GUIDELINES AND REGULATIONS FOR MATTERS OF STATE INTEREST
(Also known as "1041 Regulations")

CHAPTER 1. ADMINISTRATIVE PROVISIONS AND DEFINITIONS

A. TITLE AND CITATION

These Regulations are entitled and may be cited as the "Fremont County Guidelines and Regulations for Matters of State Interest."

B. PURPOSE AND FINDINGS

1. The general purpose of these regulations is to facilitate identification, designation and administration of matters of state interest consistent with the statutory requirements and criteria set forth in §24-65.1-101, et seq., CRS.

2. The specific purposes of these Regulations are:

    a. To promote the health, safety and general welfare of the citizens of, and to protect the environment of, Fremont County.

    b. To protect the beauty of the landscape and natural scenic characteristics, to conserve natural and cultural resources including to preserve historical assets and resources, to protect and enhance wildlife habitat, air and water quality, and to conserve natural resources.

    c. To promote safe, efficient and economic use of public resources in developing and providing needed community and area wide infrastructure, facilities and services in a manner that will not overload facilities of existing government service providers.

    d. To ensure that new development will pay for itself to the maximum extent practicable, and to ensure that present residents of Fremont County will not have to subsidize new development through increased cost of public services and/or degradation of the quality of life.

    e. To plan for and regulate the site selection, construction, expansion, and operation of matters of state interest to facilitate the planned and orderly use of land in accordance with their character and adaptability and as recommended by the Fremont County Master Plan.

    f. To regulate the use of land on the basis of the financial and environmental impact thereof on the community or surrounding areas within the development area and source development area.

3. The Board of County Commissioners of Fremont County finds that:

    a. The notice and public hearing requirements of §24-65.1-404, CRS, have been followed.

    b. These regulations are necessary because of the intensity of current and foreseeable development pressures on and within Fremont County.

    c. These regulations were adopted after taking into consideration applicable guidelines adopted and issued by the former Colorado Land Use Commission.

    d. These regulations apply to the entire unincorporated Fremont County.

C. AUTHORITY

These regulations are authorized by, inter alia, §24-65.1-101, et seq., CRS, and §29-20-101, et seq., CRS.

D. APPLICABILITY

1. These Regulations shall apply to the designation and regulation of any area and activity of state interest wholly or partially in the unincorporated areas of Fremont County whether on public or private land that has been or may hereafter be designated by the Board of County Commissioners of Fremont County.

2. Designations in effect as of the date of these Regulations

   a. Activities of state interest
      i. Site selection and construction of major new domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems;
      ii. Site selection and construction of major facilities of a public utility; and
      iii. Efficient utilization of municipal and industrial water projects; and

   b. In adopting these Regulations, the Board of County Commissioners ratifies the prior designations and designates as matters of state interest those matters previously designated.

3. Any proposed development being processed for or requiring any other land use approval under the Fremont County Zoning Regulations, Subdivision Regulations, Building Code, or Department of Transportation Regulations, is not thereby exempt from these Regulations.

E. INTERPRETATION WITH OTHER ENACTMENTS AND PLANS

1. Whenever the provisions of these Regulations are found to be inconsistent with or less stringent than any other resolution, ordinance, code, regulation, or other enactment, including the Fremont County Master Plan, the enactment imposing the more restrictive standards or requirements shall control.

2. If these Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in §§24-65.1-202, 204, CRS, the statutory criteria shall control.

3. Nothing in these Regulations shall be construed as exempting an applicant from any other applicable County requirements or other federal, state or local requirements.

4. No federal, state or local approval to carry out a development or activity shall preempt or otherwise obviate the need to comply with these Regulations.

F. MAPS

1. Each map referred to in the designation of any matter of state interest or in these Regulations is deemed incorporated herein as if set out in full.

2. Maps referred to in the designation of any matter if state interest or in these Regulations shall be filed with and be available for review in the Fremont County Planning Department and the office of the Fremont County Clerk & Recorder.

G. DUTIES OF THE BOARD OF COUNTY COMMISSIONERS

Unless otherwise specifically provided, it shall be the duty of the Board of County Commissioners to perform all functions set forth in these Regulations.

H. PERMIT AUTHORITY ESTABLISHED

1. The Board shall serve as the Permit Authority. The Director of the Department of Planning and Zoning (or designee) shall serve as the "Administrator."

2. The Permit Authority shall exercise all powers and duties granted it by these Regulations.

I. SEVERABILITY

If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of these Regulations shall not be affected thereby and are hereby declared to be necessary for the public health, safety and welfare.

CHAPTER 2. DESIGNATION OF MATTERS OF STATE INTEREST

A. MATTERS OF STATE INTEREST DESIGNATED

The designation process set forth in this Chapter 2 shall apply to the designation of any matter of state interest after the effective date of these Regulations. The designation process shall not apply to those matters of state interest designated by the Board of County Commissioners before the effective date of these Regulations, which designations shall remain in effect. Designations in effect are:

1. Site selection and construction of major new domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems (originally denoted as two separate designations).

2. Site selection and construction of major facilities of a public utility.

3. Efficient utilization of municipal and industrial water projects.

B. EXEMPTIONS

The portions of these Regulations or modification of existing permit authorized exclusively under Section 24-65.1-101, et seq., C.R.S. shall not apply to any development in an area of state interest or to any activity of state interest which meets any one of the following conditions:

1. As of May 17, 1974:

    a. The Development or activity is covered by a current building permit issued by Fremont County;

    b. The specific development or activity was directly approved by the electorate of the state or of Fremont County, provided that approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity;

    c. The specific development or activity is to be on land (I) which has been conditionally or finally approved by Fremont County for planned unit development or for a use substantially the same as planned unit development and the rights in such development plan remain vested; (II) which has been zoned by Fremont County for the use contemplated by such development or activity; or (III) with respect to which a development plan has been conditionally or finally approved by Fremont County and the rights in such development plan remain vested.

2. Other Exemptions:
   As of the effective date of these Regulations, rights have vested pursuant to County regulations or statute to engage in the activity or pursue the development in an area of state interest.

3. Exempt major facilities of a public utility:

    a. New natural gas or other petroleum derivative transmission lines that are designated to serve less than ten (10) year-round dwelling units and are located entirely within an approved service area.

    b. Extensions to natural gas or other petroleum derivative transmission line that:
        i. have distribution or transmission lines that have an inside diameter of less than

six (6) inches;

ii. are parallel to and located more than 100 feet from any other line;

iii. are located entirely within an approved service area.

C. DESIGNATIONS OF MATTERS OF STATE INTEREST

Designations, including amendments or revocations of designations, may be initiated in two ways:

1. By the Board of County Commissioners proposing, on its own initiative, with or without participation of the Planning Commission.

2. By recommendation of the Planning Commission to the Board of County Commissioners.

D. MORATORIUM PENDING DESIGNATION

After a recommendation from the Planning Commission for the designation or amendment of a designation of a matter of state interest, or after the Board of County Commissioners initiates the process for designation or amendment of a designation of a matter of state interest, no person shall engage in development in the area or conduct the activity described in the proposal until the Board of County Commissioners has held its public hearing with respect to the designation and issued its order relating thereto.

E. MORATORIUM FOLLOWING DESIGNATION

After a matter of state interest has been designated, no person shall engage in development in the designated area of state interest or conduct the designated activity of state interest until the designation and regulations for such area or activity are finally determined.

F. PLANNING COMMISSION PUBLIC HEARING

1. If the Planning Commission initiates consideration of a recommendation for the designation, amendment or revocation of the designation of a matter of state interest or regulations with respect thereto, or if the Planning Commission elects to consider a recommendation for the designation, amendment or revocation of the designation of a matter of state interest or regulations with respect thereto initiated by the Board of County Commissioners, it shall hold a public hearing therefor.

2. The Administrator shall publish notice of the Planning Commission hearing which shall include, at a minimum, the time and place of the public hearing, the place at which materials relating to the matter to be designated and any regulations for the administration thereof may be reviewed, the telephone number or address to which inquiries and comments may be directed, and a description of the matter of state interest proposed to be designated in sufficient detail to provide reasonable notice as to the property to be included in the designation or the type of activity to be designated. Such notice shall be published once in a newspaper of general circulation in the County not less than fourteen (14) days before the date set for hearing.

G. BOARD OF COUNTY COMMISSIONERS PUBLIC HEARING - PUBLIC NOTICE

1. The Board of County Commissioners shall hold a public hearing before designating and adopting regulations for any matter of state interest or amending or revoking said designation or regulations.

2. The Board of County Commissioners shall set a date for the public hearing.

3. The Administrator shall prepare a notice of the designation hearing, which shall include, at a minimum, the time and place of the hearing, the place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined, the telephone number or address to which inquiries and comments may be directed, and a description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to the property to be included in the designation or the type of activity to be designated.

4. The Administrator shall publish the notice once in a newspaper of general circulation in the County not less than thirty (30) days and not more than sixty (60) days before the date set for hearing.

H. MATTERS TO BE CONSIDERED AT DESIGNATION HEARING

At the designation hearing, The Board of County Commissioners shall hear testimony and receive evidence, including the Planning Commission recommendation, if any, and relevant testimony and documentary evidence presented. The Board of County Commissioners shall consider such evidence as may appear appropriate, including, at a minimum, but not limited to:

1. The intensity of current and foreseeable development pressures;

2. The matter and considerations set forth in any applicable guidelines for identification and designation of matters of state interest;

3. Recommendations from state agencies and other referral agencies, if appropriate;

4. The boundaries of the proposed area of state interest;

5. Reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner; and

6. Any master plan or comprehensive plan pertaining to or affected by the area or activity under consideration.

I. RECORD OF DESIGNATION PROCEEDINGS

1. The Administrator will collect and preserve the following record of the public hearing, at a minimum:

   a. Notice of the hearing;

   b. Certificate of publication of the notice;

   c. Names and addresses of persons who presented written or oral statements, appearing as witnesses or offering documentary evidence;

   d. Evidence of the identification of the matter of state interest proposed to be designated;

   e. Written findings concerning each of the matters referred to in Section H above;

   f. Written minutes of the Board of County Commissioners relating to the public hearing; and

g. The electronic recording of the public hearing, provided that the County is under no obligation to transcribe such recording unless paid for by the requesting party.

2. Any person may, at his own expense, provide for the recording and transcription of the hearing and a copy of the recording and transcript shall be furnished free of charge to the Board of County Commissioners and shall become part of the record.

J. ADOPTION OF DESIGNATION AND REGULATIONS

1. Within thirty (30) days after completion of the public hearing, the Board of County Commissioners may adopt, adopt with modification, or reject the proposed designation. If the designation and/or regulation thereof under §24-65.1-101, et seq., CRS, is rejected, the Board of County Commissioners may at its discretion regulate the matter under any other available land use control authority.

2. Such action shall be taken by written resolution.

3. Whenever the Board of County Commissioners finally determines that any matter is a matter of state interest, it shall be the Board's duty to designate such matter and adopt regulations for the administration thereof.

