQ within 30 days of starting operation. Closure of dry wells must follow ADEQ's Dry Well Decommissioning Guidelines. Aquifer Protection Permit (APP) requirements may apply to dry wells that drain areas where hazardous substances are used, stored, loaded or treated. ADEQ may provide an APP Determination of Applicability for Dry Wells form for dry wells in these areas. Any dry well that is used for industrial wastewater disposal either solely or in conjunction with storm water is an injection well, and an APP is required for operation or closure.

EXEMPTIONS:

Exemption from obtaining an APP for closure can be secured if "clean closure" can be demonstrated. In addition, certain discharges to dry wells in combination with storm water are exempt from the APP requirements. Contact ADEQ for information on "clean closure" requirements.

FEES:

A \$10 fee is charged per dry well registration. Aquifer Protection Permit fees may be required if an individual permit is required.

AVERAGE PROCESSING TIME:

Registration must be complete within 30 days of the completion of the well. Review time for the registration varies with the complexity of the submittal.

Injection Wells Used to Extract Minerals

U.S. Environmental Protection Agency
75 Hawthorne Street, WTR-9
San Francisco, CA 94105
(415) 744-1835

PERMITS, AUTHORIZATIONS OR FILINGS:

Class III and Class V Underground Injection Control (UIC) Permits for Injection Wells Used to Extract Minerals

LEGAL AUTHORITY:

Safe Drinking Water Act, 42 U.S.C. §§ 300f et. seq.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

UIC permits are required for all Class III mining activities described under 40 CFR parts 144 and 146. Class III facilities use injection wells for: 1) mining of sulfur by the Frasch process; 2) in situ production of uranium, copper, and other metals from ore bodies that have not been conventionally mined; and, 3) solution mining of salts and potash. If the mining zone is protected as an Underground Source of Drinking Water (USDW), a permit applicant may have to apply for an aquifer exemption and be able to demonstrate that the project meets the criteria established at 40 CFR 146.4.

Class V mining wells include all mining injection wells not described as Class III, above. UIC permits are issued on a case-by case basis for Class V injection wells. Pursuant to 40 CFR 144.26, all Class V injection wells that are authorized by rule (i.e., wells allowed to operate without a permit) must be inventoried with EPA.

EXEMPTIONS:

None

FEES:

None

AVERAGE PROCESSING TIME:

Individual permits are issued for the life of the facility. Permit review may take from six months to more than two years to complete, depending on the complexity of the project, the extent of public involvement and the responsiveness of the applicant.

Explosives, Fuel and Oil

Manufacturer License or User Permit

Bureau of Alcohol, Tobacco and Firearms (ATF)
Regulatory Enforcement
3003 N. Central Avenue, Suite 1010
Phoenix, AZ 85012
(602) 640-2938

PERMITS, AUTHORIZATIONS OR FILINGS:

Manufacturers License or User Permit

LEGAL AUTHORITY:

Organized Crime Control Act of 1970, Title XI, 18 U.S.C. §§ 1102 et. seq.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Manufacturers's License: Any person, partnership, corporation or association, which engages in the business of manufacturing explosives materials for purposes of sale or distribution or for his own use, must first obtain a manufacturer's license from the ATF. Combining non-explosive components to produce an explosive material (such as the mixing of ammonium nitrate and fuel oil) is also considered manufacturing.

A licensed manufacturer may also receive and transport explosive materials in interstate or foreign commerce and deal in explosive materials.

User Permit: Any person, partnership, corporation or association, having been issued a user's permit, may acquire for their own use, explosive materials from a state other than the state in which they reside or from a foreign country; and transport explosive materials in interstate or foreign commerce.

EXEMPTIONS:

Contact the ATF.

FEES:

Original and renewal licenses and permits are valid for a period of three years. Fees and validity periods were effective December 22, 1998.

Original Manufacture's License: \$200; Renewal: \$100.

Original User's Permit: \$100; Renewal: \$50.

AVERAGE PROCESSING TIME:

Properly completed applications are acted upon within 45 days of receipt.

Transportation of Explosives

Department of Transportation 400 7 th Street Washington D.C. (202) 366-2220	Mine Safety and Health Administration 63 E. Main St., Suite 303 Mesa, AZ 85201 (602) 649-5452	Arizona State Mine Inspector 1700 W. Washington, Suite 400 Phoenix, AZ 85007 (602) 542-5971
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LEGAL AUTHORITY:

29 CFR 1910.109 (MSHA)
49 CFR 171-173 (DOT)
A.R.S. § 27-121 et seq.
A.A.C. R11-1-230 through 243

PERMITS AND AUTHORIZATION:

Some local use permits may be required. Always check with the county where blasting will take place or city when transporting explosive within city limits.

In General:

No employee shall be allowed to smoke, carry matches or any other flame-producing device, or carry any firearms or loaded cartridges while in or near a vehicle transporting explosives. [29 CFR 1910.109(d)(1)(i)]

Explosives shall not be transferred from one vehicle to another within the confines of any jurisdiction (e.g., city, county, state) without informing the local fire and police departments. In the event of breakdown or collision, the local fire and police departments shall be promptly notified. Explosives shall be transferred from the disabled vehicle to another only, when proper and qualified supervision is provided. [29 CFR 1910.109(d)(1)(iii)]

Blasting caps or electric blasting caps shall not be transported over the highways on the same vehicles with explosives. [29 CFR 1910.109(d)(1)(iv)]

TRANSPORTATION VEHICLES

Vehicles used to transport explosives shall meet the following conditions [29 CFR 1910.109(d)(2)(i)]:

Strong enough to carry the load without difficulty and be in good mechanical condition.

If the vehicle does not have a closed body, it shall be covered with a flameproof and moisture proof tarpaulin or other effective protection against moisture and sparks.

Tight floors and any exposed spark-producing metal on the inside of the body shall be covered with wood or other non-sparking materials to prevent contact with packages of explosives.

Packages of explosives shall not be loaded above the sides of an open-body vehicle (i.e., pickup truck).

Transportation of Explosives - Continued

VEHICLE PLACARDING AND MARKING

Every vehicle used to transport explosives shall be marked or equipped as follows:

Exterior placards must be placed on each side and each end of any vehicle carrying Division 1.1, 1.2, or 1.3 explosives (formerly Class A and B) regardless of the quantity being transported. [29 CFR 1910.109(d)(2)(ii)(a) and 49 CFR 172.504(a)]

Exterior placards must be placed on each side and each end of any vehicle carrying 1,001 pounds or more of Division 1.4, 1.5, or 1.6 explosives (formerly Class C). [29 CFR 1910.109(d)(2)(ii)(a) and 49 CFR 172.504(c)]

Placard color and markings shall be as specified in 49 CFR 172.522 through 172.525.

Numerous other Department of Transportation regulations apply in regards to shipping papers, driver training, and packaging of explosives. See 49 CFR 171-173 for additional information.

VEHICLE PREPAREDNESS AND INSPECTION

Two fire extinguishers listed or approved by a nationally recognized laboratory each having a rating of 10-BC shall be located near the driver's seat. The extinguishers shall be inspected annually by a competent person. [29 CFR 1910.109(d)(2)(iii) and 1910.157(e)(3)]

Any vehicle used for transporting explosives shall be inspected for the following to determine that it is in proper condition [29 CFR 1910.109(d)(2)(iv)]:

- (a) Fire extinguishers full and in good working order.
- (b) All electrical wiring completely protected and securely fastened to the chassis to prevent short-circuiting.
- (c) Chassis, motor, pan, and underside of body reasonably clean and free of excess oil and grease.
- (d) Fuel tank and feedline secure and no leaks.
- (e) Tires checked for proper inflation and defects.
- (f) All other aspects of the vehicle shall be in proper condition and acceptable for handling explosives.

Transportation of Explosives - Continued

VEHICLE OPERATION

Vehicles transporting explosives shall only be driven by a driver who is familiar with traffic regulations, state law, and OSHA's explosives regulations in 29 CFR 1910.109. [29 CFR 1910.109(d)(3)(i)]

Except under emergency conditions, no vehicle transporting explosives shall be parked before reaching its destination, even though attended, on any public street adjacent to or in proximity to any place where people work. [29 CFR 1910.109(d)(3)(ii)]

Every vehicle transporting any quantity of Division 1.1, 1.2, or 1.3 explosive shall, at all times, be attended by a driver or properly trained attendant. Attended means the driver or attendant is physically on or in the vehicle, or has the vehicle within their field of vision and can reach it quickly without any interference. Also means the employee is awake, alert and not engaged in other duties or activities which may divert their attention from the vehicle. However an explosive-laden vehicle may be left unattended if parked within a securely fenced or walled areas with all gates or entrances locked where parking of such vehicle is otherwise permissible or at a magazine site established solely for the purpose of storing explosives. [29 CFR 1910.109(d)(3)(iii)]

No spark-producing metal or tools, oils, matches, firearms, electric storage batteries, flammable substances, acids, oxidizing materials or corrosive compounds shall be carried in the body of any vehicle transporting explosives unless all applicable DOT regulations are complied with. [29 CFR 1910.109(d)(5)(iv)]

Vehicles transporting explosives shall avoid congested areas and heavy traffic. Where routes through congested areas have been designated by local authorities such routes shall be followed. [29 CFR 1910.109(d)(5)(v)]

Delivery shall only be made to authorized persons and into authorized magazines or authorized temporary storage or handling areas. [29 CFR 1910.109(d)(5)(vi)]

Magazine Construction

Bureau of Alcohol, Tobacco and Firearms Regulatory Enforcement 3003 N. Central Avenue, Suite 1010 Phoenix, AZ 85012 (602) 640-2938	Mine Safety and Health Administration 63 E. Main St., Suite 303 Mesa, AZ 85201 (602) 649-5452	Arizona State Mine Inspector 1700 W. Washington, Suite 400 Phoenix, AZ 85007 (602) 542-5971
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LEGAL AUTHORITY:

29 CFR 1910.109 (MSHA)
49 CFR 171-173 (DOT)
A.R.S. § 27-121 et. seq.
A.A.C. R11-1-230 through 243

PERMITS AND AUTHORIZATION:

No actual permits are required, but magazines must be constructed according to strict regulations.

MAGAZINE STORAGE:

Generally, no person shall store, handle, or transport explosives in a matter which constitutes an undue hazard to life. [29 CFR 1910.109(b)]

All explosive storage, regardless of the class of explosive or the amount stored inside the magazine, shall meet the following minimum requirements [29 CFR 1910.109(c)(1)(i)]:

Ground around the magazine shall slope away for drainage. [29 CFR 1910.109(c)(1)(iii)]

Land surrounding magazines shall be kept clear of brush, dried grass, leaves and other materials for at least a distance of 25 feet. [29 CFR 1910.109(c)(1)(iii)]

Class I Magazines -

Magazines which store greater than 50 pounds of explosives are designated as Class I magazines and shall meet the following additional siting requirement [29 CFR 1910.109(c)(1)(v)]:

They shall be located away from inhabited buildings; passenger railways; and public highways and from other magazines in accordance with Table H-21[29 CFR 1910.109(c)(1)(vi)].

Property upon which Class I magazines are located shall be posted with signs reading "Explosives-Keep Off". [29 CFR 1910.109(c)(2)(iii)]

Class II Magazines -

Magazines which store less than or equal to 50 pounds of explosives are designated as Class II magazines and shall meet the following additional siting requirements [29 CFR 1910.109(c)(1)(v)]:

They shall meet the same separation requirements as Class I magazines with the following exceptions [29 CFR 1910.109(c)(1)(vii)]:

Magazine Construction - Continued

Class I Magazine Construction:

Two magazines may be located in the same building when one is used only for 5,000 or less blasting caps and they are separated from each other by at least 10 feet. [29 CFR 1910.109(c)(1)(vii)]

Class II magazines holding greater than 25 pounds of explosives used for temporary storage at a site for blasting operations shall be located at least 150 feet away from the work in progress. [29 CFR 1910/109(c)(1)(viii)]

Class II magazines holding less than or equal to 25 pounds of explosives used for temporary storage at a site for blasting operations shall be located at least 50 feet away from the work in progress. [29 CFR 1910.109(c)(1)(viii)]

Property upon which Class II magazines are located outside of buildings shall be posted with signs reading "Explosives-Keep Off". [29 CFR 1910.109(c)(2)(iii)]

General Magazine Construction:

Magazines containing Division 1.1, explosives except black powder, and Division 1.2 explosives which were formerly Class A explosives, shall be [29 CFR 1910.109(c)(2)(ii)]:

- Bullet resistant;
- Weather resistant;
- Fire resistant; and
- Ventilated sufficiently to protect the explosive in the specific locality.

Magazines containing black powder, Division 1.2 explosives which were formerly Class B explosives, and Division 1.3 through 1.6 explosives shall be [29 CFR 1910.109(c)(2)(ii)]:

- Weather resistant;
- Fire resistant; and
- Have ventilation.

Magazines containing blasting and electric blasting caps shall be [29 CFR 1910.109(c)(2)(ii)]:

- Weather resistant;
- Fire resistant; and
- Ventilated.

Magazine heating and ventilation requirements are described in detail in paragraphs 1910.109(c)(2)(iv) and (v)(a)-(g).

Magazine Construction - Continued

(Note: The 1910.109 regulations refer to Class A, Class B, and Class C explosives. Those designations have been replaced by the Department of Transportation with United Nations designations Divisions 1.1 through 1.6. A table comparing the old classes to the new divisions can be found in 49 CFR 173.53.)

When lights are necessary inside a magazine, electric safety flashlights or electric safety lanterns shall be used. [29 CFR 1910.109(c)(2)(vi)]

Masonry Magazines - Walls shall be at least eight inches thick. Hollow masonry units shall be bullet resistant and all hollow spaces filled with weak cement or well-tamped sand. [29 CFR 1910.109(c)(3)(i)]

Roofs and floors of masonry magazines may be wood construction. Wooden floors shall be tongue and groove construction with a nominal thickness of at least one inch. [29 CFR 1910.109(c)(3)(ii)]

Wooden Magazines - Walls shall have at least a six inch space between the interior and exterior walls and be bullet resistant. Space between the walls shall be filled with well-tamped sand. [29 CFR 1910.109(c)(3)(i)]

Metal Magazines - Walls shall be bullet resistant, lined with brick at least four inches thick or shall have at least a six inch sand fill between the interior and exterior walls. [29 CFR 1910.109(c)(3)(i)]

Magazine Roofs - Shall be protected by a sand tray covering the entire roof except that necessary for ventilation. Sand in the tray shall be maintained at a depth of not less than four inches. [29 CFR 1910.109(c)(3)(iii)]

Exterior Wood - All exterior wood, including eaves, shall be covered with black or galvanized steel or aluminum metal of not less than 26 gage. [29 CFR 1910.109(c)(3)(iv)]

Exposed Nails - All nails exposed to a magazine's interior shall be countersunk. [29 CFR 1910.109(c)(3)(iv)]

Foundation - Shall be of substantial construction and arranged to provide good cross ventilation. [29 CFR 1910.109(c)(3)(v)]

Ventilation - Shall be sufficient to prevent dampness and heating of stored explosives. Ventilation openings shall be screened to prevent the entrance of sparks. [1910.109(c)(3)(vi)]

Magazine Construction - Continued

Doors - Openings shall be restricted to that necessary for the placement and removal of explosives. Doors in magazines for Division 1.1 explosives (e.g., dynamite) shall be bullet resistant. [1910.109(c)(3)(vii)] (Note: Class A explosives are now called Division 1.1 explosives.)

