Agreement State Amendment Application

August 05, 2025



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Introduction



Introduction

Section 274 of the Atomic Energy Act of 1954, 42 U.S.C § 2021, as amended (AEA) authorizes states to assume certain regulatory functions that would otherwise be the responsibility of the NRC. This originally included the licensing of byproduct material, source material, and small quantities of special nuclear material. Under the AEA, the mechanism by which a state assumes such regulatory function is through a formal "Agreement" between the NRC and the Governor of the State. Prior to executing the Agreement and achieving "Agreement State" status, the Governor must certify that the state has a program for the control of radioactive material and respective radiological hazards, and that the state's program satisfies the requirements of Section 274(o) of the AEA. Additionally, the state program must be compatible with all aspects of the NRC's requirements.

The Wyoming Department of Environmental Quality (WDEQ) has regulated uranium recovery operations in the state since 1973, through the permit to mine under § W.S. 35-11-4. However, it was not until 2015 that House Bill 0027 provided funding for a uranium recovery program to seek regulatory authority over source material and the associated byproduct material. On February 27, 2015, Governor Mead sent a letter of intent on behalf of the state that approved Wyoming to join the Agreement States. In September 2018 Wyoming was granted authority over source material milling and the associated 11e.(2) byproduct material by the NRC and became an Agreement State. WDEQ's Uranium Recovery Program (URP) currently regulates the mining operations of 14 licensees, which varies.

The Wyoming Environmental Quality Act and Wyoming Statutes § W.S. 35-11-2001, authorizes the Governor, on behalf of Wyoming, to amend the limited agreement between Wyoming and the NRC for regulatory authority over source material recovered from mineral resources for purposes other than other than obtaining the uranium and thorium content. This statute was amended through House Bill 0061, Source Material Associated with Milling, which was adopted by the State Legislature in February 2023 authorizing Governor Gordon to amend the agreement for the state. The letter of intent dated February 23, 2023, to include source material, was sent by Governor Gordon. On August 24, 2023, NRC Staff wrote SECY-23-0075 seeking NRC Commission approval for Wyoming's request to assume the limited scope of authority over "source material recovered from any mineral resources processed primarily for purposes other than the uranium and thorium content." The NRC Commission approved Wyoming's proposal on September 19, 2023. The approval allows Wyoming to regulate a discrete segment of Source Material Possession and Use license, leading to a sister program of the URP, named the Source Material Program (SMP).

WDEQ's SMP Rules were approved by the Environmental Quality Council on October 23, 2024. WDEQ received comments from the NRC on the SMP rules on April 2, 2025, requiring updates to the rules. The updated SMP rules package addressing NRC comments is currently in the rulemaking process. The rules have been approved by the Land Quality Advisory Board and will be presented to the Environmental Quality Council in November of 2025. The updated SMP rules will be passed and in affect by February of 2026. Subsequently, the required forms, procedures and policies were developed. As such, Wyoming submits this application to amend the Limited Agreement with the NRC to include source material recovered from mineral resources for purposes other than the source material content. Included in this application are the statutes, rules and regulations, procedures, and other information necessary to demonstrate that the program satisfies all requirements for amending the Agreement, and that Wyoming is prepared and qualified to assume regulatory authority over source material recovered from any mineral resource primarily for purposes other than obtaining the source material content. By entering an Agreement with the NRC for the SMP, Wyoming will continue to ensure that state natural resources are

managed so that that public health, safety, and the environment are protected. This application is formatted using SA-700, Handbook for Processing an Agreement (Section 4.0, Information Needed and Evaluation Criteria).

Section 4.1 Legal Elements

Subsection 4.1.1

Authority to Establish an NRC Agreement Program and Amend the Wyoming Agreement

4.1.1 Authority to Establish an NRC Agreement Program and Amend the Wyoming Agreement

Section 4.1.1 of SA-700 requires Wyoming law to provide "specific elements of authority to the Agreement materials program." The Wyoming Department of Environmental Quality (WDEQ) seeks to assume regulatory authority over source material recovered from any mineral resource processed primarily for purposes other than obtaining the source material content. WDEQ's authority to establish and implement the SMP is provided in §§ 35-11-101 *et seq* of the Wyoming Environmental Quality Act, and §§ 16-3-101 *et seq* of the Wyoming Administrative Procedures Act, both of which are provided in the accompanying appendices. Section, 4.1, below, outlines these requirements with the applicable Wyoming State Statute citations.

SA-700, *Handbook for Processing an Agreement*

4.1 Legal Elements

4.1.1 Authority to Establish an NRC Agreement Program and Amend the Wyoming Agreement

- *See* Wyo. Stat. §§ 35-11-101 *et seq.*
- *See* Wyo. Stat. §§ 16-3-101 *eq seq.*
- Wyo. Stat. §§ 35-11-2001 through 2005

4.1.1.1 Information needed

(a) Establishes the Agreement material program, defines its structure, and authorizes the Governor to amend an Agreement with the Commission.

- Wyo. Stat. §§ 35-11-2001(a) through (c)

(b) Authorizes the program to issue licenses, including the following:

1. Authorizes the program to impose additional license requirements.

- Wyo. Stat. §§ 35-11-2003(a) through (b) and 35-11-2004(a)

2. Authorizes the program to give exemptions from licensing requirements.

- Wyo. Stat. § 35-11-2003(c)

3. Authorizes the program to recognize the licenses of other jurisdictions (that is, reciprocity).

- Wyo. Stat. § 35-11-2003(a) authorizes WDEQ to recognize licenses issued by the NRC.
- Wyo. Stat. § 35-11-2003(a) authorizes WDEQ to recognize licenses issued by the other Agreement States as it pertains to source material involved in uranium or thorium recovery or milling and the associated byproduct material.

4. Makes it unlawful to acquire, possess, store, use, transfer, or dispose of materials without a valid license, or to violate the conditions of a license.

- Wyo. Stat. § 35-11-2002(a)

5. Authorizes the program to recognize licenses transferred from the NRC under the Agreement as State licenses.

- Wyo. Stat. § 35-11-2003(a) authorizes WDEQ to recognize licenses issued by the NRC.

(c) Authorizes the program to adopt regulations.

- Wyo. Stat. §§ 35-11-2001(b) and 35-11-2002(b)

1. Specifies the procedures and requirements for adoption of regulations, including public participation.

- Wyo. Stat. § 35-11-2002(b)
- Wyo. Stat. §§ 16-3-101 through 106
- Wyo. Stat. § 35-11-112(a)(ii)
- WDEQ *Rules of Practice and Procedure*, Chapter 3

2. Allows the program to impose requirements in the form of other generic legally binding requirements, such as license conditions or orders.

- Wyo. Stat. §§ 35-11-2003(b) and 35-11-2004(a)

(d) Authorizes representatives of the program to enter premises and conduct inspections.

- Wyo. Stat. § 35-11-2003(d)

(e) Authorizes the program to require compliance with regulatory requirements by both licensees and unlicensed individuals.

- Wyo. Stat. 35-11-2002(a)

(f) Authorizes the program to impose sanctions for violations of the regulations, orders, or license conditions.

- Wyo. Stat. § 35-11-2003(f)

(g) Establishes conflict of interest and ethics regulations or procedures applicable to those portions of the State radiation control program covered by the Agreement.

- Wyo. Stat. §§ 9-13-101 through 109.

4.1.1.2 Evaluation Criteria

(a) State law must authorize the Governor to amend an Agreement. It must also designate a radiation control agency and provide it the necessary legal authority to be effective.

- Wyo. Stat. §§ 35-11-2001(a) through (c)

(b) State law must not create duplications, gaps or conflicts in regulation. This includes duplications, gaps, or conflicts between the State and the NRC, State agencies, or State and local agencies. The law must not seek to regulate activities reserved to the NRC.

- Wyo. Stat. § 35-11-2003(c)
- *See* § Wyo. Stat. 35-11-2002(b)
- *See generally* Source Material Program Rules,

(c) State law must authorize issuing licenses as the means of giving the authority to possess and use Agreement materials. It should also authorize the reciprocal recognition of specific licenses issued by the NRC or other Agreement States.

- Wyo. Stat. § 35-11-2003(a)

(d) State law should authorize the use of license conditions to address matters unique to the licensee. The law should allow license conditions to impose additional requirements when required to protect public health and safety. If the law restricts the use of license conditions, the State should show that they can provide adequate protection under restrictions. The protection should be at least equivalent to using license conditions and orders.

- Wyo. Stat. § 35-11-2003(b) and 2004(a)

(e) The law should permit exemptions from licensing requirements if the exemptions do not adversely affect public health and safety. This should include exemption(s) from the requirement to obtain a license. The law should authorize exemptions from licensing substantially equivalent to the following (or such exemptions must be included in the State's regulations):

- Wyo. Stat. § 35-11-2003(c)
- *See* Wyo. Stat. § 35-11-2002(b)
- SMP Rules, Chapter 1, Section 10(a)

(f) The law must authorize the Agreement material program to enforce regulations or generic legally binding requirements other than regulations. The law may authorize another agency (such as board of health) to adopt regulations. When appropriate the law should provide public participation.

- Wyo. Stat. §§ 35-11-2002(a) and (b)
- Wyo. Stat. §§ 16-3-101 through 106

(g) The law must authorize inspections of licensee operations to ensure compliance with regulatory requirements. It should authorize inspections of unlicensed facilities to assess the risk resulting from accidents or environmental releases of material. The law should permit access at all reasonable times.

- Wyo. Stat. § 35-11-2003(d)

(h) The law must provide authority to take prompt enforcement action and should provide a variety of legal sanctions. The law should provide authority to suspend licenses and to impound materials. In cases of imminent threat to public health and safety, the law should authorize immediate suspension without prior hearing.

- Wyo. Stat. §§ 35-11-115 and -2003(f)

(i) The law should authorize suspension or revocation of a license for repeated or continued noncompliance. The authority to suspend or revoke a license may be conditioned on a prior administrative or judicial hearing. The program should also have authority to seek injunctive relief and refer licensees for criminal prosecution. The program should also consider authority to impose civil or administrative monetary penalties.

- Wyo. Stat. §§ 35-11-115 and 2003(f)
- SMP Rules, Chapter 2, Section 4(b) & 4(d)

(j) The State must resolve any questions the NRC has regarding interpretation of State law. Interpretations of State law must be provided by the State Attorney General, or other attorney designated as legal advisor to the Agreement material program.

- Wyo. Stat. § 9-1-603
- *See* Wyo. Stat. § 35-11-606 (defining "State Official" as used in Wyo. Stat. § 35- 11-603)

Appendix A to Subsection 4.1.1

Wyoming Environmental Quality Act



Chapter 11
Environmental Quality

Article 1
General Provisions

§ 35-11-101. Short title.

This act shall be known and may be cited as the "Wyoming Environmental Quality Act".

§ 35-11-102. Policy and purpose.

Whereas pollution of the air, water and land of this state will imperil public health and welfare, create public or private nuisances, be harmful to wildlife, fish and aquatic life, and impair domestic, agricultural, industrial, recreational and other beneficial uses; it is hereby declared to be the policy and purpose of this act to enable the state to prevent, reduce and eliminate pollution; to preserve, and enhance the air, water and reclaim the land of Wyoming; to plan the development, use, reclamation, preservation and enhancement of the air, land and water resources of the state; to preserve and exercise the primary responsibilities and rights of the state of Wyoming; to retain for the state the control over its air, land and water and to secure cooperation between agencies of the state, agencies of other states, interstate agencies, and the federal government in carrying out these objectives.

§ 35-11-103. Definitions.

(a) For the purpose of this act, unless the context otherwise requires:

(i) "Department" means the department of environmental quality established by this act;

(ii) "Council" means the environmental quality council established by this act;

(iii) "Director" means the director of the department of environmental quality;

(iv) "Board" means one (1) or more of the advisory boards in each division of air, land, or water quality;

(v) "Administrator" means the administrator of each division of the department;

(vi) "Person" means an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or any other political subdivision of the state, or any interstate body or any other legal entity;

(vii) "Aggrieved party" means any person named or admitted as a party or properly seeking or entitled as of right to be admitted as a party to any proceeding under this act because of damages that person may sustain or be claiming because of his unique position in any proceeding held under this act;

(viii) "Interstate agency" means an agency of two (2) or more states established by or pursuant to an agreement or compact approved by the United States Congress or any other agency of two (2) or more states, having substantial powers or duties pertaining to the control of air, land or water pollution;

(ix) "Municipality" means a city, town, county, district, association or other public body;

(x) "Nonpoint source" means any source of pollution other than a point source. For purposes of W.S. 16-1-201 through 16-1-207 only, nonpoint source includes leaking underground storage tanks as defined by W.S. 35-11-1415(a)(ix) and aboveground storage tanks as defined by W.S. 35-11-1415(a)(xi);

(xi) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged;

(xii) The singular includes the plural, the plural the singular, and the masculine and feminine or neuter, when consistent with the intent of this act and necessary to effect its purpose;
(xiii) "This act" means W.S. 35-11-101 through 35-11403, 35-11-405, 35-11-406, 35-11-408 through 35-11-1106, 35-111414 through

35-11-1432, 35-11-1601 through 35-11-1613, 35-111701, 35-11-1801 through 35-11-1803, 35-11-2001 through 35-112004 and 35-11-2101.

(b) Specific definitions applying to air quality:

(i) "Air contaminant" means odorous material, dust, fumes, mist, smoke, other particulate matter, vapor, gas or any combination of the foregoing, but shall not include steam or water vapor;

(ii) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in such quantities and duration which may be injurious to human health or welfare, animal or plant life, or property, or unreasonably interferes with the enjoyment of life or property;

(iii) "Clean Air Act" means the federal Clean Air Act of 1977, as amended by P.L. 101-549;

(iv) "Emission" means a release into the outdoor atmosphere of air contaminants;

(v) "Operating permit program" means the permitting program authorized by W.S. 35-11-203 through 35-11-212 implementing a state plan pursuant to the 1990 amendments to the Clean Air Act;

(vi) "Stationary source" means any building, structure, facility or installation which emits or may emit any air contaminant.

(c) Specific definitions applying to water quality:

(i) "Pollution" means contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity or odor of the waters or any discharge of any acid or toxic material, chemical or chemical compound, whether it be liquid, gaseous, solid, radioactive or other substance, including wastes, into any waters of the state which creates a nuisance or renders any waters harmful, detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, wildlife or aquatic life, or which degrades the water for its intended use, or adversely affects the environment. This term does not mean water, gas or other material which is injected into a well to facilitate production of oil, or gas or water, derived in association with oil or gas production and disposed of in a well, if the well used either to

facilitate production or for disposal purposes is approved by authority of the state, and if the state determines that such injection or disposal well will not result in the degradation of ground or surface or water resources;

(ii) "Wastes" means sewage, industrial waste and all other liquid, gaseous, solid, radioactive, or other substances which may pollute any waters of the state;

(iii) "Sewerage system" means pipelines, conduits, storm sewers, pumping stations, force mains, and all other constructions, devices, appurtenances and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

(iv) "Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes;

(v) "Disposal system" means a system for disposing of wastes, either by surface or underground methods, including sewerage systems, treatment works, disposal wells, and absorption fields;

(vi) "Waters of the state" means all surface and groundwater, including waters associated with wetlands, within Wyoming; (vii) "Discharge" means any addition of any pollution or wastes to any waters of the state;

(viii) "Public water supply" means a system for the provision to the public of water for human consumption through pipes or constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals. Public water supply shall include:

(A) Any collection, treatment, storage and distribution facility under control of the operator of the facility and used primarily in connection with the system; and

(B) Any collection or pretreatment storage facilities not under the control of the operator which are used primarily in connection with the system.

(ix) "Small wastewater system" means any sewerage system, disposal system or treatment works having simple hydrologic and engineering needs which is intended for wastes originating from a single residential unit serving no more than four (4) families

or which distributes two thousand (2,000) gallons or less of domestic sewage per day;

(x) "Wetlands" means those areas in Wyoming having all three (3) essential characteristics:

(A) Hydrophytic vegetation;

(B) Hydric soils; and

(C) Wetland hydrology.

(xi) "Compensatory mitigation" means replacement, substitution or enhancement of ecological functions and wetland values to offset anticipated losses of those values caused by filling, draining or otherwise damaging a wetland;

(xii) "Ecological function" means the ability of an area to support vegetation and fish and wildlife populations, recharge aquifers, stabilize base flows, attenuate flooding, trap sediment and remove or transform nutrients and other pollutants;

(xiii) "Mitigation" means all actions to avoid, minimize, restore and compensate for ecological functions or wetland values lost;

(xiv) "Natural wetlands" means those wetlands that occur independently of human manipulation of the landscape;

(xv) "Man-made wetlands" means those wetlands that are created intentionally or occur incidental to human activities, and includes any enhancement made to an existing wetland which increases its function or value;

(xvi) "Wetland value" means those socially significant attributes of wetlands such as uniqueness, heritage, recreation, aesthetics and a variety of economic values;

(xvii) "Community water system" means a public water supply that has at least fifteen (15) service connections used year-round by residents or that regularly provides water to at least twenty-five (25) residents year-round, including, but not limited to, municipalities and water districts;

(xviii) "Nontransient noncommunity water system" means a public water supply which is not a community water system and which regularly provides service to at least twentyfive (25) of the

same persons for more than six (6) months of the year where those persons are not full-time residents, including, but not limited to, schools, factories and office buildings;

(xix) "Credible data" means scientifically valid chemical, physical and biological monitoring data collected under an accepted sampling and analysis plan, including quality control, quality assurance procedures and available historical data;

(xx) "Geologic sequestration" means the injection of carbon dioxide and associated constituents into subsurface geologic formations intended to prevent its release into the atmosphere;

(xxi) "Geologic sequestration site" means the underground geologic formations where the carbon dioxide is intended to be stored;

(xxii) "Geologic sequestration facilities" means the surface equipment used for transport, storage and injection of carbon dioxide.

(d) Specific definitions applying to solid waste management:

(i) "Solid waste" means garbage, and other discarded solid materials, materials, including solid waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but, unless disposed of at a solid waste management facility, does not include any of the following:

(A) Solids or dissolved material in domestic sewerage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants;

(B) Liquids, solids, sludges or dissolved constituents which are collected or separated in process units for recycling, recovery or reuse including the recovery of energy, within a continuous or batch manufacturing or refining process;

(C) Agricultural materials which are recycled in the production of agricultural commodities;

(D) Post-use polymers and recovered feedstocks converted at an advanced recycling facility or held at an advanced recycling

facility before conversion through an advanced recycling process.

(ii) "Solid waste management facility" means any facility for the transfer, treatment, processing, storage or disposal of solid waste, but does not include any of the following:

(A) Lands or facilities subject to the permitting requirements of article 3 of this act;

(B) Facilities which would have been subject to the permitting requirements of article 3 of this act if constructed after July 1, 1973;

(C) Any facility described under W.S. 30-5-104(d)(vi)(A) or (B);

(D) Lands and facilities subject to the permitting requirements of article 2, 3 or 4 of this act used solely for the management of wastes generated within the boundary of the permitted facility or mine operation by the facility or mine owner or operator or from a mine mouth electric power plant or coal drier;

(E) Lands and facilities owned by a person engaged in farming or ranching and used to dispose of solid waste generated incidental to his farming and ranching operations;

(F) Transport vehicles, storage containers and treatment of the waste in containers;

(G) Lands and facilities subject to W.S. 35-11402(a)(xiii) or (xv);

(H) Advanced recycling facilities.

(iii) "Cost effective" means the selection of alternative responses taking into account total short-term and long-term costs of those responses including the costs of operation and maintenance for the entire activity, the presence of naturally occurring hazardous or toxic substances, current or potential uses of the natural resources impacted;

(iv) "Commercial solid waste management facility" means any facility receiving a monthly average greater than five hundred (500) short tons per day of unprocessed household refuse or mixed household and industrial refuse for management or

disposal, excluding lands and facilities subject to W.S. 35-11402(a)(xiii);

(v) "Commercial radioactive waste management facility" means any facility used or intended to be used to receive for disposal, storage, reprocessing or treatment, any amount of radioactive wastes which are generated by any person other than the facility owner or operator, or which are generated at a location other than the location of the facility, but does not include:

(A) Uranium mill tailings facilities licensed by the United States Nuclear Regulatory Commission which receive in situ leaching uranium mining byproduct materials or are specifically authorized by the department on a limited basis to receive small quantities of wastes defined in section 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended, which were generated by persons other than the facility owner or operator or which were generated at a location other than the location of the facility, or both; and

(B) Facilities used for the temporary storage of radioactive wastes generated by the facility owner or operator, including facilities for the temporary storage of naturally occurring radioactive materials generated during the course of oil or natural gas exploration or production, provided the storage of radioactive wastes is in compliance with applicable state and federal law; and

(C) Permitted solid waste disposal facilities which are authorized by the director to receive small quantities of radioactive wastes containing only naturally occurring radioactive materials, or which receive radioactive materials that have been exempted from regulation under section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985, 42 U.S.C. § 2021j, or both if found by the department not to threaten human health and the environment; and

(D) Federally owned facilities used exclusively for the storage, reprocessing or treatment of spent reactor fuel;

(E) Facilities licensed by the United States nuclear regulatory commission whose sole purpose is to receive in situ leaching uranium mining byproduct materials as defined in section 11e.(2)

of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended.

(vi) "Long term remediation and monitoring trust" means a trust account established to provide funding for perpetual monitoring, maintenance and remediation of any commercial radioactive waste management facility. The adequacy of the initial and subsequent funding, including the quality of any bond or letter of credit, shall be determined jointly by the director, the insurance commissioner and the attorney general. Expenditures from the trust shall be only for commercial radioactive waste regulation, monitoring and remediation;

(vii) "Hazardous waste" means any liquid, solid, semisolid or contained gaseous waste or combination of those wastes which because of quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to detrimental human health effects, or pose a substantial present or potential hazard to human health or the environment. Only those materials listed as hazardous wastes by the United States environmental protection agency's hazardous waste management regulations or which exhibit a hazardous waste characteristic specified by the environmental protection agency shall be considered hazardous wastes. Hazardous waste does not include those hazardous wastes exempted under the Resource Conservation and Recovery Act, P.L. 94-580, or under the United States environmental protection agency's hazardous waste management regulations for the period that they remain exempted by congressional or administrative action;

(viii) "Composite liner" means a system consisting of two (2) components; the upper component must consist of a minimum thirty (30) mil flexible membrane liner (FML) and the lower component shall consist of at least a two (2) foot layer of compacted soil with a hydraulic conductivity of no more than 1 x 10-7 centimeters per second. A flexible membrane liner components consisting of high density polyethylene (HDPE) shall be at least sixty (60) mil thick. The flexible membrane liner component shall be installed in direct and uniform contact with the compacted soil component;

(ix) "Leachate" means liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such wastes;

(x) "Statistical power" means the probability of detecting change given that a change has truly occurred;

(xi) "Eligible leaking municipal solid waste landfill" means the landfills identified by the department under the priority list for municipal solid waste landfills that need remediation created pursuant to W.S. 35-11-524(b);

(xii) "Advanced recycling" means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemical and other products like waxes and lubricants through processes that include but are not limited to pyrolysis, gasification, depolymerization, catalytic cracking, hydrogenation, solvolysis and other similar technologies;

(xiii) "Advanced recycling facility" means a manufacturing facility that receives, stores and converts postuse polymers and recovered feedstocks using advanced recycling. (e) Specific definitions for land quality:

(i) "Reclamation" means the process of reclaiming an area of land affected by mining to use for grazing, agricultural, recreational, wildlife purposes, or any other purpose of equal or greater value. The process may require contouring, terracing, grading, resoiling, revegetation, compaction and stabilization, settling ponds, water impoundments, diversion ditches, and other water treatment facilities in order to eliminate water diminution to the extent that existing water sources are adversely affected, pollution, soil and wind erosion, or flooding resulting from mining or any other activity to accomplish the reclamation of the land affected to a useful purpose;

(ii) "Minerals" means coal, clay, stone, sand, gravel, bentonite, scoria, rock, pumice, limestone, ballast rock, uranium, gypsum, feldspar, copper ore, iron ore, oil shale, trona, and any other material removed from the earth for reuse or further processing;

(iii) "Contouring" means grading or backfilling and grading the land affected and reclaiming it to the proposed future use with adequate provisions for drainage. Depressions to accumulate water are not allowed except if approved as part of the reclamation plan;

(iv) "Overburden" means all of the earth and other materials which lie above the mineral deposit and also means such earth and other materials disturbed from their natural state in the process of mining, or mining from exposed natural deposits;

(v) "Underground mining" means the mining of minerals by man-made excavation underneath the surface of the earth; (vi) "Pit" means a tract of land from which overburden has been or is being removed for the purpose of surface mining or mining from an exposed natural deposit;

(vii) "Adjacent lands" means all lands within one-half mile of the proposed permit area;

(viii) "Operation" means all of the activities, equipment, premises, facilities, structures, roads, rights-of-way, waste and refuse areas excluding uranium mill tailings and mill facilities, within the Nuclear Regulatory Commission license area, storage and processing areas, and shipping areas used in the process of excavating or removing overburden and minerals from the affected land or for removing overburden for the purpose of determining the location, quality or quantity of a natural mineral deposit or for the reclamation of affected lands;

(ix) "Operator" means any person, as defined in this act, engaged in mining, either as a principal who is or becomes the owner of minerals as a result of mining, or who acts as an agent or independent contractor on behalf of such principal in the conduct of mining operations;

(x) "Surface mining" means the mining of minerals by removing the overburden lying above natural deposits thereof and mining directly from the natural deposits thereby exposed, including strip, open pit, dredging, quarrying, surface leaching, and related activities;

(xi) "Mining permit" means certification by the director that the affected land described may be mined for minerals by a licensed operator in compliance with an approved mining plan and reclamation plan. No mining may be commenced or conducted on land for which there is not in effect a valid mining permit. A mining permit shall remain valid and in force from the date of its issuance until the termination of all mining and reclamation operations, except as otherwise provided in this act;

(xii) "Spoil pile" means the overburden or any reject minerals as piled or deposited by surface or underground mining;

(xiii) "A license to mine for minerals" means the certification from the administrator that the licensee has the right to conduct mining operations on the subject lands in compliance with this act; for which a valid permit exists; that he has deposited a bond conditioned on his faithful fulfillment of the requirements thereof; and that upon investigation the administrator has determined that the licensed mining operation is within the purposes of this act;

(xiv) "Topsoil" means soil on the surface prior to mining that will support plant life;

(xv) "Exploration by dozing" means the removal of overburden by trenching with a bulldozer or other earth moving equipment to expose possible indications of mineralization;

(xvi) "Affected land" means the area of land from which overburden is removed, or upon which overburden, development waste rock or refuse is deposited, or both, including access roads, haul roads, mineral stockpiles, mill tailings excluding uranium mill tailings, and mill facilities, within the Nuclear Regulatory Commission license area, impoundment basins excluding uranium mill tailings impoundments, and all other lands whose natural state has been or will be disturbed as a result of the operations;

(xvii) "Refuse" means all waste material directly connected with mining including overburden, reject mineral or mill tailings excluding uranium mill tailings, which have passed through a processing plant prior to deposition on affected land;

(xviii) "Alluvial valley floors" means the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation and windblown deposits;

(xix) "Prime farmland" shall have the same meaning as that previously prescribed by the United States secretary of agriculture on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding and erosion characteristics, and which historically have been used for intensive agricultural purposes, and as published in the federal register;

(xx) "Surface coal mining operation" means:

(A) Activities conducted on the surface of lands in connection with a surface coal mine or with the surface impacts incident to an underground coal mine as provided in Section 516 of P.L. 95-87. These activities include excavation for the purpose of obtaining coal including common methods as contour, strip, auger, mountaintop removal, box cut, open pit and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating or other processing or preparation, and the loading of coal; and

(B) The areas upon which these activities occur or where these activities disturb the land surface. These areas shall also include any adjacent land the use of which is incidental to any of these activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of these activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entry ways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities or other

property or materials on the surface, resulting from or incident to these activities.

(xxi) "Steep slope surface coal mining operation" means a surface coal mining operation where mining occurs along the contour of a steep slope generally exceeding twenty (20) degrees and which, because of the steepness of the terrain, requires special spoil handling procedures;

(xxii) "Complete application" under W.S. 35-11-406(e) means that the application contains all the essential and necessary elements and is acceptable for further review for substance and compliance with the provisions of this chapter; (xxiii) "Interim mine stabilization" means a temporary cessation of mining operation within the terms of a valid permit to mine;

(xxiv) "Deficiency" means an omission or lack of sufficient information serious enough to preclude correction or compliance by stipulation in the approved permit to be issued by the director;

(xxv) "Imminent or continuous threat" means, with respect to the coal mine subsidence mitigation program, physical data which shows an immediate significant threat of damage from mine subsidence or insurance claim records which support progressive and continuous mine subsidence loss damage to structure; (xxvi) "Fish and wildlife habitat" means land dedicated wholly or partially to the production, protection or management of species of fish or wildlife;

(xxvii) "Grazingland" includes rangelands and forestlands where the indigenous native vegetation is actively managed for grazing, browsing, occasional hay production, and occasional use by wildlife;

(xxviii) Repealed by Laws 1994, ch. 87, § 2.

(xxix) Repealed by Laws 1994, ch. 87, § 2.

(xxx) Repealed by Laws 1994, ch. 87, § 2.

(xxxi) "Inert material" means a material that is suitable as backfill into non-coal mining sites as determined by W.S. 35-11-402(a)(xv).

(f) Specific definitions applying to in situ mining are:

(i) "Best practicable technology" means a technology based process justifiable in terms of existing performance and achievability in relation to health and safety which minimizes, to the extent safe and practicable, disturbances and adverse impacts of the operation on human or animal life, fish, wildlife, plant life and related environmental values;

(ii) "Excursion" means any unwanted and unauthorized movement of recovery fluid out of the production zone as a result of in situ mining activities;

(iii) "Groundwater restoration" means the condition achieved when the quality of all groundwater affected by the injection of recovery fluids is returned to a quality of use equal to or better than, and consistent with the uses for which the water was suitable prior to the operation by employing the best practicable technology;

(iv) "In situ mining" means a method of in-place surface mining in which limited quantities of overburden are disturbed to install a conduit or well and the mineral is mined by injecting or recovering a liquid, solid, sludge or gas that causes the leaching, dissolution, gasification, liquefaction or extraction of the mineral. In situ mining does not include the primary or enhanced recovery of naturally occurring oil and gas or any related process regulated by the Wyoming oil and gas conservation commission;

(v) "Production zone" means the geologic interval into which recovery fluids are to be injected or extracted;

(vi) "Reclamation" includes groundwater restoration;

(vii) "Recovery fluid" means any material which flows or moves, whether semi-solid, liquid, sludge, gas or other form or state, used to dissolve, leach, gasify or extract a mineral;

(viii) "Research and development testing" means conducting research and development activities to indicate mineability or workability of and develop reclamation techniques for an in situ operation.

(g) Specific definitions applying to voluntary remediation, real property remediation account and innocent owners:

(i) "Adjacent" means property contiguous to an eligible site, and contiguous or noncontiguous property onto or under which contaminants are known to have migrated from such site;

(ii) "Certificate of completion" means a certificate issued by the director stating that all remediation requirements for a site have been successfully implemented or satisfied. The certificate of completion shall incorporate any required institutional and engineering controls for future use of the site, which may include deed restrictions recorded by the site owner. A certificate of completion may be conditioned upon the duty to perform any continuing requirements specified in a remedy agreement;

(iii) "Contaminant" means any chemical, material, substance or waste:

(A) Which is regulated under any applicable federal, state or local law or regulation;

(B) Which is classified as hazardous or toxic under federal, state or local law or regulation; or

(C) To which exposure is regulated under federal, state or local law or regulation.

(iv) "Covenant not to sue" means a written pledge issued by the director stating that the state shall not sue the person or any subsequent owner concerning contaminants and liability addressed by a remedy agreement. A covenant not to sue may be conditioned upon the duty to perform any continuing requirements specified in a remedy agreement;

(v) "Engineering controls" means measures, such as capping, containment, slurry walls, extraction wells or treatment methods that are capable of managing environmental and health risks by reducing contamination levels or limiting exposure pathways;

(vi) "Governmental entity" shall have the following meaning as determined by the location of an eligible site. For the purposes of this definition, city shall include both first class cities and towns:

(A) The city, for a site located entirely within the boundary of that city;

(B) Both the city and county, for a site located partially within that city or within the extraterritorial boundary of a city;

(C) The county, for a site located outside the boundary of a city and outside the extraterritorial boundary of the city; or

(D) The federal land management agency, for a site located on lands managed by that federal agency.

(vii) "Institutional controls" means restrictions on the use of a site, including deed notices, voluntary deed restrictions or other conditions, covenants or restrictions imposed by the property owner and filed with the county clerk, use control areas, and zoning regulations or restrictions;

(viii) "No further action letter" means a letter issued by the director stating that the department has determined that no further remediation is required on the site;

(ix) "Remediation" means all actions necessary to assess, test, investigate or characterize a site, and to clean up, remove, treat, or in any other way address any contaminants that are on, in or under a site or adjacent property to prevent, minimize or mitigate harm to human health or the environment;

(x) "Site" means a parcel of real property;

(xi) "Use control area" means an area designated by a governmental entity or entities for the purpose of controlling current and future property uses;

(xii) "Bona fide prospective purchaser" means a person who acquired ownership of contaminated real property after January 11, 2002 which the person knew to be contaminated at the time of acquisition and can establish each of the following:

(A) All release or disposal of contaminants located at the real property occurred before the person acquired the property;

(B) The owner or prospective purchaser stopped all continuing releases of contamination from the property;

(C) The owner or prospective purchaser prevented any threatened future release from the existing contamination;

(D) The owner or prospective purchaser prevented or limited human, environmental and natural resource exposure to previously released hazardous substances;

(E) The department has been notified in writing of the presence of contamination;

(F) The prospective purchaser is not potentially liable or affiliated with a potentially liable party for response costs at the property through:

(I) Familial relationships;

(II) Contractual, corporate or financial relationships; or liable business.

(III) The reorganization of a potentially

(h) Specific definitions applying to municipal solid waste landfills:

(i) "Aquifer" means an underground geologic formation:

(A) Which has boundaries that may be ascertained or reasonably inferred;

(B) In which water stands, flows or percolates;

(C) Which is capable of yielding to wells or springs significant quantities of groundwater that may be put to beneficial use; and

(D) Which is capable of yielding to wells or springs which produce a sustainable volume of more than one-half (1/2) gallon of water per minute.

(ii) "Credible data" means as defined in paragraph (c)(xix) of this section;

(iii) "Groundwater" means any water, including hot water and geothermal steam, under the surface of the land or the bed of any stream, lake, reservoir or other body of surface water, including water that has been exposed to the surface by an excavation such as a pit which:

(A) Stands, flows or percolates; and

(B) Is capable of being produced to the ground surface in sufficient quantity to be put to beneficial use.

(iv) "Lifetime" means the estimated time to fill and close a municipal solid waste landfill, not to exceed twentyfive (25) years.

(j) Specific definitions applying to nuclear regulatory functions of the state as provided in article 20 of this chapter:

(i) "Byproduct material" means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content as defined in section 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended;

(ii) "Recovery or milling" means any activity that generates byproduct material as defined in section 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended;

(iii) "Source material" means uranium or thorium, or any combination thereof, in any physical or chemical form or ores which contain by weight one-twentieth of one percent (0.05%) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

§ 35-11-104. Department of environmental quality created.

There is created a department within the executive branch entitled "The State Department of Environmental Quality" as provided in W.S. 9-2-2013.

§ 35-11-105. Divisions enumerated.

(a) The department shall consist of the following divisions:

(i) Air quality division;

(ii) Water quality division;

(iii) Land quality division;

(iv) Solid and hazardous waste management division;

(v) Abandoned mine land division;

(vi) Industrial siting division.

§ 35-11-106. Powers, duties, functions and regulatory authority.

(a) All powers, duties, functions and regulatory authority vested in the state office of industrial siting administration are transferred to the department, as of April 1, 1992. The performance of such acts or functions by the industrial siting division of the department shall have the same effect as if done by the former state office of industrial siting administration as referred to or designated by law, contract or other document. The reference or designation to the former state office of industrial siting administration shall now apply to the industrial siting division of the department. The industrial siting council shall retain all powers, duties, functions and regulatory authority but shall be within the department.

(b) All rules, regulations and orders of the former state office of industrial siting administration, the industrial siting council, abandoned mine reclamation program, solid waste management program or any other program or entity transferred to the department by this act which were lawfully adopted prior to April 1, 1992 are adopted as the rules, regulations and orders of the department and shall continue to be effective until revised, amended, repealed or nullified pursuant to law.

§ 35-11-107. Transfer of funds, records, property and personnel.

(a) All records, physical property and personnel including their rights and privileges under the merit system, retirement system and personnel system, and any appropriated or unused funds of the former state office of industrial siting administration and of the industrial siting council shall be transferred to the department as of the effective date of this act. All records, lists or other information which by law are confidential or privileged in nature shall remain as such.

(b) through (d) Repealed by Laws 1992, ch. 60, § 4.

(e) The industrial siting division is the successor to the powers, duties, functions and regulatory authority of the state office of industrial siting administration which is abolished effective April 1, 1992.

§ 35-11-108. Appointment of director and division administrators; qualifications of director; term; salaries; employment of assistants.

The governor with the advice and consent of the senate shall appoint a director of the department who is the department's executive and administrative head. The director shall possess technical qualifications and administrative and other experience sufficient to fulfill the duties of his position. The director shall appoint administrators for each of the divisions of abandoned mine land, industrial siting, solid and hazardous waste management, air quality, water quality and land quality, who are the executive and administrative heads of their respective divisions. The administrators shall serve at the pleasure of the director and are responsible to and under the control and supervision of the director. The salary and qualifications of each administrator shall be determined by the human resources division. The director, with the advice of the respective administrators, may employ professional, technical and other assistants, along with other employees as may be necessary to carry out the purposes of this act. The governor may remove the director as provided in W.S. 9-1-202.

§ 35-11-109. Powers and duties of director.

(a) In addition to any other powers and duties imposed by law, the director of the department shall:

(i) Perform any and all acts necessary to promulgate, administer and enforce the provisions of this act and any rules, regulations, orders, limitations, standards, requirements or permits adopted, established or issued thereunder, and to exercise all incidental powers as necessary to carry out the purposes of this act;

(ii) Advise, consult and cooperate with other agencies of the state, the federal government, other states, interstate agencies, and other persons in furtherance of the purposes of this act;

(iii) Exercise the powers and duties conferred and imposed by this act in such a manner as to carry out the policy stated in W.S. 35-11-102;

(iv) Conduct, encourage, request and participate in, studies, surveys, investigations, research, experiments, training and demonstrations by contract, grant or otherwise; prepare and require permittees to prepare reports and install, use and

maintain any monitoring equipment or methods reasonably necessary for compliance with the provisions of this act; and collect information and disseminate to the public such information as is deemed reasonable and necessary for the proper enforcement of this act;

(v) Conduct programs of continuing surveillance and of a regular periodic inspection of all actual or potential sources of pollution and of public water supplies with the assistance of the administrators;

(vi) Designate authorized officers, employees or representatives of the department to enter and inspect any property, premise or place, except private residences, on or at which an air, water or land pollution source is located or is being constructed or installed, or any premises in which any records required to be maintained by a surface coal mining permittee are located. Persons so designated may inspect and copy any records during normal office hours, and inspect any monitoring equipment or method of operation required to be maintained pursuant to this act at any reasonable time upon presentation of appropriate credentials, and without delay, for the purpose of investigating actual or potential sources of air, water or land pollution and for determining compliance or noncompliance with this act, and any rules, regulations, standards, permits or orders promulgated hereunder. For surface coal mining operations, right of entry to or inspection of any operation, premises, records or equipment shall not require advance notice. The owner, occupant or operator shall receive a duplicate copy of all reports made as a result of such inspections within thirty (30) days. The department shall reimburse any operator for the reasonable costs incurred in producing copies of the records requested by the department under this section;

(vii) Investigate violations of this act or regulations adopted hereunder and prepare and present enforcement cases before the council; to take such enforcement action as set out in articles 6 and 7 of this act; to appear before the council on any hearing under this act;

(viii) Represent Wyoming in any matters pertaining to plans, procedures or negotiations for interstate compacts or other intergovernmental arrangements relating to environmental

enhancement and protection. The director shall cooperate and participate in the negotiation and execution of consent orders, permit issuance, site investigations and remedial measures by and between federal agencies and the owners or operators of Wyoming facilities where the department has not been delegated the authority to administer and enforce federal legislation;

(ix) Accept, receive and administer any grants, gifts, loans or other funds made available from any source for the purposes of this act. Any monies received by the director pursuant to this paragraph shall be deposited with the state treasurer in the account or fund as provided by law for the purpose designated;

(x) Serve as advisor to the council, without vote, on all matters other than the consideration of rules proposed by the department or contested case proceedings in which the department is a party;

(xi) Designate authorized officers, employees or representatives of the department to monitor the air, water, and land quality, and solid waste management operations of all facilities which have been granted permits under W.S. 35-12-101 through 35-12-119, for assuring continuing compliance with conditions and requirements of their permits and for discovering and preventing noncompliance with the permits or violations of law;

(xii) Exercise all the powers granted to administrators by W.S. 35-11-110;

(xiii) Issue, deny, amend, suspend or revoke permits and licenses and determine the amount of bonds to be posted by the operator to insure reclamation of any affected lands;

(xiv) Exercise the powers and duties conferred and imposed by this act. Any person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous wastes shall, upon request, furnish information relating to the wastes and permit at all reasonable times the director or designated officers, employees or representatives of the department to have access to, and to copy all records relating to the wastes. For purposes of developing or assisting in the development of any hazardous waste regulation or enforcing the hazardous waste provisions of this act, the designated officers, employees or representatives are authorized to:

(A) Enter at reasonable times any establishment, property, premise or other place where hazardous wastes are or have been generated, stored, treated, disposed of or transported from; and

(B) Inspect and obtain samples from any person of the wastes and samples of any containers or labeling for the wastes.

(xv) Commence and complete with reasonable promptness each inspection conducted under paragraph (xiv) of this subsection. If an officer, employee or representative acting pursuant to paragraph (xiv) of this subsection, obtains any samples, prior to leaving the premises, he shall give to the owner, operator or agent in charge a receipt describing the sample obtained and if requested a portion of each sample equal in volume or weight to the portion retained. If any analysis is made of the samples, a copy of the results of the analysis shall be furnished promptly to the owner, operator or agent in charge.

(b) In addition to any other powers and duties imposed by law, the director of the department may allow the permitting and reporting requirements of this act to be conducted electronically as provided by the Uniform Electronic Transaction Act, W.S. 40-21-101 through 40-21-119 and any applicable federal electronic requirements.

§ 35-11-110. Powers of administrators of the divisions.

(a) The administrators of the air quality, land quality and water quality divisions, under the control and supervision of the director, shall enforce and administer this act and the rules, regulations and standards promulgated hereunder. Each administrator shall have the following powers:

(i) To serve as executive secretary of their respective advisory boards without vote;

(ii) To make recommendations to the director regarding the issuance, denial, amendment, suspension or revocation of permits and licenses and to make recommendations to the director regarding the amount of bond to be posted by the operator to insure reclamation of any affected lands;

(iii) To supervise studies, surveys, investigations, experiments and research projects assigned by the director and report all

information gained therefrom to the director and the appropriate advisory board;

(iv) To determine the degrees of air, water or land pollution throughout the state and the several parts thereof;

(v) To administer, in accordance with this act, any permit or certification systems which may be established hereunder;

(vi) To require the owners and operators of any point source to complete plans and specifications for any application for a permit required by this act or regulations made pursuant hereto and require the submission of such reports regarding actual or potential violations of this act or regulations thereunder;

(vii) To require the owner or operator of any point source to:

(A) Establish and maintain records;

(B) Make reports;

(C) Install, use and maintain monitoring equipment or methods;

(D) Sample effluents, discharges or emissions;

(E) Provide such other information as may be reasonably required and specified.

(viii) To consult with and report to the appropriate advisory board and to make written reports of all the activities of his division to said advisory board at each of its regularly scheduled meetings;

(ix) To recommend to the director, after consultation with the appropriate advisory board, that any rule, regulation or standard or any amendment adopted hereunder may differ in its terms and provisions as between particular types, characteristics, quantities, conditions and circumstances of air, water or land pollution and its duration, as between particular air, water and land pollution services and as between particular areas of the state;

(x) To possess such further powers as shall be reasonably necessary and incidental to the proper performance of the duties imposed upon the divisions under this act.

(b) The administrator of the land quality division shall have, in addition to the powers set forth in subsection (a) of this section, the power to issue, deny, amend, suspend or revoke licenses and to determine the amount of bonds to be posted by an operator to insure reclamation of affected lands in accordance with the specific authority granted the administrator under article 4 of this act.

(c) The administrator of the solid and hazardous waste management division shall have the powers set forth in paragraphs (a)(ii) through (x) of this section.

(d) The administrator of the abandoned mine land division shall enforce and administer the provisions of W.S. 35-11-1201 through 35-11-1209 and 35-11-1301 through 35-11-1304. He shall have the powers set forth in paragraph (a)(x) of this section.

(e) The administrator of the industrial siting division shall enforce and administer the provisions of W.S. 35-12-101 through 35-12-119. He shall have the powers set forth in paragraph (a)(x) of this section.

§ 35-11-111. Independent environmental quality council created; removal; terms; officers; meetings; expenses.

(a) There is created as a separate operating agency of state government an independent council consisting of seven (7) members to be known as the environmental quality council. Not more than seventy-five percent (75%) of the members shall be of the same political party. Council members shall be appointed by the governor with the advice and consent of the senate. The governor may remove any council member as provided in W.S. 9-1-202. No employee of the state, other than employees of institutions of higher education, shall be a member of the council. At all times, there shall be at least one (1) member from the minerals industry and one (1) member from agriculture. Any member receiving more than ten percent (10%) of his income from any permit applicant shall not act on a permit application from that applicant.

(b) The terms of the members shall be for four (4) years, except that on the initial appointment, members' terms shall be as follows: three (3) shall serve for two (2) years, two (2) shall serve for three (3) years and two (2) shall serve for four (4)

years, as designated by the initial appointment. If a vacancy occurs, the governor shall appoint a new member as provided in W.S. 28-12-101.

(c) The first meeting of the council shall be held within sixty (60) days after the effective date of this act at which time a chairman shall be elected from among the members to serve a one (1) year term. The council shall also annually elect from its membership a vice-chairman and a secretary, each for a term of one (1) year, and it shall keep a record of its proceedings.

(d) The council shall hold at least four (4) regularly scheduled meetings each year. Special meetings may be called by the chairman, and special meetings shall be called by the chairman, upon a written request submitted by the director or three (3) or more members. Four (4) members participating in a matter shall constitute a quorum. All matters shall be decided by a majority vote of those members participating in the matter. For purposes of voting, a member who has recused himself from a matter, a member who is absent and is not participating in the meeting, a member who is unable to participate in proceedings due to illness or incapacity and a vacant position on the council shall be deemed to be not participating in the matter.

(e) Unless otherwise prohibited by law, each member of the council shall receive the same per diem, mileage and salary for attending and traveling to and from meetings, hearings and other activities necessary to the performance of the duties of the office in the same manner and amount as members of the Wyoming legislature. Council members who receive compensation from their employers for activities performed pursuant to this act shall not receive salary but shall receive mileage and per diem if they are not reimbursed by their employers.

(f) Effective July 1, 1979, appointments and terms under this section shall be in accordance with W.S. 28-12-101 through 28-12-103.

§ 35-11-112. Powers and duties of the environmental quality council.

(a) The council shall act as the hearing examiner for the department and shall hear and determine all cases or issues arising under the laws, rules, regulations, standards or orders

issued or administered by the department or its air quality, land quality, solid and hazardous waste management or water quality divisions. At the council's request the office of administrative hearings may provide a hearing officer for any rulemaking or contested case hearing before the council, and the hearing officer may provide recommendations on procedural matters when requested by the council. Notwithstanding any other provision of this act, including this section, the council shall have no authority to promulgate rules or to hear or determine any case or issue arising under the laws, rules, regulations, standards or orders issued or administered by the industrial siting or abandoned mine land divisions of the department. The council shall:

(i) Subject to subsection (h) of this section, promulgate rules and regulations necessary for the administration of this act, after recommendation from the director of the department, the administrators of the various divisions and their respective advisory boards;

(ii) Conduct hearings as required by the Wyoming Administrative Procedure Act for the adoption, amendment or repeal of rules, regulations or standards when recommended by the director after the director consults with the advisory boards and the administrators. The council shall approve all rules, regulations and standards of the department before they become final;

(iii) Conduct hearings in any case contesting the administration or enforcement of any law, rule, regulation, standard or order issued or administered by the department or any division thereof;

(iv) Conduct hearings in any case contesting the grant, denial, suspension, revocation or renewal of any permit, license, certification or variance authorized or required by this act;

(v) Designate at the earliest date and to the extent possible those areas of the state which are very rare or uncommon and have particular historical, archaeological, wildlife, surface geological, botanical or scenic value. When areas of privately owned lands are to be considered for such designation, the council shall give notice to the record owner and hold hearing thereon, within a county in which the area, or major portion

thereof, to be so designated is located, in accordance with the Wyoming Administrative Procedure Act. No new designations shall be made pursuant to this paragraph after July 1, 2011, but the council shall retain the authority to remove designations made prior to that date;

(vi) Adopt and when applicable, enforce the provisions of rule 11 of the Wyoming Rules of Civil Procedure in a contested hearing conducted by the council. The council may modify the procedural provisions of rule 11 to fit the circumstances of a hearing before the council and sanctions imposed by the council. If the provisions of rule 11 are modified at a future date, the council may adopt the modifications.

(b) The council may contract with consultants having special expertise to assist in the performance of its duties.

(c) Subject to any applicable state or federal law, and subject to the right to appeal, the council may:

(i) Approve, disapprove, repeal, modify or suspend any rule, regulation, standard or order of the director or any division administrator;

(ii) Order that any permit, license, certification or variance be granted, denied, suspended, revoked or modified;

(iii) Affirm, modify or deny the issuance of orders to cease and desist any act or practice in violation of the laws, rules, regulations, standards or orders issued or administered by the department or any division thereof. Upon application by the council, the district court of the county in which the act or practice is taking place shall issue its order to comply with the cease and desist order, and violation of the court order may be punished as a contempt.

(d) The council may employ an executive officer and staff who shall serve at the pleasure of the council. The executive officer and other staff members shall perform duties as the council may assign, including preparing meeting facilities and completing administrative, secretarial and other functions. The department of administration and information shall provide suitable office space for the executive officer and other staff members and shall ensure that any employment authorized under

this subsection complies with title 9, chapter 2, article 10 of the Wyoming statutes. The council may negotiate and enter into appropriate memoranda of understanding with the department of administration and information to facilitate administrative support, accounting functions and staffing needs required under this subsection.

(e) The attorney general shall provide legal assistance as the council may require in the proper performance of its duties.

(f) All proceedings of the council shall be conducted in accordance with the Wyoming Administrative Procedure Act.

(g) Subject to subsection (h) of this section, the council shall not promulgate any rules which impose standards or requirements related to meat processing which are more stringent than federal law, rules or regulations.

(h) The council shall not promulgate any rules or regulations that impose standards or requirements more stringent than federal law, rules or regulations applicable to any federal program that the state maintains primacy over unless the department identifies the need for rules or regulations that impose standards or requirements more stringent than federal law, rules or regulations in its statement of principal reasons.

§ 35-11-113. Advisory boards created; membership; removal; terms; meetings; expenses.

(a) There is created within the department three (3) advisory boards, one (1) for each of the air quality, land quality and water quality divisions. Each advisory board shall consist of five (5) members appointed by the governor. Each board shall have one (1) member who represents industry, one (1) member who represents agriculture, one (1) member who represents political subdivisions and two (2) members who represent the public interest. The governor may remove any member of any of the advisory boards as provided in W.S. 9-1-202.

(b) For the initial appointments to each board, the governor shall appoint one (1) member for a six (6) year term, two (2) members for four (4) year terms and two (2) members for two (2) year terms. Thereafter all appointments shall be for four (4) year terms. No officer or employee of the state, other than

employees of institutions of higher education, may be appointed to a board. A vacancy occurs if any member ceases to represent the interest group or political party for which he was originally appointed, or if any member becomes unable or fails to serve for any reason. The governor shall fill vacancies by appointment for the unexpired portion of the term.

(c) Each advisory board shall meet within sixty (60) days after the effective date of this act to elect from among its members a chairman and a vice-chairman. Such officers shall be elected annually thereafter. Each board shall hold at least four (4) regularly scheduled meetings each year, and special meetings may be called by the chairman at any time. Three (3) members shall constitute a quorum for the purpose of conducting business, but all decisions must be approved by a majority of the total membership of the board. Each board shall keep a written record of its meetings and proceedings. Each board member shall be reimbursed for per diem, mileage and expenses for attending board meetings in the same manner and amount as state employees.

§ 35-11-114. Powers and duties of the advisory boards.

(a) The advisory board shall recommend to the council through the administrator and director, comprehensive plans and programs for the management of solid and hazardous waste, the prevention, control and abatement of air, water and land pollution and the protection of public water supplies.

(b) The advisory board shall consult with and advise the administrator and director on the adoption of rules, regulations and standards to implement and carry out the provisions and purposes of this act which relate to their divisions, and variances therefrom.

(c) The advisory boards shall counsel with and advise the administrator of their respective divisions in the administration and performance of all the duties of the division and shall make an annual written report to the governor.

(d) The advisory board shall counsel with and advise each other, the public, and the director of the department in order to coordinate the policies and activities of their respective divisions and to achieve maximum efficiency and effectiveness in furthering the objectives of the department.

(e) Each administrator and staff shall provide the appropriate board with meeting facilities, secretarial or clerical assistance, supplies and such other assistance as each board may require in the performance of its duties.

§ 35-11-115. Power of director to issue emergency orders.

(a) Any other provisions of law to the contrary notwithstanding, if the director finds that a condition of air, water or land pollution exists and that it creates an emergency requiring immediate action to protect human or animal health or safety, the director, with the concurrence of the governor, shall order any persons causing or contributing to such pollution to reduce or discontinue immediately the actions causing the condition of pollution and such order shall fix a time and place for hearing before the council within forty-eight (48) hours thereafter. The council shall affirm, modify or set aside the director's order within forty-eight (48) hours following the adjournment of the hearing.

(b) If the director has evidence that any pollution source presents an immediate and substantial danger to human or animal health or safety, he may institute, through the attorney general, a civil action for immediate injunctive relief to halt any activity causing the danger. The court may issue an ex-parte order and shall schedule a hearing on the matter within three (3) working days from the date the petition for injunctive relief is filed.

(c) Nothing in this section shall be construed to limit any power which the governor or any other officer may have to declare an emergency and act on the basis of such declaration, if such power is conferred by statute or constitutional provision or inheres in the office.

Article 2
Air Quality

§ 35-11-201. Discharge or emission of contaminants; restrictions.

No person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council.

§ 35-11-202. Establishment of standards.

(a) Without limiting the authority of the administrator as set out in W.S. 35-11-110, he shall, after consultation with the advisory board, recommend to the director such ambient air standards or emission control requirements by rule or regulation, as may be necessary to prevent, abate, or control pollution. Such standards or requirements may be for the state as a whole or may vary from area to area, as may be appropriate to facilitate accomplishment of the purposes of this act, and in order to take account of varying local conditions.

(b) In recommending such standards or requirements the administrator shall:

(i) Consider all the facts and circumstances bearing upon the reasonableness of the emissions involved, including:

(A) The character and degree of injury to, or interference with the health and physical well being of the people, animals, wildlife and plant life;

(B) The social and economic value of the source of pollution;

(C) The priority of location in the area involved;

(D) The technical practicability and economic reasonableness of reducing or eliminating the pollution; and

(E) The social welfare and aesthetic value.

(ii) Grant such time as he shall find to be reasonable and necessary for owners and operators of air contaminant sources to comply with applicable standards or requirements;

(iii) Recommend to the director, after consultation with the advisory board, regulations to prevent construction, modification or operation of any source at any location where emissions from such source will prevent the attainment or maintenance of a state or national standard.

§ 35-11-203. Sources subject to operating permit program.

(a) The following sources of air contaminants are subject to the provisions of W.S. 35-11-203 through 35-11-212:

(i) Any stationary source, or any group of stationary sources located within a contiguous area and under common control, that:

(A) Has the potential to emit one hundred (100) tons or more per year of any pollutant regulated under the Clean Air Act and is a major stationary source as defined in section 302 of the Clean Air Act;

(B) Has the potential to emit ten (10) tons per year of any single hazardous air pollutant or twenty-five (25) tons per year of any combination of hazardous air pollutants as defined by section 112 of the Clean Air Act. Emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(C) Is subject to the nonattainment area provisions of title I, part D, of the Clean Air Act.

(ii) Any other source of hazardous air pollutants, including an area source, which the environmental protection agency may designate pursuant to the provisions of section 112 of the Clean Air Act;

(iii) Any source subject to the new source performance standards promulgated by the environmental protection agency pursuant to section 111 of the Clean Air Act;

(iv) Any "affected source" subject to the acid rain provisions of title IV of the Clean Air Act as defined in section 501 of the Clean Air Act;

(v) Any source subject to preconstruction review permits pursuant to the prevention of significant deterioration regulations promulgated by the environmental protection agency pursuant to the Clean Air Act;

(vi) Any other stationary source that the environmental protection agency may designate by regulation pursuant to authority granted under the Clean Air Act.

(b) After the effective date of the operating permit program authorized under W.S. 35-11-203 through 35-11-212, it shall be unlawful for any person to violate any requirement of a permit issued under the operating permit program or to operate any source required to have a permit under this section, without having complied with the provisions of the operating permit program.

(c) The department shall exempt any nonmajor source from the obligation to obtain a permit under this section until the environmental protection agency requires such sources to obtain an operating permit in final regulations promulgated pursuant to title V of the Clean Air Act.

§ 35-11-204. Department to establish requirements for applications; certification.

(a) The department shall promulgate rules for permit applications, including standard application forms to be submitted pursuant to the operating permit program. The rules shall:

(i) Establish specific criteria for defining a complete permit application, including information which identifies a source, its applicable air pollution control requirements, current compliance status, intended operating regime and emissions levels;

(ii) Provide for adequate, streamlined and reasonable procedures for determining when an application is complete and for processing an application; and

(iii) Provide for public notice of the application, and opportunity for public comment and public hearings.

(b) The application, including any information required to be submitted with the application pursuant to this section shall be signed by a responsible official who shall certify the accuracy of the information.

(c) Operating permit applications are not required until after the date that the environmental protection agency has issued approval of the state's permit program, or by November 15, 1995, whichever comes first.

§ 35-11-205. Application procedures.

(a) Any source required to have a permit under W.S. 35-11-203 shall, not later than twelve (12) months after the date on which the source becomes subject to the requirements of the operating permit program or such earlier date as the department may establish, submit to the department a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The department shall approve or disapprove a completed application, consistent with the procedures established under W.S. 35-11-204 for consideration of such applications, and shall issue or deny the permit, within eighteen (18) months after the date of receipt thereof, except that the department shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of the operating permit program, or a partial or interim program. Any such schedule shall assure that at least one-third (⅓) of the permits will be acted on by the department annually over a period of not to exceed three (3) years after the effective date. The department shall establish reasonable procedures to prioritize approval or disapproval actions in the case of applications for construction or modification under the applicable requirements of the Clean Air Act and this article.

(b) Any source submitting a permit application shall submit with the application a compliance plan describing how the source will comply with all applicable requirements under this article and the Clean Air Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the department no less frequently than every six (6) months.

(c) Except for sources required to have a permit before construction or modification under the applicable requirements of this article or the Clean Air Act, if an applicant has submitted a timely and complete application for a permit or a renewal of a permit required by the operating permit program, but final action has not been taken on the application, the source's failure to have a permit shall not be a violation of W.S. 35-11-203, unless the delay in final action was due to the failure of the applicant to timely submit information required

or requested to process the application. No source required to have a permit under the operating permit program shall be in violation of W.S. 35-11-203 before the date on which the source is required to submit an application under subsection (a) of this section.

(d) A copy of each permit application, compliance plan, schedule of compliance, emissions or compliance monitoring report, certification, and each permit issued under the operating permit program, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of the Clean Air Act, W.S. 35-11-1101(a) or 16-4-203(d)(v), the applicant or permittee may submit the information separately. The requirements of section 114(c), W.S. 35-11-1101(a) and 16-4-203(d)(v) shall apply to the information. The contents of a permit shall not be entitled to protection under section 114(c), W.S. 35-11-1101(a) or 16-4-203(d)(v).

§ 35-11-206. Operating permit requirements and conditions.

(a) Every permit issued under the operating permit program shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the department no less often than every six (6) months, the results of any required monitoring, and other conditions as are necessary to assure compliance with applicable requirements established pursuant to this article and the Clean Air Act.

(b) The department may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under the Clean Air Act and this article, but continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance. Nothing in this subsection shall be construed to affect any continuous emissions monitoring requirement of title IV of the Clean Air Act, or where required elsewhere in the Clean Air Act.

(c) Every permit issued under the operating permit program shall set forth inspection, entry, monitoring, compliance certification and reporting requirements to assure compliance with the permit terms and conditions. Monitoring and reporting

requirements shall conform to any applicable regulation under subsection (b) of this section. Any report required to be submitted by a permit issued to a corporation under the operating permit program shall be signed by a responsible corporate official, who shall certify its accuracy.

(d) The department may, after notice and opportunity for public hearing, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to permits under title V of the Clean Air Act and the operating permit program. No source covered by a general permit shall thereby be relieved from the obligation to file an application under W.S. 35-11-205.

(e) The department may issue a single permit authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of the operating permit program and the Clean Air Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visibility requirements under part C of title I of the Clean Air Act. Any such permit shall in addition require the owner or operator to notify the department in advance of each change in location. The department may require a separate permit fee for operations at each location.

(f) Every permit issued pursuant to the operating permit program shall:

(i) Be issued for a fixed term of five (5) years unless the department makes a finding, after public comment and hearing, and based on substantial evidence in the record, that an operating permit term of less than five (5) years is necessary to protect the public health and the environment except that operating permits to any affected source as defined in section 501 of the Clean Air Act shall be issued for no less and no more than five (5) years;

(ii) Be subject to termination, modification, revocation or reissuance for cause;

(iii) Allow for operational flexibility at the permitted facility without revising the permit; and

(iv) Be subject to revision by the department to incorporate applicable requirements under the Clean Air Act and this article which are promulgated after the permit is issued if the remaining term of the permit is for a term of three (3) or more years. Any revision required by this paragraph shall be acted on by the department within the time limits provided in W.S. 35-11-205(a).

§ 35-11-207. Notification to the environmental protection agency and contiguous states.

(a) The department shall transmit to the environmental protection agency:

(i) A copy of each permit application and any application for a permit modification or renewal or any portion thereof including any compliance plan, as the environmental protection agency may require to effectively review the application and otherwise carry out its responsibilities under the Clean Air Act; and

(ii) A copy of each permit proposed to be issued and issued as a final permit.

(b) The department shall provide notice of each permit application or proposed permit forwarded to the environmental protection agency under this section, to all states:

(i) Whose air quality may be affected and that are contiguous to this state; or

(ii) That are within fifty (50) miles of the source.

(c) The department shall provide an opportunity for states notified pursuant to subsection (b) of this section to submit written recommendations respecting the issuance of the permit and its terms and conditions. If any part of those recommendations are not accepted by the department it shall notify the state submitting the recommendations and the environmental protection agency in writing of its failure to accept those recommendations and the reasons therefor.

(d) Upon receipt of timely objection by the environmental protection agency under title V of the Clean Air Act the department shall not issue any permit under the operating permit program unless it is revised and issued in accordance with

section 505(c) of the Clean Air Act. Any permit issued under the operating permit program shall be subject to revocation or revision by the department throughout the period of time that EPA may object under title V of the Clean Air Act.

§ 35-11-208. Review of actions on applications.

(a) An applicant may seek relief pursuant to W.S. 35-11-802 on any final action taken on a permit including the director's refusal to grant a permit under the operating permit program or failure to act on a completed application within eighteen (18) months.

(b) Any person who participated in the public comment process on a permit application and who is aggrieved by any final action taken by the director on a permit application may seek relief pursuant to W.S. 35-11-1001.

§ 35-11-209. Small business stationary source technical and environmental compliance assistance program.

(a) The department shall act as ombudsman for small business stationary sources in connection with implementation of the operating permit program and the Clean Air Act.

(b) As ombudsman the department shall, in accordance with section 507 of the Clean Air Act, submit to the environmental protection agency plans for establishing a small business stationary source technical and environmental compliance assistance program.

(c) The program shall be implemented by rules adopted by the department and shall contain:

(i) Adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Clean Air Act;

(ii) Adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution;

(iii) A compliance assistance program for small business stationary sources which assists small business stationary sources in determining applicable requirements and in receiving permits under the operating permit program and the Clean Air Act in a timely and efficient manner;

(iv) Adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Clean Air Act in a manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under the operating permit program or the Clean Air Act;

(v) Adequate mechanisms for informing small business stationary sources of their obligations under the operating permit program and the Clean Air Act, including mechanisms for referring such sources to qualified auditors or, at the option of the state, for providing audits of the operations of such sources to determine compliance with the Clean Air Act;

(vi) Procedures for consideration of requests from a small business stationary source for modification of:

(A) Any work practice or technological method of compliance; or

(B) The schedule of milestones for implementing a work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of the small business stationary source. No modification may be granted unless it is in compliance with the applicable requirements established pursuant to this article, the Clean Air Act, and the requirements of the operating permit program.

(d) Except as provided in subsection (e) of this section, for purposes of this section, "small business stationary source" means a stationary source that:

(i) Is owned or operated by a person that employs one hundred (100) or fewer individuals;

(ii) Is a small business concern as defined in the Small Business Act [15 U.S.C. § 631 et seq.];

(iii) Is not a major stationary source as defined in W.S. 35-11-203(a)(i)(A);

(iv) Does not emit fifty (50) tons or more per year of any regulated pollutant; and

(v) Emits less than seventy-five (75) tons per year of all regulated pollutants.

(e) Upon petition by a source, the department may, after notice and opportunity for public comment, include as a small business stationary source for purposes of this section any stationary source which does not meet the criteria of paragraph (d)(iii), (iv) or (v) of this section but which does not emit more than one hundred (100) tons per year of all regulated pollutants.