4. Each designation order adopted by the Board of County Commissioners shall, at a minimum:

   a. Specify the boundaries of the designated area or the boundary of the area in which an activity of state interest has been designated.

   b. State reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.

   c. Specify the regulations applicable to the designated matter of state interest.

5. The resolution shall be recorded in the office of the Fremont County Clerk & Recorder.

K. COMBINED DESIGNATION AND PERMIT HEARING

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously identified, designated, or for which regulations for the administration thereof have not been adopted, the Board of County Commissioners may hold one hearing for determination of identification, designation, and adoption of regulations for the administration thereof, as well as for granting or denying the permit. No permit that is granted at the conclusion of any such hearing shall authorize the applicant to engage in development or to conduct an activity until the identification and designation of the matter of state interest and adoption of regulations for the administration thereof are finally determined.

CHAPTER 3. PERMIT APPLICATION FOR ACTIVITIES OF STATE INTEREST

A. PERMITS REQUIRED

1. Any person desiring to conduct an activity of state interest, or engage in development of an area of state interest designated hereunder, designated hereunder shall first apply for and obtain a permit from the Board of County Commissioners.

B. PRE-APPLICATION PROCEDURE

1. A pre-application conference is required of all applicants. The pre-application conference shall be held between the applicant and the Administrator. The purpose of the conference is to provide an understanding of the applicable procedures, requirements and standards, and to provide information pertinent to the application and the geographical area affected by the Project.

2. At or before the pre-application conference, the applicant shall provide the Administrator with a written summary of the Project including:

   a. The applicant's name, address, and phone number;
   b. A map prepared at an easily readable scale showing
      i. the boundary of the proposed activity;
      ii. the relationship of the proposed activity to surrounding topographic and cultural features such as roads, steams and existing structures;
      iii. proposed buildings, improvements and infrastructure; and
   c. Information that is sufficient for determining the nature of the proposal and the degree of impacts associated with it.

3. Any comments or commitments made by the Administrator or any member of the County staff during the pre-application conference are only preliminary in nature and should not be relied upon by applicant. Formal comments cannot be made by the Administrator or County staff until after the application is submitted and nearby property owners and referral agencies have had an opportunity to respond.

C. FONSI (Finding of No Significant Impact)

If requested by the Applicant, the Permit Authority may evaluate whether a Finding of No Significant Impact (FONSI) is warranted or that a 1041 Permit is required based upon review of the pre-application submittals and the information obtained at a public hearing. Such determination may be made by the Permit Authority at such time as sufficient information is provided by the Applicant after the public hearing.

1. Fees. Within ten (10) days of the pre-application meeting, the Administrator shall establish an estimate in an amount necessary to cover costs of determining whether a FONSI or a 1041 Permit is required. The estimate will include the costs of copying, mailing, publications, labor, overhead and retention of consultants, experts and attorneys that the County deems necessary to advise it in making the determination.

2. Public Notice Requirements.

   a. Not later than thirty (14) days after receipt of sufficient information is submitted by the Applicant, the Permit Authority shall set a date for the public hearing on the application. Authority hearing. Such notice shall be published once in the County legal newspaper, not less than thirty (30) days or more than sixty (60) days before the date set for the hearing.

b. The Administrator shall publish a notice of the date, time and place for the Permit.

c. No less than seven (7) days before the hearing before the Permit Authority, the Administrator shall prepare a staff report that summarizes the request and comments from review agencies, if any, and public comment, if any, and that identifies whether a FONSI should be issued as per #3 below. A copy of the staff report shall be provided upon completion to the applicant.

3. FONSI. The Permit Authority may determine that a FONSI should be issued if the construction or operation of the Project, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the County in consideration of the Permit Application Approval Criteria found in Chapter 4 and the other chapters relating to additional provisions for specific Matters of State Interest of these Regulations. If the Permit Authority makes a FONSI, the applicant does not need to submit a 1041 Permit application.

4. 1041 Permit Required. If the Permit Authority determines that a FONSI is not appropriate based upon review of the pre- application submittals and the information obtained at the hearing, then the applicant must obtain a 1041 Permit.

D. APPLICATION FEE

1. Within ten (10) business days after the pre-application conference, the Administrator shall establish an estimate of the amount necessary to cover costs of reviewing and processing the application, including the costs of copying, mailings, publications, labor, overhead and retention of consultants, experts and attorneys that the County deems necessary to advise it on the application.

2. Once the estimate is established, the Administrator shall notify the Applicant and the Permit Authority in writing of the fee and its amount. Until the fee is paid, the application shall be incomplete and shall not be further processed.

3. The amount of the fee determined under Section D.1 hereof may be increased at any time if it is determined by the Administrator that the fee is not sufficient to cover all costs associated with the application. If the Administrator so determines, s/he shall notify the applicant in writing of the amount of the increase. Not later than ten (10) days following the notice, the applicant shall pay the amount of the increase. If the increase is not timely paid, the application shall be deemed withdrawn by the applicant.

4. The Permit Authority may in its sole discretion waive all or a portion of the fees if the applicant demonstrates a special need or such waiver of fees is found to be in the best interests of the citizens of Fremont County.

E. APPLICATION

1. An application for a Permit shall be submitted to the Administrator.

2. An application for a Permit shall not be accepted unless it is complete and is in form and content as required by state law and these Regulations, and the appropriate fees have been paid. If the application is determined incomplete by the Administrator, the Administrator shall specify what additional information is required. When a submitted application is determined to be complete, the Administrator shall note upon the application the date it is considered complete.

3. The Administrator shall determine the number of copies of the application required, and the applicant shall provide such copies before the application is formally scheduled for hearing.

F. APPLICATION SUBMITTAL REQUIREMENTS

The Administrator may waive one or more of the submittal requirements when the submittal information would not be relevant to whether the Project complies with the Permit Application Approval Criteria. Additional materials may be required under chapters applicable to a particular type of Project.

1. Application.

   a. The application must include an application form designating any persons authorized to act as agent for the applicant in connection with the application, exhibit the applicant's signature, and supply all required information. The form shall be accompanied by all fees, maps, plans, and reports required by these Regulations.

   b. The signature on an application form evidences the applicant's approval of and concurrence with all statements and commitments contained in the application.

   c. The application shall provide a written description of the development or activity, including any capital improvements plan, facilities plan, or other planning document which the applicant has prepared for its use, covering at a minimum a period of five years from the date of application.

2. Information describing the applicant.

   a. The names, addresses, telephone, email address and fax number, organizational form, and business of the applicant and, if different, the owner of the Project.

   b. The names, addresses and qualifications, including those areas of expertise and experience with projects directly related or similar to that proposed in the application, of individuals who are or will be responsible for constructing and operating the Project.

   c. Authorization of the application by the Project owner, if different than the applicant.

   d. Documentation of the applicant's financial and technical capability to develop and operate the Project, including a description of the applicant's experience developing and operating similar projects.

   e. Written qualifications of report preparers.

3. Information describing the Project.

   a. Plans and specifications of the Project in sufficient detail to evaluate the application against the Permit Application Approval Criteria.

   b. Descriptions of alternatives to the Project considered by the applicant.

c. Schedules for designing, permitting (including federal, state, or other local permitting), constructing and operating the Project, including the estimated life of the Project.

d. The need for the Project, including a discussion of alternatives to the Project that were considered and rejected; existing/proposed facilities that perform the same or related function; and population projections or growth trends that form the basis of demand projections justifying the Project.

e. Description of all conservation techniques to be used in the construction and operation of the Project.

f. List of adjacent property owners within 300 feet of the project and their mailing addresses (See Chapter 10(A)(1)(a) for additional requirements).

4. Property rights, other permits and approvals.

a. A list of all other federal, state and local permits and approvals that will be required for the Project, together with any proposal for coordinating these approvals with the County permitting process. Include copies of all permits or approvals that have been obtained, and copies of applications for all such permits or approvals that have been applied for but not yet obtained at time of this permit application.

b. Copies of all official federal and state consultation correspondence prepared for the Project; a description of all mitigation required by federal, state and local authorities; and copies of any draft or final environmental assessments or impact statements required for the Project.

c. Description of the water to be used by the Project and alternatives, including: the source, amount and quality of such water; the applicant's right to use the water, including adjudicated decrees and applications for decrees; proposed points of diversion and changes in the points of diversion; and the existing uses of the water. If an augmentation plan for the Project has been decreed or an application for such plan has been filed in the court, the applicant must submit a copy of that plan or application.

d. The planned access to the project site and the means the applicant intends to use to obtain a legal right to utilize such access, including copies of any access or right-of-way agreements which have been entered into by the date of the application for such access.

e. The names and addresses of persons or entities with an interest in any real property proposed to be physically disturbed or crossed by the activity or development which is the subject of the application, excluding mineral interests but including those holding mortgages, judgments, liens, easements, contract rights, rights-of-way, reservations, exceptions or other encumbrances, at least to the extent shown in the records of the County Clerk and Recorder or of which applicant has actual knowledge.

f. If the application anticipates new surface development, it shall include written certification of compliance with the provisions of Article 65.5. of Title 24, CRS, that require examination of public records to determine the existence and identity of owners and lessees of severed mineral interests in the property covered by the application. The application shall inform the County of the results of such examination. If such examination reveals the existence of any such owners or lessees, the application shall

include a complete list of the names and addresses of such persons and describe the severed mineral interests owned or leased by each. Public hearing on the application will not be held unless the applicant furnishes the County with signed certification confirming that the applicant has, at least thirty (30) days before the public hearing, transmitted to the Administrator and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, CRS.

5. Description of the technical and financial feasibility of the Project.

   a. The estimated construction costs and period of construction for each development component and the total mitigation costs for the Project.

   b. Revenues and operating expenses for the Project.

   c. The amount of any proposed debt and the method and estimated cost of debt service.

   d. Details of any contract or agreement for revenues or services in connection with the Project.

   e. Description of the persons or entity(ies) who will pay for or use the Project and/or services produced by the development and those who will benefit from any and all revenues generated by it.

6. Description of decommissioning and site reclamation, and cost estimate.

   a. Identify all properties to be reclaimed in whole or in part.

   b. Estimated costs of material removal, at surface and above and below ground to a depth of 18 inches.

   c. Estimated costs of road repair, regrading, and revegetation.

   d. Provide an estimate of time that decommissioning and reclamation will take.