Doors for magazines containing black powder, Division 1.2 explosives which were formerly Class B explosives, and Division 1.3 through 1.6 explosives shall be designed to prevent unauthorized entrance to the magazine. [1910.109(c)(3)(vii)]

Storage Arrangements - Provisions shall be made to prevent the piling of explosives directly against the magazines walls. These provisions shall not interfere with proper ventilation. [29 CFR 1910.109(c)(3)(ix)]

Class II Magazine Construction:

Wooden Magazines - Sides, bottom, and cover shall be constructed of two-inch hardwood boards well braced at corners and protected by being entirely covered with sheet metal not less than 20 gage. All nails exposed to a magazine's interior shall be countersunk. [29 CFR 1910.109(c)(4)(ii)]

Metal Magazines - Sides, bottom, and cover shall be lined with 3/8-inch plywood or equivalent. Edges of metal covers shall overlap sides at least one inch. [29 CFR 1910.109(c)(4)(ii)]

Magazine Covers - Shall be provided with substantial strap hinges and shall be provided with substantial means for locking. [29 CFR 1910.109(c)(4)(iii)]

Color and Markings - All Class II magazines shall be painted red and be labeled in white lettering at least three inches high "Explosives-Keep Away". [29 CFR 1910.109(c)(4)(iv)]

Wheels - Class II magazines located in a warehouse shall be provided with wheels to facilitate easy removal in the case of fire. [29 CFR 1910.109(c)(4)(iv)]

Ventilation - Where necessary due to climatic conditions, Class II magazines shall be ventilated. [29 CFR 1910.109(c)(4)(iv)]

Above-ground Fuel Storage Tanks

Arizona State Mine Inspector
1700 West Washington, Suite 400
Phoenix, AZ 85007
(602)542-5971

PERMITS, AUTHORIZATIONS OR FILINGS:

None

LEGAL AUTHORITY:

A.R.S. Title 27
Uniform Fire Code (UFC) 79.400 through 79.510
29 CFR 1910
30 CFR 56.44
40 CFR 112.3

CONDITIONS FOR ABOVE-GROUND (outside) FUEL STORAGE:

The following is a summary of key design elements compiled from the various regulations for the storage of combustible liquids in outside storage facilities. Fuel storage of more 60 gallons, left in place for more than seven consecutive days is considered a permanent storage facility and is subject to the following standards. All design elements are based on the stricter of either the Uniform Fire Code or 29 CFR 1910 or 30 CFR 56.44.

A Spill Prevention Control and Countermeasures (SPCC) plan must be prepared for any facility with a combined aboveground oil or fuel storage capacity greater than 1320 gallons or with one or more oil storage containers greater than 660 gallons. Requirements for an SPCC are found at 40 CFR 112.3(a) - 112.3(d).

Flammable liquids shall be stored in accordance with the standards of the National Fire Protection Association or other recognized agencies approved by the Arizona State Mine Inspector (ASMI). (R11-1-306)

All tanks, whether shop built or field erected, shall be strength tested before they are placed in service. (29 CFR 1910.106 (7))

Flammable Liquid storage when not buried shall not be stored within 100 feet of mine openings, buildings connected to mine openings, fan installations or housings or hoist houses. (R11-1-310)

Tanks shall be designed and built in accordance with recognized good engineering standards for the material of construction, and compatible with the liquid to be stored. (29 CFR 1910.106(b))

Above-ground Fuel Storage - Continued

All above-ground tanks over 100 gallons shall bear a label and/or placard in accordance with their U.L. 142 listing. Signs shall be posted in the storage areas prohibiting open flames and smoking. (UFC 79.407)

Plans shall be submitted with each application for use of above-ground fuel storage tanks greater than 5000 gallons. The plans shall indicate:

1. All the details of installation.
2. Quantities of the flammable or combustible liquids to be stored.
3. Distances from building and/or building openings, and property lines, access ways, electrical lines.
4. Provisions for drainage and runoff details, diking, type of building construction within 50 feet of installation and any associated equipment required, i.e.; piping, pumps, etc. (UFC 79.403)

Where end failure of horizontal tanks can expose property to any fire or explosion danger, the tank shall be placed with the longitudinal axis parallel to the nearest important exposure. (Buildings, highways, or public roads.) (UFC Sec.79.503 (h))

A maximum of 1,100 gallons of fuels in closed containers and portable tanks may be stored adjacent to buildings located on the same premises and under the same management. In this case, the building may not exceed one story in height. Such buildings shall be of fire-resistant construction and must be devoted principally to the storage of liquids or the exterior building wall adjacent to the storage area shall have a fire-resistance rating of not less than two hours, having no opening to above-grade areas within 10 feet horizontally of such storage and no openings to below-grade areas within 50 feet horizontally of such storage. (UFC 79.404 29 CFR 1910.106 (d)(5)(vi)(a))

The distance between any two flammable or combustible liquid storage tanks shall not be less than three feet. (29 CFR 1910.106 (b) (2) (ii))

Storage areas shall be protected against tampering or trespassers by fencing and/or other control measures. The area shall be kept free of weeds, debris and other combustible materials. A distance of not less than 15 feet shall be maintained between the storage tanks and any combustible material. (UFC 79.406)

LOCATION OF ABOVE-GROUND TANKS (DISTANCES): (UFC Sec 79.403)

CLASS	DISTANCE TO PROPERTY LINE (ft)	DISTANCE TO PUBLIC WAY, BLDG. (ft)
I-A	(50)	(10)
I-E	(50)	(10)
I-C	(50)	(10)
II	(25)	(5)
III	(10)	(5)

Above-ground Fuel Storage - Continued

SUPPORTS, FOUNDATIONS, AND ANCHORAGE:

Tanks at grade shall rest on foundations made of concrete, masonry, piling or protected steel. (UFC 79.505, 29, CFR 1910.106(b)(5)(i) and (iv))

Tank foundations shall be designed to minimize corrosion and the possibility of uneven settling of the tank. (UFC 79.505)

Tanks above grade shall be securely supported. Their foundations shall be of concrete, masonry or protected steel. (If steel is more than 12 inches high.) (UFC 79,505(b))

Where a tanks is located in an area that is subject to flooding, consult 29 CFR 1910.106 (vi). In General, each horizontal tank so located that more than 70 percent of its storage capacity will be submerged during flood stage, shall be anchored, attached to a foundation of concrete or of steel and concrete of sufficient weight to provide adequate load for the tank when filled with flammable liquid and submerged by flood waters to the established flood stage, or adequately secured by other means. (29 CFR 1910.106 (vi)(d)).

DRAINAGE & DIKES FOR ABOVE-GROUND TANKS:

The area surrounding a tank or group of tanks shall be provided with drainage or shall be diked to prevent accidental discharge of liquid from entering adjacent tanks, adjoining property or reaching water-ways. (UFC 79.507 (a))

Drainage:

Where protection of adjacent tanks, adjoining property or waterways is by means of a natural or man-made drainage system, such system shall comply with the following:

Drainage shall be provided at a slope of not less than one percent away from the tank toward an impounding basin or an approved means of disposal having a capacity greater than that of the largest tank served. This termination area and the route of the drainage system shall be so located that a fire occurring in the drainage system will not seriously endanger tanks or adjoining property. (UFC 79.507 (b))

Dikes:

The volumetric capacity of the diked area shall be not less than the greatest amount of liquid that can be released from the largest tank within the diked area. The capacity of the diked area enclosing more than one tank, shall be calculated by deducting the volume of the tanks other than the largest tank below the height of the dike. (UFC 79.507 (c) (1))

Walls of the diked area shall be of earth, steel, concrete, or solid masonry, all to be designed to be liquid tight and to withstand a full hydrostatic head. Earthen walls three feet or more in height shall have a flat section at the top of not less than two feet wide. The minimum distance between tank and toe of the interior dike walls shall be at least five feet. (UFC 79.507 (c) (2))

Above-ground Fuel Storage - Continued

Maximum height of the dikes walls shall be six feet, unless otherwise approved the Arizona State Mine Inspector. (UFC 79.507 (c) (3))

Each diked area containing two or more tanks shall be subdivided by drainage channels leading to an impounding basin or by intermediate curbs or spill dikes in order to prevent spills from endangering adjacent tanks within the diked area. Tanks storing class III liquids do not require special drainage. (UFC 79.507 (c) (5))

Provisions shall be made for draining or removing excess water from a drainage system or diked area. Such drains shall not discharge to adjoining property, natural water courses, public sewers or public drainage channels unless the drain is so designed as to prevent the release of flammable or combustible liquids. (UFC 79.507 (d))

TANK VALVES:

Each connection to an above-ground tank located below normal liquid level or through which a liquid can normally flow, shall be provided with an internal or external control valve located as close as practicable to the shell of the tank. All valves at tanks to be impact-type valving. (UFC Sec 79.508 (a))

Fuel lines shall be equipped with valves to cut off fuel at the source and shall be located and maintained to minimize fire hazards. (R11-1-306)

VENTING & TANK CONNECTIONS:

Storage tanks shall be vented or otherwise constructed to prevent development of pressure or vacuum as a result of filling, emptying, or atmospheric temperature changes. (30 CFR 56.4430(a))

Every aboveground storage tank shall have some form of construction or device that will relieve excessive internal pressure caused by exposure fires. (29 CFR 1910.106 (2)(iv))

Normal vents shall be sized in accordance with nationally recognized engineering standards or shall be at least as large as the filling or withdrawal connection, whichever is larger, but in no case less than one and one quarter inch nominal inside diameter. (UFC 79.509 (a))

Vent pipe outlet shall be located so that the vapors are released at a safe point outside of buildings and not less than 12 feet above the adjacent ground level. Vent outlets shall be located so that flammable vapors will not be trapped by eaves or other obstructions and shall be at least five feet from building openings or property lines. (29 CFR 1910.106 (iv))

Filling and emptying connections shall be properly identified. (29 CFR 1910.106(b)(2)(vii)(f))

The manifolding of tank vent piping shall be avoided except where required for special purposes such as vapor recovery, vapor conservation or air pollution control. (UFC 79.509 (4))

Above-ground Fuel Storage - Continued

PIPING, VALVES AND FITTINGS:

All piping and related fluid handling components and supports for above-ground applications where subject to external corrosion shall be fabricated from non corrosive materials, coated or provided with corrosion protection. Dissimilar metallic parts which promote galvanic action shall not be joined together. (UFC Division VII)

Piping systems shall be substantially supported and protected against physical damage and excessive stresses arising from settlement, vibration, expansion or contraction. (UFC Division VII)

Swing joints shall be installed on all liquid, vapor and vent piping that is rigidly supported or connected between fixed points and which is subject to thermal expansion or differential movements. (UFC Division VII)

Pipe joints shall be made liquid tight and shall be either welded, flanged or threaded. (UFC Division VII)

Pipe and tubing shall not be bent in excess of 90 degrees nor at a radius less than five diameters of the nominal trade size of the pipe when the radius is measured from the inside edge of the pipe. (UFC Division VII)

Underground Storage Tanks - Notification

Arizona Department of Environmental Quality (ADEQ)
UST Section
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4329 or 1 (800) 234-5677 ext. 4329

PERMITS, AUTHORIZATIONS OR FILINGS:

Underground Storage Tanks - Notification

LEGAL AUTHORITY:

A.R.S. § 49-1002
40 CFR 280

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Owners of Underground Storage Tanks (USTs) are required to notify ADEQ of their USTs on forms prescribed by the department. Owners and operators of existing USTs are to notify ADEQ of all changes at a facility within thirty (30) days of that change, and owners of new USTs are required to notify ADEQ within 30 days of bringing the USTs into operation. Please contact ADEQ for the appropriate form. The information required on the form includes, but is not limited to, tank age, size, type, location and use. A guidance document for completing the notification form is also available. [Note: Public Law 99-499 requires disclosure of hazardous chemicals.]

EXEMPTIONS:

See A.R.S. § 49-1001.17 and 1002.B. and C., and 40 CFR 280. 10. For specific information on deferred or exempt tanks, contact the ADEQ UST Section at the above listed number.

FEES:

An annual fee of \$100 per tank is required, payable to ADEQ annually by March 15.

AVERAGE PROCESSING TIME:

The review period for the notification form is one week.

Underground Storage Tank - Closure Notification

Arizona Department of Environmental Quality (ADEQ)
UST Section
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4329 or 1 (800) 234-5677 ext. 4329

PERMITS, AUTHORIZATIONS OR FILINGS:

Underground Storage Tank - Notification

LEGAL AUTHORITY:

A.R.S. § 49-1004

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Owners and operators are required to notify ADEQ at least thirty (30) days prior to initiating closure activities of Underground Storage Tanks (UST). Following notification, ADEQ issues a closure number to the owner and operator, which can then be used to obtain closure permits from the jurisdictional fire authority. The written notification to ADEQ is to contain the name and address of the UST facility, the number of tanks that will be closed, the sizes of each tank to be closed, and the substance stored in each tank. A guidance document outlining closure procedures is available from ADEQ.

EXEMPTIONS:

See A.R.S. §§ 49-1001.17 and 1002.B. and C., and 40 CFR 280.10. For specific information on deferred or exempt tanks, contact the ADEQ UST Section at the above listed number.

FEES:

None.

AVERAGE PROCESSING TIME:

ADEQ sends out the letter notifying the owner and operator of the assigned closure number within one week of receiving the intent to close letter from the owner and operator.

Underground Storage Tanks - Release Reporting Requirements

Arizona Department of Environmental Quality (ADEQ)
UST Section
3033 N. Central Avenue
Phoenix, AZ 85012
ADEQ UST Hotline - (602) 207-4261 or 1 (800) 234-5677 ext. 4364

PERMITS, AUTHORIZATIONS OR FILINGS:

Notification of release or suspected release

LEGAL AUTHORITY:

A.R.S. § 49-1004

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The owner and operator of an UST are required to notify the department of each release or suspected release from a UST as soon as practicable but no later than twenty-four (24) hours after the release or suspected release has been discovered. The Notice may be made orally or in writing but shall be followed within fourteen (14) days by a written report to the department that a release or suspected release has been discovered and reported to ADEQ. A guidance document outlining general UST reporting requirements is available from ADEQ.