(f) The department, in consultation with the environmental protection agency and the administrator of the small business administration and after providing notice and opportunity for public hearing, may exclude from the small business stationary source definition under this section any category or subcategory of sources that the department determines to have sufficient technical and financial capabilities to meet the requirements of the Clean Air Act without the application of this section.

§ 35-11-210. Small business assistance program advisory panel.

(a) There is created a compliance advisory panel consisting of the following nine (9) members:

(i) Two (2) members, who are not owners, or representatives of owners, of small business stationary sources, shall be appointed by the governor to represent the general public;

(ii) Four (4) members shall be appointed by the legislature who are owners, or who represent owners of small business stationary sources. One (1) member each shall be appointed by the majority and minority leadership of the house of representatives and one (1) member each shall be appointed by the majority and minority leadership of the senate;

(iii) One (1) member shall be selected by the director of the department to represent the department;

(iv) Two (2) members who represent major source operators in the state of Wyoming, shall be appointed by the governor.

(b) The panel shall:

(i) Render advisory opinions concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program, difficulties encountered, and degree and severity of enforcement;

(ii) Make periodic reports to the environmental protection agency required under title V of the Clean Air Act;

(iii) Review information for small business stationary sources to assure such information is understandable by the layperson; and

(iv) Have the small business stationary source technical and environmental compliance assistance program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

(c) Except for the initial members the panel members shall serve four (4) year terms and may be reappointed. The legislative members appointed from the house of representatives shall initially serve two (2) year terms. One (1) member appointed by the governor shall initially serve a three (3) year term. A vacancy occurs if a member ceases to meet the qualifications specified in subsection (a) of this section. A vacancy shall be filled in the same manner as the original appointment. The panel shall select from its members a chairman. The panel shall hold at least four (4) regularly scheduled meetings each year, and may hold special meetings as called by the chairman. Five (5) members shall constitute a quorum for the purposes of conducting business, but all decisions must be approved by a majority of the total membership of the panel. Each member, except the department representative, shall be reimbursed for per diem, mileage and expenses for attending panel meetings in the same manner and amount as state employees. The department representative shall suffer no loss of wages for the time devoted to the duties of the panel.

(d) The panel shall be in addition to and operate separate from the advisory boards created pursuant to W.S. 35-11-113.

§ 35-11-211. Fees.

(a) The department shall implement a permit fee system and schedule of fees adequate to cover all reasonable direct and indirect costs of reviewing and acting upon any construction and modification permits under this article and developing, implementing and administering the operating permit program including the small business technical assistance program.

(b) Permit fees shall be assessed against operators of sources applying for any permit under this article and annually thereafter for the duration of the permit. The fee for operating sources shall be based on the emissions of each regulated pollutant, as defined in section 502(b)(3)(B)(ii) of the Clean Air Act. The department shall exclude any amount of regulated pollutant emitted by any source in excess of four thousand (4,000) tons per year in determining the amount of fee required for any operating source. A fee shall be assessed upon applicants for construction and modification permits based on costs to the department in reviewing and acting upon those permit applications. The department shall develop a fee structure subject to the minimum amounts specified in subsection (j) of this section which equitably assesses the fees based on emissions for operating sources and projected costs of reviewing and acting upon construction and modification permits sufficient to recover the amount reviewed by the joint appropriations committee and appropriated by the legislature for implementing the operating permit program. The fee structure and appropriation shall be based upon measurable goals and approved by the joint appropriations committee prior to implementation. The department shall prepare a biennium report for review by the joint minerals, business and economic development interim committee by October 31 of the year prior to the Wyoming legislative budget session. Permit fees shall cover all reasonable direct and indirect costs including the costs of:

(i) Reviewing and acting upon any permit application including construction and modification permit applications;

(ii) Implementing and enforcing permits;

(iii) Emissions and ambient monitoring;

(iv) Preparing regulations and guidance;

(v) Modeling analyses and demonstrations;

(vi) Preparing emission and source inventories and tracking emissions;

(vii) Permit-related functions performed by the department;

(viii) Development and administration of the state small business assistance program; and

(ix) Information management activities.

(c) The fees collected by the department pursuant to this section shall be deposited in a separate account, and shall be subject to appropriation by the legislature to the department solely for permitting construction and modification and for the development and administration of the construction, modification and operating permit programs.

(d) The department shall give written notice of the amount of the fee to be assessed and the basis for the assessment to the operator of the source. The operator may appeal the assessment to the council within twenty (20) days after receipt of the written notice. The appeal shall be based only upon the allegation that the particular assessment is erroneous or excessive and may not be based upon the entire fee schedule adopted to fund the permitting programs. The contested case procedures of the Wyoming Administrative Procedure Act shall apply to any appeal under this subsection.

(e) If any part of the assessment is not appealed it shall be paid to the department upon receipt of the written notice.

(f) The department may reduce any fee required under the operating permit program to take into account the financial resources of small business stationary sources.

(g) There shall be no double counting of the regulated emissions for the purpose of fee determination.

(h) Fees under this section, for sources subject to the operating permit program as enumerated in W.S. 35-11-203(a), shall not be assessed for tailpipe emissions from any nonroad vehicle as defined under section 201 of the Clean Air Act.

(j) The department shall charge the following minimum fees under this section:

(i) Application$500.00;

(ii) In addition to paragraph (i) of this subsection, review and acting on an application$75.00 per hour;

(iii) Relocation of portable sources or facilities that are authorized to use self issuance permits$150.00;

(iv) Relocation of portable sources or facilities not authorized to use self issuance permits$300.00.

§ 35-11-212. Effect of other provisions.

(a) Nothing in W.S. 35-11-203 through 35-11-212 shall be construed as affecting allowances under the allowance program and phase II compliance schedule under the acid rain provisions of title IV of the federal Clean Air Act [42 U.S.C. § 7651 et seq.].

(b) Nothing in W.S. 35-11-203 through 35-11-212 shall be construed as affecting the department's permitting or other regulation of the construction or modification of sources pursuant to W.S. 35-11-202 including rules in effect as of April 1, 1992 or subsequently promulgated under W.S. 35-11-202.

§ 35-11-213. Restrictions on state regulations related to greenhouse gas emissions.

(a) Effective March 31, 1999, neither the department nor the council shall propose or promulgate any new rule or regulation intended in whole or in part to reduce emissions as called for by the Kyoto Protocol, from the residential, commercial, industrial, electric utility, transportation, agricultural, energy or mining sectors.

(b) In the absence of a resolution or other act of the legislature approving same, the director of the department shall not submit to the United States environmental protection agency or to any other agency of the federal government any legally enforceable commitments related to the Kyoto Protocol.

(c) Nothing in this section shall be construed to limit or to impede state or private participation in any on-going voluntary initiatives to reduce emissions of greenhouse gases, including, but not limited to, the United States environmental protection agency's green lights program, the United States department of

energy's climate challenge program and similar state and federal initiatives relying on voluntary participation.

(d) This section shall remain in effect until repealed by an act of the Wyoming legislature or until ratification of the Kyoto Protocol by the United States senate and enactment of federal legislation implementing the Kyoto Protocol.

(e) Notwithstanding the provisions of subsections (a) through (d) of this section and pursuant to the provisions of subsections (e) through (k) of this section, the department and council shall adopt regulations to amend Wyoming's Clean Air Act state implementation plan and Wyoming's Title V operating permit program to the extent necessary to obtain state primacy over the regulation of greenhouse gases for those sources that would otherwise be subject to federal regulation for greenhouse gases by the United States environmental protection agency. The department and council may promulgate new source performance standards for greenhouse gases that are no more stringent than federal greenhouse gas new source performance standards.

(f) In no event shall any greenhouse gas emission regulations, new source performance standards or potential to emit thresholds promulgated pursuant to subsection (e) of this section be more stringent than those imposed or required by federal law. Regulations under subsection (e) of this section shall only regulate those gases identified by the United States environmental protection agency as greenhouse gases.

(g) Notwithstanding W.S. 35-11-203(a), the department and the council are authorized to determine by regulation potential to emit thresholds for greenhouse gas emissions which are no more stringent than those imposed or required by federal law.

(h) The department may submit an amended state implementation plan providing for regulation of greenhouse gases to the United States environmental protection agency for approval.

(i) and (ii) Repealed by Laws 2013, ch. 39, § 2.

(j) Subsections (e) through (k) of this section and the authority granted in subsection (e) of this section to the department and the council to promulgate and adopt greenhouse gas regulations and all regulations adopted pursuant to

subsection (e) of this section are repealed upon the occurrence of any one (1) of the following events:

(i) The United States congress enacts a law prohibiting the United States environmental protection agency from regulating greenhouse gases; or

(ii) A federal court issues a final judgment prohibiting the United States environmental protection agency from regulating greenhouse gas emissions from stationary sources.

(k) As used in this section, the term "final judgment" means a judgment issued by a federal court that is no longer subject to potential or ongoing appeal to any federal court with jurisdiction over the court judgment.

(m) The governor shall certify to the secretary of state the occurrence of any act which repeals subsections (e) through (k) of this section pursuant to subsection (j) of this section. The effective date of such repeal of subsections (e) through (k) of this section shall be the date the governor's certification is filed with the secretary of state.

(i) and (ii) Repealed by Laws 2013, ch. 39, § 2.

§ 35-11-214. Emission trading programs.

The department through rule and regulation may establish intrastate, participate in interstate, or establish intrafacility emissions trading programs. Any trading program established shall be consistent with the Clean Air Act and regulations promulgated thereunder, and consistent with ambient air quality standards.

§ 35-11-301. Prohibited acts.

(a) No person, except when authorized by a permit issued pursuant to the provisions of this act, shall:

(i) Cause, threaten or allow the discharge of any pollution or wastes into the waters of the state;

(ii) Alter the physical, chemical, radiological, biological or bacteriological properties of any waters of the state;

(iii) Construct, install, modify or operate any sewerage system, treatment works, disposal system or other facility, excluding

uranium mill tailing facilities, capable of causing or contributing to pollution, except that no permit to operate shall be required for any publicly owned or controlled sewerage system, treatment works or disposal system;

(iv) Increase the quantity or strength of any discharge;

(v) Construct, install, modify or operate any public water supply or construct any subdivision water supply, except that no permit to operate shall be required for any publicly owned or controlled public water supply and a permit under this section shall not be required for subdivision water supplies consisting of individual wells serving individual lots of a subdivision.

§ 35-11-302. Administrator's authority to recommend standards, rules, regulations or permits.

(a) The administrator, after receiving public comment and after consultation with the advisory board, shall recommend to the director rules, regulations, standards and permit systems to promote the purposes of this act. Such rules, regulations, standards and permit systems shall prescribe:

(i) Water quality standards specifying the maximum short-term and long-term concentrations of pollution, the minimum permissible concentrations of dissolved oxygen and other matter, and the permissible temperatures of the waters of the state;

(ii) Effluent standards and limitations specifying the maximum amounts or concentrations of pollution and wastes which may be discharged into the waters of the state;

(iii) Standards for the issuance of permits for construction, installation, modification or operation of any public water supply and sewerage system, subdivision water supply, treatment works, disposal system or other facility, capable of causing or contributing to pollution;

(iv) Standards for the definition of technical competency and the certification of operating personnel for community water systems and nontransient noncommunity water systems, sewerage systems, treatment works and disposal systems and for determining that the operation shall be under the supervision of certified personnel. Prior to recommending these standards to the director, the administrator shall consult with affected

municipalities, water and sewer districts, counties and treatment operators;

(v) Standards for the issuance of permits as authorized pursuant to section 402(b) of the Federal Water Pollution Control Act [33 U.S.C. § 1342(b)] as amended in 1972, and as it may be hereafter amended;

(vi) In recommending any standards, rules, regulations, or permits, the administrator and advisory board shall consider all the facts and circumstances bearing upon the reasonableness of the pollution involved including:

(A) The character and degree of injury to or interference with the health and well being of the people, animals, wildlife, aquatic life and plant life affected;

(B) The social and economic value of the source of pollution;

(C) The priority of location in the area involved;

(D) The technical practicability and economic reasonableness of reducing or eliminating the source of pollution; and

(E) The effect upon the environment.

(vii) Such reasonable time as may be necessary for owners and operators of pollution sources to comply with rules, regulations, standards or permits;

(viii) Financial assurance requirements for plugging, abandonment, post-closure monitoring, corrective actions and site reclamation for any class I hazardous waste or nonhazardous waste underground injection facility or class V coalbed methane underground injection facility as described in 40 C.F.R. Part 146. Rules, regulations, standards and permit systems recommended and prescribed under this paragraph shall apply only to any permit issued, renewed or transferred after July 1, 2018, under department of environmental quality regulations for a class I hazardous waste or nonhazardous waste underground injection facility or class V coalbed methane underground injection facility;

(ix) Standards for housed facilities where swine are confined, fed and maintained for a total of forty-five (45) consecutive days or more in any twelve (12) month period and the feedlot or

facility is designed to confine an equivalent of one thousand (1,000) or more animal units. If any county adopts a land use plan or zoning resolution which imposes stricter requirements than those found in subparagraph (C) of this paragraph, the county requirements shall prevail. These standards shall include:

(A) Financial assurance for accidents and closure requirements for facilities which contain treatment works;

(B) Waste and manure management plans to prevent pollution of waters of the state, to minimize odors for public health concerns, pathogens and vectors capable of transporting infectious diseases and to specify land application requirements;

(C) Setback requirements which will restrict the location and operation of structures housing swine and lagoons within:

(I) One (1) mile of an occupied dwelling without the written consent of the owner of the house;

(II) One (1) mile of a public or private school without the consent of the school's board of trustees or board of directors;

(III) One (1) mile of the boundaries of any incorporated municipality without the resolution and consent of the governing body of the municipality;

(IV) One-quarter (¼) mile of a water well permitted for current domestic purposes without the written consent of the owner of the well;

(V) One-quarter (¼) of a mile of a perennial stream unless it is demonstrated to the department that potential adverse impacts to the water quality of the stream can be avoided.

(D) Provisions for notice of intent to issue a permit and opportunity for public comment.

(x) Standards for the determination of capacity development capabilities to ensure that all new or modified community water systems and new or modified nontransient noncommunity water systems commencing operation after October 1, 1999, demonstrate capacity development capabilities and by October 1, 2001, develop a strategy to assist all community and noncommunity

water systems in acquiring and maintaining capacity development by adopting procedures governing capacity development in compliance with section 1420 of the Safe Drinking Water Act (42 U.S.C. § 300g-9). The department shall have the authority to require new systems in noncompliance of capacity development capabilities to take steps to correct inadequacies or cease water system operations;

(xi) Standards for subdivision applications submitted to the department under W.S. 18-5-306. The administrator shall consult with county commissioners and the state engineer's office in developing standards to recommend to the director.

(b) The administrator, after receiving public comment and after consultation with the advisory board, shall recommend to the director rules, regulations and standards to promote the purposes of this act. The rules, regulations and standards shall prescribe:

(i) A schedule for the use of credible data in designating uses of surface water consistent with the requirements of the Federal Water Pollution Control Act (33 U.S.C. sections 1251 through 1387). The use of credible data shall include consideration of soils, geology, hydrology, geomorphology, climate, stream succession and human influence on the environment. The exception to the use of credible data may be in instances of ephemeral or intermittent water bodies where chemical or biological sampling is not practical or feasible;

(ii) The use of credible data in determining water body's attainment of designated uses. The exception to the use of credible data may be in instances where numeric standards are exceeded, or in ephemeral or intermittent water bodies where chemical or biological sampling is not practical or feasible.

(c) Nothing in this act shall be construed to supersede or abrogate any valid water right. It is recognized that diversion of water caused by the exercise of a valid water right is an allowable practice. The administrator shall:

(i) Develop water quality standards for surface waters where hydrologic modification resulting from the exercise of valid water rights precludes the attainment of existing water quality standards;

(ii) Prepare a schedule to develop appropriate water quality standards based on the completion of a use attainability analysis for any waters that have been identified pursuant to 33 U.S.C. § 1315(b) where dams, diversions or other types of hydrologic modification preclude the attainment of any existing water quality standard.

§ 35-11-303. Duties of the administrator of water quality division.

(a) In addition to other duties imposed by law, the administrator of the water quality division at the direction of the director:

(i) May conduct on site compliance inspections of all facilities and works during or following the completion of any construction, installation or modification for which a permit is issued under W.S. 35-11-301(a)(iii) or (v); and

(ii) Shall establish as necessary for the efficient enforcement of this act water quality districts within the state and provide for a field office to be located within the boundaries of each district created.

§ 35-11-304. Administrator required to delegate certain management functions to local governmental entities.

(a) To the extent requested by a municipality, water and sewer district or county, the administrator of the water quality division, with the approval of the director, shall delegate to municipalities, water and sewer districts or counties which apply the authority to enforce and administer within their boundaries the provisions of W.S. 35-11-301(a)(iii) and (v), including the authority to develop necessary rules, regulations, standards and permit systems and to review and approve construction plans, conduct inspections and issue permits. Any authority delegated under this section shall be subject to the following conditions:

(i) The delegation of authority under this section is limited to small wastewater facilities, publicly owned or controlled sewage collection and water distribution facilities and publicly owned or controlled nondischarging treatment works;

(ii) The delegation of authority under this section shall be by written agreement signed by the administrator and the local elected representative empowered to do so;

(iii) The local governmental entity has established rules, regulations and standards for the issuance of permits required under W.S. 35-11-301(a)(iii) and (v) which standards shall be at least as stringent as those promulgated by the state under W.S. 35-11-302(a)(iii);

(iv) The local governmental entity shall demonstrate to the administrator that all facilities will be approved by a registered professional engineer or city or county sanitarian for small wastewater facilities or other qualified individual approved by the water quality division administrator, and that it employs a properly certified waste treatment plant operator responsible for operation and maintenance of the treatment works in a manner at least as stringent as the department of environmental quality would require;

(v) The administrator shall periodically review the standards and administrative and enforcement programs of each local governmental entity receiving a delegation of authority under this section and may with the consent of the director revoke or temporarily suspend the delegation agreement entered into with any entity which has failed to perform its delegated duties or has otherwise violated the terms of its agreement of delegation.

§ 35-11-305. [Repealed.]

Repealed by Laws 1985, ch. 141, § 1.

§ 35-11-306. Oil field waste disposal facilities; restriction.

(a) In addition to any other requirement or restriction imposed under the Wyoming Environmental Quality Act, no person shall locate, construct or operate any commercial oil field waste disposal facility within one (1) mile of any:

(i) Occupied dwelling house without the written consent of the owner of the dwelling; or

(ii) Public or private school without the consent of the school's board of trustees or board of directors.

(b) Any person who knowingly locates, constructs or operates a commercial oil field waste disposal facility in violation of subsection (a) of this section is subject to the penalties provided by W.S. 35-11-901. The provisions of subsection (a) of this section relating to commercial oil field waste disposal facilities shall be enforced by the water quality division of the Wyoming department of environmental quality.

(c) As a condition of receiving a permit pursuant to W.S. 35-11-301, any person locating, constructing or operating any commercial oil field waste disposal facility shall post a bond as required by this section.

(d) The council, by rules and regulations, shall establish bonding or financial assurance requirements for commercial oil field waste disposal facilities to assure there are adequate sources of funds to provide for:

(i) Cost effective closure, post-closure inspection and maintenance, and environmental monitoring and control, including but not limited to:

(A) Removal and disposal of buildings, fences, roads and other facility developments, and reclamation of affected lands;

(B) Construction of any waste cover or containment system required as a condition of any facility permit;

(C) Removal and off-site treatment or disposal of any wastes that are being stored or treated;

(D) Decontamination, dismantling and removal of any waste storage, treatment or disposal equipment or vessels;

(E) Operating any environmental monitoring systems or pollution control systems that are required as a condition of any facility permit or by order of the director; and

(F) Conducting periodic post-closure inspections of cover systems, surface water diversion structures, monitor wells or systems, pollutant detection and control systems, and performing maintenance activities to correct deficiencies that are discovered.

(ii) The estimated costs of remedying or abating, in a cost effective manner, the violation or damages caused by the

violation in the event of any discharge of pollution to the air, land or to waters of the state which is in violation of a permit, standard, rule or requirement established under the provisions of this act.

(e) The bond established under subsection (d)(i) of this section shall be available during the operating life of the commercial oil field waste disposal facility to abate or remedy any violation of a permit, standard, rule or requirement established under the provisions of this act.

(f) The amount of any bond or financial assurance requirement shall be established by the director in accordance with procedures contained in rules and regulations of the council, but shall not be less than an amount sufficient to satisfy the purposes specified in subsection (d) of this section.

(g) The council shall provide rules for the establishment of a self-bonding program to be used if such a program will provide protection consistent with the objectives and purposes of article 3 of the act. In any such program, rules of the council shall provide for a timely reappraisal of pledged assets, require evidence of a suitable agent to receive service of process, assure that pledged assets are not already pledged for other projects, provide that pledged assets reside continuously in the state of Wyoming and provide for determination of the suitability of pledged assets.

(h) In lieu of a bond, the facility operator may deposit federally insured certificates of deposit payable to the Wyoming department of environmental quality, cash or government securities, or all three (3).

(j) Any bond may be cancelled by the surety only after ninety (90) days written notice to the director, and upon receipt of the director's written consent, which may be granted only when the requirements of the bond have been fulfilled.

(k) If the license to do business in Wyoming of any surety upon a bond filed pursuant to this act is suspended or revoked by any state authority then the facility operator, within thirty (30) days after receiving notice thereof, shall substitute a good and sufficient corporate surety licensed to do business in the state. Upon failure of the facility operator to make

substitution of surety within a reasonable period of time, not to exceed sixty (60) days, the director shall suspend the facility permit to accept oil field wastes until proper substitution has been made.

(m) Bond forfeiture proceedings shall occur only after the department provides notice to the operator and surety pursuant to W.S. 35-11-701 that a violation exists and the council has approved the request of the director to begin forfeiture proceedings.

(n) With the approval of the council the director may:

(i) Expend forfeited funds to remedy and abate the circumstances with respect to which the bond was provided; and

(ii) Expend funds from the account under W.S. 35-11-424 to remedy and abate any immediate danger to human health, safety and welfare.

(o) If the forfeited bond or other financial assurance instrument is inadequate to cover the costs to carry out the activities specified in subsection (d) of this section, or in any case where the department has expended account monies under subsection (n) of this section, the attorney general shall bring suit to recover the cost of performing the activities where recovery is deemed possible.

(p) When the director determines that the violation has been remedied or the damage abated, the director shall release that portion of the bond or financial assurance instrument being held under paragraph (d)(ii) of this section. When the director determines that closure activities have been successfully completed at any commercial oil field waste disposal facility, the director shall release that portion of the bond or financial assurance instrument being held to guarantee performance of activities specified in subparagraphs (d)(i)(A) through (E) of this section. The remaining portion of the bond or financial assurance instrument shall be held for a period of not less than five (5) years after the date of facility closure, or so long thereafter as necessary to assure proper performance of any post-closure activities specified in subparagraph (d)(i)(F) of this section. The retained portion of the bond or other financial assurance instrument may be returned to the facility

operator at an earlier date if the director determines that the facility has been adequately stabilized and that environmental monitoring or control systems have demonstrated that the facility closure is protective of public health and the environment consistent with the purposes of this act.

§ 35-11-307. Commercial waste treatment, storage and disposal facilities.

(a) In addition to any other requirement or restriction imposed under the Wyoming Environmental Quality Act, commercial waste treatment, storage and disposal facilities used for the management of more than ten (10) tons of dried wastewater treatment sludges or the equivalent thereto per operating day, are subject to the location restrictions and bond requirements provided for commercial oil field waste disposal facilities under W.S. 35-11-306.

(b) Any person who locates, constructs or operates a commercial waste treatment, storage and disposal facility in violation of the location restrictions provided by subsection (a) of this section and W.S. 35-11-306(a) is subject to the penalties provided by W.S. 35-11-901. This subsection shall be enforced by the water quality division of the department of environmental quality.

(c) The environmental quality council shall promulgate rules and regulations necessary to carry out this section including rules establishing bonding and financial assurance requirements in conformance with W.S. 35-11-306(d) through (p).

(d) This section shall not apply to publicly owned waste treatment, storage and disposal facilities.

§ 35-11-308. Short title.

This act, W.S. 35-11-308 through 35-11-311, may be known and shall be cited as the "Wyoming Wetlands Act".

§ 35-11-309. Legislative policy and intent.

(a) The legislature declares that all water, including collections of still water and waters associated with wetlands within the borders of this state are property of the state. The legislature further declares that water is one of Wyoming's most

important natural resources, and the protection, development and management of Wyoming's water resources is essential for the long-term public health, safety, general welfare and economic security of Wyoming and its citizens.

(b) The legislature finds that agriculture, energy development, mining, highway construction and timbering are important industries in this state and that industrial concerns must be accommodated in the protection of wetlands. Wetlands can have an impact on industry practices. Even though property taxes are generally paid on such lands, wetlands provide limited economic return to the landowner. Wetland policies can obstruct water development projects and water management projects for private industry as well as public entities and can affect other developments.

(c) The legislature finds that wetlands are considered important for a variety of reasons. Wetlands provide the habitat base for the production and maintenance of waterfowl and are sometimes critical to the survival of endangered plants and animals. Wetlands also serve to moderate water flow and have value as natural flood control mechanisms, can aid in water purification by trapping, filtering and storing sediment and other pollutants and by recycling nutrients, and can serve as groundwater recharge and discharge areas. Wetlands also function as nursery areas for numerous aquatic animal species and are habitat for a wide variety of plant and animal species, and provide vital habitat for resident wildlife. Wetlands also can provide scientific, aesthetic and recreational benefits. The legislature therefore concludes that wetlands and values associated therewith deserve to be effectively managed, protected and preserved.

(d) The legislature recognizes that significant differences exist in Wyoming between naturally occurring wetlands and those wetlands that result from human activities. Because portions of Wyoming are arid or semiarid, water was diverted from streams and rivers for irrigating cropland, resulting in the creation of wetlands. These wetlands have partially compensated for wetlands losses. Additionally, road and highway construction, petroleum industry operations and other human activities have created wetlands where none previously existed. While these man-made

wetlands are equally as important as naturally occurring wetlands, having the same characteristics and providing the same values and functions, management flexibility is required to acknowledge their different origins and to protect the property rights of landowners and water right holders.

(e) In view of the legislative findings and conclusions of the importance of wetlands, water development and management, and industry in Wyoming it is hereby declared to be the wetlands policy of this state that water management and development and wetland preservation activities should be balanced to protect and accommodate private property, industry, water and wetland interests and objectives.

§ 35-11-310. Notice to drain waters required; exception.

(a) Except as provided in subsection (b) of this section, after July 1, 1996, no person shall drain water from a naturally occurring or man-made wetland, or any series thereof, which has an area comprising five (5) acres or more, without first notifying the department that the water which will be drained from the wetland, or any series thereof, will not flood or adversely affect downstream lands. Notification shall include the size and location of the wetland, and whether the wetland is natural or man-made.

(b) Subsections (a) and (c) of this section do not apply to disturbances of wetlands resulting from mining operations conducted pursuant to mining permits issued by the department of environmental quality.

(c) Any person draining, or causing to be drained, water of a naturally occurring wetland, or any series thereof, which has an area comprising five (5) acres or more, without first notifying the department as required by subsection (a) of this section, shall not be eligible to participate in the mitigation credit banking system as provided by W.S. 35-11-311. Failure to notify the department pursuant to this section does not constitute a violation for purposes of W.S. 35-11-901.

§ 35-11-311. Mitigation; guidelines.

(a) The department, after consultation with the Wyoming department of agriculture, state engineer, game and fish

department, Wyoming water development commission and the department of transportation, shall adopt guidelines for evaluating ecological function and values and for establishing and administering a mitigation credit banking system for compensatory mitigation. The guidelines shall, at a minimum, provide for:

(i) Criteria under which mitigation credits may be earned, with credit to be recognized for man-made wetlands created after July 1, 1991;

(ii) Geographical and other appropriate limitations for the application of mitigation bank credits;

(iii) Criteria for the use, banking or sale of banked credits;

(iv) The approval by the department for the earning, using, banking, transfer or selling of mitigation bank credits; and

(v) Requirements for the maintenance and submission by the department of records concerning ecological function and wetland value losses, and credit and debit accounts for each mitigation bank.

§ 35-11-312. Fees.

(a) The department shall implement a surface water point source discharge permit fee system for each permit issued pursuant to W.S. 35-11-302(a)(v). The department shall assess an annual permit fee of two hundred dollars ($200.00) for each Wyoming pollution discharge elimination system permit and for each permit authorization held by any person under W.S. 35-11-301. All payment of permit fees shall be received prior to processing and issuance of the permit. Permit fees shall not be prorated and are nonrefundable upon permit modification, termination or expiration. The department shall prepare a biennium report on the fee system for review by the joint minerals, business and economic development interim committee by October 31 of the year prior to the Wyoming legislative budget session.

(b) The fees collected by the department pursuant to this section shall be deposited in a separate account, and shall be subject to appropriation by the legislature to the department to be used for costs associated with:

(i) Surface water quality monitoring and analysis;

(ii) Surface water quality modeling analysis and demonstrations;

(iii) Other nonoperating costs associated with surface water discharges.

(c) The revenue generated by this section shall not be used for operational costs associated with permit processing.

§ 35-11-313. Carbon sequestration; permit requirements. [Effective July 1, 2023]

(a) The geologic sequestration of carbon dioxide is prohibited unless authorized by a permit issued by the department.

(b) The injection of carbon dioxide for purposes of a project for enhanced recovery of oil or other minerals approved by the Wyoming oil and gas conservation commission shall not be subject to the provisions of this chapter.

(c) If an oil and gas operator converts to geologic sequestration upon the cessation of oil and gas recovery operations, or injects carbon dioxide for the primary purpose of long term storage that results in an increased risk to an underground source of drinking water as compared to enhanced oil recovery operations, then regulation of the geologic sequestration facility and the geologic sequestration site shall be transferred to the department. If the oil and gas operator does not convert to geologic sequestration, the wells shall be plugged and abandoned according to the rules of the Wyoming oil and gas conservation commission. When determining whether an oil and gas recovery operation is injecting carbon dioxide for the primary purpose of long term storage that results in an increased risk to an underground source of drinking water as compared to enhanced oil recovery operations, the director shall consider the findings and recommendations of the supervisor of the Wyoming oil and gas conservation commission. The supervisor shall make his determination following a hearing of the oil and gas conservation commission examiners held under the commission’s rules and regulations promulgated under Title 30, Chapter 5 of the Wyoming statutes. The supervisor shall provide the operator and director with notice of the supervisor’s findings and recommendations under this subsection and an

opportunity for a public hearing before the Wyoming oil and gas conservation commission. Within fifteen (15) days of receiving notice as provided in this subsection, the operator may request a hearing before the Wyoming oil and gas conservation commission. If both a change in primary purpose to long term storage and an increased risk to an underground source of drinking water as compared to enhanced oil recovery operations are found to have occurred, the commission shall recommend transfer of regulation of the operation to the department.

(d) Temporary time limited permits for pilot scale testing of technologies for geologic sequestration shall be issued by the department based upon current rules and regulations.

(e) Permit requirements for geologic sequestration of carbon dioxide shall be as defined by department rules. The injector of the carbon dioxide shall apply for any permit required under this section.

(f) The administrator of the water quality division of the department of environmental quality, after receiving public comment and after consultation with the state geologist, the Wyoming oil and gas conservation commission and the advisory board created under this act, shall recommend to the director rules, regulations and standards for:

(i) The creation of subclasses of wells within the existing Underground Injection Control (UIC) program administered by the United States Environmental Protection Agency under Part C of the Safe Drinking Water Act to protect human health, safety and the environment and allow for the permitting of the geologic sequestration of carbon dioxide;

(ii) Requirements for the content of applications for geologic sequestration permits. Such applications shall include:

(A) A description of the general geology of the area to be affected by the injection of carbon dioxide including geochemistry, structure and faulting, fracturing and seals, stratigraphy and lithology including petrophysical attributes;

(B) A characterization of the injection zone and aquifers above and below the injection zone which may be affected including

applicable pressure and fluid chemistry data to describe the projected effects of injection activities;

(C) The identification of all other drill holes and operating wells that exist within and adjacent to the proposed sequestration site;

(D) An assessment of the impact to fluid resources, on subsurface structures and the surface of lands that may reasonably be expected to be impacted and the measures required to mitigate such impacts;

(E) Plans and procedures for environmental surveillance and excursion detection, prevention and control programs. For purposes of this section, "excursion" shall mean the detection of migrating carbon dioxide at or beyond the boundary of the geologic sequestration site;

(F) A site and facilities description, including a description of the proposed geologic sequestration facilities and documentation sufficient to demonstrate that the applicant has all legal rights, including but not limited to the right to surface use, necessary to sequester carbon dioxide and associated constituents into the proposed geologic sequestration site. The department may issue a draft permit contingent on obtaining a unitization order pursuant to W.S. 35-11-314 through 35-11-320;

(G) Proof that the proposed injection wells are designed at a minimum to the construction standards set forth by the department and the Wyoming oil and gas conservation commission;

(H) A plan for periodic mechanical integrity testing of all wells;

(J) A monitoring plan to assess the migration of the injected carbon dioxide and to insure the retention of the carbon dioxide in the geologic sequestration site;

(K) Proof of bonding or financial assurance to ensure that geologic sequestration sites and facilities will be constructed, operated and closed in accordance with the purposes and provisions of this act and the rules and regulations promulgated pursuant to this act;

(M) A detailed plan for post-closure monitoring, verification, maintenance and mitigation;

(N) Proof of notice to surface owners, mineral claimants, mineral owners, lessees and other owners of record of subsurface interests as to the contents of such notice. Notice requirements shall at a minimum require:

(I) The publishing of notice of the application in a newspaper of general circulation in each county of the proposed operation at weekly intervals for four (4) consecutive weeks;

(II) A copy of the notice shall also be mailed to all surface owners, mineral claimants, mineral owners, lessees and other owners of record of subsurface interests which are located within one (1) mile of the proposed boundary of the geologic sequestration site.

(O) A certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the geologic sequestration operations for which the permit is sought, or evidence that the applicant has satisfied other state or federal self insurance requirements. The policy shall provide for personal injury and property damage protection in an amount and for a duration as established by regulations.

(iii) Requirements for the operator to provide immediate verbal notice to the department of any excursion after the excursion is discovered, followed by written notice to all surface owners, mineral claimants, mineral owners, lessees and other owners of record of subsurface interests within thirty (30) days of when the excursion is discovered;

(iv) Procedures for the termination or modification of any applicable Underground Injection Control (UIC) permit issued under Part C of the Safe Drinking Water Act if an excursion cannot be controlled or mitigated;

(v) Such other conditions and requirements as necessary to carry out this section;

(vi) Requirements for bonding and financial assurance for geologic sequestration facilities and geologic sequestration sites including:

(A) Procedures to establish the type and amount of the bond or financial assurance instrument to assure that the operator faithfully performs all requirements of this chapter, complies with all rules and regulations and provides adequate financial resources to pay for mitigation or reclamation costs that the state may incur as a result of any default by the permit holder, provided that, any insurance instruments submitted for financial assurance purposes shall include the state of Wyoming as an additional insured, which inclusion shall not be deemed a waiver of sovereign immunity;

(B) Annual or other periodic reporting by the permittee during geologic sequestration and reclamation activities to allow the administrator to confirm or adjust the amount or type of the bond or other financial assurance requirements consistent with the site, facility and operation specific risks and conditions;

(C) Procedures to require proof of compliance from any permittee ordered by the administrator to adjust a bond or other financial assurance, including procedures for permit suspension or termination procedures following notice and an opportunity for a hearing if adequate bonding or financial assurance cannot be demonstrated;

(D) Procedures for replacement of a bond or financial assurance instrument if notice of cancellation is provided or notice that the license to do business in Wyoming of the surety or insurance company issuing a bond or other financial assurance pursuant to this chapter is suspended or revoked;

(E) Procedures for the director to forfeit the bond or to make a claim against any insurance instrument providing financial assurance, including the right of the attorney general to bring suit to recover costs if the bond or financial assurance is inadequate, to pay for closure, mitigation, reclamation, measurement, monitoring, verification and pollution control, where recovery is deemed possible;

(F) Procedures, including public notice and a public hearing if requested, for the release of bonds or the termination of insurance instruments not less than ten (10) years after the date when all wells excluding monitoring wells have been appropriately plugged and abandoned, all subsurface operations

and activities have ceased and all surface equipment and improvements have been removed or appropriately abandoned, or so long thereafter as necessary to obtain a completion and release certificate from the administrator certifying that plume stabilization as defined by rule has been achieved without the use of control equipment based on a minimum of three (3) consecutive years of monitoring data, and that the operator has completed site reclamation and all required monitoring and remediation sufficient to show that the carbon dioxide injected into the geologic sequestration site will not harm or present a risk to human health, safety or the environment, including drinking water supplies, consistent with the purposes of this chapter and the rules and regulations adopted by the council;

(G) Requirements for the operator to record an affidavit in the office of the county clerk of the county or counties in which a geologic sequestration site is located, which affidavit shall be reasonably calculated to alert a person researching the title of a particular tract that such tract is underlain by a site permitted for geologic sequestration.

(vii) Requirements for fees to be paid by all permittees of geologic sequestration sites and facilities, which may include a per ton injection fee or a closure fee, during the period of injection of carbon dioxide and associated constituents into subsurface geologic formations in Wyoming, which fees shall be deposited in the geologic sequestration special revenue account created by W.S. 35-11-320 for use as provided therein.

(g) Repealed by Laws 2010, ch. 52, § 3.

(h) At the time a permit application is filed, an applicant shall pay a fee to be determined by the director based upon the estimated costs of reviewing, evaluating, processing, serving notice of an application and holding any hearings. The fee shall be credited to a separate account and shall be used by the division as required to complete the tasks necessary to process, publish and reach a decision on the permit application. Unused fees shall be returned to the applicant.

(j) The director shall recommend to the council any changes that may be required to provide consistency and equivalency between the rules or regulations promulgated under this section and any

promulgated for the regulation of carbon dioxide sequestration by the United States environmental protection agency.

(k) The Wyoming oil and gas conservation commission shall have jurisdiction over any subsequent extraction of sequestered carbon dioxide that is intended for commercial or industrial purposes.

(m) Nothing in this section shall be construed to create any liability by the state for failure to comply with this section.

(n) Upon issuing a permit, the department shall issue a certificate that includes a statement that the permit has been issued, a description of the area covered by the permit and any other information that the department deems appropriate. The injector shall file a copy of the certificate with the county clerk in the county or counties where the geologic sequestration site is located.

(o) The provisions of W.S. 35-11-318 and 35-11-319 shall apply to any certificate for sequestration of carbon dioxide under this section and to any unitization of geologic sequestration sites under W.S. 35-11-314 through 35-11-317.

§ 35-11-314. Unitization of geologic sequestration sites; purposes; definitions. [Effective July 1, 2023]

(a) The purpose of W.S. 35-11-314 through 35-11-319 is declared by the Wyoming legislature to be the protection of corresponding rights, compliance with environmental requirements and to facilitate the use and production of Wyoming energy resources.

(b) Except when context otherwise requires or when otherwise defined in this subsection, the terms used or defined in W.S. 35-11-103, shall have the same meaning when used in W.S. 35-11-314 through 35-11-320. When used in W.S. 35-11-314 through 35-11-320:

(i) "Corresponding rights" means the right of all pore space owners in a unit area who will be affected by unit operations, either now or in the future, to concurrently share in the economic benefits generated by using the pore space in the unit area.

§ 35-11-315. Unitization of geologic sequestration sites; agreements; application for permit; contents.

(a) Any interested person may file an application with the Wyoming oil and gas conservation commission requesting an order providing for the operation and organization of a unit of one (1) or more parts as a geologic sequestration site and for the pooling of interests in pore space in the proposed unit area for the purpose of conducting the unit operation. The application shall contain:

(i) A copy of any permit or draft permit issued by the department allowing geologic sequestration or any application for such permit;

(ii) A description of the pore space and surface lands proposed to be so operated, termed the "unit area";

(iii) The names, as disclosed by the conveyance records of the county or counties in which the proposed unit area is situated, and the status records of the district office of the bureau of land management of:

(A) All persons owning or having an interest in the surface estate and pore space in the unit area including mortgages and the owners of other liens or encumbrances; and

(B) All owners of the surface estate and pore space not included within but which immediately adjoins the proposed unit area or a corner thereof.

(iv) The addresses of all persons and owners identified in subparagraphs (iii)(A) and (B) of this subsection, if known. If the name or address of any person or owner is unknown, the application shall so indicate;

(v) A statement of the type of operations contemplated in order to effectuate the purposes specified in W.S. 35-11-314 to comply with environmental requirements and to facilitate the use and production of Wyoming energy resources;

(vi) A proposed plan of unitization applicable to the proposed unit area which the applicant considers fair, reasonable and equitable and which shall include provisions for determining the

pore space to be used within the area, the appointment of a unit operator and the time when the plan is to become effective;

(vii) A proposed plan for determining the quantity of pore space storage capacity to be assigned to each separately owned tract within the unit and the formula or method by which pore space will be allocated the economic benefits generated by use of pore space in the unit area;

(viii) A proposed plan for generating economic benefits for the use of pore space within the unit area;

(ix) A proposed operating plan providing the manner in which the unit area will be supervised and managed and, if applicable, costs allocated and paid, unless all owners within the proposed unit area have joined in executing an operating agreement or plan providing for such supervision, management and allocation and, if applicable, payment of costs. All operating plans shall comply with all applicable environmental requirements.

§ 35-11-315. Unitization of geologic sequestration sites; agreements; application for permit; contents.

(a) Any interested person may file an application with the Wyoming oil and gas conservation commission requesting an order providing for the operation and organization of a unit of one (1) or more parts as a geologic sequestration site and for the pooling of interests in pore space in the proposed unit area for the purpose of conducting the unit operation. The application shall contain:

(i) A copy of any permit or draft permit issued by the department allowing geologic sequestration or any application for such permit;

(ii) A description of the pore space and surface lands proposed to be so operated, termed the "unit area";

(iii) The names, as disclosed by the conveyance records of the county or counties in which the proposed unit area is situated, and the status records of the district office of the bureau of land management of:

(A) All persons owning or having an interest in the surface estate and pore space in the unit area including mortgages and the owners of other liens or encumbrances; and

(B) All owners of the surface estate and pore space not included within but which immediately adjoins the proposed unit area or a corner thereof.

(iv) The addresses of all persons and owners identified in subparagraphs (iii)(A) and (B) of this subsection, if known. If the name or address of any person or owner is unknown, the application shall so indicate;

(v) A statement of the type of operations contemplated in order to effectuate the purposes specified in W.S. 35-11-314 to comply with environmental requirements and to facilitate the use and production of Wyoming energy resources;

(vi) A proposed plan of unitization applicable to the proposed unit area which the applicant considers fair, reasonable and equitable and which shall include provisions for determining the pore space to be used within the area, the appointment of a unit operator and the time when the plan is to become effective;

(vii) A proposed plan for determining the quantity of pore space storage capacity to be assigned to each separately owned tract within the unit and the formula or method by which pore space will be allocated the economic benefits generated by use of pore space in the unit area;

(viii) A proposed plan for generating economic benefits for the use of pore space within the unit area;

(ix) A proposed operating plan providing the manner in which the unit area will be supervised and managed and, if applicable, costs allocated and paid, unless all owners within the proposed unit area have joined in executing an operating agreement or plan providing for such supervision, management and allocation and, if applicable, payment of costs. All operating plans shall comply with all applicable environmental requirements.

§ 35-11-316. Unitization of geologic sequestration sites; hearings on application, order; modifications. [Effective July 1, 2023]

(a) Upon receipt of an application under W.S. 35-11-315, the Wyoming oil and gas conservation commission shall promptly set the matter for hearing, and in addition to any notice otherwise required by law or the commission's rules, shall cause the applicant to give notice of the hearing, specifying the time and place of hearing, and describing briefly its purpose and the land and pore space affected, to be mailed by certified mail at least thirty (30) days prior to the hearing to all persons whose names and addresses are required to be listed in the application.

(b) After considering the application and hearing the evidence offered in connection therewith, the Wyoming oil and gas conservation commission shall enter an order setting forth the following findings and approving the proposed plan of unitization and proposed operating plan, if any, if the commission finds that:

(i) The material allegations of the application are substantially true;

(ii) The purposes specified in W.S. 35-11-314 will be served by granting the application;

(iii) The application outlines operations that will comply with environmental requirements;

(iv) Granting the application will facilitate the use and production of Wyoming energy resources;

(v) The quantity of pore space storage capacity, and method used to determine the quantity of pore space storage capacity allocated to each separately owned tract within the unit area represents, so far as can be practically determined, each tract's actual share of the pore space to be used in the sequestration activity;

(vi) The method by which the allocation of economic benefits generated from use of pore space within the unit area between pore space owners; and between pore space owners and the unit operator or others is fair and reasonable, taking into consideration the costs required to capture, transport and sequester the carbon dioxide;

(vii) The method of generating economic benefits from the use of pore space in the unit area is fair and equitable and is reasonably designed to maximize the value of such use;

(viii) Other requirements specified by rules or regulations adopted by the oil and gas conservation commission have been met.

(c) No order of the Wyoming oil and gas conservation commission authorizing the commencement of unit operations shall become effective until the plan of unitization has been signed or in writing ratified or approved by those persons who own at least eighty percent (80%) of the pore space storage capacity within the unit area. If such consent has not been obtained at the time the commissioner's order is made, the commission shall, upon application, hold supplemental hearings and make findings as may be required to determine when and if the consent will be obtained. The commission shall require the applicant to give notice of a supplemental hearing by regular mail at least thirty (30) days prior to the hearing to each person owning interests in the pore space in the proposed unit area whose name and address was required by W.S. 35-11-315(a) to be listed in the application for the unit operations. If the required percentages of consent have not been obtained within a period of six (6) months from and after the date on which the order of approval is made, the order shall be ineffective and revoked by the commission, unless, for good cause shown, the commission extends that time. Any interested person may file an application with the Wyoming oil and gas conservation commission requesting an order applicable only to the proposed unit area described in the application which shall provide for the percentage of approval or ratification to be reduced from eighty percent (80%) to seventy-five percent (75%). The application shall contain the information required by W.S. 35-11-315(a) and any order of the commission entered pursuant to the application shall comply with subsection (b) of this section. Notice of the hearing on the application shall be given in the same manner and to the same persons as required by subsection (a) of this section. If the commission finds that negotiations were being conducted since July 1, 2009, or have been conducted for a period of at least nine (9) months prior to the filing of the application, that the applicant has participated in the negotiations diligently and in

good faith, and that the percentage of approval or ratification required by this subsection cannot be obtained, the commission may reduce any percentage of approval or ratification required by this section from eighty percent (80%) to seventy-five percent (75%). The order shall affect only the unit area described in the application and shall operate only to approve the proposed plan of unitization and proposed operating plan and to reduce the required percentage of approval or ratification thereof and shall not change any other requirement contained in this section.

(d) From and after the effective date of an order of the Wyoming oil and gas conservation commission entered under the provisions of this section, the operation of the unit area defined in the order by persons other than the unit operator or persons acting under the unit operator's authority, or except in the manner and to the extent provided in the plan of unitization approved by the order, shall be unlawful and is hereby prohibited.

(e) Unless otherwise provided in this section, an order entered by the Wyoming oil and gas conservation commission under this section may be amended in the same manner and subject to the same conditions as an original order or previous agreement: provided, no amendatory order shall change the assignments of pore space storage capacity between existing pore space owners in the unit area as established by the original order or previous agreement, except with the written consent of those persons who own at least eighty percent (80%) of the pore space storage capacity in the unit area, nor change any allocation of costs as established by the original order or previous agreement, except with the written consent of those persons who own at least eighty percent (80%) of the unit pore space storage capacity. If consent has not been obtained at the time the commission order is made, the commission shall, upon application, hold supplemental hearings and make findings as may be required to determine when and if such consent will be obtained. The commission shall require the applicant to give notice of a supplemental hearing by regular mail at least thirty (30) days prior to the hearing to each person owning interests in the unit area whose name and address was required by the provisions of W.S. 35-11-315(a)(iii) to be listed in the application for the unit operations. If the required percentages

of consent have not been obtained within a period of six (6) months from and after the date on which the order of approval is made, the order shall be ineffective and revoked by the commission, unless, for good cause shown, the commission extends that time. Any interested person may file an application with the Wyoming oil and gas conservation commission requesting an order applicable only to the unit area described in the application which shall provide for the percentage of approval or ratification to be reduced from eighty percent (80%) to seventy-five percent (75%). The application shall contain the information required by W.S. 35-11-315(a) and any order of the commission entered pursuant to the application shall comply with subsection (b) of this section. Notice of the hearing on the application shall be given in the same manner and to the same persons as required by subsection (a) of this section. If the commission finds that negotiations were being conducted since July 1, 2009 or have been conducted for a period of at least nine (9) months prior to the filing of the application, that the applicant has participated in the negotiations diligently and in good faith, and that the percentage of approval or ratification required by this subsection cannot be obtained, the commission may reduce any percentage of approval or ratification required by this section from eighty percent (80%) to seventy-five percent (75%). The order shall affect only the unit area described in the application and operate only to reduce the required percentage of approval or ratification necessary for amending the assignment of pore space and shall not change any other requirement contained in this section.

(f) The Wyoming oil and gas conservation commission, upon its own motion or upon application, and with notice and hearing, may modify its order regarding the operation, size or other characteristic of the unit area in order to prevent or assist in preventing a substantial inequity resulting from operation of the unit, provided that no such modification may amend any permit issued under W.S. 35-11-313.

(g) Any owner of pore space within a geologic sequestration site who has not been included within a unitization application or order authorizing a unit under this section, may petition for inclusion in the unit area. The petition shall be filed with the Wyoming oil and gas conservation commission and shall describe

the petitioner's legal entitlement to the pore space, the location of the pore space, whether the pore space is included within any permitting area applicable to the unit area and the bases for inclusion in the unit area. The petition shall be accompanied by a deposit of money sufficient to pay all costs of the inclusion proceedings. The commission shall require the petitioner to publish a notice of filing of the petition which notice shall state the filing of the petition, the name of the petitioner, the location of the pore space and the prayer of the petitioner. The notice shall notify all interested persons to appear at a specified time and place and to show cause, in writing, if any they have, why the petition should not be granted. The commission at the time and place mentioned in the notice shall proceed to hear the petition and all objections thereto and shall thereafter grant or deny the petition. The filing of the petition shall be deemed and taken as an assent by each and all petitioners to the inclusion in the unit of the pore space mentioned in the petition or any part thereof. If the petition is granted, the petitioner shall be considered to have been a member of the unit since its inception and, upon the payment of any costs paid by unit members, shall be entitled to all economic benefits received by unit members since the inception of the unit provided that no unit modification affects any permit issued under W.S. 35-11-313. The oil and gas conservation commission shall adopt rules providing for the fair and equitable determination of pore space storage capacity for each successful petitioner and the means by which successful petitioners shall be paid the economic benefits to which they are entitled under this subsection, including, if necessary, a reallocation of economic benefits among unit members.

(h) A certified copy of any order of the Wyoming oil and gas conservation commission entered under the provisions of this section shall be entitled to be recorded in the land records of the county clerk for the counties where all or any portion of the unit area is located, and the recordation shall constitute notice thereof to all persons.

(j) No provision of W.S. 35-11-314 through 35-11-319 shall be construed to confer on any person the right of eminent domain and no order for unitization issued under this section shall act so as to grant to any person the right of eminent domain.

(k) No order for unitization issued under this section shall act so as to grant any person a right of use or access to a surface estate if that person would not otherwise have such a right.

§ 35-11-317. Unitization of geologic sequestration sites; economic benefits; liens.

(a) No order of the Wyoming oil and gas conservation commission or other contract relating to a separately owned tract within the unit area shall be terminated by the order providing for unit operations, but shall remain in force and apply to that tract, its benefits, burdens and obligations, until terminated in accordance with the provisions thereof.

(b) Except to the extent that the parties affected agree, no order providing for unit operations shall be construed to result in a transfer of all or any part of the title to pore space or other rights in any tract in the unit area and no agreement or order shall operate to violate the terms and requirements of any permit applicable to pore space within the unit area.

§ 35-11-318. Title to sequestered and injected carbon dioxide; definitions. [Effective July 1, 2023]

(a) As used in this section and in W.S. 35-11-319, "injector" means a person applying for or holding a permit or certificate for geologic sequestration of carbon dioxide under W.S. 35-11-313.

(b) An injector shall:

(i) Have title to any carbon dioxide the injector injects into and stores underground or within a unit area;

(ii) Hold title for any injected or stored carbon dioxide until the department issues a certificate of project completion as specified in W.S. 35-11-319.

(c) During any time the injector holds title to carbon dioxide under this section, the injector shall be liable for any damage the injected or stored carbon dioxide may cause, including damage caused by carbon dioxide that escapes or is released from where it is being stored underground.

§ 35-11-319. Certificate of project completion; release; transfer of title and custody. [Effective July 1, 2023]

(a) After all carbon dioxide injections underground or into pore space are completed as provided by a permit issued under W.S. 35-11-313 and upon application by the injector holding title to the carbon dioxide under W.S. 35-11-318, the department may issue a certificate of project completion. The department shall only issue a certificate upon satisfaction of the conditions imposed under subsections (b), (c) and (d) of this section and after providing public notice of the application, an opportunity for public comment and a public hearing on the application.

(b) A certificate of project completion shall not be issued until at least twenty (20) years after carbon dioxide injections end.

(c) A certificate of project completion shall not be issued until the injector with title to the carbon dioxide establishes to the satisfaction of the department that:

(i) The injector is in full compliance with all laws governing the injection and storage of the carbon dioxide;

(ii) The injector has addressed any pending claims regarding the injection and storage of the carbon dioxide;

(iii) The underground place or pore space where the carbon dioxide was injected or stored is expected to no longer expand vertically or horizontally and poses no threat to human health, human safety, the environment or underground sources of drinking water;

(iv) The stored or injected carbon dioxide is unlikely to cross any underground or pore space boundary and is not expected to endanger any underground source of drinking water or otherwise endanger human health, human safety or the environment;

(v) All wells, equipment and facilities to be used in maintaining and managing the stored carbon dioxide are in good condition and will retain mechanical integrity;

(vi) The injector has plugged any injection wells and has completed all reclamation required by the department.

(d) Upon the issuance of a certificate of project completion under subsection (a) of this section:

(i) In exchange for assuming responsibility and liability for the stored carbon dioxide as provided in this section, title to the stored or injected carbon dioxide, and any facilities used to inject or store the carbon dioxide, without payment of any compensation, shall be transferred to the state;

(ii) Title acquired by the state includes all rights, and interests in, and all responsibilities associated with, the stored or injected carbon dioxide;

(iii) Primary responsibility and liability for the stored or injected carbon dioxide shall be transferred to the state, provided that liability to the state shall not result in the payment of any damages in excess of the balance of the Wyoming geologic sequestration special revenue account created by W.S. 35-11-320(a);

(iv) The injector and all persons who generated any injected or stored carbon dioxide shall be forever released from all regulatory requirements associated with the continued storage and maintenance of the injected carbon dioxide;

(v) Any bond or financial assurance submitted to the department under W.S. 35-11-313 through 35-11-317 shall be released;

(vi) The state, through the department, shall assume responsibility to manage and monitor the stored carbon dioxide until such time when the federal government assumes responsibility for the long-term monitoring and management of stored carbon dioxide.

§ 35-11-320. Geologic sequestration special revenue account. [Renumbered from Wyo. Stat. § 35-11-318, effective July 1, 2023]

(a) There is created the Wyoming geologic sequestration special revenue account. The account shall be administered by the director and all funds in the account shall be transmitted to the state treasurer for credit to the account and shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d) and (e) in a manner to obtain the highest return possible consistent with the preservation of the corpus. Any interest earned on the investment or deposit of monies into the fund shall remain in the fund and shall not be credited to the general fund. All funds in the account are continuously

appropriated for use by the director consistent with this section.

(b) The account shall consist of all monies collected by the department to measure, monitor and verify Wyoming geologic sequestration sites following project completion certification, release of all financial assurance instruments and termination of the permit. The department shall promulgate rules necessary to collect monies in an amount reasonably calculated to pay the costs of measuring, monitoring and verifying the sites.

(c) Funds in the account shall be used only for:

(i) The testing, monitoring and long-term inspections of geologic sequestration sites;

(ii) Remediation of mechanical problems associated with remaining wells and infrastructure;

(iii) Plugging and abandoning monitoring wells;

(iv) All future claims associated with the release of carbon dioxide from the geologic sequestration sites following project completion certification, release of all financial assurance instruments and termination of the permit.

(d) The existence, management and expenditure of funds from this account shall not constitute a waiver by the state of Wyoming of its immunity from suit, nor does it constitute an assumption of any liability by the state for geologic sequestration sites.

Article 4
Land Quality

§ 35-11-401. Compliance generally; exceptions.

(a) No mining operation or operation by which solid minerals are intended to be extracted from the earth shall be commenced after the effective date of the act, except in accordance with its requirements. It is recognized these measures are performed in the public interest and constitute an expense to the operator, and while this act applies to all mining operations, no operator shall be compelled to perform at his own expense measures required under this act with respect to operations that were completed or substantially completed prior to the effective date of this act. Nothing in this act shall provide the land quality

division regulatory authority over oil mining operations as defined in W.S. 30-5-104(d)(ii)(F).

(b) All surface or underground mining operations operating at the date of enactment of this statute shall have a period of one (1) year within which to fulfill the requirements of this act. This period may be extended at the discretion of the council if the administrator has been unable to review and evaluate all operations that are presently operating under a permit issued by the state land commissioner in compliance with the "Open Cut Land Reclamation Act of 1969".

(c) An operator presently operating under a permit issued by the state land commissioner in accordance and in full compliance with the Open Cut Land Reclamation Act of 1969 will be issued a permit upon submission to the administrator of:

(i) The information, maps and other exhibits required by this act; and

(ii) A reclamation plan which fulfills all of the requirements of this act and is reviewed by the advisory board.

(d) Within two (2) months following the final approval of a state program pursuant to Section 503 of P.L. § 95-87, all operators of surface coal mining operations operating under a permit issued in accordance with the terms of this act shall apply for a new mining permit covering those lands expected to be mined or reclaimed after eight (8) months from state program approval. Within eight (8) months from the date of state program approval, the administrator shall approve or deny an application for a surface coal mining permit. No person shall engage in or carry out surface coal mining operations unless the person has first obtained a permit pursuant to this section except as hereafter provided. A person conducting operations consistent with this act may continue operating beyond eight (8) months from state program approval if an application for a permit has been filed in accordance with this act but the administrator's decision on the application has not been rendered.

(e) The provisions of this article shall not apply to any of the following activities:

(i) Building or expansion of utilities, soil conservation conveyances and foundation excavations for the purpose of constructing buildings and other structures not used in mining operations;

(ii) Excavations other than for the extraction of coal by an agency of federal, state or local government or its authorized contractors for highway and railroad cuts and for the purpose of providing fill, sand, gravel and other materials for use in connection with any public project if reclamation requirements of federal, state or local governments are consistent with all provisions of this act or regulations promulgated thereunder. Excavations for the extraction of coal as an incidental part of federal, state or local government financed highway or other construction shall be conducted in accordance with regulations established by the council;

(iii) The extraction of sand, gravel, dirt, scoria, limestone, dolomite, shale, ballast or feldspar by a landowner for his own noncommercial use from land owned or leased by him;

(iv) Archaeological excavations;

(v) Other surface mining operations which the administrator determines to be of an infrequent nature and which involve only minor surface disturbances;

(vi) Limited mining operations, whether commercial or noncommercial, for the removal of sand, gravel, scoria, limestone, dolomite, shale, ballast or feldspar from an area of fifteen (15) acres or less of affected land, excluding roads used to access the mining operation, if the operator has written permission for the operation from the owner and lessee, if any, of the surface. The operator shall notify the land quality division of the department of environmental quality and the inspector of mines within the department of workforce services of the location of the land to be mined and the postal address of the operator at least thirty (30) days before commencing operations. A copy of the notice shall also be mailed to all surface owners located within one (1) mile of the proposed boundary of the limited mining operation at least thirty (30) days before commencing operations. The operator shall notify the land quality division of the department of environmental quality

of the date of commencement of limited mining operations within thirty (30) days of commencing operations. Limited mining operations authorized under this paragraph are subject to the following:

(A) That the affected lands shall not be within three hundred (300) feet of any existing occupied dwelling, home, public building, school, church, community or institutional building, park or cemetery unless the landowner's consent has been obtained;

(B) Before commencing any limited mining operations, the operator shall file a bond to insure reclamation in accordance with the purposes of this act in the amount of two thousand dollars ($2,000.00) per acre, except for quarries for which the bond amount shall not exceed three thousand dollars ($3,000.00) per acre of affected land including roads used to access the mining operation. Within ninety (90) days after limited mining operations commence, the administrator may require the operator to post an additional bond per acre of affected land if he determines that such amount is necessary to insure reclamation. The operator shall post the additional bond not later than thirty (30) days after receipt of such notification;

(C) After the limited mining operations have ceased, the operator shall notify the administrator of such fact in the operator's next annual report and commence reclamation and restoration in compliance with the rules and regulations of the land quality division of the department of environmental quality. The rules and regulations for reclamation shall at all times be reasonable;

(D) Immediate reclamation will not be required if the landowner advises the department in writing of his intent to further utilize the product of the mine, and if he assumes the obligation of reclamation;

(E) The limited mining operations shall be terminated if the operator does not commence operations within five (5) years as noted in the annual report following notification to the land quality division of the department of environmental quality under this paragraph;

(F) Limited mining operations may continue for not more than five (5) years from the date of commencing operations unless a notification to extend operations is submitted to the land quality division administrator. Operators shall submit a notification of extension for every subsequent five (5) year period with the annual report;

(G) Limited mining operations shall be subject to rules governing the use of explosives pursuant to W.S. 35-11402(d).

(vii) Repealed By Laws 2013, Ch. 44, § 2.

(viii) Repealed By Laws 2013, Ch. 44, § 2.

(ix) Repealed By Laws 2013, Ch. 44, § 2.

(f) In promulgating regulations to implement this section the administrator and director shall consider:

(i) The nature of the class, type, or types of activities involved;

(ii) Their magnitude (in tons and acres);

(iii) Their potential for adverse environmental impact; and

(iv) Whether the class, type, or types of activities are already subject to an existing regulatory system by state or local government or an agency of the federal government.

(g) A single permit may be issued to all county or other local governmental entities of the state to operate noncontiguous facilities in compliance with the statutes.

(h) A single permit may be issued for mining of noncontiguous minerals deposits at the discretion of the administrator in compliance with the statutes.

(j) The council, upon recommendation from the advisory board through the administrator and director, may modify or suspend certain requirements of W.S. 35-11-406(a), (b)(i) through (xx), (d), (f) and (g) by rules and regulations, for surface mining operations involving not more than thirty-five thousand (35,000) yards of overburden, excluding topsoil, and ten (10) acres of affected land in any one (1) year, if the application requirements ensure reclamation in accordance with the purposes of this act. Roads used to access a mining operation permitted

under this section shall be excluded from the annual ten (10) acres of affected land limit, but shall be included in the permit and bonded for reclamation liability.

(k) An operator conducting operations pursuant to W.S. 35-11-401(e)(vi) shall file an annual report with the administrator on or within thirty (30) days prior to the anniversary date of the commencement date of initial operation. The report shall contain:

(i) The name and address of the operator;

(ii) The location of the mining operations;

(iii) The number of acres of affected lands at the conclusion of the past year's operation;

(iv) The number of acres of land that have been reclaimed during the past year;

(v) The number of yards of overburden or mined mineral removed;

(vi) The expected remaining life of the mining operation;

(vii) If the operations include the use of explosives, information that the operator must maintain under W.S. 35-11-402(d)(iii) and any other information on the use of explosives required by rule.

(m) No steep slope surface coal mining operation shall be commenced until the council has promulgated rules and regulations establishing steep slope mining performance standards.

(n) In promulgating regulations to implement W.S. 35-11-401 and 35-11-402, the administrator and director shall consider interim mine stabilization.

§ 35-11-402. Establishment of standards.

(a) The council shall, upon recommendation by the advisory board through the administrator and the director, establish rules and regulations pursuant to the following reclamation standards for the affected areas, including but not limited to:

(i) The highest previous use of the affected lands, the surrounding terrain and natural vegetation, surface and

subsurface flowing or stationary water bodies, wildlife and aquatic habitat and resources, and acceptable uses after reclamation including the utility and capacity of the reclaimed lands to support such uses;

(ii) Backfilling, regrading or recontouring to assure the reclamation of the land to a use at least equal to its highest previous use;

(iii) A time schedule encouraging the earliest possible reclamation program consistent with the orderly and economic development of the mining property;

(iv) Revegetation of affected lands including species to be used, methods of planting and other details necessary to assure the development of a vegetative cover consistent with the surrounding terrain and the highest prior use standards set out in paragraph (i) of this subsection;

(v) Stockpiling, preservation and reuse of topsoil for revegetation, unless it can be demonstrated to the satisfaction of the administrator that other methods of reclamation or types of soil are superior;

(vi) Prevention of pollution of waters of the state from mining operations, substantial erosion, sedimentation, landslides, accumulation and discharge of acid water, and flooding, both during and after mining and reclamation;

(vii) In administering established rules and regulations on such standards the administrator shall consider all the facts and circumstances bearing upon any reclamation plan. In consideration of reclamation plans for any mining operation that is presently being conducted in the state under a permit issued by the state land commission under the "Open Cut Land Reclamation Act of 1969", particular attention shall be paid to:

(A) The social and economic value of the product mined;

(B) The technological availability for economic feasibility of reclaiming the affected area.