7. Socioeconomic impacts analysis that addresses the manner in which the applicant will comply with the relevant Permit Application Approval Criteria. The impact analysis shall be limited to the impact area and shall include the following information:

   a. Land Use.
      i. A map and description of existing land uses and zoning within and adjacent to the impact area.
      ii. Description of provisions from local land use plans that are applicable to the Project and an assessment of whether the Project will comply with those provisions.
      iii. Description how the Project will utilize existing easements or rights-of-way for any associated transmission, distribution or collector networks.
      iv. Description of the agricultural productivity capability of the land affected by the proposal.
      v. Description of impacts to and mitigation with respect to public lands.

vi. Description of impacts and net effect that the Project would have on land use patterns.

b. Local Government Services.

i. Description of existing capacity of and demand for local government services including but not limited to transportation, roads/ highways, mass transit, trails, schools, water and wastewater treatment, water supply, emergency services, health services, infrastructure, and other services necessary to accommodate development within Fremont County.

ii. Description of the impacts and net effect of the Project to the capability of local governments that are affected by the Project to provide services.

c. Housing.

i. Description of existing seasonal and permanent housing including number, condition and cost of dwelling units.

ii. Description of the impact and net effect of the Project on housing during construction and operation stages of the Project.

d. Financial Burden on County Residents.

i. Description of the existing tax burden and fee structure for government services including but not limited to assessed valuation, mill levy, rates for water and wastewater treatment, and costs of water supply.

ii. Description of impacts and net effect of the Project on financial burdens of residents.

iii. Description of estimated county taxes and other revenue to be generated by the County resulting from the project.

e. Local Economy.

i. Description of the local economy including but not limited to revenues generated by the different economic sectors, and the value or productivity of different lands.

ii. Description of impacts and net effect of the Project on the local economy and opportunities for economic diversification.

f. Demographic information in the impact area.

i. Estimated current population number and density;

ii. Total employment, occupation types, and major employer locations;

iii. Family incomes;

iv. Population projections in increments, not to exceed a ten-year increment, for fifty (50) years. Data sources such as the Denver Regional Council of Governments, the U.S. Census, and the Colorado State Demographer's office should be used.

g. Recreational Opportunities.

i. Description of present and potential recreational uses, including but not limited to the number of recreational visitor days for different recreational uses ands the revenue generated by types of recreational uses.

ii. Map depicting the location of recreational uses such as fishery stream segments, access points to recreational resources, hiking and biking trails, and wilderness areas.

iii. Description of the impacts and net effect of the Project on present and potential recreational opportunities and revenues to the local economy derived from those uses.

h. Areas of Paleontological, Historic or Archaeological Importance.

i. Map and/or description of all sites of paleontological, historic or archaeological interest.

ii. Provide a state historical site survey form completed by a qualified professional acceptable to the State Historic Preservation Officer for all cultural resources affected by the Project.

iii. Describe the mitigation to be undertaken to preserve designated resources that may be impacted.

iv. Provide plans and procedures for notification to the State Historical Society, State Archaeologist, and to applicable local historical societies/organizations upon discovery of historical or archaeological resources during the implementation of the Project.

v. Description of the impacts and net effect of the Project on sites of paleontological, historic or archaeological interest.

i. Nuisance.

Description of noise, glare, dust, fumes, vibration, and odor levels caused by the Project. See additional requirements in Chapter 9(A)(10)).

8. Environmental Impacts. Description of the existing natural environment and an analysis of the impacts of the Project to the natural environment. Descriptions in this section shall be limited to the impact area, and shall include an analysis of existing conditions, supported with data, and a projection of the impacts of the Project in comparison to existing conditions. That analysis shall include a description of how the applicant will comply with the applicable Permit Application Approval Criteria.

a. Air Quality.

i. Description of the airsheds to be affected by the Project, including the seasonal pattern of air circulation and microclimates.

ii. Map and/or description of the ambient air quality and state air quality standards of the airsheds to be affected by the Project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants, and other chemicals, temperature effects and atmospheric interactions.

iii. Descriptions of the impacts and net effect that the Project would have on air quality during both construction and operation, and under both average and worst-case conditions.

(See additional requirements in Chapter 9(A)(11))

b. Visual Quality.

i. Map and/or description of ground cover and vegetation, forest canopies, waterfalls and streams and other natural features.

ii. Description of viewsheds, scenic vistas, unique landscapes or land formations.

iii. Description of any significant deterioration of existing natural aesthetics, creation of visual blight which may arise from the Project.

iv. Identify and describe any structures (including structure design and materials), excavations and embankments that may be visible from off-site.

v. Descriptions of the impacts and net effect that the Project would have on visual quality.

vi. Visual simulations of how the completed project will look from significant locations such as populated locations, designated scenic byways, historic districts and national historic landmarks.

c. Surface Water Quality.

i. Map and/or description of all surface waters to be affected by the Project, including provisions of any regional water quality management plan that applies to the Project and assessment of whether the Project would comply with those provisions.

ii. Existing data monitoring sources.

iii. Descriptions of the immediate and long-term impact and net effects that the Project would have on the quantity and quality of surface water under both average and worst-case conditions.

d. Groundwater Quality. Map and/or description of all groundwater, including any aquifers. At a minimum, the description should include:

i. Seasonal water levels in each subdivision of the aquifer affected by the Project.

ii. Artesian pressure in aquifers.

iii. Groundwater flow directions and levels.

iv. Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.

v. For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifer to impound groundwater and aquifer storage capacity.

vi. Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.

vii. Existing groundwater quality and classification.

viii. Location of all water wells and their uses.

e. Water Quantity.

i. Map and/or description of existing stream flows and reservoir levels.

ii. Map and/or description of existing Colorado Water Conservation Board held minimum stream flows.

iii. Descriptions of the impacts and net effect that the Project would have on water quantity.

iv. Statement of methods for efficient utilization of water to be employed in the Project (see Chapter 7(A)(1) for Municipal and Industrial Water Projects).

f. Floodplains, Wetlands and Riparian Areas.

i. Map and/or description of all floodplains, wetlands, and riparian areas to be affected by the Project, including a description of the types of wetlands, species composition, and biomass.

ii. Description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).

iii. Description of the impacts and net effect that the Project would have on the floodplains, wetlands and riparian areas.

g. Terrestrial, Aquatic, and Avian Animals and Habitat.

i. Map and/or description of terrestrial, aquatic, and avian animals including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of stream flows and lake levels needed to protect the aquatic

environment; description of threatened or endangered animal species and their habitat.

ii. Map and description of critical wildlife habitat and livestock range to be affected by the Project including migration routes, calving areas, summer and winter range, and calving/spawning beds.

iii. Description of the impacts and net effect that the Project would have on terrestrial and aquatic animals, habitat and food chain.

iv. Where appropriate, surveys for bats, raptors, and general avian use shall be conducted.

v. The description shall indicate whether a post construction wildlife mortality study will be conducted and, if not, justification why such a study does not need to be conducted.

h. Terrestrial and Aquatic Plant Life.

i. Map and/or description of terrestrial and aquatic plant life including the type and density and threatened or endangered plant species and habitat.

ii. Descriptions of the impacts and net effect that the Project would have on terrestrial and aquatic plant life.

i. Soils, Geologic Conditions and Natural Hazards.

i. Map and/or description of soils, geologic conditions, and natural hazards, including, but not limited to, soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas.

ii. Map and/or description of any flood hazard area associated with the Project.

iii. Documentation of historical flooding activity on the parcel where the activity or development will be located, and on other property affected by the Project.

iv. Detail potential, adverse impacts related to the associated flood hazard area.

v. Descriptions of the impacts and net effect of the Project on soil and geologic conditions in the area.

j. Hazardous Materials.

i. Description of all hazardous, toxic, and explosive substances to be used, stored, transported, disturbed or produced in connection with the Project, including the type and amount of such substances, their location, and the practices and procedures to be implemented to avoid accidental release and exposure.

ii. Location of storage areas designated for equipment, fuel, lubricants, and chemical and waste storage with an explanation of spill containment structures.

iii. Describe any health and safety hazards, including exposure to hazardous materials, which may result from the Project.

9. Monitoring and Mitigation Plan.

a. Description of all mitigation that is proposed to avoid, minimize or compensate for adverse impacts of the Project and to maximize positive impacts of the Project.

b. Describe how and when mitigation will be implemented and financed.

c. Describe impacts that are unavoidable that cannot be mitigated.

d. Description of methodology used to measure impacts of the Project and effectiveness of proposed mitigation measures.

e. Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.

10. Maps.

a. The following are general requirements for any map or plan required as part of the application. Minimum requirements include:

i. The name of the proposed development or use and total number of acres under consideration;

ii. Because all maps and plans may be used for public presentation, the map scale and size should be large enough for effective presentation and should accurately illustrate the application;

iii. Name, address, and telephone number of the applicant, designer, engineer, surveyor, and any other consultants assisting in the preparation;

iv. Date of preparation, revision box, written scale, graphic scale, and north arrow for each map.

b. Permit Map.

The applicant shall submit a Permit Map with the application, and a final Permit Map following approval of the Permit. The Permit Map shall constitute a part of the Permit. (Additional requirements for Site Selection and Construction of Major Facilities of a Public Utility are identified at Chapter 10(A)(2)(b).

i. The map shall be delineated on reproducible material approved by the Administrator.

ii. The dimensions of the map shall be thirty-six (36) inches wide by twenty-four (24) inches high.

iii. The map shall include the legal description of the property under consideration.

iv. The map shall include certificates for the property owner's signature (excepting linear facilities), the Board of County Commissioners and the Clerk to the Board. The required content of the certificates shall be established by the Administrator.

v. The Permit Map shall contain a Vicinity Map.

(1) The exact scale of the vicinity map shall be determined at the time of the pre-application conference, taking into consideration the type and size of the Project, as well as the type and complexity of the information to be mapped.

(2) The vicinity map shall delineate all of the required information within a one-half-mile radius of the property (one thousand feet for linear facilities) on which the development or activity will occur.

(3) The following information will be shown on the vicinity map:

- Section, township and range.
- Scale and north arrow.
- Outline of the perimeter of the parcel proposed for the site (for linear facilities, the proposed centerline and width of any corridor to be considered for the Project).
- Existing land use in the impact area.
- Locations and names of all key roads and water features (including water ditches).
- Locations of all residences within a one-half-mile radius, existing

and proposed accesses to the Project, any abutting subdivision outlines and names, and the boundaries of any adjacent municipality.

- Any other relevant information within a one-half-mile distance of the perimeter of the property as may be reasonably required by the Administrator to meet the intent and purpose of these Regulations.

vi. The Permit Map shall contain a Site Plan.

(1) The exact scale of the site plan shall be determined at the time of the pre-application conference, taking into consideration the type and size of the Project, as well as the type and complexity of the information to be mapped.

(2) The Site Plan shall outline the boundaries and identify the total acreage of the parcel being considered for the Project.