EXEMPTIONS:

See A.R.S. § 49-1001.17 and 1002.B. and C., and 40 CFR §280.10. For specific information on deferred or exempt tanks, contact the ADEQ UST Hotline.

FEES:

None

AVERAGE PROCESSING TIME:

ADEQ sends out a 14-day and Site Characterization Report request letter within three calendar days of receiving the notification of a release or a suspected release. This letter includes information that informs the UST owner and/or operator of what information is needed in the written report that is due to the department 14 days after the release or suspected release is discovered and reported to ADEQ. The request letter also provides a release confirmation and 14-day report form that can be used to provide the information required within the 14-day time frame.

Used Oil Collection Center - Registration

Arizona Department of Environmental Quality (ADEQ)
Solid Waste Section, Used Oil Program
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4126 or 1 (800) 234-5677 ext. 4126

PERMITS, AUTHORIZATIONS OR FILINGS:

Registration of Used Oil Center

LEGAL AUTHORITY:

A.R.S. § 49-802.C.1

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Owners and Operators of facilities that accept used oil from any other generators of used oil, other than individual households, must register the facility with ADEQ. ADEQ has an application form for this purpose. For clarification regarding the applicability of this requirement, contact ADEQ at the above address or phone number.

Owners/operators of used oil collection centers must provide information regarding:

- 1) Facility name, address, and telephone number.
- 2) Owner/operator name(s), mailing address(es), and telephone number(s).
- 3) A description of each storage unit (i.e. size, shape, configuration, location, construction material, AST/UST, access or other pertinent information).
- 4) An understanding of the general requirements for a used oil collection center.

EXEMPTIONS:

Used oil transfer facilities, used oil processors/re-refiners, household do-it-yourselfer collection centers, and used oil aggregation points.

FEES:

None

AVERAGE PROCESSING TIME:

Usual processing time for reviewing application and issuing registration certificate is fifteen (15) days.

**Used Oil Handlers - EPA Identification Number
Requirements for Transporters, Processors/Re-Refiners, Marketers and Burners**

Arizona Department of Environmental Quality (ADEQ)
Solid Waste Section, Used Oil Program
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4147 or 1 (800) 234-5677 ext. 4147

PERMITS, AUTHORIZATIONS OR FILINGS:

EPA Identification Number. Please refer to the section titled "EPA Identification Number" (Section 8 page 6) for more information.

LEGAL AUTHORITY:

A.R.S. § 49-802
40 CFR 279.42 (Transporters/Transfer Facilities)
40 CFR 279-51 (Processors/Re-refiners)
40 CFR 279.62 (Burners)
40 CFR 279.73 (Marketers)

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

An EPA identification number (Section 8 page 6) is required for transporters, processors/re-refiners, marketers and burners of used oil.

EXEMPTIONS:

A used oil burner of "on-specification" used oil fuel is not required to obtain an EPA ID number; however, the burner may want to consider obtaining an EPA ID number in the event he would accidentally burn "off-specification" used oil fuel. (Anyone who burns "off-specification" used oil fuel without an EPA ID number, or the appropriate air quality permit, is subject to enforcement action by ADEQ.)

FEES:

None

AVERAGE PROCESSING TIME:

Usual processing for the receipt of an EPA Identification Number is about one week.

**Used Oil Handler - Quarterly Reports
Transporters, Processors/Re-Refiners, Marketers**

Arizona Department of Environmental Quality (ADEQ)
Solid Waste Section, Used Oil Program
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4126 or 1 (800) 234-5677 ext. 4126

PERMITS, AUTHORIZATIONS OR FILINGS:

Written quarterly report of activities.

LEGAL AUTHORITY:

A.R.S. § 49-802.C.3
40 CFR 279.46 (Transporters)
40 CFR 279.56 (Processors/Re-refiners)
40 CFR 279.74 (Marketers)

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Each used oil transporter, processor/re-refiners, and marketers is required to submit a written quarterly report of its used oil activities to ADEQ. Each quarterly report shall provide information about the company's used oil activities for the preceding calendar quarter.

ADEQ has developed a “standardized” reporting form but, the following general reporting requirements are offered as guidance.

Each written report shall provide the following information for the preceding calendar quarter:

- 1) Total volume of used oil transported, processed or re-refined, or sold.
- 2) Names and addresses of the facilities to which the used oil was transported.
- 3) Names and addresses of the transporters used to transport the used oil.
- 4) Summary of the tracking information required to be kept pursuant to 40 CFR 279.

EXEMPTIONS:

None

FEES:

None

AVERAGE PROCESSING TIME:

Quarterly reports are due within thirty (30) calendar days following the end of the calendar quarter to which the reports apply (e.g., the report for the period October through December, 1999, is due by January 30, 2000).

Used Oil Burner - Annual Reports

Arizona Department of Environmental Quality (ADEQ)
Solid Waste Section, Used Oil Program
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4126 or 1 (800) 234-5677 ext. 4126

PERMITS, AUTHORIZATIONS OR FILINGS:

Written annual report of activities.

LEGAL AUTHORITY:

A.R.S. § 49-802.C.4
40 CFR 279.65

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Each used oil burner is required to submit a written annual report of its used oil activities to ADEQ. Each annual report shall provide information about the company's used oil activities for the preceding calendar year.

ADEQ has developed a "standardized" reporting form but, the following general reporting requirements are offered as guidance.

Each written report shall provide the following information for the preceding calendar year:

- 1) Name, address, and telephone number of the person reporting.
- 2) Name, address, and telephone number of the burner facility.
- 3) Period being reported.
- 4) EPA Identification Number of the burner facility.
- 5) Total volume of "on-specification" used oil burned.
- 6) Total volume of self-generated used oil burned on site.
- 7) Total volume of used oil burned.
- 8) Summary of the tracking information required to be kept pursuant to 40 CFR 279.

EXEMPTIONS:

None

FEES:

None

AVERAGE PROCESSING TIME:

Annual reports are due by the first of February each year for the preceding calendar year.

Air Quality Permits

State Air Quality Control Permit

Arizona Department of Environmental Quality (ADEQ)
Air Quality Permits Section
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-2339

PERMITS, AUTHORIZATIONS OR FILINGS:

Air Quality Control Permit

LEGAL AUTHORITY:

A.R.S. § 49-421 et. seq.

A.R.S. § 49-471 et. seq.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The Air Quality Permits Program ensures that the air pollutants emitted from various sources do not exceed National Ambient Air Quality Standards or cause significant deterioration in areas which presently have clean air. The program also ensures the preservation of air quality in our wilderness areas and controls risks caused by the emission of hazardous air pollutants.

Any source that releases, into the air, a regulated air pollutant above specified levels will be required to first obtain an air quality permit or permit revision to construct, operate or make a modification.

Arizona Revised Statutes § 49-402 allows counties to assume jurisdiction over stationary sources of air pollutants, with the exception of refineries, copper smelters, coal-fired power plants and Portland cement plants. In Arizona, three counties (Maricopa, Pima and Pinal) issue air quality permits for mining. Elsewhere in the state, ADEQ issues air quality permits for mining.

EXEMPTIONS:

Some situations that are exempt from the permitting process include: new residential wood heaters, some asbestos demolition and renovation projects, and agricultural equipment used in normal farm operations.

FEES:

Permit fees are based on the size and type of facility, applicability of state and federal rules and regulations, and the type of permit or permit revisions applied for.

AVERAGE PROCESSING TIME:

The time required to obtain an Air Quality Control permit is dependent on the size and complexity of the facility, but usually requires a minimum of four months to process.

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Permits are valid for five years.

Maricopa County Air Quality Permit

Maricopa County Environmental Services Department
1001 N. Central Ave.
Phoenix, AZ 85004
(602) 506-6700

PERMITS, AUTHORIZATIONS OR FILINGS:

Air Quality Permit

LEGAL AUTHORITY:

Maricopa County issues air quality control permits under the Federal Clean Air Act, A.R.S. and the Maricopa County Air Pollution Control Regulations.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Any source that releases, into the air, a regulated air pollutant above specified levels will be required to first obtain an air quality permit or permit revision to construct, operate or make a modification.

EXEMPTIONS:

In accordance with A.R.S. 49-402, the State has the jurisdiction over sources such as “Smelting of Metal Ore”, and “Portland Cement Plants”, and over all portable sources which might opt to operate at some point outside of Maricopa County.

In addition, any source that releases or has the potential to release, into the air, a regulated air pollutant, to the extent which the described limits are not exceed. Limits are described by the Maricopa County Air Pollution Control Rule 200, Section 303.3, c.

FEES:

Any source that causes or contributes to air pollution is subject to the prescribed fees in Rule 280. Rule 280 prescribes fees for filing, processing and renewal of Title V as well as Non-Title V permits including any subsequent permit revision, permit transfer, compliance inspection, stack sampling tests and emissions fees.

AVERAGE PROCESSING TIME:

For small sources, such as gas stations and dry cleaners, processing time is generally eight weeks. This eight week period includes a 30 day public notice period and four weeks for filing, reviewing, billing and issuance of the permit. Larger sources usually require a minimum of four months to process.

Pima County Air Quality Control Permit

Pima County Department of Environmental Quality
130 West Congress
Tucson, AZ 85701
(520) 740-3340

PERMITS, AUTHORIZATIONS OR FILINGS:

Air Quality Control Permit

LEGAL AUTHORITY:

A.R.S. §§ 49-402
A.R.S. §§ 49-480
40 CFR part 70
Pima County Codes 17.12.140

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Any source that releases, into the air, a regulated air pollutant above specified levels will be required to first obtain an air quality permit or permit revision to construct, operate or make a modification.

EXEMPTIONS:

In accordance with A.R.S. § 49-402, the State has the jurisdiction over sources such as “Smelting of Metal Ore”, and “Portland Cement Plants”. Sources which are not subject to 40 CFR 60,61, or 63 and do not have the potential to emit significant levels of regulated pollutants as defined in the Pima County Code are exempt.

FEES:

Any source that causes or contributes to air pollution is subject to the prescribed fees in Rule 280. Rule 280 prescribes fees for filing, processing and renewal of Title V as well as Non-Title V permits including any subsequent permit revision, permit transfer, compliance inspection, stack sampling tests and emissions fees.

AVERAGE PROCESSING TIME:

Processing time depends on the size and complexity of the facility, but typically takes up to eight months. Permits are five years in duration.

Pima County Activity Permit

Pima County Department of Environmental Quality
130 W. Congress
Tucson, AZ 85701
(520) 740-3340

PERMITS, AUTHORIZATIONS OR FILINGS:

Activity Permit

LEGAL AUTHORITY:

A.R.S. § 49-112
Pima County Code 17.12.470

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Use of equipment for the purpose of land stripping, earthmoving, blasting (except blasting associated with an individual source permit issued for mining), trenching or road construction.

EXEMPTIONS:

See "Fee Structures for Permitted Activities" - Pima County Code Table 17.12.540.

FEES:

See exemptions - Pima County Code Table 17.12.540.

AVERAGE PROCESSING TIME:

One working day or less. Permits are valid for three months from date of issue.

Pinal County Unitary Air Quality Permit

Pinal County Air Quality Control District
574 South Central Ave.
P.O. Box 987
Florence, Az 85232
(520) 868-6760

PERMITS, AUTHORIZATIONS OR FILINGS:

Unitary Air Quality Permit

LEGAL AUTHORITY:

40 CFR 60

40 CFR 61

A.R.S. §§ 49-471 et. seq.

Based on the above authority, the Pinal County Board of Supervisors has adopted a “Code of Regulations,” defining local rules in Pinal County. Pinal County also has program approval and/or delegation from the EPA to administer several programs under the Clean Air Act, including authority to issue major and minor New Source Review (NSR) permits, issue Title V permits, and administer the Environmental Protection Agency’s New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) and Maximum Achievable Control Technology (MACT) standards.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Unitary Air Quality Permits (Industrial Permits) are generally required if operations of the source, on a continuous basis for a full year, will produce one ton or more of regulated pollutants. As a practical matter, that means that virtually any mining operation in Pinal County will require such an air quality permit. The length and complexity of the pertinent regulations makes checking with Pinal County the only safe way to assure compliance with these regulations.

EXEMPTIONS:

Under A.R.S. § 49-402, ADEQ has jurisdiction over certain sources located in Pinal County. In relevant part, that includes smelting operations, petroleum refineries, coal-fired power plants, portland cement plants, portable sources and mobile (highway) sources. However, where a source has stationary operations that require a permit from Pinal County, additional portable equipment is not exempted, but falls subject to regulation at the County level.

FEES:

The County issues new permits on a time and material basis reflecting the cost of acting on the application. The resulting fee is subject to the ceiling established by ADEQ’s fee rules. The first time fee could range from a few hundred dollars for a very small source up to \$10,000 for a large complex facility.

Pinal County Unitary Air Quality Permit - Continued

A typical mining operation could expect a fee in the range of \$500 to 2,500, depending on whether or not it triggers regulation under EPA's NSPS. For small sources, there will also be a recurring annual fee for each year of the five year permit. For large sources, the permittee will be obligated to pay a permit fee that reflects the quantity of actual emissions during the preceding year.

AVERAGE PROCESSING TIME:

The thirty (30) day public notice required under Arizona law means that a valid permit cannot be issued in less than about forty five (45) days. Typically, the County issues permits for small sources in a sixty (60) to ninety (90) day time frame. Where a member of the public invokes the right to request a public hearing, that will potentially add another forty five (45) to sixty (60) days. Permits for larger operations will also require EPA review, which will substantially add to the time required. The largest sources, particularly those near wilderness areas or Indian lands, will also require possible review by the managers of those lands.

Pinal County Open Burning Permit

Pinal County Air Quality Control District
574 South Central Ave.
P.O. Box 987
Florence, Az 85232
(520) 868-6760

PERMITS, AUTHORIZATIONS OR FILINGS:

Open Burning Permit

LEGAL AUTHORITY:

A.R.S. §§ 49-471 et. seq.

Based on the above authority, the Pinal County Board of Supervisors has adopted a “Code of Regulations,” defining local rules in Pinal County.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

All open burning in Pinal County requires an open burning permit.

EXEMPTIONS:

Fires set in response to an order from a government official do not require a permit.

FEES:

Commercial open burning permits can range from \$5 to \$100, depending on the nature of the material being burned.

AVERAGE PROCESSING TIME:

Except for open burning permits for the burning of debris or dangerous materials, open burning permits are issued on an over-the-counter basis.