(viii) Establishing methods of estimating cost of reclamation which shall be computed according to established engineering methods;

(ix) Establishing procedures to obtain special license to explore by dozing. Such procedures will include but not be limited to method of application, location of proposed exploration, present use of affected lands, name of surface owner, proposed reclamation program, bonding requirement, and such other procedures as are necessary to insure that the exploration work will be conducted within the intent of this act;

(x) Rules and regulations for the criteria for review and information and public notice requirements for permit revisions. A permit may be revised without public notice or hearing for revisions, including incidental boundary revisions to the area covered by the permit, if these do not propose significant alterations in the reclamation plan. Subject to applicable standards, any permit, except for surface coal mining permits, may be revised, in the permitted area, by identifying proposed alterations to the mining or reclamation plan in the annual report or addendum thereto, or by obtaining prior approval from the director, at the operator's discretion;

(xi) Rules and regulations for conducting coal exploration operations which shall include prior notice of intention to explore, written approval by the director for the removal of more than two hundred fifty (250) tons of coal and reclamation provisions for new and existing operations in accordance with the reclamation standards governing surface mining;

(xii) Rules and regulations governing new and existing special bituminous surface coal mines as recognized in P.L. 95-87, which shall be controlling notwithstanding other provisions of this act to the contrary. The regulations shall pertain only to standards governing on site handling of spoils, elimination of depressions capable of collecting water, creation of impoundments and regrading to the approximate original contour, and shall specify that all remaining highwalls be stable. All other performance standards contained in this act shall apply to such mines;

(xiii) Rules and regulations governing the use of decommissioned wind turbine blades and towers to backfill surface coal mining sites as part of an approved reclamation plan. Rules promulgated under this paragraph shall, at a minimum, provide for:

(A) Minimum depth requirements for the burial of decommissioned wind turbine blades and towers to be buried below the surface and above any aquifers as defined in W.S. 35-11103(h)(i). In setting depth requirements under this subparagraph, the council, administrator and director may consult standards for solid waste management facilities established by the solid and hazardous waste management division;

(B) The removal of all mechanical, electrical and other materials from the decommissioned wind turbine blades and towers allowing only the base material of the blades and towers to be buried;

(C) Disposal fees to be remitted to the department by the operator who allows disposal of decommissioned wind turbine blades and towers in surface coal mining sites, which shall be twenty-five percent (25%) of any revenues collected by the operator for the disposal of the decommissioned wind turbine blades and towers. The fees collected under this subparagraph shall be credited to the general fund;

(D) The incorporation or amendment of any rules pertaining to solid and hazardous waste necessary to allow for the disposal of decommissioned wind turbine blades and towers in surface coal mining sites to be reclaimed.

(xiv) Establishing such other rules and regulations necessary to insure full compliance with all requirements relating to reclamation, and the attainment of those objectives directed to public health, safety, and welfare;

(xv) Rules and regulations governing the use of inert material as backfill for non-coal mining sites as part of an approved reclamation plan. Rules promulgated under this paragraph shall, at a minimum, provide for:

(A) Minimum depth requirements for the burial of inert material to be buried below the surface and above any aquifers as defined in W.S. 35-11-103(h)(i). In setting depth requirements under this subparagraph, the council, administrator and director may consult standards for solid waste management facilities established by the solid and hazardous waste management division;

(B) Disposal fees to be remitted to the department by the operator who allows disposal of inert material in non-coal mining sites, which shall be ten percent (10%) of any revenues collected by the operator for the disposal of the inert material. The fees collected under this subparagraph shall be credited to the general fund;

(C) The incorporation or amendment of any rules pertaining to solid and hazardous waste necessary to allow for the disposal of inert material in non-coal mining sites to be reclaimed.

(b) To the extent federal law or regulations require approval by state wildlife agencies regarding surface mining lands to be reclaimed for fish and wildlife habitat, the Wyoming game and fish department shall consider fish and wildlife habitat to mean as defined in W.S. 35-11-103(e)(xxvi) and does not include grazingland as defined in W.S. 35-11-103(e)(xxvii), unless the grazingland has been designated as:

(i) Critical habitat by the United States fish and wildlife service; or

(ii) Crucial habitat by the Wyoming game and fish department prior to submittal of the initial permit application or any subsequent amendments to the permit application.

(c) For the reclamation of grazingland, native shrubs shall be used for reestablishment. No shrub species shall be required to be more than one-half (1/2) of the shrubs in the post-mining standard.

(d) The council shall, upon recommendation by the administrator and the director, establish rules governing the use of explosives at new and existing non-coal surface mining operations. Rules promulgated under this subsection shall, at a minimum:

(i) Include standards and procedures to ensure that explosives are used only in accordance with state and federal law and regulations;

(ii) Incorporate applicable standards provided in the International Fire Code, Chapter 56, Section 5607, Blasting and in the National Fire Protection Association Explosives Material Code 495, Chapter 10, Use of Explosive Materials for Blasting;

(iii) Include requirements for the operator to maintain for not less than three (3) years and to make available for public inspection a log detailing the location of any blasts, the pattern and depth of drill holes, the amount of explosives used for each hole and the order and length of delay in the blast;

(iv) Establish the types of explosives and detonation equipment to be used and the size, timing and frequency of blasts based on the site's physical conditions so as to prevent:

(A) Injury to persons;

(B) Damage to public and private property outside of the permit area;

(C) Adverse impacts on any underground mine;

(D) Adverse impacts on any water source or water resource.

(v) Require that all blasting operations be conducted by trained and competent persons, as certified by the administrator.

§ 35-11-403. Powers of the administrator of land quality division.

(a) The administrator of the land quality division shall have the following powers:

(i) To utilize qualified experts in the field of hydrology, soil science, plant or wildlife ecology, and other related fields to advise on mining reclamation practices, and the adoption of rules. Advisors shall be reimbursed for travel and other expenses incurred in performance of official duties in the same manner and amount as state employees;

(ii) To fix the amount of, collect, maintain and otherwise comply with the statutory performance bond requirement set out in W.S. 35-11-417. The council may order the forfeiture of a bond as set out in W.S. 35-11-421;

(iii) To reclaim any affected land with respect to which a bond has been forfeited;

(iv) To recommend to the director, the issuance, denial, amendment, revocation and suspension of permits, licenses and special exploration licenses in accordance with the provisions of this act.

§ 35-11-404. Drill holes to be capped, sealed or plugged.

(a) All drill holes sunk in the exploration for locatable or leasable minerals on all lands within the state of Wyoming shall be capped, sealed or plugged in the manner described hereinafter by or on behalf of the discoverer, locator or owner who drilled the hole. Prospecting and exploration drill holes shall include all drill holes except those drilled in conjunction with the expansion of an existing mine operation or wells or holes regulated pursuant to W.S. 30-5-101 through 30-5-204.

(b) "Person" means any person, firm, association or corporation who drills or is responsible for drilling holes for the purpose of exploration or development of these minerals.

(c) "Plugging, sealing and capping upon abandonment" means any hole drilled shall be abandoned in the following manner:

(i) "Plugging". All artesian flow of ground water to surface shall be eliminated by a cement plug or other similar material sufficient to prevent such artesian flow;

(ii) "Sealing". Drill holes which have encountered any ground water shall be sealed by leaving a column of drilling mud in the hole or by such other sealing procedure which is adequate to prevent fluid communication between aquifers;

(iii) "Surface Cap". Each drill hole is to be completely filled to the collar of the hole or securely capped at a minimum depth of two (2) feet below either the original land surface or the collar of the hole, whichever is at the lower elevation. If capped, the cap is to be made of concrete or other material satisfactory for such capping. The hole shall be backfilled above the cap to the original land surface;

(iv) "Water Well". If any holes drilled are to be ultimately used as or converted to water wells, the user shall comply with the applicable provisions of W.S. 41-3-911 through 41-3-938;

(v) "Surface Restoration". Each drill site shall be restored as nearly as possible to its original condition, including reseeding if grass or other crop was destroyed.

(d) Within sixty (60) days after the completion and abandonment of any hole drilled which has artesian flow at the surface, the

person for whom the hole was drilled shall report the existence of the hole to the administrator, land quality division and the state engineer. The report, set forth in affidavit form, shall contain at least the location of the hole to the nearest two hundred (200) feet, the depth of the hole and estimated rate of flow, if known, and the facts of the plugging technique used.

(e) Within twelve (12) months after the completion and proper abandonment of any hole drilled any person shall file with the administrator, land quality division and the state engineer a report which shall include the location of each hole, utilizing Wyoming state plane coordinates, and the depth of each hole drilled. The reports shall be confidential for a period of five (5) years from the date of filing. The period may be extended for additional five (5) year periods upon request of the person filing the report. When a report is no longer confidential pursuant to this subsection, the provisions of W.S. 35-11-1101 shall apply.

(f) Where plugging reports are required to conform with federal regulations, and if such reports cover all the requirements of this section, they are adequate for the purposes described herein.

(g) Except for drilling in conjunction with coal mining or coal exploration operations, the director in consultation with the administrator, land quality division, may waive any of the administrative provisions of this act pertaining to aquifers following a formal written application for a waiver of any particular provisions, if in the opinion of the director waiver of any such provisions shall not adversely affect the interests of the state of Wyoming and would create an undue hardship upon application. Waivers shall be in writing and may be appealed under the provisions of the Wyoming Administrative Procedure Act.

(h) The drill hole should be capped immediately following the drilling and probing. If it is necessary to temporarily delay the capping or keep the hole open for any reason, the drill hole must be securely covered in a manner which will prevent injury to persons or animals.

(j) Before drilling on lands within the state of Wyoming, any person conducting coal exploration operations shall give notice to the administrator which shall, at a minimum include a legal description of the area, the approximate number of holes to be drilled and a reclamation plan for proper abandonment in accordance with regulations promulgated by the council. This excludes drilling within an existing permit area approved prior to August 3, 1977.

(k) Except as follows, any person who fails or refuses to comply with the provisions of this section is guilty of a misdemeanor and on conviction is subject to imprisonment in a county jail for not more than ninety (90) days or a fine of not more than five thousand dollars ($5,000.00), or both. Any person who drills in conjunction with coal mining or coal exploration operations in violation of this section or regulations promulgated pursuant hereto is subject to the provisions of W.S. 35-11-901.

(m) When exploratory drill holes have been abandoned in violation of these provisions, the director in consultation with the administrator, land quality division may then cause such holes to be capped, sealed or plugged and the state of Wyoming is granted a cause of action against the person refusing to comply with the provisions of this section for the recovery of the reasonable costs incurred by the director in having the holes properly capped, sealed or plugged.

(n) All actions pursuant to subsection (k) or (m) of this section, must be initiated by the state of Wyoming within three (3) years of the date of the report required by subsection (d) of this section.

§ 35-11-405. Permit defined; no mining operation without valid permit; when validity terminated.

(a) A mining permit is the certification that the tract of land described may be mined by an operator licensed to do so in conformance with an approved mining plan and reclamation plan. No mining operation may be commenced or conducted on land for which there is not in effect a valid mining permit to which the operator possesses the rights.

(b) A mining permit once granted remains valid and in force from the date of its issuance until the termination of all mining and reclamation operations, except as otherwise provided in this act.

(c) All surface coal mining permits issued subsequent to approval of the state program pursuant to P.L. 95-87 shall be issued for a term of not to exceed five (5) years. If the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation and if the application is complete for this specified longer term, the director shall grant a permit for a longer term.

(d) A surface coal mining permit shall terminate if the permittee has not commenced the surface coal mining operations covered by the permit within three (3) years of the issuance of the permit, except as provided in P.L. 95-87.

(e) Any valid surface coal mining permit issued pursuant to this act is entitled to a right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit if public notice has been given, any additional revised or updated information has been provided and the operation is in compliance with applicable laws and regulations and if the renewal requested will not substantially jeopardize the operator's responsibility on existing affected land.

(f) If an application for renewal of a valid surface coal mining permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal which addresses any new land areas shall be subject to the standards applicable to new applications under this act. However, areas previously identified in the mining plan and reclamation plan of those surface coal mining operations not subject to the standards in W.S. 35-11-406(m)(xiii) [repealed] will not be subject to those standards in the renewal application.

(g) An application for renewal of a valid surface coal mining permit shall be made at least one hundred twenty (120) days prior to expiration of a valid coal permit.

§ 35-11-406. Application for permit; generally; denial; limitations.

(a) Applications for a mining permit shall be made in writing to the administrator and shall contain:

(i) The name and address of the applicant, and, if the applicant is a partnership, association, or corporation, the names and addresses of all managers, partners and executives directly responsible for operations in this state;

(ii) A sworn statement stating that the applicant has the right and power by legal estate owned to mine from the land for which the permit is desired;

(iii) A sworn statement that the applicant has not forfeited a bond posted for reclamation purposes and that all the statements contained in the permit application are true and correct to the best knowledge of the applicant;

(iv) The names and last known addresses of the owners of record of the surface and mineral rights on the land to be covered by the proposed permit;

(v) The names and last known addresses of the owners of record of the surface rights of the lands immediately adjacent to the proposed permit area and for surface coal mining operations, the names and last known addresses of coal ownership immediately adjacent to the permit area;

(vi) An identification of the land to be included in the permit area to include:

(A) The location of the lands by legal subdivision, section, township, range, county, and municipal corporation, if any;

(B) The name, if any, by which such lands or any part thereof are known;

(C) The approximate number of acres to be affected, including the total number of acres in the area covered by the permit application;

(D) The nearest town, village, or city.

(vii) A general description of the land which shall include as nearly as possible its vegetative cover, the annual rainfall,

the general directions and average velocities of the winds, indigenous wildlife, its past and present uses, its present surface waters, and adjudicated water rights and their immediate drainage areas and uses, and, if known, the nature and depth of the overburden, topsoil, subsoil, mineral seams or other deposits and any subsurface waters known to exist above the deepest projected depth of the mining operation;

(viii) A United States Geological Survey topographic map, if available, of the permit area;

(ix) A map based upon public records showing the boundaries of the land to be affected, its surrounding immediate drainage area, the location and names, where known, of all roads, railroads, public or private rights-of-way and easements, utility lines, lakes, streams, creeks, springs, and other surface water courses, oil wells, gas wells, water wells, and the probable limits of underground mines and surface mines, whether active or inactive, on or immediately adjacent to the land to be affected. The map shall also show:

(A) The names, last known addresses and boundary lines of the present surface landowners and occupants on the adjacent land to be affected;

(B) The location, ownership, and uses of all buildings on, or on lands adjacent to, the land to be affected;

(C) An outline of all areas previously disturbed by underground mining or that will be affected by future underground mining as a guide to potential subsidence problems;

(D) Any political boundaries of special districts on or near the land to be affected.

(x) The mineral or minerals to be mined;

(xi) The estimated dates of commencement and termination of the proposed permit;

(xii) A minimum fee of two hundred dollars ($200.00) plus ten dollars ($10.00) for each acre in the requested permit, but the maximum fee for any single permit shall not exceed two thousand dollars ($2,000.00). The permit is amendable, excepting permits for surface coal mining operations, without public notice or

hearing if the area sought to be included by amendment does not exceed twenty percent (20%) of the total permit acreage, is contiguous to the permit area, and if the operator includes all of the information necessary in his application to amend that is required in this section including a mining and reclamation plan acceptable to the administrator. The fee for a permit amendment shall be two hundred dollars ($200.00) plus ten dollars ($10.00) for each acre not to exceed two thousand dollars ($2,000.00);

(xiii) A certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which this permit is sought, or evidence that the applicant has satisfied other state or federal self-insurance requirements. This policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations including use of explosives and entitled to compensation under the applicable provisions of state law. This policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations;

(xiv) For surface coal mining permit applications, a schedule listing all notices of violation which resulted in enforcement action of this act, and any law, rule or regulation of the United States, or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the three (3) year period prior to the date of application;

(xv) Such other information as the administrator deems necessary or as good faith compliance with the provisions of this act require.

(b) The application shall include a mining plan and reclamation plan dealing with the extent to which the mining operation will disturb or change the lands to be affected, the proposed future use or uses and the plan whereby the operator will reclaim the affected lands to the proposed future use or uses. The mining plan and reclamation plan shall be consistent with the

objectives and purposes of this act and of the rules and regulations promulgated. The mining plan and reclamation plan shall include the following:

(i) A statement of the present and proposed use of the land after reclamation;

(ii) Plans for surface gradient to a contour suitable for proposed use after reclamation is completed and proposed method of accomplishment;

(iii) Type of vegetation and manner of proposed revegetation or other surface treatment of affected area;

(iv) Method of disposal of buildings and structures erected during the operation;

(v) One (1) or more maps as may be required by the administrator of reclamation and mining operators on an appropriate scale showing location and extent of the proposed affected lands, together with the location of any public highways, dwelling, surface drainage area, and all utility and other easements existing on the affected lands. The map shall also show the location of all proposed pits, spoil banks, haul roads, railroads, topsoil conservation areas, buildings, refuse or waste areas, shipping areas including conveyors, and shall further set forth the drainage plan on, below, above and away from the affected land including subsurface water above the mineral seam to be removed; and shall further show the location of all waste water impoundments, any settling ponds, and other water treatment facilities, constructed drainways and natural drainways, and the surface bodies of water receiving this discharge. In lieu of an original map, a reproduction of a United States Geological Survey topographic map or aerial photograph is acceptable if the required information is platted. The map of the affected lands shall be accompanied by a typical cross section, showing the elevations of the surface, top and bottom of the mineral seam. Additional cross sections at appropriate intervals may be required by the administrator. The cross sections shall show surface elevations for a distance beyond the outlines of the affected areas as may be determined by the administrator;

(vi) An estimate of the total cost of reclaiming the affected lands as outlined in the written proposal computed in accordance with established engineering principles;

(vii) A contour map on the same scale as the reclamation map showing to the extent possible the proposed approximate contours of the affected area after completion of proposed reclamation;

(viii) The proposed method of separating topsoil, subsoil, and spoil piled, protecting and conserving them from wind and water erosion before reclamation begins by planting a quick growing cover or other acceptable methods, and the proposed method of preserving topsoil free of acid or toxic materials, as well as the manner in which topsoil shall be replaced. If topsoil is virtually nonexistent or is not capable of sustaining vegetation, then the method of removing, segregating and preserving in a like manner subsoil which is better able to support vegetation. Spoil piles are to be kept separate and apart from topsoil. All piles are to be clearly marked so as to avoid confusion. If conditions do not permit the separation, conservation and replacement of topsoil or subsoil, a full explanation of such conditions shall be given and alternate procedures proposed;

(ix) A plan for insuring that all acid forming, or toxic materials, or materials constituting a fire, health or safety hazard uncovered during or created by the mining process are promptly treated or disposed of during the mining process in a manner designed to prevent pollution of surface or subsurface water or threats to human or animal health and safety. Such method may include, but not be limited to covering, burying, impounding or otherwise containing or disposing of the acid, toxic, radioactive or otherwise dangerous material;

(x) For a surface mining operation granted a new permit after July 1, 1973, and prior to March 1, 1975, except for an operation legally operating under the 1969 Open Cut Land Reclamation Act, an instrument of consent from the surface landowner, if different from the mineral owner, to the mining plan and reclamation plan. If consent cannot be obtained as to either or both, the applicant may request a hearing before the environmental quality council. The council shall issue an order in lieu of consent if it finds:

(A) That the mining plan and the reclamation plan have been submitted to the surface owner for approval;

(B) That the mining plan and the reclamation plan is detailed so as to illustrate the full proposed surface use including proposed routes of egress and ingress;

(C) That the use does not substantially prohibit the operations of the surface owner;

(D) The proposed plan reclaims the surface to its approved future use, in segments if circumstances permit, as soon as feasibly possible.

(xi) For an application filed after March 1, 1975, an instrument of consent from the resident or agricultural landowner, if different from the owner of the mineral estate, granting the applicant permission to enter and commence surface mining operation, and also written approval of the applicant's mining plan and reclamation plan. As used in this paragraph "resident or agricultural landowner" means a natural person or persons who, or a corporation of which the majority stockholder or stockholders:

(A) Hold legal or equitable title to the land surface directly or through stockholdings, such title having been acquired prior to January 1, 1970, or having been acquired through descent, inheritance or by gift or conveyance from a member of the immediate family of such owner; and

(B) Have their principal place of residence on the land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by the surface mining operation, or receive directly a significant portion of their income from such farming or ranching operations.

(xii) For any application filed after March 1, 1975, including any lands privately owned but not covered by the provisions of paragraph (b)(xi) of this section an instrument of consent from the surface landowner, if different from the owner of the mineral estate, to the mining plan and reclamation plan. If consent cannot be obtained as to the mining plan or reclamation plan or both, the applicant may request a hearing before the

environmental quality council. The council shall issue an order in lieu of consent if it finds:

(A) That the mining plan and the reclamation plan have been submitted to the surface owner for approval;

(B) That the mining plan and the reclamation plan is detailed so as to illustrate the full proposed surface use including proposed routes of egress and ingress;

(C) That the use does not substantially prohibit the operations of the surface owner;

(D) The proposed plan reclaims the surface to its approved future use, in segments if circumstances permit, as soon as feasibly possible;

(E) For surface coal mining operations, that the applicant has the legal authority to extract coal by surface mining methods.

(xiii) The procedures proposed to avoid constituting a public nuisance, endangering the public safety, human or animal life, property, wildlife and plant life in or adjacent to the permit area including a program of fencing all stockpiles, roadways, pits and refuse or waste areas to protect the surface owner's ongoing operations;

(xiv) The methods of diverting surface water around the affected lands where necessary to effectively control pollution or unnecessary erosion;

(xv) The methods of reclamation for effective control of erosion, siltation, and pollution of affected stream channels and stream banks by the mining operations;

(xvi) A statement of the source, quality and quantity of water, if any, to be used in the mining and reclamation operations;

(xvii) A blasting plan which shall outline the procedures and standards by which the operator of a surface coal mine will meet the provisions of W.S. 35-11-415(b)(xi);

(xviii) For surface coal mining operations, a plan to minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both

during and after mining operations and during reclamation. This paragraph does not alter the authority granted under any other section of this act with respect to requirements for maintaining the hydrologic balance in the minesite, or associated offsite areas, of other mining operations;

(xix) A projected timetable for accomplishment of the reclamation plan;

(xx) For surface coal mining operations, a request for approval of any alternatives which may be proposed to the provisions of the regulations promulgated by the council. For each alternative provision the applicant shall:

(A) Identify the provision in the regulations promulgated by the council for which the alternative is requested;

(B) Describe the alternative proposed and provide an explanation including the submission of data, analysis and information in order to demonstrate that the alternative is in accordance with the applicable provisions of the act and consistent with the regulations promulgated by the council. In addition, the applicant shall demonstrate that the proposed alternative is necessary because of local requirements or local environmental or agricultural conditions;

(C) Paragraph (xx) of this subsection shall not take effect until approved by the secretary of the interior as an amendment to a state program approved pursuant to section 503 of P.L. 95-87.

(xxi) A blasting plan that shall outline the procedures and standards by which the operator of a noncoal surface mine will comply with the standards specified and the rules promulgated under W.S. 35-11-402(d).

(c) The applicant may have the local conservation district assist in preparation of, provide data for, perform research, review and comment upon the reclamation. For those lands in a surface coal mining permit application which a reconnaissance inspection suggests may be prime farm lands, a soil survey shall be made or obtained according to standards established by the United States secretary of agriculture in order to confirm the exact location of these prime farm lands, if any. If the United

States secretary of agriculture or his representative has determined that the state, area or exact location within the permit area does not contain prime farm lands this subsection is inapplicable.

(d) The applicant shall file a copy of his application for public inspection at the office of the administrator and in the offices of the county clerks of the counties in which the proposed permit area is located. Those parts of the application which contain confidential trade secrets whose disclosure would be harmful to the applicant are exempt from these filings.

(e) The administrator shall notify the applicant within sixty (60) days of submission of the application whether or not it is complete. If the administrator deems the application incomplete, he shall so advise and state in writing to the applicant the information required. All items not specified as incomplete at the end of the first sixty (60) day period shall be deemed complete for the purposes of this subsection.

(f) If the applicant resubmits an application or further information, the administrator shall review the application or additional information within sixty (60) days of each submission and advise the applicant in writing if the application or additional information is complete.

(g) After the application is determined complete, the applicant shall publish a notice of the filing of the application once each week for two (2) consecutive weeks in a newspaper of general circulation in the locality of the proposed mining site.

(h) The administrator shall review the application and unless the applicant requests a delay advise the applicant in writing within one hundred fifty (150) days from the date of determining the application is complete, that it is suitable for publication under subsection (j) of this section, that the application is deficient or that the application is denied. All reasons for deficiency or denial shall be stated in writing to the applicant. All items not specified as being deficient at the end of the first one hundred fifty (150) day period shall be deemed complete for the purposes of this subsection. After this period, for noncoal permits, the administrator shall not raise any item not previously specified as being deficient unless the

applicant in subsequent revisions significantly modifies the application. If the applicant submits additional information in response to any deficiency notice, the administrator shall review such additional information within thirty (30) days of submission and advise the applicant in writing if the application is suitable for publication under subsection (j) of this section, that the application is still deficient or that the application is denied.

(j) The applicant shall cause notice of the application to be published in a newspaper of general circulation in the locality of the proposed mining site once a week for four (4) consecutive weeks commencing within fifteen (15) days after being notified by the administrator. The notice shall contain information regarding the identity of the applicant, the location of the proposed operation, the proposed dates of commencement and completion of the operation, the proposed future use of the affected land, the location at which information about the application may be obtained, and the location and final date for filing objections to the application. For initial applications or additions of new lands the applicant shall also mail a copy of the notice within five (5) days after first publication to all surface owners of record of the land within the permit area, to surface owners of record of immediately adjacent lands, and to any surface owners within one-half (1/2) mile of the proposed mining site. The applicant shall mail a copy of the application mining plan map within five (5) days after first publication to the Wyoming oil and gas commission. Proof of notice and sworn statement of mailing shall be attached to and become part of the application.

(k) Repealed by Laws 2020, ch. 35, § 2. (m) The requested permit, other than a surface coal mining permit, shall be granted if the applicant demonstrates that the application complies with the requirements of this act and all applicable federal and state laws. The director shall not deny a permit except for one (1) or more of the following reasons:

(i) The application is incomplete;

(ii) The applicant has not properly paid the required fee;

(iii) Any part of the proposed operation, reclamation program, or the proposed future use is contrary to the law or policy of this state, or the United States;

(iv) The proposed mining operation would irreparably harm, destroy, or materially impair any area that has been designated by the council a rare or uncommon area and having particular historical, archaeological, wildlife, surface geological, botanical or scenic value;

(v) If the proposed mining operation will cause pollution of any waters in violation of the laws of this state or of the federal government;

(vi) If the applicant has had any other permit or license issued hereunder revoked, or any bond posted to comply with this act forfeited;

(vii) The proposed operation constitutes a public nuisance or endangers the public health and safety;

(viii) The affected land lies within three hundred (300) feet of any existing occupied dwelling, home, public building, school, church, community or institutional building, park or cemetery, unless the landowner's consent has been obtained. The provisions of this subsection shall not apply to operations conducted under an approved permit issued by the state land commissioner in compliance with the "Open Cut Land Reclamation Act of 1969";

(ix) The operator is unable to produce the bonds required;

(x) Repealed by Laws 2020, ch. 35, § 2.

(xi) If information in the application or information obtained through the director's investigation shows that reclamation cannot be accomplished consistent with the purposes and provisions of this act;

(xii) Repealed by Laws 1980, ch. 64, § 3. (xiii) Repealed by Laws 1980, ch. 64, § 3.

(xiv) Repealed by Laws 1980, ch. 64, § 3.

(xv) If the applicant has been and continues to be in violation of the provisions of this act;

(xvi) No permit shall be denied on the basis that the applicant has been in actual violation of the provisions of this act if the violation has been corrected or discontinued.

(n) The applicant for a surface coal mining permit has the burden of establishing that his application is in compliance with this act and all applicable state laws. No surface coal mining permit shall be approved unless the applicant affirmatively demonstrates and the administrator finds in writing:

(i) The application is accurate and complete;

(ii) The reclamation plan can accomplish reclamation as required by this act;

(iii) The proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area;

(iv) The area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to W.S. 35-11-425, within an area where mining is prohibited pursuant to section 522(e) of P.L. 95-87, or within an area under review for this designation under an administrative proceeding, unless in such an area as to which an administrative proceeding has commenced pursuant to W.S. 35-11-425, the operator making the permit application demonstrates that, prior to January 1, 1977, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit;

(v) The proposed operation would:

(A) Not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated, but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands as to which the administrator finds that if the farming that will be interrupted, discontinued or precluded is of such small acreage as to be of negligible impact on the farm's agricultural production; or

(B) Not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial

valley floors. Paragraph (n)(v) of this section shall not affect those surface coal mining operations which in the year preceding August 3, 1977, produced coal in commercial quantities, and were located within or adjacent to alluvial valley floors or had obtained specific permit approval by the administrator to conduct surface coal mining operations within said alluvial valley floors. If coal deposits are precluded from being mined by this paragraph, the administrator shall certify to the secretary of the interior that the coal owner or lessee may be eligible for participation in a coal exchange program pursuant to section 510(b)(5) of P.L. 95-87.

(vi) If the area proposed to be surface coal mined contains prime farmland, the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards of this act and the regulations promulgated pursuant thereto;

(vii) The schedule provided in paragraph (a)(xiv) of this section indicates that all surface coal mining operations owned or controlled by the applicant are currently in compliance with this act and all laws referred to in paragraph (a)(xiv) of this section or that any violation has been or is in the process of being corrected to the satisfaction of the authority, department or agency which has jurisdiction over the violation.

(o) No permit shall be issued to an applicant after a finding by the director or council, after opportunity for hearing, that the applicant or operator specified in the application controls or has controlled mining operations with a demonstrated pattern of willful violations of such nature and duration with such resulting irreparable harm to the environment as to indicate reckless, knowing or intentional conduct.

(p) The following objection procedure shall apply to applications for mining permits for coal:

(i) Any interested person has the right to file written objections to the application with the director within thirty (30) days after the last publication of the notice required in subsection (j) of this section. The director shall within five

(5) business days forward any objection to the applicant and shall make objections available to the public;

(ii) If an informal conference is requested by the applicant or objector, the director shall hold the informal conference in the locality of the proposed operation within thirty (30) days after the final date for filing objections under paragraph (i) of this subsection unless a different period is stipulated to by the parties. The director shall publish notice of the time, date and location of the informal conference in a newspaper of general circulation in the locality of the proposed operation at least two (2) weeks before the date of the informal conference;

(iii) The director shall render a decision on the application within thirty (30) days after the deadline to file objections provided in paragraph (i) of this subsection if no informal conference is requested. If the director holds an informal conference, all parties to the conference shall be furnished with a copy of the final written decision of the director issuing or denying the permit within sixty (60) days of the conference. The applicant or objector may appeal the director's written decision after an informal conference to the council. If a hearing is held, the hearing shall be conducted as a contested case in accordance with the Wyoming Administrative Procedure Act and the council shall issue findings of fact and a decision on the application within sixty (60) days after the final hearing;

(iv) Notwithstanding W.S. 35-11-1001, only the applicant or an objector who participated in a hearing before the council may obtain judicial review of the council's decision.

(q) The following objection procedure shall apply for any other mining permit application:

(i) Any interested person has the right to file written objections to the administrator within thirty (30) days after the last publication of the notice required in subsection (j) of this section. The administrator shall within five (5) business days forward any objection to the applicant and shall make objections available to the public;

(ii) The administrator shall review all objections and shall forward a report and recommendations on the objections to the

director. The director shall issue to the applicant and to any objector a final written decision issuing or denying the permit within thirty (30) days after the deadline to file objections provided in paragraph (i) of this subsection;

(iii) The applicant or objector may appeal the director's written decision to the council. If a hearing is held, the council shall issue findings of fact and a decision within sixty (60) days after the final hearing;

(iv) A person who does not object as provided under this subsection has no right of appeal.

§ 35-11-407. Water impoundments.

(a) In any plan for the creation of a permanent water impoundment the applicant must adequately demonstrate that:

(i) The size of the impoundment, contouring and revegetation, if any, are suitable for its intended purpose and use;

(ii) Final grading will provide adequate safety and access for proposed water users;

(iii) The impoundment dam construction will be so designed to insure permanent stability and to prevent safety hazards.

§ 35-11-408. Permit transfer.

A permit holder desiring to transfer his permit shall apply to the administrator. The potential transferee shall file with the administrator a statement of qualifications to hold a permit as though he were the original applicant for the permit and shall further agree to be bound by all of the terms and conditions of the original permit. The administrator shall recommend approval or denial of the transfer to the director. No transfer of a permit will be allowed if the current permit holder is in violation of this act, unless the transferee agrees to bring the permit into compliance with the provisions of this act.

§ 35-11-409. Permit revocation.

(a) The director shall revoke a mining permit if at any time he determines that the permit holder intentionally misstated or failed to provide any fact that would have resulted in the denial of a mining permit and which good faith compliance with

the policies, purposes, and provisions of this act would have required him to provide.

(b) Unless an emergency exists, and except as otherwise provided in this act, the revocation of a permit shall become effective upon thirty (30) days' notice to the operator. In an emergency, a special meeting of the council may cause a revocation to become effective upon receipt of notice by the permit holder.

(c) When an inspection carried out pursuant to the enforcement of this act reveals that a pattern of violations by any surface coal mine operator of any requirements of this act or any permit conditions required by this act has existed, and that these violations were caused by the unwarranted failure of the operator to comply with these requirements or permit conditions, or that these violations are willfully caused by the operator, the director shall issue an order to the operator to show cause why the permit should not be suspended or revoked. Opportunity for a public hearing before the council shall be provided. If a hearing is requested the director shall inform all interested parties of the time and place of the hearing. Upon failure of the operator to show cause why the permit should not be suspended or revoked, the council shall suspend or revoke the permit.

§ 35-11-410. License to mine for minerals; application.

(a) A license to mine is issued for the duration of the mining operation on the permit area unless sooner revoked or suspended as provided herein. No mining operation of any kind may be commenced or conducted without a license to mine.

(b) Any operator desiring to engage in a mining operation shall make a written application to the administrator on forms furnished by the administrator for a license to mine. A license is required for each mining operation for which a separate mining permit is issued. The application shall contain or be accompanied by:

(i) The name and address of the applicant;

(ii) A copy of the mining permit for the lands which are to be affected by the proposed mining operation, and if the applicant is other than the permit holder, a copy of the instrument of

permission from the permit holder granting to the applicant the rights thereto;

(iii) If the applicant for the license is other than the permit holder, a statement that the applicant has never had any permit issued by the administrator revoked, or license issued by the board revoked, or bond posted to comply with the act forfeited for intentional and substantial violation of the provisions of this act;

(iv) The location and number of acres of the area to be affected by the proposed mining operation for the first year of operation if less than the full extent of the permit area;

(v) The estimated dates of commencement and termination of the proposed mining operation;

(vi) A fee of one hundred fifty dollars ($150.00).

(c) The administrator shall promptly review the license application and if he finds the application in order and consistent with the terms of the permit and any other provisions of this act, the administrator will determine the size of the bond to be posted for the purpose of insuring reclamation of the lands affected during the first year of operation and upon receipt of said bond will promptly issue the license.

§ 35-11-411. Annual report.

(a) An operator shall file an annual report with the administrator on or within thirty (30) days prior to the anniversary date of each permit. The report shall include:

(i) The name and address of the operator and the permit number;

(ii) A report in such detail as the administrator shall require supplemented with maps, cross sections, aerial photographs, photographs, or other material indicating:

(A) The extent to which the mining operations have been carried out;

(B) The progress of all reclamation work;

(C) The extent to which expectations and predictions made in the original or any previous reports have been fulfilled, and any deviation therefrom, including but not limited to the quantity

of overburden removed, the quantity of minerals removed, and the number of acres affected.

(iii) A revised schedule or timetable of operations and reclamation and an estimate of the number of acres to be affected during the next one (1) year period.

(b) Upon receipt of the annual report the administrator shall make such further inquiry as shall be deemed necessary. If the administrator objects to any part of the report or requires further information he shall notify the permittee as soon as possible and shall allow a reasonable opportunity to provide the required information, or take such action as shall be necessary to remove the objection.

(c) As soon as possible after the receipt of the annual report the administrator shall conduct an inspection of the site of the operation. A report of this inspection shall be made a part of the permittee's annual report and a copy shall be delivered to the operator.

(d) Within sixty (60) days after receipt of the annual report, inspection report and other required materials, if the administrator finds the annual report in order and consistent with the reclamation plan as set forth in the permit, or as amended to adjust to conditions encountered during mining and reclamation operations as provided by law, the director shall determine the size of the bond to be posted for the purpose of insuring reclamation of the lands affected during the ensuing year.

§ 35-11-412. License revocation or suspension.

(a) The director shall revoke an operator's license:

(i) If at any time he becomes aware of the existence of any fact, reason, or condition that would have caused him to deny an application for a mining permit whether or not such condition existed at the time of the application;

(ii) If he determines that the operator intentionally misstated or failed to provide any fact that would have resulted in the denial of a license and which good faith compliance with the policies, purposes and provisions of this act would have required him to provide.

(b) The director may suspend the license if he determines the operator is in substantial violation of the terms of the license or of the provisions of this act. The suspension shall be lifted when the violations have been corrected to the director's satisfaction. No suspension shall be unreasonably prolonged.

(c) Unless an emergency exists, the revocation or suspension of a license shall become effective upon thirty (30) days notice to the applicant. In the case of an emergency, the director may cause such revocation or suspension to become effective immediately upon receipt of notice.

§ 35-11-413. Special license to explore for minerals by dozing.

A special license to explore for minerals by dozing may be issued by the administrator for a one (1) year period without a permit.

§ 35-11-414. Special license to explore for minerals by dozing; application; standards; fee; bond; denial; appeal.

(a) Any person desiring to engage in mineral exploration by dozing shall apply to the administrator for a special license. The application shall be in accordance with rules and regulations adopted pursuant to the standards set forth in subsection (b) of this section, by the council upon recommendation by the director after consultation with the administrator and advisory board, and shall be accompanied by a fee of two hundred fifty dollars ($250.00).

(b) The council shall establish rules and regulations pursuant to the following reclamation standards for exploration by dozing:

(i) Backfilling the topsoil disturbed by dozing to its approximate original contour;

(ii) Revegetation of the land affected by dozing, including species to be used;

(iii) Timetables for the accomplishment of the above reclamation program.

(c) After reviewing the application for special license to explore by dozing the administrator shall set the amount of the

bond necessary to insure complete reclamation and issue the special license to explore.

(d) The administrator may deny the special license to explore if he believes the application is in violation of the purpose of this act.

(e) The decision of the administrator may be appealed through the director to the council.

(f) All special licenses to explore issued by the administrator shall be reviewed by the council at their next regularly scheduled meeting.

(g) A bond posted under the terms of this section shall be released upon completion of the exploration, by dozing, the reclamation program, and an inspection by the administrator. Failure to comply with the provisions of this section will result in forfeiture of the bond.

(h) If the proposed exploration by dozing will substantially affect forty (40) or more acres in any four (4) contiguous sixteenth sections, the application shall conform to the reclamation standards and requirements governing surface mining, and the provisions of this section shall not apply.

(j) Any abandoned drill hole shall be subject to the reclamation provisions of subsection 30-96.16(e) [repealed] of the statutes.

§ 35-11-415. Duties of operator.

(a) Every operator to whom any permit or license is issued shall comply with all requirements of this act, the rules and regulations promulgated hereunder, and reclamation plans and other terms and conditions of any permit or license.

(b) The operator, pursuant to an approved surface mining permit and mining plan and reclamation plan, or any approved revisions thereto, shall:

(i) Conspicuously post and maintain at each entrance to the operation, a sign which clearly shows the name, address and telephone number of the operator, the name of his local authorized agent, and the permit number of his operation;

(ii) Conduct all surface mining and reclamation activities within the permit area in conformity with his approved plan;

(iii) Protect the removed and segregated topsoil from wind and water erosion, and from acid or toxic materials, and preserve such in a usable condition for sustaining vegetation when restored in reclamation, or if topsoil is virtually nonexistent or is not capable of sustaining vegetation, then subsoil, which is available and suitable, shall be removed, segregated, and preserved in a like manner as may be required in the approved reclamation plan;

(iv) Cover, bury, impound, contain or otherwise dispose of toxic acid forming, or radioactive material or any material determined by the administrator to be hazardous to health and safety, or which constitutes a threat of pollution to surface or subsurface water as may be required in the approved reclamation plan;

(v) Conduct contouring operations to return the land to the use set out in the reclamation plan;

(vi) Backfill or grade, and replace topsoil, or approved subsoil, which has been segregated and preserved as may be required in the approved reclamation plan;

(vii) Replace, as nearly as possible, native or superior self regenerating vegetation on land affected, as may be required in the approved reclamation plan;

(viii) Prevent, throughout the mining and reclamation operation, and for a period of five (5) years after the operation has been terminated, pollution of surface and subsurface waters on the land affected by the institution of plantings and revegetation, the construction of drainage systems and treatment facilities including settling ponds and the casing, sealing of boreholes, shafts, and wells so that no pollution is allowed to drain untreated into surface or subsurface water in accordance with state or federal water quality standards, whichever are higher, as may be required in the approved reclamation plan;

(ix) Reclaim the affected land as mining progresses in conformity with the approved reclamation plan;

(x) For surface coal mining operations, preserve throughout the mining and reclamation process the essential hydrologic

functions of alluvial valley floors if these areas are classified within a permit. This paragraph does not alter the authority granted under any other section of this act with respect to requirements for preserving throughout the mining and reclamation process the essential hydrologic functions of the minesite, or associated offsite areas, of other mining operations;

(xi) For surface coal mining operations, insure that explosives are used only in accordance with existing state and federal law and the rules and regulations promulgated by the council, which shall include but are not limited to provisions to:

(A) Provide adequate advance written notice to local governments and residents who might be affected by the use of these explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident within one-half (1/2) mile of the proposed blasting site and by providing daily notice to the resident or occupiers in these areas prior to any blasting;

(B) Maintain for a period of at least three (3) years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blast;

(C) Limit the types of explosives and detonating equipment, the size, timing and frequency of blasts based upon the physical conditions of the site so as to prevent:

(I) Injury to persons;

(II) Damage to public and private property outside the permit area;

(III) Adverse impacts on any underground mine;

(IV) A change in the course, channel or availability of ground or surface water outside the permit area.

(D) Require that all blasting operations be conducted by trained and competent persons as certified by the administrator;

(E) Provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half (1/2) mile of any portion of the permitted area the applicant or permittee shall conduct a preblasting survey of these structures and submit the survey to the administrator and a copy to the resident or owner making the request. The area of the survey shall be decided by the administrator and shall include provisions as the United States secretary of the interior shall promulgate.

(xii) For surface coal mining operations, replace in accordance with state law the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial or other legitimate use from an underground or surface source where the supply has been affected by contamination, diminution or interruption proximately resulting from the surface coal mine operation;

(xiii) Comply with the blasting plan required and submitted under W.S. 35-11-406(b)(xxi) for the use of explosives at noncoal surface mining operations.

§ 35-11-416. Protection of the surface owner.

(a) In those instances in which the surface owner is not the owner of the mineral estate proposed to be mined by mining operations a permit shall not be issued without the execution of a bond or undertaking to the state, whichever is applicable, for the use and benefit of the surface owner or owners of the land, in an amount sufficient to secure the payment for any damages to the surface estate, to the crops and forage, or to the tangible improvements of the surface owner. This amount shall be determined by the administrator and shall be commensurate with the reasonable value of the surrounding land, and the effect of the overall operation of the landowner. This bond is in addition to the performance bond required for reclamation by this act. As damage is determined it shall be paid. Financial loss resulting from disruption of the surface owner's operation shall be considered as part of the damage. A bond for surface damage shall not be required when the agreement negotiated between the surface owner and the mineral owner or developer waives any requirement therefor. Payment of damages shall be paid annually unless otherwise agreed to by the surface owner and the operator.

(b) An owner of real property and who holds a valid adjudicated water right and who obtains all or part of his supply of water for domestic, agricultural, industrial, recreational, or other legitimate use from a surface or an underground source other than a subterranean stream having a permanent distinct known channel may maintain an action against an operator to recover damages for pollution, diminution, or interruption of such water supply resulting from surface, in situ mining or underground mining.

§ 35-11-417. Bonding provisions.

(a) The purpose of any bond required to be filed with the administrator by the operator shall be to assure that the operator shall faithfully perform all requirements of this act and comply with all rules and regulations of the board made in accordance with the provisions of this act.

(b) All bonds shall be signed by the operator as principal, by a good and sufficient corporate surety licensed to do business in the state, and be made payable to the state of Wyoming. At the discretion of the director, the record mineral owner of the land to be mined may also be required to join as principal. This subsection shall not apply to collateral bonds issued pursuant to subsection (g) of this section.

(c) The amount of any bond to be filed with the administrator prior to commencing any mining shall be:

(i) For an initial bond the amount equal to the estimated cost of reclaiming the affected land disturbed and restoring, as defined in W.S. 35-11-103(f)(iii), any groundwater disturbed by in situ mining during the first year of operation under each permit. The estimated cost shall be based on the operator's cost estimate submitted with the permit plus the administrator's estimate of the additional cost to the state of bringing in personnel and equipment should the operator fail or the site be abandoned. In no event shall the bond be less than ten thousand dollars ($10,000.00), except for limited mining operations authorized and bonded under W.S. 35-11-401(e) or any noncoal mine the affected land of which, excluding roads, is ten (10) acres or less, in which case the bond amount shall be set by the administrator with approval of the director to cover the cost of

reclamation, and in no event less than two hundred dollars ($200.00) per acre, for affected land;

(ii) For renewal bonds the amount equal to the estimated cost of reclaiming the land to be disturbed during that renewal period, and the estimated cost of completing reclamation of unreleased lands and groundwater disturbed during prior periods of time. The estimated cost shall be based on the operator's cost estimate, which shall include any changes in the actual or estimated cost of reclamation of unreleased affected lands, plus the administrator's estimate of the additional cost to the state of bringing in personnel and equipment should the operator fail or the site be abandoned. In no event shall the bond be less than ten thousand dollars ($10,000.00), except for limited mining operations authorized and bonded under W.S. 35-11-401(e) or any noncoal mine the affected land of which, excluding roads, is ten (10) acres or less, in which case the bond amount shall be set by the administrator with approval of the director to cover the cost of reclamation, and in no event less than two hundred dollars ($200.00) per acre, for affected land.

(d) The council may promulgate rules and regulations for a self-bonding program for mining operations under which the administrator may accept the bond of the operator itself without separate surety when the operator demonstrates to the satisfaction of the director the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond this amount. This subsection shall not become operative until the council has promulgated rules and regulations for the self-bonding program which require that the protection provided by self-bonding shall be consistent with the objectives and purposes of this act.

(e) When the reclamation plan for any affected land has been completed, the administrator may recommend to the director the release of up to seventy-five percent (75%) of the bond required for that affected land. The remaining portion of the bond shall be not less than ten thousand dollars ($10,000.00), and shall be held for a period of at least five (5) years after the date of reduction to assure proper revegetation and restoration of groundwater. The retained portion of the bond may be returned to

the operator at an earlier date if a release signed by the surface owner and approved by the administrator and director is obtained.

(f) If the area of land or groundwater under permit to be disturbed is increased, then the amount of bond shall be increased to cover the added cost of reclaiming all affected lands or groundwater.

(g) The council may, consistent with the requirements of 30 CFR 800.21(c), promulgate rules and regulations that allow the administrator to accept real property posted as a collateral bond without separate surety, provided that the real property is located in this state, the bond provides a perfected first lien security interest in the real property in favor of the department and the protection provided by the bond is consistent with the objectives and purposes of this act.

(h) The council shall promulgate rules for a voluntary assigned trust program for coal, bentonite, trona and uranium permits or licenses to bond all or a portion of the full cost of reclamation as recommended by the administrator and determined by the director. This subsection shall not become operative until the governor has signed rules that the council promulgates for a voluntary assigned trust program that require that the protection provided by voluntary assigned trusts be consistent with the objectives and purposes of this act. Any rules promulgated under this subsection shall be in accordance with the following:

(i) Participation in an assigned trust program shall be voluntary on the part of an operator. An operator seeking to participate in a voluntary assigned trust as part of the operator's bonding option shall elect to create an assigned trust as required by rules promulgated by the council;

(ii) The amount necessary for an operator to fully fund the voluntary assigned trust shall be recommended by the administrator and determined by the director in accordance with the provisions of this article for each operator's permit or license;

(iii) For each payment plan for a voluntary assigned trust:

(A) The department shall provide the state treasurer with a copy of the director's annual bond letter that discloses the reclamation obligation and the estimated mine life and duration of reclamation for each individual voluntary assigned trust;

(B) Participants in the assigned trust shall provide annual payments of not less than one percent (1%) of the total annual reclamation bond obligation at any time until the assigned trust is fully funded and sufficient to cover the cost of the reclamation obligation as provided in W.S. 35-11-417(c);

(C) Participants in the assigned trust shall provide other acceptable bonding instruments authorized by this act to cover the remaining full cost of reclamation.

(iv) The funds received for a voluntary assigned trust for coal shall be invested by the state treasurer as authorized by law and in a manner to obtain the highest net return possible consistent with the preservation of one hundred percent (100%) of the corpus of the assigned trust. All earnings from investment of the corpus of the assigned trust shall be credited by the state treasurer to the balance of each voluntary assigned trust;

(v) The funds received for a voluntary assigned trust for non-coal shall be invested by the state treasurer as authorized by law and in a manner to obtain the highest net return possible less any administrative fees consistent with the preservation of the corpus of the assigned trust. All earnings from investment of the corpus of the assigned trust shall be credited by the state treasurer to the balance of each voluntary assigned trust;

(vi) The investment options of the treasurer shall include funds authorized by law. The investment fund options used shall be based on the corpus protection requirements as provided in paragraphs (iv) and (v) of this subsection. No funds shall be withdrawn by the participant from these accounts during the first year after the establishment of the participant's voluntary assigned trust;

(vii) The participant shall deposit any cash into an irrevocable assigned trust, managed by the state treasurer for the benefit of the department. The assets of each assigned trust shall be available solely to cover the department's cost of completing

reclamation in the event of forfeiture. No portion of the trust assets shall be returned to the participant until trust assets are released in accordance with W.S. 35-11-423;

(viii) Any remaining amounts within an assigned trust shall be released to the participant in the manner provided for bonds in accordance with the provisions of W.S. 35-11-423 after funds are applied to cover all costs of reclaiming the affected land. Reclamation funds from the assigned trust shall be withdrawn last, following certification of the requested bond release by the director. Bond reductions to the permit or license shall be made from any other bond instruments first until the assigned trust is fully funded;

(ix) Each assigned trust shall not be withdrawn until released by the director in accordance with this act and any rules promulgated under this act;

(x) Any rules promulgated under this act shall include:

(A) A process for withdrawal of funds that exceed the bond obligation of a participant;

(B) Provisions for each assigned trust to be assigned to a new owner resulting from a permit or license transfer.

(xi) Permits or licenses that include federal lands with a federal bonding requirement may participate in the assigned trust following approval from the appropriate federal agencies.

§ 35-11-418. Cash or securities in lieu of bond.

In lieu of a bond, the operator or its principal may deposit federally insured certificates of deposit payable to the Wyoming department of environmental quality, or cash or government securities, or irrevocable letters of credit issued by a bank organized to do business in the United States, or all four.

§ 35-11-419. Bond cancellation.

Such bond may be cancelled by the surety only after ninety (90) days notice to the director, and upon receipt of the director’s written consent, which may be granted only when the requirements of the bond have been fulfilled.

§ 35-11-420. Cancellation of surety's license; substitution.

If the license to do business in Wyoming of any surety upon a bond filed pursuant to this act is suspended or revoked by any state authority then the operator, within thirty (30) days after receiving notice thereof, shall substitute a good and sufficient corporate surety licensed to do business in the state. Upon failure of the operator to make substitution of surety within a reasonable period of time, not to exceed sixty (60) days, the director shall suspend the permit of the operator to conduct operations upon the land described in the permit until proper substitution has been made.

§ 35-11-421. Bond forfeiture proceedings.

(a) If the director determines that a performance bond should be forfeited because of any violation of this act, he shall, with the approval of the council, make formal request of the attorney general to begin bond forfeiture proceedings.

(b) The attorney general shall institute proceedings to forfeit the bond of any operator by providing written notice to the surety and to the operator that the bond will be forfeited unless the operator makes written demand to the council within thirty (30) days after his receipt of notice, requesting a hearing before the council. If no demand is made by the operator within thirty (30) days of his receipt of notice, then the council shall order the bond forfeited.

(c) The council shall hold a hearing within thirty (30) days after the receipt of the demand by the operator. At the hearing, the operator may present for the consideration of the council statements, documents and other information with respect to the alleged violation. At the conclusion of the hearing, the council shall either withdraw the notice of violation or enter an order forfeiting the bond.

§ 35-11-422. Forfeited bond inadequate; suit to recover reclamation costs.

If the forfeited bond is inadequate to cover the costs of the final reclamation program, the attorney general shall bring suit to recover the cost of the reclamation where recovery is deemed possible.

§ 35-11-423. Release of bonds.

(a) No bond shall be finally released until the reclamation program has been completed and approved by the administrator. The director may retain a portion of the bond for at least five (5) years as provided in W.S. 35-11-417, or for so long thereafter as necessary to assure proper revegetation of the reclaimed areas, as provided for in the operator's reclamation plan.

(b) The retained portion of the bond may be returned to the operator at an earlier date if a release signed by the surface owner and approved by the administrator is obtained.

(c) When the operator has completed successfully all surface mining and reclamation activities, he may request release of the retained bond. Upon receipt of the notification and request and within sixty (60) days, the administrator shall inspect and evaluate the reclamation work and report his findings to the director. If the director finds the reclamation meets the requirements of this act, he shall notify the operator and order the state treasurer to release that portion of the final bond. The state treasurer shall then return the bond, cash or securities constituting that portion of the bond so retained. If the director does not approve of the reclamation performed by the operator, he shall notify the operator by registered mail within a reasonable time after the request is filed. The notice shall state the reasons for denial and shall recommend corrective actions. Upon correction of the noted deficiency, the director shall order the state treasurer to release the bond, cash or securities constituting that portion of the bond so retained.

(d) The council shall promulgate rules and regulations governing the release of bonds for surface coal mining operations in compliance with P.L. 95-87 [30 U.S.C. § 1201 et seq.] as that law is worded on August 3, 1977, which shall be controlling notwithstanding other provisions of W.S. 35-11-417 and 35-11-423 to the contrary.

§ 35-11-424. Deposit of fees and forfeitures.

(a) All forfeitures collected under the provisions of this act shall be deposited with the state treasurer in a separate account for reclamation purposes.

(b) All fees shall be deposited with the state treasurer in the general fund.

(c) All fines and penalties collected under this act shall be paid to the state treasurer and credited as provided in W.S. 8-1-109.

§ 35-11-425. Designation of areas unsuitable for surface coal mining.

(a) Any person having an interest which is or may be adversely affected may petition the council to have an area designated as unsuitable for surface coal mining operations, or to have a designation terminated. The petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. Within ten (10) months after receipt of the petition the council shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time and location of the hearing. After having filed a petition and before the hearing, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty (60) days after the hearing, the council shall issue and furnish to the petitioner and any other party to the hearing, a written decision with reasons regarding the petition. The hearing need not be held if all petitioners reach agreement prior to the requested hearing and withdraw their request.

(b) If petitioned, the council will review the particular area and:

(i) Shall designate it as an area unsuitable for all or certain types of surface coal mining operations if it is determined that reclamation pursuant to the requirements of this act is not technologically and economically feasible; and

(ii) May designate it as an area unsuitable for surface coal mining if the coal mining operation will:

(A) Be incompatible with existing state or local land use plans or programs; or

(B) Affect fragile or historic lands in which these operations could result in significant damage to important historic, cultural, scientific and esthetic values and natural systems; or

(C) Affect renewable resource lands in which these operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, and these lands to include aquifers and aquifer recharge areas; or

(D) Affect natural hazard lands in which these operations could substantially endanger life and property; these lands to include areas subject to frequent flooding and areas of unstable geology.

(c) Prior to designating any land areas as unsuitable for surface coal mining operations, the administrator shall prepare a detailed statement on:

(i) The potential coal resources of the area;

(ii) The demand for coal resources; and

(iii) The impact of this designation on the environment, economy and supply of coal.

(d) The above process will include proper notice, opportunities for public and agency participation including land use planning bodies and a public hearing prior to designation or redesignation, pursuant to this section.

(e) Any designation shall not prevent the mineral exploration pursuant to this act of any area so designated.

(f) The requirements of this section shall not apply to lands on which surface coal mining operations were being conducted on August 3, 1977 or under a permit issued pursuant to this act, or where substantial legal and financial commitments in these operations were in existence prior to January 4, 1977.

(g) This section shall not become effective until approval of a state program pursuant to P.L. 95-87 [30 U.S.C. § 1201 et seq.].

(h) This section shall operate independently of all other sections of the act except as to the application of the Wyoming Administrative Procedure Act.

§ 35-11-426. In situ mineral mining permits and testing licenses.

(a) Any person desiring to engage in situ mineral mining or research and development testing is governed by this act.

(b) All provisions of this act applicable to a surface coal mining operation, as defined in W.S. 35-11-103(e)(xx), shall apply to coal in situ operations, regardless of whether such operations are connected with existing surface or underground coal mines, including research and development testing licenses, in addition to the requirements of W.S. 35-11-427 through 35-11-436.

§ 35-11-427. In situ mining permit; permit required; authority of land quality division exclusive.

Application for an in situ mining permit shall be made to the director. The director shall designate the land quality administrator as his representative on all matters concerning the application and all communications concerning review of and final action on the application for land, air and water quality divisions and solid waste management. Nothing herein shall be construed to limit the authority of the director on making the final decision on the permit application. No in situ mining operation shall be commenced or conducted unless a valid mining permit has been issued to the operator. Construction and completion of wells may be authorized prior to issuance of a mining permit or a research and development license pursuant to W.S. 35-11-404(g).

§ 35-11-428. In situ mining permit; requirements for application; contents of application.

(a) Application for an in situ mining permit shall meet the requirements of W.S. 35-11-406(a)(i) through (vi) and (viii) through (xiv), and shall contain a description of the proposed permit area including the following information relating to the applicable in situ technology:

(i) Soils, vegetation, wildlife and surface hydrologic information consistent with the extent and nature of the proposed surface disturbance including descriptions of the soil, indigenous wildlife, natural gamma radiation background for lands to be impacted by radioactive materials, the vegetative cover, meteorological information and a description of any surface water and adjudicated water rights within the proposed permit area or on adjacent lands;

(ii) Geologic and groundwater hydrologic information including:

(A) A description of the general geology including geochemistry and lithology of the permit area;

(B) A characterization of the production zone and aquifers that may be affected including applicable hydrologic and water chemistry data to describe the projected effects of the mining activities.

(iii) A mine plan and a reclamation plan containing the information required by W.S. 35-11-406(b)(ii), (iv) and (viii) through (xix) and:

(A) A description of the mining techniques;

(B) A statement of the past, present and proposed postreclamation use of the land, groundwater and surface water;

(C) A site facility description of the typical design criteria relevant to environmental protection;

(D) A contour map which locates proposed equipment, facilities and appurtenances necessary to insure environmental protection;

(E) An assessment of impact to water resources on adjacent lands that may reasonably be expected and the steps that will be taken to mitigate the impact;

(F) Plans and procedures for environmental surveillance and excursion detection, prevention and control programs;

(G) Procedures for land reclamation including preparation procedures, proposed seeding lists and methods, drainage reestablishment details, post-mining contour map, methods to be used to conduct post-mining radiological evaluations and the methods for mitigating any significant subsidence which may occur as a result of the mining operation;

(H) Procedures for groundwater restoration; and

(J) Estimated costs of reclamation computed in accordance with established engineering principles.

§ 35-11-429. In situ mining permit; contents of permit.

(a) Every permit shall:

(i) Require the operator to give verbal notice of an excursion to the administrator as soon as practical after the excursion is confirmed, followed by reasonable written notice;

(ii) Authorize the administrator to terminate or modify the mining operation if an excursion cannot be controlled or mitigated within the constraints specified in the permit;

(iii) Authorize the council upon the recommendation of the director to modify water quality criteria used for groundwater restoration when information made available after issuance of the permit warrants a modification;

(iv) Prohibit any significant change in mining technique, method of operation, recovery fluid used, mining and reclamation plans or other activities that would jeopardize reclamation or protection of any waters of the state unless a permit revision has been approved by the director pursuant to this act;

(v) Contain other conditions and requirements established by the director to employ the best practicable technology in carrying out this act.

§ 35-11-430. Duties of in situ mining operator; records; annual report.

(a) The operator shall submit an annual report containing the general categories of environmental protection and reclamation information pursuant to W.S. 35-11-411.

(b) The operator shall maintain records at the mine site of all information resulting from monitoring activities required in the permit. The records shall state:

(i) The date, place, time and method of sampling and the personnel responsible for sampling;

(ii) The date on which analysis was performed and the personnel who performed the analysis;

(iii) Analytical techniques used; and

(iv) The results of the analysis.

§ 35-11-431. Research and development license; renewal; application.

(a) A special license to conduct research and development testing may be issued by the administrator for a one (1) year period without a permit and may be renewed annually. An application for a research and development testing license shall be accompanied by a fee of twenty-five dollars ($25.00) and shall include:

(i) The information required by W.S. 35-11-406(a)(i) through (vi), (viii) and (x);

(ii) A description of the nature and scope of the testing activity, of general groundwater hydrology and general geology including the production zone;

(iii) A statement of the present and proposed postreclamation use of the land;

(iv) A reclamation plan which includes the method for groundwater restoration, a statement of the type of vegetation and manner of proposed revegetation or other surface treatment of the affected area and an estimate of the costs of reclamation;

(v) A timetable for the accomplishment of the reclamation plan;

(vi) All requirements of W.S. 35-11-406(j) and 35-11-406(p) or (q); and

(vii) Such other information as the administrator deems necessary or as good faith compliance with the provisions of this act requires.

§ 35-11-432. Research and development license; grounds for denial; appeal.

The administrator may deny the special license to conduct research and development testing if he believes the application violates the purpose of this act. The decision of the administrator may be appealed through the director to the council.

§ 35-11-433. Research and development license; bond required; release or forfeiture; review of license.

(a) If a special license to conduct research and development testing is granted, the administrator shall require the licensee

to provide a bond in an amount necessary to insure complete reclamation.

(b) A bond posted under the terms of this section shall be released upon completion of the reclamation program and an inspection by the administrator. Failure to comply with this act shall result in forfeiture of the bond.

§ 35-11-434. Research and development license; notice of incomplete application; when application deemed complete.

The administrator shall notify an applicant within ninety (90) days of submission of the application whether or not it is complete. If an application is incomplete, the administrator shall state in writing to the applicant the additional substantive information required.

§ 35-11-435. Records to be filed on completion; abandoned drill holes.

(a) Upon completion of reclamation and abandonment by the operator, the operator shall record with the state engineer's office the location and nature of aquifers that have been affected by the in situ operation.

(b) Any abandoned drill hole shall be subject to the provisions of W.S. 35-11-404.

§ 35-11-436. Existing in situ mining permits.

Any operator who possesses an in situ mining permit and license to mine shall have a period of one (1) year within which to show compliance with the requirements of W.S. 35-11-426 through 35-11-436.

§ 35-11-437. Enforcement for surface coal mining operations.

(a) The director or his designated authorized representative shall issue a cessation order covering that portion of the operation relevant to the violation or hazard and impose any necessary affirmative obligations if:

(i) On the basis of an inspection, it is determined that a condition or practice exists, or violation is occurring, which creates an imminent danger to the public or which is causing or

may reasonably be expected to cause significant, imminent environmental harm to land, air or water resources; or

(ii) Any violation of this article, land quality division regulations or permit conditions has not been abated within the time specified in the notice for abatement described in subsection (b) of this section, which period shall not exceed ninety (90) days.

(b) The director or his designated authorized representative shall issue a notice fixing a reasonable time for abatement and impose any necessary affirmative obligations if:

(i) On the basis of an inspection, it is determined that a permittee is in violation of this article, land quality division regulations or any permit conditions; and

(ii) A cessation order is not required under subsection (a) of this section.

(c) Any notice or order issued pursuant to this section may be affirmed, modified, vacated or terminated by:

(i) The director or his authorized representative; or

(ii) The council, if the operator or any person having an interest which is or may be adversely affected files a petition for review within thirty (30) days of the receipt of the notice or order. The council shall order any necessary investigation and provide a public hearing, if requested. Any public hearing shall be conducted as a contested case proceeding in accordance with the Wyoming Administrative Procedure Act.

(d) The director or, in his absence, the administrator shall affirm, modify, vacate or terminate any notice or order issued pursuant to this section which results in or requires cessation of mining within forty-eight (48) hours of its issuance. If cessation is affirmed, the operator shall be notified of the decision and be afforded an opportunity to request a hearing within ten (10) days of the decision. If a hearing is requested, the director shall fix a time and place for hearing before the council within five (5) calendar days of the request. The council shall affirm, modify or set aside the director's decision within forty-eight (48) hours following the adjournment of the hearing.

(e) Any notice or order issued pursuant to this section may be temporarily stayed pending review by the council if requested by the operator. Any request for a stay shall contain a detailed statement giving reasons for granting the stay. The council shall issue a decision granting or denying the stay in accordance with rules and regulations promulgated by the council.

(f) At the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) as determined by the council to have been reasonably incurred by the person for or in connection with his participation in the proceedings, including any judicial review of agency actions, may be assessed against either party as the court or the council deems proper. This subsection shall apply only to contested case proceedings or subsequent judicial review proceedings under the provisions of this act relating to the regulation of surface coal mining and reclamation operations in accordance with P.L. 95-87 [30 U.S.C. § 1201 et seq.], as that law is worded on August 3, 1977. For payments from the department:

(i) Repealed by Laws 1994, ch. 4, §§ 1, 2.

(ii) The contribution of a person who did not initiate a proceeding shall be separate and distinct from the contribution made by a person initiating the proceeding.

(iii) Repealed by Laws 1994, ch. 4, §§ 1, 2.

(g) Repealed by Laws 1994, ch. 4, § 2.

Article 5
Solid Waste Management

§ 35-11-501. Duties of the administrator of the solid and hazardous waste management division.

(a) In addition to the other powers and duties enumerated in this act, the director of the department through the administrator of the solid and hazardous waste management division shall coordinate the activities of all state agencies concerned with solid waste management and disposal. The administrator shall advise and consult with any person or municipality with respect to provisions of technical assistance

in solid waste management technology, including collection, storage and disposal.

(b) The administrator of the solid and hazardous waste management division shall enforce and administer this article and the rules, regulations and standards promulgated under this article.

§ 35-11-502. Solid waste management facilities permits; term; renewals.

(a) No person, except when authorized under the permit system established pursuant to this act, shall:

(i) Locate, construct, operate or close a solid waste management facility; or

(ii) Modify the design, construction or operation of a solid waste management facility.

(b) No permit for a solid waste management facility shall be transferred without prior written approval of the director. A permit for a solid waste management facility may be transferred only to a person qualified to obtain and hold bonds or other financial assurances required and who meets the management and technical capability requirements under the rules and regulations promulgated pursuant to this act.