(3) The Site Plan shall include the location and identification of all of the following items which are presently existing within a two-hundred-foot radius of the boundaries of the Project area as well as within the area itself; it shall also include the proposed features and structures of the Project:

- All public rights-of-way of record, including names.
- All existing and proposed structures, utilities, earthwork and site modification including electrical lines, facilities and other types of existing and proposed utility infrastructure, above and below ground.
- All utility easements or rights-of-way for telephone, gas, electric, water and sewer lines.
- Water ditches.
- Adjacent property lines and respective owners' names (may be shown on vicinity map instead).
- All hydrographic features including streams, rivers, ponds, and reservoirs (including names).
- Topography at two-foot contour intervals or at intervals as determined appropriate by the Administrator. (Linear facilities shall include appropriate topographic data derived from USGS maps or an equivalent database.)
- Location of areas of moderate or severe soil limitations as defined by the Natural Resources Conservation Service or by a soil survey and study prepared by a soils engineer or scientist for the uses and associated structures proposed for the parcel.
- Location and design of storm water management devices or structures.
- Complete traffic circulation and parking plan showing locations and sizes.
- Location, amount, size and type of any proposed landscaping, fencing, walls, berms or other screening.
- Location of any natural hazard area.
- Such additional information as may be reasonably required by the Administrator or the Permit Authority in order to determine that the application meets the Permit Application Approval Criteria.

- Location, grades, and dimensions of all temporary and permanent onsite roads.
- Location of all lighting with lighting descriptions.
- Location of meteorological towers and anemometers (if applicable).

11. Roads/Access. Plan for ingress and egress to the project site identifying the following:

    a. A map of the access route through the County.
    b. A description of the access route through the County to include:
        i. All state, County, municipal, and/or federal (USFS or other) roads
        ii. An inventory of existing road conditions. Identify road surface materials stating type and amount of surface cover.
    c. Dust control procedures
    d. Road maintenance schedule or program
    e. If new access routes, or improvements to existing access routes are proposed that would be under the authority of the Fremont County Department of Transportation (FCDOT) Regulations, the plan shall demonstrate that such routes conform to the relevant requirements identified in the FCDOT Regulations.

12. Professional Qualifications.

    a. A professional consultant may not be necessary for all applications. Only the following will require professional assistance:
        i. Improvement plans and reports for water supply, sanitation, drainage, utilities, soils, grading, roads, structures, transportation modeling, transportation planning, transit planning, air quality planning or modeling, floods and floodplains, and other civil engineering work must be certified by a registered Colorado Professional Engineer, or other qualified professional engineer exempted from licensing requirements by state statute.
        ii. All documents containing land survey descriptions must be certified by a registered Colorado Professional Land Surveyor, or other qualified professional surveyor exempted from licensing requirements by state statute.
        iii. Geology reports shall be prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, an individual registered as a geologist by a state, or other qualified professional geologist exempted from licensing requirements by state statute.

    b. All documents described in the previous section submitted for review must show the formal education and relevant experience of the individual in charge of the work.

13. Additional Information as required by the Administrator or the Board because of issues specific to the Project. The Administrator may request that the applicant supply additional information related to the Project if the Permit Authority is unable to make a determination on one of the Permit Application Approval Criteria without additional information.

G. AGENCY REFERRALS AND ADJACENT PROPERTY OWNERS; NOTICE OF FILING

When a complete application is filed with the County, the Administrator shall send a copy of the complete application to and seek review comments from any local, state or federal agency that may have expertise in or an interest in impact that may be associated with the Project, including, but not limited to the agencies listed below. Based on the specifics of the application, the Administrator may waive referrals that are not necessary to a complete review of the application, or refer the application to other agencies that he deems necessary or appropriate to a complete review of the application.

1. Fire District or Authority serving the site;
2. Colorado Public Utilities Commission;
3. Colorado Natural Areas Council;
4. Colorado Department of Public Health & Environment;
5. Colorado Division of Water Resources;
6. Colorado State Historical Society;
7. Colorado Division of Wildlife;
8. Colorado State Forest Service;
9. Colorado State Patrol;
10. Colorado Department of Transportation;
11. County departments;
12. Historic District Public Lands Commission;
13. Homeowners' associations which may be affected by the Project;
14. Local historic preservation agencies
15. Municipalities within three (3) miles of the Project area;
16. Natural Resources Conservation District (formerly Soil conservation Service);
17. Planning Commission (one copy for each member and associate member).
18. Special Districts which may be affected by the Project;
19. United States Forest Service
20. Upper Arkansas Water Conservancy District.

Additionally, the Administrator shall send notice of the permit hearing to all adjacent property owners within 500 feet of the property for which the application is for. Additional notification to other affected property owners may be sent at the discretion of the Administrator on a case-by-case basis.

H. NOTICE OF PERMIT HEARING

1. Not later than thirty (30) days after receipt of a complete application for a Permit, the Permit Authority shall set a date for the public hearing on the application.

2. The Administrator shall publish a notice of the date, time and place for the Permit Authority hearing. Such notice shall be published once in the County legal newspaper, not less than thirty (30) days or more than sixty (60) days before the date set for the hearing.

3. No less than seven (7) days before the hearing before the Permit Authority, the Administrator shall prepare a staff report that summarizes the application and comments from review agencies, if any, and public comment, if any, and that identifies whether the permit application adequately demonstrates that the Project will comply with each of the applicable Permit Application Approval Criteria. The Administrator shall include in his report the reason why any approval criterion has not been satisfied and may recommend conditions to ensure that the Project will satisfy each criterion. A copy of the staff report shall be provided upon completion to the applicant.

I. CONDUCT OF PERMIT HEARING

1. The Permit Authority shall conduct the hearing in a manner to afford procedural due process to the applicant and any person who opposes the issuance of the Permit.

2. The Permit Authority shall hear relevant testimony and receive relevant evidence and may impose reasonable time limits on presenters and witnesses.

3. All persons appearing as parties at the hearing shall be afforded the right of cross-examination and a reasonable opportunity to offer evidence in rebuttal.

4. Any person may, at his own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the transcript shall be furnished free of charge to the

Permit Authority and become part of the record.

J. APPROVAL OR DENIAL OF THE PERMIT APPLICATION BY THE PERMIT AUTHORITY

1. The burden of proof shall be on the applicant to show compliance with the provisions of these Regulations.

2. If information presented at the hearing leads the Permit Authority to find that additional information is necessary for it to determine whether the Permit Application Approval Criteria herein have been met, the Permit Authority may continue the hearing for not more than sixty (60) days unless a longer period is agreed to by the applicant, or it may deny the Permit.

3. The Permit Authority may approve the application with reasonable conditions necessary to ensure compliance with the Regulations, if it determines that the applicant has proven that the Project complies with all applicable provisions of these Regulations. If the Permit Authority determines that the applicant has failed to prove that the Project complies with any applicable provision of these Regulations, the Permit Authority shall deny the Permit.

4. If the Permit Authority decides to approve the Permit with conditions, the Permit Authority shall make written findings that each condition is necessary to ensure that the Project will comply with the Permit Application Approval Criteria herein, and that each condition is necessitated by impacts caused by the Project.

5. The Administrator shall collect and preserve the following record of the public hearing:

   a. the permit application;

   b. The names and addresses of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence;

   c. All documentary evidence and written statements or testimony presented in support of or in opposition to the permit application;

   d. The electronic recording of the public hearing, provided that the County is under no obligation to transcribe such recording unless paid for by the requesting party;

   e. The written minutes of the hearing; The resolution granting or denying the application;

   f. The Permit, if issued.

6. A 1041 Permit may be granted subject to obtaining necessary approval from any approving authorities and to utility acceptance of any interconnection.

K. ISSUANCE OF THE PERMIT

1. The Permit shall be issued in writing by the Permit Authority.

2. The Permit may be issued for an indefinite period or for a term of years, depending on the nature of the Project.

3. The Permit is valid only for the construction and operation of the Project described in the application, together with conditions of approval, if any, imposed by the Permit Authority.

4. A copy of the Permit shall be certified by the Permit Authority and presented to the County Clerk

& Recorder for recording in the same manner as any document relating to real property.

5. Upon reasonable notice, County officials or their designated representatives may enter land on which a 1041 Permit has been granted for the purpose of monitoring impacts related to the conditions of the Permit which may arise. Twenty-four (24) hours advance notice shall be deemed reasonable notice.

L. PUBLIC HEARINGS OF OTHER LAND USE MATTERS

In cases in which the development or activity must also comply with other provisions of the County zoning or subdivision regulations, the permit hearings required by these Regulations may be held at the same time as the public hearings on such other land use matters.

M. PERMIT AMENDMENT

1. Any material change in the construction or operation of a Project from that approved by the Permit Authority shall require a permit amendment or a new permit.

2. A permit amendment shall be processed like an original permit, following the regulations applicable at the time of the application for the amendment.

CHAPTER 4. PERMIT APPLICATION APPROVAL CRITERIA

A. PERMIT APPLICATION APPROVAL CRITERIA FOR MATTERS OF STATE INTEREST

A Permit to conduct a designated activity of state interest or to engage in development in a designated area of state interest shall be approved if the Project complies with the following general criteria and any additional applicable criteria in chapters related to a particular Project. If the Project does not comply with any one or more of these criteria, the Permit shall be denied or approved with conditions which will ensure compliance. In determining whether the Project complies with these criteria, or if conditions should be imposed, the Permit Authority may utilize the considerations of Appendix "A".

1. Documentation that prior to site disturbance for the Project the applicant will have obtained all necessary property rights, permits, and approvals. The Board may, at its discretion, defer making a final decision on the application until outstanding property rights, permits, and approvals are obtained.

2. The applicant has the necessary expertise and financial capability to develop and operate the Project consistent with all requirements and conditions.

3. The Project is technically and financially feasible.

4. The Project will not impair property rights held by others.

5. The Project, or the location of the Project, will not have a significant adverse effect on the capability of local governments affected by the Project to provide services, or exceed the reasonable capacity of service delivery systems and public utilities.

6. The Project will not create an undue financial burden on existing or future residents of the County.

7. The benefits accruing to the County and its citizens from the Project outweigh the losses of any natural, agricultural, recreational, grazing, commercial or industrial resources within the County, or the losses of opportunities to develop such resources.

8. The Project will not significantly degrade any current or foreseeable future sector of the local economy.

9. The Project will not have significant adverse effect on the quality or quantity of recreational opportunities and experience.

10. Master Planning/Vision/Direction
    a. The Project will not have a significant adverse effect on desired local and community land use patterns.
    b. The Project is consistent with applicable local, regional, and state master/comprehensive plans.

11. Natural Hazards. The Project should avoid areas subject to natural hazards. Natural hazards include geologic hazards, wildfire hazards, and flood. If such hazards exist, they must be eliminated or adequately mitigated. If hazards cannot be adequately mitigated, such areas shall be reserved where development is prohibited.

12. Air Quality. The Project will not significantly degrade air quality (see Chapter 9(B)(19) for additional standards).

13. Water Quality and Aquatic Life

a. The Project will not increase water pollution levels in violation of applicable federal, state, and local surface water and groundwater quality control standards and will result in no net loss of wetland values and functions.

b. The Project will not significantly degrade terrestrial or aquatic animal life or its habitats.

c. The Project will not significantly degrade terrestrial plant life or plant habitat.