Asbestos Demolition and Renovation

Arizona Department of Environmental Quality (ADEQ)
Asbestos NESHAP Program
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-2333 or 1 (800) 234-5677 ext. 2333 or 4553

PERMITS, AUTHORIZATIONS OR FILINGS:

Facility Inspection

LEGAL AUTHORITY:

40 CFR 61, Subpart M
A.R.S. § 49-421 et. seq.
A.R.S. § 49-471 et. seq.
A.A.C. R18-2-1101

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Prior to the commencement of demolition and renovation of the affected National Emission Standards for Hazardous Air Pollutants (NESHAP) facility, an Asbestos Hazard Emergency Response Act (AHERA) certified building inspector must thoroughly inspect the affected facility or part of the facility where the demolition or renovation operations will occur for the presence of asbestos, including friable and non-friable asbestos-containing materials.

For all counties in Arizona contact ADEQ except in Maricopa, Pima and Pinal. In Maricopa, Pima and Pinal Counties contact the counties directly. For work on Tribal Lands in Arizona contact EPA Region 9.

EXEMPTIONS:

Residential structures with one to four dwelling units (unless classified as an installation meaning any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator or owner or operator under common control).

FEES:

There are no ADEQ fees involved with this program. However, cities and counties may have permit requirements for building renovation and demolition activities. Consult local city and county governments for specific permit and fee information.

AVERAGE PROCESSING TIME:

For all demolitions, even when no asbestos is present, and renovations involving threshold amounts of Regulated Asbestos Containing Materials (RACM), provide the NESHAP agency overseeing the job with written notice at least 10 days prior to beginning work. Threshold amounts of RACM are: 260 linear feet or more on pipes; 160 square feet or more on other facility components; or 35 cubic feet or more off facility components.

Water Quality Permits

Aquifer Protection Permit

Arizona Department of Environmental Quality (ADEQ)
Water Permits Section, Mining Unit
Mail Code M0401A
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4675 or 1 (800) 234-5677 ext. 4675

PERMITS, AUTHORIZATIONS OR FILINGS:

Individual Aquifer Protection Permit (APP)

LEGAL AUTHORITY:

A.R.S. § 49-241 et. seq. and clean closure is defined under A.R.S. § 49-201.5

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

This permit regulates new and existing facilities that dispose pollutants to the land surface, underlying soil, or groundwater, in order to prevent groundwater contamination, where there is a reasonable probability that the pollutants would otherwise reach groundwater. Such facilities may include mines, industrial facilities and waste-water treatment plants. Area-wide permits may be issued in lieu of an individual permit to cover facilities under common ownership in a contiguous geographic area. Discharge reduction in the pollutant management area and the demonstration that aquifer water quality standards will not be violated or further degraded can be evaluated collectively for existing facilities. This type of permit is most applicable to large mining and industrial sites. Clean closure plans may be approved by ADEQ without issuing a permit for dry wells and facilities that have APP, Groundwater Protection Permits or a Notice of Disposal on File with the Department.

An APP application consists of a general information submittal and a detailed hydrologic report. The following suggestions are to assist the applicant in the process:

- (a) Submit a *Determination of Applicability* form if the applicant is not certain that their process requires an APP.
- (b) Request a pre-application meeting with ADEQ.
- (c) Submit a pre-application proposal.
- (d) Consult a qualified professional to complete the application.
- (e) Request a review of the application by a consultant under contract to ADEQ.

The most critical requirements specified in the APP regulations are that the applicant must show that the Best Available Demonstrated Control Technology (BADCT) will be utilized by the facility, that aquifer water quality standards will not be violated in the aquifer at a point of compliance as a result of discharge, and finally, the applicant must demonstrate financial and technical capability. BADCT guidance is available from ADEQ. Facilities requiring permit approvals by ADEQ may also be subject to review for consistency with the applicable local and/or regional Water Quality Management Plan.

Aquifer Protection Permit - Continued

EXEMPTIONS:

Under A.R.S. § 49-250 there are currently 24 types of facilities that are specified as exempt from requiring an APP. In addition there are three class exemptions and five activities to which the program does not apply, see A.A.C. R-18-9-102 & 105. ADEQ has also prepared a checklist for small mine operators, with operations on BLM administered lands, to determine if their proposed activities are regulated under the APP program.

FEES:

Initial fees are paid when the application is submitted and range from \$1,200 to \$6,000. Final billing and refund is based on the time spent by ADEQ scientists and engineers in processing the final permit. Maximum fees are \$16,000 per permit or \$25,000 per individual site and \$3,000 for clean closure with no initial fee. If the applicant chooses to have a review performed by an ADEQ consultant, the cost of that review will be borne by the applicant. Facilities may also be subject to registration fees ranging for \$25 to \$5,000 per year, based on the discharge or effluent rate in gallons per day.

AVERAGE PROCESSING TIME:

Individual permits are issued for the operational life of the facility. Individual permits review may take from six months to more than two years to complete, depending on the complexity of the project, the extent of public involvement, and the responsiveness of the applicant.

208 Consistency Review

Arizona Department of Environmental Quality
ADEQ Water Planning Section
Mail Code M02480
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4606 or 1 (800) 234-5677 ext. 4606

PERMITS, AUTHORIZATIONS OR FILINGS:

208 Consistency Review

LEGAL AUTHORITY:

Clean Water Act, 33 U.S.C. §§ 1251 et. seq., §1313 (Federal Water Pollution Control Act §303)

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The purpose of the 208 Consistency Review process, as required by Section 303 of the Federal Clean Water Act (CWA), is to assure that the proposed facility or usage will be consistent with the existing Certified Regional Water Quality Management Plan (WQMP). The WQMP is the composite planning document for a region that addresses municipal and industrial waste water treatment facilities, point and non-point source management, waste management, planning description, water quality issues, drinking water, and implementation measures for the regional continuing planning process. The WQMP is reinforced by the Continuing Planning Process (CPP) manual, which contains procedures for planning and implementing water quality management programs in Arizona. The CPP is required by Section 303 (e) of the Federal CWA.

A consistency review form will be filed with the Water Quality Planning Section by the Permit and/or Engineering Unit. This form is required for all NPDES projects and all wastewater facilities requiring a Approval to Construct for new facilities and modifications to existing facilities.

EXEMPTIONS:

None

FEES:

There is no ADEQ fee at this time.

AVERAGE PROCESSING TIME:

Consistency review can usually be completed within three weeks, if all necessary information is provided.

Section 401: State Water Quality Certification

Arizona Department of Environmental Quality (ADEQ)
Water Permits Section, Federal Permits Unit
Mail Code M0401A
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4677 or 1 (800) 234-5677 ext. 4606

PERMITS, AUTHORIZATIONS OR FILINGS:

Clean Water Act, 33 U.S.C. §§ 1251 et. seq., §1341 (Federal Water Pollution Control Act §401)

LEGAL AUTHORITY:

A.R.S. § 49-221
A.R.S. § 49-222
A.R.S. § 49-225

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

This certification is issued to ensure that federal activities do not violate state water quality standards when a facility or activity may result in a discharge to waters of the state. ADEQ may also review federal actions for consistency with state-adopted plans and rules. Each review is specific to the proposed project and the project's site. A State Water Quality Certification is necessary before a permit may be issued by a federal agency. For more information see the Clean Water Act, Section 404 and the NPDES program, section 402.

Contact ADEQ during the preliminary planning for your activity or project to determine if water quality certification is needed. If certification is needed, you will be sent a form requesting specific information, such as the location of your work and areas of disturbance. ADEQ will need a contact name, project description, elevations of the land surface at the work area, fill material description, site vegetation, USGS topographic maps, photographs of project site and dates of site preparation and construction commencement. Facilities requiring permit approvals by ADEQ may be subject to a consistency review with the applicable local and/or regional Water Quality Management Plan.

EXEMPTIONS:

Contact ADEQ for the exemptions and general permits which apply to the various Clean Water Act programs under Section 402 and 404.

FEES:

There is no ADEQ fee at this time.

AVERAGE PROCESSING TIME:

Review time depends upon the completeness of the information provided to ADEQ, the complexity of the proposed activity, and the sensitivity of the impacted watercourse. Minimum processing time is 20 days; a complex project with changes may take as long as one year.

NPDES Permit (402 permit) for Storm Water Discharges

U.S. Environmental Protection Agency or Arizona Department of Environmental Quality
75 Hawthorne Street, WTR-5 Water Permits, Federal Permits Unit
San Francisco, CA 94105 Mail Code M0401A
(415) 744-1923 3033 N. Central Ave.
Phoenix, AZ 85012
(602) 207-4675 or 1 (800) 234-5677 ext. 4675

PERMITS, AUTHORIZATIONS OR FILINGS:

402 Permit - National Pollution Discharge Elimination System (NPDES) for Storm Water Discharges from Industrial Activities.

LEGAL AUTHORITY:

Clean Water Act, 33 U.S.C. §§ 1251 et. seq., §1342 (Federal Water Pollution Control Act §402)
40 CFR 122

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Industrial Activities within the categories at 40 CFR 122.26(b)(14) with storm water discharges are required to obtain a NPDES storm water permit.

Storm water discharge associated with industrial activity means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw material storage areas at an industrial plant.

Industrial facilities include those facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active, or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11 (1), because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990, and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have a an identifiable owner/operator; inactive mining sites **do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim**).

EXEMPTIONS:

For the categories at 40 CFR 122.26(b)(14)(xi), no permit is needed if industrial activities are not exposed to storm water.

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NPDES Permit (402 permit) for Storm Water Discharges - Continued

FEES:

None

AVERAGE PROCESSING TIME:

For coverage under EPA's general storm water permit, discharges are authorized 48 hours after notice of intent is postmarked, unless otherwise notified by EPA.

NPDES Permit (402 permit) for Point Sources of Pollution

U.S. Environmental Protection Agency or Arizona Department of Environmental Quality
75 Hawthorne Street, WTR-5 Water Permits, Federal Permits Unit
San Francisco, CA 94105 Mail Code M0401A
(415) 744-1923 3033 N. Central Ave.
Phoenix, AZ 85012
(602) 207-4675 or 1 (800) 234-5677 ext. 4675

PERMITS, AUTHORIZATIONS OR FILINGS:

402 Permit - National Pollution Discharge Elimination System Permit (NPDES) for Point Sources of Pollution

LEGAL AUTHORITY:

Clean Water Act, 33 U.S.C. §§ 1251 et. seq., §1342 (Federal Water Pollution Control Act §402)
40 CFR 122
40 CFR 440

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

SAND AND GRAVEL: Discharges from mining operations involving sand and gravel, such as gravel pit dewatering, are covered under the Storm Water Multi-Sector Permit (refer to NPDES storm water programs).

HARD ROCK MINING: In general, for mining operations described in 40 CFR Part 440 (mines or mills that use dump, heap, cyanidation, flotation, in-situ leach, or vat-leach processes to extract copper, lead, zinc, gold, silver, and molybdenum, as well as gold placer operations), discharges of pollutants from point sources into waters of the U.S. will require an NPDES permit. Allowable discharges from mining facilities can generally be classified as either storm water or mine drainage. Mine drainage is defined as any water drained, pumped or siphoned from a mine (40 CFR 440.132(h)). Storm water includes runoff which does not come into contact with other mine drainage.

REGULATORY REQUIREMENTS: Both categories of discharges (mine drainage and storm water) are required to comply with the state established Arizona Water Quality Standards. Discharges of mine drainage are also subject to the technology based effluent guidelines promulgated for mining facilities at 40 CFR 440. In general, water quality standards are usually more stringent than the effluent guidelines.

Prior to EPA's settlement with the National Mining Association (Federal Register Notice August 7, 1998), runoff from waste rock dumps was classified as mine drainage and therefore subject to the technology guidelines promulgated for mining facilities at 40 CFR 440. As per the settlement, runoff from waste rock dumps and haul roads constructed of waste rock, which does not mix with other mine drainage, is now classified as stormwater and is therefore no longer subject to compliance with the federal requirements promulgated

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at 40 CFR 440.

NPDES Permit (402 permit) for Point Sources of Pollution - Continued

TYPES OF PERMITS: The two basic types of NPDES permits that can be issued are individual and general permits. An individual permit is a permit specifically tailored for an individual facility. A general permit covers multiple facilities within a specific category. EPA has developed a general permit for industrial facilities discharging storm water into waters of the U.S. - the storm water Multi Sector General Permit (MSGP). Mining operations discharging only storm water may apply for coverage under the Multi-Sector General Storm Water Permit. For discharges of mine drainage, or for discharges of mine drainage mixed with storm water, an individual NPDES permit is required. In any case, EPA has the discretion to determine which type of permit (individual vs. general) would be most appropriate for a specific discharge and may require a specific facility to apply for an individual permit for discharges of storm water.

NEPA; New mining operations that fall into any of the categories described in 40 CFR 440 are classified under the regulations as new sources. EPA is required to conduct National Environmental Policy Act (NEPA) compliance activities for each new source prior to issuance of an NPDES permit. EPA cannot issue a NPDES permit to a new source before NEPA compliance activities have been completed. For operations requiring an EIS, EPA must prepare a Record of Decision (ROD) documenting the basis for their decision to either issue or deny the permit. As described at 40 CFR 124.61, EPA is required to wait at least 30 days following the date of release of the Final EIS prior to issuing the new NPDES permit.

Definitions:

A “point source” may be defined as any pipe, channel, ditch, conduit or other discrete conveyance through which pollutants may enter into waters of the U.S.

“Waters of the U.S.” are defined by the EPA to include navigable waters, tributaries of navigable waters, interstate waters, and intrastate lakes, rivers and streams. This includes ephemeral streams (dry washes) and wetlands but generally not ground water. However, if there is a discharge to ground water which results in a hydrologic connection to nearby surface waters, EPA may require the discharger to apply for an NPDES permit.

EXEMPTIONS:

None

FEES:

None

AVERAGE PROCESSING TIME:

Once the NEPA compliance activities for a mining operation have been completed, processing time will average from between six months to one year, depending on the complexity of the project.

Section 404 Permit (Dredge and Fill)

U.S. Army Corps of Engineers
Regulatory Branch
3636 N. Central Avenue, Suite 760
Phoenix, AZ 85012
(602) 640-5385 - 1936

PERMITS, AUTHORIZATIONS OR FILINGS:

Section 404 Permit (Also known as a “Dredge and Fill Permit”)

LEGAL AUTHORITY:

Clean Water Act, 33 U.S.C. §§ 1251 et. seq., §1344 (Federal Water Pollution Control Act §404)
33 CFR 320-330

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The purpose of Section 404 is to maintain and restore the chemical, physical, and biological integrity of the nation’s waters. Any person or entity proposing a project that will result in a discharge of dredged or fill material into waters of the United States, including wetlands, must obtain a Section 404 permit from the Corps. Anyone proposing operations (including operations conducted exclusively with hand tools), in dry or flowing rivers, streams, creeks or arroyos, or wetlands should contact the Corps before beginning operations.

Definitions:

Waters of the U.S. include lakes, rivers, streams, ponds, wetlands, washes, arroyos, and special aquatic sites, such as wetlands.

Fill Material - any material used for the primary purpose of replacing an aquatic area with dry land or for changing the bottom contours of a waterbody.