(c) After the effective date of this act no person, except upon a variance from paragraphs (i) through (iv) of this subsection granted by the director upon recommendation of the administrator after public hearing and upon written findings that the variance will not injure or threaten to injure the public health, safety or welfare, shall locate or construct a solid waste management disposal facility larger than one (1) acre within:

(i) One (1) mile of the boundaries of an incorporated city or town;

(ii) One (1) mile of a public school except with the written consent of the school district board of trustees or one (1) mile of an occupied dwelling house except with the written consent of the owner;

(iii) One-half (½) mile of the center line of the right-of-way of a state or federal highway unless screened from view as approved by the department; or

(iv) One-half (½) mile of a water well permitted or certificated for domestic or stock watering purposes except with written consent of the owner of the permit or certificate.

(d) No person shall accumulate solid waste at a permitted solid waste management facility in excess of a quantity which can be transferred, treated, processed, stored or disposed of within ninety (90) days however, if the solid waste must be transferred more than two hundred (200) miles, then one hundred eighty (180) days.

(e) The administrator shall notify the applicant within sixty (60) days of submission of the application whether or not it is complete. If the administrator deems the application incomplete, he shall so advise and state in writing to the applicant the information required. All items not specified as incomplete at the end of the first sixty (60) day period shall be deemed complete for the purposes of this subsection.

(f) If the applicant resubmits an application or further information, the administrator shall review the application or additional information within sixty (60) days of each submission and advise the applicant in writing if the application or additional information is complete.

(g) After the application is determined complete, the applicant shall give written notice of the application to the county where the applicant plans to locate the facility and to any municipalities which may be affected by the facility. The applicant shall simultaneously cause to be published once a week for two (2) consecutive weeks in a newspaper of general circulation within the county where the applicant plans to locate the facility notice of the proposed location, method and length of operation, and such other information as the council may require by rule and regulation. In addition, the council may by rule require an applicant for a proposed permit or for amendment to an existing permit to notify other affected persons of the application and any other information required by the council.

(h) The administrator shall review the application and unless the applicant requests a delay advise the applicant in writing within ninety (90) days from the date of determining the application is complete, that a proposed permit is suitable for publication under subsection (j) of this section, that the application is deficient or that the application is denied. All reasons for deficiency or denial shall be stated in writing to the applicant. All items not specified as being deficient at the end of the first ninety (90) day period shall be deemed complete for the purposes of this subsection. If the applicant submits additional information in response to any deficiency notice, the administrator shall review such additional information within thirty (30) days of submission and advise the applicant in writing if a proposed permit is suitable for publication under subsection (j) of this section, that the application is still deficient or that the director has denied the application.

(j) The applicant shall give written notice of the proposed permit to the governing board of any county where the applicant plans to locate the facility and to any governing board of municipalities which may be affected by the facility. The applicant shall simultaneously cause notice of the proposed permit to be published in a newspaper of general circulation within the county where the applicant plans to locate the facility. The notice shall be published once a week for two (2) consecutive weeks commencing within fifteen (15) days after being notified by the administrator that the application is suitable for publication. The notice shall contain information regarding the identity of the applicant, the location of the proposed operation, the method and length of the operation, the location at which information about the application may be obtained, and the location and final date for filing objections to the application. In addition, the council may by rule require an applicant for a proposed permit or for amendment of an existing permit to notify other affected persons as authorized under subsection (g) of this section.

(k) Any interested person has the right to file written objections to the proposed permit with the director within thirty (30) days after the last publication of the notice given pursuant to subsection (j) of this section. If substantial written objections are filed, a public hearing shall be held

within twenty (20) days after the final date for filing objections unless a different period is deemed necessary by the council. The council or director shall publish notice of the time, date and location of the hearing in a newspaper of general circulation in the county where the applicant plans to locate the facility once a week for two (2) consecutive weeks immediately prior to the hearing. The hearing shall be conducted as a contested case in accordance with the Wyoming Administrative Procedure Act, and right of judicial review shall be afforded as provided in that act.

(m) The director shall render a decision on the proposed permit within thirty (30) days after completion of the notice period if no hearing is requested. If a hearing is held, the council shall issue findings of fact and a decision on the proposed permit within thirty (30) days after the final hearing. The director shall issue or deny the permit no later than fifteen (15) days from receipt of any findings of fact and decision of the environmental quality council.

(n) Notwithstanding the requirements of subsections (f) through (m) of this section, the council shall promulgate rules to establish an alternate permitting procedure for low volume or low hazard solid waste treatment, transfer, processing and storage facilities. The rules shall identify classes or categories of solid waste treatment, transfer, processing and storage facilities which may be permitted using the alternate permitting procedure. The alternate procedure may provide, as determined by the council:

(i) For a single public notice by the applicant, unless the application or permit is contested. If the application or permit is contested the provisions of the Wyoming Administrative Procedure Act regarding public notice shall control;

(ii) That public notice shall be limited to notification of interested parties within the area served by the facility or the area where the facility is located;

(iii) For a single review by the department to determine completeness and technical adequacy, which shall be completed by the department within thirty (30) days of receipt of an initial or revised application; and

(iv) For issuance of a final permit upon completion of all alternate procedure notice and review requirements, provided that any such permit shall be subject to appeal under the provisions of this act.

(o) Effective July 1, 2012, the term for a new or renewed municipal solid waste landfill permit shall be for the lifetime of the solid waste landfill, through closure, not to exceed twenty-five (25) years.

(p) Effective July 1, 2012, for any existing municipal solid waste landfill permit, the next renewal permit shall be converted to a lifetime municipal solid waste permit.

(q) If, during the operation of the municipal solid waste landfill, the life of the municipal solid waste landfill is anticipated to exceed the term specified in the permit, the operator shall:

(i) Submit a municipal solid waste landfill permit amendment which shall include updates on any necessary provisions of the permit;

(ii) No later than three (3) years prior to the expiration of the lifetime municipal solid waste landfill permit, submit permit renewal information as required by the department. The municipal solid waste landfill permit may be renewed for another lifetime period, not to exceed twenty-five (25) years.

(r) Notice and opportunity for hearing for an amended municipal solid waste landfill permit shall be as provided for a new municipal solid waste landfill permit under this section.

§ 35-11-503. Authority to promulgate rules and regulations for solid waste management facilities and for the management of hazardous wastes.

(a) The director, upon recommendation from the administrator after consultation with the water advisory board, is authorized to recommend that the council promulgate rules, regulations, standards and permit systems for solid waste management facilities in order to protect human health and the environment. The rules, regulations, standards and permit systems shall govern the management of any waste, including liquid, solid, or

semisolid waste, which is managed within the boundary of any solid waste management facility, and:

(i) Shall provide requirements as to facility location, design, construction, operation, environmental monitoring, cost effective corrective actions for active facilities, closure, notices of public record, management and technical capabilities of the applicant and post-closure care as necessary to promote the purposes of this act;

(ii) Shall provide requirements for bonding or financial assurance to assure that solid waste management facilities will be constructed, operated and closed in accordance with the purposes and provisions of this act and the rules and regulations promulgated pursuant to this act;

(iii) Within ten (10) months after the effective date of this act the council shall adopt rules and regulations to implement this act and shall provide such reasonable time as may be necessary, but in no event to exceed twenty-four (24) months after the effective date of this act, for owners and operators of solid waste management facilities to comply with the rules, regulations, standards or permits;

(iv) Shall establish categories of solid waste management facilities based on waste type, volume, facility ownership, facility operation or other facility characteristics. Standards and requirements for each category may vary as are necessary to promote the purposes of this act;

(v) Shall provide for consistency and equivalency with rules and regulations adopted by the United States environmental protection agency under authority of Subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580, as amended, for those facilities subject to such federal requirements, provided that:

(A) The director after consultation with the administrator may petition the council to promulgate rules and regulations more stringent than federal rules if adequate cause exists to determine that circumstances specific to the state compel adoption of more stringent rules to adequately protect the public health and environment of the state;

(B) The imposition of the rules under this paragraph is consistent and equivalent with the imposition of rules by the United States environmental protection agency, except that the director after consultation with the administrator may petition the council to determine for individual permits or orders that adequate cause exists for permit conditions or orders more stringent than federal regulations;

(C) Nothing in this paragraph authorizes the promulgation of rules which are not otherwise authorized in this act.

(b) To the extent not already provided by subsection (a) of this section and W.S. 35-11-504 and notwithstanding W.S. 35-11-424, the director shall, pursuant to this section or by rule, require applicants for commercial radioactive waste management facility permits to do the following:

(i) Upon the filing of the application, pay a fee to be determined by the director, based upon the estimated cost of investigating, reviewing and processing of the application. Unused fees under this subsection shall be refunded to the applicant;

(ii) No less than ten (10) months prior to submission of an application for a commercial radioactive waste management facility permit, submit a notice of intent to file a permit application and a nonrefundable regulatory agency support fee in the amount of one hundred thousand dollars ($100,000.00);

(iii) Upon receipt of a permit and the filing of each annual report thereunder, pay an annual inspection and monitoring fee to be determined by the director, based upon the estimated costs of inspecting the facility and monitoring compliance with the permit terms. Unused funds shall be credited against the next annual inspection and monitoring fee;

(iv) Upon receipt of a permit, establish a long term remediation and monitoring trust for the benefit of the department in an amount sufficient to conduct perpetual monitoring and maintenance of the permitted facility and to remediate the release of any waste or waste constituent in violation of the approved post-closure plan. The long term remediation and monitoring trust may be initially funded by a letter of credit, cash or sufficient bond excepting self-bonds. The letter of

credit, cash or bond shall be reduced by an amount equal to the per ton fee levied and paid to the trust during the prior year, provided:

(A) Facilities or portions thereof which the United States government is required by law to accept ownership and assume responsibility for perpetual monitoring, maintenance, and remediation shall not be required to establish a long term remediation and monitoring trust;

(B) Monies actually paid into the long term remediation and monitoring trust on a per ton basis shall be a credit against funds otherwise payable pursuant to W.S. 35-12-113(g)(i); and

(C) All expenses incurred by the department to conduct perpetual monitoring and maintenance of the permitted facility shall be paid by the permittee. The department may contract for temporary professional services to monitor and maintain the permitted facility and to assist in rulemaking.

(v) Reduce, to the extent determined by the director to be technically and economically reasonable, the toxicity of any waste managed at the facility; and

(vi) Follow post-closure land uses established for the facility by the director.

(c) Unless and until the council adopts rules pursuant to subsection (a) of this section, for commercial radioactive waste management facilities or a particular classification of commercial radioactive waste management facilities, the director shall rely upon the performance criteria and standards of title 10, part 40, appendix A, and title 40, part 192, subpart D of the Code of Federal Regulations, as of January 1, 1991, as guidance for determining whether an application complies with the act. Nothing in this subsection shall be construed to limit the director's authority to impose permit requirements or conditions or the council's authority to promulgate rules, consistent with this act, which are more stringent than the federal regulations referenced.

(d) The council shall, upon recommendation from the director and the administrators of the air, water and solid and hazardous waste divisions, promulgate rules and regulations which are:

(i) Necessary for the state to obtain authorization of its hazardous waste management regulatory program to operate in lieu of the federal hazardous waste program administered under subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580, as amended, provided that the council may not adopt rules requiring imposition of administrative penalties for hazardous waste violations; and

(ii) Subject to the limitations on stringency of paragraph (a)(v) of this section, consistent with, and equivalent to rules and regulations adopted by the United States environmental protection agency under authority of subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580, as amended.

§ 35-11-504. Bonding for solid waste management facilities.

(a) The council, by rules and regulations, shall establish bonding or financial assurance requirements for solid waste management facilities to assure there are adequate sources of funds to provide for cost effective:

(i) Closure costs, post-closure inspection and maintenance costs, and environmental monitoring and control costs, including but not limited to costs for:

(A) Removal and disposal of buildings, fences, roads and other facility developments, and reclamation of affected lands;

(B) Construction of any waste cover or containment system required as a condition of any facility permit;

(C) Removal and off-site treatment or disposal of any wastes that are being stored or treated;

(D) Decontamination, dismantling and removal of any waste storage, treatment or disposal equipment or vessels;

(E) Operating any environmental monitoring systems or pollution control systems that are required as a condition of any facility permit or by order of the director; and

(F) Conducting, only for disposal facilities, periodic post-closure inspections of cover systems, surface water diversion structures, monitor wells or systems, pollutant detection and control systems, and performing maintenance activities to correct deficiencies that are discovered.

(ii) In the event of any discharge of pollution to the air, land or to waters of the state which is in violation of a permit, standard, rule or requirement established under the provisions of this act, the estimated costs of remedying or abating the violation or damages caused by the violation;

(iii) The bond established under paragraph (i) of this subsection shall be available during the operating life and throughout the post-closure care period of the solid waste management facility to abate or remedy any violation of a permit, standard, rule or requirement established under the provisions of this act.

(b) The amount of any bond or financial assurance requirement shall be established by the director in accordance with procedures contained in rules and regulations of the council, but shall not be less than an amount sufficient to satisfy the purposes specified in subsection (a) of this section.

(c) Rules and regulations of the council promulgated to implement the bonding or financial assurance requirements of this section shall exempt any solid waste management facility:

(i) Owned or operated by a municipality provided that the facility is a participating facility under W.S. 35-11-515(o)(iii);

(ii) Owned and operated by the person disposing of solid waste generated at the facility who annually demonstrates to the director compliance with the financial responsibility requirements of the Resource Conservation and Recovery Act, P.L. 94-580, as amended as of January 1, 1989 [42 U.S.C. § 6901 et seq.];

(iii) Which is also subject to bonding or financial assurance requirements under article 2, 3 or 4 of this act if the director determines that the bond or financial assurances under article 2, 3 or 4 satisfy the requirements of this section;

(iv) Which is subject to bonding or financial assurance requirements under W.S. 30-5-104(d)(i)(D) or 30 U.S.C. § 226(g) as amended as of January 1, 1989; or

(v) Owned or operated by an electric utility disposing of solid waste generated by an electric generation facility pursuant to a

permit or license issued by the department, provided that the exemption may be revoked by the council upon petition of the director for a period of time established by the council to secure remedial action in the event of any discharge of pollution to the air, land or to waters of the state which is in violation of a permit, standard, rule or requirement established under the provisions of this act.

(d) The council shall provide rules for the establishment of a self-bonding program to be used if such a program will provide protection consistent with the objectives and purposes of article 5 of the act. In any such program, rules of the council shall provide for a timely reappraisal of pledged assets, require evidence of a suitable agent to receive service of process, assure that pledged assets are not already pledged for other projects, provide that pledged assets reside continuously in the state of Wyoming and provide for determination of the suitability of pledged assets.

(e) In lieu of a bond, the operator may deposit federally insured certificates of deposit payable to the Wyoming department of environmental quality, cash, government securities, or irrevocable letters of credit issued by a bank organized to do business in the United States, or all four (4).

(f) Any bond may be cancelled by the surety only after ninety (90) days written notice to the director, and upon receipt of the director's written consent, which may be granted only when the requirements of the bond have been fulfilled.

(g) If the license to do business in Wyoming of any surety upon a bond filed pursuant to this act is suspended or revoked by any state authority then the operator, within thirty (30) days after receiving notice thereof, shall substitute a good and sufficient corporate surety licensed to do business in the state. Upon failure of the operator to make substitution of surety within a reasonable period of time, not to exceed sixty (60) days, the director shall suspend the permit of the operator to accept solid wastes until proper substitution has been made.

(h) Bond forfeiture proceedings shall occur only after the department provides notice to the operator and surety pursuant to W.S. 35-11-701 that a violation exists and the council has

approved the request of the director to begin forfeiture proceedings.

(j) With the approval of the council the director may:

(i) Expend forfeited funds to remedy and abate the circumstances with respect to which the bond was provided; and

(ii) Expend funds from the account under W.S. 35-11-424 to remedy and abate any immediate danger to human health, safety and welfare.

(k) If the forfeited bond or other financial assurance instrument is inadequate to cover the costs to carry out the activities specified in subsection (a) of this section, or in any case where the department has expended account monies under subsection (j) of this section, the attorney general shall bring suit to recover the cost of performing the activities where recovery is deemed possible.

(m) When the director determines that the violation has been remedied or the damage abated, the director shall release that portion of the bond or financial assurance instrument being held under paragraph (a)(ii) of this section. When the director determines that closure activities have been successfully completed at any solid waste management facility, the director shall release that portion of the bond or financial assurance instrument being held to guarantee performance of activities specified in subparagraphs (a)(i)(A) through (E) of this section. For solid waste management facilities other than landfills for the disposal of municipal wastes, the remaining portion of the bond or financial assurance instrument shall be held for a period of not less than five (5) years after the date of facility closure, or so long thereafter as necessary to assure proper performance of any post-closure activities specified in subparagraph (a)(i)(F) of this section. For municipal solid waste management facilities, the period shall be the minimum necessary to comply with P.L. 94-580. The retained portion of the bond or other financial assurance instrument may be returned to the operator at an earlier date if the director determines that the facility has been adequately stabilized and that environmental monitoring or control systems have demonstrated that the facility closure is protective of public

health and the environment consistent with the purposes of this act.

(n) No supplemental bond or financial assurance shall be required of any facility, mine, permit or license subject to the bond or financial assurance requirements of article 2, 3 or 4 of this act, to meet the requirements of this section, for any solid waste management facility used solely for the management of wastes generated within the boundary of the permitted facility or mine operation by the facility or mine owner or operator, or from a mine mouth electric power plant or coal drier.

§ 35-11-505. Existing regulations remain in effect.

The Wyoming solid waste management rules and regulations, promulgated by the council in 1975 and amended in 1980, shall remain in effect until amended, repealed or otherwise revised by the council.

§ 35-11-506. Applications subject to penalty of perjury.

All applications submitted pursuant to this chapter shall be signed under oath subject to penalty of perjury by the applicant if an individual, by at least one (1) principal if the application is for a partnership or joint venture, or by at least two (2) principal officers if the application is for a corporation.

§ 35-11-507. [Repealed.]

Repealed by Laws 1990, ch. 102, § 1.

§ 35-11-508. Recycling and processing requirements for commercial solid waste management facilities.

(a) In recognition of the need to minimize unnecessary uses of the land for solid waste management, to allow for an effective ability for state oversight, regulation and inspection of solid wastes intended to be managed in the state and to conserve natural resources in accord with the policy and purpose of this act, commercial solid waste management facilities shall conform to the following operating practices:

(i) Solid wastes shall be screened by the facility operator in a manner approved by the director to assure to the maximum

practical extent that wastes prohibited from disposal at the facility are not managed or disposed of at the facility. Management or disposal of any prohibited waste by a facility shall be cause for the council to issue a cessation order preventing continued receipt of solid wastes at the facility. The order shall remain in effect until the director approves a revised waste screening plan submitted by the facility operator which the director deems sufficient to prevent receipt of wastes prohibited from disposal at the facility;

(ii) Solid wastes shall be processed within the state to facilitate inspections of processing by the department, and removal and recovery of useful components of the waste stream as required by this section, using processes found to be acceptable in rules and regulations promulgated by the council including but not limited to grinding, shredding, incineration or composting;

(iii) Rules and regulations of the council shall establish minimum acceptable removal and recovery rates for useful components of the solid waste stream. Such rates may be established for the facility as a whole, or may differ for different components of the solid waste stream;

(iv) Following adoption by the council of rules and regulations to implement this section, disposal of useful components of the solid waste stream shall be prohibited at any land disposal facility in the state;

(v) Residues remaining following processing, separation and reclamation of useful components of the solid waste stream shall be treated, stored or disposed in compliance with the requirements of this act.

(b) For purposes of this section useful components of the solid waste stream include but are not limited to energy, glass, ferrous and nonferrous metals, paper products and organic matter.

(c) Compliance with the requirements of this section for commercial solid waste management facilities does not limit any other requirements which may be applicable to such facilities under the act, nor any applicable local rule or ordinance.

§ 35-11-509. Lead acid batteries; land disposal prohibited.

(a) No person shall place a used lead acid battery in mixed municipal solid waste, discard or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, to a collection or recycling facility authorized under the laws of Wyoming, or to a secondary lead smelter permitted by the environmental protection agency.

(b) No automotive battery retailer shall dispose of a used lead acid battery except by delivery to the agent of a battery wholesaler, to a battery manufacturer for delivery to a secondary lead smelter permitted by the environmental protection agency, to a collection or recycling facility authorized under the laws of Wyoming or to a secondary lead smelter permitted by the environmental protection agency.

(c) Each battery improperly disposed of shall constitute a separate violation.

(d) Each violation of this section is a misdemeanor subject to a fine not to exceed one hundred dollars ($100.00).

§ 35-11-510. Lead acid batteries; collection for recycling.

(a) A person selling lead acid batteries at retail or offering lead acid batteries for retail sale in the state shall:

(i) Accept, at the point of transfer, in a quantity at least equal to the number of new batteries purchased per year, used lead acid batteries from customers, if offered by customers; and

(ii) Post written notice which shall be at least eight and one-half (8 ½) inches by eleven (11) inches in size and shall contain the universal recycling symbol and the following language:

(A) It is illegal to discard a motor vehicle battery or other lead acid battery;

(B) Recycle your used batteries; and

(C) State law requires us to accept used motor vehicle batteries or other lead acid batteries for recycling in exchange for new batteries purchased.

§ 35-11-511. Automotive battery retailers required to post notice; penalty.

The department shall produce, print and distribute the notices required by W.S. 35-11-510 to all places where lead acid batteries are offered for sale at retail. Failure to post the required notice shall subject the establishment to a fine of one hundred dollars ($100.00).

§ 35-11-512. Lead acid battery wholesalers.

Any person selling new lead acid batteries at wholesale shall accept, at the point of transfer, in a quantity at least equal to the number of new batteries purchased per year, used lead acid batteries from customers, if offered by customers. A person accepting batteries in transfer from an automotive battery retailer shall be allowed a period not to exceed one hundred twenty (120) days to remove batteries from the retail point of collection.

§ 35-11-515. Account created for the guarantee of costs for closure and post-closure care for municipally owned or operated solid waste disposal facilities.

(a) There is created an expendable trust account to provide a guarantee that adequate monies will be available to close and conduct post-closure monitoring at municipal solid waste disposal facilities, in compliance with the requirements of this article and applicable federal law. Monies shall be paid into and from the account in accordance with this section. Interest earned on investments from the account shall be credited back to the account.

(b) Any municipal solid waste disposal facility shall be eligible to participate in the account but shall not be required to participate. Participating facilities shall be eligible for the guarantees provided in subsection (c) of this section. Nonparticipating facilities shall not be eligible for the guarantees provided in subsection (c) of this section. Nonparticipating facilities may either separately or together, take necessary action to comply with state or federal closure and post-closure regulations.

(c) Participating facilities are exempt from any requirement under W.S. 35-11-504(c) pertaining to financial assurance requirements for closure and post-closure care of municipal solid waste disposal facilities. The state hereby guarantees, for purposes of compliance with subtitle D of the Resource Conservation and Recovery Act, P.L. 94-580 [42 U.S.C. § 6941 et seq.], and W.S. 35-11-504(a)(i), that the closure and post-closure care requirements of participating facilities will be satisfied by the provisions of this section.

(d) Each participating facility shall:

(i) Once every four (4) years prepare a closure and post-closure cost estimate in accord with rules of the council; or

(ii) Agree to use a standard closure and post-closure cost estimate prepared by the director.

(e) Each participating facility shall once every four (4) years calculate the remaining usable solid waste disposal capacity available at the facility, expressed in years. The procedures for calculating remaining capacity shall be prescribed by the director, after consultation with representatives of the participating facilities.

(f) Each participating facility shall pay annually into the account a premium, the sum of which at facility closure will equal no less than three percent (3%) of the sum of the closure and post-closure costs estimates specified in subsection (d) of this section.

(g) At any time following the proper certification of facility closure in compliance with rules of the council, a participating facility owner may apply to the director to receive a refund of the closure guarantee costs which have been paid into the account on behalf of the facility.

(h) At any time following the proper certification of the conclusion of the post-closure period in compliance with rules of the council, a participating facility owner may apply to the director to receive a refund of the post-closure guarantee costs which have been paid into the account on behalf of the facility.

(j) The council is authorized to adopt rules governing payment requirements, expenditures from the account, notifications by

owners, disclosures of information, and any other administrative matter associated with the account. Rules of the council shall prescribe that participating facilities electing to cease participating in the account, or applying for refunds under subsection (g) or (h) of this section, shall be entitled to a refund limited to ninety percent (90%) of the actual contribution paid by the facility, less any expenditures paid from the account on behalf of the facility which have not been recovered under subsection (m) of this section.

(k) The director shall use the account to perform closure or post-closure maintenance activities at any participating facility, if the facility owner is unable to carry out those responsibilities. The director, subject to appeal to the council, shall determine the amounts of any expenditures from the account.

(m) The attorney general shall file suit to recover any funds expended under subsection (k) of this section.

(n) Nothing in this section shall relieve any owner or operator of a solid waste management facility of the requirement to comply with applicable closure or post-closure requirements of this act. No third party cause of action is created by this section. Existence of the account does not limit the liability of any owner of a municipal solid waste disposal facility for damages or costs which may occur as the result of any failure to close, or conduct post-closure maintenance, in compliance with this act.

(o) For the purpose of this section:

(i) "Account" means the account created by subsection (a) of this section;

(ii) "Municipal solid waste disposal facility" means a solid waste landfill or land disposal facility which is owned or operated by a municipality and which receives any solid wastes, including garbage, trash and sanitary waste in septic tanks, derived from households and nonhazardous industrial waste;

(iii) "Participating facility" means a municipal solid waste disposal facility which elects to participate and is

participating in the account in accordance with the requirements of this section.

§ 35-11-516. Regulation of hazardous waste generators and transporters.

(a) Each person who generates or transports hazardous waste in an amount which would otherwise subject the person to regulation under subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580 [42 U.S.C. § 6921 et seq.], shall comply with the following requirements:

(i) Each generator shall:

(A) Keep adequate records of quantities, composition and disposition of the hazardous waste generated;

(B) Adequately label any containers used for the storage, transport or disposal of hazardous waste;

(C) Use appropriate containers for hazardous waste;

(D) Furnish information as may be required on the general chemical composition and hazardous properties of hazardous waste to persons transporting, treating, storing or disposing the waste;

(E) Use the national hazardous waste shipping manifest system, and employ any other reasonable means to assure that the hazardous waste generated is shipped to and arrives at the designated, authorized hazardous waste treatment, storage or disposal facility;

(F) Submit reports to the department at least once every two (2) years setting out:

(I) The quantities and nature of hazardous waste generated during the year;

(II) The disposition of all hazardous waste reported under this subsection;

(III) The efforts undertaken during the year to reduce the volume and hazardous characteristics of hazardous waste generated; and

(IV) The changes in volume and hazardous characteristics of waste actually achieved during the year reported in comparison with previous years.

(G) Certify, on the shipping manifest required under this subsection, that:

(I) The generator of the hazardous waste has a program in place to reduce the volume or quantity and hazardous characteristics of the waste to the degree determined by the generator to be economically practicable; and

(II) The proposed method of treatment, storage or disposal is that practicable method currently available to the generator that satisfies current regulatory requirements and which minimizes the present and future threat to human health and the environment.

(ii) Each transporter shall:

(A) Keep adequate records of hazardous waste transported, its source and delivery points;

(B) Transport hazardous waste only if it is properly labeled and manifested; and

(C) Transport hazardous waste only to the hazardous waste treatment, storage or disposal facility which the shipper designates on the manifest form, to be a facility holding a permit issued by the United States environmental protection agency, an authorized state or the department.

(b) The council shall, upon recommendation from the director, promulgate rules and regulations to implement the requirements of this section applicable to generators and transporters of hazardous waste, and to fuels produced from hazardous waste and mixtures of hazardous waste and other materials. The rules shall be no more and no less stringent than corresponding rules which have been adopted by the United States environmental protection agency to implement sections 3002 and 3003 of subtitle C of the Resource Conservation and Recovery Act. [42 U.S.C. § 6921 et seq.].

§ 35-11-517. Fees applicable to hazardous waste treatment, storage and disposal facility operators.

(a) The department shall implement a permit fee system and schedule of fees which are applicable to hazardous waste treatment, storage and disposal facilities.

(b) Permit fees shall be collected from applicants for permits for any facility subject to subsection (a) of this section, and annually from those existing facilities for the duration of the operating, closure and post-closure permit period. The fees for applicants for permits and the annual fees for inspection and enforcement shall be based on the facility type and size. The department shall develop a fee structure which, to the extent feasible, equitably apportions the department's estimated costs of implementing the requirements of this act applicable to the facilities, which is based on measurable goals, and which is sufficient to recover the amount reviewed by the joint appropriations interim committee and appropriated by the legislature for implementing the hazardous waste treatment, storage and disposal permitting program. The fee amount shall be sufficient to provide adequate enforcement of compliance with the hazardous waste requirements of this act, as required in section 3006(b) of the Resource Conservation and Recovery Act, 42 U.S.C. 6926(b). The department shall prepare a biennium report for review by the joint minerals, business and economic development interim committee by October 31 of the year prior to the Wyoming legislative budget session.

(c) Fees shall cover all reasonable direct and indirect costs including the costs of:

(i) Reviewing and acting upon any permit application, including applications for major permit amendments;

(ii) Implementing and enforcing permits; and

(iii) Carrying out permit and inspection-related functions performed by the department.

(d) The fees collected by the department pursuant to this section shall be deposited in a separate account, and shall be subject to appropriation by the legislature to the department solely for permitting, conducting inspections under and enforcing the requirements of this act governing facilities subject to subsection (a) of this section.

(e) The department shall give written notice of the amount of the fee to be assessed and the basis for the assessment to the facility owner. The owner may appeal the assessment to the council within forty-five (45) days after receipt of the written notice. The appeal shall be based only upon the allegation that the particular assessment is erroneous or excessive and shall not be based upon the entire fee schedule adopted under this section. The contested case procedures of the Wyoming Administrative Procedure Act shall apply to any appeal under this subsection.

(f) If any part of the assessment is not appealed it shall be paid to the department upon receipt of the written notice.

(g) The department in developing a fee schedule shall take into account the financial resources of small businesses as defined by the United States small business administration.

(h) Nothing in this section shall be construed to limit or modify any requirement of W.S. 35-11-503(b) with respect to fees for commercial radioactive waste management facility permits.

(j) This section shall not become effective until authorization of a state program pursuant to subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580. [42 U.S.C. § 6921 et seq.].

§ 35-11-518. Prior federal court orders and administrative orders.

(a) The department may become a party to, or assume the rights and duties of the federal government for, any federal court order which has been issued pursuant to subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580 [42 U.S.C. § 6921 et seq.], prior to the effective date of the authorization of the state hazardous waste program under that subtitle. Any person subject to a prior federal court order issued pursuant to subtitle C of the Resource Conservation and Recovery Act, shall not be subject to any additional, conflicting or more restrictive remedial or corrective action order or requirement under this act with respect to the hazardous waste management unit, solid waste management unit or area of concern that is the subject of the federal court order, unless required to comply with new requirements adopted under the Resource Conservation

and Recovery Act. If the department becomes a party to, or assumes the rights and duties of the federal government for, any prior federal court order, the department shall be governed by, and subject to, the dispute resolution procedures of the federal court which retains jurisdiction for the order and may, within those procedures and under the law governing the federal order, seek any remedy, change, amendment or other relief relating to the order.

(b) The department may issue an administrative order which is equivalent to any federal administrative order which has been issued pursuant to subtitle C of the Resource Conservation and Recovery Act, prior to the effective date of the authorization of the state hazardous waste program under that subtitle. The limitations regarding stringency contained in subsection (a) of this section apply to orders issued under this subsection. Following the issuance of any order under this subsection, any disputes concerning implementation of the order shall be resolved by appeal to the council as provided by this act. Any person aggrieved or adversely affected in fact by a final decision of the council is entitled to judicial review in accordance with the Wyoming Administrative Procedure Act.

§ 35-11-519. Hazardous waste corrective action requirements.

Corrective action requirements applicable to any hazardous waste management facility shall be consistent with, and equivalent to, corrective action requirements contained in rules and regulations adopted by the United States environmental protection agency under authority of subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580 [42 U.S.C. § 6921 et seq.], as amended by the hazardous and solid waste amendments of 1984, P.L. 98-616, and as they may be hereafter amended.

§ 35-11-520. Termination of state regulation of hazardous waste generators and transporters; procedures.

(a) The department shall report to the legislature any reduction in federal hazardous waste grant funds supplied to the state under section 3011 of the Resource Conservation and Recovery Act (42 U.S.C. 6931), which results in the need for additional state funds, exclusive of fees under W.S. 35-11-517, to administer W.S. 35-11-516 through 35-11-520.

(b) The provisions of W.S. 35-11-516 through 35-11-519 shall not be effective one hundred eighty (180) days after the adjournment of the legislative session next following the submission of a report under subsection (a) of this section, unless the legislature appropriates the additional funds required. The expiration of the state program pursuant to this subsection shall be subject to the following:

(i) The annual fee collected by the department under W.S. 35-11-517 shall be remitted to the facility owner on a prorated basis upon termination of regulation by the state under this section;

(ii) The department shall vacate any order issued to any generator or transporter to enforce any provision of W.S. 35-11-516 through 35-11-519;

(iii) The state attorney general may continue to prosecute any action based on alleged violations of W.S. 35-11-516 through 35-11-519 which was filed prior to the adjournment of the legislative session referred to in subsection (b) of this section.

§ 35-11-521. Grants for municipal solid waste landfill monitoring.

(a) Subject to the availability of funds, the director shall provide grants toward the costs of performing activities specified in subsection (b) of this section to local governmental entities who own or are responsible for any municipal solid waste landfill, for any project where a work plan has been submitted to the department for work performed or initiated after July 1, 2005.

(b) Grant funding under this section may be provided at existing or closed municipal solid waste landfills for the following activities:

(i) Conducting surface or subsurface geophysical studies to determine proper monitor system placement and to provide an indication of the presence or absence of groundwater beneath and adjacent to the landfill;

(ii) Preparing plans for installation of systems to monitor or detect releases of subsurface pollutants from landfills;

(iii) Installing new monitor systems or upgrading existing monitor systems to meet standards for the systems established by the department under this article; and

(iv) Collecting and analyzing samples from monitor systems installed under paragraph (iii) of this subsection, for a period of time sufficient to determine if there have been releases of subsurface pollutants from the landfill for any landfill which ceased receipt of solid wastes before September 13, 1989.

(c) Grants for eligible costs under subsection (b) of this section may be awarded:

(i) For up to fifty percent (50%) of the eligible costs; or

(ii) For up to seventy-five percent (75%) of eligible costs for applicants meeting the following criteria:

(A) Municipalities with a population of less than one thousand three hundred (1,300) or which are located within a county where the three (3) year average of the total local government share of state sales and use tax per capita is less than seventy percent (70%) of the statewide per capita average; or

(B) Counties, solid waste disposal districts, joint powers boards, and special purpose districts located within a county with a total assessed valuation of less than two and one-half percent (2.5%) of the state's total assessed valuation.

§ 35-11-522. Grant criteria; submission and review of grant applications; recommendation from water and waste advisory board; grant awards.

(a) Following public notice and hearing before the water and waste advisory board, the department shall adopt criteria for awarding grants under W.S. 35-11-521.

(b) When funds are available, applications for grants under W.S. 35-11-521 shall be submitted in a form approved by the department. The department shall review all grant applications, determine the eligibility of projects in accordance with W.S. 35-11-521 and provide recommendations for grant funding to the water and waste advisory board.

(c) Following a public hearing, the water and waste advisory board shall provide recommendations for grant awards to the director.

(d) The director shall award grants in consideration of recommendations provided by the water and waste advisory board.

(e) Repealed by Laws 2011, ch. 110, § 3.

§ 35-11-523. Annual report.

(a) Effective January 1, 2012, every operator shall file an annual report with the administrator on or within thirty (30) days prior to the anniversary date of each lifetime permit. The report shall include:

(i) The facility name, the name and address of the operator and the permit number;

(ii) A report in such detail as the administrator shall require supplemented with maps, cross sections, aerial photographs, photographs or other material indicating:

(A) The extent to which the landfill operations have been carried out;

(B) The progress of all landfill work;

(C) The extent to which regulatory requirements, expectations and predictions made in the original permit or any previous annual reports have been fulfilled, and any deviation there from, including but not limited to the capacity of landfill used, the results of any environmental monitoring, any remediation required or completed and the remaining usable municipal solid waste landfill capacity.

(iii) A revised schedule or timetable of landfill operations and an estimate of the available capacity to be affected during the next one (1) year period.

(b) Upon receipt of the annual report the administrator shall make such further inquiry as deemed necessary. If the administrator objects to any part of the report or requires further information he shall notify the operator as soon as possible and shall allow a reasonable opportunity to provide the

required information, or take such action as necessary to resolve the objection.

(c) Within forty-five (45) days after the receipt of the annual report the administrator shall conduct an inspection of the landfill. A report of this inspection shall be made a part of the operator's annual report and a copy shall be delivered to the operator.

(d) Within sixty (60) days after receipt of the annual report, inspection report and other required materials, if the administrator finds the annual report in order and consistent with the landfill operation plan and solid waste management plan as set forth in the permit, or as amended to adjust to conditions encountered during landfill operations as provided by law, the director shall determine if any adjustment is necessary to the size of the bond required pursuant to W.S. 35-11-504.

§ 35-11-524. Municipal solid waste landfill assessments; priority list; monitoring.

(a) The department shall conduct an assessment of the needs for municipal solid waste landfill monitoring and the necessity for any remediation on leaking municipal solid waste landfills in Wyoming.

(b) The department shall establish a priority list for municipal solid waste landfills that need remediation. The criteria used to establish this priority list shall be developed and reviewed with the water and waste advisory board. The criteria shall include, but not be limited to the:

(i) Type of leachate;

(ii) Volume of leachate;

(iii) Proximity of the leachate to the nearest surface or ground water;

(iv) Ability of the responsible municipality to remediate the contamination;

(v) The nature of contaminants in surface or ground water affected by the municipal solid waste landfill, including whether a contaminant is naturally occurring or manmade; and

(vi) Maximum contaminant levels.

(c) For high priority sites identified on the list established under subsection (b) of this section, the department shall work with the local managers of the high priority municipal solid waste landfills to gather data necessary for the report due under subsection (d) of this section.

(d) The department shall submit to the joint minerals, business and economic development interim committee:

(i) No later than December 31, 2012, an initial report describing an assessment of the clean-up costs at the high priority municipal solid waste landfills;

(ii) No later than June 30, 2013, and annually thereafter, a report including, but not limited to:

(A) Monitoring results;

(B) Remediation results;

(C) The assessment of the clean-up costs at municipal solid waste landfills, including high, medium and low priority landfills;

(D) Estimated high priority sites to be addressed in the coming year;

(E) Orphan landfill sites information and data as required pursuant to W.S. 35-11-525(e).

§ 35-11-525. Orphan landfill sites.

(a) The director may expend funds contained within the account for remediation of orphan landfill sites and the performance of any other activity as defined in this article.

(b) As used in this section, "orphan landfill site" means:

(i) A landfill where the department determines:

(A) There is no viable party responsible for causing or contributing to the landfill site; and

(B) The landfill site is not the result of activities conducted on the site after September 13, 1989.

(ii) A landfill site, where the department determines that the person responsible for the landfill cannot be identified;

(iii) A landfill site where the department must take prompt action to prevent hazards to human health or the environment where a responsible party fails to act promptly.

(c) To the extent funds are available, the department may expend funds from the account to conduct orphan landfill site evaluations and testing, evaluate remedial measures, select remediation requirements and construct, install, maintain and operate systems to remedy contamination in accordance with a remediation work plan prescribed by the director for the orphan landfill site.

(d) Revenue to the account shall include any monies which may be deposited in the account for use in identification, characterization, prioritization, remediation and monitoring of orphan landfill sites. The liability of the state to fulfill the requirements of this section is limited to the amount of funds available in the account.

(e) The department shall provide a report to the joint appropriations interim committee and the joint minerals, business and economic development interim committee. The report shall be included in the report required under W.S. 35-11-524(d) and shall include:

(i) The work completed on the identification, characterization, prioritization, remediation and monitoring of orphan landfill sites within the state;

(ii) The estimated funding need for the identification, characterization, prioritization, remediation and monitoring of orphan landfill sites within the state for:

(A) The next year or the next biennium, as applicable; and

(B) The next ten (10) years.

(f) In any case under paragraph (b)(iii) of this section where the department expends funds to remediate or contain contamination resulting from a landfill, and where the department has identified a responsible party, the responsible party shall reimburse the department in an amount equal to two

(2) times the expenditure from the account. The attorney general shall bring suit to recover the reimbursement amount required in this subsection where recovery is deemed possible.

(g) For purposes of this section, "account" means the account created under W.S. 35-11-515(a).

§ 35-11-526. Performance based design and performance based evaluation in consideration and approval of engineered containment systems as part of municipal solid waste landfill permits.

(a) A person submitting an application for a permit pursuant to W.S. 35-11-502 which contains a performance based design for a municipal solid waste landfill that does not incorporate an engineered containment system utilizing a composite liner and leachate collection system, shall submit a report with the application. The report shall contain the applicant's findings as to the proposed performance based design's compliance with applicable state and federal laws and regulations. The report shall contain scientific and engineering data supporting the implementation of the proposed design.

(b) In reviewing scientific and engineering data related to a permit application and report containing a performance based design which does not incorporate an engineered containment system utilizing a composite liner and leachate collection system, the administrator shall prepare a detailed performance evaluation based on applied scientific and engineering data that adheres to W.S. 35-11-527. The administrator shall determine in the performance evaluation whether to validate or invalidate the performance based design or an alternative performance based standard for landfill design contained in the permit application. The administrator shall base the performance based evaluation on acceptable applied scientific and engineering data and an analysis of that data using statistical procedures, including statistical power, when applicable.

(c) The applicant or other interested party may appeal the administrator's determination contained in a performance based evaluation of a permit pursuant to W.S. 35-11-502. If the council determines that the performance based evaluation does not accurately or adequately identify and evaluate all the data

and criteria required under this section and W.S. 35-11-527, the council shall direct the administrator to reevaluate his determination. A decision by the council that the performance based evaluation is accurate and adequate shall be a final decision of the agency pursuant to the Wyoming Administrative Procedure Act.

§ 35-11-527. Performance based design evaluation criteria for municipal solid waste landfill units.

(a) New municipal solid waste landfill units and lateral expansions approved by the administrator under W.S. 35-11-502 and 35-11-526 shall be constructed:

(i) In accordance with a performance based design approved by the administrator in a performance based evaluation pursuant to W.S. 35-11-526. Any performance based design approved must ensure that the concentration values for pollutants listed in the National Primary Drinking Water Regulations, 40 C.F.R. Part 141, will not be exceeded in the uppermost aquifer at the relevant point of compliance as determined under subsection (c) of this section; or

(ii) With an engineered containment system that utilizes a composite liner and a leachate collection system that is designed and constructed to maintain less than a thirty (30) centimeter depth of leachate over the liner.

(b) When approving a design that complies with paragraph (a)(i) of this section, in addition to the requirements of W.S. 35-11-526 the administrator shall consider other relevant factors, including, but not limited to:

(i) The hydrogeologic characteristics of the facility and surrounding land;

(ii) The climatic factors of the area; and

(iii) The physical and chemical characteristics and volume of the leachate.

(c) The relevant point of compliance specified by the administrator for the allowable concentration values for pollutants under paragraph (a)(i) of this section shall be no more than one hundred fifty (150) meters from the waste

management unit boundary and shall be located on land owned by the owner of the municipal solid waste landfill. In determining the relevant point of compliance, the administrator shall consider at least the following factors:

(i) The hydrogeologic characteristics of the facility and surrounding land;

(ii) The physical and chemical characteristics and volume of the leachate;

(iii) The quantity, quality and direction of flow of ground water in the area;

(iv) The proximity and withdrawal rate of ground water users;

(v) The availability of alternative sources of drinking water supplies;

(vi) The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water and whether the ground water is currently used or reasonably expected to be used for drinking water;

(vii) Public health, safety and welfare effects; and

(viii) Practicable capability of the owner or operator.

§ 35-11-528. Municipal solid waste facilities cease and transfer program created; criteria for grants and loans; loan terms; availability of other state funding sources.

(a) There is created the municipal solid waste facilities cease and transfer program. Grants and loans under the program shall be awarded by the state loan and investment board. The program shall be administered by the solid and hazardous waste division of the department of environmental quality with the input of the waste and water advisory board as provided in W.S. 35-11-528 through 35-11-531.

(b) Grants and loans shall be made from the municipal solid waste facilities cease and transfer accounts for all cease and transfer activities as provided in this section and by rule and regulation of the board. Grants and loans shall be made for:

(i) Capping of a closed landfill;

(ii) Other closure related expenses including engineering, geological and other professional services;

(iii) Construction or acquisition of appropriate solid waste transfer facilities and equipment, including acquisition of real property.

(c) Total costs of cease and transfer activities for a municipal solid waste facility shall be determined by the department in consultation with the local municipal solid waste facility operator. Grants shall be awarded in an amount determined by the state loan and investment board after consultation with the department and pursuant to the criteria contained in subsection (d) of this section. A municipal solid waste facility which is ceasing operations shall be eligible to receive loans for the costs of cease and transfer activities not funded by a grant pursuant to subsection (e) of this section.

(d) Except as provided in subsection (h) of this section, grants and loans for cease and transfer activities shall be awarded in an amount determined by the state loan and investment board not to exceed seventy-five percent (75%) of the total cost of all cease and transfer activities of the municipal solid waste facility. The state loan and investment board shall base its determination of the percentage of grants and loans awarded for cease and transfer projects under the program on an equitable distribution of available funds among eligible municipal solid waste landfills and rules and regulations adopted pursuant to W.S. 35-11-530. To be eligible for funding under the program the following criteria shall be met:

(i) The local operator enters into a written agreement with the department to meet all regulatory obligations under the program;

(ii) The local operator implements and revises the community's solid waste management plan as necessary to comply with all regulatory obligations;

(iii) The local operator ceases disposal of all municipal solid waste streams at the closed municipal solid waste facility;

(iv) The local operator conforms to the requirements of W.S. 35-11-532;

(v) The local operator:

(A) Ceases disposal into units and facilities regulated under this article which do not have engineered containment systems or do not conform to performance based design standards; or

(B) Obtains department approval, that shall include a time period determined appropriate by the department for operation, to:

(I) Transfer and dispose municipal solid waste into permitted units and facilities regulated by the department which do not have engineered containment systems or do not conform to performance based design standards, for the purpose of closing the facility that is transferring municipal solid waste; and

(II) Increase the rate at which municipal solid waste is accepted for disposal into permitted units and facilities regulated by the department which do not have engineered containment systems or do not conform to performance based design standards, for the purpose of promoting the early closure of the receiving facility or facilities. If the department grants approval under this subparagraph the receiving facility shall not be allowed to enlarge or extend the life of its facility except in furtherance of becoming a facility with an engineered containment system or conforming to performance based design standards.

(e) Loans may be made under the program at zero interest rate, up to an annual interest rate equal to the average prime interest rate as determined in accordance with this subsection. Loans provided under the program shall be adequately collateralized as determined by the state loan and investment board. Principal and interest payments shall be deposited in the budget reserve account. The state loan and investment board shall establish interest rates to be charged for loans under the program, but the interest rate shall not exceed an annual interest rate equal to the average prime interest rate as determined by the state treasurer. To determine the average prime interest rate, the state treasurer shall average the prime interest rate for at least seventy-five percent (75%) of the thirty (30) largest banks in the United States. The interest rate shall be adjusted on January 1 of each year. Interest rates shall be established in recognition of the repayment abilities and needs of the local municipal solid waste facility operator

eligible for loans under the program. The state loan and investment board shall establish loan amortization schedules, terms and conditions for each loan approved based on an applicant's need, financial condition of the landfill operator or the entity responsible for solid waste funding, the projected life of the transfer facility and the ability of that entity to repay the loan in a timely manner.

(f) Participation in the program shall not restrict funding for a municipal solid waste facility from any other program created or supported by the state.

(g) Funds under the program shall not be expended on:

(i) Salaries or benefits for employees of the municipal solid waste facility;

(ii) Long-term monitoring at a closed municipal solid waste facility or a closed cell of a still operating municipal solid waste facility;

(iii) Operational costs of municipal solid waste facilities.

(h) Upon a showing that a local operator has exhausted all reasonably available funding sources, the director may recommend to the state loan and investment board funding in the form of grants and loans for up to one hundred percent (100%) of the total cost of cease and transfer activities of the municipal solid waste facility. In addition to the requirements contained in subsection (d) of this section, the state loan and investment board shall base its determination of a grant or loan award under this subsection on whether the local operator:

(i) Has any additional funding sources reasonably available to allocate to project costs;

(ii) Is charging sufficient gate or use fees to fully fund the operational costs of transfer facilities constructed under the program.

§ 35-11-529. Municipal solid waste facilities cease and transfer accounts created; authorized expenditures from the accounts.

(a) There is created the municipal solid waste cease and transfer grant account. Monies from the account shall be awarded for grants to fund approved activities pursuant to W.S. 35-11-

528. Interest earned by this account shall be deposited in the budget reserve account. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), funds deposited in this account shall not revert without further action of the legislature.

(b) There is created the municipal solid waste cease and transfer loan account. Monies from the account shall be awarded for loans to fund approved activities pursuant to W.S. 35-11-528. Interest earned by this account shall be deposited in the budget reserve account. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), funds deposited in this account shall not revert without further action of the legislature.

§ 35-11-530. Rules and regulations.

(a) The state loan and investment board in consultation with the department of environmental quality shall promulgate rules and regulations necessary to administer the municipal solid waste facility cease and transfer program. Those rules shall include:

(i) Criteria for eligibility under the program based on W.S. 35-11-528(d);

(ii) Specific cease and transfer activities which are eligible for funding under the program;

(iii) Application form and procedure under the program;

(iv) Criteria for grant and loan prioritization based on:

(A) Funding availability;

(B) Cost efficiencies achieved by allocation of resources;

(C) Opportunities for increased cost sharing between cease and transfer actions at multiple leaking municipal solid waste facilities;

(D) Timeliness of cease and transfer actions in reducing risk to public health, safety and welfare or the environment;

(E) Remaining life of the existing municipal solid waste facility;

(F) Whether the proposed actions are a cost-effective alternative in accordance with the integrated solid waste management plan approved for the municipal solid waste facility;

(G) Whether the proposed action is reasonable and appropriate for the current and projected volumes of all solid waste for the area served by the facility;

(H) Whether the proposal contains recycling and other forms of waste diversion as a component of the proposed facilities and management practices; and

(J) The likelihood that the cease and transfer actions will reduce or eliminate the threat posed to public health, safety and welfare or the environment by continuing releases.

§ 35-11-531. General permit for cease and closure for small landfills; rulemaking authority.

(a) The department shall develop a general permit in accordance with W.S. 35-11-801(d) for closing municipal solid waste landfills with a total surface area of less than thirty (30) acres, and shall provide assistance to municipalities in the general permitting process. The general permit shall comply with federal requirements for municipal solid waste landfill closure and post-closure.

(b) The department shall provide assistance for permitting municipal solid waste transfer facility activities at closing municipal solid waste landfills with a total surface area of less than thirty (30) acres.

(c) The department shall promulgate rules and regulations necessary to achieve the purposes of this section.

(d) Repealed by Laws 2019, ch. 186, § 2.

§ 35-11-532. Municipal solid waste facility operator financial responsibility; penalties.

(a) Municipal solid waste facility operators shall ensure continued revenue or funding streams sufficient to provide for all foreseeable costs of the facility, including but not limited to the full costs of:

(i) Operations;

(ii) Monitoring;

(iii) Recycling, composting and other diversion activities;

(iv) Closure; and

(v) Post-closure activities.

(b) On or before January 1, 2014 and at least once every four (4) years thereafter, municipal solid waste facility operators shall submit to the department written documentation demonstrating compliance with subsection (a) of this section.

(c) Municipal solid waste facility operators shall employ accounting principles pursuant to the Uniform Municipal Fiscal Procedures Act, W.S. 16-4-101 through 16-4-125, which recognize liabilities associated with:

(i) Closure and post-closure costs; and

(ii) The long-term cost of waste disposal compared to recycling, composting or other diversion activities.

(d) Compliance with this section shall be a prerequisite for eligibility for any state grant and loan program available to a municipal solid waste facility and state funding for solid waste landfill monitoring and remediation.

§ 35-11-533. Municipal solid waste landfill remediation program created; purpose.

(a) There is created the municipal solid waste landfill remediation program. The program shall be administered by the solid and hazardous waste division of the department of environmental quality with the input of the waste and water advisory board as provided in W.S. 35-11-533 through 35-11-537.

(b) The legislature recognizes the threat to the public health, safety, welfare and the environment caused by pollution to soil and water from leaking municipal solid waste landfills. The purpose of this program is to take state primacy of the municipal solid waste landfill remediation program and to provide funding to take remediation actions at eligible leaking municipal solid waste landfills.

§ 35-11-534. Program criteria; requirements for local operator.

(a) The department shall contract with entities, including contractors and local operators, to provide monitoring and remediation activities, including but not limited to groundwater

remediation and monitoring, methane mitigation and monitoring and landfill capping, at eligible leaking municipal solid waste landfills. The department shall oversee and fund up to seventy-five percent (75%) of the cost of the investigation of contamination, the design and installation of monitoring and remediation systems and the operation and maintenance of monitoring and remediation systems for up to ten (10) years. The department may operate and maintain a system for a longer period of time in consideration of site specific circumstances. The period of time during which the department shall have responsibility for the monitoring and remediation activities at a leaking municipal solid waste landfill shall be communicated to the local operator prior to installation of the monitoring and remediation systems.

(b) The department shall contract for monitoring and remediation activities under the program at leaking municipal solid waste landfills based upon the priority list of landfills developed pursuant to W.S. 35-11-524 and other factors as provided in W.S. 35-11-536(a)(iv). The department shall update the priority list of leaking landfills requiring monitoring and remediation activities periodically as conditions warrant and may consider all relevant factors when developing and updating the priority list.

(c) To be eligible for enrollment under the program, the local operators of a leaking municipal solid waste landfill shall:

(i) Enter into a written agreement with the department to meet all regulatory obligations under the program;

(ii) Implement and revise the community's solid waste management plan as necessary to comply with all regulatory obligations;

(iii) Cease disposal of all waste streams at a leaking closed facility or the leaking portion of an operating facility which is undergoing remediation activities pursuant to department rules and regulations and the written agreement between the department and the local operator;

(iv) Cease disposal into units and facilities regulated under this article which do not have engineered containment systems or do not conform to performance based design standards;

(v) Agree to provide funding from any available funding source for at least twenty-five percent (25%) of the total costs of monitoring and remediation under the program;

(vi) Control the source of releases of pollution so as to reduce or eliminate further releases from the leaking municipal solid waste landfill;

(vii) Ensure continued revenue or funding streams sufficient to provide for all foreseeable costs of solid waste facilities under the control of the local operator or political subdivision, including but not limited to the full costs of:

(A) Operations;

(B) Monitoring;

(C) Recycling, composting and other diversion activities;

(D) Closure; and

(E) Post-closure activities.

(viii) Employ accounting principles in managing all solid waste facilities under the control of the local operator or political subdivision, pursuant to the Uniform Municipal Fiscal Procedures Act, W.S. 16-4-101 through 16-4-125, which recognize liabilities associated with:

(A) Closure and post-closure costs; and

(B) The long-term cost of waste disposal compared to recycling, composting or other diversion activities.

(d) In carrying out monitoring and remediation activities under the program the department has the right to construct and maintain any structure, monitor well, recovery system or any other reasonable and necessary item associated with taking remediation and monitoring actions.

(e) The department shall notify the affected public of all confirmed releases requiring a plan for remediation, and upon request, provide or make available to the interested public information concerning the nature of the release and the remediation actions planned or taken.

(f) The department shall delegate and authorize a local operator to conduct or oversee monitoring and remediation under the program pursuant to a written agreement between the department and the local operator acknowledging that the local operator shall adhere to all regulatory requirements of the program in conducting monitoring and remediation activities. The department shall approve the local operator's monitoring and remediation plan prior to authorizing the local operator to conduct or oversee the monitoring and remediation program. The department shall take all actions necessary to ensure that a local operator granted authority to conduct or oversee monitoring and remediation activities under this subsection complies with all regulatory requirements of the program.

§ 35-11-535. Municipal solid waste landfill remediation account; authorized expenditures from the account.

(a) There is created the municipal solid waste landfill remediation account. The department shall use monies from the municipal solid waste landfill remediation account as appropriated by the legislature for the administration of the program. Interest earned by this account shall be deposited in the general fund. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), funds deposited in this account shall not revert without further action of the legislature.

(b) For a leaking municipal solid waste landfill to be eligible for use of monies in the account, the owner or operator of the site shall comply with all requirements of the program and regulations of the council adopted pursuant to W.S. 35-11-536.

(c) In addition to expenditures from the account authorized by W.S. 35-11-534(a), the department shall issue a credit in an amount not to exceed the local operator's twenty-five percent (25%) share required by W.S. 35-11-534(c)(v) of the total cost of eligible remediation and monitoring activities provided in W.S. 35-11-534(a), for past remediation and monitoring expenses incurred by the local operator as specified in this subsection. The department shall issue credits under this subsection for costs incurred by a local operator for remediation and monitoring activities from the account if:

(i) A work plan for the remediation and monitoring activities was submitted to and approved by the department;

(ii) The remediation and monitoring activities were initiated after July 1, 2006;

(iii) The local operator of a municipal solid waste landfill provides the department with an accurate accounting of the costs of remediation and monitoring activities conducted at the municipal solid waste landfill after July 1, 2006 and the department determines that those remediation and monitoring activities would be eligible for funding if they had been performed under the program;

(iv) The local operator conducts additional remediation and monitoring activities at the leaking municipal solid waste landfill which are eligible for funding under W.S. 35-11-534(a) on or after July 1, 2013; and

(v) A credit issued under this subsection shall not exceed an amount equal to seventy-five percent (75%) of the cost incurred by the local operator for eligible remediation and monitoring activities after July 1, 2006.

(d) Repealed by Laws 2015, ch. 47 § 2.

§ 35-11-536. Rules and regulations.

(a) The council shall promulgate rules and regulations necessary to administer the program after recommendation from the director of the department, the administrator of the solid and hazardous waste division and the water and waste advisory board. The rules shall include but shall not be limited to rules and regulations which:

(i) Provide for landfill monitoring and remediation system design, construction, installation and monitoring standards which shall be no less stringent than federal requirements;

(ii) Specify the requirements for delegating installation or modification inspection authority including but not limited to requirements for contractors and local operators;

(iii) Establish a procedure or procedures for reporting any release from a municipal solid waste landfill;

(iv) Include provisions under which priorities for remediation actions shall be established in addition to the priority list created pursuant to W.S. 35-11-524. Those priorities shall be established considering, but not limited to, the following factors:

(A) Funding availability;

(B) Cost efficiencies achieved by allocation of resources;

(C) Opportunities for increased cost sharing between monitoring and remediation actions at multiple leaking municipal solid waste landfills;

(D) Timeliness of remediation in reducing risk to public health, safety and welfare or the environment;

(E) The likelihood that the remedy will reduce or eliminate the threat posed to public health, safety and welfare or the environment by continuing releases; and

(F) Whether the facility has completed closure and transfer actions at the leaking municipal solid waste facility. Priority shall be given to solid waste facilities which have completed closure and transfer actions.

(v) Require records for compliance with repairs and upgrades to be maintained for the operational life of the landfill remediation and monitoring system;

(vi) Create requirements for participation in the program and for the return of the facility to local control pursuant to W.S. 35-11-534(a); and

(vii) Specify standards for restoration of the environment.

§ 35-11-537. Restoration standard.

Any owner or operator, the department or other person taking a corrective action shall restore the environment to a condition and quality consistent with standards established in rules and regulations.

Article 6
Variances

§ 35-11-601. Applications; authority to grant; hearing; limitations; renewals; judicial review; emergencies.

(a) Any person who owns or is in control of any real or personal property, any plant, building, structure, process or equipment may apply to the administrator of the appropriate division for a variance from any rule, regulation, standard or permit promulgated under this act. A variance may be granted upon notice and hearing. The administrator shall give public notice of the request for a variance in the county in which such real or personal property, plant, building, structure, process or equipment is in existence for which the variance is sought. The notice shall designate who has applied for the variance and the nature of the variance requested and the time and place of hearing and shall be published in a newspaper of general circulation in said county once a week for four (4) consecutive weeks prior to the date of the hearing. The cost of publication shall be paid by the person applying for the variance. The administrator of the division shall promptly investigate the request, consider the views of the persons who may be affected by the grant of the variance, and all facts bearing on the request, and make a decision with the approval of the director within sixty (60) days from the date the hearing for a variance is held.

(b) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution, or mining operation involved, it shall continue in effect only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the director may prescribe.

(c) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the director is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable

for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(d) A variance may be granted by the council from standards established by the council for sulfur oxide emissions, if the council determines that the state of the technology for removal of sulfur oxides from the stack gasses is insufficiently advanced to achieve the objective level without causing undue economic hardship on the owner of the facility or the consumer of the product produced by the facility or if the council determines that the developing technology offers promise that superior equipment might, in the near future, be available which would render presently available equipment obsolete and that the best interests of the state would be served by the issuance of the variance. In considering such a variance, the council must consider the health and well being of the citizens in the vicinity of the facility and the effect upon livestock and agricultural production in the area. In no event shall the variance permit emissions less stringent than existing federal standards covering the emission of sulfur oxides. Each application for a variance will be issued on a case by case basis considering the state of the technology at the time of each application.

(e) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in subsections (b), (c) and (d) of this section, it shall be for not more than one (1) year.

(f) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint by an aggrieved party is made to the director on account of the variance, no renewal thereof shall be granted, unless following public hearing on the complaint on due notice, the council finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the variance.

(g) Any variance or renewal thereof granted by the director pursuant to this section shall become final unless within thirty (30) days after date of notice as provided in subsection (a) of this section an aggrieved party as defined by this act in

writing may request a hearing before the council. Upon the filing of such a request for a hearing, the variance shall be stayed pending the council's final determination thereon.

(h) If, after a hearing held pursuant to this section, the council finds that a variance is required, it shall affirm or modify the order previously issued by the director or issue an appropriate order for variance as it deems necessary. If, after a hearing held pursuant to this section, the council finds that there is no need for a variance, it shall rescind the issuance of a variance.

(j) In connection with any hearing held pursuant to this section, the council has the power and upon application by any aggrieved party, it has the duty to compel the attendance of witnesses, and the production of evidence on behalf of all parties.

(k) Any aggrieved party adversely affected by a variance or renewal of same or the denial of same may obtain judicial review thereof in the manner prescribed by the Wyoming Administrative Procedure Act [§§ 16-3-101 through 16-3-115].

(m) Failure to comply with the conditions imposed by any variance shall be cause for modification or termination of the variance by the director.

(n) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of W.S. 35-11-115 to any person or property.

(o) Nothing in this section shall be construed to permit an application for a water variance. The application for water permits must be made solely under the provisions of W.S. 35-11-302.

(p) Nothing in this act or regulations under this act shall be construed to permit an application for a variance which would result in less stringent land use or environmental controls or regulations of surface coal mining and reclamation operations than authorized by P.L. 95-87, as that law is worded on August 3, 1977, or the federal regulations promulgated pursuant thereto.

(q) In order to encourage advances in mining and reclamation practices or to allow post-mining land use for industrial, commercial, residential or public use (including recreational facilities), the director, with approval by the secretary of the interior, may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated by the council under this act. Such departures may be authorized if:

(i) The experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards;

(ii) The mining operations approved for particular land-use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices; and

(iii) The experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

(r) The secretary of interior, acting through the office of surface mining reclamation and enforcement, shall assist the state in the development of a state program for surface coal mining and reclamation operations which meet the requirements of this act and P.L. 95-87, and at the same time, reflect local requirements and local environmental and agricultural conditions.

Article 7
Complaints

§ 35-11-701. Complaint; investigations; conference; cease and desist order; hearing; referee.

(a) If the director or the administrators have cause to believe that any persons are violating any provision of this act or any rule, regulation, standard, permit, license, or variance issued pursuant hereto, or in case any written complaint is filed with the department alleging a violation, the director, through the appropriate administrator, shall cause a prompt investigation to be made.

(b) For surface coal mining operations, in the instance of a written complaint by any person which provides a reasonable basis to believe that a violation of article 4 of this act, or of any rule, regulation, standard, order, license, variance or permit issued thereunder, exists, the investigation shall include a prompt inspection. In such event the director shall notify the person when the inspection is proposed to be carried out and the person shall be allowed to accompany the inspector during the inspection, subject to reasonable control by the inspector. The operator shall have a duty to exercise reasonable care for the person's safety only if his presence is known. However, this duty shall not include the duty to inspect the premises to discover dangers which are unknown to the operator, nor giving warning or protection against conditions which are known or should be obvious to the person. The operator or his designee shall be allowed to be present for any such inspection.

(c) For other than those violations specified under subsection (b) of this section, if, as a result of the investigation, it appears that a violation exists, the administrator of the proper division may, by conference, conciliation and persuasion, endeavor promptly to eliminate the source or cause of the violation:

(i) In case of failure to correct or remedy an alleged violation, the director shall cause to be issued and served upon the person alleged to be responsible for any such violation a written notice which shall specify the provision of this act, rule, regulation, standard, permit, license, or variance alleged to be violated and the facts alleged to constitute a violation thereof, and may require the person so complained against to cease and desist from the violation within the time the director may determine;

(ii) Any order is final unless, not later than ten (10) days after the date the notice is served, the person or persons named therein request, in writing, a hearing before the council. Upon the filing of a request the order complained of shall be stayed pending the council's final determination thereon;

(iii) If after a hearing held pursuant to this section, the council finds that a violation has occurred, it shall affirm or modify such order previously issued, or issue an appropriate

order or orders for the prevention, abatement or control of the violation involved or for the taking of other corrective action. If, after a hearing on an order contained in a notice, the council finds that no violation has occurred, it shall rescind the order. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation shall cease and may prescribe timetables for action. Nothing contained in this subsection shall be construed as preventing any person from applying for a variance as provided in W.S. 35-11-601;

(iv) At any hearing before the council, it may designate a person to be a referee and may authorize the referee to receive evidence, administer oaths, examine witnesses and issue subpoenas requiring the testimony of witnesses and the production of evidence and to make reports and recommendations with respect thereto. Any final determination based on the evidence received by any referee shall be made solely by the council.