14. Wildlife. The Project will avoid or mitigate significant adverse impacts on critical wildlife habitat, including breeding grounds, nesting areas, migration routes, and wintering areas. Rare and endangered species habitat protection shall also be addressed.

15. Cultural/Historical Resource Considerations

a. The Project will not significantly degrade areas of paleontological, historic or archaeological importance.

b. The Project will have no unmitigated significant adverse impact on cultural resources.

16. The Project will not significantly degrade soils or geologic conditions.

17. Design Standards

a. The planning, design and operation of the Project shall reflect principals of resource conservation, energy efficiency and recycling or reuse (see Chapter 7(B)(1) for additional standards).

b. The Project will not significantly degrade existing visual quality (see Chapter 9(B)(21) for additional standards).

c. Exterior building design materials used in constructing buildings or structures in commercial centers shall complement the county's mountain environment or historic mining heritage. Natural materials should be used such as wood siding, native stone, masonry, or glass. Materials that complement the County's historic mining heritage are also encouraged. Variations in roof lines and in building facades are encouraged. Architectural designs shall complement and coordinate with one another, and shall create interest through varied roof lines, treatment of building facades, and use of covered walkways and entrances.

18. Landscaping/Erosion Control

a. Landscaping shall demonstrate water conservation by requiring xeriscaping concepts. The use of native species should be maximized so that native species continue to dominate the County's mountain environment. Plant species that the County has determined are invasive, noxious, or otherwise a nuisance are prohibited. The impacts of site development shall be mitigated with landscape designs that will buffer or screen the development from abutting properties and from public rights-of-way. Buffering and screening features shall complement the existing natural character and context of the site and blend with the setting. Landscaping shall demonstrate the long term health and success of required landscaping through appropriate maintenance practices, including replacing landscaping that may have perished and keeping irrigation systems operable.

b. The Project will meet the standards of the County's Best Management Practices for control of stormwater runoff.

19. Nuisances/Hazards

a. The Project will not cause a nuisance.

b. The Project will not result in unreasonable risk of releases of hazardous materials.

20. Mineral Resources. The Project will not impede or interfere with existing mining operations, nor will there be a significant adverse impact on mineral resources in the County.

21. Roads/Access. Adequate legal and physical access shall be demonstrated, and the applicant shall demonstrate it has secured, or can secure, all necessary access approvals from the County, the Colorado Department of Transportation, and other applicable government agencies. The applicant agrees to confine construction traffic to agreed-upon routes.

B. ADDITIONAL PERMIT APPLICATION APPROVAL CRITERIA

In addition to meeting the Permit Application Approval Criteria in this Chapter, certain Projects must meet the additional Permit Application Approval Criteria set forth in Chapters 7 - 10 of these Regulations.

CHAPTER 5. FINANCIAL ASSURANCE

A. FINANCIAL GUARANTEE REQUIRED

Before any Permit is issued, the Permit Authority may, at its discretion, require the applicant to file a guarantee of financial security deemed adequate by the Permit Authority and payable to the County. The purpose of the financial guarantee is to assure the following:

1. Faithful performance of the requirements of the Permit and applicable Regulations.

2. That the Project or activity is completed and, if applicable, that the development area is properly reclaimed.

3. That the applicant performs all mitigation requirements and Permit conditions in connection with the construction, operation and termination of the Project.

4. That increases in public facilities and services necessitated by the construction, operation and termination of the Project are borne by the permit holder.

5. That shortfalls to County revenues are offset in the event that the Project is suspended, curtailed or abandoned.

B. AMOUNT OF GUARANTEE

In determining the amount of the financial guarantee, the County shall consider the following factors:

1. The estimated cost of completing the Project or activity and, if applicable, of returning the development area to its original condition or to a condition acceptable to the County.

2. The estimated cost of performing all mitigation requirements and Permit conditions in connection with the construction, operation, and termination of the Project, including:

    a. The estimated cost of providing all public service necessitated by the Project until two (2) years after the Project ceases to operate; and

    b. The estimated cost of providing all public facilities necessitated by the Project until all such costs are fully paid.

C. ESTIMATE

1. Estimated cost shall be based on the applicant's submitted cost estimate plus the Permit Authority's estimate of the additional cost to the County of bringing personnel and equipment to accomplish any unperformed purpose of the financial guarantee. The Permit Authority shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation. The Permit Authority may require, as a condition of the permit, that the financial security be adjusted upon receipt of bids to perform the requirements of the Permit and these Regulations.

2. Revisions to the estimate may be required based on information available to the County.

D. FORM OF GUARANTEE

1. The guarantee may be in the form of cash, federally issued certificates of deposit, irrevocable letters of credit issued by a bank acceptable to the Board, or any other form, or combination of forms, established by the Board.

2. At least ten percent (10%) of the amount of the financial guarantee must be in cash deposited with the County's treasurer and placed in an earmarked escrow account mutually agreeable to the Board and applicant.

3. Financial guarantees in the form of performance bonds shall provide a financial guarantee that the permit holder will fulfill all obligations under the terms of the Permit. The surety issuing a performance bond shall have at least an "A" rating from Moody's or an equivalent rating as designated by a nationally recognized rating firm, and shall additionally be included in the most recent listing of companies holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, Department of Treasury, Circular 570 (or its successor).

4. The surety issuing an irrevocable letter of credit must maintain an office or corresponding bank within fifty (50) miles of Cañon City, and shall have a current rating of 125 or better from IDS Financial Services, Inc., or otherwise be approved by the County's Director of Finance.

5. The permit holder shall not have greater than a twenty percent (20%) ownership or managerial control over the surety issuing any financial guarantee.

E. RELEASE OF GUARANTEE

1. The financial guarantee may be released only when:

   a. The Permit has been surrendered to the Permit Authority before commencement of any physical activity on the site of the permitted development or activity;

   b. The development or activity has been abandoned and the site has been returned to its original condition or to a condition acceptable to the County in accordance with criteria adopted by the County for the matter of state interest for which the Permit is being granted;

   c. The Project has been satisfactorily completed;

   d. A phase or phases of the Project have been satisfactorily completed allowing for partial release of the financial guarantee consistent with Project phasing and as determined appropriate by the Board of County Commissioners; or

   e. The applicable guaranteed conditions have been satisfied.

F. CANCELLATION OF THE GUARANTEE

Any security may be canceled only upon receipt of the Permit Authority's written consent, which may be granted only when such cancellation will not detract from the purposes of the security.

G. FORFEITURE OF GUARANTEE

1. If the Permit Authority determines that the financial guarantee should be forfeited because of any violation of the Permit, mitigation requirements, conditions or any applicable Regulations adopted by the Board, it shall provide written notice to the surety and the permit holder that the financial guarantee will be forfeited unless the permit holder makes written demand to the Permit Authority within thirty (30) days after permit holder's receipt of notice, requesting a hearing before the Permit Authority. If no demand is made by the permit holder within said period, then the Permit Authority shall order the financial guarantee forfeited.

2. The Permit Authority shall hold a hearing within thirty (30) days after the receipt of the demand by the permit holder. At the hearing, the permit holder may present for the consideration of the Permit Authority statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing, the Permit Authority shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.

3. A financial guarantee shall be deemed forfeited if it is not renewed in a form acceptable to the Board not later than fifteen (15) business days before its expiration date.

4. The deposit described above may be used by the Permit Authority of the County in the event of the default or alleged default of the permit holder, only for the purposes of recovering on the surety or fulfilling the permit obligation of the permit holder. In the event that the ultimate reviewing court determines that there has been a default by the permit holder, that portion of any moneys expended by the County from the escrow funds relating to such default shall be replaced in the escrow account by the Board immediately following such determination. The County may arrange with a lending institution, which provides money for the permit holder, that said institution may hold in escrow any funds required for said deposit. Funds shall be disbursed out of escrow by the institution to the County upon County's demand for the purpose specified in this section.

5. If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the County's attorney shall take such steps as deemed proper to recover such costs where recovery is deemed possible including costs and attorney fees.

H. SUBSTITUTE GUARANTEE

If the license to do business in Colorado of any surety upon a security filed pursuant to this regulation is suspended or revoked by any State authority, then the applicant shall within thirty (30) days after receiving notice thereof, substitute a good and sufficient surety licensed to do business in Colorado. Upon failure of the permit holder to make substitution within the time allowed, the Board of County Commissioners shall suspend the Permit until proper substitution has been made.

CHAPTER 6. PERMIT ADMINISTRATION AND ENFORCEMENT

A. ANNUAL REVIEW

1. Within thirty (30) days before each annual anniversary date of the granting of a Permit, the permit holder shall submit a report to the Board of County Commissioners, via the Administrator, detailing all past activities conducted by the permit holder pursuant to the permit including a satisfactory showing that the permit holder has complied with all conditions of the Permit and applicable regulations. The permit holder need not inform the Board of activities, such as operational changes, which are not the subject of a permit condition.

2. The Board shall review the report within thirty (30) days from the date of submittal thereof. If the Board determines, based upon its review, that the permit holder is likely to have violated the provisions of the Permit or applicable regulations, it shall consider the matter at a scheduled public hearing. If the Board determines at the public hearing that the permit holder has violated the provisions of the Permit or applicable regulations, the Board may suspend or revoke the Permit in accordance with these Regulations.

3. Upon notice to the Board of the fulfillment of all Permit conditions, and the Board's concurrence therein, the Board may terminate any annual review requirements.

4. The Board of County Commissioners may waive or modify the annual review requirements on its own initiative and discretion or upon petition of the permit holder and upon a showing of good cause therefor.

B. PERMIT SUSPENSION OR REVOCATION

1. The Permit Authority may temporarily suspend the Permit for a period of thirty (30) days for any violation of the Permit or these Regulations. Prior to any permit suspension, the Permit Authority shall provide the permit holder with written notice of the violation and will have a minimum of fifteen (15) days to correct the violation. If the violation is not corrected, the Permit shall be temporarily suspended for thirty (30) days. If the permit holder does not concur that there is a violation, he shall, within fifteen (15) days after the date of the notice , show cause to the Board why temporary suspension should not be ordered. A hearing shall be held within the thirty-day period pursuant to the following subsection.

2. Before or after a temporary suspension, the Permit Authority may, following notice and hearing, revoke or permanently suspend a Permit granted pursuant to these Regulations, if the Permit Authority finds:

   a. A violation of any provision of the Permit or these Regulations; or

   b. The permit holder has failed to take substantial steps to initiate the permitted development or activity within twenty-four (24) months from the date of the Permit, or, if such steps have been taken, the permit holder has failed to complete the development or activity with reasonable diligence. "Substantial steps" do not require construction activity and may include, among other things, legal or administrative proceedings and activities directly associated with the Project. An extension of the time within which substantial steps to initiate the permitted development or activity need be taken may be granted by the Permit Authority upon the request of the permit holder and a showing of good cause therefor.

3. Upon good cause shown by the permit holder, any revoked or suspended permit may be reinstated, effective immediately upon such reinstatement, within twelve (12) months after revocation or suspension.