Discharge of dredged material - any addition of dredged material, including any redeposit of dredged material within waters of the U.S.

Types of permits - A project may qualify for a general permit, an individual permit, or a Letter of Permission. Permit applicants will be required to demonstrate that the proposed project has been designed in a manner that avoids impacts to waters of the U.S. to the maximum extent possible. A Section 401 state water quality certification from the Arizona Department of Environmental Quality is required prior to issuance of a 404 permit from the Corps. The Environmental Protection Agency issues water quality certification on tribal lands.

EXEMPTIONS:

Exemptions are limited, assume that a Section 404 permit is required and consult with the

Corp of Engineers.

Section 404 Permit (Dredge and Fill) - Continued

FEES:

There is no application filing fee. A fee is charged upon issuance of an individual permit. (\$10 for non-commercial projects, \$100 for commercial/industrial projects). No fee is charged for nationwide permit authorizations or Letters of Permission.

AVERAGE PROCESSING TIME:

It takes 30-60 days for most general permits and letters of permission. Individual permits typically require 180 days processing time. Longer processing times may be expected for complex projects or instances where there are endangered species or cultural resource concerns.

Section 10 Permit (Rivers and Harbors)

U.S. Army Corps of Engineers
Regulatory Branch
3636 N. Central Avenue, Suite 760
Phoenix, AZ 85012-1936
(602) 640-5385

PERMITS, AUTHORIZATIONS OR FILINGS:

Section 10 Permit

LEGAL AUTHORITY:

Rivers and Harbors Act - § 10

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The purpose of Section 10 is to prevent obstruction or alteration of the nation's navigable waters. Any person, agency, or entity, either public or private, proposing construction activity in or near or altering any navigable water of the United States must obtain a Section 10 permit. In Arizona, Section 10 applies only to the Colorado River and its impoundments (i.e. Lake Havasu, Lake Mead and Lake Powell)

EXEMPTIONS:

None

FEES:

There is no application filing fee. A fee is charged upon issuance of an individual permit. (\$10 for non-commercial projects and \$100 for commercial/industrial projects). No fee is charged for nationwide permit authorizations or letters of permission.

AVERAGE PROCESSING TIME:

The individual permit review process typically takes 180 days. Longer processing times may be expected in more complex projects, or instances where there are endangered species or cultural resource concerns.

Native Plants

Notice of Intent to Clear Land

Arizona Department of Agriculture (ADA)
1688 West Adams Street
Phoenix, AZ 85007
(602) 542-0988

PERMITS, AUTHORIZATIONS OR FILINGS:

Notice of Intent to Clear

LEGAL AUTHORITY:

A.R.S. § 3-904

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

A.R.S. § 3-904 requires the property owner, when clearing undisturbed land, to submit a Notice of Intent to Clear Land (Notice), which notifies the Arizona Department of Agriculture (ADA) of the intended destruction of protected native plants. The Notice must be submitted at least:

Twenty days before the plants are destroyed on an area of less than one acre; or Thirty days before the plants are destroyed on an area of one acre or more, but less than forty acres; or Sixty days before the plants are destroyed over an area of forty acres or more.

The ADA is obligated by statute to oversee the enforcement of Arizona's Native Plant laws. In this charge, ADA is responsible for tracking the destruction and salvage of Arizona's protected native plants. According to the A.R.S. § 3-904, the Arizona Department of Agriculture is required to oversee the destruction of protected native plants on both public and private land by the landowner or landowner's agent. When an individual or organization wishes to clear the land, in this case for the purpose of establishing a mining operation, they must take into consideration the presence of protected native plants.

EXEMPTIONS:

One exception to the Notice requirement is when plant destruction occurs during the normal course of mining, commercial farming, and stock raising operations. This exception applies to the normal and routine maintenance of improvements which may cause the inadvertent or unavoidable destruction of protected native plants.

However, should a mining operation decide to expand its operations to another or additional location on the same or different parcel of land, it must file an additional Notice of Intent to Clear Land with the Department within the prescribed time frames.

Notice of Intent to Clear Land - Continued

FEES:

None

AVERAGE PROCESSING TIME:

Once submitted, the Department will return a confirming copy of the Notice to the landowner. The landowner may not begin the destruction of protected native plants until he receives the confirmation from the Department and twenty days have elapsed for notices of less than one acre, thirty days have elapsed for notices greater than one acre but less than forty acres or sixty days have elapsed for notices involving more than forty acres.

Hazardous Materials

General Information

Exclusions :

Under A.R.S. Sec. 49-922, 49-929 and 49-930 the state refers to the requirement to establish a hazardous waste program equivalent to and consistent with the federal hazardous waste program promulgated under subtitle C, of the Resource Conservation and Recovery Act (RCRA). The 1980 amendment (Bevill Amendment) to this act temporarily excluded extraction waste, beneficiation waste and processing waste under subtitle C. This subtitle establishes reporting requirements for the generation, storage, handling, transport and disposal of hazardous waste. The Bevill Amendment exclusions become exemptions from state permitting by ARS's own language.

Bevill Amendment:

The Solid Waste Disposal Act of 1980 amended the RCRA to temporarily **exclude** extraction and beneficiation waste from regulations under subtitle C of RCRA. Mining overburden returned to the mine site is also excluded from subtitle C. If a facility is conducting "mineral processing" as defined in the September 1, 1989 Federal Register (54 CFR 36592) any waste from those facilities may be subject to RCRA subtitle C hazardous waste regulation. The following 20 mineral processing waste streams are **excluded** from subtitle C (see 40 CFR 261.4 (b) (7)). They are:

- A) Slag from primary copper processing.
- B) Slag from primary lead processing.
- C) Red and brown muds from bauxite refining.
- D) Phosphogypsum from phosphoric acid production.
- E) Slag from elemental phosphorus production.
- F) Gassifier ash from coal gassification.
- G) Process wastewater from coal gassification.
- H) Calcium sulfate wastewater treatment sludge from primary copper processing.
- I) Slag tailings from primary copper processing.
- J) Fluorogypsum from hydrofluoric acid production.
- K) Processing wastewater from hydrofluoric acid production.
- L) Air pollution control dust/sludge from iron blast furnaces.
- M) Iron blast furnace slag.
- N) Treated residue from roasting/leaching of chrome ore.
- O) Process wastewater from primary manganese processing by the anhydrous process.
- P) Process wastewater from phosphoric acid production.
- Q) Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production.
- R) Basic oxygen furnace and open hearth furnace slag from carbon steel production.
- S) Chloride process waste solids from titanium tetrachloride production.
- T) Slag from primary zinc processing.

General Information, Bevill Amendment - Continued

Definitions:

RCRA has “exact” regulatory definitions for extraction, beneficiation and processing. These definitions are given in the September 1, 1989 Federal Register (54 FR 36592). The following definitions are included here as general guidelines:

Extraction - Process of removing ore and minerals from the ground. Examples are overburden, waste rock and low grade ore.

Beneficiation - Generally, these are processes that separate mineral or element from, waste: crushing, grinding, washing, dissolution, crystallization, filtration, sorting, sizing, drying, sintering, pelletizing, briquetting, calcining, or the removal of water and/or carbon dioxide, roasting in preparation for leaching (except where the roasting/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing), autoclaving and or chlorination in preparation for leaching, gravity concentration, magnetic separation, flotation, ion exchange, solvent extraction, electrowinning, precipitation, amalgamation, and heap, dump, vat, tank, and in-situ leaching.

Processing - Waste and residue from applications beyond beneficiation which causes a physical/chemical change in the ore, chemical (acid digestion), electrolytic (copper electroplate refining) and pyrometallurgical processing (smelting).

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Although the Bevill Amendment exempts much of the waste generated at mining facilities, hazardous waste generators activities that are “not unique” to the mining industry are subject to RCRA Subtitle C. For example, hazardous waste generated from equipment servicing and repair and laboratory wastes meet the criteria for hazardous waste under 40 CFR 261. On site accumulation in excess of the requirements under 40 CFR 262.34 would require a storage permit. Similarly, some forms of treatment and on-site disposal would require a hazardous waste permit.

Most wastes from smelters are not excluded except some slags.

It is important to work with the Environmental Protection Agency (EPA) Region or the authorized state agency to identify whether a waste is or is not subject to RCRA subtitle C.

Land Disposal Restrictions (LDR):

May 26, 1998, Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes: Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preservation Wastewaters.

General Information, Bevill Amendment - Continued

What Wastes Does the May 26, 1998 LDR Rule Cover?

- C EPA considers mineral processing hazardous wastes to be newly identified or listed for purposes of determining when LDR prohibitions apply, since their status as hazardous wastes was not established until after 1984. The final rule applies the Universal Treatment Standards (UTS) to the newly identified characteristic mineral processing waste.
- C The rule only applies to primary mineral processing. The rule made no changes to the regulatory status of extraction/beneficiation wastes.
- C EPA has amended the rules to define which secondary materials from mineral processing are considered to be wastes and potentially subject to Land Disposal Restrictions. The intended effect is to encourage safe recycling of mineral processing secondary materials by reducing regulatory obstacles to recycling, while ensuring that hazardous wastes are properly treated and disposed.
- C The rule eliminates the current regulatory distinctions between mineral processing sludges, by-products and spent materials and creates a new class of materials referred to as mineral processing secondary materials eligible for a conditional exclusion from the definition of solid waste.
- C EPA is not reopening in any respect the Bevill determinations previously made by the Agency, including the Agency's articulation in 1989 of the functional distinctions between beneficiation and mineral processing (61 Federal Register 2354).
- C The mineral processing section of the final rule does not alter in any way the regulatory status of listed wastes or wastes from secondary mineral processing facilities.

Rule Implementation Dates

The requirements related to mineral processing wastes published in the final rule became effective as of August 24, 1998, with the following exceptions:

- Prohibition on underground injection of certain wastes at 40 CFR 148.18, which is effective May 26, 2000;
- Definition of solid waste provisions at 40 CFR 261.2, 261.4(a)(15), and 261.4(b), which became effective November 27, 1998;
- Prohibition on land disposal of wastes from elemental phosphorus processing and on mixed radioactive wastes at 40 CFR 268.34(b), which are effective May 26, 2000.

Hazardous Waste, Treatment, Storage and Disposal Permit

Arizona Department of Environmental Quality (ADEQ)
Hazardous Waste Section, Permits Unit
3033 North Central Avenue
Phoenix, AZ 85012
(602) 207-4146

PERMITS, AUTHORIZATIONS OR FILINGS:

Hazardous Waste Permit

LEGAL AUTHORITY:

A.R.S. § 49-921
A.A.C. R18-8-260
40 CFR 260 through 270

CONDITION REQUIRING PERMITS:

A hazardous waste permit is required for any facility that accepts hazardous waste from offsite for the purpose of treatment, storage or disposal. A hazardous waste permit is not required, however, for generators who store their hazardous waste for less than specified time periods, or for generators who treat their waste in on-site tanks for less than the specified time periods. For large quantity generators, the allowed storage period is 90 days without a permit; for small quantity generators, this time period is usually 180 days.

A permit application consists of two parts:

- (a) A form available at ADEQ that requires the applicant to provide general information;
- (b) A description of the applicant's waste, waste management units, management procedures, waste analysis plan, procedures to respond to emergencies, and a plan to clean up the facility at the time of closure.

In addition, an EPA identification number is required, as well as submittal of a "Notification of Regulated Waste Activity."

EXEMPTIONS:

Exemptions may include those that apply to farmers who dispose of pesticides for their own use, as long as they do so in compliance with certain conditions; conditionally exempt small quantity generators; operators who add absorbent material to the waste when it is first placed in a container; and owners and operators who take immediate action to contain and treat a spill. For more details on these and other exemptions, please contact ADEQ.

Hazardous Waste, Treatment, Storage and Disposal Permit - Continued

FEES:

Fees are based on the time required to process the permit as well as the cost of public notices and hearing. Hazardous waste permit fees typically range between \$10,000 to \$20,000. Other fees may be assessed for permit renewal and major modifications or for partial closure of hazardous waste management units.

AVERAGE PROCESSING TIME:

Permit processing time may take 18 months or more, based on the size and complexity of the project.

EPA Identification Number

Arizona Department of Environmental Quality (ADEQ)
Hazardous Waste Technical Programs Unit
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-24363 or 1-(800) 234-5677, ext. 4147

PERMITS, AUTHORIZATIONS OR FILINGS:

Notification of Regulated Waste Activity EPA form 8700-12.

LEGAL AUTHORITY:

A.R.S. § 49-922

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The purpose of this notification is to provide a system that tracks hazardous materials from their point of generation to their ultimate disposal site. Persons who manage hazardous wastes, including small and large quantity generators, or owners of treatment, storage, and disposal facilities, or transporters and most recycling facilities must have an EPA ID number.

EXEMPTIONS:

Hazardous waste rules do provide certain exemptions from this registration. The exemptions exist for recyclers of specific hazardous wastes types. Consult ADEQ for more information.

FEES:

There is no ADEQ fee.

AVERAGE PROCESSING TIME:

Usual processing time from submittal of the application to receipt of the ID number is about one week.

Pollution Prevention Plan

Arizona Department of Environmental Quality (ADEQ)
Waste Programs Division, Pollution Prevention Unit
3033 North Central Avenue
Phoenix, AZ 85012
(602) 207-4235 or 1(800) 234-5677, ext. 4235

PERMITS, AUTHORIZATIONS OR FILINGS:

Pollution Prevention Plan

LEGAL AUTHORITY:

A.R.S. § 49-961 through §49-973.

CONDITIONS REQUIRING A PERMIT:

A Pollution Prevention Plan must be filed by December 31, of the following year by facilities or State agencies that:

- (a) Were required to file an annual toxic chemical release inventory report Form R pursuant to Section 313 of the Superfund Amendments and Reauthorization Act of 1986, also known as Emergency Planning and Community Right to Know Act, Section 3113; or
- (b) Shipped off-site, for purposes other than recycling, an average of one kilogram or more per month (cumulative total) of acutely hazardous wastes; or
- (c) Shipped off-site, for purposes other than recycling, more than 12,000 kilograms (cumulative total) of hazardous wastes in calendar year 1993 or 10,000 kilograms cumulative total of hazardous waste in calendar year 1994; or
- (d) Used more than 10,000 pounds of a toxic substance in a calendar year after December 31, 1994.

A format guidance document, training, and technical assistance is offered by ADEQ.

EXEMPTIONS:

Household hazardous waste collection facilities; agricultural permit holders; permitted treatment, storage and disposal facilities that primarily receive wastes from off-site; agricultural pesticide applications subject to A.R.S. §49-305 or §-3-363. "Toxic substance" does not include material used or produced in connection with a mining or metallurgical operation.

FEES:

There is no fee for pollution prevention certification. In fact, facilities with certified pollution prevention plans will receive a 50 percent reduction of the required hazardous waste fee (A.R.S. §49-931.A.4). Facilities not required to prepare a pollution prevention plan may voluntarily comply and receive the hazardous waste fee discount.