(d) Nothing in this section shall be interpreted to in any way limit or contravene any other remedy available under this act, nor shall this section be interpreted as a condition precedent to any other enforcement action under this act.

Article 8
Permits

§ 35-11-801. Issuance of permits and licenses.

(a) When the department has, by rule or regulation, required a permit to be obtained it is the duty of the director to issue such permits upon proof by the applicant that the procedures of this act and the rules and regulations promulgated hereunder have been complied with. In granting permits, the director may impose such conditions as may be necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards. An administrator shall not issue permits and may issue a license under this act only as specifically authorized in this act.

(b) Except as otherwise provided in this act the director shall take final action on any application for permit or extension thereof within sixty (60) days after receipt of same unless

public notice or hearing is required by state or federal statute.

(c) Except as provided in subsection (e) of this section, a permit to construct is required before construction or modification of any industrial facility capable of causing or increasing air or water pollution in excess of standards established by the department is commenced.

(d) General permits shall be issued solely in accordance with procedures set forth by regulation adopted by the council. Procedures for the issuances of general permits shall include public notice and an opportunity for comment. All department authorizations to use general permits under this section shall be available for public comment for thirty (30) days. Any aggrieved party may appeal the authorization as provided in this act.

(e) Except for sources required to have a permit before construction or modification under the applicable requirements of W.S. 35-11-203 and sources specified by the director, if an applicant for an air quality permit for an oil or gas exploration or production well, with its associated equipment, has submitted a timely and complete application for a permit to construct or modify within ninety (90) days of the first date of production of the oil and gas operation, the applicant's failure to have a permit shall not be a violation of this section. An applicant complies with this section if the applicant demonstrates to the administrator of the air quality division that the oil and gas exploration or production activity qualifies as a nonmajor source. The application shall contain, at a minimum, a demonstration that the applicant will apply the best available control technology to the oil and gas production and exploration activity.

(f) As used in subsection (e) of this section, "first date of production" means the date permanent production equipment is in place and product is consistently flowing to sales lines, gathering lines or storage tanks. Production occurring during well completion activities which is routed to temporary production equipment is considered to occur prior to the first date of production. If extended periods of time pass between zone completions but production from initially completed zones

is consistently flowing to permanent production equipment, the first date of production is the date when production from the initial zones began consistently flowing to the permanent production equipment, even though more zones will be completed later.

§ 35-11-802. Refusal to grant permits; applicant's rights.

If the director refuses to grant any permit under this act, the applicant may petition for a hearing before the council to contest the decision. The council shall give a public notice of such hearing. At such hearing, the director and appropriate administrator shall appear as respondent and the rules of practice and procedure adopted by the council pursuant to this act and the Wyoming Administrative Procedure Act [§§ 16-3-101 through 16-3-115] shall apply. The burden of proof shall be upon the petitioner. The council must take final action on any such hearing within thirty (30) days from date of hearing.

§ 35-11-803. Single permit for activities covered by more than one article.

(a) The director may grant a single permit for a facility or activity regulated under more than one (1) article of this act provided that there is compliance with all rules, standards and public participation requirements provided by the individual articles of this act.

(b) The council may adopt unified rules which encompass activities covered by more than one (1) article of this act.

Article 9
Penalties

§ 35-11-901. Violations of provisions; penalties.

(a) Any person who violates, or any director, officer or agent of a corporate permittee who willfully and knowingly authorizes, orders or carries out the violation of any provision of this act, or any rule, regulation, standard or permit adopted hereunder or who violates any determination or order of the council pursuant to this act or any rule, regulation, standard, permit, license or variance is subject to a penalty not to exceed ten thousand dollars ($10,000.00) for each violation for each day during which violation continues, a temporary or

permanent injunction, or both a penalty and an injunction subject to the following:

(i) Except that any person who violates any provision of article 2 of this chapter or any provision of the state hazardous waste program authorized pursuant to the Resource Conservation Recovery Act, Subtitle C, 42 U.S.C. § 6901 [6921] et seq., as amended, or any rule, regulation, standard or permit adopted pursuant to those provisions, or who violates any determination or order of the council pursuant to article 2 of this chapter or the state hazardous waste program is subject to a penalty not to exceed ten thousand dollars ($10,000.00) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction; and

(ii) Penalties and injunctive relief under this subsection are to be determined by a court of competent jurisdiction in a civil action, provided that nothing herein shall preclude the department from negotiating stipulated settlements involving the payment of a penalty, implementation of compliance schedules or other settlement conditions in lieu of litigation.

(b) through (h) Repealed by Laws 1995, ch. 28, § 4.

(j) Any person who willfully and knowingly violates, or any director, officer or agent of a corporate permittee who willfully and knowingly authorizes, orders or carries out the violation of any provision of this act or any rule, regulation, standard, permit, license, or variance or limitations adopted hereunder or who willfully violates any determination or order of the council or court issued pursuant to this act or any rule, regulation, standard, permit or limitation issued under this act shall be fined not more than twenty-five thousand dollars ($25,000.00) per day of violation, or imprisoned for not more than one (1) year, or both. For a subsequent conviction for a violation of this act, the person shall be subject to a fine of not more than fifty thousand dollars ($50,000.00) per day of violation, imprisonment for not more than two (2) years, or both. For multiple violations, penalties may be assessed up to the maximum amount specified in this subsection for each day of each separate violation.

(k) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this act, shall upon conviction, be fined not more than ten thousand dollars ($10,000.00) per day for each violation or imprisoned for not more than one (1) year, or both.

(m) through (q) Repealed by Laws 1995, ch. 28, § 4.

§ 35-11-902. Surface coal mining operations; violations of provisions; penalties.

(a) Notwithstanding W.S. 35-11-901, violations by surface coal mining operations of article 4 of this act, or of any rule, regulation, standard, order, license, variance or permit issued thereunder, shall be governed by this section.

(b) Any person who violates, or any director, officer or agent of a corporate permittee who willfully and knowingly authorizes, orders or carries out the violation of any provision of article 4 of this act for surface coal mining operations, or any rule, regulation, standard, license, variance or permit issued thereunder, or who violates any determination or order of the council pursuant to article 4 of this act for surface coal mining operations is subject to either a penalty not to exceed ten thousand dollars ($10,000.00) for each day during which a violation continues, or, for multiple violations, a penalty not to exceed five thousand dollars ($5,000.00) for each violation for each day during which a violation continues, a temporary or permanent injunction, or both a penalty and an injunction. Penalties and injunctive relief under this subsection may be recovered in a civil action.

(c) All notices for abatement and cessation orders shall be reported to the director. The director shall:

(i) Issue a notice of assessment, if a cessation order was issued;

(ii) Make a determination as to whether a notice of assessment will be issued if a notice for abatement was issued.

(d) Upon issuance of a notice of abatement or cessation order, the director shall inform the operator of the proposed amount of the penalty within thirty (30) days. The amount shall be determined in accordance with rules and regulations promulgated by the council. The person charged with the penalty shall have fifteen (15) days to request a conference with the director for informal disposition of any dispute over either the amount of the penalty or the occurrence of the violation.

(e) If a conference is held and after the director has determined that a violation did occur and the amount of the penalty is warranted, the person charged with the penalty shall, within fifteen (15) days, either:

(i) Pay the proposed penalty in full; or

(ii) Petition the council for review of either the amount of the penalty or the fact of the violation, submitting a bond equal to the proposed amount of the penalty at the time of filing the petition. The bond shall be conditioned for the satisfaction of the penalty in full, or as modified by the council, if the director's determination as to the occurrence of the violation and the assessment of a penalty is affirmed. The petition is effective when the bond is approved by the council. If the bond is not approved, the person charged with the penalty has ten (10) days to forward the proposed amount to the council for placement in an escrow account to make the petition effective.

(f) If a conference is not requested, the person charged with the penalty has thirty (30) days to take the action required under subsection (d) of this section.

(g) After a petition is effective, the council shall hold a hearing, which shall be conducted as a contested case proceeding under the Wyoming Administrative Procedure Act. The council shall either:

(i) Determine the occurrence of the violation and the amount of penalty which is warranted for the purpose of ordering that the penalty be paid; or

(ii) Determine that no violation occurred, or that the amount of the penalty shall be reduced. If such a determination is made, either through administrative or judicial review, the director

shall within thirty (30) days remit the appropriate amount to the person, if any deposit has been made, with interest at the rate of six percent (6%), or at the prevailing United States department of treasury rate, whichever is greater. Failure to file an effective petition shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

(h) Any person aggrieved or adversely affected in fact by a final decision of the council pursuant to this section is entitled to judicial review in accordance with the Wyoming Administrative Procedure Act.

(j) Any person who willfully and knowingly violates, or any director, officer or agent of a corporate permittee who willfully and knowingly authorizes, orders or carries out the violation of any provision of article 4 of this act with respect to surface coal mining, or any rule, regulation, standard, permit, license, or variance or limitations adopted thereunder, or who willfully violates any determination or order of the council or court issued pursuant to this section, shall be fined not more than twenty-five thousand dollars ($25,000.00) per day of violation, imprisoned for not more than one (1) year, or both. For a subsequent conviction for a violation of article 4 of this act with respect to surface coal mining, the person shall be subject to a fine of not more than fifty thousand dollars ($50,000.00) per day of violation, imprisonment for not more than two (2) years, or both. For multiple violations, penalties may be assessed up to the maximum amount specified in this subsection for each day of each separate violation.

(k) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under article 4 of this act for surface coal mining operations, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under article 4 of this act for surface coal mining operations shall, upon conviction be subject to a fine of not more than ten thousand dollars ($10,000.00), imprisonment for not more than one (1) year, or both.

(m) Any person who shall, except as permitted by law, willfully resist, prevent, impede or interfere with the director, any

administrator or any of their agents in the performance of their duties in the regulation of surface coal mining operations under article 4 of this act shall be subject to a fine of not more than five thousand dollars ($5,000.00), imprisonment for not more than one (1) year, or both.

(n) Any operator of a surface coal mining operation who fails to correct a violation within the period permitted for its correction, or after a final order or decision issues requiring correction when either the department or a court has relieved the operator from the abatement requirements of the notice or order, shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750.00) for each day during which the failure or violation continues.

(o) Any person who is injured in his person or property through the violation, by any operator, of any rule, regulation, order or permit issued pursuant to article 4 of this act as it provides for the regulation of surface coal mining and reclamation in accordance with the requirements of P.L. 95-87 may bring an action for damages, including reasonable attorney and expert witness fees, only in the judicial district in which the surface coal mining operation complained of is located.

§ 35-11-903. Violations of provisions of act causing damage to wildlife; recoveries; causes of action.

(a) Any person who violates this act, or any rule or regulation promulgated thereunder, and thereby causes the death of fish, aquatic life or game or bird life is, in addition to other penalties provided by this act, liable to pay to the state, an additional sum for the reasonable value of the fish, aquatic life, game or bird life destroyed. Any monies so recovered shall be placed in the game and fish fund.

(b) Except as provided in W.S. 35-11-902(o), nothing in this act shall be construed to abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor.

(c) All actions pursuant to this article, except actions under W.S. 35-11-902(o), shall be brought in the county in which the

violation occurred or in Laramie county by the attorney general in the name of the people of Wyoming. All actions pursuant to this article for the enforcement of any program to administer the provisions of W.S. 35-11-301(a)(iii) and (v) pursuant to the authority delegated under W.S. 35-11-304 may also be brought by the county attorney in the county in which the violation occurred.

§ 35-11-904. Civil or criminal remedy.

(a) Except as provided in subsection (c) of this section, any person having an interest which is or may be adversely affected, may commence a civil action on his own behalf to compel compliance with this act only to the extent that such action could have been brought in federal district court under Section 520 of P.L. 95-87 [30 U.S.C. § 1270], as that law is worded on August 3, 1977:

(i) Against any governmental entity, for alleged violations of any provisions of this act or of any rule, regulation, order or permit issued pursuant thereto, or against any other person for alleged violations of any rule, regulation, order or permit issued pursuant to this act; or

(ii) Against the state of Wyoming, department of environmental quality, for alleged failure of the department to perform any act or duty under this act which is not discretionary with the department.

(b) Actions against the state of Wyoming, department of environmental quality, pursuant to this section shall be filed in the district court for Laramie county. Actions against any governmental entity, or any other person pursuant to this section shall be filed in the district court for the county in which the violation is alleged to have occurred.

(c) No action pursuant to this section may be commenced:

(i) Prior to sixty (60) days after the plaintiff has given notice in writing of the violation and of his intent to commence the civil action to the department and the alleged violator, except that such action may be brought immediately after such notification if the violation complained of constitutes an

imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff; or

(ii) If the department, through the attorney general, has commenced a civil action to require compliance with the provisions of this act, or any rule, regulation, order or permit issued pursuant to this act, but in any such action any person may intervene as a matter of right.

(d) The state of Wyoming, department of environmental quality, may intervene as a matter of right in any action filed pursuant to this section.

(e) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation, (including attorney and expert witness fees), to any party whenever the court determines such award is appropriate.

(f) The availability of judicial review established pursuant to W.S. 16-3-114 shall not be construed to limit the operation of rights established in this section.

(g) Nothing in this act shall in any way limit any existing civil or criminal remedy for any wrongful action arising out of a violation of any provision of this act or any rule, regulation, standard, permit, license, or variance or order adopted hereunder.

Article 10
Judicial Reviews

§ 35-11-1001. Judicial review; temporary relief; conditions.

(a) Any aggrieved party under this act, any person who filed a complaint on which a hearing was denied, and any person who has been denied a variance or permit under this act, may obtain judicial review by filing a petition for review within thirty (30) days after entry of the order or other final action complained of pursuant to the provisions of the Wyoming Administrative Procedure Act [§§ 16-3-101 through 16-3-115].

(b) Any person having a legal interest in the mineral rights or any person or corporation having a producing mine or having made substantial capital expenditures and commitments to mine mineral rights with respect to which the state has prohibited mining

operations because the mining operations or proposed mining operations would irreparably harm, destroy or materially impair an area that has been designated to be of a unique and irreplaceable historical, archeological, scenic or natural value, may petition the district court for the district in which the mineral rights are located to determine whether the prohibition so restricts the use of the property as to constitute an unconstitutional taking without compensation. Upon a determination that a taking has occurred the value of the investment in the property or interests condemned shall be ascertained and damages shall be assessed as in other condemnation proceedings.

(c) In a proceeding to review any order or decision of the department providing for regulation of surface coal mining and reclamation operations in accordance with P.L. 95-87 [30 U.S.C. § 1201 et seq.], the court may under conditions it prescribes grant temporary relief pending final determination of the review proceedings if:

(i) All parties to the proceedings were notified and given opportunity for hearing on the request for temporary relief;

(ii) The party requesting relief shows there is a substantial likelihood he will prevail on the final determination of the proceeding; and

(iii) The relief will not adversely affect the public health and safety or cause significant environmental harm to land, air or water resources.

§ 35-11-1002. Publication of rules and regulations.

Any rule, regulation or standard promulgated under this act shall be published and distributed to members of the legislature and any other interested party.

Article 11
Miscellaneous Provisions

§ 35-11-1101. Records available to the public; restrictions.

(a) Any records, reports or information obtained under this act or the rules, regulations and standards promulgated hereunder are available to the public. Upon a showing satisfactory to the

director by any person that his records, reports or information or particular parts thereof, other than emission and pollution data, to which the director and administrators have access under this act if made public would divulge trade secrets, the director and administrators shall consider the records, reports or information or particular portions thereof confidential in the administration of this act.

(b) Nothing herein shall be construed to prevent disclosure of any records, reports or information to federal, state or local agencies necessary for the purposes of administration of any federal, state or local air, water or land control measures or regulations or when relevant to any proceedings under this act.

(c) In any suit under this section or the Public Records Act, W.S. 16-4-201 et seq., to compel the release of information under this act, the court may assess against the state reasonable attorney fees and other litigation costs reasonably incurred in any case in which the complainant has substantially prevailed and in which the court determines the award is appropriate.

§ 35-11-1102. Hearing unnecessary prior to issuance of emergency order.

Nothing in this act shall be construed to require a hearing prior to the issuance of an emergency order.

§ 35-11-1103. Property exempt from ad valorem taxation.

The following property is exempt from ad valorem taxation pursuant to the provisions of this act and includes facilities, installations, machinery or equipment attached or unattached to real property and designed, installed and utilized primarily for the elimination, control or prevention of air, water or land pollution, or in the event such facility, installation, equipment or machinery shall also serve other beneficial purposes and use, such portion of the assessed valuation thereof as may be reasonably calculated to be necessary for and devoted to elimination, control or prevention of air, water and land pollution. The department of revenue shall determine the exempt portion on all property assessed pursuant to W.S. 39-13-102(m). The county assessor shall determine the exempt portion on all property assessed pursuant to W.S. 39-13-103(b). The

determination shall not include as exempt any portion of any facilities which have value as the specific source of marketable byproducts.

§ 35-11-1104. Limitation of scope of provisions.

(a) Nothing in this act:

(i) Grants to the department or any division thereof any jurisdiction or authority with respect to pollution existing solely within commercial and industrial plants, works or shops;

(ii) Affects the relations between employers and employees with respect to or arising out of any condition of pollution;

(iii) Limits or interferes with the jurisdiction, duties or authority of the state engineer, the state board of control, the director of the Wyoming game and fish department, the state mine inspector, the oil and gas supervisor or the oil and gas conservation commission, or the occupational health and safety commission.

§ 35-11-1105. Environmental audit privilege; exceptions; burden of proof; waiver; disclosure after in camera review; application.

(a) As used in this section:

(i) "Environmental audit" means a voluntary, internal and comprehensive evaluation of one (1) or more facilities or an activity at one (1) or more facilities regulated under this act, or of management systems related to the facility or activity, that is designed to identify and prevent noncompliance and to improve compliance with this act. An environmental audit may be conducted by the owner or operator, by the owner's or operator's employees or by independent contractors. Once initiated the voluntary environmental audit shall be completed within one hundred eighty (180) days. Nothing in this section shall be construed to authorize uninterrupted voluntary environmental audits;

(ii) "Environmental audit report" means a set of documents, each labeled "Environmental Audit Report: Privileged Document," prepared as a result of an environmental audit and may include field notes and records of observations, findings, opinions,

suggestions, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, charts, graphs and surveys if supporting information is generated or developed for the primary purpose and in the course of an environmental audit. An environmental audit report, when completed, shall have three (3) components:

(A) An audit report prepared by the auditor, including the scope, commencement and completion dates of the audit, the information gained in the audit, conclusions and recommendations, together with exhibits and appendices;

(B) Memoranda and documents analyzing the audit report and discussing implementation issues; and

(C) An audit implementation plan that corrects past noncompliance, improves current compliance and prevents future noncompliance.

(iii) "In camera review" means a hearing or review in a courtroom, hearing room or chambers to which the general public is not admitted. However, all parties to a civil or administrative proceeding may attend an in camera hearing and shall have a reasonable opportunity to review the documents for which the privilege is claimed and challenge the application of privilege to an environmental audit report. After such hearing or review, the content of oral and other evidence and statements of the judge, counsel and all parties shall be held in confidence by those participating in or present at the hearing or review, and any transcript of the hearing or review shall be sealed and not considered a public record until its contents are disclosed, pursuant to this section, by a court having jurisdiction over the matter.

(b) Owners and operators of facilities and persons whose activities are regulated under this act may conduct a voluntary internal environmental audit of compliance programs and management systems to assess and improve compliance with this act. An environmental audit privilege is created to protect the confidentiality of communications relating to these audits.

(c) An environmental audit report is privileged and shall not be admissible as evidence in any civil or administrative proceeding, except as follows:

(i) The owner or operator of a facility may waive this privilege in whole or in part. If an owner or operator of a facility or person conducting an activity seeks to introduce any part of an environmental audit report as evidence in any proceeding, including reporting of violations under W.S. 35-11-1106(a), the privilege is waived as to those sections of the report dealing with that media sought to be introduced into evidence;

(ii) In a civil or administrative proceeding, the court or hearing officer after in camera review consistent with the Wyoming Rules of Civil Procedure, shall require disclosure of all or part of the report if it determines:

(A) The privilege is asserted for a fraudulent purpose;

(B) The material is not subject to the privilege;

(C) The material shows evidence of noncompliance with this act or any federal environmental law or regulation and appropriate efforts to achieve compliance were not pursued as promptly as circumstances permit and completed with reasonable diligence; or

(D) The information contained in the environmental audit report demonstrates a substantial threat to the public health or environment or damage to real property or tangible personal property in areas outside of the facility property.

(iii) Repealed by Laws 1998, ch. 80, § 2.

(iv) A party asserting the privilege granted under this section has the burden of proving the privilege, including proof that appropriate efforts to achieve compliance with this act or any federal environmental law or regulation were promptly pursued and completed with reasonable diligence. A party seeking disclosure under subparagraph (c)(ii)(A) of this section has the burden of proving that the privilege is asserted for a fraudulent purpose;

(v) through (vii) Repealed by Laws 1998, ch. 80, § 2.

(viii) The parties may at any time stipulate to entry of an order directing whether specific information contained in an environmental audit report is subject to the privilege provided under this section;

(ix) Upon making a determination under paragraph (c)(ii) of this section, the court shall compel disclosure of those portions of an environmental audit report relevant to issues in dispute in the proceeding.

(d) The privilege described in this section shall not extend to:

(i) Documents, communications, data, reports or other information required to be collected, developed, maintained, reported or otherwise made available to a regulatory agency or to any person pursuant to any regulatory requirement of this act or any other federal or state law or regulation;

(ii) Information obtained by observation, sampling or monitoring by any regulatory agency;

(iii) Information obtained from a source independent of the environmental audit;

(iv) Documents existing prior to the commencement of the environmental audit; or

(v) Documents prepared subsequent to and independent of the completion of the environmental audit.

(e) Nothing in this section shall limit, waive or abrogate the scope or nature of any statutory or common law privilege, including the work product doctrine and the attorney-client privilege.

§ 35-11-1106. Limitation on civil penalties; voluntary reports of violations.

(a) If an owner or operator of a facility regulated under this act voluntarily reports to the department a violation disclosed by the audit conducted under W.S. 35-11-1105 within sixty (60) days of the completion date of the audit, the department shall not seek civil penalties or injunctive relief for the violation reported unless:

(i) The facility is under investigation for any violation of this act at the time the violation is reported;

(ii) The owner or operator does not take action to eliminate the violation within the time frame specified in an order affirmed

by the council or otherwise made final pursuant to W.S. 35-11-701(c)(ii);

(iii) The violation is the result of gross negligence or recklessness; or

(iv) The department has assumed primacy over a federally delegated environmental law and a waiver of penalty authority would result in a state program less stringent than the federal program or the waiver would violate any federal rule or regulation required to maintain state primacy. If a federally delegated program requires the imposition of a penalty for a violation, the voluntary disclosure of the violation shall to the extent allowed under federal law or regulation, be considered a mitigating factor in determining the penalty amount.

(b) Reporting a violation is mandatory if required by this act, any departmental rule or regulation, federal law or regulation, local ordinance or resolution, any order of the council or by any court and is therefore not voluntary under this section.

(c) Notwithstanding subsection (a) of this section, injunctive relief may be sought under W.S. 35-11-115.

(d) The elimination of administrative or civil penalties under this section does not apply if a person or entity has been found by a court to have committed serious violations that constitute a pattern of continuous or repeated violations of environmental laws, rules, regulations, permit conditions, settlement agreements or orders on consent and that were due to separate and distinct events giving rise to the violations, within the three (3) year period prior to the date of the disclosure. A pattern of continuous or repeated violations may also be demonstrated by multiple settlement agreements related to substantially the same alleged violations concerning serious instances of noncompliance with environmental laws that occurred within the three (3) year period immediately prior to the date of the voluntary disclosure.

Article 12
Abandoned Mine Reclamation Program

§ 35-11-1201. Abandoned mine reclamation program.

In addition to any other powers and duties imposed by law, the governor, through the director shall perform any and all acts necessary or expedient to implement and administer an abandoned mine reclamation program pursuant to section 405 of P.L. 95-87 [30 U.S.C. § 1235] in accordance with an approved state reclamation plan and annual approved applications for implementation of specific reclamation projects.

§ 35-11-1202. State reclamation plan.

(a) The state reclamation plan may provide for any or all of the following activities:

(i) The acquisition, reclamation or restoration of land and water resources which were mined for coal or minerals or affected by coal or other mineral mining processes and left or abandoned in an unreclaimed or inadequately reclaimed condition prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal statutes. The effective date for the purpose of determining eligibility on federal lands managed by the forest service shall be August 28, 1974, and the effective date for determining eligibility on federal lands managed by the bureau of land management shall be November 26, 1980. Any of the activities under this paragraph shall reflect the following priorities in the order stated:

(A) The protection of public health, safety, general welfare and property from extreme danger of adverse effects of mining and processing practices;

(B) The protection of public health, safety and general welfare from adverse effects of mining and processing practices;

(C) The restoration of land and water resources and the environment previously degraded by the adverse effects of coal and mineral mining and processing practices.

(D) through (F) Repealed by Laws 1991, ch. 72, § 2.

(ii) Repealed by Laws 1991, ch. 72, § 2.

(iii) The acquisition, reclamation and transfer of land to the state or to a political subdivision thereof, or to any person after a determination by the governor that such is an integral and necessary element of an economically feasible plan for a

project to construct or rehabilitate housing for persons disabled as the result of employment in the mines or work incidental thereto, persons displaced by acquisition of land pursuant to this article, persons dislocated as a result of adverse effects of coal mining practices which constitute an emergency, or persons dislocated as the result of natural disasters or catastrophic failures from any cause. However, no part of the abandoned mine reclamation funds may be used to pay the actual construction costs of housing;

(iv) Repealed by Laws 1991, ch. 72, § 2.

(v) Reclamation projects involving the protection, repair, replacement, construction or enhancement of utilities, such as those relating to water supply, roads and other facilities serving the public adversely affected by coal and mineral mining and processing practices. The construction and maintenance of public facilities in communities impacted by coal or mineral mining and processing practices is deemed to be included within the objectives established for the abandoned mine reclamation program, and shall be undertaken in accordance with the priorities stated in paragraph (i) of this subsection.

(b) The state reclamation plan shall be developed by the governor, after recommendation from the director. The director after consulting the administrator of the abandoned land mine division shall make this recommendation only after he has prepared a proposed plan and afforded, at a minimum, an opportunity for the public to inspect and comment on this proposed plan in each county having land and water resources which qualify for acquisition, reclamation or restoration under subsection (a) of this section. All comments shall be recorded and considered in the development of the plan.

(c) Notwithstanding subsection (a) of this section, the governor may request abandoned mine land funds be appropriated for the construction of specific public facilities related to the coal or mineral industries or for other activities related to the impacts of these industries.

§ 35-11-1203. Abandoned mine reclamation account; subsidence mitigation account.

(a) Upon approval of the state reclamation plan, the state treasurer shall create an abandoned mine reclamation account for the purpose of accounting for monies received by the state from the secretary of the interior and any other monies authorized to be deposited in the account. The account shall be administered in compliance with the approved plan.

(b) Revenue to the account shall include amounts granted by the secretary of the interior under Title IV of P.L. 95-87, monies received by the state for the use or sale of lands acquired with monies from the account and such other monies which may be deposited in the account for use in carrying out the state reclamation program.

(c) There is created a coal mine subsidence mitigation account. Revenue to the account shall be ten percent (10%) of the amount granted by the secretary of the interior under title IV of P.L. 95-87 as provided by P.L. 100-34. Revenue shall be deposited in an interest bearing account and all interest shall be credited to the program. No monies from the account shall be expended prior to September 30, 1995. After September 30, 1995 the money may be expended as provided in this subsection. The legislature shall authorize expenditure by appropriation from the account as necessary to defray the administrative expenses of the program. The remaining funds in the account shall only be used to address the reclamation activities described in W.S. 35-11-1202(a)(i)(A) and (B) where mine reclamation is necessary for the protection of the public health or safety, with a priority given to pay for contractual services to mitigate and control mine subsidence that threatens structures. If authorized by the United States congress, funds from the account may be used for the repair or enhancement of structures defined in W.S. 35-11-1301(a)(iii), provided that no funds from the account may be used for any structure where construction is commenced after the effective date of this act unless an engineering assessment documenting the minimal risk of loss from mine subsidence precedes commencement of construction. The liability of the state to fulfill the requirements of this subsection is limited to the amount of funds available in the account established in this subsection. The state has no obligations under this subsection except to the extent of federal funds deposited in the coal mine

mitigation account and the interest thereon to operate the program.

§ 35-11-1204. Right of entry.

(a) The director, administrator of the abandoned mine land division, or their designated authorized representative shall have the right to enter upon or have access to any property adversely affected by past coal mining practices to restore, reclaim, abate, control or prevent the adverse effects if the director makes a finding that:

(i) The adverse effects on land or water resources are such that, in the public interest, the action should be taken; and

(ii) The owners of the property either are not known or readily available or refuse to give permission to enter.

(b) Prior to entry, notice shall be given by mail to the owners, if known, or if not known, by posting notice upon the premises and advertising once in a newspaper of general circulation in the locality of the land.

(c) Monies expended for work on or to the premises and the benefits accruing to any premises entered upon shall be chargeable against the land and shall mitigate or offset any claim of or any action brought by any owner of any interest in the premises for any alleged damages by virtue of the entry. However, this provision is not intended to create new rights of action or eliminate existing immunities.

(d) The director, administrator of the abandoned mine land division, or their designated authorized representatives shall have the right to enter upon any property for the purpose of conducting exploratory work to determine the feasibility to restore, reclaim, abate, control or prevent the adverse effects.

(e) Any entry under this section shall be construed as an exercise of the state's police power and shall not be construed as an act of condemnation or trespass.

§ 35-11-1205. Land acquisition and disposal.

(a) The state may acquire any land, by purchase, donation or condemnation, which is adversely affected by past coal mining practices if the director, with the concurrence of the governor,

finds that acquisition of the land is necessary to successful reclamation and that:

(i) The acquired land, after restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, conservation and reclamation purposes or provide open space benefits; and

(ii) Permanent facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices; or

(iii) Acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of this article or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

(b) Title to all lands acquired pursuant to this section shall be in the name of the state. The price paid for land acquired under this section shall reflect the market value of the land as adversely affected by past coal mining practices.

(c) Where land acquired pursuant to this section is deemed to be suitable for industrial, commercial, residential or recreational development, the director, with the approval of the governor and the secretary of the interior, may sell the land for at least fair market value by public sale under a system of competitive bidding.

(d) The director, when requested after appropriate public notice, shall hold a public hearing, with appropriate notice, in the county or counties in which lands acquired pursuant to this section are located in order to afford all persons an opportunity to participate in the decision concerning the use or disposition of the lands after restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices.

§ 35-11-1206. Liens for reclamation on private lands.

(a) Within six (6) months after the completion of projects to restore, reclaim, abate, control or prevent adverse effects of

past coal or mineral mining practices on privately owned land, the director shall itemize the monies expended and may file a lien against the property with the appropriate county clerk. If the monies expended result in a significant increase in property value, a notarized appraisal by an independent appraiser shall be filed with the lien. The lien shall be the amount determined by the appraisal to be the increase in the fair market value of the land as a result of the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal or mineral mining practices. No lien shall be filed under this section against the property of any person who neither consented to, participated in, nor exercised control over the mining operation which necessitated the reclamation project.

(b) The landowner may petition the district court for the district in which the majority of the land is located within sixty (60) days of the filing of the lien to determine the increase in the fair market value of the land. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the lien.

(c) The lien provided in this section shall constitute a lien upon the land as of the date of the expenditure of the monies and shall have priority as a lien second only to the lien of real estate taxes imposed upon the land.

§ 35-11-1207. Miscellaneous authority.

(a) The governor may promulgate any rules and regulations which may be necessary or expedient to implement and administer the provisions of this article.

(b) The director may construct and operate any plants, including major interceptors and other facilities appurtenant to the plant for the control and treatment of water pollution resulting from mine drainage.

(c) The governor may transfer funds to other appropriate state or federal agencies in order to carry out the reclamation activities authorized by this article.

§ 35-11-1208. Mine subsidence mitigation program.

The governor may establish a coal mine subsidence mitigation program to assist property owners with mine subsidence problems that threaten life and property in this state. The program shall be operated by the director and be coordinated with the mine subsidence loss insurance program of W.S. 35-11-1301 through 35-11-1304. The program shall provide for backfilling of mine voids and stabilization of the land where evidence supports imminent or continuous threat to structures defined in W.S. 35-11-1301(a)(iii) if the threat is due to coal mine subsidence as defined in W.S. 35-11-1301(a)(ii).

§ 35-11-1209. Contract eligibility.

(a) The abandoned mine land division shall not issue a contract to any contractor if the United States department of interior, office of surface mining applicant violator system shows the contractor has any one (1) or more of the following:

(i) Delinquent abandoned mine reclamation fee;

(ii) Federal or state failure-to-abate cessation order;

(iii) Unabated federal or state imminent harm cessation order;

(iv) Delinquent civil penalty issued under the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87 [30 U.S.C. § 1201 et seq.];

(v) Bond forfeiture if the violation upon which the forfeiture was based has not been corrected;

(vi) Unabated violation of federal or state law, rule or regulation pertaining to air or water environmental protection incurred in connection with any surface coal mining operation;

(vii) Unresolved notice of violation.

(b) As used in this section "ownership or controlling interest" means as defined in Title 30 of the Code of Federal Regulations part 773.5, as amended.

§ 35-11-1210. Abandoned mine land funds reserve account.

(a) There is created the abandoned mine land funds reserve account.

(b) All funds received from the federal government, from the Surface Mining Control and Reclamation Act Amendments of 2006, Section 411(h)(1), pursuant to 2007 H.R. 6111, shall be deposited into the abandoned mine land funds reserve account.

(c) All funds and all interest generated on the funds, shall remain in the abandoned mine land funds reserve account until appropriated by the legislature.

(d) The funds under subsection (b) of this section are separate from and in addition to the funds distributed to Wyoming for the abandoned mine land program under W.S. 35-11-1201 through 35-11-1209.

(e) There is created the abandoned mine land funds balancing account. Notwithstanding other provisions of this section, the legislature may deposit into the balancing account and appropriate therefrom funds as it determines appropriate to substitute for or supplement abandoned mine land funds received from the federal government, from the Surface Mining Control and Reclamation Act Amendments of 2006, Section 411(h)(1).

Article 13
Mine Subsidence Loss Insurance

§ 35-11-1301. Definitions.

(a) As used in this act:

(i) "Administrator" means the administrator of the abandoned mine land division of the department of environmental quality;

(ii) "Mine subsidence loss" means loss caused by lateral or vertical movement, including collapse which results therefrom, of structures from collapse of man-made underground mines or from collapse of underground cavities resulting from burned coal seams but excludes loss caused by underground water, soil expansion, earthquake, landslide, volcanic eruption or collapse of storm or sewer drains or underground pipelines;

(iii) "Structure" means any dwelling, building or fixture, publicly or privately owned, permanently affixed to realty but excludes land, trees, plants and crops;

(iv) "This act" means W.S. 35-11-1301 through 35-11-1304.

§ 35-11-1302. Mine subsidence loss insurance program; established; rulemaking authority.

(a) The governor shall establish an insurance program to cover mine subsidence loss to specified structures in this state. The program shall be operated by the director of the department of environmental quality through the administrator who shall contract for all services related to advertising, sales of the coverage and claims adjustment and may contract for other services necessary to the efficient operation of the program. The program shall cover all structures insured under this act for mine subsidence damage occurring after the effective date of the coverage, consistent with the contract terms and conditions. The program shall also cover structures which have been damaged before the effective date of this act, provided that:

(i) Damage to the structures was caused by subsidence of mine voids in the number one and seven coal seams in Rock Springs, Wyoming;

(ii) Claims made to the administrator documenting that initial subsidence damage was suffered on or about the dates of August 15, August 21, September 4 or September 10, 1985;

(iii) The property owner has made application for coverage under this act, paid the premium required by the administrator and paid an enrollment fee of one hundred dollars ($100.00);

(iv) The property owner executes and delivers instruments and papers and does whatever else is necessary to secure rights in the state to be subrogated to all the owner's right of recovery against any person, entity or organization for the damage and loss covered under this act; and

(v) Claims for damages and loss covered under this act and filed under the Wyoming Governmental Claims Act [1-39-101 et seq.] are withdrawn.

(b) The governor may promulgate rules and regulations necessary to establish and operate a mine subsidence loss insurance program under this act, including but not limited to:

(i) Contract terms and conditions;

(ii) Deductibles;

(iii) Coverage limits;

(iv) Claims adjustment procedures;

(v) Premium rates and enrollment fees sufficient to:

(A) Cover administrative expenses of the program including service contracts;

(B) Satisfy anticipated claims from mine subsidence loss;

(C) Establish a surplus to cover catastrophic hazard and to ensure solvency.

(vi) Designation of structures or areas for which coverage shall not be available;

(vii) Inspection of structures prior to issuing insurance coverage;

(viii) Rules or regulations necessary to enable the state to qualify for federal grants for state mine subsidence loss insurance programs.

(c) The governor may accept grants from any source to aid in establishing or operating the program under this act.

§ 35-11-1303. Applicability of Wyoming Insurance Code; exemption.

(a) The Wyoming Insurance Code applies to transactions under this act except:

(i) The state and its officers, agencies and employees are exempt from the licensing, financial and tax requirements imposed by chapters 3, 4, 6, 7 and 8 of the Wyoming Insurance Code;

(ii) Any person who contracts with the state to transact insurance under this act is subject to the Wyoming Insurance Code as if the state were an insurer with a certificate of authority to transact the insurance in this state.

§ 35-11-1304. Account created; premiums to be deposited; payment of expenses and claims.

There is created a mine subsidence loss insurance account. All premiums, fees, amounts recovered under the program and, where appropriate, grants shall be deposited into this account. The

legislature shall authorize expenditures by appropriation from the account as necessary to defray the administrative expenses of the program but not claims for losses under policies. The remaining funds in the account shall be used and are appropriated to pay claims for losses under insurance policies under this act.

Article 14
Storage Tanks

§§ 35-11-1401 through 35-11-1413. [Repealed.]

Repealed by Laws 1990, ch. 98, § 3.

§ 35-11-1414. Short title; purpose; department report.

(a) This article is known and may be cited as the "Storage Tank Act of 2007".

(b) The legislature recognizes the threat to the public health, safety, welfare and the environment caused by pollution to soil and water from underground and aboveground storage tanks. The purpose of this article is to take primacy of the underground storage tank program and to provide funding to take corrective actions at sites contaminated by underground storage tanks and aboveground storage tanks.

(c) The legislature also recognizes that owners and operators cannot take corrective action without placing their businesses' existence in financial jeopardy. The legislature finds that, because Wyoming is a large rural state, it is in the public interest to take corrective action at contaminated sites so that fuel will continue to be readily available throughout Wyoming.

(d) The department shall prepare an annual report for the legislature identifying the actions taken and monies expended pursuant to this article.

§ 35-11-1415. Definitions.

(a) As used in this article:

(i) "Corrective action" means an action taken to investigate, minimize, eliminate or clean up a release to protect the public health, safety and welfare or the environment;

(ii) "Corrective action account" means the account established in W.S. 35-11-1424;

(iii) "Department" means the department of environmental quality through its solid and hazardous waste division;

(iv) "Environmental pollution financial responsibility account" or "financial responsibility account" means the account established in W.S. 35-11-1427;

(v) "Operator" means any person in control of, or having responsibility for, the daily operation of the tank;

(vi) "Owner" means:

(A) In the case of an underground storage tank in use or brought into use on or after November 8, 1984, any person who owns an underground storage tank while it is used for the storage, use or dispensing of regulated substances;

(B) In the case of an underground storage tank in use before November 8, 1984, but no longer in use after that date, any person who owned such a tank immediately before the discontinuation of its use;

(C) Any person who owns an aboveground storage tank meeting the definition of paragraph (xi) of this subsection;

(D) In the case of a site contaminated by an aboveground or underground storage tank regulated under this article and where all tanks have been permanently closed, any person who owns the site.

(vii) "Regulated substance" means:

(A) Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act; and

(B) Petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

(viii) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from a tank into groundwater, surface water or subsurface soils;

(ix) "Underground storage tank" means and includes any one (1) or combination of underground storage tanks, including underground pipes connected thereto, used to contain an accumulation of regulated substances, and the volume of which, including the volume of the underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground, but does not include:

(A) A farm or residential underground storage tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial or agricultural purposes;

(B) An underground storage tank used for storing heating oil for consumptive use on the premises where stored;

(C) Septic tanks;

(D) A pipeline facility, including gathering lines, regulated under:

(I) and (II) Repealed by Laws 2017, ch. 35, § 3.

(III) An intrastate pipeline facility regulated under state laws, as provided in 49 U.S.C. chapter 601, which is determined by the United States secretary of transportation to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

(IV) 49 U.S.C. chapter 601.

(E) Surface impoundments, pits, ponds or lagoons;

(F) Storm water or wastewater collection systems including oil/water separators used to separate oil and water at oil production sites, gas processing plants and refineries;

(G) Flow-through process tanks;

(H) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

(J) Storage tanks situated in an underground area, if the storage tank is situated upon or above the surface of the floor;

(K) Underground storage tanks of one hundred ten (110) gallons or less of holding capacity;

(M) Underground storage tanks containing de minimus concentrations of regulated substances;

(N) Emergency spill or overflow containment underground storage tank systems that are expeditiously emptied after use;

(O) An underground storage tank system holding hazardous wastes listed or identified under Subtitle C of the federal Solid Waste Disposal Act or a mixture of such hazardous waste and other regulated substances;

(P) A wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 307(b) or 402 of the federal Clean Water Act;

(Q) Any equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(x) Repealed by Laws 2019, ch. 186, § 2.

(xi) "Aboveground storage tank" means any one (1) or a combination of containers, vessels and enclosures, including structures and appurtenances connected to them, constructed of nonearthen materials including but not limited to concrete, steel or plastic which provides structural support, the volume of which including the pipes connected thereto is more than ninety percent (90%) above the surface of the ground, which is used by a dealer to dispense gasoline or diesel fuels;

(xii) "Dealer" means a person meeting the definition of W.S. 39-17-101(a)(v) or 39-17-201(a)(vi);

(xiii) "Tank" means and includes both underground and aboveground storage tanks as defined by this act.

§ 35-11-1416. Rules and regulations.

(a) The council shall promulgate rules and regulations necessary to administer this article after recommendation from the director of the department, the administrators of the various

divisions and their respective advisory boards. The rules shall include but shall not be limited to rules and regulations which:

(i) Provide for performance, operating and installation standards for underground storage tanks which shall be no less or no more stringent than the federal standards. The rules shall include, but shall not be limited to, standards for upgrading existing facilities, abandonment, closure, compatibility, construction, design, installation, record maintenance and release detection, spill and overfill, inspection procedures and compliance deadlines. The rules shall include standards for aboveground storage tanks determined by the council to be necessary to meet the goals of this paragraph;

(ii) Require proof of financial assurance as required by federal law for underground storage tanks;

(iii) Specify the requirements for delegating installation or modification inspection authority including but not limited to requirements for inspectors;

(iv) Establish a procedure or procedures for reporting any release from a tank;

(v) Require taking corrective action in response to a reported release from a tank. These rules may include provisions under which priorities for corrective action may be established considering the state resources available to take corrective actions and the threat posed to public health, safety and welfare or the environment;

(vi) Require records for compliance with repairs and upgrades to be maintained for the operational life of the tank;

(vii) Adopt the requirements for notification to the department when there is a change of ownership or control over a tank in accordance with W.S. 35-11-1420(a);

(viii) Specify the requirements for notifying the department of installations or modifications in accordance with W.S. 35-11-1420(b);

(ix) Specify standards for restoration of the environment;

(x) Require proof of financial assurance for aboveground storage tanks if the owner of the aboveground storage tank desires to be

eligible for coverage under the financial responsibility account.

§ 35-11-1417. Noninsurance proviso.

Nothing in this article shall be construed as creating an insurance company nor in any way subjecting the accounts created to the laws of the state regulating insurance or insurance companies.

§ 35-11-1418. [Repealed.]

Repealed by Laws 2007, ch. 88, § 3.

§ 35-11-1419. Tank registration; proof of insurance.

(a) After each new installation or modification of a regulated storage tank system the owner of a tank shall register the tank with the department on forms developed and furnished by the department. The registration form shall be submitted under oath or affirmation. The forms shall include but not be limited to:

(i) The name, address and telephone number of the tank owner;

(ii) The name, address and telephone number of the tank operator;

(iii) A description of the location of the facility where the tank is maintained or operated and the location of the tank at that facility;

(iv) The type and age of each tank at the facility;

(v) The type of substance stored or contained in the tank;

(vi) The size of each tank;

(vii) Whether the tank is currently in use, and if not, the most recent date of use of the tank if known;

(viii) The most recent date the tank was tested and a copy of the test results if not previously submitted;

(ix) Whether the owner of the tank has insurance or other types of financial assurance to cover at least thirty thousand dollars ($30,000.00) as specified in W.S. 35-11-1428(c)(i);

(x) Proof as required by federal law that an owner of more than one hundred (100) underground storage tanks anywhere in the

United States has insurance, or other environmental pollution financial responsibility instrument, indicating at least two million dollars ($2,000,000.00) in liability protection for releases occurring from any of those regulated tanks; and

(xi) Other information as may be required by rules and regulations.

§ 35-11-1420. Tank notification required; change of owner; installation requirements; inspections.

(a) In the event of the transfer of any tank to a different owner, notification of the transfer shall be provided to the department by the new and former owners. Such notifications shall be made on forms developed and provided by the department and shall include:

(i) The name, address and telephone number of the former and new tank owner;

(ii) The name, address and telephone number of the former and new tank operator;

(iii) A description of the location of the facility where the tank is maintained or operated and the location of the tank at that facility; and

(iv) Proof of insurance or other types of financial assurance by the new or former owner as applicable.

(b) No person shall install or substantially modify, or cause to be installed or substantially modified, any new or replacement tank without thirty (30) days prior notification to the department. Upon completion of the installation or modification the owner shall notify the department and the department shall within ten (10) days of receiving notification of completion, inspect the site or have the site inspected by a qualified state, local government or private inspector. No tank shall be operated until the department determines the installation or modification meets the applicable standards and the department has issued a written inspection letter to the tank owner stating that the facility, as constructed or modified, meets state standards, except that if the department has not inspected the tank within fifteen (15) days after receiving notice of

completion, the tank may be operated without written notification of the department until the tank is inspected.

(c) The department shall collect an installation or modification fee of five hundred dollars ($500.00) for each tank or for all multiple tanks installed or modified at the same time and at the same site. The fees collected under this subsection shall be deposited in the general fund.

(d) If an owner or operator is unable to comply with subsection (b) of this section because of an emergency, he shall inform the department as soon as possible after the emergency is known. The owner or operator shall provide the information on the installation or modifications as required by this section without delay thereafter but within five (5) working days from the time the department is informed of the emergency.

§ 35-11-1421. Reporting releases.

An owner or operator shall report a known or suspected release to the department as required by rules and regulations.

§ 35-11-1422. Right of entry; inspection.

(a) When requested by an authorized agent of the state the owner or operator shall:

(i) Provide information to determine compliance with the statutes and rules and regulations;

(ii) Provide access to any site or premises where a tank is located or where any records relevant to the operation of a tank are kept;

(iii) Provide copies of any records relevant to the operation of a tank;

(iv) Allow the authorized agent to obtain samples of the regulated substances;

(v) Allow the authorized agent to inspect or conduct the monitoring or testing of the tank system; and

(vi) Allow the authorized agent entry on the premises to do assessments and corrective actions.

(b) A duplicate sample taken by or for the state for testing shall be provided to the tank owner if requested by the owner. A duplicate copy of the analytical report from the department pertaining to the samples taken shall be provided as soon as practicable to the tank owner.

(c) No person conducting an inspection under this section shall unreasonably interfere with the operations, business or work, of any person at the site being inspected. The tank owner or operator shall be given the opportunity to accompany any person making an inspection.

(d) In carrying out a corrective action the department has the right to construct and maintain any structure, monitor well, recovery system or any other reasonable and necessary item associated with taking corrective action.

(e) The department shall give a minimum of seven (7) working days notice prior to an investigation unless an emergency exists.

§ 35-11-1423. Public notice; right to intervene.

(a) The department shall notify the affected public of all confirmed releases requiring a plan for soil and groundwater remediation, and upon request, provide or make available to the interested public information concerning the nature of the release and the corrective actions planned or taken.

(b) Any person having an interest that is or may be adversely affected may intervene as a matter of right in any civil action for remedies specified in this act.

§ 35-11-1424. Corrective action account created; use of monies; cost recovery.

(a) There is created the corrective action account. This account is intended to provide for financial assurance coverage required by federal law and shall be used by the department to take corrective action in response to a release and to remediate orphan sites and solid waste landfills. The department shall use monies from the corrective action account as appropriated by the legislature for the administration of this article, W.S. 35-11-533 through 35-11-537 and 35-11-1701. Interest earned by this account shall be deposited in the general fund. Monies in the

corrective action account may also be used for the state drinking water and water pollution control revolving loan accounts pursuant to W.S. 16-1-201 through 16-1-207 and 16-1-301 through 16-1-308. Except as provided in subsection (p) of this section, and contingent on availability of money in the corrective action account, the director shall distribute monies in the corrective action account to the solid waste landfill remediation account created by W.S. 35-11-535 and the orphan site remediation account created pursuant to W.S. 35-11-1701 on July 1 of each specified year in an amount up to:

(i) 2019 - one million dollars ($1,000,000.00) to the solid waste landfill remediation account and one million dollars ($1,000,000.00) to the orphan site remediation account;

(ii) 2020 - four million dollars ($4,000,000.00) to the solid waste landfill remediation account and one million dollars ($1,000,000.00) to the orphan site remediation account;

(iii) 2021 — five million dollars ($5,000,000.00) to the solid waste landfill remediation account and one million dollars ($1,000,000.00) to the orphan site remediation account;

(iv) 2022 — five million dollars ($5,000,000.00) to the solid waste landfill remediation account and one million dollars ($1,000,000.00) to the orphan site remediation account;

(v) 2023 — six million dollars ($6,000,000.00) to the solid waste landfill remediation account and one million dollars ($1,000,000.00) to the orphan site remediation account;

(vi) 2024 through 2028 — provided that in no event shall monies plus net accounts receivable in the corrective action account on July 1 of any year of this period be less than two million dollars ($2,000,000.00), the director shall:

(A) Determine expected expenditures from the corrective action account for the underground storage tank program for the next fiscal year and retain monies equal to that amount in the corrective action account;

(B) Deposit up to one million dollars ($1,000,000.00) from the remainder of the monies in the corrective action account into the orphan site remediation account; and

(C) Deposit the remainder of the monies from the corrective action account into the solid waste landfill remediation account.

(vii) 2029 and each year thereafter-the director shall determine expected expenditures from the corrective action account for the underground storage tank program for the next fiscal year and retain monies equal to that amount in the corrective action account, with the remainder of the monies being divided and deposited at the director's discretion into the solid waste landfill remediation account and the orphan site remediation account, but in no event shall monies plus net accounts receivable in the corrective action account on July 1 of any year be less than two million dollars ($2,000,000.00).

(b) The department shall establish priority lists of sites contaminated by tanks. The priorities shall be based on public health, safety and welfare and environmental concerns. The council after recommendation from the director of the department, the administrator of the various divisions and their respective advisory boards shall promulgate rules and regulations for defining priorities.

(c) The department shall use corrective action account monies to take corrective actions at sites contaminated by tanks. The department shall take corrective actions based on the sites' placement on the priority list. However, if an emergency threat to public health, safety and welfare or to the environment exists, or costs of cleanup may be significantly reduced, a site may be moved up on the priority list for immediate corrective action.

(d) For a site to be eligible for use of monies in the corrective action account, the owner or operator of the site shall, if required, pay the tank fee required by W.S. 35-11-1425, conduct a minimum site assessment, as defined by rule and regulation, and, if contamination is found, take action to prevent continuing contamination. The department shall notify all owners and operators on record at the department of the minimum site assessment requirements. Sites which do not meet the eligibility requirements specified in this subsection shall not be eligible for use of any monies in the corrective action account. Owners and operators of these ineligible sites shall

not use the corrective action account for proof of financial assurance for the sites. Pending determination of the site's eligibility, the department may use corrective action account monies for corrective actions at a contaminated site.

(e) Sites where tanks have been removed or abandoned in accordance with any government regulations effective at the time of abandonment may become eligible for use of corrective action account monies if the person who owns the site pays a two hundred dollar ($200.00) annual fee per site and conducts a site assessment as required by subsection (d) of this section. The annual fee per site required under this subsection shall be paid for a maximum of ten (10) years and shall then lapse until corrective action is undertaken by the department. Failure to meet these requirements may subject the person who owns the site to suit for corrective action or cost recovery. The fee collected under this subsection shall be deposited in the corrective action account. The department shall notify all the owners and operators who are on record at the department who have removed or properly abandoned a tank of the provisions of this subsection.

(f) If, after due diligence, no owner or operator can be found, a contaminated site shall be placed on the priority list in appropriate rank with other sites. If an owner or operator of a site which is not in compliance and the owner or operator refuses to comply with subsection (d) of this section is discovered, that site shall be considered as ineligible for use of corrective action account monies and shall be treated as defined in subsection (g) of this section.

(g) The department may, by an action brought by the attorney general against an owner or operator, recover reasonable and necessary expenses incurred by the department in taking a corrective action. These recoverable expenses include but are not limited to costs of investigating a release, administrative costs and reasonable attorney fees. The department's certification of expenses is prima facie evidence the expenses are reasonable and necessary. Expenses recovered under this section shall be deposited in the corrective action account unless otherwise required by state or federal law. The department may sue for recovery of expenses only if:

(i) The owner or operator has failed to take the actions required for that site in subsection (d) of this section; or

(ii) The owner or operator had tank insurance for that site at the time of the release. However no such recovery under this subsection may exceed the limits or coverage of the insurance policy in question.

(h) The state has a right of subrogation to any insurance policies in existence at the time of the release to the extent of any rights the owner may have had under that policy. This right of subrogation shall apply regardless of the owner's eligibility to use corrective action account monies under subsection (d) of this section. In implementing this section the department shall:

(i) Notify all known owners and operators, past and present, of sites where contamination from a tank is known to exist and request information relating to any insurance policies they possess or possessed at the time of release that may provide coverage for corrective action or cleanup of the contamination at the site;

(ii) Notify all insurance companies which have been identified to the department pursuant to W.S. 35-11-1419 and may have issued insurance policies that provide coverage for contamination from tanks and request copies of any such policies. In notifying insurance companies the department shall provide the insurance company with the name of all known owners, past and present, and the legal description of the site upon which the tank is or was located. The department notification shall require each insurance company to notify the department whenever there is a change in the insurance policy, including cancellation.

(j) Nothing in this section shall be construed to authorize payments for the repair, removal or replacement of any tank or equipment.

(k) Nothing in this section shall be construed to authorize payments or commitments for payments in amounts in excess of the monies available.

(m) Within thirty (30) days after receipt of notification that the corrective action account has become incapable of paying for assured corrective actions, the owner or operator shall obtain alternate financial assurance.

(n) Any person or insurance company notified by the department under paragraph (h)(i) or (ii) of this section shall provide the requested information to the department within thirty (30) days of receipt of the notification. In addition to other remedies provided for in this act, failure of any insurance company to provide copies of the requested policies shall result in the statute of limitations provided in subsection (o) of this section being tolled for any action the department may bring in subrogation until such time as the policy is discovered.

(o) Notwithstanding any other applicable period of limitation, upon notification by any owner, operator or insurance company of any insurance coverage in existence, the department shall have five (5) years to commence any action for the recovery of proceeds under the applicable policy.

(p) The director is authorized to withhold distributions from the corrective action account to the solid waste remediation account and the orphan site remediation account as provided in subsection (a) of this section in the event of:

(i) An emergency involving a leaking underground storage tank which requires immediate corrective action which will require an expenditure of monies in excess of the monies available in the corrective action account; or

(ii) Monies in the account are less than the amount required by federal law to provide for financial assurance coverage or adequate leaking underground storage tank remediation.

(q) The director shall submit a report to the joint minerals, business and economic development interim committee by June 15, 2019 and by June 15 of every year thereafter, describing the amount to be withheld in the corrective action account pursuant to subsections (a) and (p) of this section, and the factors used in making those determinations, and describing the distributions of monies from the corrective action account to the solid waste landfill remediation account and the orphan site remediation account.

(r) Repealed by Laws 2018, ch. 12, § 2.

§ 35-11-1425. Tank fee; deposit into corrective action account; late fee.

(a) On or before January 1 of each year the owner of a tank shall pay a fee to the department of two hundred dollars ($200.00) per tank owned. This fee shall be deposited in the corrective action account.

(b) On April 1 of each year the department may assess a late payment fee of one hundred dollars ($100.00) per tank or contaminated site against any owner who has not paid the annual fee required pursuant to subsection (a) of this section or W.S. 35-11-1424(e). This late fee shall be paid by the owner and shall be in addition to the annual fee required pursuant to subsection (a) of this section or W.S. 35-11-1424(e) and shall be deposited in the department's corrective action account.

(c) The change from July 1 to January 1 for the due date of storage tank fees shall be revenue neutral. The department shall collect one-half (1/2) of the annual fee on July 1, 2007 and shall collect the full annual fee on January 1, 2008 and annually thereafter.

§ 35-11-1426. Restoration standard.

Any owner or operator, department or other person taking a corrective action shall restore the environment to a condition and quality consistent with standards established in rules and regulations.

§ 35-11-1427. Financial responsibility account.

There is created the environmental pollution financial responsibility account. This account is intended to provide for financial assurance coverage required by federal law for underground storage tanks and establish financial assurance coverage for aboveground storage tanks and shall be for the purpose of compensating third parties for damage caused by releases from one (1) or more tanks. Interest earned by the account shall be deposited in the general fund.

§ 35-11-1428. Uses of financial responsibility account monies.

(a) As provided in this section, the department shall, on application by an owner or operator, direct the payment of monies from the financial responsibility account to satisfy judgments against the owner or operator for third party property damage or personal injury.

(b) The attorney general shall be served by certified mail return receipt requested with a copy of the complaint filed in any suit initiated against an owner or operator for third party property damage or personal injury. Service of the complaint on the attorney general is a jurisdictional requirement in order to maintain the suit. The attorney general shall be notified in writing by certified mail return receipt requested of any judgment, compromise, settlement or release entered into by an owner or operator. As provided in this section, the department shall, on application by an owner or operator, direct the payment of monies from the financial responsibility account to pay settlements for third party property damage or personal injury on terms negotiated by the attorney general and approved by the council.

(c) The monies from the financial responsibility account shall only be used to pay judgments and settlements not to exceed one million dollars ($1,000,000.00), for all the damages arising from releases from one (1) or more of the tanks on a site, provided that the owner or operator:

(i) Shall remain liable for payment of the judgment or settlement up to, but not exceeding, thirty thousand dollars ($30,000.00). The department may bring an action against the owner or operator to recover any amount paid by the department pursuant to a judgment or settlement for which the owner or operator remains liable under this paragraph;

(ii) Has not been relieved of his responsibility for the judgment or settlement by operation of law or otherwise. For purposes of this paragraph, an owner or operator shall not be deemed to have been relieved of his responsibility for the judgment or settlement by virtue of the Governmental Claims Act [1-39-101 et seq.]; and

(iii) Pays the tank fee required by W.S. 35-11-1424(e) or 35-11-1425, conducts a minimum site assessment, as defined by rule and

regulation, and, if contamination is found, takes action to prevent continuing contamination.

(d) Nothing herein shall be construed to authorize the department to obligate funds from the financial responsibility account for payment of costs which may be associated with, but are not integral to, the personal injury or property damage such as the costs for modifying, removing or replacing tanks.

(e) The department shall establish a priority list for purposes of the financial responsibility account. The department shall not approve use of monies from the financial responsibility account if there are insufficient monies in the account to fund the application before the department and all other outstanding commitments.

(f) Nothing in this section shall be construed to authorize commitments to cover property or personal injury damages in excess of the balance in the financial responsibility account.

(g) Within thirty (30) days after receipt of notification that the financial responsibility account has become incapable of paying for assured third party compensation costs, the owner or operator shall obtain alternate financial assurance.

§ 35-11-1429. Tank requirements; rulemaking authority.

(a) Cathodic protection shall be installed and operated on all internally lined underground storage tanks no later than June 30, 2008.

(b) All underground storage tank systems that dispense more than five hundred thousand (500,000) gallons per month of a regulated substance shall be replaced with double wall tanks and lines with interstitial leak monitoring no later than June 30, 2012, or thirty (30) years from the date of installation of the underground storage tank, whichever is later.

(c) Double wall underground storage tanks and lines with interstitial leak monitoring shall be installed whenever any underground storage tank is installed.

(d) Double wall underground storage tank system lines with interstitial leak monitoring shall be installed whenever any

line is installed on any underground storage tank system. Except piping connected to field-constructed underground storage tank systems with a capacity exceeding fifty thousand (50,000) gallons or piping that is used for an airport hydrant system, if existing single wall underground piping connected to an underground storage tank system fails due to corrosion or fails and has been recalled by the manufacturer, the entire run of single wall piping shall be replaced with double wall piping with interstitial monitoring regardless of the length of piping requiring repair.

(e) The council may promulgate rules and regulations to administer this section after recommendation from the director.

(f) A double wall and interstitially monitored underground storage tank or underground piping installed after December 1, 2005, shall be interstitially monitored for the lifetime of the tank or piping.

(g) Except essential homeland security systems, emergency generator systems and systems used for other disaster relief efforts, if a new piping interstitial monitoring system is installed and sump sensors are used as standalone automatic leak detectors, the system shall be configured to shut off the flow of product in that piping run when a sump sensor triggers an alarm.

§ 35-11-1430. [Repealed.]

W.S. 35-11-1430(b) repealed this section effective June 30, 2009.

Article 15
Radioactive Waste Storage Facilities

§ 35-11-1501. Definitions.

(a) As used in this article:

(i) "High-level radioactive waste" means as defined in the "Nuclear Waste Policy Act of 1982" as amended, 42 U.S.C. § 10101 et seq.;

(ii) "High-level radioactive waste storage" means the emplacement of high-level radioactive waste or spent nuclear

fuel regardless of the intent to recover that waste or fuel for subsequent use, processing or disposal;

(iii) "High-level radioactive waste storage facility" includes any facility for high-level radioactive waste storage, other than a permanent repository operated by a federal agency pursuant to the Nuclear Waste Policy Act of 1982, as amended. "High-level radioactive waste storage facility" includes an independent spent fuel storage installation as defined in title 10 of the Code of Federal Regulations part 72 section 3;

(iv) "Spent nuclear fuel" means as defined in the Nuclear Waste Policy Act of 1982 as amended, 42 U.S.C. § 10101 et seq.

§ 35-11-1502. Application to site a high-level radioactive waste storage facility; requirements; payment of costs.

(a) Any person undertaking the siting of any high-level radioactive waste storage facility shall do so in accordance with this article. Facilities subject to this article are exempt from the jurisdiction of the Industrial Development Information and Siting Act, W.S. 35-12-101 et seq.

(b) Any person undertaking the siting of any facility governed by this section shall submit an application documenting the following information to the director:

(i) The criteria upon which the proposed site was chosen, and information showing how the site meets the criteria of the nuclear regulatory commission and the department pursuant to W.S. 35-11-1506(c)(xvi);

(ii) The technical feasibility of the proposed waste management technology;

(iii) The environmental, social and economic impact of the facility in the area of study;

(iv) Conformance of the plan with the federal guidelines for a high-level radioactive waste storage facility.

(c) The application shall be accompanied by an initial deposit of eight hundred thousand dollars ($800,000.00) plus any excess amount collected from the feasibility agreement pursuant to W.S. 35-11-1506(c). Effective July 1, 2018, and annually thereafter, the amount of the initial deposit shall be adjusted for

inflation by the department using the consumer price index or its successor index of the United States department of labor, bureau of labor statistics, for the calendar year immediately preceding the date of adjustment. The purpose of the initial deposit and additional monthly payments as billed to the applicant shall be to cover the costs to the state associated with the investigation, review and processing of the application and with the preparation and public review of the report required in W.S. 35-11-1503 and 35-11-1504. Unused fees under this subsection shall be refunded to the applicant. The initial deposit shall be held in an interest bearing account in reserve by the department to guarantee that sufficient funds are available to pay for any outstanding costs incurred by the state in the event that the applicant is unable to complete the application process for any reason. Any costs to the state for application processing, preparation of the report required in W.S. 35-11-1503 and 35-11-1504 and for any other costs incurred by the state to fulfill any requirement of article 15 of this act, shall be billed by certified mail and reimbursed to the state by the applicant on a monthly basis at a rate established by the state for comparable other similar permitting reviews. The applicant may appeal the assessment to the department within twenty (20) days after receipt of the written notice. The appeal shall be based only upon the allegation that the particular assessment is erroneous or excessive. Failure of the applicant to pay within thirty (30) days of the date of mailing shall be cause for suspension or termination of the application process. Upon termination of the process, any unused sum remaining in said reserve account shall be returned to the applicant.

(d) Any applicant for a permit to construct and operate a high-level radioactive waste storage facility shall share pertinent information relevant to both state and nuclear regulatory commission permitting. It is the intention of this article that an applicant can supply information common to both state and federal permitting, without duplication of effort.

(e) Upon receipt of an application under subsection (b) of this section, the director shall, at the earliest possible date, apply for any funds which may be available to the state from the Interim Storage Fund or the Nuclear Waste Fund under the provisions of 42 U.S.C. § 10156 and 42 U.S.C. § 10222. The

director may apply for other funds which may become available to the state under any other federal or state program for high-level radioactive waste storage facilities. Nothing in this subsection shall be construed as authorizing the siting, construction or operation of any high-level radioactive waste storage facility not otherwise authorized under this article.

§ 35-11-1503. Preparation of the report by the department.

(a) Except as otherwise provided in this subsection, the department shall within twenty-one (21) months of receipt of an application and the application fee under W.S. 35-11-1502, prepare a report which examines the environmental, social and economic impacts of any proposal to site a high-level radioactive waste storage facility within the state. The director may determine that more than twenty-one (21) months is required to complete the report. If the director makes this determination, the director shall extend the deadline as appropriate and notify the applicant and the legislature of the additional time required. The director may employ experts, contract with state or federal agencies, or obtain any other services through contractual or other means to prepare the report.