4. When the Permit Authority is considering the revocation or suspension of a permit, it shall consider evidence and statements in mitigation and in aggravation of the violation or failure to act before determining the appropriate penalty.

5. No less than thirty (30) days before the revocation hearing, the Permit Authority shall provide written notice to the permit holder setting forth the violation and the time and date for the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than thirty (30) days or more than sixty (60) days prior to the hearing. Following the hearing, the Permit Authority may revoke the Permit or may specify a time by which action shall be taken to correct any violations for the Permit to be retained.

C. ENFORCEMENT AND PENALTIES

1. Any person engaging in a development in the designated area of state interest or conducting a designated activity of state interest who does not obtain a Permit pursuant to these Regulations, who does not comply with Permit conditions or these Regulations, or who acts outside of the jurisdiction of the Permit may be enjoined by the County from engaging in such development or conducting such activities and may be subject to such other criminal or civil liability as may be prescribed by law.

2. If the County determines at any time that there are material changes in the construction or operation of the Project from that approved by the County, the Permit shall be immediately suspended and a hearing shall be held to determine whether new conditions are necessary to ensure compliance with Permit Application Approval Criteria or if the Permit should be revoked.

3. The remedies set forth here are cumulative of all other remedies, legal and equitable, provided by law.

D. TRANSFER OF PERMITS

A permit may be transferred only with the written consent of the Permit Authority. The Permit Authority must ensure, in approving any transfer, that the proposed transferee can and will comply with all requirements, terms and conditions contained in the Permit and these Regulations; that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public; and that an adequate guarantee of financial security can be made.

E. INSPECTION

The Permit Authority and its agents and consultants may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining whether the Project is in violation of the provisions of these Regulations.

F. JUDICIAL REVIEW

Any action seeking judicial review of a final decision of the Permit Authority shall be initiated within thirty (30) days after the decision is made, in the District Court in and for the County of Fremont, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

CHAPTER 7. ADDITIONAL PROVISIONS APPLICABLE TO MUNICIPAL AND INDUSTRIAL WATER PROJECTS

A. ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO MUNICIPAL AND INDUSTRIAL WATER PROJECTS

1. Description of efficient water use, recycling and reuse technology the Project intends to use.

2. Map and description of other municipal and industrial water projects in the vicinity of the Project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure and service plan boundaries and reasons for and against hooking on to those facilities.

3. Description of demands that this Project expects to meet and basis for projections of that demand.

B. ADDITIONAL CRITERIA APPLICABLE TO MUNICIPAL AND INDUSTRIAL WATER PROJECTS

In addition to the general criteria set forth in Chapter 4 of these Regulations, the following additional criteria apply to municipal and industrial water projects:

1. The Project shall emphasize the most efficient use of water, including the recycling, reuse and conservation of water.

2. The Project will not result in excess capacity in existing water or wastewater treatment services or create duplicate services.

3. The Project shall be necessary to meet community development and population demands in the areas to be served by the Project.

4. Urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will not degrade groundwater quality.

CHAPTER 8. ADDITIONAL PROVISIONS APPLICABLE TO MAJOR NEW DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF EXISTING DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS

A. ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO MAJOR NEW DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF EXISTING DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS

1. Description of existing and approved proposed domestic water and wastewater treatment facilities in the vicinity of the Project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure and service plan boundaries, and reasons for and against connecting to those facilities.

2. A detailed inventory of total commitments already made for current water or sewage services in terms of taps or other appropriate measurement;

3. Description of how the Project will affect development, densities, and site layout and design of stormwater and sanitation systems.

4. Description of other water and wastewater management agencies in the Project area and reasons for and against consolidation with those agencies ("Consolidation" may include the physical connection for service delivery, and/or consolidation of management, without physical connection to the service).

5. Description of how the Project may affect adjacent communities and users on wells.

B. ADDITIONAL CRITERIA APPLICABLE TO MAJOR NEW DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF EXISTING DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS

In addition to the general criteria set forth in Chapter 4 of these Regulations, the following additional criteria shall apply to any development of major new domestic water and wastewater treatment systems or major extensions of existing domestic water and wastewater treatment systems:

1. The Project shall be reasonably necessary to meet projected community development and population demands in the areas to be served by the Project, or to comply with regulatory or technological requirements.

2. When determined to be appropriate, wastewater and water treatment facilities shall be consolidated with existing facilities within the area.

3. New domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.

4. Major extensions of domestic water and sewage treatment systems shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the economical and environmental capacity of the area to sustain such growth and development.

CHAPTER 9. ADDITIONAL PROVISIONS APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY

A. SPECIAL PROCESSING REGULATIONS FOR APPLICATIONS BY PUBLIC UTILITIES AND POWER AUTHORITIES

1. Within 28 days after submission of an application, purported by the applicant to be complete, of a public utility or a power authority providing electric or natural gas service that relates to the location, construction, or improvement of major electrical or gas facilities as defined in CRS §29-20-108(3), the Administrator shall determine whether the application is complete, and, if it is determined to be incomplete, shall give notice of what additional information is required, as provided in Chapter 3.E. The notice shall specify the particular provisions of the regulations that necessitate submission of the required information.

2. Final action by the Permit Authority on any application under this subchapter 9.A. shall be taken no later than
   a. 90 days after the utility's or authority's submission of an application deemed complete as provided in Chapter 3.E.: or
   b. 90 days after the utility or authority submits all of the information required by the Administrator's timely notice of what additional information is required, whichever is later.

3. Failure of the Administrator to give timely notice that an application is incomplete will not prevent the Administrator from requiring additional information to complete the application, but the 90-day deadline for final action shall run from the last day on which the notice could have been timely given as provided in this subchapter 9.A.

4. The deadlines in this subchapter 9.A supersede any other deadlines in these regulations in the event of conflict between them.

5. The applicant and Permit Authority may agree to longer timelines for processing and taking final action on a permit application, which agreement will supersede the provisions of this subchapter 9.A.

B. ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY

1. The applicant must provide the following information concerning title of the project site, which shall be the entire proposed alignment or corridor under consideration at the time of the application for transmission line and pipeline projects:

   a. The names and addresses of all surface property owners of the project site and within one thousand three hundred twenty (1,320) feet of the boundaries of the property proposed to be physically disturbed, except for transmission line or pipeline projects, for which the names and addresses of all surface property owners for five hundred (500) feet on either side of the centerline of the proposed alignment shall be provided.

2. The applicant must provide the following items and information:

   a. A sketch or map showing the following:
      i. If a power plant is proposed, the area within ten (10) miles from the site.
      ii. For transmission lines or pipelines, provide a map showing all existing transmission lines (115 kV or greater) or pipelines (ten-inch in diameter or greater) for a distance of two (2) miles beyond any reasonable alternative studied.

   b. For upgrades of existing transmission lines (115 kV or greater) or gas pipelines (ten-inch diameter or greater), provide a sketch showing all existing transmission lines and pipelines within one (1) mile on either side of the proposed alignment.

c. For all other major facilities of a public utility, provide a sketch showing the area within five (5) miles of the site if another major facility is proposed.

d. Type of facility - specify where applicable:
   i. The voltages and lengths of transmission lines.
   ii. Power source and generating capacity.
   iii. The functions and sizes of substations.
   iv. For pipeline projects, the diameters and lengths of pipelines.
   v. The capacities of the storage tanks and types of petroleum derivative to be stored.
   vi. Corridor locations.
   vii. Service area.
   viii. Resource area (e.g., source of power being generated or transmitted, source of petroleum derivative being transported).
   ix. Describe applicable support facilities (e.g., pollution control, parking areas, landscaping, etc.) to be provided.

e. Project development schedule:
   i. Estimate maximum number of employees, number of shifts and employees per shift during the construction, operation and maintenance phases of the project.
   ii. Specify any future phases or extensions of the facility and relationship of the facility (if currently foreseen) to larger programs and plans.

3. Analysis of nonstructural alternatives to the project such as conservation of energy use, no development or management (different scheduling, conservation programs, facility design, land trades, etc.), if applicable.

4. Analysis of reasonable structural alternatives to the project such as alternate locations and routes, alternative types of facilities, use of existing rights-of-way, joint use of rights-of-way with other utilities and upgrading of existing facilities.

5. Analysis of design alternatives concerning access, landscaping, architectural controls and so forth.

C. ADDITIONAL CRITERIA APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY

1. The Board of County Commissioners shall approve an application for permit for site selection and construction of a major facility of a public utility (with reasonable conditions, if any, in the discretion of the Board of County Commissioners) only if the proposed site selection and construction complies with the following criteria, to the extent applicable, and taking into consideration the purpose and intent of these Section 1041 Regulations. (The Board may rely upon the findings and approvals of other governmental entities having jurisdiction over those criteria listed below with respect to their environmental determinations or regulatory compliance.

   a. All reasonable alternatives to the proposed action, including use of existing rights-of-way and joint use of rights-of-way wherever uses are compatible, have been adequately assessed and the proposed action is compatible with and represents the best interests of the people of the County and represents a fair and reasonable utilization of resources in the impact area.

   b. The facility site or expansion area is not in an area with general meteorological and climatological conditions which would unreasonably interfere with or obstruct normal operations and maintenance.

   c. The nature and location of the facility or expansion will not adversely affect the water rights of any upstream, downstream or agricultural users, adjacent communities or other water users.

d. Adequate water supplies are available for facility needs.

e. The nature and location of the facility or expansion will not unduly interfere with existing easements, rights-of-way, other utilities, canals, mineral claims or roads.

f. Adequate electric, gas, telephone, water, sewage, and other utilities exist or shall be developed to service the site.

g. The applicant has obtained or will obtain all property rights, permits, and approvals necessary for the proposed project, including surface, mineral and water rights and easements for drainage, disposal, utilities, access, etc. If the applicant has not obtained all necessary property rights, permits and approvals, the Board may, at its discretion, grant the permit conditioned upon completion of the acquisition of such rights prior to issuance of a zoning or building permit by the County.

h. The proposed project will not present an unreasonable risk of exposure to or release of toxic or hazardous substances within the impact area. The determination of effects of the project shall include the following considerations:

   i. The means by which outdoor storage facilities for fuel, raw materials, equipment and related items are adequately enclosed by a fence or wall.
   ii. The likelihood of hazardous materials or wastes being moved off the site by natural causes and forces.
   iii. Containment of inflammable or explosive liquids, solids or gases.

i. The scope and nature of the proposed project will not unnecessarily duplicate existing services within the County.

j. If the purpose and need for the proposed project are to meet the needs of an increasing population within the County, the area and community development plans and population trends demonstrate clearly a need for such development.

D. ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY FOR UTILITY-SCALE WIND FACILITIES

1. Wind Resource Map that identifies wind characteristics including prevailing wind direction and minimum, maximum, and average wind speeds.