AVERAGE PROCESSING TIME:

Review time is 90 days.

Voluntary Remediation Plan

Arizona Department of Environmental Quality (ADEQ)
Waste Programs Division, Voluntary Sites Unit
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4190 or 1 (800) 234-5677 ext. 4190

PERMITS, AUTHORIZATIONS OR FILINGS:

Application for acceptance into the Voluntary Program.

LEGAL AUTHORITY:

A.R.S. § 49-104.A.17,
A.R.S. § 49-282.05 through § 49-282.06
A.R.S. § 49-285.B
A.R.S. § 49-287.03.C.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The purpose of this program is to provide an expedited process for the review of remedial actions undertaken by a volunteering party. These remedial actions can include investigation, characterization, remedial design, and remediation of soils, surface water, and groundwater.

An application for acceptance into the Voluntary Remediation Program must be submitted to the Voluntary Sites Unit. Included with the application are a site access agreement for the period of remedial activity and a reimbursement agreement. The application is required to fulfill all substantive requirements for the program which has regulatory authority over the remediation activity. Administrative requirements may be waived if requested in writing and deemed appropriate by the department. Substantive program requirements cannot be waived.

EXEMPTIONS:

Volunteers who are not subject to any Title 49 statute or other regulation may cease participation without recourse. Sites that either are classified as underground storage tank remediation sites seeking reimbursement from the State Assurance Fund, have a release in violation of a permit subject to Title 49, A.R.S., or are the subject of a current civil or criminal enforcement action by the department or the EPA are not eligible. Volunteers who are not currently subject to agency enforcement action, but are subject to Title 49 may withdraw at will from the program, however, they may be referred to the appropriate program upon their withdrawal or termination.

FEES:

The application contains a reimbursement clause to allow the department to recover its necessary and reasonable costs for reviewing and approving the remedial action. These costs may include the costs associated with the use of department approved contractors for review and/or oversight. These costs are billed at the hourly rate of the assigned personnel, their expenses, and contractor costs on a quarterly basis.

Voluntary Remediation Plan - Continued

AVERAGE PROCESSING TIME:

Administrative review of the application is to be completed within 10 business days with substantive review in 15 business days. Times vary depending upon the complexity of the activity.

Hazardous Waste Management - Annual Registration

Arizona Department of Environmental Quality (ADEQ)
Hazardous Waste Technical Programs Unit
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-24363 or 1-(800) 234-5677, ext. 4363

PERMITS, AUTHORIZATIONS OR FILINGS:

Hazardous Waste Management Facilities - Annual Registration

LEGAL AUTHORITY:

A.R.S. § 49-929
A.R.S. § 49-930

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Owners of new or existing hazardous waste management facilities are required to register annually with ADEQ. Registration is required for the following:

- S Any facility that received waste for treatment or storage for more than ten days, or for disposal during the proceeding calendar year.
- S Any hazardous waste transporter that either delivered or picked up hazardous waste in the State of Arizona .
- S Any generator of hazardous waste that generated over 100 kilograms of hazardous waste in any month during the proceeding calendar year.
- S Any facility that received 50 or more tons per year of hazardous waste for material resource recovery, generated by a facility not owned by the receiving facility.

EXEMPTIONS:

None

FEES:

The following fees apply and are due annually by March 1:

- S For treatment, storage, and disposal facilities, the fee is \$1,500 plus \$2 per ton of hazardous waste received.
- S For hazardous waste transporters, the fee is \$200.
- S For large quantity generators, the fee is \$1,500 plus \$2 per ton of hazardous waste received, up to a maximum of \$10,000 per site or \$25,000 per entity.

AVERAGE PROCESSING TIME:

Usual processing time is four weeks.

**Toxic Data - Annual Report (Federal) Toxic Release Inventory
Emergency Planning and Community Right-To-Know (EPCRA § 313)**

EPCRA Reporting Center
P.O. Box 348
Merrifield, VA 22116-3348
(415) 744-1093

Arizona Emergency Response Commission
5636 E. McDowell Rd.
Phoenix, AZ 85008
(602) 231-6345

EPCRA Hotline
(800) 535-0202

PERMITS, AUTHORIZATIONS OR FILINGS:

Annual submission of a Toxic Chemical Release “Form R” Report.

LEGAL AUTHORITY:

Emergency Planning and Community Right to Know, 42 U.S.C. §§ 11001 et. seq., §11023
(EPCRA §313)
40 CFR 372

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The Form R Reports are due each year on the first of July for the prior year’s chemical use. forms should be sent to the address listed above and to the state agency listed on the form.

Report forms are available by calling EPA at the EPCRA Hotline number or through their website, www.epa.gov/opptintr/tri.

All facilities submitting Federal Form R to the EPA are also required to submit a copy to the Arizona Department of Environmental Quality (ADEQ) and the Arizona Emergency Response Commission (AERC). Please note that Arizona has some additional requirements that may require a facility to file Form R with just state agencies. Please refer to Section 8 page 13 for more information on state reporting requirements.

A facility is subject to the provisions of Section 313 of EPCRA if it meets all three of the following criteria:

1. Is in a covered Standard Industrial Classification (SIC) code, which are:

- S 10 - Metal Mining (except 1011, 1081, and 1094).
- S 12 - Coal Mining (except 1241).
- S 20 through 39 - Manufacturing Industries.
- S 4911, 4931, 4939 - Electric Generating Facilities, limited to facilities that combust coal and / or oil for the purpose of generating power for distribution in commerce.
- S 4953 - Treatment, Storage and Disposal (TSDs) regulated under RCRA.
- S 5169 - Chemical Distributors.
- S 5171 - Petroleum Bulk Distributors.

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S 7389 - Solvent Recovery Services.

**Toxic Data - Annual Report (Federal) Toxic Release Inventory - Continued
Emergency Planning and Community Right-To-Know (EPCRA § 313)**

2. Has 10 or more employees (or the equivalent of 20,000 hours per year).
3. Manufactures, imports, processes, or otherwise uses any of the listed toxic chemicals in amounts greater than the threshold quantities. The threshold for manufacturing, importing, or processing is 25,000 pounds per year, and the threshold for otherwise using (defined as non-incorporative activities such as the use of cleaning solvents, catalysts, process aides) an individually listed toxic chemical is 10,000 pounds per year.

Specific guidance materials are available through the EPA to assist you with report filing. Some of these guidance materials are specific to the mining industry. Contact EPA for further assistance.

EXEMPTIONS:

Certain uses of listed Section 313 chemicals are specifically exempted. If your facility meets the three reporting requirements discussed above and has questions regarding exempted chemical use activities, contact the EPCRA Hotline at (800) 535-1212.

FEES:

None

AVERAGE PROCESSING TIME:

NA

Toxic Data - Annual Report (State)

Arizona Department of Environmental Quality (ADEQ)
Waste Programs Division, Pollution Prevention Unit
3033 North Central Avenue
Phoenix, AZ 85012
(602) 207-4235, or 1 (800) 234-5677, ext. 4235

PERMITS, AUTHORIZATIONS OR FILINGS:

Toxic Data Report

LEGAL AUTHORITY:

A.R.S. § 49-963,
A.R.S. § 49-964
A.R.S. § 49-971
A.R.S. § 49-973

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Certain hazardous waste generators and toxic substance users are required to submit an annual toxic data report, which includes the Toxic Chemical Release Inventory Report Form (Form R) and a pollution prevention progress report. A Form R reports on the release of listed toxic chemicals. A progress report describes the progress made towards achieving the goals outlined in the Pollution Prevention Plan. The toxic data report is required for annual renewal of the Pollution Prevention Plan.

A facility must file a toxic data report on the first of July for the preceding calendar year if the facility was required to file a Form R, or if during the preceding calendar year, the facility generated an average of one kilogram per month of acutely hazardous waste or an average of 1,000 kilograms per month of hazardous waste exclusive of an episodic, accidental, or remediation related release. The Form R, instruction manual, training and assistance are offered by the ADEQ.

EXEMPTIONS:

Household hazardous waste collection facilities; agricultural permit holders; permitted treatment, storage and disposal facilities that primarily receive wastes from off-site and agricultural pesticide applicators.

FEES:

None.

Recertification allows the facility to continue to receive a 50 percent reduction in their hazardous waste fee, if they have an approved Pollution Prevention Plan.

AVERAGE PROCESSING TIME:

Review time is 90 days.

Special Waste Annual Report Requirement for Generators, Shippers and Receiving Facilities

Arizona Department of Environmental Quality (ADEQ)
Solid Waste Section, Recycling Program
Data Management Unit
3033 North Central Avenue
Phoenix, AZ 85012
(602) 207-4133, or 1 (800) 234-5677, ext. 4133

PERMITS, AUTHORIZATIONS OR FILINGS:

Special Waste Annual Report

LEGAL AUTHORITY:

A.R.S. § 49-860.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The purpose of this report is to enable the Special Waste Program to have a check and balance system for the tracking of special waste.

For a shipper required to comply with special waste manifesting procedures, the following information must be reported to ADEQ:

- 1) A shipping description of the special waste shipped during the preceding year
- 2) The volume or weights of each type of special waste shipped during the preceding year; and,
- 3) The facility to which the special waste was shipped, identified by name, address, location and groundwater quality protection permit number, if applicable.

A facility or person that receives a special waste from off-site, for treatment, storage or disposal must report the following information to ADEQ:

- 1) The shipping descriptions of each special waste received during the preceding year;
- 2) The volume or weight of each type of special waste received during the preceding year
- 3) For each special waste type, the identity by generator name, address, location, telephone number and amount of that special waste sent to the facility during the preceding year
- 4) For each special waste type received, a description of the methods and practices used by the receiving facility or person to treat, store or dispose of the special waste.

Generators who treat, store or dispose of special waste must keep records of the volume or weights of each type of special waste handled.

**Special Waste Annual Report Requirement for
Generators, Shippers and Receiving Facilities - Continued**

Generators who treat, store or dispose of special waste must report to ADEQ for each facility:

- 1) The volume or weight of each type of special waste treated, stored or disposed of on-site for the preceding year;
- 2) The volume or weight of each type of special waste treated, stored or disposed of off-site for the preceding year
- 3) For each type of special waste disposed, a description of the methods and practices used to minimize the amount or toxicity of the waste before disposal or reuse that constitutes disposal
- 4) The volume or weight of waste received pursuant to A.R.S. § 49-863.G.

EXEMPTIONS:

None

FEES:

None

AVERAGE PROCESSING TIME:

Annual reports are due the first of March of each year.

Solid Waste Disposal

Solid Waste or Special Waste Facilities Plan Approval

Arizona Department of Environmental Quality (ADEQ)
ADEQ Waste Programs Division, Solid Waste Section
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4685 or 1 (800) 234-5677 ext. 4685

PERMITS, AUTHORIZATIONS OR FILINGS:

Solid Waste or Special Waste Facility Plan or Aquifer Protection Permit

LEGAL AUTHORITY:

A.R.S. § 49-761 et. seq. for Solid Waste
A.R.S. § 49-851 et. seq. for Special Waste.
A.R.S. § 49-857.01.
A.R.S. § 49-241 et. seq. governs the Aquifer Protection Permit Program.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

For any non-municipal solid waste land fill, a completed Solid Waste or Special Waste Facility Plan or Aquifer Protection Permit (APP) must be obtained prior to facility construction and operation. Please contact ADEQ before submitting a plan or permit. If you are uncertain if you need an APP, please submit a Determination of Applicability for review. (Refer to the Section on Water Quality Permits for information on the Aquifer Protection Permit) If you are uncertain you need a Solid Waste Facility Plan approval, contact the ADEQ Solid Waste Section. All applications submitted to ADEQ should be prepared and/or reviewed by a qualified professional (geologist and/or engineer). Your request may also be expedited via the accelerated review process. Contact the ADEQ Solid Waste Section for details.

EXEMPTIONS:

Only municipal solid waste landfills are presently exempt from APP requirements, as their groundwater protection is governed by 40 CFR Part 258. Please contact ADEQ for more information on proposed exemptions and their implementations.

FEES:

Aquifer Protection Program (APP) and Solid Waste fees apply. Initial fees for the Solid Waste Facility Application range from \$1,609 to \$5,936. Final billing and refund will be based on the time spent by ADEQ scientists and engineers in the review of the application. The facility may also be subject to certain registration fees.

AVERAGE PROCESSING TIME:

Review time is six months to one year based on the complexity of the facility.

Solid Waste Notification

Arizona Department of Environmental Quality (ADEQ)
ADEQ Solid Waste Section, Plan Review Unit
3033 N. Central Avenue
Phoenix, AZ 85012
ph (602) 207-4685 or 1 (800) 234-5677 ext. 4685

PERMITS, AUTHORIZATIONS OR FILINGS:

Solid Waste Notification

LEGAL AUTHORITY:

A.R.S. § 49-762.01
A.R.S. § 49-701.23

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Notification is required for any facility that is utilized for collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste.

A notification is provided to ADEQ, wherein owners/operators provide the following information:

- 1) Facility name and mailing address.
- 2) Legal description by township, range and section, and county assessor's book, map and parcel number.
- 3) Description of waste storage and treatment equipment, and methods of waste management, including types and volumes of waste handled, and time the waste remains on site.
- 4) Description of waste management practices used at the facility, including measures taken to protect public health and the environment.
- 5) A diagram of the property, showing the location of the solid waste facility.

EXEMPTIONS:

- 1) Solid waste facilities that have obtained plan approval or filed for plan approval before September 1, 1994.
- 2) A site at which solid waste that was generated on site is stored in containers or tanks for 90 days or less.
- 3) A site at which non-putrescible solid waste that was generated on site in amounts of less than 1,000 kilograms per month per type of non-putrescible solid waste, is stored and contained for 180 days or less.
- 4) A transfer facility.
- 5) A site that stores, receives, source separates, processes or reduces recyclable solid waste, and that has no significant adverse effect on the environment.
- 6) An agricultural site where sludge from a wastewater treatment facility is applied to the land as a fertilizer or beneficial soil amendment.

Solid Waste Notification - Continued

FEES:

None

AVERAGE PROCESSING TIME:

Notices must be submitted no later than 30 days prior to beginning operation.