(b) Any report prepared under this section shall evaluate and assess all probable impacts associated with any proposal to site a high-level radioactive waste storage facility within the state, including but not limited to short term impacts and any other impacts which may be serious, reversible or irreversible. In developing the report under this section, the director may consider the guidelines and standards for preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. § 4332(2)(C). If appropriate and to the extent practicable, the department shall prepare a joint report with the nuclear regulatory commission under the National Environmental Policy Act.

(c) The report shall evaluate the environmental, social and economic impacts to the state from a range of alternative actions, including the siting of the high-level radioactive waste storage facility as proposed, the no action alternative and other alternatives.

(d) The report shall include a proposed benefits agreement, which shall be negotiated with the person who proposes to site the high-level radioactive waste storage facility.

(e) The director shall, in the preparation of the report, identify a recommended action from among the alternatives evaluated.

§ 35-11-1504. Public review of any report for the siting of a high-level radioactive waste storage facility; submission to legislature.

(a) The department shall submit any report prepared under W.S. 35-11-1503 for public review as required under this section. The public shall be afforded an opportunity to review the report and provide comments to the director. The director shall hold public hearings in the county or counties where the proposed storage facility will be located and throughout the state, to the extent practicable, to receive comments on the report.

(b) Following any public review of the report as provided in this section, but in no event before the United States department of energy issues a final environmental impact statement in accordance with the law along with a license application for a permanent repository for high-level radioactive waste, the director shall submit the report to the legislature. The submission by the director shall include:

(i) The report;

(ii) The director's preferred or recommended alternative;

(iii) Any conditions proposed by the director regarding siting, construction, operation, monitoring, decontamination or decommissioning, or any other element of the proposed project that the director determines to be necessary to protect the public health or environment of the state, or to mitigate local or statewide social or economic impacts;

(iv) The proposed benefits agreement, including but not limited to:

(A) The number of jobs that will be created in planning, permitting, licensing, site analysis and preparation,

purchasing, construction, transportation, operation and decommissioning;

(B) Local and state taxes generated by all aspects of the project;

(C) Benefits from job training, education, communication systems, monitoring and security systems;

(D) Mitigation payments to the affected communities;

(E) Cash and other in kind benefits that will offset any adverse effects;

(F) The duration of benefits from the project of all kinds.

(v) A summary of and a discussion of the considerations given by the department to any public comments received.

§ 35-11-1505. Benefits agreement.

No benefits agreement shall be finally effective until authorized by the legislature under W.S. 35-11-1506. The benefits agreement shall be sufficient to offset adverse environmental, public health, social or economic impacts to the state as a whole, and specifically to the local area hosting the storage facility. The benefits agreement shall be attached to and made part of any permit for the facility. Failure to adhere to the benefits agreement shall be considered grounds for enforcement up to and including permit termination. No benefits agreement as provided in this section shall limit or waive any rights afforded to the state by the Nuclear Waste Policy Act, as of March 1, 1995 [42 U.S.C. § 10101 et seq.], including any right to disapprove any site or siting.

§ 35-11-1506. Legislative approval of the siting of high-level radioactive waste storage facilities; conditions.

(a) Except as provided in subsection (e) of this section, no construction may commence, nor shall any high-level radioactive waste storage facility be sited within this state, unless the legislature has enacted legislation approving the siting, construction and operation of the facility in accord with this section. Any authorization of a facility under this section shall not be considered to grant to any person an exclusive

right or franchise to store high-level radioactive wastes within the state.

(b) In addition to any facility which meets the requirements of subsection (e) of this section, the legislature may authorize one (1) or more facilities under subsection (a) of this section if it finds that:

(i) The siting of a high-level radioactive waste storage facility within the state is in the best interests of the people of Wyoming;

(ii) The siting of a high-level radioactive waste storage facility within the state can be accomplished without causing irreversible adverse environmental, public health, social or economic impacts to the state as a whole, and specifically to the local area hosting the proposed storage facility;

(iii) The proposed benefits agreement is sufficient to offset any adverse environmental, public health, social or economic impacts to the state as a whole, and specifically to the local area hosting the proposed storage facility; and

(iv) Sufficient safeguards, by contractual assurances or other means, exist to provide that:

(A) The authorization to site, construct and operate any proposed storage facility shall be limited to no more than forty (40) years, provided that extensions may be granted if the legislature enacts legislation authorizing nuclear waste storage facilities to operate for more than forty (40) years;

(B) Any wastes in storage at any facility shall remain the property of the waste generator or civilian nuclear power reactor owner, until transferred to permanent storage or until the federal government takes title to the wastes under the provisions of the Nuclear Waste Policy Act, 42 U.S.C. § 10101 et seq.;

(C) Conditions substantially equivalent to the licensing conditions imposed upon monitored retrievable storage facilities under 42 U.S.C. § 10168(d) existing as of March 1, 1995 shall be effective for any high-level radioactive waste storage facility authorized under this article; and

(D) There exists either a cooperative agreement between the state and the nuclear regulatory commission, or such other legally binding agreement for specific performance between the director and the applicant, which shall provide for state regulation of the facility.

(c) With permission of the governor and the management council, an applicant for either a monitored retrievable storage facility or an independent spent fuel storage installation may enter into a preliminary but nonbinding feasibility agreement and study with the director which shall be submitted to and reviewed by the director, governor and the management council. The public shall be afforded a thirty (30) day public comment opportunity to review the feasibility agreement prior to its submission to the governor and the management council. The purposes of this feasibility agreement and study are to allow the state to make a preliminary determination, whether, on the basis of the feasibility agreement and study, the proposed benefits substantially outweigh any adverse effects and to allow an applicant based on the state's preliminary review of any proposed benefit to determine whether or not a prudent investor, planner, builder and operator would decide to proceed with an application. Upon entering into a feasibility agreement, the applicant shall pay to the state a fee of eighty thousand dollars ($80,000.00). Effective July 1, 2018, and annually thereafter, the fee shall be adjusted for inflation by the department using the consumer price index or its successor index of the United States department of labor, bureau of labor statistics, for the calendar year immediately preceding the date of adjustment. The fee shall be used by the department for costs attendant to the preliminary agreement. Excess funds collected may be used by the department to review an application submitted under W.S. 35-11-1502. Appropriate time shall be afforded the director, the governor, the management council and the applicant to prepare and to evaluate the preliminary agreement and study, but neither the state nor the applicant shall unnecessarily delay the feasibility agreement and study. The preliminary feasibility agreement and study shall not supersede nor replace other requirements under this act. This agreement and study shall set forth the following:

(i) The source and adequacy of the financing for the facility and the applicant's ability to fulfill the terms of any contract entered into regarding the siting, construction or operation of the facility. The information required under this paragraph shall include, but is not limited to, audited financial statements covering the five (5) year period prior to the feasibility agreement, a listing of all partners if the applicant is a partnership and a listing of all persons owning or controlling five percent (5%) or more of its stock if the applicant is a corporation;

(ii) Financial strengths of prospective storage customers;

(iii) The technical experience of the applicant and his associates in permitting before the nuclear regulatory commission, and in design, construction and operation of nuclear facilities;

(iv) The preliminary design plan and technical feasibility of the planned temporary fuel rod storage facility;

(v) The best estimate of a range of costs for the permitting, planning and construction of the facility, based upon available information;

(vi) The proposed storage capacity of the planned facility, necessary to give reasonable assurance of economic feasibility, with evidence to show that the proposed storage capacity will not adversely affect the health and safety of Wyoming people or the environment;

(vii) How the applicant will proceed with the facility to assure that its construction, operation and decommissioning will neither temporarily nor permanently adversely affect the health and safety of Wyoming people;

(viii) A best estimate of a time frame required to obtain the necessary permits, including nuclear regulatory commission licensing, design and construction, and a suggested time frame for decisions by Wyoming government to meet the target timetable;

(ix) An outline of transportation plans, including rail and highway;

(x) Substantial assurances that the facility is temporary, including options for that assurance including a time frame for the movement of the temporarily stored fuel rods to a permanent repository, delivery of the stored rods to reprocessing centers or to a purchaser, domestic or foreign, buying the rods for future reprocessing;

(xi) A range of benefits the nearby communities and the state might expect in return for temporarily storing the fuel rods, and a best estimate of when the benefits might begin to be received by the nearby communities and state;

(xii) A mutual review, by the state and applicant, of a range of taxes the state might reasonably impose on the facility and the fuel rods while they are in temporary storage including the annual acceptance taxes to be levied on fuel rods, based upon the kilograms of fuel rods stored at the Wyoming facility;

(xiii) A description of security measures that would be installed in and around the facility to isolate and protect it from intruders;

(xiv) A description of an emergency response procedure in the event of an unusual occurrence;

(xv) An outline of the information program an applicant would initiate to explain its plans to the community and state;

(xvi) A description of site suitability characteristics and evidence that the applicant's proposed site for the facility meets those characteristics;

(xvii) Evidence of support from nearby Wyoming communities for exploring the project.

(d) If the legislature authorizes the siting of a facility under subsection (a) of this section, the department shall issue a permit incorporating the conditions presented to the legislature including the benefits agreement. The issuance of the permit is not appealable to the environmental quality council. The permit shall also include a provision for payment by the permittee of inspection and review costs unless such costs are included in the benefits agreement.

(e) The legislature hereby authorizes the siting of temporary high-level radioactive waste storage facilities within this state subject to the following:

(i) A facility is authorized if:

(A) It is operated on the site of and to store the high-level radioactive waste or spent nuclear fuel produced by a nuclear power generation facility operating within the state;

(B) The facility has received a license to construct and operate from the United States nuclear regulatory commission;

(C) The report required under paragraph (vi) of this subsection has been submitted; and

(D) The operator of the facility is in compliance with paragraph (vii) of this subsection.

(ii) through (v) Repealed by Laws 2022, ch. 103, § 2.

(vi) Not later than thirty (30) days before construction of a nuclear electric generation facility commences, the operator of the facility shall submit a report to the department that includes:

(A) The number of jobs that will be created in the planning, permitting, licensing, site analysis and preparation, purchasing, construction, transportation, operation and decommissioning of the facility and what number of those jobs would be filled by Wyoming residents;

(B) Local and state taxes that are estimated to be generated by all aspects of the construction, operation and decommissioning of the facility;

(C) All benefits and impacts that will accrue to the state and the local community where the facility will be located, including benefits from job training, education, communication systems, monitoring and security systems.

(vii) The operator of each facility shall send to the department copies of all publicly available reports, notifications and violations sent to or from the United States nuclear regulatory commission or the operator of the facility as soon as practicable but not later than five (5) days after the operator

sends or receives the report. The operator shall also transmit all information required under this subsection to emergency management departments of the local governments where the facility is located and shall make the information available on a public website.

§ 35-11-1507. Injunction proceedings; penalties.

(a) When, in the opinion of the governor, a person is violating or is about to violate any provision of this article, the governor shall direct the attorney general to apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity. Upon a showing that the person has engaged, or is about to engage in the activity, the court may grant a permanent or temporary injunction, restraining order or other order.

(b) In addition to being subject to injunctive relief any person convicted of violating any provision of this article may be imprisoned for up to one (1) year, fined up to ten thousand dollars ($10,000.00), or both.

Article 16
Voluntary Remediation of Contaminated Sites

§ 35-11-1601. Applicability; nonvoluntary remediation.

(a) This article establishes the requirements and procedures necessary for voluntary remediation of eligible sites under this act, and shall not authorize unpermitted releases of contaminants to the environment of the state. Consistent with the policy and purpose of this act, this article shall provide incentive to remediate eligible sites and establish criteria for application of site-specific, risk-based remediation. All voluntary remediation requirements for eligible sites shall be performed in accordance with this article and shall be contained in a remedy agreement issued under W.S. 35-11-1607. Except as provided in subsection (d) of this section, no additional remediation requirements may be imposed by the department under this act for remediation of any site subject to a remedy agreement issued under W.S. 35-11-1607, unless the remedy agreement has been reopened or terminated under W.S. 35-11-1610. Nothing in this subsection shall prohibit the imposition of remediation requirements to address the release of a contaminant

which may occur after a remedy agreement has been entered into or a no further action letter has been issued. Remediation authorized by the department under this article shall not be deemed a prohibited act under this act, or of any rules or regulations promulgated thereunder.

(b) Remediation is not voluntary under this article if it is required:

(i) By order of the department, council or by any court and entered without the consent of a person; or

(ii) By order of the department, council or by any court and entered without the consent of a person who has failed or refused to enter into, or breached the terms of, a preliminary remediation agreement, remedy agreement or reopened remedy agreement; or

(iii) By administrative or judicial order to which the United States environmental protection agency is a party, which is issued after the effective date of this act, on a site that has been determined not to be eligible under W.S. 35-11-1603.

(c) Sites that are not eligible for voluntary remediation are subject to all other applicable requirements of this act, including the provisions of W.S. 35-11-1613.

(d) Nothing herein shall relieve owners or operators of eligible sites from applicable permit requirements under this act or limit the director's ability to undertake enforcement action relating to a complaint under article 7 of this act [§ 35-11-701] and impose a penalty for violation of the act under article 9 of this act [§ 35-11-901 et seq.].

(e) Nothing in this article shall limit the director's authority to order any person to abate any condition that poses an imminent or substantial endangerment to human health or the environment, or the director's authority to issue emergency orders under W.S. 35-11-115.

§ 35-11-1602. Eligibility for voluntary remediation program; sites eligible; sites ineligible.

(a) Eligible sites shall include sites which meet the following conditions:

(i) Sites, or portions of sites, where releases occurred before the effective date of this article and:

(A) The site, or portion of site, where the release occurred was not subject to the permit requirements of this act at the time of the release; or

(B) The site is covered by an order of the department, council or by any court and entered with the consent of the person or entity.

(ii) Sites, or portions of sites, where releases occurred on or after the effective date of this article and where the owner or operator is implementing a pollution prevention plan consistent with rules promulgated under this act;

(iii) Waste management or disposal units that have been permitted under this act and the director determines that the release from the permitted unit, if restricted or prohibited by the permit, cannot be remediated in accord with the permit requirements because of technical impracticability.

(b) Eligible sites shall not include:

(i) A site for which remediation is not voluntary under W.S. 35-11-1601(b);

(ii) A site that is listed on the National Priorities List of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675;

(iii) A commercial solid waste management facility, commercial waste incineration or disposal facility subject to W.S. 35-11-514;

(iv) Underground and aboveground storage tanks subject to article 14 of this act [§ 35-11-1401 et seq.];

(v) Radioactive waste storage facilities subject to article 15 of this act [§ 35-11-1501 et seq.];

(vi) Abandoned mine land sites subject to article 12 of this act [§ 35-11-1201 et seq.]; or

(vii) Any site where a release resulted from continuous or repeated violations of any law, rule, regulation or order under this act.

§ 35-11-1603. Participation in the voluntary remediation program; application; time for determination.

To participate in the voluntary remediation program a person must submit an application to the department that identifies the owner and provides a location and description of the site. The application shall also describe the site-specific conditions which the applicant believes satisfy one (1) or more of the eligibility criteria of W.S. 35-11-1602. No later than forty-five (45) days after receipt of the application, the department shall give written notice to the applicant containing the department's determination of the site eligibility for participation in the voluntary remediation program.

§ 35-11-1604. Public participation; notice; plan.

(a) Following any determination by the department that a site is an eligible site, or following the submission of any application to modify an existing remedy agreement, the owner or operator shall give written notice to all surface owners of record of land which is contiguous to the site, and to all known adjacent surface owners of record of land, and shall publish notice once per week for four (4) consecutive weeks in a newspaper of general circulation in the county in which the site is located. The notice published in a newspaper shall be a display advertisement. The notice to individual landowners and the notice published in a newspaper shall identify the site, provide a summary of the criterion in W.S. 35-11-1602 which makes the site eligible for participation in the voluntary remediation program under this article, describe the process for the public to request the development of a public participation plan under subsection (b) of this section, and provide a thirty (30) day period for the public to request that a public participation plan be developed.

(b) For any eligible site where there is significant public interest as determined by the director after considering the factors enumerated in paragraphs (i) through (iii) of this subsection, the person who has submitted an application for participation, or the owner of the site, shall prepare and implement a public participation plan which shall be approved by the director. In preparing the plan, the applicant or owner shall consult with and consider the public participation needs

of interested parties, including but not limited to contiguous surface owners of record and all known adjacent surface owners of record of land, local government, local economic development agencies or groups, and public interest groups. In determining whether there is significant public interest, the director shall consider whether there have been responses to the notice required under subsection (a) of this section requesting the development of a public participation plan by:

(i) At least twenty-five (25) individuals;

(ii) An organization representing at least twenty-five (25) individuals; or

(iii) The governing body of a local government.

(c) Any owner or operator of an eligible site which is also subject to permitting or corrective action requirements of the hazardous waste rules and regulations promulgated under W.S. 35-11-503(d) shall prepare and implement a public participation plan which complies with those rules and regulations.

(d) At a minimum for any eligible site regardless of whether a public participation plan has been required, prior to entering into a remedy agreement, the owner shall give written notice of the proposed remedy agreement to all surface owners of record of land adjacent to the site, and publish notice once per week for four (4) consecutive weeks in a newspaper of general circulation in the county in which the site is located. The notice shall be of a form and content prescribed by the department, and shall summarize the proposed remedy agreement, provide a description of the site, provide for a thirty (30) day public comment period after the date of the last publication, and provide an opportunity for an oral hearing. An oral hearing on the proposed remedy agreement shall be held if the department finds sufficient interest. The department may enter into a remedy agreement following the public comment period or any hearing, whichever is later.

§ 35-11-1605. Voluntary remediation standards; site-specific, risk-based standards; considerations in choice of remedy; alternate standards for soil; alternate standards for soil or water; point of compliance; contamination from source not on

site; alternate remediation standards for site contaminated from source not on site; supplemental requirements.

(a) Consistent with any requirements necessary to retain state primacy in federal programs, any remedy proposed by an owner of an eligible site, or considered by the director, shall:

(i) Be protective of human health, safety and the environment. A remedy shall be considered to be protective of human health if it reduces risk to human receptors of acute and chronic toxic exposures to contaminants to levels that do not pose a significant risk to human health. A remedy shall be considered to be protective of the environment if it adequately reduces risk of significant adverse impacts to ecological receptors for which habitats have been identified on or near the site. Remedies may meet this requirement through a combination of monitored natural attenuation, removal, treatment, or engineering or institutional controls. Except as provided in subsection (d) of this section, any site where a remedy is proposed that includes engineering or institutional controls must also have been designated as a use control area in accord with W.S. 35-11-1609;

(ii) Attain standards established by the director under this subsection for air, soil, and water affected by the site, unless the director sets an alternate standard in accord with subsection (c) or (d) of this section. No standard set under this section for a contaminant shall be set at a level or concentration lower than the background level or concentration for that contaminant. A remedy must attain standards or alternate standards by the end of the remediation period set forth in the remedy agreement. A remedy shall be considered to attain standards for air, soil and water if it:

(A) Meets any applicable media standards established under federal or state law or rule or regulation; or

(B) Meets site-specific, risk-based standards developed for the eligible site. Site-specific, risk-based standards shall establish a risk reduction goal for contaminants which are known or suspected carcinogens to ensure that the excess upper bound lifetime cancer risk to any exposed individual may not exceed a probability of developing cancer of one in one million (1 in

1,000,000) to one in ten thousand (1 in 10,000). The one in one million (1 in 1,000,000) risk level shall be used as the point of departure for determining remediation goals for alternatives when individual contaminant standards are not available, or are not sufficiently protective because of the presence of multiple contaminants at a site or multiple pathways of exposures. Site-specific, risk-based standards must also require that for contaminants which are systemic toxicants, the hazard index must not exceed one (1). The director shall use residential exposure factors, giving consideration to children and the elderly, to establish site-specific, risk-based standards under this subsection for soils and air. The exposure factors to be used by the director to establish site-specific, risk-based standards under this subsection for hazardous substances in groundwater shall assume that groundwater may be used as a drinking water source, provided that no standard set under this subsection for a contaminant shall be set at a level or concentration lower than the background level or concentration for that contaminant. For nonhazardous substances, the exposure factors to be used by the director shall assume uses consistent with the class of use prior to contamination of the groundwater.

(iii) Control any sources of releases so as to reduce or eliminate, to the extent technically practicable, further releases as required to protect human health and the environment. A remedy shall be considered to control sources of releases if it controls the release of contaminants from sources to any media in concentrations that exceed applicable standards set by the director under paragraph (a)(ii) of this section, or the soil standards under subsection (c) or (d) of this section; and

(iv) Comply with any applicable standard for management of wastes generated as a consequence of the remedy. A remedy shall be considered to comply with applicable standards for management of wastes if all wastes generated as a consequence of implementation of the remedy are treated, stored or disposed of in compliance with the requirements of this act.

(b) The director shall choose a remedy, or combination of remedies, from among those remedies which meet the requirements

of subsection (a), (c) or (d) of this section, as applicable. In choosing a remedy, the director shall consider:

(i) The extent to which the remedy will be reliable and effective for the long term. For remedies that include engineering or institutional controls in accord with a use control area designation, the director shall consider the expected life cycle performance of any engineering controls, monitoring systems and institutional controls;

(ii) The extent to which the remedy results in a reduction of toxicity, mobility or volume of contaminants. The director shall consider the degree to which remedies incorporate treatment or removal of contaminants to lower long term risk to human health and the environment;

(iii) The short term effectiveness of the remedy. The director shall consider the time required for each remedy to attain standards for air, soil and water specified in paragraph (a)(ii) or subsection (c) or (d) of this section, as applicable. A remedy involving monitored natural attenuation may be considered whether or not the director has made a determination of technical impracticability under subsection (d) of this section. Monitored natural attenuation shall be deemed effective if there is evidence that natural attenuation is occurring and will be completed within a reasonable time period;

(iv) Impacts which may be caused by implementation of the remedy. The director shall consider any adverse impacts which may be caused by a remedy, and shall take into consideration the gravity of any projected impact and the cost and availability of measures to mitigate the impact;

(v) The extent and nature of contamination and practicable capabilities of remedial technologies, and whether achieving standards is technically impracticable;

(vi) Reasonably anticipated future land uses or use restrictions in a use control area designation;

(vii) Consistency of remedies with the nature and complexities of releases of contaminants; and

(viii) Cost of the remedy. The director shall consider whether a remedy presents a substantial and disproportionately high cost

for implementation and completion. The director shall compare the costs of remedies considering the degree of risk reduction that is afforded by each remedy. Costs considered shall include capital, operation and maintenance, engineering and institutional control costs and monitoring costs for the anticipated life of the remedy.

(c) The director may establish alternate site-specific, risk-based standards for surface and subsurface soils to be employed at a site in lieu of the soil standards in paragraph (a)(ii) of this section, for any site that is located within a use control area designated under W.S. 35-11-1609. A remedy that employs alternate standards established by the director under this subsection shall meet the requirements of this subsection and paragraphs (a)(i), (iii) and (iv) of this section. The alternate standards for such a site shall use the carcinogenic and systemic toxicant risk reduction goals of subparagraph (a)(ii)(B) of this section, except that the exposure assumptions used to calculate the alternate standards under this subsection shall be consistent with the use restrictions contained in the use control area designation. If the director establishes alternate soil standards under this subsection, the owner or operator must evaluate technologies that can meet the alternate soil standards. Owners or operators of eligible sites that implement remedies which achieve the alternate soil standards set under this subsection may be issued a certificate of completion and covenant not to sue pursuant to W.S. 35-11-1607. The soil standards of paragraph (a)(ii) of this section must be met if the owner or operator applies to remove the use restrictions applicable to the site or to receive a no further action letter under W.S. 35-11-1608.

(d) The director may establish alternate site-specific, risk-based standards for soil or water to be employed at a site in lieu of the soil and water standards in paragraph (a)(ii) of this section if, after evaluation of currently available technology the director determines that it is technically impracticable to meet a standard at a specific site. A remedy that employs alternate standards established by the director under this subsection shall meet the requirements of this subsection and paragraphs (a)(i), (iii) and (iv) of this section. The technical impracticability determination shall

include evaluation of the cost of remedy alternatives, including but not limited to, substantial and disproportionately high costs, present worth of construction, operation and maintenance costs, continued operational costs of the remedy selected and costs of any proposed alternative remedy strategies. Whenever the director sets an alternate standard, the director shall select a remedy capable of meeting the alternate standard and which is technically practicable, controls any sources of contamination to the extent technically practicable, and controls human and environmental exposures to contaminated air, soil or water. The director may establish alternate standards for soil or water under this subsection only if the owner has or obtains rights to control human or environmental exposures to contaminated media, and consents to impose such controls as are required to protect human health and the environment. Notwithstanding the provisions of paragraph (a)(i) of this section, or W.S. 35-11-1609 such controls may be imposed by the owner without the site receiving a use control area designation under W.S. 35-11-1609. The standards of paragraph (a)(ii) of this section must be met if the owner or operator applies to remove the use restrictions applicable to the site or to receive a no further action letter under W.S. 35-11-1608.

(e) When establishing standards under paragraph (a)(ii) or subsection (c) or (d) of this section, the director shall specify one (1) or more points of compliance where standards must be achieved. In specifying a point of compliance, the director shall consider the following factors:

(i) Compliance with groundwater standards shall be monitored as close as reasonably practical to the contaminant source or site boundary or boundary of the use control area. The director shall select any groundwater point of compliance based upon the evaluation of the properties of the aquifer, the proximity of existing and reasonably anticipated points of groundwater withdrawal or discharge to the surface, the location of the contaminant plume relative to the site or use control area boundary, the toxicity of the contaminant, the presence and proximity of multiple contaminant sources, the exposure and likelihood of actual exposure to contaminated groundwater, and the technical practicability of groundwater remediation;

(ii) For soils, standards shall be met at locations determined to ensure protection of human health and identified environmental receptors, and protection of surface water, groundwater and air resulting from any potential transfer of contaminants from soils to these other media; and

(iii) For surface water, standards shall be met at the point where any release enters any surface water of the state consistent with applicable federal and state requirements. If sediments are affected by releases to surface water, a sediment point of compliance may also be established.

(f) Remediation standards for a site that has become contaminated by a release or migration of contamination from a source not located on the site shall be appropriate for any use control area designation applicable to such site, or if desired by the owner the remediation requirements shall be adequate to restore the site to all uses for which it was suitable prior to the contamination.

(g) The department may establish supplemental requirements for owners or operators of lands or facilities subject to permitting or corrective action requirements of the hazardous waste rules and regulations promulgated under W.S. 35-11-503(d) as may be necessary to ensure that such sites are characterized and remediated in a manner which is consistent with, equivalent to, and no less stringent [than] permitting, closure, post-closure and corrective action requirements contained in rules and regulations adopted by the United States Environmental Protection Agency (EPA) under authority of subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. Election by an eligible site owner or operator who is subject to such hazardous waste permitting or corrective action requirements to participate in the voluntary remediation program under this article shall not relieve the owner or operator of the duty to comply with all requirements of the hazardous waste rules and regulations promulgated under W.S. 35-11-503(d).

§ 35-11-1606. Preliminary remediation agreement; contents.

(a) The preliminary remediation agreement shall contain the terms and conditions agreed to by the parties, which shall include the information and procedures required for completion

of an environmental assessment or site characterization that is adequate and appropriate to support selection of a permanent or long term protective remedy for the site and adjacent property to meet the standards in W.S. 35-11-1605, and a work plan, schedule and statement of any criteria the department intends to use to evaluate work plans and reports.

(b) For any site that is determined by the director to have the potential for significant contamination, be located in an area where human exposures to contaminants are likely, or require evaluation of remedial alternatives as a condition for the state to maintain primacy in any federal program, the director shall require the site characterization plan within the preliminary remediation agreement under this section to include a description of alternative remedial actions to be evaluated and a plan for the collection of any data and site information needed to evaluate those alternative remedial actions. Not all potential remedies must be evaluated for a site. The director and the owner may enter into a single agreement containing both characterization and alternative remedial action evaluation plans, or may enter into an alternative remedial action evaluation agreement following completion of site characterization.

§ 35-11-1607. Remedy agreement; prerequisite; contents; violation of agreement; changes to agreement; covenant not to sue; certificate of completion; recording; effect on orders or permits.

(a) Except as provided in W.S. 35-11-1605(d), before an owner and the department may enter into a remedy agreement that includes long-term restrictions on the use of the site, the owner must obtain a use control area designation for the site as set forth in W.S. 35-11-1609. The use restrictions contained in any use control area designation may be used by the director to establish any alternate soil standard as provided in W.S. 35-11-1605(c).

(b) Any remedy agreement shall contain:

(i) A remedial action plan, including the remediation standards and objectives for the site or use control area, the remediation standards and objectives for adjacent property, a description of

any engineering or institutional control, a schedule for the required remediation activities, and conditions for the effective and efficient implementation of the remedy agreement. The department shall require a suitable bond or other evidence of financial assurance to assure the performance and maintenance of engineering controls and any monitoring activities required in a remedy agreement; and

(ii) The reopeners or termination clauses set forth in W.S. 35-11-1610.

(c) The remedy and remediation standards for a site that are set forth in a remedy agreement shall be permanent, subject to the reopeners and termination clauses in W.S. 35-11-1610.

(d) Use restrictions, or other terms or conditions set forth in a remedy agreement shall run with the land and be binding upon successors in interest. If a term or condition of any remedy agreement, covenant not to sue, or certificate of completion requires the maintenance of a bond or other evidence of financial assurance, it shall be the duty of any successor in interest to maintain such bond or financial assurance.

(e) A violation of any use restriction, term or condition of a remedy agreement or certificate of completion shall be deemed a violation of this act, and the department may bring any action for such violation against the owner of the site at the time the violation occurs or against the person who violates the use restriction, term or condition of the remedy agreement or certificate of completion.

(f) No person shall change any engineering or institutional controls contained in a remedy agreement or certificate of completion without the prior written consent of the department. Before a change may be made, the department shall review the contamination at the site and any new requirements shall be incorporated into a subsequent remedy agreement or certificate of completion. Upon entry into a subsequent remedy agreement or certificate of completion or issuance of a no further action letter, the director shall modify or terminate any prior remedy agreement or certificate of completion.

(g) Consistent with the reopeners and termination clauses in W.S. 35-11-1610, the department shall, upon request, provide the

owner or prospective purchaser a covenant not to sue. Any covenant not to sue shall extend to subsequent owners.

(h) If the director determines that all remediation requirements for a site have been successfully implemented or satisfied, the department shall, upon request, provide the owner or prospective purchaser a certificate of completion.

(j) A person who receives a remedy agreement or certificate of completion under this section shall record a copy in the office of the county clerk with the deed for the site and shall file the copy in the office of the county clerk no later than ten (10) business days after the date the remedy agreement or certification of completion is signed.

(k) No remedy agreement for any site subject to a prior administrative or judicial order or permit which contains remedial requirements shall be effective until the order or permit has been modified to incorporate the terms of the remedy agreement. Modifications to orders or permits under this subsection shall be made using the procedures specified in the prior order or permit. Entry into a remedy agreement under this article shall not affect the duty of the site owner or operator to comply with any prior order or permit. Following modification of the order or permit as provided in this subsection, the owner shall comply with the modified order or permit.

§ 35-11-1608. No further action letters; findings; natural attenuation.

(a) If the department determines that no further remediation is required on a site, the department shall, upon request, provide the owner or prospective purchaser a no further action letter, subject to reopener or termination as provided in W.S. 35-11-1610. The department may only issue a no further action letter upon a finding by the department that the site does not require engineering or institutional controls or use restrictions to meet the standards specified in W.S. 35-11-1605(a)(ii).

(b) When the department has determined that monitored natural attenuation over a reasonable period of time is appropriate and that no exposure to contaminated media is reasonably expected during the period of natural attenuation, the department shall, upon request, provide the owner or prospective purchaser a no

further action letter. The no further action letter may require that the current use of the property continue during the period of natural attenuation and also may require that testing be conducted to confirm that standards are met.

§ 35-11-1609. Use control areas; when establishment required; procedure; contents of petition; notice; failure of governmental entity to act; enforcement; exception.

(a) The owner of a site who proposes long-term restrictions on the use of the site shall petition to the appropriate governmental entity or entities for the creation of a use control area to establish long-term restrictions on the use of the site.

(b) A use control area may be created or modified only upon the petition of the owner of a site, and notice and public hearing as provided in subsection (d) of this section, and shall include only the site, unless adjacent property owners consent.

(c) The petition to establish a use control area shall contain data, information and any remedy options required in a preliminary remediation agreement under W.S. 35-11-1606.

(d) Upon submission of a petition for long term use restrictions, the governmental entity to whom the use area designation petition has been submitted shall cause the owner to give written notice of the petition to all surface owners of record of land contiguous to the site, and to publish notice of the petition and a public hearing once per week for four (4) consecutive weeks in a newspaper of general circulation in the county in which the site is located. The notice shall identify the property, generally describe the petition and proposed use restrictions, direct that comments may be submitted to the governmental entity or entities to whom the petition has been submitted, and provide the date, time and place of a public hearing. The public hearing shall be held no sooner than thirty (30) days after the first publication of the notice. After the public hearing has been held, the governing board, commission or council shall vote upon the creation of the use control area in accordance with applicable rules, regulations and procedures. No use control area shall be created except upon petition of the

owner and a majority vote of the appropriate board, commission or council.

(e) The governmental entity to whom the use control area petition has been submitted shall approve or deny an owner's petition for a use control area within one hundred eighty (180) days after the petition is received. The owner and a governmental entity may agree to extend the time period in which the governmental entity is to vote upon the petition. The governmental entity may, on a vote taken within one hundred eighty (180) days after the petition is received, condition its vote approving the petition upon the owner's subsequent filing of the determination by the director that a remedy can be selected that meets the requirements of W.S. 35-11-1605 and is consistent with owner's petition.

(f) The restrictions in a use control area are enforceable by the issuing governmental entity by injunction, mandamus or abatement, in addition to any other remedies provided by law.

(g) Except as provided in subsection (e), nothing in this section shall contravene or limit the authority of any county, city or town to regulate and control the property under their jurisdiction.

(h) The department shall not have the authority to require a governmental entity to adopt any zoning regulation or restriction applicable to a site as part of a remediation or response action or a remedy agreement.

(j) If the department has issued a no further action letter under W.S. 35-11-1608, then no use control area designation shall be required.

§ 35-11-1610. Reopening or termination of remedy agreements, covenants not to sue, certificates of completion or no further action determinations; conditions; recording.

(a) The department may reopen a remedy agreement, covenant not to sue or certificate of completion at any time if:

(i) The current owner fails substantially to comply with the terms and conditions of the remedy agreement, covenant not to sue or certificate of completion;

(ii) An imminent and substantial endangerment to human health or the environment is discovered;

(iii) Contamination is discovered that was present on the site but was not known to the owner or the department on the date of the remedy agreement or when the department issued a covenant not to sue or certificate of completion; or

(iv) The remedy fails to meet the remediation objectives that are contained in the remedy agreement or certificate of completion.

(b) The department may reopen a no further action determination at any time if:

(i) An imminent and substantial endangerment to human health or the environment is discovered; or

(ii) The department determines that the monitored natural attenuation remedy under W.S. 35-11-1608(b) is not effective in meeting the standards for a no further action letter under this section.

(c) The department may terminate a remedy agreement, covenant not to sue, certificate of completion or no further action letter if it is discovered that any of these instruments were based on fraud, material misrepresentation or failure to disclose material information, or if an owner's willful violation of any use restriction results in harmful exposures of any toxic contaminant to any user or occupant of the site.

(d) If a remedy agreement, covenant not to sue, certificate of completion or no further action letter is reopened or terminated, the department shall record a notice of such action in the office of the county clerk with the deed for the site and shall file the notice in the office of the county clerk no later than ten (10) business days after the date of the remedy agreement, covenant not to sue, certificate of completion or no further action letter is reopened or terminated.

§ 35-11-1611. Disputes; appeal.

If a person and the department are unable after good faith efforts to resolve a dispute arising under this article pursuant

to the provisions of an agreement, the person may appeal the department's decision to the council.

§ 35-11-1612. Fees; notice; appeal.

The department shall implement a fee system and schedule of fees which are applicable to the preliminary remediation agreements, remedy agreements, certificates of completion and no further action letters authorized under this article. Fees shall cover all reasonable direct and indirect costs of the department's participation in any activity authorized by this article. The department shall give written notice of the amount of the fee assessment. The owner of the eligible site may appeal the assessment to the council within forty-five (45) days of receipt.

§ 35-11-1613. Remediation requirements for nonvoluntary sites.

(a) The remediation requirements for sites that do not participate in the voluntary remediation program in W.S. 35-11-1601 through 35-11-1612 may include, in the discretion of the director requirements which:

(i) Return contaminated soil and water to background contaminant levels;

(ii) Return contaminated soil to contaminant levels that are safe for any potential future use of the site;

(iii) Return contaminated groundwater to contaminant levels that ensure that the class of use of groundwater prior to the release is restored, or if not technically practicable, employs the best available groundwater remediation technology. No liability release shall be provided to the owner until the owner demonstrates that groundwater standards have been met;

(iv) Remove all continuing sources of soil or water contamination; and

(v) Eliminate to the extent practical any continuing risk to any ecological receptor present at or near the site.

Article 17
Orphan Site Remediation

§ 35-11-1701. Orphan site remediation; account created.

(a) There is created an orphan site remediation account. The director may expend funds contained within the account for the purpose of remediation of orphan sites and the performance of any other activity as defined in this article.

(b) As used in this section, orphan sites means:

(i) Sites where the department determines that there is no viable party that is responsible for causing or contributing to the contamination present at the site; and

(ii) Sites where the department has issued a no further action letter, and where there is a subsequent discovery of contamination which was present at the site when the no further action letter was issued but:

(A) Was not known to the site owner or the department at the time the no further action letter was issued, provided that a comprehensive and complete site characterization was conducted by the owner;

(B) Is not the result of activities conducted on the site after the no further action letter was issued; and

(C) Does not constitute an imminent or substantial endangerment to human health or the environment which is being addressed by the holder of the no further action letter pursuant to a reopening of the no further action letter under W.S. 35-11-1610(b).

(iii) Spill sites, where the department determines that the person responsible for the spill cannot be identified, or where the department must take prompt action to prevent hazards to human health or the environment at a site where a responsible party fails to act promptly.

(c) The department may expend funds from this account to conduct site evaluations and testing, evaluate remedial measures, select remediation requirements, and construct, install, maintain and operate systems to remedy contamination in accordance with a remediation work plan prescribed by the director for the orphan site.

(d) The department may also expend funds from this account to pay for the orphan share of any removal or remedial action taken

pursuant to the Comprehensive Environmental Response, Control And Liability Act (42 U.S.C. § 9601, et seq.), provided that:

(i) The department has participated in negotiations for, and concurs with, the orphan share allocation amount for the action; and

(ii) Each responsible party to an action has agreed not to seek cost recovery from less than de minimus contributors in exchange for the state assumption of the orphan share cost.

(e) Revenue to the account shall include such monies which may be deposited in the account for use in remediation of orphan sites. The liability of the state to fulfill the requirements of this section is limited to the amount of funds available in the account.

(f) The department shall project an annual funding need for the identification, characterization, prioritization and remediation of contaminated orphan sites within the state and shall recommend a funding source adequate to meet the identified funding need.

(g) In any case under paragraph (b)(iii) of this section where the department expends funds to remediate or contain contamination resulting from a spill, and where the department has identified a responsible party, the responsible party shall reimburse the department in an amount equal to three (3) times the expenditure from the account. The attorney general shall bring suit to recover the reimbursement amount required in this subsection where recovery is deemed possible.

(h) The director may transfer funds in the account under W.S. 35-11-424(a) to the orphan site remediation account.

Article 18
Innocent Owners

§ 35-11-1801. Definition of innocent owner.

(a) "Innocent owner" means a person who did not cause or contribute to the source of contamination and who is one (1) of the following:

(i) An owner of real property that has become contaminated as a result of a release or migration of contaminants from a source not located on or at the real property;

(ii) An owner of real property who can show with respect to the property that the owner has no liability for contamination under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9607(a), because the owner can show a defense as provided in section 107(b) of that act (42 U.S.C. § 9607(b));

(iii) An owner of real property who at the time of becoming the owner of the property did not know or should not have reasonably known about the presence of contamination on the property;

(iv) A lender or fiduciary who owns or holds a security interest in land, unless the lender or fiduciary participated in the management of a site at the time that the owner or operator thereof caused a release or migration of contaminants;

(v) A unit of state or local government which acquired ownership or control through bankruptcy, tax delinquency, abandonment or other circumstances in which the government acquires title by virtue of its function as sovereign, unless the state or local government contributed to the contamination;

(vi) A bona fide prospective purchaser; or

(vii) A surface owner if the source of the contamination was a pipeline running under or across the land of the surface owner and the surface owner was not involved in the installation, operation or maintenance of the pipeline.

(b) No person who owns or operates lands or facilities subject to permitting or corrective action requirements of the hazardous waste rules and regulations promulgated under W.S. 35-11-503(d) shall be considered an innocent owner, nor shall any hazardous waste generator who may be subject to corrective action requirements of such rules and regulations be considered an innocent owner.

§ 35-11-1802. Immunity for innocent owners.

(a) An innocent owner is not liable for investigation, monitoring, remediation or other response action regarding

contamination attributable to a release, discharge or migration of contaminants on his property.

(b) To be eligible for immunity under this act, a person shall:

(i) Grant to the department or to a person designated by the department, reasonable access to the land for purposes of investigation, monitoring or remediation;

(ii) Comply with any requirements established by the department that are necessary to maintain state authorization to implement federal regulatory programs;

(iii) Not use the real property in a manner that causes exposure of the public to harmful environmental conditions; and

(iv) Comply with any engineering or institutional controls applicable to the real property.

§ 35-11-1803. Limitations.

(a) Any person who knowingly transfers, conveys or obtains an interest in land to avoid liability for contamination, remediation or compliance with any provision of this act shall not be an innocent owner.

(b) Notwithstanding the provisions of W.S. 35-11-1802, an innocent owner who undertakes a cleanup of his property must comply with all applicable provisions of this act.

Article 19
Integrated Solid Waste Planning

§ 35-11-1901. Purpose.

The purpose of this article is to establish a process for local governmental entities to prepare and maintain approved integrated solid waste management plans.

§ 35-11-1902. Integrated solid waste management plans.

(a) Each local governmental entity shall prepare and maintain an integrated solid waste management plan describing management of solid waste generated within its jurisdiction or shall participate in a multi-jurisdictional integrated solid waste management plan.

(b) Integrated solid waste management plans shall be completed and submitted to the department by July 1, 2009, and shall be reviewed, revised as necessary and resubmitted to the department every ten (10) years thereafter.

(c) For the purposes of this article, the local governmental entity responsible for preparing an integrated solid waste management plan shall be the permitted operator of the solid waste disposal facility serving the planning area provided, however, that for any planning area where the permitted operator is a nongovernmental entity, the local government entity responsible for preparing a plan under this subsection shall be the county. Upon mutual written agreement, a local governmental entity may prepare an integrated solid waste management plan for another local governmental entity.

(d) The planning requirements of subsections (a) and (b) of this section shall be contingent upon the legislature making at least one million three hundred thousand dollars ($1,300,000.00) available to the department for grants to assist local governmental entities in the preparation of integrated solid waste management plans.

§ 35-11-1903. Recommendations for integrated solid waste management planning areas.

By July 31, 2006, the department shall assess the patterns of generation of municipal solid waste within the state and issue a report identifying those areas of the state where integrated solid waste management plans may be prepared by local governmental entities. The identification of planning areas shall be considered guidance to local governmental entities. Local governmental entities shall not be required to adhere to any planning area boundaries identified by the department.

§ 35-11-1904. Integrated solid waste management plan content; department approval.

(a) Integrated solid waste management plans shall address a period of not less than twenty (20) years and shall contain the following information:

(i) A description of the planning area covered by the integrated waste management plan and the names of all local governmental entities participating in the plan, including a copy of each governing body's resolution adopting the plan;

(ii) An evaluation of current and projected volumes for all major waste types within the planning area, including a discussion of expected population growth and development patterns;

(iii) An evaluation of reasonable alternate solid waste management services, a description of the selected procedures, facilities and systems for solid waste collection, transfer, treatment, storage and information about how the procedures, facilities and systems are to be funded;

(iv) A discussion of how the plan shall be implemented, including public participation, public education and information strategies which may include, but are not limited to, citizen advisory committees and public meetings during the preparation, maintenance and implementation of the plan;

(v) Objectives for solid waste management within the jurisdiction, including but not limited to:

(A) Waste diversion, reduction, reuse, recycling or composting;

(B) Waste collection and transportation;

(C) Improving and maintaining waste management systems;

(D) Household hazardous waste management; and

(E) Special waste management.

(vi) An economic analysis of the total cost of alternatives and final systems selected by the participating local governmental entities to achieve the plan's objectives, including capital and operating costs; and

(vii) Elements including:

(A) Strategies to meet each identified objective;

(B) A schedule for implementation; and

(C) Any financial or other incentives offered to residents to encourage participation in local recycling programs.

(b) Each plan shall be submitted for public review prior to submission to the department. The plan submission shall include a statement describing public comments received and how the public comments were addressed. The department shall review each plan for completeness. If the department determines that the plan is not complete, the department shall provide a written statement identifying the elements of subsection (a) of this section which are not included in the plan. Upon addressing the incomplete elements, a local governmental entity may resubmit the plan for subsequent review by the department

Article 20
Nuclear Regulatory Agreement

§ 35-11-2001. Authorization to negotiate transfer of certain nuclear regulatory functions to the state; scope of regulated material.

(a) The governor, on behalf of the state, is authorized to contact the nuclear regulatory commission to express the intent of the state of Wyoming to enter into an agreement under section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended, with the nuclear regulatory commission providing for the assumption by the state of regulatory authority over source material involved in uranium or thorium recovery or milling and byproduct material, as defined in section 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended. The governor, on behalf of the state, is also authorized to contact the nuclear regulatory commission to express the intent of the state of Wyoming to enter into an agreement under section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended, with the nuclear regulatory commission providing for the assumption by the state of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. For the purposes of this agreement, the term “mineral resources” means any host rock, ore, material or waste associated with mining or milling that contains a recoverable mineral. The nuclear regulatory commission shall maintain regulatory authority over all other source material, section 11e.(1), (3) and (4) byproduct material and special nuclear material as defined in the Atomic Energy Act of 1954, 42 U.S.C. § 2014, as amended, and the activities

reserved under section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended.

(b) The department shall serve as the lead agency for the regulation of (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material and (2) the source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. The department is authorized to enforce the requirements of the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., as amended, under the agreement reached between the state and the nuclear regulatory commission as provided in subsection (a) of this section and in section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended.

(c) The governor, through the department, is authorized to negotiate all aspects of the agreement under this section between the state of Wyoming and the nuclear regulatory commission. The governor is authorized to enter into a final agreement with the nuclear regulatory commission for the regulation of (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material and (2) the source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

(d) Repealed by Laws 2016, ch. 7, § 3.

(e) The categories of materials governed by this article, as agreed upon by the nuclear regulatory commission and the state, are (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material, as defined in section 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended and (2) source material as defined in section 11z. of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(z) recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. This article does not govern independent or commercial laboratory facilities that possess, use or accept source material or byproduct material. The nuclear regulatory commission shall retain regulatory authority over independent or commercial laboratory facilities.

§ 35-11-2002. Authority of department to enforce article; rulemaking.

(a) Except as provided in this act, no person shall acquire, own, possess, transfer, offer or receive for transport or use any (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material or (2) source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content without having been granted a license therefore from the department or the nuclear regulatory commission. The department is authorized to regulate and penalize any unlicensed activities involving (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material or (2) source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

(b) The council, upon recommendation from the director, is authorized to promulgate rules and regulations necessary to effectuate the purpose of this article.

(c) To the extent it is not inconsistent with the provisions of this article, article 4 of this chapter shall apply to all licenses issued and actions taken under this article.

§ 35-11-2003. Licensure; license requirements; enforcement actions.

(a) The director is authorized to issue licenses to implement the requirements of the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., as amended. Licenses issued under this section shall also authorize the possession and use of (1) source materials involved in uranium or thorium recovery or milling and the associated byproduct material or (2) source material recovered from any mineral resources primarily for purposes other than obtaining the source material content as provided in this article. The director is further authorized to enforce license provisions in accordance with this article. The department shall recognize existing and effective licenses issued by the nuclear regulatory commission. The department shall also recognize licenses issued by other agreement states only for (1) source material involved in uranium or thorium

recovery or milling or the associated byproduct material or (2) the source material recovered from any mineral resources primarily for purposes other than obtaining the source material content.

(b) The director is authorized to use license conditions to address matters specific to particular licensees. The department may impose additional license conditions when required to protect public health and safety.

(c) The director shall grant an exemption from a license requirement, including an exemption from the requirement to obtain a license, if the exemption provides adequate protection of public health and safety and is compatible with nuclear regulatory commission requirements.

(d) The department shall inspect a licensee's operation to ensure compliance with license conditions, as determined necessary by the administrator of the land quality division to protect public health and safety. The department shall also inspect proposed facilities and proposed expansion of existing facilities to ensure that unauthorized construction is not occurring. Licensees, permittees and applicants for a license or permit shall obtain and grant the department access to inspect their facilities, source material involved in uranium or thorium recovery or milling and the associated byproduct material or the source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content at such times and frequencies as determined necessary by the department to protect public health and safety.

(e) When issuing a license for byproduct material under this article, the director shall require licensees to provide an approved financial assurance arrangement consistent with nuclear regulatory commission requirements provided in 10 C.F.R. part 40, appendix A, as amended. The arrangement shall cover the cost estimate and the payment of the charge for decommissioning, long term surveillance and control pursuant to 10 C.F.R. part 40, appendix A.

(f) The director is authorized to suspend licenses, impound (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material and (2) the source

material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content and conduct enforcement actions in accordance with this article, article 9 of this chapter and rules and regulations promulgated under this act. The director is authorized to suspend licenses and conduct enforcement actions in accordance with department rules and regulations and this article. In cases of an imminent threat to public health and safety, the director is authorized to issue an emergency order immediately suspending a license and any associated activity as provided in W.S. 35-11-115. The director is authorized to suspend or revoke a license for repeated or continued noncompliance with program requirements pursuant to its rules and regulations and this article. The director is also authorized to seek injunctive relief and impose civil or administrative monetary penalties as provided by law.

§ 35-11-2004. License conditions; termination of licenses.

(a) The department shall prescribe conditions in licenses issued, renewed or amended for an activity that results in production of byproduct material to minimize or, if possible, eliminate the need for long-term maintenance and monitoring before the termination of the license.

(b) Prior to terminating any license the administrator of the land quality division shall obtain a determination from the nuclear regulatory commission that the licensee has complied with the commission's decontamination, decommissioning, disposal and reclamation standards.

(c) Prior to terminating a byproduct material license the department shall ensure the ownership of a disposal site and the byproduct material resulting from licensed activity are transferred to:

(i) The state of Wyoming; or

(ii) The federal government if the state declines to acquire both the site and the byproduct material.

(d) Upon the transfer of a disposal site or the byproduct material resulting from licensed activity to the federal government, funds collected for decommissioning and long-term

surveillance shall also be transferred to the federal government.

§ 35-11-2005. Fees.

(a) The department shall adopt a fee structure which accounts for the full cost of the program, including positions authorized by this article and other positions assessed to implement the program developed under this article.

(b) The department may assess fees for the regulation of source material under article 4 of this chapter, including but not limited to the review and processing of mining permit applications.

Article 21
Advanced Nuclear Reactors

§ 35-11-2101. Advanced nuclear reactors; requirements.

(a) Repealed by Laws 2022, ch. 103, § 2.

(b) Any person operating an advanced nuclear reactor in the state of Wyoming in accordance with this section shall not store spent nuclear fuel or high-level radioactive waste from the advanced nuclear reactor on the site of the advanced nuclear reactor without first meeting all of the requirements of the United States Nuclear Regulatory Commission.

(c) Nothing in this section shall be deemed to affect the authority of the United States Nuclear Regulatory Commission.

(d) As used in this section:

(i) "High-level radioactive waste" means as defined in W.S. 35-11-1501(a)(i);

(ii) "Public utility" means as defined in W.S. 37-1-101(a)(vi);

(iii) "Advanced nuclear reactor" means a nuclear reactor, including any necessary ancillary facilities or structures, that is an improvement over nuclear reactors placed in service before January 1, 2021 and has a license issued by the United States nuclear regulatory commission;

(A) through (C) Repealed by Laws 2022, ch. 103, § 2.

(iv) "Spent nuclear fuel" means as defined in W.S. 35-11-1501(a)(iv).

(e) The provisions of the Industrial Development Information and Siting Act, W.S. 35-12-101 through 35-12-119, shall apply only to the extent that those provisions do not interfere with, contradict or duplicate any requirements of the United States Nuclear Regulatory Commission.

(f) Not less than thirty (30) days before construction of an advanced nuclear reactor commences and if no report is required to be submitted under W.S. 35-11-1506(e)(vi), the operator of the advanced nuclear reactor shall submit a report to the department that includes:

(i) The number of jobs that will be created in the planning, licensing, site analysis, preparation, purchasing, construction, transportation, operation and decommissioning of the advanced nuclear reactor and what number of those jobs would be filled by Wyoming residents;

(ii) Local and state taxes that are estimated to be generated by all aspects of the construction, operation and decommissioning of the advanced nuclear reactor;

(iii) All benefits and impacts that will accrue to the state and local community where the advanced nuclear reactor will be located, including benefits from job training, education, communications systems, monitoring and security systems.

(g) The operator of each advanced nuclear reactor shall send to the department copies of all publicly available reports, notifications and violations sent to or from the United States nuclear regulatory commission or the operator of the advanced nuclear reactor as soon as practicable but not later than five (5) days after the operator sends or receives the report. The operator shall also transmit all information required under this subsection to emergency management departments of the local governments where the facility is located and shall make the information available on a public website.

Appendix B to Subsection 4.1.1 Wyoming Government Ethics and Disclosure Act



Title 9
Administration of the Government

Chapter 13
Government Ethics

Article 1
Public Officials, Members and Employee Ethics

§ 9-13-101. Short title.

This article shall be known and may be cited as the Ethics and Disclosure Act.

§ 9-13-102. Definitions.

(a) As used in this article:

(i) "Anything of value" means:

(A) A pecuniary item, including money or a bank bill or note;

(B) A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;

(C) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money;

(D) A stock, bond, note or other investment interest in an entity;

(E) A right in action;

(F) A gift, tangible good, chattel or an interest in a gift, tangible good or chattel;

(G) A work of art, antique or collectible;

(H) An automobile or other means of personal transportation;

(J) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest or other beneficial interest in realty;

(K) An honorarium or compensation for services arising out of the person's service as a public official, public member or public employee;

(M) The sale or trade of anything of value:

(I) For reasonable consideration that would ordinarily not be available to a member of the public; or

(II) With a rebate or at a discount in its price, unless the rebate or discount is made in the ordinary course of business to a member of the public, or any group or category thereof, but without regard to that person's status as a public official, public member or public employee.

(N) A promise or offer of employment;

(O) Any other thing of value that is pecuniary or compensatory in value to a person.

(ii) "Anything of value" does not mean a campaign contribution properly received and reported, if reportable, as required under the Wyoming Election Code;

(iii) "Compensation" includes:

(A) An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value; or

(B) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, for services rendered or to be rendered.

(iv) "Compensation" does not include:

(A) Reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses, and if the reimbursement is substantiated by an itemization of expenses; or

(B) Per diem payments or mileage allowances paid by the employing government entity in accordance with applicable law.

(v) "Family member" means an individual:

(A) Who is the spouse, parent, sibling, child, grandparent or grandchild; or

(B) Is a member of the individual's household.

(vi) "Gift" means anything of value to the extent that consideration of equal or greater value is not received, but excludes the following:

(A) Printed informational, educational or promotional material;

(B) A gift that:

(I) Is not used; and

(II) No later than thirty (30) days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes.

(C) A gift, devise or inheritance from any of the following, if the donor is not acting as the agent or intermediary for someone other than a person covered by this subparagraph:

(I) An individual's spouse;

(II) An individual's child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle or first cousin;

(III) The spouse of any individual listed in subdivision (II) of this subparagraph;

(IV) Any person, including an organization, which has a bona fide social or private business relationship with the individual, where the circumstances demonstrate that the motivation for the gift arises out of that relationship and not from the recipient's holding of public office or employment. For the purposes of this subdivision, relevant circumstances include but are not limited to the source of funds used by the donor to acquire the gift;

(V) Any person, including an organization, where the gift does result from the person's holding an office or position, but where the gift is of nominal value, is made voluntarily by the donor and is made in recognition of a special occasion, such as marriage, illness or retirement.

(D) A certificate, commemorative token or item, or plaque with a value that does not exceed two hundred fifty dollars ($250.00);

(E) Food and beverage;

(F) Compensation, per diem or other payments or benefits which the public official, public member or public employee receives in the performance of services for the governmental entity;

(G) Repealed by Laws 1999, ch. 140, § 2.

(H) Any loan, gift, gratuity, special discount or hospitality with a value of two hundred fifty dollars ($250.00) or less; or

(J) Travel, registration and lodging for any conference or meeting while attending in his official capacity as a public official, public member or public employee.

(vii) "Local office" means the offices of county commissioner, county treasurer, county assessor, county clerk, county sheriff, county coroner, district attorney, county attorney, clerk of the district court, mayor and member of the council of a municipality, member of the board of trustees of a community college district or a school district and member of a joint powers board or special district. As used in this paragraph "special district" means any special district specified under W.S. 22-29-103(a) and any other corporate district authorized to be formed as a political subdivision under the laws of this state;

(viii) "Negotiating" or "negotiate for employment" means a communication, directly or indirectly, with a prospective employer to discuss rendering services for compensation to that prospective employer;

(ix) "Negotiation for employment" means the period that begins with a communication to a prospective employer to discuss rendering services for compensation to the prospective employer;

(x) "Official responsibility or official capacity" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct government action;

(xi) "Participation" includes decision, approval, disapproval or vote;

(xii) "Public employee" means any of the following state employees:

(A) The attorney general and the director of any department of the executive branch appointed by the governor under W.S. 9-2-1706, or the director of any legislative agency;

(B) The chief executive officer of any separate operating agency under W.S. 9-2-1704(d), except those listed in paragraphs (d)(vi) and (x) of that section;

(C) To the extent the incumbent in the position serves at the pleasure of persons listed in subparagraphs (A) and (B) of this section, administrators of department or agency divisions, and deputy directors of departments;

(D) Commissioners of the public service commission and members of the state board of equalization;

(E) Deputies and administrators of divisions within the offices of state elected officials under W.S. 9-2-1704(a). The positions, in the governor's office, of chief of staff, attorney for intergovernmental affairs and chief of policy are included within this subparagraph.

(xiii) "Public member" means a member appointed to a part-time position on a state board, commission or council. A public member does not lose this status by receiving reimbursement of expenses or a per diem payment for services. The term includes a member of the board of trustees of the University of Wyoming and the community college commission. The term does not include a public member of an advisory board, advisory commission or advisory council;

(xiv) "Public official" means an individual elected to a state or local office, or an individual who is appointed to fill a vacancy in a state or local office, whether or not the individual has yet assumed the office;

(xv) "State entity" means a state agency, office, department, division, bureau, board, commission or council, including the legislature, Wyoming community development authority and Wyoming science, technology and energy authority. The term does not include a court or an agency in the judicial branch;

(xvi) "State office" means the state offices of governor, treasurer, superintendent of public instruction, auditor, secretary of state and member of the state legislature;

(xvii) "This act" means W.S. 9-13-101 through 9-13-109.

§ 9-13-103. Use of title and prestige of public office.

(a) No public official, public member or public employee shall use his office or position for his private benefit.

(b) As used in this section, "private benefit" means the receipt by the public official, public member or public employee of a gift which resulted from his holding that office.

§ 9-13-104. Nepotism.

(a) No public official, public member or public employee shall advocate or cause the employment, appointment, promotion, transfer or advancement of a family member to an office or position of the state, a county, municipality or a school district. A public official, public member or public employee shall not supervise or manage a family member who is in an office or position of the state, a county, municipality or school district.

(b) A public official, public member or public employee, acting in his official capacity, shall not participate in his official responsibility or capacity regarding a matter relating to the employment or discipline of a family member.

§ 9-13-105. Misuse of office.

(a) A public official, public member or public employee shall not use public funds, time, personnel, facilities or equipment for his private benefit or that of another unless the use is authorized by law.

(b) A public official, public member or public employee shall not use public funds, time, personnel, facilities or equipment for political or campaign activity unless the use is:

(i) Authorized by law; or

(ii) Properly incidental to another activity required or authorized by law and the public official, public employee or public member allocates and reimburses the governmental entity for any additional costs incurred for that portion of the activity not required or authorized by law.

(c) A public official, public employee or public member shall not disseminate to another person official information which the public official, public employee or public member obtains through or in connection with his position, unless the information is available to the general public or unless the dissemination is authorized by law.

§ 9-13-106. Official decisions and votes.

(a) A public official, public member or public employee shall not make an official decision or vote on an official decision if the public official, public member or public employee has a personal or private interest in the matter. In determining whether he has a personal or private interest in a matter the public official shall recognize the importance of his right to represent his constituency and shall abstain from voting only in clear cases of a personal or private interest as defined in this subsection. A public official or public member shall not vote to give money or any direct financial benefit to himself except for tax reductions affecting the general public. For the purposes of this section, a personal or private interest:

(i) Is, with respect to the public official, public employee or public member, an interest which is direct and immediate as opposed to speculative and remote; and

(ii) Is an interest that provides the public official, public employee or public member, a greater benefit or a lesser detriment than it does for a large or substantial group or class of persons who are similarly situated.

(b) A public official, public member or public employee described by subsection (a) of this section shall abstain from voting on the decision and from making any official decision in the matter. The public official's, public member's or public employee's abstention from voting must be recorded in the governmental entity's official records.

(c) This section shall not be construed to supersede W.S. 15-9-220, 16-6-118 or 16-9-203(f). Those provisions shall control to the extent inconsistent with this section.

§ 9-13-107. Actions taken while negotiating for employment.

A public official, public member or public employee may not vote or take an official action in a matter affecting a person with whom the public official, public member or public employee is negotiating for prospective employment.

§ 9-13-108. Disclosure required.

(a) Not later than January 31 annually, each of the state's five (5) elected officials and each member of the Wyoming legislature shall file a financial disclosure form with the secretary of state. The form shall be signed by the elected official or legislator filing it and under a certification that it is accurate. Except as otherwise provided in this subsection, the financial disclosure form shall contain the following information current as of January 15 of that year:

(i) A list of all offices, directorships and salaried employment held by the person filing the form in any business enterprise, but excluding offices and directorships in a nonprofit corporation where no compensation is received for service;

(ii) A list generally describing the sources of, but not the amount of, the member's income.

(iii) A list of all state entities the person, or the person's business enterprise in which the person owns ten percent (10%) or more interest, has a contract with for services and supplies in an amount greater than five thousand dollars ($5,000.00). The list shall include all contracts subject to this paragraph entered into by the elected official or legislator on and after January 15 of the prior year. For each contract, this list shall include the name and address of the business enterprise, if applicable, and state entity, the type and description of the contract and the effective date and term of the contract. For purposes of this paragraph "state entity" as defined in W.S. 9-13-102(a)(xv) shall include a court or an agency in the judicial branch.

(b) Forms may be submitted by facsimile transmission under the same terms and conditions specified for campaign reports under W.S. 22-25-106. For the purposes of this section, "salaried employment" means an employment relationship under which the employee is compensated, at least in part, by payment of a

specified dollar amount for each month, or longer period, of service.

(c) The disclosure form shall be as prescribed by the secretary of state but in substantially the following form:

"State Elected Official Financial Disclosure Form

Name of Official:

Office held:

Business address:

Business phone number:

Home address:

Home phone number:

I. Offices, directorships and employment

a. Offices held in business enterprises (includes partnerships)

Office Name and address of business enterprise

b. Directorships held in business enterprises

Name and address of business enterprise

c. Salaried employment

Job Title Name and address of business enterprise

II. Sources of income

a. Employment	Name and address of Employer
b. Business interests	Name and address of all business entities but excluding interests if less than ten percent (10%) of the entity is owned, or sole proprietorship from which income is earned, or describe generally

c. Investments	Income earned	
	Yes	No
i. Any security or interest earnings		
ii. Real estate, leases, royalties		
d. Other (Describe generally).		

III. Contracts

a. Name and address of business enterprise, if applicable

b. Name and address of state entity

c. Type, description, date and term of contract

§ 9-13-109. Penalties.

(a) Any person who violates this act is guilty of a misdemeanor punishable upon conviction by a fine of not more than one thousand dollars ($1,000.00).

(b) Violation of any provision of this act constitutes sufficient cause for termination of a public employee's employment or for removal of a public official or public member from his office or position.

(c) If any action is prohibited both by this act and any provision of title 6, the provisions of this act shall not apply and the provisions of title 6 shall apply.

Appendix C to Subsection 4.1.1 Wyoming Administrative Procedure Act



TITLE 16
CITY, COUNTY, STATE AND LOCAL POWERS

CHAPTER 3
ADMINISTRATIVE PROCEDURE

16-3-101. Short title; definitions.

(a) This act may be cited as the "Wyoming Administrative Procedure Act".

(b) As used in this act:

(i) "Agency" means any authority, bureau, board, commission, department, division, officer or employee of the state, a county, city or town or other political subdivision of the state, except the governing body of a city or town, the state legislature, the University of Wyoming and the judiciary;

(ii) "Contested case" means a proceeding including but not restricted to ratemaking, price fixing and licensing, in which legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing but excludes designations under W.S. 9-2-1022(h)(i);

(iii) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but it does not include a license required solely for revenue purposes;

(iv) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license;

(v) "Local agency" means any agency with responsibilities limited to less than statewide jurisdiction, except the governing body of a city or town;

(vi) "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party;

(vii) "Person" means any individual, partnership, corporation, association, municipality, governmental subdivision or public or private organization of any character other than an agency;

(viii) "Registrar of rules" for state agency rules means the secretary of state. "Registrar of rules" for local agency rules means the county clerk of the county in which the rule is to be effective;

(ix) "Rule" means each agency statement of general applicability that implements, interprets and prescribes law, policy or ordinances of cities and towns, or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

(A) Statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or

(B) Rulings issued pursuant to W.S. 16-3-106; or

(C) Intraagency memoranda; or

(D) Agency decisions and findings in contested cases; or

(E) Rules concerning the use of public roads or facilities which are indicated to the public by means of signs and signals; or

(F) Ordinances of cities and towns; or

(G) Designations under W.S. 9-2-1022(h)(i); or

(H) A general permit.