2. Shadow Flicker. For utility scale wind energy systems, a copy of the Shadow Flicker Analysis. The application shall conduct an analysis on potential shadow flicker at occupied structures. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall also show locations of all occupied structures within locations of shadow flicker that may be caused by the project.

3. Electromagnetic Interference. Evidence, to include mitigation agreed to via negotiations with owners of other facilities, that the project will not be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference. Further, evidence shall be provided that the project will not be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

4. Complaint Resolution. A Complaint Resolution process shall be developed by the applicant that includes a method to resolve complaints from nearby residents concerning the construction or

operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the County from acting on a complaint. The process shall also include contact information where a project representative can be reached during normal business hours during construction of the project.

5. Noise Emissions. Please see the Noise Emissions portion below for submittal requirements.

E. ADDITIONAL CRITERIA APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY FOR UTILITY-SCALE WIND FACILITIES

The Board of County Commissioners shall approve an application for permit for site selection and construction of a major facility of a public utility for utility-scale wind facilities (with reasonable conditions, if any, in the discretion of the Board of County Commissioners) only if the proposed site selection and construction complies with the following criteria, to the extent applicable, and taking into consideration the purpose and intent of these Section 1041 Regulations. (The Board may rely upon the findings and approvals of other governmental entities having jurisdiction over those criteria listed below with respect to their environmental determinations or regulatory compliance.

1. Electromagnetic Interference. No utility scale wind or solar energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system, or unless there is agreed upon mitigation through negotiations with owners of such facilities. No utility scale wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant, or unless there is agreed-upon mitigation through negotiations with owners of such facilities.

2. Noise Emissions.

   a. Noise Measurement Methods. All noise shall be measured with a sound measuring system that meets the requirements set forth in the ANSI S1.4-1983 standard for a Type 1 Sound Level Meter/Analyzer. The noise measurements shall be conducted in accordance with the requirements set forth in International Electro-mechanical Commission (IEC) Standard 61400-11, Part 11, edition 2.1 annex A.2 dated 2006, in effect at the date of approval of a project by the Clear Creek County Commissioners. This requirement regarding the performance specifications for acoustical instrumentation is applicable to all noise measuring, recording and analysis devices including both digital and analogue types. All instrumentation shall be calibrated annually with laboratory calibration standards having traceability to National Institute of Standards Technology. The ANSI specification does not address the frequency response characteristics of sound level meters/analysis at frequencies less than 10 Hz. Therefore S1.4 should be used as a guide for methods, procedures and the performance of noise measuring instruments at frequencies less than 10 Hz.

   b. Ambient Noise Level . The ambient noise levels (commonly referred to as baseline noise levels) shall be measured at the project boundary lines and as may be specified by the Administrator.

   c. The term "receptor" means any occupied building or structure.

   d. The ambient noise level also shall be measured at receptors which may be determined on a case-by-case basis by the Administrator based on the existence of specifically-identified potentially affected receptors in proximity to the project site. The procedures and methods in ANSI standard S12.9 or ISO specification R1996 shall be used as a guideline regarding methods, procedures and reporting. The measured and recorded decibel levels shall be

dB(A) and dB(C) weighting, slow response and energy equivalent (Leq). The measurement schedule shall be for each and every one (1) hour interval in a twenty-four day for a total duration of one (1) month during the summer, one (1) month during the fall, one month during the winter and one (1) month during the spring. If it is demonstrated that the acoustical environment can be accurately characterized in less than the four seasonal periods described in the preceding sentence, the administrator can designate a different data collection schedule. The data shall include as a minimum, exceedance levels of 1%, 10%, 50%, 90% and 99% for every one-hour increment. Measurement intervals may be ignored if the wind speed at the measurement site is in excess of 20 mph during any increment of time during the one-hour measurement intervals. Other disruptive events that would produce non-representative noise levels may also be excluded from the exceedance calculations but each one-hour interval must be documented as to the reason for exclusion of the data.

e. A meteorological station shall be located at selected receptor sites and shall measure and record wind speed, wind direction, temperature and humidity. The meteorological data and noise printouts shall include one-hour time stamps so that the meteorological data can be correlated with the noise data. The meteorological station wind speed and direction transducers shall be no more than 12 feet above grade level. The temperature and humidity transducers may be at any elevation between 5 and 12 feet above grade level. The measurement accuracy shall be about 10%.

F. WIND FARM NOISE EMISSIONS

Noise emission from the site shall not be greater than the following dB(A) slow and dB(C) slow, one hour energy equivalent exceedance levels as measured at the project boundary or beyond.

Hourly Exceedance Level Wind Farm Noise

Exceedance Value - %	dB(A) Slow - Leq	dB(C) Slow - Leq
1	60	75
5	55	70
10	50	65
50	45	60
90	40	55
99	35	50

In any event, the exceedance levels shall not be greater than 5 dB above the ambient exceedance levels if ambient exceedance levels already exceed the above hourly levels for wind farm noise.

There are several ways to view or understand the meaning of the Exceedance Level Percentiles. For example using the values presented above:

The 1 Percentile
Only one percent of the total measurement time did the noise level exceed 60 dB(A). For almost all the one percentile levels are caused by local vehicle traffic, aircraft overhead, wildlife, wind, thunder and intermittent industrial activities.

The 10th Percentile
This percentile includes all of the noise values occurring more than 10% of the total time.

The 50th Percentile
A similar situation is the Class Average where half of the students get a better grade and half of the students get a lower grade.

The 90th Percentile
Very close to the constant noise level produced. In other words, the 90th percentile is that dB value that would occur most of the time.

It is required that the noise emission levels obtained when the turbines are in operation be at the same sites as the ambient (baseline) measurement locations. Measurement intervals may be ignored and not included in the calculation of the exceedance value if the wind speed at the measurement site is in excess of 20 mph during any increment of time during the one-hour measurement interval, other disruptive events that would produce non-representative noise levels may also be excluded from the exceedance calculation but each one-hour interval most be documented as to the reason for exclusion of the data.

These dB(A) exceedance values are based upon recommendations in ISO standard 1996, § 4.1 (35 dB(A) to 45 dB(A) rural outdoors), the State of Washington, Chapter 173-60 WAC, the World Health Organization and several townships in Michigan. Also, the exceedance values will in all probability be receptor site dependent, for example, a receptor site near U.S. Highway 50 will have exceedance levels greater than those listed above. This is one reason why it is important to know the site-specific ambient noise levels and, if required, adjust the exceedance levels accordingly. When this occurs the exceedance levels shall not be greater than 5 dB above the ambient exceedance levels.

Selected meteorological stations shall be located at the same sites where the ambient noise measurements were taken and shall measure and record wind speed, wind direction, temperature and humidity. The meteorological data shall include one-hour time stamps that can be correlated with the noise data.

Pure Tones.
Pure tones including multiple tones can be identified as a pure tone or pure tone components by using the following criteria:

⅓ Octave Frequency Band Range	dB Level of Adjacent ⅓Octave Band Range
125 Hz and Lower	-10 dB
160 Hz to 400 Hz	- 8 dB
500 Hz and Greater	- 5 dB

Low Frequency Noise or Infrasound Noise.
No low frequency noise or infrasound generated by a wind farm operation shall exceed the following ⅓ octave band decibel levels as measured at the receptor or at the receptor property line which abuts to the project site.

⅓ Octave Band Center Frequency (Hz)	Sound Pressure Level (Leq)
5	70
6.3	70
8	70
10	70
12	70
16	69
20	68
25	67
31.5	65
40	62
50	60
63	57
80	55
100	52

Impulsivity.
No impulsive noise from wind turbine operations shall be generated inside and only inside of an occupied building or structure that results in impulsive noise levels that exceeds the limits as determined by either of the following two analysis methods.

Method 1
A qualification of impulsivity can be obtained from the average of several measurements of the difference between the C-weighted “impulse hold” and maximum C-weighted “slow” sound pressure levels. The average difference between the maximum and minimum values shall be less than 20 dB when computed as the arithmetic average of 100 differences.

Method 2
The impulsive character can also be displayed as a time history of the un-weighted acoustical signal which has been filtered through an octave band filter set at 31.5 Hz center frequency. The filtered octave band signal shall then be converted to a root-mean-square (RMS) value, slow
response, and log converted to dB. The display can be either analogue or digital. The average difference between the maximum and minimum value shall be less than 20 dB when computed as the arithmetic average of 100 differences.

Vibration.
The Permit Authority may require seismic (ground vibration) measurements at selected receptor locations, when the site is being constructed or is in operation. The peak particle velocity for frequencies below 40 Hz shall not exceed 0.50 in/sec.

Site Development (Construction).
Site development also referred to as site construction, shall comply with the requirement set forth in CRS 25-12-103 (5).

Noise Standards.
The Permit Authority may impose a noise standard that exceeds the other standards set forth in this regulation if the County determines that such greater standards are necessary to protect the public health, safety and welfare of the surrounding community. Such additional standards may be taken into account the combined effect of topography and meteorological conditions occurring during certain wind farm operational conditions.

G. ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY FOR UTILITY-SCALE SOLAR FACILITIES.

1. Solar facilities and battery storage facilities shall be subject to a 1041 Permit.

2. Solar facilities shall be permitted as accessory uses to existing power plants, public facilities, and other existing uses as determined by the Zoning Administrator regardless of zoning district. Such uses are subject to the provisions herein as determined by the Zoning Administrator on a case-by-case basis.

3. Battery storage facilities shall be permitted as an ancillary use to solar facilities and as a primary use adjacent to other energy generation facilities and substations.