Burial of Mining Industry Off-Road Motor Vehicle Waste Tires

Arizona Department of Environmental Quality
ADEQ Solid Waste Section, Inspection and Compliance Unit
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4123 or 1 (800) 234-5677 ext. 4123

PERMITS, AUTHORIZATIONS OR FILINGS:

Notice of Commencement

LEGAL AUTHORITY:

A.A.C. R18-8-701 through R18-8-710

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

A one-time notice of commencement of burial of mining industry off-road motor vehicle waste tires, a map of the mining facility which clearly identifies the location and dimensions of the burial cell(s) and the estimated number of mining industry off-road motor vehicle waste tires which will be buried in each cell. New burial cell(s) not previously included in a notice, require submission of an additional notice. An annual report, which documents the location of each burial cell established during the preceding calendar year, the alphabetical or numerical identifier of each burial cell and the number of off-road motor vehicle waste tires which were placed in each burial cell for burial during the preceding calendar year must be filed by March 30 of each year, until a burial cell closure certification is filed with ADEQ. A burial cell closure certification must be filed after placement of final cover, and records which document the number of tires buried in each cell must then be maintained for at least three years. The applicable rules allow storage for no more than 500 mining industry off-road motor vehicle waste tires at the mining facility, outside of a burial cell, unless the mining facility has ADEQ approval to operate a waste tire collection site.

EXEMPTIONS:

None

FEES:

None

AVERAGE PROCESSING TIME:

Notification must be given within 24 hours after commencement of burial of any mining industry off-road motor vehicle waste tires. Burial cell closure certification must be filed with ADEQ within 30 days after placement of final cover. ADEQ reviews all notification forms, prior to filing, within 30 days of receipt. The operator will be notified if there is an error on the form.

Drinking & Waste Water Permits

Approval for Individual Wastewater On-Site Disposal System

Arizona Department of Environmental Quality
ADEQ Water Quality Division, Engineering Review Desk
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4677 or 1 (800) 234-5677

PERMITS, AUTHORIZATIONS OR FILINGS:

Approval for Individual On-Site Disposal System

LEGAL AUTHORITY:

A.R.S. § 49-104.B

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

This approval program oversees the location, design, installation, and maintenance of small sewage treatment and disposal systems which generally serve an individual residence or office. The most common systems utilize a septic tank and a soil absorption trench.

Some county health departments review applications for septic tank systems where ADEQ Engineering Bulletin No. 12 standards for septic systems can be met. Unless a county has been delegated the authority, all other applications for on-site sewage treatment and disposal systems must be approved by ADEQ following the Approval to Construct process.

EXEMPTIONS:

None

FEES:

Review fees are charged by the counties. An initial fee of \$100 is charged by ADEQ. Final billing and refund is based on the time spent by ADEQ engineers in processing the application

AVERAGE PROCESSING TIME:

Typically between 30 to 90 days.

Water and or Wastewater Facility Approval to Construct

Arizona Department of Environmental Quality
ADEQ Water Quality Division, Engineering Review Desk
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4614 or 1 (800) 234-5677, ext 4677

Or:

Maricopa County Environmental Services, Engineering Section (602) 506-6666
Pima County DEQ, Technical Services Division (602) 740-6501
Yavapai County Environmental Services (602) 771-3151
Kingman, City Engineer (602) 771-3151
Phoenix, Development Services (602) 262-7811
Prescott, Environmental Director (602) 776-6247
Sierra Vista, Development Services (602) 458-3315

PERMITS, AUTHORIZATIONS OR FILINGS:

Water and/or Wastewater Facilities - Approval to Construct

LEGAL AUTHORITY:

A.R.S. § 49-104
A.R.S. § 49-351
A.R.S. § 49-361

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

This approval ensures that proposed plans and specifications for construction of new or modified water and/or wastewater facilities comply with ADEQ rules, engineering guidelines and policies, and can be constructed. Site and facility specific conditions are considered to ensure the protection of public health, safety and the environment. If the application and plan documents are complete and all requirements are satisfied, ADEQ or the delegated county will issue a Certificate of Approval to Construct for the project.

An application (including water or sewer system information, description of project, engineer, plan documents, and construction agreement); design report; and four sets of plans and specifications for the proposed facilities shall be submitted to the ADEQ Engineering Review Desk. Plans, specification and design reports must be of construction quality and sealed by a Professional Engineer registered in the State of Arizona.

Applications are rejected if the design documentation/plans/specifications are:

- 1) Inconsistent with ADEQ Engineering Bulletins, rules, or field conditions documented by ADEQ or the delegated county.
- 2) Incomplete.
- 3) Not of construction quality
- 4) Insufficient in detail
- 5) Otherwise problematic for efficient review.

Water and or Wastewater Facility Approval to Construct - Continued

At the conclusion of project construction, an Approval of Construction (Approval to Operate) must be obtained from ADEQ. Facilities requiring permit approvals by ADEQ may be subject to consistency review with applicable local and/or regional Water Quality Management Plans (208 Plan). (See Section 6 - Water Quality Permits.)

EXEMPTIONS:

See A.R.S. § 49-353 for potable water systems, and A.R.S. § 49-361 for wastewater collection and treatment. Please contact the Engineering Review Desk for information on how these exemptions may apply to your project.

FEES:

Fees are charged for facilities requiring an ADEQ Approval to Construct certificate and/or an Aquifer Protection permit.

Maricopa, Pima and Yavapai counties and the cities of Kingman, Phoenix, Prescott and Sierra Vista (which have delegated authority to review and issue construction approval certificates) may also charge fees. Initial fees for ADEQ wastewater engineering reviews range from \$500 to \$1,000.

AVERAGE PROCESSING TIME:

Routine projects are typically processed within 45 to 90 days. Emergency projects to correct an imminent health danger can be processed within 48 hours. Complex projects with multiple changes may take up to two years to process. Time frames are affected by type of proposal, size, application completeness, the quality of submitted documents and the need for site inspection.

Water and/or Wastewater Facilities - Approval of Construction (Approval to Operate)

Arizona Department of Environmental Quality
ADEQ Water Quality Division, Engineering Review Desk
3033 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4677 or 1 (800) 234-5677

PERMITS, AUTHORIZATIONS OR FILINGS:

Approval to Operate

LEGAL AUTHORITY:

A.R.S. § 49-353
A.R.S. § 49-361

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

This approval ensures that new or modified water and/or wastewater facilities are constructed in accordance with plans and specifications approved by the ADEQ, as described by an Approval to Construct Certificate.

A submittal of the following by a Professional Engineer registered in the State of Arizona, responsible for project construction supervision:

- 1) Engineer's Certificate of Completion.
- 2) As-built plans.
- 3) Final Operation and Maintenance Manual (if required).
- 4) Construction and pre-operational inspection and testing data.
- 5) Other support information to demonstrate proper construction.

Facilities requiring permit approvals by ADEQ may be subject to review for adherence to the applicable local and/or regional Water Quality Management Plan (208 Plan).

EXEMPTIONS:

None

FEES:

Initial fees range from \$500 to \$1,000. Final billing and refund is based on the time spent by ADEQ in processing the application.

AVERAGE PROCESSING TIME:

Typically from two to eight weeks. Simple projects without operation and maintenance manuals typically are permitted within two weeks. Complex projects receive final approval within four to eight weeks. Projects with incomplete documentation and major construction deficiencies should expect a processing time of eight weeks or more.

Pima County - Drinking Water Permit

Pima County Department of Environmental Quality
130 W. Congress Street
Tucson, AZ 85701
(520) 740-3340

PERMITS, AUTHORIZATIONS OR FILINGS:

Drinking Water Permit

LEGAL AUTHORITY:

A.R.S. § 49-112
Pima County Code - 7.37.040

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

This is the operating permit for drinking water quality for facilities subject to county jurisdiction.

EXEMPTIONS:

Facilities which are not subject to regulations under state code and the delegation agreement.

FEES:

Minimum fee of \$125 with additional fees depending upon the number of service connections and sources.

AVERAGE PROCESSING TIME:

Minimum processing time is approximately two weeks.
Permit is valid for one year

Flood Control & Building Codes

Building Codes and Flood Control

<p>Apache County Planning and Zoning P.O. Box 238 St. Johns, AZ 85935 (520) 337-4364 ext. 426</p>	<p>Greenlee County Planning & Zoning Dept. P.O. Box 936 Clifton, AZ 85533 (520) 465-4762</p>	<p>Pima County Health Dept. 150 W. Congress, 2nd fl., Rm 237 Tucson, AZ 85701 (520) 740-8867</p>
<p>Cochise County 1415 Melody Lane Bisbee, AZ 85603 Flood Control (520) 432-9420 Planning & Zoning (520) 432 9450</p>	<p>La Paz County Community Development Dept. 1112 Joshua Ave., Ste. 202 Parker, AZ 85344 (520) 669-6138</p>	<p>Pinal County P.O. Box 1610 (Building & Safety) P.O. Box 727 (Flood) Florence, AZ 85232 Building (520) 868-6455 Flood (520) 868-6411</p>
<p>Coconino County Community Dev. Dept. 219 E. Cherry Ave. Flagstaff, AZ 86001 (520) 779-6716</p>	<p>Maricopa County Small Bus. Env. Assist. Dept. 1001 N. Central, Ste. 200 Phoenix, AZ 85546 (602) 506-6750</p>	<p>Santa Cruz County Public Works Dept. 2150 N. Congress Dr., Room 117 Nogales, AZ 85621 (520) 761-7800 ext 3071</p>
<p>Gila County 1400 E. Ashe Globe, AZ 85501 Building (520) 425-3231 ext. 512 Flood (520) 425-3231 ext. 509</p>	<p>Mohave County P.O. Box 7000 Kingman, AZ 86401 Flood Control (520) 757-0910 Planning & Zoning (520) 757-0903</p>	<p>Yavapai County 500 S. Marina St. Prescott, AZ 86303 Flood Control (520) 771-3197 Planning & Building (520) 771-3193</p>
<p>Graham County Planning & Zoning Dept. 921 Thatcher Blvd. Safford, AZ 85546 (520) 428-0410</p>	<p>Navajo County Dept. Of Public Works P.O. Box 668 Holbrook, AZ 86025 (520) 524-4120</p>	<p>Yuma County 2703 Avenue B Yuma, AZ 85364 Flood Control (520) 329-2300 Planning & Zoning (520) 329-2290</p>

PERMITS, AUTHORIZATIONS OR FILINGS:

Flood Control Permits, Building Codes

LEGAL AUTHORITY:

A.R.S. ARS 11-830

A.R.S. ARS 48-3601 - 48-3627

Federal Executive Order 11-988

Building Codes and Flood Control - Continued

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Building Codes: Generally no permits are required, unless operations or buildings are established on a property different from the mine.

Flood Control Permits: According to Executive Order 11-988 and ARS 48-3601-48-3627 all federally funded projects or private projects on federal lands must use proper floodplain management techniques. The authority to ensure that suitable techniques are used has been delegated to county flood control districts. Mines proposed for floodplains must be reviewed by the flood district. Operations allowed will be notified in writing that the mode of operation proposed is not detrimental or incompatible with local flood control.

EXEMPTIONS:

Building Codes: Arizona Statute 11-830 severely limits the ability of counties to regulate mining. This statute excludes mines from county building codes if the use or occupancy involves a commercial tract of five acres or more. Since mining claims are tracts of 20 acres, most counties do not enforce building codes on mining claims regardless of the actual size of the operation.

Some aspects of building safety such as electrical hook-up and elevator inspections amongst others are regulated by the State Mine Inspector. Please refer to the Mine Health and Safety section (Section 12) under state regulatory requirements for more information.

Yavapai County, a notable exception, requires mining operators to complete a "Use Exemption Packet for Mining and Metallurgical Projects." This packet is then reviewed by the Chief Zoning Inspector and approved or denied based on the criteria for a mining exemption.

FEES:

Varies - consult the county where operations are proposed.

AVERAGE PROCESSING TIME:

Varies - consult the county where operations are proposed.

Mine Health and Safety

State Regulatory Requirements

Arizona State Mine Inspector
1700 West Washington, Suite 400
Phoenix, AZ 85007
(602) 542-5971

PERMITS AND AUTHORIZATION:

Notice of Start-up, Move, or Stop for Portable Equipment and Mine Operations.

LEGAL AUTHORITY:

A.R.S. § 27
A.A.C. Title 18 and 27

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

- 1) The State Mine Inspector must be notified prior to starting, moving or stopping a mining operation (ARS-27-303).
- 2) Diesel equipment used underground must be permitted annually by the State Mine Inspector (ARS-27-365).
- 3) Elevators at mine property must be inspected and permitted annually by the State Mine Inspector (ARS-27-365 and Rule 11-1-1190, Arizona Mining Code).
- 4) Inspector will inspect and issue approval for electrical service at the mine.
- 5) Above ground fuel storage. The State Mine Inspector enforces applicable provisions of the Uniform Fire code at mine sites.
- 6) Mine Land Reclamation Plan. Please refer to Section 2 for more information.

EXEMPTIONS:

Variances may be applied for, alternate methods must have equal to or better protection provided for any exposed personnel.

FEES:

None

AVERAGE PROCESSING TIME:

The Mine Inspector will notify the operator by mail that the notice has been received and provide the operator with a copy of the Mining Code of the State of Arizona. This will occur upon receipt of the notice.

Diesel permits are issued within 30 to 45 days.

Elevator permits are issued upon the correction of any deficiencies found. If no deficiencies are found, permits are issued on completion of the inspection.

Electrical hook-ups do not require a permit, only inspections are necessary.

Fuel storage does not require a permit, only inspections are necessary.

Federal Regulatory Requirements

Mine Safety and Health Administration
63 E. Main St., Suite 303
Mesa, AZ 85201
ph (602) 649-5452

PERMITS, AUTHORIZATIONS OR FILINGS:

For mine health and safety, no actual permits, however operators must file Mine Safety and Health Administration Form 2000-7 and a Start up notice.

LEGAL AUTHORITY:

Mine Safety and Health Act of 1977, 30 U.S.C. 801 et. seq.
30 CFR 41

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

For mine safety and health, operators do not need a permit to begin operations, however, the Mine Safety and Health Administration (MSHA) requires that before starting operations, persons must notify MSHA. In addition, all mine operators must file MSHA Form 2000-7 which serves as notification of a legal identity.

MSHA primarily determines jurisdiction on a case-by-case basis, especially with regard to what constitutes mineral milling. If operators are uncertain as to whether their operation is within the scope of MSHA jurisdiction, they should contact the agency for a specific determination. MSHA generally does not have jurisdiction at abandoned milling operations which are no longer an integral part of ongoing mining activities. Also, MSHA jurisdiction generally ends once a mine ceases operation, the operator has complied with any statutory requirements for the sealing of the mine, and the land has been reclaimed.

With regard to exploratory operations, MSHA's general position is that even if the activity is purely exploratory and takes place on mine property, MSHA exercises jurisdiction. In all other cases, operators should contact MSHA for a specific determination.

EXEMPTIONS:

Exemptions are determined on a case-by-case basis. Consult with the local MSHA office for more information.

FEES:

None

AVERAGE PROCESSING TIME:

None

Wildlife

Arizona Game and Fish Department

Arizona Game and Fish Department
2221 West Greenway Road
Phoenix, Arizona 85023-4399
(602) 942-3000

PERMITS, AUTHORIZATIONS OR FILINGS:

Hunting and Fishing Licenses. No actual permits issued for mining. Agency acts as a consultant in the permitting process.