(x) "State agency" means any agency with statewide responsibilities;

(xi) "General permit" means a permit issued by the department of environmental quality which authorizes a category or categories of discharges or emissions;

(xii) "Internet" means as defined in W.S. 9-2-1035(a)(iii);

(xiii) "This act" means W.S. 16-3-101 through 16-3-115.

16-3-102. General rulemaking requirements; assistance and authority of attorney general.

(a) In addition to other rulemaking requirements imposed by law, each agency shall:

(i) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available in connection with contested cases;

(ii) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted or used by the agency in the discharge of its functions;

(iii) Make available for public inspection all final orders, decisions and opinions.

(b) No agency rule, order or decision is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been filed with the registrar of rules and made available for public inspection as required by this act. This subsection does not apply to orders or decisions in favor of any person or party with actual knowledge of the rule, order or decision.

(c) In formulating rules of practice as required by this section, each agency may request the assistance of the attorney general and upon request the attorney general shall assist the agency or agencies in the preparation of rules of practice.

(d) The office of administrative hearings shall adopt uniform rules for the use of state agencies setting forth the nature and requirements of all formal and informal procedures available in connection with contested cases.

(e) The attorney general may repeal administrative rules of a state agency in accordance with this act if the rules have become obsolete and no other existing agency has authority to repeal the rules.

16-3-103. Adoption, amendment and repeal of rules; notice; hearing; emergency rules; proceedings to contest; review and approval by governor.

(a) Prior to an agency's adoption, amendment or repeal of all rules other than interpretative rules or statements of general policy, the agency shall:

(i) Give at least forty-five (45) days notice of its intended action. Notice shall be mailed to all persons making timely requests of the agency for advanced notice of its rulemaking proceedings and to the attorney general, the secretary of state's office as registrar of rules, and the legislative service office if a state agency. The agency shall submit a copy of the proposed rules, in a format conforming to any requirements prescribed pursuant to subsection (f) of this section, with the notice given to the legislative service office. The notice shall include:

(A) The time when, the place where and the manner in which interested persons may present their views on the intended action;

(B) A statement of the terms and substance of the proposed rule or a description of the subjects and issues involved;

(C) If an amendment or a repeal, the citation to the agency rule to be amended or repealed;

(D) If new rules, a statement that they are new rules and a citation of the statute which authorizes adoption of the rules;

(E) The place where an interested person may obtain a copy of the proposed rules in a format conforming to any requirements prescribed pursuant to subsection (f) of this section;

(F) If the agency asserts that all or a portion of a rule is proposed to be adopted, amended or repealed in order for the state to comply with federal law or regulatory requirements:

(I) A statement that the adoption, amendment or repeal of the rule is required by federal law or regulation together with citations to the applicable federal law or regulation; and

(II) A statement whether the proposed rule change meets minimum federal requirements or whether the proposed rule change exceeds minimum federal requirements.

(G) A statement whether the proposed rule change meets minimum substantive state statutory requirements or whether the proposed rule change exceeds minimum substantive state statutory requirements. If the rule change exceeds minimum substantive state statutory requirements, the agency shall include a statement explaining the reason why the rule exceeds minimum substantive statutory requirements;

(H) A statement that the agency has complied with the requirements of W.S. 9-5-304 and the location where an interested person may obtain a copy of the assessment used to evaluate the proposed rule pursuant to W.S. 9-5-304;

(J) A concise statement of the principal reasons for adoption of the rule. In compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), the statement shall include a brief explanation of the substance or terms of the rule and the basis and purpose of the rule;

(K) If a state agency is proposing a rule that differs from the uniform rules listed in subsection (j) of this section, a statement of the reasons for varying from the uniform rules.

(ii) Afford all interested persons reasonable opportunity to submit data, views or arguments, orally or in writing, provided this period shall consist of at least forty-five (45) days from the later of the dates specified under subparagraph (A) of this paragraph, and provided:

(A) In the case of substantive rules, opportunity for oral hearing shall be granted if requested by twenty-five (25) persons, or by a governmental subdivision, or by an association having not less than twenty-five (25) members. No hearing under this subparagraph shall be conducted until at least forty-five (45) days after the later of:

(I) The date notice of intended action is given under paragraph (i) of this subsection; or

(II) The date notice is published if publication is required by subsection (e) of this section.

(B) The agency shall consider fully all written and oral submissions respecting the proposed rule;

(C) If prior to final adoption any person objects to the accuracy of a statement made by the agency pursuant to W.S. 16-3-103(a)(i)(F)(I) or (II), the agency shall:

(I) Provide the objecting person with a written response explaining and substantiating the agency's position by reference to federal law or regulations; and

(II) Include with the final rules submitted for review to the governor and legislative service office a concise statement of the objection and the agency's response.

(D) Upon adoption of the rule, the agency, if requested to do so by an interested person, either prior to adoption or within thirty (30) days thereafter, shall issue a concise statement of the principal reasons for overruling the consideration urged against its adoption.

(iii) Comply with the requirements of W.S. 9-5-304.

(b) When an agency finds that an emergency requires the agency to proceed without notice or opportunity for hearing required by subsection (a) of this section, it may adopt emergency rules. An emergency rule is effective when filed. A state agency emergency rule shall bear the endorsement of the governor's concurrence on the finding of emergency before the registrar of rules accepts the rule for filing. The rule so adopted shall be effective for no longer than one hundred twenty (120) days but the adoption of an identical rule under W.S. 16-3-103(a) or of an emergency rule under this subsection is not precluded. In no case shall identical or substantially similar emergency rules be effective for a total period of more than two hundred forty (240) days. A local agency may proceed with the emergency rule when notice of the emergency is filed with the local registrar of rules.

(c) No rule is valid unless submitted, filed and adopted in substantial compliance with this section. A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this section must be commenced within two (2) years from the effective date of the rule.

(d) No state agency rule or any amendment, repeal, modification or revision of the rule may be filed with the registrar of rules unless the rule has been submitted to the governor for review and the governor has approved and signed the rule. Except in the case of emergency rules and rules adopted by the game and fish commission fixing general hunting or fishing regulations, season or bag limits or establishing hunting areas, the governor shall not approve any rule until the date of receipt of the legislative management council's recommendation under W.S. 28-9-106(a) or until forty (40) days after the rule is filed with the legislative service office pursuant to W.S. 28-9-103(b), whichever is sooner. During the process of approving rules, the governor may disapprove any portion of a rule not conforming to paragraphs (d)(i), (ii) or (iii) of this section by clearly indicating the portion of the rule disapproved and the basis for the disapproval. Only those portions of a rule approved by the governor shall be filed with the registrar of rules as provided by W.S. 16-3-104(a). Any portion of a rule disapproved by the governor shall be returned to the agency and shall be null and void and shall not be filed, implemented or enforced. The governor shall report his disapproval of any rule or portion thereof to the management council within fifteen (15) days. The governor shall not approve any rule or any amendment, repeal, modification or revision of the rule unless it:

(i) Is within the scope of the statutory authority delegated to the adopting agency;

(ii) Appears to be within the scope of the legislative purpose of the statutory authority; and

(iii) Has been adopted in compliance with the procedural requirements of this act. For the purposes of this subsection, an "agency" means any authority, bureau, board, commission, department, division, officer or employee of the state, excluding the state legislature and the judiciary.

(e) If a state agency created as a licensing or regulatory board or commission for any profession or occupation regulated under title 33 regularly publishes a newsletter, memorandum or other written or electronic communication which serves as a medium to provide information to members of the regulated profession or occupation, then in addition to the notice requirements of subsection (a) of this section, the agency shall publish within that medium the proposed rules in a format conforming to any requirements prescribed pursuant to subsection

(f) of this section. If the agency determines publication in such manner is not practicable, it shall publish within the chosen medium at least once prior to taking final action to adopt, amend or repeal any rule notice of its intended rulemaking proceedings and make available the full text of all proposed changes in the format conforming to any requirements prescribed pursuant to subsection (f) of this section. This subsection shall not apply to emergency rules adopted pursuant to subsection (b) of this section.

(f) The state registrar of rules shall prescribe a format for state agencies to follow in preparing proposed amendments to existing rules which shall ensure that additions to and deletions from existing language are clearly indicated.

(g) Upon receipt of a notice of intended action from a state agency under paragraph (a)(i) of this section, the secretary of state's office shall maintain a file of these notices and make them available for public inspection during regular business hours. A notice shall remain in the file until the rules are adopted or until the agency determines not to take action to adopt the proposed rules. To the extent that resources enable the office to do so, the secretary of state's office shall make these notices available to the public electronically. The secretary of state may promulgate rules specifying the format of notices submitted by state agencies under this subsection. Compliance with this subsection shall not affect the validity of rules promulgated by state agencies.

(h) An agency may incorporate, by reference in its rules and without publishing the incorporated matter in full, all or any part of a code, standard, rule or regulation that has been adopted by an agency of the United States or of this state, another state or by a nationally recognized organization or association, provided:

(i) The agency determines that incorporation of the full text in agency rules would be cumbersome or inefficient given the length or nature of the rules;

(ii) The reference in the rules of the incorporating agency fully identifies the incorporated matter by location, date and otherwise, and states that the rule does not include any later amendments or editions of the incorporated matter;

(iii) The agency, organization or association originally issuing the incorporated matter makes copies of it readily available to the public;

(iv) The incorporating agency maintains and makes available for public inspection a copy of the incorporated matter at cost from the agency and the rules of the incorporating agency state where the incorporated matter is available on the internet as defined in W.S. 9-2-1035(a)(iii); and

(v) The incorporating agency otherwise complies with all procedural requirements under this act and the rules of the registrar of state agency rules governing the promulgation and filing of agency rules.

(j) Each state agency shall adopt as much of the uniform rules promulgated pursuant to the following provisions as is consistent with the specific and distinct requirements of the agency and state or federal law governing or applicable to the agency:

(i) W.S. 16-3-102(d);

(ii) W.S. 16-4-204(e).

16-3-104. Filing of copies of rules; permanent register; effective dates; manner of preparation; advice and assistance of attorney general.

(a) Each agency shall file in the office of the registrar of rules a certified copy of each rule adopted by it as approved by the governor. State agencies shall file each rule within seventy-five (75) days of the date of agency action adopting the rule or it is not effective. There shall be noted upon the rule a citation of the authority by which it or any part of it was adopted. The registrar of rules shall keep a permanent register of the rules open to public inspection. Not more than ten (10) days after a state agency files a copy of a rule in the office of the registrar of rules, the agency shall mail a notice that the rule has been filed to each person who was sent a notice under W.S. 16-3-103(a)(i). The notice shall contain a citation to the rule and the date it was filed. Failure to send the notice required under this subsection does not affect the effectiveness of the rule.

(b) Each rule and any amendment or repeal adopted after June 1, 1982 is effective after filing in accordance with subsection (a) of this section and W.S. 28-9-108 except:

(i) If a later date is required by statute or specified in the rule, the later date is the effective date;

(ii) Where the agency finds that an emergency exists and the finding is concurred in by the governor, a rule or amendment or repeal may be effective immediately upon filing with the registrar of rules and if a state agency, also with the legislative service office. Existing rules remain in effect unless amended or repealed, subject to this section or W.S. 28-9-105 or 28-9-106.

(c) Rules shall be prepared in the manner and form prescribed by the state registrar of rules. The registrar of rules may refuse to accept for filing any rule that does not conform to the prescribed form.

(d) The attorney general shall furnish advice and assistance to all state agencies in the preparation of their regulations, and in revising, codifying and editing existing or new regulations.

16-3-105. Compilation and indexing of administrative code; charges for copies; authentication by registrar.

(a) The registrar of state agency rules shall compile, index and publish a Wyoming administrative code. The code shall:

(i) Contain each rule adopted by a state agency, but shall not contain emergency rules;

(ii) Be compiled, numbered and indexed in a unified manner that permits the code to be easily amended and affords ease of use and accessibility to the public, including strong and effective word search capabilities;

(iii) Be available to the public at no charge through the Internet;

(iv) Be updated on the Internet as soon as practicable after the effective date of newly filed or amended rules.

(b) The registrar of state agency rules may make a reasonable charge for any rules published except those furnished to state officers, agencies, members of the legislature or the legislative service office and others in the employment of the state and its political subdivisions requiring the rules in the performance of their duties. The registrar of local agency rules may make a reasonable charge for copies of any rule on file.

(c) The registrar's authenticated file stamp on a rule or publication of a rule shall raise a rebuttable presumption that the rule was adopted and filed in compliance with all requirements necessary to make it effective.

(d) The registrar of state agency rules shall maintain and publish a current index of all state agency rules filed with the registrar. The index shall list the effective date of each set of rules or the effective date of each set of amendments to an agency's rules. Copies of the index shall be distributed as provided by W.S. 16-3-105(b).

16-3-106. Petition for promulgation, amendment or repeal of rules.

Any interested person may petition an agency requesting the promulgation, amendment or repeal of any rule and may accompany his petition with relevant data, views and arguments. Each agency may prescribe by rule the form of the petition and the procedure for its submission, consideration and disposition. Upon submission of a petition, the agency as soon as practicable either shall deny the petition in writing (stating its reasons for the denials) or initiate rulemaking proceedings in accordance with W.S. 16-3-103. The action of the agency in denying a petition is final and not subject to review.

16-3-107. Contested cases; general procedure.

(a) In any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice served personally or by mail. Where the indispensable and necessary parties are composed of a large class, the notice shall be served upon a reasonable number thereof as representatives of the class or by giving notice by publication in the manner specified by the rules or an order of the agency.

(b) The notice shall include a statement of:

(i) The time, place and nature of the hearing;

(ii) The legal authority and jurisdiction under which the hearing is to be held;

(iii) The particular sections of the statutes and rules involved;

(iv) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a more definite and detailed statement shall be furnished.

(c) In all contested cases, depositions and discovery relating thereto, agencies shall have the authority to administer oaths and affirmations, subpoena witnesses and require the production of any books, papers or other documents relevant or material to the inquiry. In case of refusal to obey a subpoena issued by the agency in a contested case, deposition or discovery relating thereto, to any person, the district court for the district in which the hearing or deposition or other proceeding is being conducted, or for the district where the person may be served, may upon application by the agency issue to the person refusing to obey the subpoena an order requiring the person to show cause for the refusal or to appear before the agency or other person designated by it there to produce documentary evidence if so ordered or there to give evidence touching the matter in question. Any failure to show cause or obey the order of court may be punished by the court as a contempt thereof.

(d) In all contested cases the agency shall as part of its rules of practice provide that the agency or one (1) of its presiding officers designated by it upon application of any party shall issue a subpoena requiring the appearance of witnesses for the purpose of taking evidence or requiring the production of any books, papers or other documents relevant or material to the inquiry.

(e) The agency upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable and oppressive, or in the event issued pursuant to subsection (g) of this section may condition denial of the motion upon the advancement by the person in whose behalf the

subpoena is issued of the reasonable cost of producing the books, papers, documents or tangible things.

(f) If a subpoena issued pursuant to this section is disobeyed and if the agency fails to apply pursuant to subsection (c) of this section for enforcement any party may apply to the district court for the district having venue under subsection (c) of this section for enforcement pursuant to subsection (c) of this section.

(g) In all contested cases the taking of depositions and discovery shall be available to the parties in accordance with the provisions of Rules 26, 28 through 37 (excepting Rule 37(b)(1) and 37(b)(2)(D) therefrom) of the Wyoming Rules of Civil Procedure in effect on the date of the enactment of this act and any subsequent rule amendments thereto. All references therein to the "court" shall be deemed to refer to the appropriate "agency"; all references to the use of the subpoena power shall be references to subsection (c) of this section; all references to "trial" shall be deemed references to "hearing"; all references to "plaintiff" shall be deemed references to "a party". If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the agency in which the action is pending, the refusal to obey the agency order shall be enforced in the same manner as is provided in subsection (c) of this section.

(h) Any agency which is a party to the contested case is subject to the discovery provisions of this section but neither the agency, nor any member, officer or employee shall be required to disclose information which is confidential or privileged under the law and no member of the presiding agency shall be compelled to testify or give a deposition in a contested case. Discovery sought from the agency initially shall be by written application. If the agency refuses to allow discovery in whole or in part the aggrieved party may apply to the presiding officer for an order compelling discovery. If the presiding officer fails or refuses to compel discovery, the aggrieved party may apply to the district court for the district in which the hearing, deposition or other proceeding is being or is to be conducted for an order directed to the agency compelling discovery. The presiding officer or district court shall enter such order as may be appropriate.

(j) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. Any person compelled to appear in person before any agency or

representative thereof shall be accorded the right to be accompanied, represented and advised by counsel or, if permitted by the agency, by other qualified representative.

(k) Every party shall be accorded the right to appear in person or by or with counsel or other duly qualified representative in any agency proceeding in accordance with such rules as the agency prescribes and the pertinent rules of the supreme court of Wyoming. So far as the orderly conduct of public business permits, any interested person may appear before any agency or its responsible officers or employees for the presentation, adjustment or determination of any issue, request or controversy in any proceeding (interlocutory, summary or otherwise) or in connection with any agency function. Every agency shall proceed with reasonable dispatch to conclude any matter presented to it except that due regard shall be had for the convenience and necessity of the parties or their representatives. Any person representing an agency at a hearing in a contested case in which the agency is a party shall not in the same case serve as presiding officer or provide ex parte advice regarding the case to the presiding officer or to the body or any member of the body comprising the decision makers.

(m) No process, requirement of a report, inspection, or other investigative act or demand shall be issued, made or enforced in any manner or for any purpose except as authorized by law. Every person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy of a transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(n) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

(o) The record in a contested case must include:

(i) All formal or informal notices, pleadings, motions and intermediate rulings;

(ii) Evidence received or considered including matters officially noticed;

(iii) Questions and offers of proof, objections and rulings thereon;

(iv) Any proposed findings and exceptions thereto;

(v) Any opinion, findings, decision or order of the agency and any report by the officer presiding at the hearing.

(p) In all contested cases the proceeding including all testimony shall be reported verbatim stenographically or by any other appropriate means determined by the agency or the officer presiding at the hearing.

(q) Oral proceedings or any part thereof shall be transcribed on request of any party upon payment of the cost thereof.

(r) Findings of fact shall be based exclusively on the evidence and matters officially noticed.

16-3-108. Contested cases; admissible evidence; cross-examination; judicial notice.

(a) In contested cases irrelevant, immaterial or unduly repetitious evidence shall be excluded and no sanction shall be imposed or order issued except upon consideration of the whole record or such portion thereof as may be cited by any party and unless supported by the type of evidence commonly relied upon by reasonably prudent men in the conduct of their serious affairs. Agencies shall give effect to the rules of privilege recognized by law. Subject to these requirements and agency rule if the interests of the parties will not be prejudiced substantially testimony may be received in written form subject to the right of cross-examination as provided in subsection (c) of this section.

(b) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given opportunity to compare the copy with the original.

(c) A party may conduct cross-examinations required for a full and true disclosure of the facts and a party is entitled to confront all opposing witnesses.

(d) Notice may be taken of judicially cognizable facts. In addition notice may be taken of technical or scientific facts within the agency's specialized knowledge or of information, data and material included within the agency's files. The

parties shall be notified either before or during the hearing or after the hearing but before the agency decision of material facts noticed, and they shall be afforded an opportunity to contest the facts noticed.

16-3-109. Contested cases; consideration of record; exceptions to decision; briefs and oral argument.

The agency shall consider the whole record or any portion stipulated to by the parties. In the event a recommended decision is rendered all parties shall be afforded a reasonable opportunity to file exceptions thereto which shall be deemed a part of the record. All parties as a matter of right shall be permitted to file a brief with the agency and oral argument shall be allowed in the discretion of the agency.

16-3-110. Contested cases; final decision; contents; notification.

A final decision or order adverse to a party in a contested case shall be in writing or dictated into the record. The final decision shall include findings of fact and conclusions of law separately stated. Findings of fact if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by mail of any decision or order. A copy of the decision and order shall be delivered or mailed forthwith to each party or to his attorney of record.

16-3-111. Contested cases; limitations on consultations and participations.

Unless required for the disposition of ex parte matters authorized by law, members of the agency, employees presiding at a hearing in a contested case and employees assisting the foregoing persons in compiling, evaluating and analyzing the record in a contested case or in writing a decision in a contested case shall not directly or indirectly in connection with any issue in the case consult with any person other than an agency member, officer, contract consultant or employee or other state or federal employee, any party other than the agency or with any agency employee, contract consultant or other state or federal employee who was engaged in the investigation, preparation, presentation or prosecution of the case except upon notice and opportunity for all parties to participate. Nothing herein contained precludes any agency member from consulting

with other members of the agency. No officer, employee, contract consultant, federal employee or agent who has participated in the investigation, preparation, presentation or prosecution of a contested case shall be in that or a factually related case participate or advise in the decision, recommended decision or agency review of the decision, or be consulted in connection therewith except as witness or counsel in public proceedings. A staff member is not disqualified from participating or advising in the decision, recommended decision or agency review because he has participated in the presentation of the case in the event the staff member does not assert or have an adversary position.

16-3-112. Contested cases; presiding officers; qualifications; powers; outside personnel; hearing officers.

(a) If not otherwise authorized by law there shall preside at the taking of evidence in all contested cases the statutory agency, one (1) or more members of the body which comprises the agency, or an employee of the agency or an employee of another agency designated by the agency to act as presiding officer. The functions of all those presiding in contested cases shall be conducted in an impartial manner. Any officer shall at any time withdraw if he deems himself disqualified provided there are other qualified presiding officers available to act.

(b) Officers presiding at hearings shall have authority, subject to the published rules of the agency and within its power to:

(i) Administer oaths and affirmations;

(ii) Issue subpoenas;

(iii) Rule upon offers of proof and receive relevant evidence;

(iv) Take or cause depositions to be taken in accordance with the provisions of this act and the rules of the agency;

(v) Regulate the course of the hearing;

(vi) Hold conferences for the settlement or simplification of the issues;

(vii) Dispose of procedural requests or similar matters;

(viii) Make recommended decisions when directed to do so by the agency; and

(ix) Take any other action authorized by agency rules consistent with this act.

(c) In all contested cases to the extent that it is necessary in order to obtain compliance with W.S. 16-3-111 the agency (excepting county and municipal agencies and political subdivisions on the county and local level) may request the office of the attorney general to furnish to the agency such personnel as may be necessary in order for the agency to properly investigate, prepare, present and prosecute the contested case before the agency. The attorney general upon the receipt of the request shall promptly comply with same with no charge being made against the requesting agency's appropriation other than for travel and per diem expenses.

(d) To the extent an agency utilizes an employee of another agency (other than the staff of the attorney general) to preside at a hearing or otherwise the salary of the employee during the period of the employment and the expenses incurred by the employee shall be charged against the appropriation of the using agency.

(e) When required by law an agency shall adopt rules and regulations providing a procedure for the use and the selection of an administrative hearing officer. An agency shall not delegate the authority to make final decisions to an independent administrative hearing officer unless required by law.

16-3-113. License hearings.

(a) When the grant, denial, suspension or renewal of a license is required by law to be preceded by notice and an opportunity for hearing the provisions of this act concerning contested cases apply.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. A cancellation of a driver's license pursuant to W.S. 31-7-121(c) shall not be valid until the department of transportation gives notice by mail to the licensee of the facts which warrant the intended action and provides the licensee with an opportunity to provide additional evidence or information with respect to the condition at issue within fifteen (15) days of the mailing of the notice. These proceedings shall be promptly instituted and determined.

16-3-114. Judicial review of agency actions; district courts.

(a) Subject to the requirement that administrative remedies be exhausted and in the absence of any statutory or common-law provision precluding or limiting judicial review, any person aggrieved or adversely affected in fact by a final decision of an agency in a contested case, or by other agency action or inaction, or any person affected in fact by a rule adopted by an agency, is entitled to judicial review in the district court for the county in which the administrative action or inaction was taken, or in which any real property affected by the administrative action or inaction is located, or if no real property is involved, in the district court for the county in which the party aggrieved or adversely affected by the administrative action or inaction resides or has its principal place of business. The procedure to be followed in the proceeding before the district court shall be in accordance with rules heretofore or hereinafter adopted by the Wyoming supreme court.

(b) The supreme court's authority to adopt rules governing review from agencies to the district courts shall include authority to determine the content of the record upon review, the pleadings to be filed, the time and manner for filing the pleadings, records and other documents and the extent to which supplemental testimony and evidence may be taken or considered

by the district court. The rules adopted by the supreme court under this provision may supersede existing statutory provisions.

(c) To the extent necessary to make a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. In making the following determinations, the court shall review the whole record or those parts of it cited by a party and due account shall be taken of the rule of prejudicial error. The reviewing court shall:

(i) Compel agency action unlawfully withheld or unreasonably delayed; and

(ii) Hold unlawful and set aside agency action, findings and conclusions found to be:

(A) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;

(B) Contrary to constitutional right, power, privilege or immunity;

(C) In excess of statutory jurisdiction, authority or limitations or lacking statutory right;

(D) Without observance of procedure required by law; or

(E) Unsupported by substantial evidence in a case reviewed on the record of an agency hearing provided by statute.

16-3-115. Judicial review of agency actions; supreme court.

An aggrieved party may obtain a review of any final judgment of the district court under this act by appeal to the supreme court. The appeal shall be taken as in other civil cases.

Subsection 4.1.2
Organization of the Proposed Program

Section 4.1.2 of SA-700, *Handbook for Processing an Agreement* requires that Wyoming provides the basic organizational structure and resources to conduct the program activities to ensure the program structure is adequate to protect health and safety against radiation hazards. Contained within this section is an outline of how Wyoming meets the criteria listed in SA-700 and a narrative describing the proposed program. Organizational charts are provided in Appendix A.

SA-700, *Handbook for Processing an Agreement*

4.1.2 Organization of the Proposed Program

4.1.2.1 Information Needed

(a) The State should submit a concise narrative description of the materials program. The narrative should include:

1. A brief history of radiation control in the State
- Refer to the Introduction of the Application

2. A description of the current structure of the program, including regional offices
- See narrative in Section 4.1.2

3. Individual discussion of each program element in Section 4.0 of the Handbook
- Refer to the Introduction of the Application

4. For each program element, cross references to the pertinent portions of the States' supporting documentation for the application
- Refer to the Introduction of the Application

(b) The State should submit organizational charts. The charts should show:

1. All the organizational levels between the Governor and the Program Director or designee
- Refer to Appendix A of Section 4.1.2

2. The organizational Structure and staff of the Agreement material program; and
- Wyo. Stat. § 35-11-2003(c)

3. Regional offices and staff, if any
- LQD has regional offices, but current SMP staff are based out of the Cheyenne office.

4.1.2.2 Evaluation Criteria

(a) The organization of the Agreement materials program must cover all of the program elements in the Handbook, Section 4.0. For this criterion, it is only necessary to show that responsibility for each program element is assigned to a unit of the organization.

- See narrative below in Section 4.1.2.

(b) The State may divide the program elements among separate agencies. If State law does not specify the division, the State should describe how it divides the regulatory responsibility. The State should submit copies of MOU's describing the responsibility of each agency. MOUs should also include a discussion of efforts that will be made to ensure cooperation and to ensure an orderly and consistent regulatory approach between the separate agencies. The organization charts should clearly show the position of the Agreement materials program within the State governmental structure.
- See narrative below in Section 4.1.2 and Appendix A to Section 4.1.2

(c) The Agreement materials program organizational charts should show both the technical staff and support staff positions. They should show positions assigned to the program both full-time and part-time. If the Agreement materials program uses the resources of another agency, the Agreement material program narrative description should detail the relationship. The narrative description should also discuss any use of contract services and advisory bodies.
- See narrative below in Section 4.1.2 and Appendix A to Section 4.1.2

4.2.1 Narrative of the Organization of the Proposed Program

4.2.1.1 Wyoming Department of Environmental Quality

The Wyoming Department of Environmental Quality (WDEQ) was created in 1973 with the mission to protect, conserve, and enhance the quality of Wyoming's environment for the benefit of current and future generations. The Governor, with the advice and consent of the Senate, appoints a Director who is the executive and administrative head of the Department. WDEQ is made of seven divisions: Abandoned Mine Lands, Administration, Air Quality, Industrial Siting, Land Quality, Solid and Hazardous Waste, and Water Quality. Each Division is under the immediate direction and control of an Administrator appointed by the Director.

4.2.1.2 Environmental Quality Council and Advisory Boards

The Environmental Quality Council was created along with the Department to serve as an independent entity that reviews matters concerning the prevention, reduction, and elimination of pollution, and preservation of Wyoming's water, air, and land quality. The power and duties of the Council are to : (1) Promulgate rules and regulations necessary for the administration of the Environmental Quality Act, (2) Conduct hearings as required by the Wyoming Administrative Act, (3) Conduct hearings in any case contesting the administration or enforcement of any law, rule, regulation, standard, or order issued or administered by the Department, and (4) Conduct hearings in any case contesting the grant, denial, suspension, revocation, or renewal of any permit, license, certification, or variance authorized or required by the Environmental Quality Act. In addition to the Environmental Council, (3) advisory boards exist for the air, land, water and waste divisions. The advisory boards make recommendations to the

Environmental Quality Council through the Administrator and Director. These recommendations include reviews of comprehensive plans and programs for the management of solid and hazardous waste, the prevention, control, and abatement of air, water, and land pollution, and the protection of public water supplies. Additionally, the advisory board makes recommendations to the council through the administrator and director for the adoption of rules, regulations, and standards to implement and carry out for their respective division.

4.2.1.3 Land Quality Division

Since the enactment of the Environmental Quality Act, the Land Quality Division (LQD) ensures that any land disturbances from mining are minimal, and that affected areas are properly restored once mining is complete. The Division is separated into three regional offices that cover different geographical locations of the State; Region 1 covering the southeastern portion of the State, Region 2 covering the western half of the State, and Region 3 covering the northeastern portion of the State. Additionally, Land Quality has two other programs; Divisional Services, which provides technical support to the regions, and the Uranium Recovery Program (URP), which is discussed in more depth below. Pertinent organizational charts are included in the Attachments in 4.1.2.

LQD has overseen mining in Wyoming, gaining experience and expertise in the regulatory oversight of mining activities for a number of different mineral commodities and technologies, including both conventional and in-situ uranium mining. In-situ mining of Uranium has required LQD to work in collaboration with the Water Quality Division and the NRC since all have jurisdictional oversight over these types of operations. The overlapping regulatory duties led to the State of Wyoming becoming an Agreement State in 2018, such that WDEQ is the sole regulator of uranium recovery operations in the State.

Due to Wyoming being an Agreement State, the WDEQ has been designated per W.S. 35-11-2001(b) as the lead agency for the regulation of source material involved in the extraction or concentration of uranium or thorium in source material and ores at milling facilities, and the management and disposal of byproduct material as defined in Section 11e.(2) of the Atomic Energy Act (AEA). The WDEQ fulfills its duties through the URP held within the LQD. The URP, together with the expertise of LQD, have met the objectives of the NRC relative to oversight of source material and 11e.(2) material in the State of Wyoming.

Wyoming is seeking to amend its agreement to include the regulation of source material recovered from mineral resources for purposes other than the source material content. The WDEQ will fulfill its duties through the SMP, sister program to the URP. The SMP, together with the expertise of the URP and LQD, will meet the objectives of the NRC regarding oversight of the Source material for purposes other than the source material content in the State of Wyoming.

4.2.1.4 Source Material Program

The SMP consists of staff responsible for implementing the radiation protection responsibilities of WDEQ/LQD as it pertains to source material generated for purposes other than obtaining the thorium and uranium content operations. Currently the staff are

located at the central office located in Cheyenne. The SMP currently consists of a Program Manager and two professional staff. The SMP will utilize the URP clerical support, which will not be included in the FTE count. Additionally, the program will utilize the expertise of LQD as it pertains to source material.

4.2.1.5 Source Material Program Funding

The Source Material Program will be completely funded by fees collected from the regulated community. As outlined in Chapter 7 of the Source Material Program Rules, the Department will collect fees at the beginning of the fiscal year to cover the legislative for the program. At the end of the fiscal year the Department will evaluate the costs of each licensee and determine if additional funds need to be collected, or if a credit or refund is needed. Changes to the budget will require legislative approval. In the event that there are no regulated entities under the SMP, the program will be funded by general funds.

4.2.1.6 Legal Support

Interpretation of Wyoming law is performed by the Wyoming Attorney General's Office.

4.2.1.7 Third Party Consultants

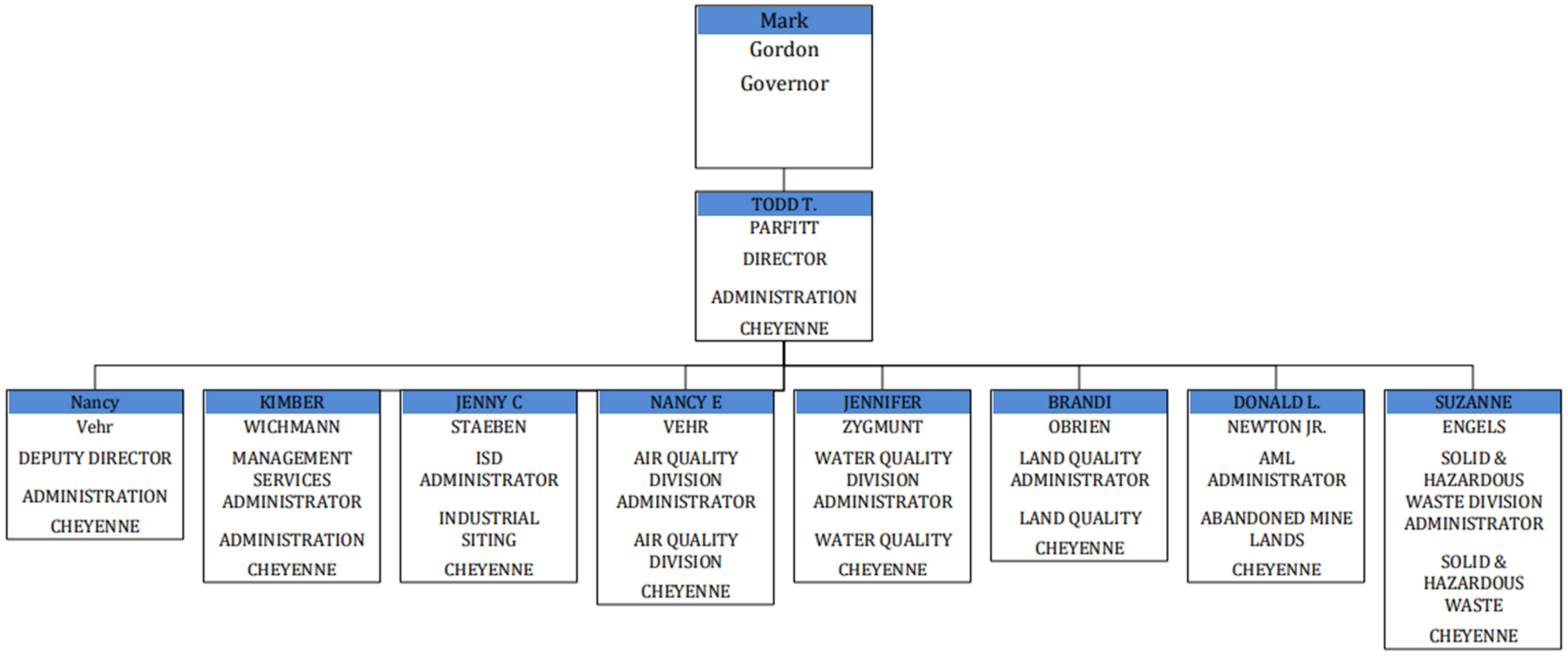
The SMP reserves the right to consult with third part consultants when expertise on certain licensing actions may be required. The contractor will have to follow state policies on contract procurement, and the SMP program will ensure contractual services will not cause conflicts of interest. Additionally, the Department may need to send samples to third party laboratories for analysis to verify licensees' release or decontamination surveys. When contractual services are required, the Department will verify that laboratory QA/QC practices meet the Department standards, and that the laboratory has the appropriate test methods for each constituent sent in for analysis. Regarding QA/QC, at a minimum they will have U.S. Environmental Protection Agency (EPA) certification demonstrating that their QA/QC program meets EPA standards.

Appendix A to Subsection 4.1.2
Organizational Charts

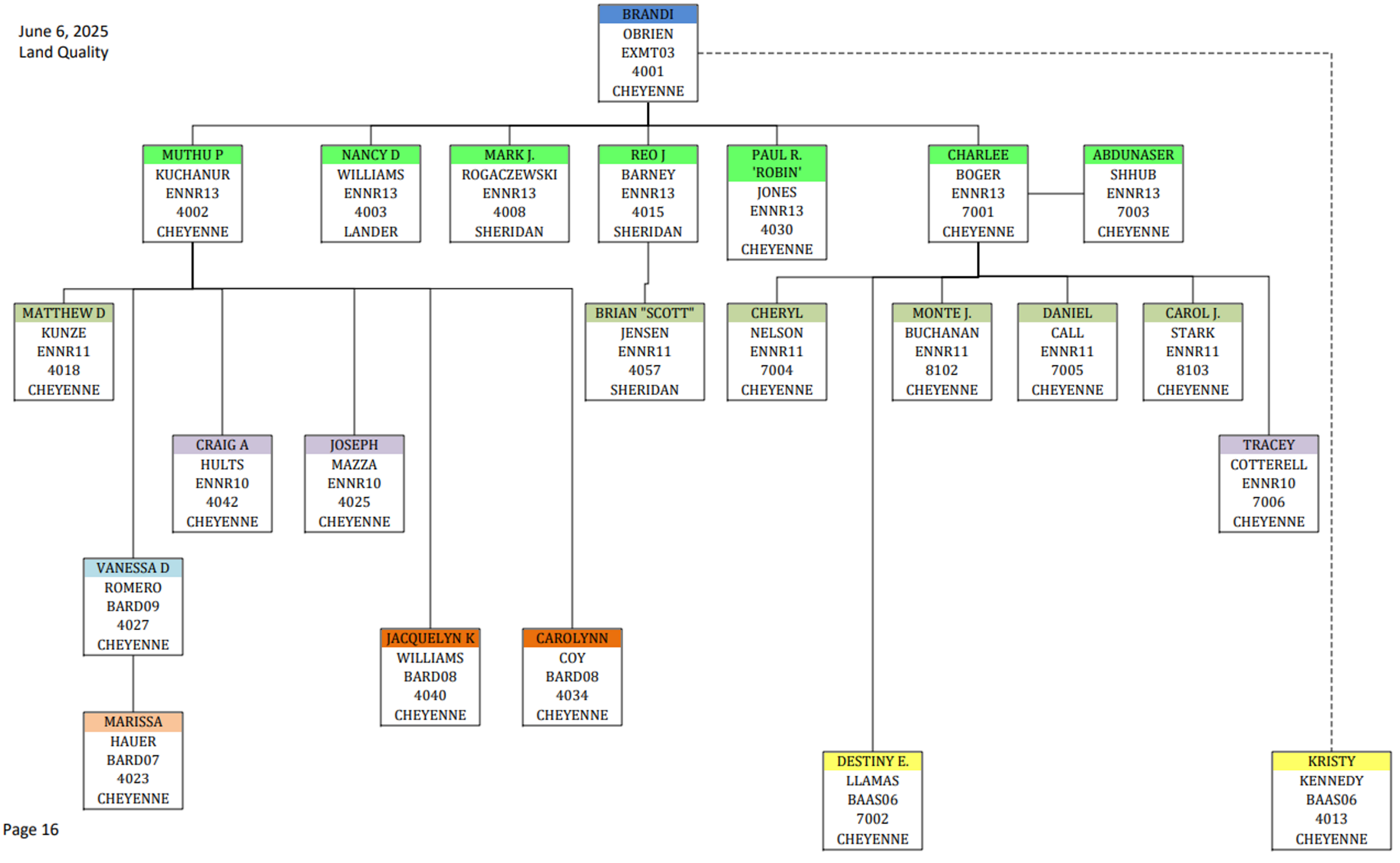


DEQ Organizational Chart

Wyoming Department Of Environmental Quality

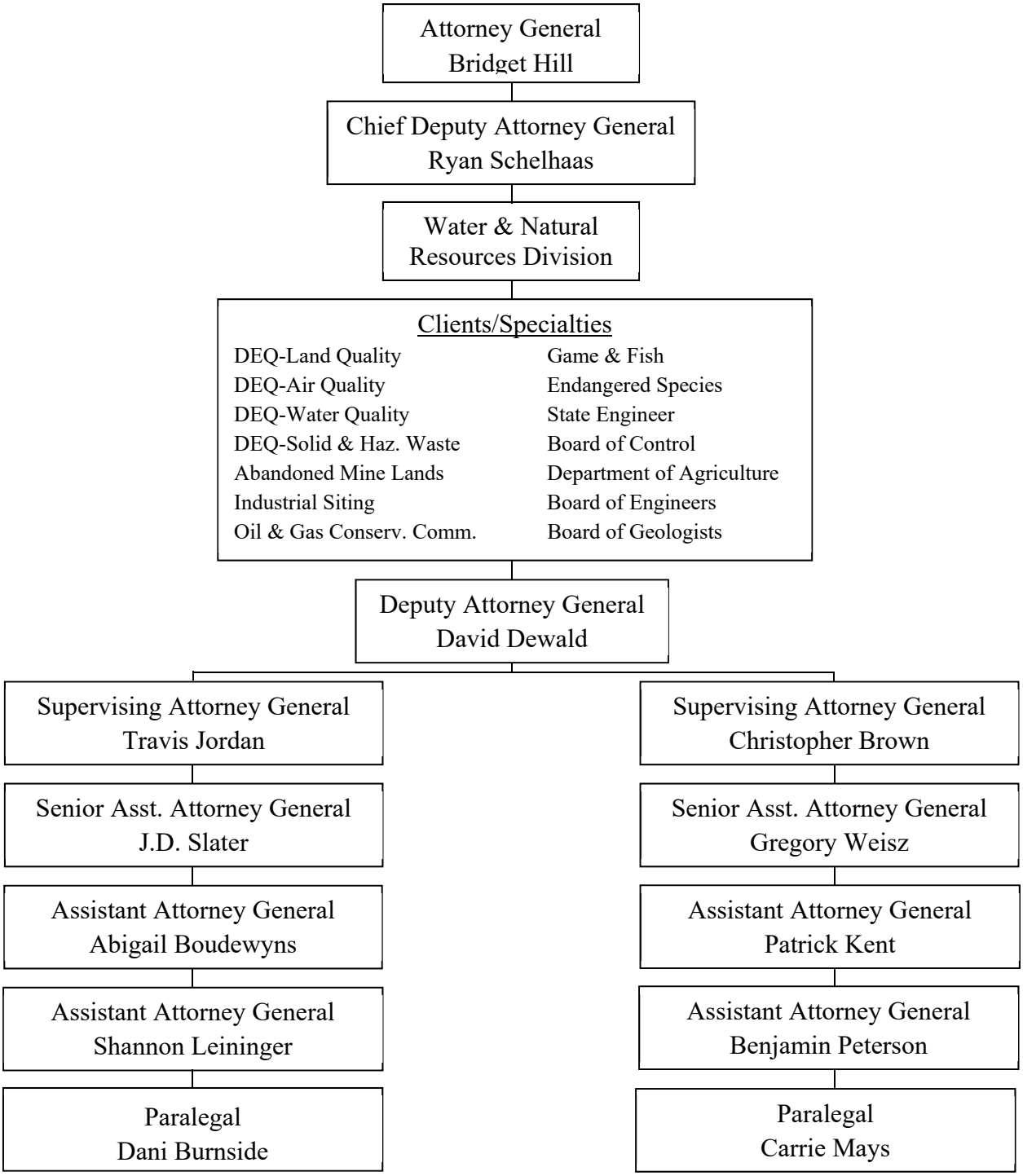


June 6, 2025
Land Quality



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Attorney General Organization Chart



Subsection 4.1.3
Content of the Proposed Agreement

4.1.2 Content of the Proposed Agreement

Section 4.1.3 of SA-700, *Handbook for Processing an Agreement* contains the requirements of the Proposed Agreement, as identified in Subsections 4.1.3.1 through 4.1.3.2. These Subsections are outlined below with citation to provisions of the Proposed Agreement which satisfy the requirements of each Subsection.

Wyoming Department of Environmental Quality (WDEQ) seeks a limited Agreement. Specifically, WDEQ seeks regulatory authority over source material for purposes other than the content of thorium and uranium as defined by Atomic Energy Act (AEA). This is in accordance with the Nuclear Regulatory Commission's (NRC) SECY-23-0075 allowing for the limited scope.

SA-700, *Handbook for Processing an Agreement*

4.1.3 Contents of the Proposed Agreement

4.1.3.1 Information Needed

The proposed Agreement contains the categories of materials and specific authorities that the State wants to regulate. To the extent applicable, the proposed Agreement follows the format and content of the standard Agreement in the Management Directive and Handbook 5.8. The proposed Agreement varies from the standard Agreement in the following ways:

- Article I varies from the standard Agreement. The State seeks to add authority only over source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. For the purposes of this Agreement, the term "mineral resources" means any host rock, ore, material or waste associated with mining or milling that contains a recoverable mineral.
- The State has deleted and modified articles in the standard Agreement as shown in MD 5.8, Handbook.

4.1.3.2 Evaluation Criteria

The proposed Agreement is consistent with the purpose of Section 274 of the Atomic Energy Act of 1954, as amended. It promotes an orderly pattern of regulation and does not create duplication, conflict, or gaps in the nationwide program for the regulation of materials. The proposed Agreement is consistent with the format and content of the standard Agreement in MD 5.8, Handbook, unless otherwise specified in section 4.1.3.1, above.

Appendix A to Subsection 4.1.3
Proposed Agreement



AN AMENDED AGREEMENT

BETWEEN

THE UNITED STATES NUCLEAR REGULATORY COMMISSION

AND

THE STATE OF WYOMING

FOR THE

DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY

AND

RESPONSIBILITY WITHIN THE STATE PURSUANT TO

SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

WHEREAS, The United States Nuclear Regulatory Commission (hereinafter referred to as "the Commission") is authorized under Section 274 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2011 *et seq*. (hereinafter referred to as "the Act"), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct material as defined in Sections 11e.(2) of the Act, source material involved in the extraction or concentration of uranium or thorium in source material or ores at milling facilities and source material recovered from any mineral resources processed primarily for purposes other than its uranium and thorium content; and,

WHEREAS, The Governor of the State of Wyoming is authorized under Wyoming Statute Section 35-11-2001 to enter into this Agreement with the Commission; and,

WHEREAS, The Commission entered into an Agreement (hereinafter referred to as the "Agreement of November 14, 2017") with the State of Wyoming under Section 274 of the Act, which became effective on September 30, 2018, and provided for the discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct material as defined in Section 11e.(2) of the Act, and source material involved in the extraction or concentration of uranium or thorium in source material or ores at milling facilities; and,

WHEREAS, The Governor of the State of Wyoming submitted a letter of intent on February 21, 2023 to the Commission to pursue this amended Agreement which would allow the State to

assume regulatory authority for source material recovered from any mineral resources processed primarily for purposes other than its uranium and thorium content in addition to the materials covered under the Agreement of November 14, 2017; and,

WHEREAS, The Governor of the State of Wyoming certified on [date], that the State has a program for the control of radiation hazards that is also adequate to protect public health and safety with respect to the materials within the State covered by this amended Agreement and that the State desires to assume regulatory responsibility for such materials; and,

WHEREAS, The Commission found on [date], that the program of the State of Wyoming for the regulation of the materials covered by this amended Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and,

WHEREAS, The Commission and the State of Wyoming recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

WHEREAS, The Commission and the State of Wyoming recognize the desirability of the reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

WHEREAS, This Agreement is entered into pursuant to the Act;

NOW, THEREFORE, It is hereby agreed between the Commission and the Governor of the State acting on behalf of the State that this amended Agreement superseded the September 30, 2018 Agreement as follows:

ARTICLE I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

A. Byproduct material as defined in Section 11e.(2) of the Act;

B. Source material involved in the extraction or concentration of uranium or thorium in source material or ores at uranium or thorium milling facilities (hereinafter referred to as "source material associated with milling activities"); and

C. Source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

ARTICLE II

A. This Agreement does not provide for discontinuance of any authority, and the Commission shall retain authority and responsibility with respect to:

1. Byproduct material as defined in Section 11e.(1) of the Act;

2. Byproduct material as defined in Section 11e.(3) of the Act;

3. Byproduct material as defined in Section 11e.(4) of the Act ;

4. Source material except for source material as defined in Article I.B and I.C of this Agreement;

5. Special nuclear material;

6. The regulation of the land disposal of byproduct, source or special nuclear material received from other persons, excluding 11e.(2) byproduct material or source material described in Article I.A and I.B. of this Agreement;

7. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear material and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission;

8. The regulation of the construction, operation, and decommissioning of any production or utilization facility or any uranium enrichment facility;

9. The regulation of the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

10. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear material waste as defined in regulations or orders of the Commission;

11. The regulation of the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed without a license from the Commission;

12. The regulation of activities not exempt from Commission regulation as stated in 10 CFR Part 150;

13. The regulation of laboratory facilities that are not located at facilities licensed under the authority relinquished under Article I.A and I.B of this Agreement; and,

14. Notwithstanding this Agreement, the Commission shall retain regulatory authority over the American Nuclear Corporation license (License No. SUA-667; Docket No. 040-04492).

B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct material as defined in Section 11e.(2) of the Act:

1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.

2. The Commission reserves the authority to establish minimum standards governing reclamation, long-term surveillance or maintenance, and ownership of such byproduct material and of land used as its disposal site for such material. Such reserved authority includes:

    a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission and with ownership requirements for such material and its disposal site;

    b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State at the option of the State (provided such option is exercised prior to termination of the license);

    c. The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States or a State pursuant to paragraph 2.b in this section in a manner of consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, provided that the Commission determines that such use would not endanger public health, safety, welfare, or the environment;

    d. The authority to require, in the case of a license for any activity that produces such byproduct material (which license was in effect on November 8, 1981), transfer of land and material pursuant to paragraph 2.b. in this section taking into consideration the status of such material and land and interests therein and the ability of the licensee to transfer title and custody thereof to the United States or a State;

    e. The authority to require the Secretary of the United States Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect public health and safety and other actions as the Commission deems necessary; and,

f. The authority to enter into arrangements as may be appropriate to assure Federal long-term surveillance or maintenance of such byproduct material and its disposal site on land held in trust by the United States for any Indian Tribe or land owned by an Indian Tribe and subject to a restriction against alienation imposed by the United States.

ARTICLE III

With the exception of those activities identified in Article II, A.8 through A.11, this Agreement may be amended, upon application by the State and approval by the Commission to include one or more of the additional activities specified in Article II, A.1 through A.7, whereby the State may then exert regulatory authority and responsibility with respect to those activities.

ARTICLE IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct, source, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ARTICLE V

This Agreement shall not affect the authority of the Commission under Subsection 161b. or 161i. of the Act to issue rules, regulations, or orders to promote the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear material.

ARTICLE VI

The Commission will cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for: (a) protection against hazards of radiation; and (b) to assure that Commission and State programs for protection against the hazards of radiation will be coordinated and compatible.

The State agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for: (a) protection against the hazards of radiation; and (b) to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

ARTICLE VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State.

Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which reciprocity will be accorded.

ARTICLE VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State or upon request of the Governor of Wyoming, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of Section 274 of the Act, the Commission may, after notifying the Governor, temporarily suspend all or part of this Agreement without notice or hearing if, in the judgment of the Commission, an emergency situation exists with respect to any material covered by this Agreement creating danger which requires immediate action to protect public health and safety of persons either within or outside the State and the State has failed to take steps necessary to contain or eliminate the cause of danger within a reasonable time after the situation arose. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act, which requires a State program to be adequate to protect the public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

ARTICLE IX

In the licensing and regulation of byproduct material as defined in Section 11e.(2) of the Act, or of any activity that results in the production of such material, the State shall comply with the provisions of Section 274o. of the Act, if in such licensing and regulation, the State requires financial surety arrangements for reclamation or long-term surveillance and maintenance of such material.

A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity that results in the production of such material. Such funds include, but are not limited to, sums collected for long-term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and,

B. Such surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and

financial arrangements to ensure adequate reclamation and long-term management of such byproduct material and its disposal site.

ARTICLE X

This Agreement shall supersede the September 30, 2018 Agreement and become effective on [date], and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at [City, State], in triplicate, this [date] day of [month], [year].

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION.

_____, David Wright, Chairman

FOR THE STATE OF WYOMING.

_____, Mark Gordon, Governor

Subsection 4.2
Regulatory Requirements



4.2 Regulatory Requirements

The Source Material Program (SMP) within the Land Quality Division (LQD) of the Wyoming Department of Environmental Quality (WDEQ) has developed regulations that meet Nuclear Regulatory Commission (NRC) criteria as defined in NRC guidance SA-700, Appendix A; *Handbook for Processing an Agreement*. Where applicable, the federal regulations governing the scope of material sought by Wyoming were adopted by reference. The Source Material Program Rules, along with the compatibility tables for the Federal Rules, are attached in Appendices A and B of this subsection. Please note that the SMP rules in this application are those that are currently in the rulemaking process and will be approved by February 2026.

SA 700. *Handbook for Processing an Agreement*

4.2.1 Regulations or Legally Binding Requirements

The regulatory requirements needed for compatibility are those required for 1) the standards for the protection against radiation; 2) cross jurisdiction boundaries; and 3) the orderly pattern of regulation. The State's proposed regulations must satisfy the criteria for compatibility categories A, B and C, respectively.

The State should adopt program elements based on those of the NRC that embody the essential objective of the NRC program elements. Examples are given in the Handbook to MD 5.9.

A. Standards for Protection Against Radiation
   - 10 C.F.R. Part 20, as incorporated by reference in SMP Rules, Chapter 3, Section 4.

B. Cross Jurisdiction Boundaries
   - 10 C.F.R. Part 71, as incorporated by reference in the SMP Rules, Chapter 9, Transportation of Radioactive Material.

C. The Orderly Pattern of Regulation
   - The State meets this requirement by incorporating by reference the necessary 10 CFRs as indicated in the SMP rules, Chapters 1-9 of Appendix A and the Compatibility Tables in Appendix B.

4.2.1.1 Information needed

(a) The State should submit its regulations or generic legally binding requirements required for adequacy and compatibility. The State should submit its regulations or generic legally binding requirements for all categories of material being requested under the Agreement. The State should also submit a "cross-walk" that provides the equivalent State regulation for each NRC regulation.
   - See Appendix A SMP Rules
   - See Appendix B Compatibility Tables

(b) If the State wants to regulate the disposal of Low Level Radioactive Waste (LLRW) at

a land disposal site, it should submit its regulations equivalent to 10 CFR Parts 61.41, 61.42, and 61.43. If a State does not plan to regulate the disposal of LLRW at a land disposal site, it still needs to submit its regulations equivalent to 10 CFR Parts 61.55, 61.56, and 61.57 regarding the requirements for classification, characteristics, and labeling of radioactive waste. If the State wants to regulate the disposal of low-level radioactive waste at a land disposal site, it should submit its regulations equivalent to Parts 61.41, 61.42. and 61.43.

- Wyoming is not seeking authority over low-level radioactive waste, therefore regulations equivalent to 10 CFR Parts 61.41, 61.42, and 61.43 will not be provided. The SMP will use 10 CFR Parts 61.55-61.57 regarding radioactive waste classification, characteristics, and labeling.

(c) If the State wants to regulate uranium and thorium mill tailings, it should submit a copy of its requirements equivalent to 10 CFR Part 40, Appendix A.

- For the purpose of this application, the SMP in Wyoming will not regulate uranium or thorium.

4.2.1.2 Evaluation Criteria

(a) The State regulations must satisfy the criteria for all adequacy and compatibility categories. The criteria are given in the Handbook to MD 5.9. A list of program elements and their compatibility or adequacy designations is provided in State Agreement Procedure SA-200, Appendix A. Appendix A includes a link to a table with the adequacy or compatibility designation assigned to each regulation required in 10 CFR Parts 19, 20, 3039, 40, 61, 70, 71, and 150. Additional guidance for submitting State regulations for NRC review is provided in SA-201.

- See Appendix A SMP Rules
- See Appendix B Compatibility Tables

(b) The State's regulations must apply to all categories of materials covered by the Agreement. The regulations should also apply to all other sources of radiation regulated by the State and must require consideration of the total occupational dose to individuals. The standards must apply to all categories of materials covered by the Agreement. They should also apply to all other sources of radiation regulated by the State. The standards must require consideration of the total occupational dose to individuals; and

- See Appendix A SMP Rules
- See Appendix B Compatibility Tables

(c) If the State adopts generic legally binding requirements other than regulations, the program staff should apply generic legally binding requirements consistently. The requirements should not confuse either the licensees or the regulatory program staff. The State must show that the alternative requirements are legally binding under State law.

- See Appendix A SMP Rules
- See Appendix B Compatibility Tables

Appendix A to Subsection 4.2

Source Material Program Rules



Chapter 1

General Provisions

Section 1. **Authority.**

These rules are promulgated pursuant to the Wyoming Environmental Quality Act, Wyoming Statute (W.S.) § 35-11-2001 *et seq*. These rules are effective upon filing with the Secretary of State.

Section 2. **Purpose.**

It is the purpose of these rules to state such requirements as shall be applied in the use of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content (referred to throughout these rules as licensed material) such that the Department can ensure the protection of the public health and safety to all persons at, or in the vicinity of, the place of use, storage, or disposal.

Section 3. Scope.

Except as otherwise specifically provided, these rules apply to all persons who receive, possess, use, offer and receive for transfer, own, or acquire any source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. For the purposes of these rules, the term "mineral resources" is defined in W.S. § 35-11-2001(a). Nothing in these rules shall apply to any person to the extent such person is subject to regulation not relinquished by the United States Nuclear Regulatory Commission (NRC). These rules do not govern the mining or removal of source material in its natural state or independent or commercial laboratory facilities that possess, use, or accept source material. These rules apply to laboratories located at facilities licensed under these rules.

Section 4. Incorporation by Reference (IBR) of Code of Federal Regulations (C.F.R.)

(a) AVAILABILITY OF REFERENCED MATERIAL. The federal rules adopted by reference throughout these rules are maintained at the following locations:

(i) Electronic copies of the federal rules adopted by reference throughout these rules may be obtained from the U.S. Government Printing Office, http://www.ecfr.gov; and

(ii) Volumes of the federal rules adopted by reference throughout these rules are available for public inspection at the Wyoming Department of Environmental Quality, Source Material Program, 200 West 17th Street, Suite 10, Cheyenne, Wyoming 82002. Printed copies of the federal rules adopted by reference throughout these rules are also available at cost from the U.S. Government Printing Office, 732 North Capitol Street Northwest, Washington D.C. 20401 or at http://bookstore.gpo.gov/catalog/laws-regulations/code-federal-regulations-cfrs-print. Copies of the federal rules adopted by reference throughout these rules may be requested at cost through the Wyoming Department of Environmental Quality, which will order

the materials from the U.S. Government Printing Office.

Section 5. Definitions.

The following terms, as used in these rules shall, unless the context otherwise requires, have the following meanings:

(a) "Absorbed Dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the rad and the gray (Gy).

(b) "Act" means Environmental Quality Act, W.S. § 35-11-103 *et seq.*

(c) "Action Limits" means the minimum and maximum values of a quality assurance measurement that can be interpreted as representing acceptable performance with respect to the parameter being tested. Values less than the minimum or greater than the maximum action limit or level indicate that corrective action must be taken. Action limits or levels are also sometimes called control limits or levels.

(d) "Activity" means the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the curie (Ci) and the becquerel (Bq).

(e) "Adult" means an individual 18 or more years of age.

(f) "Agreement State" means a state with which the Atomic Energy Commission or the Nuclear Regulatory Commission has entered into an effective agreement under Section 274(b) of the Atomic Energy Act of 1954 (AEA), as amended (42 U.S.C. § 2021). Non-agreement State means any other State.

(g) "Airborne Radioactive Material" means a radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(h) "Airborne Radioactivity Area" means a room, enclosure, or area in which airborne radioactive materials, composed wholly or partly of licensed material, exists in concentrations:

(i) In excess of the derived air concentrations (DACs), specified in 10 C.F.R. Part 20, Appendix B, or

(ii) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI), or 12 DAC hours.

(i) "Air-Purifying Respirator" means a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

(j) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by off-site response organizations to protect persons off-site.

(k) "Annual Limit on Intake (ALI)" means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 5 rems (0.05 Sv) or a committed dose equivalent of 50 rems (0.5 Sv) to any individual organ or tissue. (ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table 1, Columns 1 and 2, of Appendix B to 10 C.F.R. Part 20).

(l) "As Low as (is) Reasonably Achievable (ALARA)" means making every reasonable effort to maintain exposures to radiation as far below the dose limits as is practical, consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest.

(m) "Assigned Protection Factor (APF)" means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

(n) "Atmosphere-Supplying Respirator" means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARS) and self-contained breathing apparatus (SCBA) units.

(o) "Background Radiation" means radiation from:

(i) Cosmic sources;

(ii) Naturally occurring radioactive materials, including radon (except as a decay product of source or special nuclear material); and

(iii) Global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee.

(iv) Background radiation does not include radiation from source, byproduct, or special nuclear materials regulated by the Commission or the Department.

(p) "Becquerel (Bq)" means the SI unit of activity. One (1) becquerel is equal to one (1) disintegration or transformation per second.

(q) "Bioassay" means the determination of kinds, quantities or concentrations, and in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

(r) "Byproduct Material" is defined in W.S. § 35-11-103(j)(i).

(s) "Calibration" means the determination of:

(i) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(ii) The strength of a source of radiation relative to a standard.

(t) "Class (or lung class or inhalation class)" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times; for Class D (Days) of less than 10 days, for Class W (weeks) from 10 to 100 days, and Class Y (years) of greater than 100 days.

(u) "Collective Dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(v) "Commencement of Construction" means taking any action defined as construction or any other activity at the site of a facility subject to these rules that has a reasonable nexus to radiological health or safety.

(w) "Commission" means the U.S. Nuclear Regulatory Commission or its duly authorized representatives. “Nuclear Regulatory Commission” and “NRC” are equivalent terms.

(x) "Committed Dose Equivalent ($H_{T,50}$)" means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(y) "Committed Effective Dose Equivalent ($H_{E,50}$)" is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($H_{E,50}=\sum W_T H_{T,50}$).

(z) "Constraint (dose constraint)" means a value above which specified licensee actions are required.

(aa) "Contamination" means the presence of radioactive substance on a surface in quantities in excess of unrestricted release limits.

(i) Fixed radioactive contamination means radioactive contamination that cannot be removed from a surface during normal conditions.

(ii) Non-fixed or removable radioactive contamination means radioactive contamination that can be removed from a surface during normal conditions.

(ab) "Controlled Area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason.

(ac) "Critical Group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

(ad) "Curie" means the special unit of activity. One curie is equal to $3.7x10^{10}$ disintegrations per second which is equal to $3.7x10^{10}$ becquerels which is equal to $2.22x10^{12}$ disintegrations per minute.

(ae) "Declared Pregnant Woman" means a woman who has voluntarily informed the licensee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(af) "Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

(i) Release of property for unrestricted use and termination of the license; or

(ii) Release of the property under restricted conditions and termination of the license.

(ag) "Deep Dose Equivalent (H_d)," which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1cm (1000 mg/cm2).

(ah) "Demand Respirator" means an atmosphere-supplying respirator that admits breathing air to the facepiece only when negative pressure is created inside the facepiece by inhalation.

(ai) "Department" means the State of Wyoming Department of Environmental Quality.

(aj) "Derived Air Concentration (DAC)" means the concentration of given radionuclide in air which, if breathed by reference man for a working year of 2,000 hours under conditions of light work (inhalation rate of 1.2 cubic meters of air per hour), results in an intake of 1 ALI. DAC values are given in 10 C.F.R. Part 20, Appendix B, Table 1 Column 3.

(ak) "Derived Air Concentration–Hour (DAC-Hour)" means the product of the concentration of radioactive material in air (expressed as a fraction or multiple of the derived air concentration for each radionuclide) and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent 1 ALI equivalent to a committed effective dose equivalent of 5 rems (0.05 Sv).

(al) "Discrete source" means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

(am) "Disposable Respirator" means a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end of service life renders it unsuitable for use. Examples of this type of respirator are disposable half-mask respirators or disposable escape-only self-contained breathing apparatus (SCBA).

(an) "Distinguishable from Background" means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

(ao) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

(ap) "Dose Equivalent (H_T)" means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).

(aq) "Dose Limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For the purpose of these rules, "limits" is an equivalent term.

(ar) "Dosimetry Processor" means an individual or organization, that is National Voluntary Laboratory Accreditation Program (NVLAP) approved, that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment.

(as) "Effective Dose Equivalent (H_E)" means the sum of the products of the dose equivalent to the organ or tissue (H_T), and the weighting factor (W_T), applicable to each of the body organs or tissues that are irradiated ($H_E = \sum W_T H_T$).

(at) "Embryo/Fetus" means the developing human organism from conception until the time of birth.

(au) "Entrance or Access Point" means any location through which an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(av) "Exclusive Use" means the sole use by a single consignor or a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

(aw) "Exposure" means being exposed to ionizing radiation or to radioactive material. For purposes of these rules, this term is used as a verb.

(ax) "Exposure Rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

(ay) "External Dose" means that portion of the dose equivalent received from a source of radiation outside the body.

(az) "Extremity" means hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

(ba) "Financial Assurance" means the method of assuring that sufficient funds will be available at the time of license termination and decommissioning of the facility to cover all costs associated with the decommissioning.

(bb) "Filtering Facepiece (dust mask)" means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

(bc) "Fit Factor" means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

(bd) "Fit Test" means the use of protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

(be) "Generally Applicable Environmental Radiation Standards" means standards issued by the U.S. Environmental Protection Agency under the authority of the AEA, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(bf) "Helmet" means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

(bg) "High Radiation Area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 0.1 rem (1 mSv), in 1 hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

(bh) "Hood" means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

(bi) "Individual" means any human being.

(bj) "Individual monitoring" means:

(i) The assessment of dose equivalent by:

(A) Use of devices designed to be worn by an individual, or

(B) Survey data; or

(ii) The assessment of committed effective dose equivalent by:

(A) Bioassay, or

(B) By determination of the time-weighted air concentrations to which an individual has been exposed (i.e. DAC-hours).