4. General Provisions.

   a. Project Area. The area included in the Development Plan should include the project boundary, solar facility, PV pods, and buffer zones. The Project Area may include multiple parcels and portions of parcels, which may be leased parcels or leased areas of parcels, and, for purposes of this section, the sum of this area shall be the Project Area and the boundaries of this area shall be the Project Boundary. The purpose of the Project Area is to accommodate a single Solar Facility.

   b. The intended utility company to interconnect to the Solar Facility.

   c. Approximate Rated Capacity of the solar facility project.

   d. Type and location of interconnection to electrical grid as proposed with the appurtenant Public Utility Commission (PUC).

   e. Approximate number of panels and representative types.

   f. The Project Area and Solar Photovoltaic Panel Coverage expressed in acres.

   g. An inventory with description of all proposed structures and uses including Battery Energy Storage Facilities, inverters, substations, and all structures over 60 ft. in height.

   h. Concept Plan. A Concept Plan consisting of aerial imagery of the Project Area superimposed with the Project Boundary and the general location and arrangement of screening, buffer zones, fencing, structures, the proposed PV panels, driveways and entrances, wildlife corridors, floodplain, electric lines and overhead utility lines, and connections to the electrical grid, and, in addition, labeled with the distances of structures to the property lines. Typical elevations of structures shall be included with the Concept Plan. The intent of the Concept Plan is to be a visual summary of the project.

   i. A copy of any subdivision covenants, utility easements and restrictions associated with the site.

   j. Information about the proposed project's traffic impacts, modeling both the construction and decommissioning processes, to include:
      i. The time of day that transport will occur;
      ii. Characteristics of the loaded vehicles, including:
         1) Length, height, width, curb weight;
         2) Maximum load capacity;
      iii. The number of vehicles transporting goods;
      iv. The frequency of vehicle arrival at the site.

k. An estimated construction schedule.

l. A draft Grading Plan that limits grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms. The Plan shall include:
   i. Existing and proposed contours;
   ii. Locations and amount of topsoil to be stripped and stockpiled onsite (if any);
   iii. Percent of the site to be graded; and
   iv. Natural flow patterns in drainage design and amount of impervious surface.

m. A preliminary drainage report prepared by an engineer licensed in the State of Colorado.

n. Screening and Vegetation Plan to include screening and buffering materials, type of landscaping, elevations, and maintenance requirements.

o. Decommissioning/reclamation shall commence within six (6) months after power production has permanently ceased and be completed within twelve (12) months from the start date of the decommissioning/reclamation work, or per the schedule as approved by the County. The County may require evidentiary support if a longer repair period is necessary.

   i. The applicant shall notify the Zoning Administrator in writing of the proposed date of discontinued operations and plans for removal prior to commencement of decommissioning.
   ii. All non-utility owned equipment, conduits, structures, fencing and foundations above and below grade shall be removed.
   iii. All fences, graveled areas and access roads shall be removed unless a landowner agreement to retain is presented, in writing, in which the landowner agrees for such specific improvements to remain.
   iv. Hazardous materials shall be removed and disposed of in accordance with Federal, State, and Local law.
   v. Beginning no later than fifteen (15) years from the initial commercial operating date of the Solar Facility and at a frequency of every five (5) years thereafter, the applicant shall provide updated decommissioning/reclamation cost estimates, prepared by a qualified Engineer selected by the applicant, and approved by the landowner. These updated estimates shall include all costs associated with the dismantlement, recycling, and safe disposal of facility components and site reclamation activities, including the following elements:

      a) All labor, equipment, transportation and disposal costs associated with the removal of all facility components from the permit area.
      b) All costs associated with full reclamation of the permit area including the removal of non-native soils, fences and constructed access roads.
      c) All costs associated with reclamation of any primary agricultural soils at the facility site to ensure each area of direct impact shall be the same or better than pre-construction conditions.
      d) All decommissioning/reclamation activity management, site supervision and site safety costs.
      e) All other costs, including administrative costs, associated with the decommissioning and reclamation of the permit area.

   vi. No later than fifteen (15) years from the initial commercial operating date of the Solar Facility, an irrevocable standby letter of credit, bond, or alternate form of financial security in an amount sufficient to fund the estimated decommissioning/reclamation costs required by this Code shall be submitted to County with a copy sent to Landowner. The amount of security shall be 115% of the cost of decommissioning minus salvage value.

vii. In the event that the applicant fails to remove the installation in accordance with the requirements of this permit or within the proposed date of decommissioning, the County may collect the financial security and the County or hired third party may enter the property to physically remove the installation. If the cost to remove the facilities and complete the decommissioning minus the salvage value received exceeds the amount of the security, then the developer shall be required to reimburse the additional cost to the County or landowner who took the responsibility for the removal. If the reimbursement is not paid within 60 days after receipt of the invoice from the County (or landowner), then interest shall accrue on the unpaid balance as the then lawful rate of interest until paid in full.

p. Additional information may be required as determined by the Zoning Administrator, such as a scaled elevation view of the property and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed project from potentially sensitive locations.

5. Special provisions for battery facilities. In addition to the above provisions, the following additional requirements shall be met for the approval of a Battery Energy Storage Facility:

a. Battery Energy Storage Facilities shall be constructed, maintained, and operated in accordance with national industry standards and regulations including the most current adopted edition of the National Electrical Code, International Fire Code of the International Code Council, and the National Fire Protection Association Fire Code. The batteries will be NFPA (National Fire Protection Agency) compliant. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control so that as technology advances, updated technology may be used.

b. Battery cells shall be placed in a Battery Energy Storage System ("BESS") with a Battery Management System ("BMS"). The BESS shall provide a secondary layer of physical containment to the batteries and be equipped with cooling, ventilation, and fire detection systems. Each battery enclosure shall have 24/7 automated fire detection technology built in. The BMS shall monitor individual battery module voltages and temperatures, container humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and be able to shut down the system when pre-defined limits are reached.

c. The Battery Energy Storage System will be placed on an appropriate foundation.

d. Access to container interior shall not be permitted while the system is in operation except for safety personnel and first responders.

e. Qualifications and experience from selected developers and integrators shall be provided including disclosure of fires or other hazards at facilities.

f. Safety testing and failure modes analysis data from selected developers and manufacturers shall be provided.

g. The latest applicable product certifications shall be provided.

h. The Solar Facility operator or owner shall be responsible for any environmental remediation required by the County or the State and the costs of such remediation. All remediation shall be completed in a timely manner.

i. Battery storage shall be developed in collaboration with technical experts and first responders to utilize technology-appropriate best practices for safe energy storage systems.

j. The Solar Facility operator or owner shall conduct regular on-site inspections of the battery units and submit an annual written report to the Zoning Administrator on their condition.

6. Special provisions for project related substations. In addition to the above provisions, the following additional requirements shall be met for the approval of a project related substation required to be constructed for the interconnection of the solar facility. Utility owned substations are subject to a separate permitting process.

a. Siting. Substations located within the Solar Facility shall be located in accordance with the Project Plans.

b. Substations included as part of the Solar Facility may have a life longer than that of the remainder of the Solar Facility and may continue under the 1041 Permit as part of this application approval.

c. Grading Plan. The Applicant will submit a final Grading Plan for review and approval by the County Engineer prior to the commencement of any construction activities. The Project shall be constructed in compliance with the Grading Plan.

d. Erosion and Sediment Control Plan. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan.

CHAPTER 10. DEFINITIONS

All definitions in the Fremont County Zoning Resolution apply to these Regulations for Matters of State Interest, except those that state otherwise.

A. "Aquifer Recharge Area" means any area where surface waters may infiltrate to a water bearing structure of permeated rock, sand or gravel. This definition also includes wells used for disposal of wastewater or other toxic pollutants.

B. "Collector or collection system" means a network of pipes and conduits through which sewage flows to a sewage treatment plant.

C. "Designation" means that legal procedure specified by §24-65.1-101, et seq., C.R.S. and the revocation or amendment of such designation, as carried out by the Board of County Commissioners.

D. "Distribution System" means a network of storage facilities, tanks, pipes and conduits through which water is piped and stored or through which water is piped for exchange or trade.

E. "Industrial uses" means manufacturing; mineral processing, exploration or extraction; snowmaking; commercial recreational services and operations; and other uses that are neither municipal, domestic nor agricultural.

F. "Local permit authority" means the governing body of a local government with which an application for development in an area of state interest or for conduct of an activity of state interest must be filed, or the designee thereof.

G. "Locate" as used herein is synonymous with "select a site" for, or "site selection" of an arterial highway or interchange or collector highway.

H. "Major extension of existing domestic wastewater treatment system" means any modification of an existing sewage treatment plant to increase hydraulic capacity or upgrade treatment capacity, or any extension of existing main collector sewer lines, or any increase in capacity of existing main sewer lines or any extensions designed to have an average flow of 2,000 gallons per day or more.

I. "Major new domestic wastewater treatment system" means a new wastewater treatment plant, group of wastewater systems or collector system designed to treat an average wastewater flow of 2,000 gallons per day or more.

J. "Major new domestic water system" is a public water system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly services an average of at least twenty-five (25) individuals daily at least 60 days out of the year, or the equivalent thereof. Such term includes:

i) Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system.

ii) Any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system.

K. "Major extension of existing domestic water treatment system" means the expansion of existing domestic water treatment capacity or storage; or any extension of existing water supply systems to service an additional development density of ten (10) or more residential dwelling units (SFE) or the equivalent thereof in other uses.

L. "Material change" means any change in the project as approved by the Permit Authority which significantly changes the nature of impacts considered by the Permit Authority in approval of the original Permit or in the case of a development not previously issued a permit, a structural modification, change of use, change of operation, or change of user which significantly changes the nature of the development and its associated impacts.

M. "Municipal and industrial water projects" means systems and all related components that provide water or may provide water in the future either directly or by exchange for municipal and industrial uses; provided however, "systems of related components" for a snowmaking project are limited to (1) those through which water is diverted

and/or stored for snowmaking, and (ii) permanent distribution systems and components that are not otherwise regulated by state or federal regulations.

N. “Non-conforming use” means a use in existence at the time of the adoption of this article, which use, were it a new use, would be one for which a permit is required under this article.

O. “Permit Authority” means the Board of County Commissioners or its designee. “Planning Commission” means the Planning Commission for Fremont County.

P. “Project” means the proposed development for which a Permit is sought under these Regulations.

Q. “Regulations” means the regulations for matters of state interest and guidelines as the terms are used in Section 24-65.1-101, et. seq., C.R.S.

R. “Shadow Flicker” means the effect when the blades of a wind energy system passes between the sun and an observer, casting a readily observable, moving shadow on the observer and his/her immediate environment.

S. “Site Selection” means the process of identifying and determining the location of certain activities of state interest as identified in these regulations.

T. “Solar PV Panel Coverage” means the total acres covered by blocks of photovoltaic panels including spaces between panels but excluding wildlife corridors, mandated setbacks, wetlands, and other avoided natural or cultural features.

U. “Substation” means any facility designed to provide switching, voltage transformation or voltage control required for the transmission of electricity of 115 kV or greater.

V. “Transmission lines” means those electrical lines and appurtenant facilities which meet all of the following criteria: (1) either a series of three (3) or more structures and appurtenant facilities erected above ground which support (1) or more conductors or a power line placed underground; (2) which lines emanate from a power plant or a substation/transition site and terminate at substation/transition site; and (3) which are designed to transmit electrical voltages of 115 kV or greater.

W. “Utility Scale Solar Energy Facility” means a power plant, nine (9) acres or larger, that converts solar energy into usable thermal mechanical, or electrical energy, including such devises as solar energy systems and supporting structures and such directly connected equipment as generators, alternators, inverters, batteries and associated control equipment.

X. “Utility Scale Wind Energy Facility” means a power plant that directly converts wind energy into usable thermal mechanical, or electrical energy, including such devises as wind energy systems and supporting structures and such directly connected equipment as generators, alternators, inverters, batteries and associated control equipment.

Y. “Water and Sewer Projects” means the Site Selection and Construction of Major New Domestic Water and Wastewater Treatment Systems, Major Extensions of Existing Domestic Water and Wastewater Treatment Systems, and Efficient Utilization of Municipal and Industrial Water Projects, including any proposed land development directly related to such Project if such development is to be located wholly or partially within this County and if such development significantly generates the need for the Project.