LEGAL AUTHORITY:

A.R.S. § 17
A.A.C. Title 12

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The Department manages resident wildlife and fish populations and has primary regulatory responsibility to promulgate regulations for the harvest of these resources. The Department also shares management authority for migratory and threatened and endangered species with the U.S. Fish and Wildlife Service.

The Department becomes involved in the permits or authorizations required for mining operations through various pieces of federal legislation, such as the National Environmental Policy Act, Clean Water Act and Endangered Species Act, which require coordination with the state wildlife agency. The Department may be asked to review mining permits, authorizations and associated projects to ensure that potential impacts to fish and wildlife resources are adequately addressed. The department has seen delays when proposed mining projects are in some way controversial. When delays are due to controversy over fish and wildlife resource issues, the Department works closely with the involved regulatory agencies and project proponents to address the issues in the most expeditious manner possible.

U.S. Fish and Wildlife Service

U.S. Fish and Wildlife Service
Arizona Ecological Services Field Office
2321 W. Royal Palm Road, Suite 103
Phoenix, Arizona 85021
ph (602) 640-2720

PERMITS, AUTHORIZATIONS OR FILINGS:

None, Agency provides Section 7 Consultation

LEGAL AUTHORITY:

Endangered Species Act - 16 U.S.C. §§ 1531 et. seq., §1536 (ESA § 7)

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The U.S. Fish and Wildlife Service (Service) is not involved in the issuance of mining permits, nor does it authorize mining operations. However, the Service may become indirectly involved within the framework of Section 7 of the Endangered Species Act (Act) as amended. This section of the Act requires that federal agencies consult with the Service on any actions the agency authorizes, funds, or carries out that “may affect” a species listed as endangered or threatened under the Act, or any designated critical habitat.

Consultation is an interagency cooperative process that can either be carried out in conjunction with the permitting agency’s National Environmental Policy Act review, or as a separate process. In this regard, permitting agency time lines for the issuance of permits and/or authorizations may be affected by their consultation with the Service.

The Act requires that if formal consultation is initiated, the consultation be concluded in 90 days, and the Service’s biological opinion be issued within 135 days. Deviations from the normal Section 7 schedules can result when interagency disagreement develops over the alternatives and/or measures needed for the protection of species and habitats in the affected area. These alternatives and/or measures are worked through the Section 7 process.

Although there is no direct permitting process, persons who “take” a threatened or endangered animal may be subject to civil or criminal penalties under section 9 of the ESA. The term “take” is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering. Limited protection of listed plants from take is provided to the extent that the ESA prohibits the removal and reduction to possession of Federally listed

U.S. Fish and Wildlife Service - Continued

endangered plants or the malicious damage of such plants on areas under Federal jurisdiction or the destruction of endangered plants on non-Federal areas in violation of State law or regulation or in the course of any violation of a State criminal trespass law.

Civil penalties for violation of take provisions under ESA range up to \$25,000. Criminal penalties reach up to \$50,000 and one year in prison. Completion of a Section 7 consultation, when Federal jurisdiction is involved, can result in an Incidental Take Statement, which allows the incidental take as a result of this otherwise lawful activity. If no Federal connection is available, incidental take for an otherwise lawful activity can be permitted through Section 10 of the ESA by development of an acceptable Habitat Conservation Plan.

Cultural Resources

Private Lands - Cultural Resources

Arizona State Museum (ASM)
The University of Arizona
Tucson, AZ 85721
(502) 621-6281

LEGAL AUTHORITY:

A.R.S. § 41 - 865

PERMITS, AUTHORIZATIONS OR FILINGS:

None.

A.R.S. § 41- 865 requires operators on private lands who discover burial sites, human remains, or what may be human remains as well as funerary objects to immediately notify the Arizona State Museum of the discovery. Funerary objects are objects or items that may have accompanied a burial. Consultation with affiliated Native American tribes is also required for Native American human remains discovered on private lands.

State Lands - Cultural Resources

Arizona State Land Department
Cultural Resources Manager
1616 W. Adams
Phoenix, AZ 85007
(602) 542-2684

State Historic Preservation Officer
Arizona State Parks
1300 W. Washington
Phoenix, AZ 85007
(602) 542-4174

Arizona State Museum
The University of Arizona
Tucson, AZ 85721
(502) 621-6281 or (520) 621-4794

LEGAL AUTHORITY:

Arizona State Historic Preservation Act, A.R.S. § 41-861, et. seq. - administered by SHPO
Arizona Antiquities Act, A.R.S. § 41-841, et. seq. - administered by ASM

PERMITS, AUTHORIZATIONS OR FILINGS:

Arizona Antiquities Act Permit

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Before authorizing activities that have the potential to substantially alter significant prehistoric or historic properties (cultural resources) on State Trust Land, the Arizona State Land Department (ASLD) is obligated to consult with the State Historic Preservation Officer (SHPO) to ensure that significant resources are either avoided or adequately studied before they are impacted.

Proposed ASLD actions that are subject to SHPO review include:

- S Sales of mineral material products.
- S ASLD's approval of Plans of Operation required under mineral exploration permits, mineral leases and oil and gas leases.
- S Issuance of haul road rights-of-way.
- S Issuance of Special Land Use Permits authorizing entry onto surface Trust lands for the purpose of exploring for subsurface federal minerals.

If after consulting with the Arizona State Museum (ASM), ASLD determines that a cultural resources field survey is needed before ASLD authorizes the proposed activity, ASLD will require the applicant, permittee or lessee to hire a consultant to provide the study for ASLD's use in consulting with the SHPO. Consultants performing cultural resource investigations on State Trust land must obtain an Arizona Antiquities Act permit from ASM before beginning field work.

State Lands - Cultural Resources - Continued

If, after reviewing the results of the field survey, ASLD determines that the inspection adequately covered all the land potentially affected by the proposed activity and that no cultural resources were found, ASLD may authorize the activity while sending a copy of the survey report to the SHPO. However, if the report indicates that cultural resources are present, ASLD is obligated to inform the SHPO of how ASLD intends to manage the resources, and to allow the SHPO an opportunity to review and comment on ASLD's management strategy before authorizing the activity. ASLD's cultural resource management recommendations may propose various kinds of treatment measures, including avoidance, monitoring, data recovery ("mitigation") or combinations thereof, depending on the circumstances. Development and implementation of these various treatment options typically requires further consultation between ASLD and the SHPO before ASLD authorizes the proposed activity.

If the proposed activity on State Trust land will require a federal license or permit, such as a Section 404 permit pursuant to the Clean Water Act, the federal agency with authority to grant the permit may be required under the National Historic Preservation Act (NHPA) to consult with the SHPO before granting the permit. In such instances, the federal agency typically requires the permit applicant to provide any cultural resource studies that may be needed to complete NHPA consultation.

Under A.R.S. § 41-844, if archaeological remains or paleontological remains, human remains, or funerary objects are discovered on State Trust Land after the proposed actions have begun, the operator is required to halt work in the area of the discovery, take steps to protect the remains or objects, and notify the Director of the Arizona State Museum.

FEES:

ASM charges consultants fees for issuing Arizona Antiquities Act permits, and for records management and collections repository agreements. These costs are typically passed on to the applicant. For further information concerning these costs, contact the ASM at (520) 621-6281. As noted above, the applicant, permittee, or lessee will be required to pay for the cultural resource survey and all necessary treatment measures.

AVERAGE PROCESSING TIME:

The amount of time it takes for ASLD, ASM, and SHPO to review proposed ground-disturbing uses of State Trust land for compliance with applicable statutes varies widely depending on the results of records review, field surveys, and management recommendations. In general however, after ASLD has initiated consultation with ASM regarding the need for a field inspection, ASM typically returns a recommendation within 30 working days. In cases necessitating a field survey, ASLD's review of the survey may take 30 to 90 days. If SHPO comment is required, statute provides for a response within 30 working days.

Federal Lands - Cultural Resources Bureau of Land Management and/or Forest Service

Bureau of Land Management
Arizona State Office
222 N. Central Ave.
Phoenix, AZ 85004
(602) 415 - 9200

U.S.D.A. Forest Service
Southwest Regional Office
517 Gold Avenue
Albuquerque, NM 87102
(505) 842-3275

LEGAL AUTHORITY:

National Historic Preservation Act of 1966, 16 U.S.C. §§ 470 et. seq.
Archaeological Resources Protection Act of 1979, 16 U.S.C. §§ 470 aa et. seq.
Native American Graves Protection and Repatriation Act of 1990, 25 U.S.C. §§ 3001 et. seq.
American Indian Religious Freedom Act of 1978, 42 U.S.C. §§ 1996, 1996 note

PERMITS, AUTHORIZATIONS OR FILINGS:

Cultural Resources Use Permit

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Compliance with Section 106 of the National Historic Preservation Act (NHPA) is necessary before the Bureau of Land Management / Forest Service (BLM/FS) approves a mining plan. The operator will ordinarily be required to conduct a cultural resource assessment of the area potentially affected by mining activities. Such assessments will commonly involve archaeological survey, ethnohistoric investigations and archival studies. If significant cultural resources (archaeological or historic sites or places of traditional cultural importance) are found during the survey, the operator must develop a mitigation plan to ensure that the sites are avoided by mining activities or are appropriately studied and recorded before mining activities begin. In some cases, particularly where traditional cultural properties are involved, other mitigating measures may also need to be implemented in addition to archaeological studies.

Cultural resource surveys, ethnohistoric investigations, archival studies, development of mitigation plans, and archaeological studies and recordation must be done by qualified professional archaeologists, historians, ethnographers, and other professionals appropriate to the type of work being performed. Personnel carrying out cultural resource investigations on BLM/FS-administered lands must obtain a Cultural Resource Use Permit prior to beginning field work.

Where cultural resources are found to be within the area of potential effect, the BLM/FS will need to consult with the State Historic Preservation Officer to determine the significance of the cultural resources involved and the adequacy of the measures proposed to mitigate the impacts of proposed mining activities. If the proposed project is highly complex or controversial, or will result in adverse effects to the cultural resources, the BLM/FS may also need to consult with the Advisory Council on Historic Preservation.

Federal Lands - Cultural Resources BLM/FS - Continued

In nearly all cases, the BLM/FS will need to consult with American Indian Tribes to determine whether there are any places of traditional cultural importance to them that might be affected by proposed operations, to determine the significance of such places, and how potential impacts on those places should be mitigated.

If any Native American human remains or objects buried with them are discovered during survey, prior to approval of a mining plan, the BLM/FS must consult with affiliated Indian tribes regarding the treatment and disposition of any such remains that may be impacted by proposed mining operations. If any Native American human remains or objects buried with them are discovered inadvertently after mining operations have begun, whether under a plan or a notice, the operator must immediately stop activities in the area of the discovery, take steps to protect the remains, and notify the BLM/FS of the discovery. Should human remains be recovered as a result of any mitigative effort or discovery, their treatment and disposition will be determined and carried out according to a plan prepared by BLM/FS.

FEES:

No fee is required for obtaining Cultural Resource Use Permits for lands administered by BLM. Cultural Resource Use Permits on lands administered by the FS are fee permits. Contact the FS for fee information. The operator will normally be required to pay all costs of cultural resource survey and mitigation, including reburial of human remains.

AVERAGE PROCESSING TIME:

A Cultural Resource Use Permit for archaeological survey is usually issued within one week of receiving a complete application.

A Cultural Resource Use Permit for archaeological testing or excavation (data recovery) cannot be issued until any consultation that may be needed with the State Historic Preservation Officer, Advisory Council on Historic Preservation and the effected American Indian Tribe has been completed by the BLM/FS. Once the BLM/FS has completed the necessary consultation and approved the mitigation plan for cultural resources that will be affected by proposed operations, a Cultural Resource Use Permit for archaeological testing or excavation is usually issued within one week of receiving a complete application.

Section 15 Pg. 0

Taxes & Incorporation

Transaction Privilege and Affiliated Excise Tax License (Severance Tax)

Arizona Department of Revenue
Phoenix, AZ 85007-2650
(602) 542-4576 or 1-800-634-6494

PERMITS, AUTHORIZATIONS OR FILINGS:

Transaction Privilege Tax License

LEGAL AUTHORITY:

The state transaction privilege tax license is authorized by A.R.S. § 42-5005, which requires every person who receives gross proceeds from sales or gross income on which a privilege tax is imposed to obtain a transaction privilege tax license. City privilege licenses are authorized by Model City Code Section 300.

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

The Department does not regulate any mining activities. However, each person engaged in the businesses of metal mining or nonmetaliferrous mineral mining is required to obtain a Transaction Privilege Tax License from the Department prior to engaging in business.

If the mine is located within city limits, the business may also be required to obtain a privilege license from that city. The Arizona Department of Revenue administers and collects the taxes of some of Arizona’s cities (“program cities”), but larger Arizona cities administer and collect their own taxes (“non-program cities”). Mines located in program cities should obtain a city privilege license at the same time they obtain a state transaction privilege tax license. The non-program cities must be contacted directly for information regarding their city privilege licenses.

EXEMPTIONS:

All mining businesses are required to obtain a license. There are no statutory exemptions from the license requirement. However, as a result of court decisions, businesses operated by Indian tribes, tribal corporations or enrolled members of the tribe on the reservation established for that tribe are not required to obtain a transaction privilege tax license or city privilege tax license.

FEES:

The fee to obtain a transaction privilege tax license is \$12. The fee to obtain a city privilege tax license varies from \$1 to \$20.

AVERAGE PROCESSING TIME:

The average length of time for the Department to issue a transaction privilege tax license and city privilege tax license is three days.

Authority and Articles of Incorporation

Arizona Corporation Commission
1300 W. Washington St.
Phoenix, AZ 85007
(602) 542-3026

PERMITS, AUTHORIZATIONS OR FILINGS:

Corporations must file an application for authority and articles of incorporation

LEGAL AUTHORITY:

Arizona Constitution Article XIV Sections 8 and 17
A.R.S. § 10-1501
A.R.S. § 10-202

CONDITIONS REQUIRING PERMITS, AUTHORIZATIONS OR FILINGS:

Required of all corporations established in Arizona

EXEMPTIONS:

None

FEES:

For domestic companies, the start up fee is \$60.
For foreign companies, the start up fee is \$175.
Filing annual reports cost \$45.

AVERAGE PROCESSING TIME:

Approximately six weeks.

The Bureau of Land Management is responsible for the balanced management of the public lands and resources and their various values so that they are considered in a combination that will best serve the needs of the American people. Management is based upon the principles of multiple use and sustained yield; a combination of uses that take into account the long term needs of future generations for renewable and nonrenewable resources. These resources include recreation, range, timber, minerals, watershed, fish and wildlife, wilderness and natural, scientific, and cultural values.

BLM/AZ/GI-99/010