(bk) "Individual Monitoring Devices" means devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of these rules, individual monitoring equipment and personnel monitoring equipment are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLD's), pocket ionization chambers, and personal air sampling devices.

(bl) "Internal Dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(bm) "Lens Dose Equivalent (LDE)" means the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm^2).

(bn) "License" means a form of permission given by the Department to an applicant who has met the requirements for licensing set out in the Act and these rules.

(bo) "Licensee" means a person who is licensed by the Department in accordance with the Act and these rules.

(bp) "Licensed material" means source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content and the management and disposal of associated byproduct material received, possessed, used, transferred, or disposed of under a license issued by the Department.

(bq) "Limits (dose limits)" means the permissible upper bounds of radiation doses.

(br) "Loose Fitting Facepiece" means a respiratory inlet covering that is designed to form a partial seal with the face.

(bs) "Lost or Missing Licensed Material" means licensed material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

(bt) "Member of the Public" means an individual except when that individual is receiving an occupational dose.

(bu) "Minor" means an individual less than 18 years of age.

(bv) "Monitoring" means the measurement of radiation levels, concentrations, surface area concentrations or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, radiation monitoring and radiation protection monitoring are equivalent terms.

(bw) “Nationally tracked source” is a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in Appendix E of 10 C.F.R. Part 20. In this context a sealed source is defined as radioactive material that is sealed

in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

(bx) "Negative Pressure Respirator (tight fitting)" means a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

(by) "Nonstochastic Effect" means health effects, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect (also called a deterministic effect). For the purposes of these rules deterministic effect is an equivalent term.

(bz) "Occupational Dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or other person. An Occupational dose does not include doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released under 10 C.F.R. Part § 35.75, from voluntary participation in medical research programs, or as a member of the public.

(ca) "Operation" means all of the activities, equipment, premises, facilities, structures, roads, rights-of-way, waste and refuse areas, storage and processing areas, and shipping areas used in the process of excavating or removing overburden and minerals from the affected land or for removing overburden for the purpose of determining the location, quality or quantity of a natural, mineral deposit or for the reclamation of affected lands.

(cb) "Person" means an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, board, public or private institution, utility, cooperative, municipality or any other political subdivision of the State, or any interstate body or any other legal entity and any legal successor, representative, agent, or agency of the foregoing.

(cc) "Physician" means a medical doctor or doctor of osteopathy licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine.

(cd) "Positive Pressure Respirator" means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

(ce) "Powered air-purifying respirator (PAPR)" means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

(cf) "Pressure Demand Respirator" means a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

(cg) "Principal Activities" as used in these rules, means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities

(ch) "Program" means the State of Wyoming's Source Material Program.

(ci) "Public Dose" means the dose received by a member of the public from exposure to radiation or to radioactive materials released by a licensee, or to any other source of radiation under the control of a licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with 10 C.F.R. § 35.75, or from voluntary participation in medical research programs.

(cj) "Qualitative Fit Test (QLFT)" means a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to a test agent.

(ck) "Quality factor (Q)" means the modifying factor, listed in Table 1004(b).1 of 10 C.F.R. 20.1004, as incorporated by reference in Chapter 3 of these rules, that is used to derive dose equivalent from absorbed dose.

(cl) "Quantitative Fit Test (QNFT)" means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

(cm) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee (approximately 13 consecutive weeks), providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(cn) "Radiation" means alpha particles, beta particles, gamma rays, x-rays, neutrons, high speed electrons, high speed protons, and other particles capable of producing ions. For purposes of these rules, ionizing radiation is an equivalent term. Radiation, as used in these rules, does not include non-ionizing radiation, such as radio or microwaves, visible, infrared, or ultraviolet light.

(co) "Radiation Area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.005 rem (0.05 mSv), in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

(cp) "Radiation Level" means the radiation dose-equivalent expressed in millisieverts per hour or mSv/h (millirems per hour or mrem/h).

(cq) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(cr) "Reference Man" means a hypothetical aggregation of human physical and physiological characteristics arrived at by international consensus. These characteristics may be

used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base.

(cs) "Residual Radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with the provisions of 10 C.F.R. Part 20 which is incorporated by reference in Chapter 3 of these rules.

(ct) "Respiratory Protective Device" means an apparatus, such as a respirator, used to reduce the individual's intake of airborne radioactive materials.

(cu) "Restricted Area" means an area, access to which is limited by the licensee for the purpose of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(cv) "Roentgen (R)" means the special unit of exposure. One roentgen equals 2.58 x 10^{-4} coulombs per kilogram of air. *See* exposure, defined above.

(cw) "Sanitary Sewerage" means a system of public sewers carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

(cx) "Self-Contained Breathing Apparatus (SCBA)" means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

(cy) "Shallow Dose Equivalent (H_s)" which applies to the external exposure of the skin of the whole body or the skin of an extremity and is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm^2).

(cz) "SI" means an abbreviation of the International System of Units.

(da) "Site Area Emergency" means events which may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by off-site organizations to protect persons off-site.

(db) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.

(dc) "Source material" is defined in W.S. § 35-11-103(j)(iii).

(dd) "Specific Activity" means the radioactivity of the radionuclide per unit mass of the nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of material. The Specific Activity for Natural Uranium is 6. 77x10^{-7} Ci per gram of U.

(de) "Special Nuclear Material" means:

(i) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the Commission, pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(ii) Any material artificially enriched by any of the foregoing but does not include source material.

(df) "Stochastic Effects" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.

(dg) "Supplied-Air Respirator (SAR)" means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

(dh) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation. When appropriate, such an evaluation includes physical survey of the location of radioactive material and measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.

(di) "Test" means the process of verifying compliance with an applicable rule.

(dj) "Tight Fitting Facepiece" means a respiratory inlet covering that forms a complete seal with the face.

(dk) "Total Effective Dose Equivalent (TEDE)" means the sum of the effective dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(dl) "Unrefined and Unprocessed Ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.

(dm) "Unrestricted Area" means an area, to which access is neither limited nor controlled by the licensee. For purposes of these rules, "uncontrolled area" is an equivalent term.

(dn) "Unrestricted Use" means that the facility area, or object may be used by individuals for any purpose without limit or control of the licensee.

(do) "User seal check (fit check)" means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

(dp) "Very High Radiation Area" means an area, accessible to individuals, in which

radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose in excess of 500 rads (5 grays) in 1 hour at 1 meter from a radiation source or 1 meter from any surface that the radiation penetrates.

(dq) "Waste" means those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purpose of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in this Chapter.

(dr) "Week" means seven consecutive days starting on Sunday.

(ds) "Weighting Factor (W_T)" for an organ or tissue (T) is the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of W_T are:

Organ or Tissue	W_T
Gonads	0.25
Breasts	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone Surfaces	0.03
Remainder	[1]0.30
Whole Body	[2]1.00

[1] 0.30 results from 0.06 for each 5 "remainder organs" (excluding the skin and the lens of the eye) that receive the highest doses.

[2] For the purposes of weighting the external whole body dose (for adding it to the internal dose), a single weighting factor, $W_T = 1.0$, has been specified. The use of weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(dt) "Whole Body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knees.

(du) "Worker" means an individual engaged in work under a license issued by the Department and controlled by a licensee, but does not include the licensee.

(dv) "Working Level (WL)" means any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of 1.3 x 10^5 MeV of potential alpha particle energy. The short-lived radon daughters are: for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

(dw) "Working Level Month (WLM)" means an exposure to one working level for 170

hours. 2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.

(dx) "Year" means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee may change the starting date of the year used to determine compliance by the licensee provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

Section 6. Units of Exposure and Dose.

(a) As used in these rules, the unit of exposure is the coulomb per kilogram (C per kg). One roentgen is equal to 2.58 x 10^{-4} coulomb per kilogram of air.

(b) As used in these rules, the units of dose are:

(i) Gray (Gy) is the SI unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram. One gray equals 100 rad.

(ii) Rad is the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram. One rad equals 0.01 Gy.

(iii) Rem is the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor. One rem equals 0.01 Sv.

(iv) Sievert (Sv) is the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor. One Sv equals 100 rem.

(c) As used in these rules, the quality factors for converting absorbed dose to dose equivalent are shown in Table 1004(b).1 of C.F.R. 20.1004, as incorporated by reference in Chapter 3 of these rules.

Section 7. Units of Radioactivity.

For purposes of these rules, activity is expressed in the SI unit of becquerel (Bq), or in the special unit of curie (Ci), or their multiples, or disintegrations or transformations per unit of time.

Section 8. Communication and Referenced Materials.

All communication and reports concerning parts of these rules, and application filed thereunder, should be addressed to the Department.

Section 9. Deliberate misconduct.

(a) Any licensee, applicant for a license, employee of a licensee or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or applicant for a license, who knowingly provides to any licensee,

applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's or applicant's activities in this part, may not:

(i) Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee or applicant under these rules to be in violation of any rule or order of the Department; or any term, condition or limitation of any license issued by the Department under these rules; or

(ii) Deliberately submit to the Department, a licensee, an applicant, or a licensee's or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect, material to the Department.

(b) Deliberate misconduct by a person means an intentional act or omission that the person knows:

(i) Would cause a licensee to be in violation of any rule or order; or any term, condition, or limitation issued by the Department; or

(ii) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, applicant, contractor or subcontractor of a licensee as mandated by the Department.

(c) A person who violates paragraph (a)(i) or (a)(ii) of this section may be subject to enforcement action in accordance with Chapter 2 of these rules.

Section 10. **Exemptions.**

The Department may upon application or upon its own initiative, grant such exemptions or exception from requirements as it determines are authorized by law and will not result in undue hazard to public health and safety or property. Provisions for exceptions are provided for in W.S. § 35-11-2003(c).

Section 11. Records.

(a) A licensee shall maintain records showing the receipt, transfer, and disposal of all licensed material.

(b) All records required by this Chapter shall be accurate and factual.

(c) The Department fully adopts and hereby incorporates by reference recordkeeping requirements in 10 C.F.R. 40.61 (a), (b), (d), (e), and (f).

(d) If the record retention period is not specified, the record shall be maintained for a period of three years.

Chapter 2

Inspections, Enforcement, and Penalties

Section 1. Purpose.

This Chapter establishes requirements to ensure the protection of the public health and safety and of all persons at, or in the vicinity of, the place of use, storage, or disposal of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

Section 2. Scope.

This Chapter applies to the authorized and unauthorized extraction or concentration of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. The Department may inspect, enforce, and penalize both licensees and non-licensees for the unlawful possession, use, transfer, ownership or other such unpermitted handling of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content in accordance with these rules, the Act, and applicable state and federal laws.

Section 3. Inspections and Testing.

(a) Each licensee and applicant shall allow the Department, to enter and inspect any licensed are as provided by Chapter 4, Section 7(j) of these rules.

(b) As required by the Department, each licensee shall perform, or shall permit the Department to perform, such reasonable tests as the Department deems appropriate or necessary including, but not limited to, the testing of:

(i) Source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content;

(ii) Facilities wherein licensed materials are used or stored; and

(iii) Radiation detection and monitoring instruments.

Section 4. Violations.

(a) All violations of this Act or these rules are subject to penalty as provided by Wyoming Statute (W.S.) § 35-11-901.

(b) An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or these rules.

(c) Submittal of false information shall be sufficient basis for rejecting or revoking any Department issued license, registration, certification or other acceptance, approval or permit.

(d) These rules shall not limit any existing civil or criminal remedies in accordance with W.S §. 35-11-904.

Section 5. **Enforcement.**

(a) The Department may issue Notices of Violation and Orders pursuant to W.S. § 35-11-701.

(b) Licensee initiative for self-identification and correction of problems is encouraged. The Department will generally not issue Notices of Violation for a violation that:

(i) Was identified by the licensee;

(ii) Results in low or no health and safety consequences;

(iii) Was documented, in writing, for review by the Department;

(iv) Was or will be corrected, including measures to prevent recurrence, within ninety (90) days, or another time frame approved by the Department; and

(v) Was not a violation that could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation.

(c) Licensees are not ordinarily cited for violations resulting from matters outside of their control, such as equipment failures that were not avoidable by reasonable quality assurance measures. However, licensees are held responsible for acts of their employees. Accordingly, the rules should not be construed to excuse personnel errors.

(d) At the discretion of the Department, and in accordance with W.S. § 35-11-701, licensees may have the opportunity to eliminate or correct the violation before the issuance of a Notice of Violation if that violation results in low or no health and safety consequences and can be eliminated or corrected in an expedient manner.

Section 6. Orders and other Administrative Actions.

(a) The Department may issue Orders:

(i) To remove a threat to public health and safety or the environment;

(ii) To demand that a Licensee or other person cease and desist violations or unauthorized or illegal activities; or

(iii) For any other reason in which license revocation or suspension is authorized.

(b) The Department may issue Orders to suspend all or part of any regulated activity. These Orders may be effective immediately, without prior opportunity for hearing, whenever it is

determined that public health, interest, or safety so requires, or when responding to a willful or wanton violation.

(c) The Department may hold informal enforcement or settlement conferences to discuss safety, public health, or environmental problems, compliance with regulatory requirements, proposed corrective measures including schedules for implementation, and enforcement.

Chapter 3

Radiation Protection Standards

Section 1. Purpose.

(a) This Chapter establishes standards for protection against ionizing radiation resulting from activities conducted pursuant to licenses issued by the Department.

(b) This Chapter is designed to control the receipt, possession, use, transfer, or disposal of licensed material such that the total dose to an individual, excluding radiation dose from background sources, does not exceed the standards for protection against radiation as outlined in this Chapter.

(c) The limits provided for in this Chapter do not apply to doses due to background, from medical diagnosis or therapy, from individuals administered radioactive material and released, or from voluntary participation in medical research.

Section 2. Scope.

This Chapter applies to persons licensed by the Department to acquire, own, possess, use, transfer, offer or receive for transport, or dispose of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

Section 3. Implementation.

Any existing license condition imposed by the Department that is more restrictive than this Chapter remains in force until there is an amendment or renewal of the license.

Section 4. Incorporation by Reference of 10 Code of Federal Regulations (C.F.R.) Part 20; Standards for Protection Against Radiation.

(a) Any reference in these rules to requirements, or procedures contained in 10 C.F.R., Part 20, Sections 20.1001 through 20.2402 shall constitute the full adoption by reference of that part and subparts as they appear in 10 C.F.R., revised as of January 1, 2025, including any notes and appendices therein, unless expressly provided otherwise in these rules. These rules do not include any later amendments or editions of the incorporated matter.

(b) The following 10 C.F.R. sections, as of January 1, 2025, are excluded from these rules and are not incorporated by reference: 20.1001, 20.1002, 20.1003, 20.1004(a), 20.1005, 20.1006, 20.1007, 20.1008, 20.1009, 20.1206, 20.1301(c) and (e), 20.1403(c)(2), 20.1406(b), 20.1601(f), 20.1903(b), 20.1903(d), 20.1905(g), 20.2003(b), 20.2008, 20.2104 (b), 20.2105, 20.2106(d), 20.2201(a)(2)(i), 20.2201(b)(2)(i), 20.2201(c), 20.2202(d)(1), 20.2202(e), 20.2203(c), 20.2204, 20.2206, 20.2401, 20.2402, and Appendix D.

(c) Any references in the federal rules adopted by reference to "NRC Headquarters Operations Center," or any component thereof, in 10 C.F.R. Part 20 shall be deemed to be a reference to the Department and the Source Material Program.

(d) Any references in the federal rules adopted by reference to the United States Nuclear Regulatory Commission (NRC), or any component thereof, shall be deemed to be a reference to the Department and the Source Material Program.

(e) Any reference in the federal rules to 10 C.F.R. Parts 30, 50, 52, 54, 60, 63, 72, and 76 are not adopted under the incorporation by reference of 10 C.F.R. Part 20.

(f) When incorporating 10 CFR 20.1406(a), any references to 10 CFR Part 52 are not incorporated by reference.

(g) In order to reconcile incorporation by reference where federal rules may be incorrectly incorporated, the following language is added to provide clarity:

(i) Reports and notifications referenced in 10 C.F.R. 20.2201 – 20.2207 (except as excluded in paragraph (b) of this Section), shall be directed to the Department.

(ii) In 10 C.F.R. 20.1201, references to "20.1206" are not incorporated by reference.

(iii) In 10 C.F.R. 20.1401(a) a reference to "this subpart" means "10 C.F.R. 20.1401 – 1405".

(iv) In 10 C.F.R. 20.1401(a) a reference to "facilities licensed under Part 40" means "facilities licensed under these rules".

(v) In 10 C.F.R. 20.1403(d) and 20.1404(a)(4) the reference to "40.42(d)" means "Chapter 4, Section 16(a) – (c) of these rules".

(vi) In 10 C.F.R. 20.1501(b) the phrase "§§ 30.35(g), 40.36(f), 50.75(g), 70.25(g), or 72.30(d)" means Section 7 of Chapter 6 of these rules.

(vii) In 20.1906 references to "§ 71" and "Part 71 of this chapter" mean the specified section in "10 C.F.R. 71", as incorporated by reference in Chapter 9 of these rules.

(viii) The notifications required by 10 C.F.R. 20.1906(d) and 20.2201(a)(2) must be made to the Department on the 24-hour spill hotline at 307-777-7501 or using the spill and complaints website at http://deq.wyoming.gov/spill-and-complaints/.

(ix) In 10 C.F.R. 20.2108 "§§ 30.51, 40.61, 70.51, and 72.80" means "10 C.F.R. 40.61", as incorporated by reference in Chapter 1, Section 11(c) of these rules.

(x) In 10 C.F.R. 20.2205, the reference to “20.2204” is not incorporated.

Chapter 4

Licensing Requirements for Source Material

Section 1. Purpose.

This Chapter establishes the criteria for issuance and terms of conditions upon which the Department may issue licenses to receive title to, acquire, own, possess, use, transfer, offer or receive for transport, or deliver any licensed material. This Chapter also governs the operation of facilities for-handling and disposing of licensed material. This Chapter also provides requirements for decommissioning of licensed facilities. Unless otherwise specified, the requirements of this Chapter are in addition to, and not in substitution for, other applicable requirements of these rules.

Section 2. Scope.

(a) This Chapter establishes performance objectives and procedural requirements applicable to any licensee. This Chapter also applies to waste systems for licensed material, including specific technical and financial requirements for siting, construction, operation, monitoring, decontamination, and decommissioning of licensed facilities, as well as requirements for licensee transfer and termination.

(b) A person subject to the rules of this Chapter may not receive title to, acquire, own, possess, use, transfer, offer or receive for transport, or deliver or dispose of licensed material, after removal from its place of deposit in nature, unless authorized in a general or specific license issued by the Department pursuant to this Chapter.

Section 3. Incorporation by Reference.

(a) The Department fully adopts and hereby incorporates by reference 10 C.F.R. 40.21, 40.22, 40.41 (a) and (b), 40.51, 40.54, 40.55, and 61.55, 61.56, and 61.57 revised as of January 1, 2025. These rules do not include any later amendments or editions of incorporated matter.

(b) The following 10 C.F.R. portions, including all subparts, as of January 1, 2025 are excluded from these rules and are not incorporated by reference: 40.22(b)(4) and 40.51(b)(6).

(c) The Department fully adopts and hereby incorporates by reference 10 CFR Part 150.20 revised as of January 1, 2025. These rules do not include any later amendments or editions of incorporated matter.

(d) To reconcile differences due to incorporation of 10 C.F.R. Part 40 by reference in paragraph (a), the following substitutions and clarifications shall be made:

(i) A reference to “the Act” or “the act” means the Wyoming Environmental Quality Act, as amended, except in 10 C.F.R. 40.51(b)(2).

(ii) A reference to "NRC", "Commission", or "Atomic Energy Commission" means the "Department", except in 10 C.F.R. 40.51(b)(2).

(iii) A reference to "Commission or an Agreement State", "Commission or with an Agreement State", "Commission or the licensing agency of an Agreement State" means the "Department, NRC, or Agreement State".

(iv) Communications and reports referenced in 10 C.F.R. 40.22(b)(4) and (c) and 40.55(d)(1), shall be directed to the Department.

(v) In 10 C.F.R. 40.22(a), the word "Federal" is not incorporated.

(vi) In 10 C.F.R. 40.22(b)(3), references to "§§ 40.1 through 40.10, 40.41(a) through (e), 40.46, 40.51, 40.56, 40.60 through 40.63, 40.71, and 40.81" is substituted with "10 C.F.R. 40.41(a) – (c), 40.51, and 40.61; Chapter 1, Section 9; Chapter 2, Sections 3 and 4; and Chapter 4, Sections 2(b), 7(e), 9(c), and 13.

(vii) In 10 C.F.R. 40.22(b)(5) a reference to "part 110 of this chapter" means "10 C.F.R. Part 110".

(viii) In 10 C.F.R. 40.22(d), a reference to "Parts 19, 20, and 21 of this chapter" means "Chapters 3 and 5 of these rules".

(ix) In 10 C.F.R. 40.51(b)(3), a reference to "regulations in this part" means "rules in this Chapter and Chapter 6".

(x) In 10 C.F.R. 40.54(a), a reference to "§ 40.32" means "Section 7 of this Chapter ".

(xi) In 10 C.F.R. 40.55(d)(2), a reference to "Agreement State" means "NRC or Agreement State".

(e) To reconcile differences due to incorporation of 10 C.F.R. Part 150.20 by reference in paragraph (c), the following substitutions and clarifications shall be made:

(i) Where the words "non-agreement states", "areas of exclusive federal jurisdiction within agreement states", or "offshore waters" are used in subsections (a)(1)(i), (ii), (iii), (b), (b)(3), and (b)(4), substitute the words "the State of Wyoming";

(ii) Where the words "agreement state license" are used, substitute "agreement state license or Nuclear Regulatory Commission license";

(iii) Where the words "license issued by an agreement state" are used, substitute "license issued by an agreement state or the Nuclear Regulatory Commission"; and

(iv) Where the words "license from an agreement state" are used, substitute "license from an agreement state or the Nuclear Regulatory Commission".

(v) In 10 C.F.R. 150.20(b) reference to "the Act" means "The Wyoming Environmental Quality Act, as amended".

(vi) A reference to "NRC", "Commission", "Nuclear Regulatory Commission", "United States Nuclear Regulatory Commission" or "Administrator of the appropriate Regional Office" means the "Department".

(vii) Notifications and reports in 10 C.F.R. 150.20 concerning rules adopted pursuant to Article 20 of the Environmental Quality Act and applications filed in, response to such rules shall be addressed to the Wyoming Department of Environmental Quality, Source Material Program, Land Quality Division, 200 West 17th St., Suite 10, Cheyenne, WY 82002.

(viii) Instructions in 10 C.F.R. 150.20 to use forms of the NRC means to use forms of the Department, which will be available upon request from the Wyoming Department of Environmental Quality, Source Material Program, Land Quality Division, 200 West 17th St., Suite 10, Cheyenne, WY 82002.

Section 4. Filing an Application for a Specific License.

(a) Two copies of the application for a specific license shall be mailed, or sent electronically as approved by the Administrator, to the Department accompanied with the license application fee, as described in Wyoming Statute (W.S.) § 35-11-2003 and Chapter 7 of these rules, to:

Wyoming Department of Environmental Quality
Land Quality Division
200 W. 17th Street, Suite 10
Cheyenne, WY 82002

(b) An application for a specific license, and copies thereof, shall be presented in a clean and orderly manner, as determined appropriate by the Department. Hard copies of specific license applications shall be bound, with the use of a three ring binder or comparable, such that the information is easily accessible, and pages are not misplaced.

(c) Information provided by an applicant or licensee to the Department shall be complete and accurate in all material respects.

(d) Each applicant or licensee shall notify the Department of information identified by the applicant or licensee as having, for the regulated activity, a significant implication for public health and safety. An applicant or licensee violates this paragraph only if the applicant or licensee fails to notify the Department of information that the applicant or licensee has identified as having a significant implication for public health and safety. This requirement is not applicable to information which is already required to be provided to the Department by other reporting requirements.

Section 5. Exemptions from Regulatory Requirements.

(a) Any person is exempt from this Chapter to the extent that such person receives title to, acquires, owns, possesses, uses, or transfers source material in any chemical mixture,

compound, solution, or alloy in which the source material is by weight less than one-twentieth of one percent (0.05 percent) of the mixture, compound, solution, or alloy. The exemption contained in this paragraph does not apply to Australian-obligated source material, nor does it include byproduct materials as defined in these rules.

(b) Any person is exempt from this Chapter to the extent that such person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material provided that, except as authorized in specific license, such person shall not refine or process such ores.

(c) Any person is exempt from this Chapter to the extent that such person receives title to, acquires, owns, possesses, uses, or transfers rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these.

(d) No person may introduce source material into a product or material either knowing or having reason to believe that it will be transferred to persons exempt under this Chapter.

(e) The Department may, upon its own initiative or the application of an interested person, grant such exemptions from the requirements of this Chapter as authorized by law and, as determined by the Department, will not endanger life, property, and is otherwise in the public interest.

(f) Common and contract carriers, freight forwarders, warehousemen, and the United States Postal Service are exempt from the requirements of this Chapter and the requirements set forth in Section 62 of the Atomic Energy Act of 1954, 42 U.S.C. §§ 2011 *et seq*., as amended to the extent that they transport or store source material in the regular course of carriage for another or storage incident thereto.

(g) Except to the extent that the Department of Energy's (DOE) facilities or activities, subject to licensing pursuant to Section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. § 5842.), are involved, any prime contractor of the DOE is exempt from the requirements for a license set forth in 62, 63, and 64 of the Act (42 U.S.C. § 2111 and 42 U.S.C. § 2112) and from this Chapter to the extent that such contractor, under his prime contract with the DOE manufactures, produces, transfers, receives, acquires, owns, possesses, or uses byproduct material for:

(i) The performance of work for the DOE at a United States Government owned or controlled site, including the transportation of source material to or from such site and the performance of contract services during temporary interruptions of such transportation;

(ii) Research in, or development, manufacture, storage, testing, or transportation of, atomic weapons or components thereof; or

(iii) The use or operation of nuclear reactors or other nuclear devices in a United States Government owned vehicle or vessel.

(iv) In addition to the foregoing exemptions, and subject to the requirement for licensing of DOE facilities and activities pursuant to Section 202 of the Energy Reorganization Act of 1974 or the Uranium Mill Tailings Radiation Control Act of 1980, any prime contractor or subcontractor of the DOE or the Nuclear Regulatory Commission is exempt from the requirements for a license set forth in Sections 62, 63, and 64 of the Act and from the rules in this Chapter to the extent that such prime contractor or subcontractor receives, possesses, uses, transfers or delivers source material under his prime contract or subcontract when the Department determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.

(h) This Chapter shall not be deemed to authorize the import of radioactive material or products containing radioactive material.

Section 6. Pre-Licensing Construction.

(a) Except as provided in this Chapter, the applicant shall not commence construction at any plant or facility in which the licensed activity will occur until the Department has issued a license. Commencement of Construction, defined in Chapter 1 of these rules, prior to issuance of the license may be grounds for denial of a license.

(b) At a minimum, an application for a specific license to receive title to, acquire, own, possess, use, transfer, offer or receive for transport, and use licensed material shall be filed with the Department at least nine (9) months prior to the commencement of construction of any plant or facility in which the licensed activity will occur, and in accordance with existing applicable law.

Section 7. General Requirements for Issuance of Specific Licenses

(a) An application for a specific license may be approved if the Department determines that:

(i) The applicant is qualified by reason of training and experience, to use licensed material for the purpose requested in the subject application consistent with the governing statutes and rules and in such a manner as to minimize danger to public health and safety, or property;

(ii) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;

(iii) The applicant satisfies the requirements listed in this Chapter;

(iv) The issuance of the license will not be detrimental to the health and safety of the public;

(v) The applicant is financially qualified to conduct the licensed activity, including any required decontamination, decommissioning, reclamation, or disposal; and

(vi) The applicant has satisfied the requirements of Chapter 6 of these rules.

(b) The Department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Department to determine whether the application should be granted or denied or whether a license should be modified or revoked. All applications and statements shall be signed by the applicant or a person duly authorized to act for and on his behalf.

(c) Upon determination that an application meets the requirements of the Act, applicable rules, and public health and safety considerations, the Department may issue a specific license authorizing the proposed activity in such form, and containing such conditions and limitations, as the Department deems appropriate or necessary.

(d) The Department may incorporate conditions or provisions in any license at the time of issuance, with respect to the licensee's receipt, possession, use, and transfer of licensed material subject to this Chapter as it deems appropriate or necessary in order to:

(i) Minimize danger to public health and safety, and the environment;

(ii) Require reports and recordkeeping, and to provide for such inspections of activities under the license as may be appropriate and necessary; and

(iii) Prevent loss or theft of licensed material subject to this Chapter.

(e) No license or authorization to possess or utilize licensed material can be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of any license to any person unless the Department, after securing full information, determines the transfer is in accordance with the Act and these rules. Upon the transfer of an existing license, the new licensee shall comply with existing laws and license conditions. The Department may impose new license conditions to be complied with by the new licensee as it deems necessary. An application for transfer of license must include:

(i) The identity, technical and financial qualifications of the proposed transferee; and

(ii) Financial assurance for decommissioning information required by Chapter 6 of these rules.

(f) Each licensee pursuant to these rules shall confine use and possession of licensed material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued pursuant to these rules shall carry with it the right to receive, possess, and use source material. Preparation for shipment and transport of source material shall be in accordance with the provisions of Chapter 9 of these rules.

(g) Each licensee shall notify the Department in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license.

(h) Each licensee shall notify the Department in writing within seven (7) business days following the filing of voluntary or involuntary petition for bankruptcy under any Chapter of the United States Code (U.S.C.) by or against:

(i) The licensee;

(ii) An entity controlling the licensee, or listing the license or licensee as property of the estate as that term is defined in 11 U.S.C. § 101(14); or

(iii) An affiliate of the licensee as that term is defined in 11 U.S.C. § 101(2).

(i) The written notification of bankruptcy submitted to the Department shall identify the bankruptcy court in which the petition for bankruptcy was filed, the case number, and the date of filing.

(j) The licensee shall allow the Department, to enter and inspect any licensed area as provided by W.S. §§ 35-11-109(a)(iv), (v) and (vi). The licensee shall obtain for the Department the right to access and cross over private lands leading to or within a licensed area for inspection of regulated activities consistent with state law and these rules. The right to access and cross over private property shall be in writing, notarized, included in the application, and contain the following:

(i) The name of the landowner of the property to be accessed or crossed;

(ii) A legal description of the lands, using Public Land Survey System nomenclature that will be crossed during the inspection process;

(iii) A declarative statement from the landowner providing the Department permission to access the described private property for the inspection of regulated activities; and

(iv) The landowner's signature.

(v) In lieu of the foregoing, the licensee may provide the Department with an executed Department, Land Quality Division, Form 8 or a copy of the Surface Use Agreement clearly providing the Department the authority to access or cross over the subject private property.

Section 8. Specific Requirements for Issuance of Specific Licenses

(a) A specific license for source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content will be issued if the applicant submits to the Department a complete and accurate application that clearly demonstrates how the requirements and objectives of this Chapter are met.

(b) An application for a license, including applications for the amendment or renewal of an existing license, to receive, possess and use licensed material shall contain all information required under these rules and such material as the Department may deem necessary. The application shall, at a minimum, contain the following information:

(i) A description of the proposed project or action;

(ii) For new licenses, environmental data that includes the results of a one-year preoperational monitoring program;

(iii) For renewal of licenses, environmental data containing results of the operational monitoring program or monitoring required to be conducted if the facility was not in operation but in standby mode;

(iv) Site characteristics, including regional and site specific geology, topography, hydrology, and meteorology;

(v) Radiological and non-radiological impacts of the proposed project or action including waterway and groundwater impacts;

(vi) An assessment of the radiological and non-radiological impacts to the public health and the environment;

(vii) Consideration of the long-term impacts of the licensed activities;

(viii) A representative presentation of the physical, chemical, and radiological properties of the type of licensed material to be received, stored, processed, or disposed of;

(ix) An evaluation of the short-term and long-term environmental impacts of such receipt, storage, processing, or disposal;

(x) An analysis of the environmental, economic, social, technical, and other benefits of the proposed activities against environmental costs and social effects;

(xi) Environmental effects of accidents;

(xii) Decommissioning, decontamination, reclamation, and impacts of these activities;

(xiii) A closure plan to be included in the reclamation plan for decontamination, decommissioning, restoration, and reclamation of buildings of the licensed area to levels that would allow where applicable unrestricted use;

(xiv) Proposal of an acceptable form and amount of financial assurance in accordance with Chapter 6 of these rules;

(xv) Specifications for the emissions control; and

(xvi) Emergency response protocol.

(c) For applications for a new license or application for a license amendment to expand the licensed site, proof of mailed notification to the owner or owners of the property on which licensed material is recovered, stored, processed, or disposed of must be demonstrated to the Department. The applicant for a new license must demonstrate that the owner or owners of

the property were sent by certified United States mail, notification from the applicant stating that:

(i) Licensed radioactive material will be recovered, stored, processed, or disposed on the property; and

(ii) Decommissioning by the Department, funded by a surety, or as directed by order may be required and performed on the licensed site even if the licensee is unable or fails to decommission the licensed site as required by license.

(d) Environmental concerns outlined in Subsection (b) of this section need to be resolved when the Department:

(i) Receives application for a new specific license or renewal of a specific license;

(ii) Receives an amendment request that would authorize or result in:

(A) A significant expansion of a site;

(B) A significant change in the type of releases;

(C) A significant increase in the amounts of releases;

(D) A significant increase in individual or cumulative occupational radiation exposure; or

(E) A significant increase in the potential for or consequences from radiological accidents.

(e) The Department may exempt an applicant or licensee from the requirement to submit additional environmental impact information on the determination that environmental concerns are addressed through information previously provided to the Department.

(i) In considering exemptions, the Department may request additional information to ensure that no significant environmental impacts will result from the proposed or licensed activity.

(f) The applicant shall provide written specification describing the means employed so that all airborne effluent releases are reduced to levels as low as is reasonably achievable (ALARA) during the operational phase of any project.

(g) During any one full year prior to submittal of a new application or an amendment to expand the licensed area or operations, the applicant or licensee shall conduct a preoperational monitoring program to provide complete baseline data describing pre-operational environment condition.

(h) Throughout the construction and operating phases, the applicant or licensee shall conduct an operational monitoring program to measure or evaluate compliance with applicable standards and regulations, in order to evaluate performance of control systems and procedures, environmental impacts of operation, and to detect potential long-term effects.

(i) Upon receipt of the license application or any amendments thereto, and of any other documents required, the Department may transmit information for review and comment to federal, state, and local agencies having expertise in or jurisdiction over the proposed project or activity. Written comments and reports of reviewing agencies may be considered by the Department in its decision-making review process on the license application or amendment.

(i) If an Environmental Impact Statement (EIS) or Environmental Assessment (EA) is required by a federal agency pursuant to the National Environmental Policy Act of 1969 (NEPA) and is provided by such federal agency, it may be used in the Department's decision-making review process.

(j) An application for a license shall contain proposed specifications relating to the management and disposition of licensed material or wastes resulting from activities that generate licensed material.

Section 9. Operational Requirements.

Each licensee shall:

(a) Operate in accordance with the requirements and objectives of this Chapter, including the procedures required by Section 8(f) and the monitoring required by Section 8(g).

(b) Submit a semi-annual report to the Department within sixty (60) days following January 1 and July 1 of each year. The report must specify the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous six months of operation, and such other information as the Department may require to estimate the maximum potential annual radiation doses to the public resulting from effluent releases. If quantities of radioactive materials released during the reporting period are significantly above the licensee's design objectives previously reviewed as part of the most recent licensing action, the report shall cover this specifically. On the basis of such reports or any additional information the Department may obtain from the licensee or others, the Department may require the licensee to take such actions as the Department deems appropriate to protect public health and safety and the environment.

(c) Licensee shall report events that have significant radiological effects on employee safety, public health, or the environment to the Department according to the following:

(i) All licensees shall notify the Department as soon as possible but no later than four (4) hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposure to radiation or licensed materials that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(ii) Each licensee shall notify the Department within twenty-four (24) hours after the discovery of any of the following events involving licensed material:

(A) An unplanned contamination event that:

(I) Requires access to the contaminated area, by workers or the public, to be restricted for more than twenty-four (24) hours by imposing additional radiological controls or by prohibiting entry into the area;

(II) Involves a quantity of material greater than five times the lowest annual limit on intake specified in 10 C.F.R. Part 20, Appendix B; and

(III) Requires access to the area restricted for a radiological safety reason other than to allow isotopes with a half-life of less than twenty-four (24) hours to decay prior to decontamination.

(B) An event in which equipment is disabled or fails to function as designed when:

(I) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(II) The equipment is required to be available and operable when it is disabled or fails to function; and

(III) No redundant equipment is available and operable to perform required safety function.

(C) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body;

(D) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

(I) The quantity of material involved is greater than five times the lowest annual limit on intake specified in 10 C.F.R. Part 20, Appendix B.

(II) The damage affects the integrity of the licensed material or its container.

(iii) Reports made by the licensees in response to the requirements of this Section must be made as follows:

(A) Licensees shall make reports required by Sections 9(c)(i) and 9(c)(ii) of this Chapter by telephone to the Department. To the extent that the information is available at the time of notification, the information provided in these reports must include:

(I) The caller's name and telephone number;

(II) A description of the event, including date and time;

(III) The exact location of the event;

(IV) The isotopes, quantities, and chemical and physical form of the licensed material involved; and

(V) Any personnel radiation exposure data available.

(B) Licensees who make a report required by Section 9(c)(i) and 10 (c)(ii) of this Chapter shall submit a written follow-up report within 30 days of the initial report.

(C) Written reports prepared pursuant to other applicable rules may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. The reports must include the following:

(I) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(II) The exact location of the event;

(III) A description of the isotopes, quantities, and chemical and physical form of the licensed material involved;

(IV) Date and time of the event;

(V) Corrective actions taken or planned and the result of any evaluations or assessments;

(VI) Timely schedule for remediation of the spill or release, if required; and

(VII) The extent of exposure of individuals to radiation or to radioactive materials without identification of the individuals by name.

Section 10 Expiration and Termination of Licenses.

(a) Expiration of the specific license does not relieve the licensee of the requirements of the Act, these rules, or existing license conditions.

(b) All license provisions continue in effect beyond the expiration date with respect to possession of licensed material until the Department notifies the former licensee in writing that the provisions of the license are no longer binding. During this time, the former licensee must:

(i) Limit actions involving radioactive material to strictly decommissioning related activities; and

(ii) Continue to control entry to restricted areas until the location(s) is suitable for release for unrestricted use.

(c) A licensee shall notify the Department, in writing to request the termination of the license within seven (7) days from when the licensee decides to terminate all licensed activities. This notification and request for termination of the license shall include the reports on decommissioning and reclamation activities as required by this Chapter.

(d) No less than thirty (30) days before the expiration date specified in the license, the licensee shall either:

(i) Submit an application for license renewal; or

(ii) Notify the Department, in writing, if the licensee decides not to renew the license.

(e) If a licensee does not submit a notification for a license renewal under Section 12 of this Chapter the licensee shall, on or before the expiration date specified in the license:

(i) Terminate use of licensed material;

(ii) Remove radioactive contamination to the extent practicable;

(iii) Properly dispose of the licensed material; and

(iv) Submit a completed Department Form SMP-314 or equivalent.

Section 11. Renewal of Licenses.

(a) A licensee shall notify the Department of their intent to renew their license at least thirty (30) days prior to the expiration of the existing license.

(i) Upon receipt of the notification to renew, the Department shall open the original license application, including, but not limited to, all applicable renewals and amendments, to:

(A) Ensure the application accurately reflects current operations;

(B) Incorporates changes to industrial standards codified in these rules; and

(C) Incorporate operational data to accurately set design objectives.

(b) If an application for renewal has been filed at least thirty (30) days before the expiration date stated in the existing license, the existing license expires at the end of the day on which the Department makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

Section 12. Amendments of Licenses at Request of Licensee.

(a) Application for amendment of a license shall be filed in accordance with Section 9 of this Chapter and shall specify the items which the licensee requests to be amended and the grounds for such amendment including items beyond the scope of the licensee's ability to address under its performance based license.

(b) In considering an application by a licensee to renew or amend his license the Department will apply the applicable criteria set forth in Section 8(a) of this Chapter.

Section 13. Modification and Revocation of Licenses.

(a) The terms and conditions of all licenses shall be subject to amendment, revision, or modification at the request of the licensee.

(b) The Department may suspend or revoke a license for significant noncompliance to the Act, rules or orders issued by the Department.

(c) The Department may suspend or revoke any license in whole or in part, for any false material statement in the application, any false statement of fact required under the provisions of the Act, or because of any report, record, or inspection or other means which would warrant the Department to refuse to grant a license on an original application.

(d) Except in the case of wanton and willful behavior or in situations where the public health, interest, or safety requires otherwise, no license shall be modified, suspended, or revoked unless, prior to the institution of proceedings therefore, facts or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

Section 14. Public Notice.

(a) Upon completion of the Department's review of an application, the Department shall provide notice to the public of issuance of an initial draft decision where the license application is approved, approved with conditions, or denied.

(i) The initial draft decision shall include, but is not limited to, the following:

(A) A decision analysis, that includes discussions on environmental impacts; and

(B) The final technical analysis conducted by the Department.

(ii) Upon issuance of the initial draft decision described in Section 14~~5~~(a)(i), or a licensing action that significantly impacts the environment or public health and safety, the Department shall initiate a public comment process, and hold a public hearing upon written request from an “aggrieved party” as defined in W.S. § 35-11-103(a)(vii). If a public hearing is requested, the Department shall publish notice of the public hearing in a newspaper of statewide or general circulation or on the Department’s website before the public hearing. The notice of the public hearing shall include:

(A) The time, place, and nature of the hearing;

(B) A copy of the initial draft decision; and

(C) A statement detailing where public comments may be submitted.

(iii) Pursuant to the request and notice described in Section 14(a)(ii), the Department shall hold a public hearing. The public hearing shall be transcribed and, at a minimum, require:

(A) The opportunity for cross-examination;

(B) A summary of the licensing activity proposed in the application; and

(C) An opportunity for the public to comment and be heard.

(iv) The Rules of Practice and Procedure applicable to hearings before the Department shall apply. To the extent that any inconsistencies exist between the Rules of Practice and Procedure and these rules, these rules shall govern.

(b) For applications which are denied, the Department shall issue a written summary containing the basis for denial.

(c) The applicant or licensee shall pay for the expenses associated with public notice, public comment, or public meetings associated with the specific licensing request by the applicant or licensee.

(d) Following the public comment period and public hearing associated with a specific licensing request, the Department shall, after review of the public comments received by the Department, issue a written final decision. The final decision must ban all major construction before the completion of the written environmental analysis. The final decision is subject to review by the Environmental Quality Council and judicial review in accordance with Wyoming law.

Section 15. Decommissioning Requirements.

(a) The licensee shall notify the Department in writing within sixty (60) days of the licensee deciding to permanently cease principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with these rules.

(b) The licensee shall notify the Department in writing within sixty (60) days if no principal activities under the license have been conducted for a period of twenty-four (24) months; or no principal activities have been conducted for a period of twenty-four (24) months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with these rules.

(c) From the date of written notification sent to the Department required in Sections 15(a) and (b), the licensee shall either:

(i) Begin decommissioning activities; or

(ii) Within twelve (12) months of written notification submit a decommissioning plan, if required by Section 16(a) of this Chapter and begin decommissioning upon the Department approval of that plan.

(d) The Department may grant a request to delay or postpone initiation of the decommissioning process if the Department determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest.

(e) Coinciding with and in addition to the notification requirements of Sections 15(a) and (b) of this Chapter, the licensee shall maintain in effect all decommissioning financial assurances as required by Chapter 6 of these rules. The amount of financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to Section 16 of this Chapter.

(f) The Department may approve an alternate schedule for the submission of plans and for the completion of decommissioning as required pursuant to Sections 15(a) and (b) if the Department determines that the alternate schedule: (1) is necessary to effectively conduct decommissioning, (2) presents no undue risks to public health and safety, and (3) is otherwise in the public's interest. The request for an alternate schedule must be submitted no later than thirty (30) days before the required notification in Section 15(a) of this Chapter. The schedule for decommissioning may not commence until the Department has made a determination on the request for an alternate schedule.

(g) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Department determines, where applicable, that:

(i) Licensed material has been properly disposed;

(ii) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(A) A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with the applicable criteria for decommissioning found in 10 C.F.R. 20.1401 through 20.1406; or

(B) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the applicable criteria found in this chapter.

(iii) The Department has made a determination that all applicable standards and requirements have been met.

(h) A licensee may request that a subsite or a portion of a licensed area be released

for unrestricted use before full license termination as long as release of the area of concern will not adversely impact the remaining unaffected areas and will not be recontaminated by ongoing authorized activities. When the licensee is confident that the area of concern will be acceptable to the Department for release for unrestricted use, a written request for release for unrestricted use and Department confirmation of closeout work performed shall be submitted to the Department. The request should include a comprehensive report, accompanied by survey and sample results that show contamination is less than the limits specified in 10 C.F.R. 20.1401 through 20.1406 and an explanation of how ongoing authorized activities will not adversely affect the area proposed to be released. Upon confirmation by the Department that the area of concern is releasable for unrestricted use, the licensee may apply for a license amendment, if required.

Section 16. Decommissioning Plan.

(a) Each licensee authorized to receive, possess, and use licensed material shall submit a plan for completion of decommissioning. The decommissioning plan will be approved by the Department if the plan demonstrates that decommissioning will be completed as soon as practical while adequately protecting the health and safety of workers and the public, if the procedures necessary to carry out decommissioning:

(i) Have not been previously approved by the Department; and

(ii) Could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(A) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(B) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(C) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(D) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(b) Procedures listed in paragraph (a) of this section with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(c) The proposed decommissioning plan, if required by this Chapter or by license condition must include:

(i) Description of the condition of the site, separate buildings, or outdoor areas sufficient to evaluate the acceptability of the plan;

(ii) Description of planned decommissioning activities;

(iii) Description of methods used to assure protection of workers and the environment against radiation hazards during decommissioning;

(iv) A description of the planned final radiation survey; and

(v) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning.

(A) For decommissioning plans calling for completion of decommissioning later than twenty-four (24) months after plan approval, the licensee must provide a justification for any delay based on the criteria in Subsection (f) of this Section.

(d) Except as provided in Subsection (f) of this Section, the licensee shall complete decommissioning of the site, separate buildings, and outdoor area as soon as practicable but no later than twenty-four (24) months following the initiation of decommissioning.

(e) Except as provided in Subsection (f) of this Section, when decommissioning involves the licensed area, the licensee shall request license termination as soon as practicable but no later than twenty-four (24) months following the initiation of decommissioning.

(f) The Department may approve a request for an alternate schedule for completion of decommissioning of the site or separate building or outdoor area(s), and license termination if appropriate and if the Department determines that the alternative schedule is warranted. In doing so, the Department shall consider the following:

(i) Whether it is technically feasible to complete decommissioning within the allotted twenty-four (24) month period;

(ii) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted twenty-four (24) month period;

(A) Including whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay.

(iii) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(iv) Other site specific factors which the Department may consider appropriate on a case-by-case basis, such as the regulatory requirement of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(g) After submittal and upon approval of the decommissioning plan by the Department, the licensee shall decommission in accordance with the approved plan. As a final step in the decommissioning the licensee shall:

(i) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed Department Form SMP-314 or equivalent;

(ii) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in this Chapter. The licensee shall:

(A) Report levels of gamma radiation in units of microroentgen (millisieverts) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of microcuries (disintegrations per minute or megabecquerels) per 100 square centimeters removable and fixed for surfaces, microcuries (megabecquerels) per milliliter for water and picocuries (becquerels) per gram for solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

Chapter 5

Notices, Instructions, and Reports to Workers

Section 1. Purpose.

This Chapter establishes requirements for notices, instructions, and reports by licensees to individuals engaged in work under a license and options available to such individuals in connection with the Department's inspections of licensees to ascertain compliance with the provisions of the Wyoming Environmental Quality Act, Wyoming Statute §§ 35-11-2001 *et seq*, and rules, orders, and licenses issued thereunder regarding radiological working conditions as specified within the provisions of the Atomic Energy Act of 1954, as amended.

Section 2. Scope.

This Chapter applies to all persons who receive, possess, use, own, or transfer source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

Section 3. Incorporation by Reference (IBR) of 10 Code of Federal Regulations (C.F.R.) Part 19; Notice, Instructions and Reports to Workers: Inspection and Investigations.

(a) The Department fully adopts and hereby incorporates by reference 10 C.F.R, Part 19, revised as of January 1, 2025, including all sections and any notes and appendices therein, unless expressly provided otherwise in these rules. These rules do not include any later amendments or editions of the incorporated matter.

(b) The following 10 C.F.R. sections as listed on January 1, 2025 are excluded from these rules: 19.1, 19.2, 19.3, 19.5, 19.8, 19.11(b) and (e), 19.14(a), 19.18, 19.30, and 19.40.

(c) Any references in 10 C.F.R. Part 19 adopted by reference to the United States Nuclear Regulatory Commission (NRC) or any component thereof shall be deemed to be a reference to the Department.

(d) Any reference in the federal rules adopted by reference to the Commission's "Form 3" shall be deemed a reference to the Department's "Source Material Program Form 3". Each licensee shall prominently post the Department's Source Material Program Form 3.

(e) In 10 C.F.R. Part 19, any references to 10 C.F.R. Parts 50, 52, 54, 60, 63, 72, and 76 are not incorporated by reference.

(f) In 10 C.F.R. Section 19.32, any references to the Atomic Energy Act of 1954, as amended, or under any title of the Energy Reorganization Act of 1974, as amended, are not references to the Wyoming Statute.

(g) In order to reconcile incorporation by reference where federal rules may be incorrectly incorporated, the following language is added to provide clarity:

(i) In 10 C.F.R. Section 19.13(a), the last two sentences are revised to "This report is furnished to you under the provisions of Chapter 5 of Wyoming's Source Material Program. You should preserve this report for further reference."

(ii) In 10 C.F.R. 19.13(c)(1)(i) references to "20.1502" and "20.2106" mean "10 C.F.R. 20.1502" and "10 C.F.R. 20.2106", as incorporated by reference in Chapter 3 of these rules.

(iii) In 10 C.F.R. 19.13(d) a reference to "20.2202, 20.2203 or 20.2204 of this chapter" means "10 C.F.R. 20.2202, 20.2203, or 20.2204", as incorporated by reference in Chapter 3 of these rules.

(iv) In 10 C.F.R. 19.17(a) the complainant may obtain review of the determination by submitting a written statement of position to Wyoming Department of Environmental Quality, Source Material Program, Land Quality Division, 200 West 17th St., Suite 10, Cheyenne, WY 82002.

(v) In 10 C.F.R 19.20 the references to "holder of a certificate of compliance issued under Part 76 of this chapter" are not incorporated by reference.

(vi) In 10 C.F.R. 19.20 the reference to "19.2(a)" means "Section 2 of this Chapter".

(vii) In 10 C.F.R. 19.20 the reference to "this part or Parts 30, 40, 50, 52, 54, 60, 61, 63, 70, 72, 76, or 150 of this chapter" means "these rules".

Chapter 6

Financial Assurance Requirements

Section 1. Purpose.

This Chapter provides for financial assurance arrangements in support of decontamination, decommissioning, reclamation, restoration, disposal, and any other activity required by the Department, for costs associated with the licensed facilities and sites.

Section 2. Scope.

(a) This Chapter sets forth the requirements of Wyoming Statute (W.S.) §§ 35-11-417 through 418 for the establishment of financial assurance arrangements for licensees listed in these rules. Such financial assurance arrangements may consist of surety bonds, federally insured certificates of deposit payable to the Department, cash deposits, certificates of deposits, deposits of government securities, irrevocable letters of credit issued by a bank organized to do business in the United States, or any combination of approved mechanisms.

(b) Licensees shall comply with the requirements of 10 Code of Federal Regulations (C.F.R.) Parts 20.1401-1405, as incorporated by reference in Chapter 3, Section 4 of these rules.

(c) References to 10 C.F.R. 20.1401 regarding Parts 50, 52, 54, 60, 63, and 72 are not incorporated by reference.

Section 3. Terms Unique to Financial Assurance.

(a) "Annual Review" is conducted during the review of the annual report which is due on the anniversary date of the establishment of the permit to mine or source material license in circumstances where no permit exists.

(b) "Cost Estimate" means a document containing the total costs that would be incurred if an independent contractor were hired to perform the decommissioning of the facility and disposal of licensed material, and all associated costs to the Department in conducting decommissioning oversight. Costs must reflect current approved estimated costs.

(c) "Facility" means the location within one building, vehicle, or under one roof and under the same administrative control: (1) at which the possession, use, processing, or storage of licensed material is or was authorized; or (2) may also mean multiple such locations at a site or part of a site.

Section 4. Financial Assurance.

(a) The Department requires specific source material licensees to furnish a decommissioning financial assurance arrangement in a dollar amount approved by the Department, as necessary to protect public health and safety, to ensure corrective action during

operation, to ensure decontamination and decommissioning of a facility or site, and for disposal of licensed material in the event of abandonment, insolvency, or other inability of the licensee to meet the requirements of the license, the Act, or these rules.

(b) The costs associated with reclamation in accordance with this Chapter shall be sufficient to ensure compliance with those standards established by the Department pertaining to bonds, sureties, and other financial arrangements to ensure adequate reclamation and long term management of such material and its disposal.

(c) Licensees shall provide the Department with cost-estimates that are reasonably accurate and these estimates shall include costs for the following:

(i) Disposal of licensed material;

(ii) Decontamination and decommissioning of buildings, facilities, and the site to a standard which achieves levels that allow release for unrestricted use of these areas upon decommissioning;

(iii) Reclamation of licensed areas to meet the requirements of 10 C.F.R. Sections 20.1401-1405;

(iv) Costs that would be incurred if an independent contractor was hired to dispose of radioactive materials and perform decontamination, decommissioning, and reclamation work including:

(A) The cost of removal and/or disposal of licensed material which is generated, stored, processed, or otherwise present at the facility or site; and

(B) The probable extent of contamination through the possession or use of licensed material, at or adjacent to the facility or site, and the probable cost of removal of such contamination;

(v) An adequate contingency factor.

(d) Prior to approval of an application for a new license, an applicant shall establish financial assurance arrangements to ensure the decontamination and decommissioning of the facility.

(e) Applicants shall provide an executed original copy of each financial assurance instrument required by this Chapter for approval by the Department as appropriate.

(i) An applicant for a new license shall submit a certification that financial assurance for decommissioning has been provided in the amount required by this Chapter. An executed original copy of each financial assurance instrument required by this Chapter and approved by the Department shall be submitted to the Department sixty (60) days prior to the approval of the Permit to Mine and Source Material License.

Section 5. Acceptable Financial Assurance Methods.

(a) Refer to W.S. §§ 35-11-417 through 418 for acceptable financial instruments and assurances.

(b) Self-insurance, or any arrangement that essentially constitutes self-insurance (for example, a contract with a state or federal agency), including bonding pursuant to W.S. § 35-11-417(d) will not satisfy the financial assurance requirements of these rules.

(c) The term of the financial assurance warranty shall automatically renew until termination of the license by the Department, unless it can be demonstrated that another arrangement would provide an acceptable level of assurance. The requirements for cancelation or substitution of the financial assurance warranty are outlined in W.S. §§ 35-11-420 and 35-11-421.

(d) The value of the financial assurance warranty shall not be dependent upon the success, profitability, or continued operation of the licensed operation.

Section 6. Periodic Review of Financial Assurances.

(a) As part of the annual report, a licensee shall provide to the Department written proof of the value of existing financial warranties and any licensee-proposed changes to the financial assurance warranties, including updated decommissioning plans, changes in cost estimates, or the changes to the type of warranty. The report shall describe any changes in operations, estimated costs, or any other circumstances that may affect the amount of required financial assurance warranties, including any increased cost attributable to inflation.

(b) Each financial assurance shall be subject to annual review, at a minimum, and approval by the Department to assure its continued adequacy of each warranty.

(c) With the approval of the Department, changes to the amount of a decommissioning financial assurance instrument may occur to account for increases or decreases in cost estimates resulting from inflation or deflation, changes in engineering plans, activities performed, or changes in any other condition affecting disposal, decontamination, and decommissioning costs.

(i) With the approval of the Department, reduction in the amount of decommissioning financial assurance may occur as decommissioning activities are completed, in accordance with an approved decommissioning plan or to reflect current site conditions and license authorization.

(d) Appropriate and adequate decommissioning financial assurances shall be maintained in effect and in good standing by the licensee until termination of the license or as otherwise authorized by the Department, regardless of whether decommissioning is phased through the life of licensed operations or occurs at the end.

(e) The Department fully adopts and hereby incorporates by reference the following: 10 C.F.R. 40.36 (d)(1)(ii) and (iii), and 40.36(d)(2)(i)-(viii).

(f) To reconcile differences due to incorporation of 10 C.F.R. 40.36(d)(iii) by reference in paragraph (e), the following substitution shall be made:

(i) Where the words "paragraph (e) of this section" are used, substitute "Section 5 of this Chapter".

Section 7. Financial Assurance Recordkeeping.

(a) Licensees shall keep records of financial assurances throughout the life of the license, including, but not limited to, records of the cost estimate performed for the decommissioning, the amount certified for decommissioning, and records of the funding method used for assuring funds.

(b) The Department fully adopts and hereby incorporates by reference the following: 10 C.F.R. 40.36(f)(1)-(3).

(c) To reconcile differences due to incorporation of 10 C.F.R. 40.36(f)(1) – (3) by reference in paragraph (b), the following substitutions and clarifications must be made:

(i) A reference to 10 C.F.R. 40.41(b) means Chapter 4, Section 7(e) of these rules.

(ii) A reference to 10 C.F.R. 20.1003 means Chapter 1, Section 5 of these rules.

(iii) A reference to 10 C.F.R. 20.2108 means Chapter 1, Section 11 of these rules.

(iv) A reference to 10 C.F.R. 20, Subpart E means "10 C.F.R. 20.1401 – 1406 as incorporated by reference in Chapter 3, Section 4 of these rules".

(v) A reference to 10 C.F.R. 20.2002 means "10 C.F.R. 20.2002 as incorporated by reference in Chapter 3, Section 4 of these rules".

Chapter 7

Fees

Section 1. Purpose.

As authorized by the Act to support all direct and indirect costs associated with the operation of the Program, this Chapter establishes fees for radiation control services rendered by the Department and provisions regarding payment.

Section 2. Scope.

(a) These rules apply to a person who is:

(i) An applicant for or holder of a specific source material license issued by the Department pursuant to Chapter 4 of these rules or by the NRC or another Agreement State; and

(ii) Required to have routine and non-routine safety inspections of licensed activities.

Section 3. Costs Generally.

(a) "Direct Costs" are operating costs directly assignable to the Program. Direct Costs include salaries, supplies, travel, and other costs incurred by the Program such as, but not limited to, costs associated with processing license applications, inspecting sites, and developing program rules.

(b) "Indirect Costs" are costs not directly assignable to the Program. Indirect Costs include the cost of activities such as human resource management, procurement, and accounting. Indirect Costs include the partial costs of state agencies such as Administration and Information, the Treasurer's Office, and other state agencies providing support or resources to the Program. These are costs which indirectly support the ability of the Program to function, but are not directly related to producing or inspecting a license or the immediate management of those functions. Uncollected fees from licensees will be charged as Indirect Costs for the following year. Indirect Costs will be collected by the Department as described in Section 4, below.

(c) Direct Costs fall into two different categories:

(i) "Site Specific Direct Costs" are incurred by the Department in the form of time and resources for a specific applicant or licensee. Site Specific Direct Costs shall include, but are not limited to, the costs of reviewing applications, amendments, inspections, or incident responses.

(ii) "Non-Site Specific Direct Costs" are not attributable to a specific licensee, but represent a cost to the Department attributable to the Program. These types of costs shall include, but are not limited to, materials such as paper and other office supplies, training of staff, development of guidance documents, and other general administrative costs.

(d) The accumulation of costs can be described as follows:

(i) "Total Direct Costs" are the combination of the Site Specific Direct Costs and Non-Site Specific Direct Costs.

(ii) "Total Costs" are the sum of Site Specific Direct Costs, Non-Site Specific Direct Costs, and Indirect Costs.

(e) "Fiscal Year" is the twelve (12) month period from July 1 through June 30, as used by the State of Wyoming for budget formulation and execution.

(f) "Projected Costs" are the most recent two (2) year average of Total Costs assumed by the licensee, adjusted to the current year's program budget.

Section 4. Tracking Costs.

(a) The Department shall keep a record of Site Specific Direct Costs associated with each license.

(b) Non-Site Specific Direct Costs shall be distributed to all licensees based on the proportion of an individual licensee's Site Specific Direct Costs, as compared to the combined Total Costs of all licensees. For example, if company X demands roughly fifty percent (50%) of the total billable Site-Specific Direct Costs for the Program they will be charged fifty percent (50%) of the Non-Site Specific Direct Costs.

(c) Indirect Costs will be calculated and allocated to licensees and the Program using the rates and basis for application detailed in the Cognizant Agency Negotiation Agreement, negotiated between the Department and the federal government. Indirect Costs are applied to both Site Specific and Non-Site Specific Direct Costs.

Section 5. Application Fees.

(a) All new license applications shall be accompanied by an initial one hundred thousand dollar ($100,000.00) application fee. The application fee shall only cover the costs associated with processing the license application.

(b) The application fee shall be carried forward until the Department issues a license to the applicant. If the application fee is expended before the license is issued, an additional one hundred thousand dollar ($100,000.00) application fee shall be assessed and collected from the applicant. This shall continue in increments of one hundred thousand dollars ($100,000.00) until the Department issues a license to the applicant.

(c) Once the Department issues a license, the new licensee will be refunded or credited the amount of any unused portions of the application fee.

(d) Applicants that withdraw an application will not be refunded the unused application fee and forfeit any remaining initial application fees paid to the Department. However, applicants that withdraw an application after paying the additional application fees, as

described in subparagraph (b) above, shall be refunded the unexpended balance of the additional application fees.

Section 6. Annual Fees.

(a) Annual fees are to be paid in full prior to the fiscal year for which the fees are assessed. The Department shall notify all licensees of the amount of their annual fee ninety (90) days prior to the start of the fiscal year. The annual fee must be received and processed prior to the Department taking any licensing or other requested action.

(b) Until the Department can establish Projected Costs for a licensee, the licensee shall be billed a predetermined annual fee. The predetermined annual fee shall be equal to the annual estimated cost of the Program divided by the total number of licensees.

(c) Once the Department establishes Projected Costs for a licensee, the licensee shall be assessed an annual fee based on the licensee's average Total Costs from the previous two years of operation.

(d) A new licensee shall be billed an annual fee equal to the average Total Costs of all licensees, until Projected Costs can be established.

(e) Following recognition of all costs for a fiscal year, the Department shall prepare a statement for each licensee showing the itemized actual Total Costs for the fiscal year.

(i) If the annual fee collected from the licensee exceeds the Total Costs attributable to the licensee, the statement shall be accompanied by a credit or refund of the difference in amounts to the licensee.

(ii) If the annual fee collected from the licensee is less than the Total Costs attributable to the licensee, the statement shall be accompanied by an invoice covering the difference in amounts owed to the Department. The licensee shall have sixty (60) days from the date of the invoice to pay the Department the full outstanding balance of the invoice.

(f) New licenses issued after the beginning of the fiscal year will be assessed an annual fee, as described above, but the fee will be prorated based on the date the license was issued.

(g) Failure to pay prescribed fees may result in, and is not limited to, the Department halting the processing of an amendment, suspending or revoking a license, or issuing a notice of violation and order as the Department deems necessary and appropriate to carry out the provisions of the Act.

(h) The minimum annual fee for all licensees is one thousand dollars ($1,000.00).

Section 7. Method of Payment.

Payments made under this Chapter shall be paid in U.S. dollars through electronic funds transfer, check, or money order made payable to the Wyoming Department of Environmental

Quality.

Chapter 8

Risk Informed, Performance Based Licensing and Inspection

Section 1. Purpose.

This Chapter establishes a risk informed, performance based regulatory framework as it will be applied to licensees regulated by the Program. No undue risk to public health, safety, or the environment shall occur as a result of licensed operations by the licensee under this regulatory framework.

Section 2. Scope.

Except as otherwise specifically provided, this Chapter applies to all persons who acquire, own, possess, use, transfer, offer and receive for transport, use, or dispose of any licensed material pursuant to these rules. Nothing in this Chapter shall apply to any person subject to regulation not relinquished by the NRC.

Section 3. Regulatory Approach.

(a) The Department shall determine licensing inspection actions, enforcement, and other decisions by the Program based on the risk informed, performance based regulatory approach which is a combination of the following approaches:

(i) "A risk informed approach" to regulatory decision-making represents a philosophy whereby risk insights are considered together with other factors to establish requirements that better focus licensee and regulatory attention on design and operational issues, pertaining to licensed material safety, commensurate with their importance to employee health and safety, public health and safety, and environmental protection.

(ii) "A performance based approach" to regulatory decision making represents a philosophy whereby performance standards are established that must be achieved by the licensee, but provides flexibility to the licensee as to the means of meeting those standards. This approach emphasizes results over process and methods and uses those results as the primary basis for regulatory decision-making. This approach incorporates the following attributes:

(A) Measurable (or calculable) parameters (i.e., direct measurements of the physical parameter of interest or of related parameters that can be used to calculate the parameter of interest) that exist to monitor a system, including facility and licensee performance;

(B) Objective criteria to assess performance are established based on risk insights, deterministic analysis, and performance history;

(C) Flexibility for licensees to determine how to meet the established performance criteria in ways that will encourage and reward improved outcomes; and

(D) Failure to meet a performance criterion, while undesirable, will not

in and of itself constitute or result in an immediate safety concern.

(b) As part of the risk informed performance based regulatory approach, the Department shall utilize risk insight, engineering analysis and judgment, including the principle of defense-in-depth and incorporation of safety margins, and performance history to:

(i) Focus attention on the areas of greatest potential significance to human health, safety, and the environment;

(ii) Establish objective criteria for evaluating performance;

(iii) Develop measurable or calculable parameters for monitoring system and license performance;

(iv) Provide flexibility to licensees to determine how to meet the established performance criteria in a way that will encourage and reward outcomes; and

(v) Focus on the results as the primary basis for regulatory decisions.

Section 4. Changes, Tests, or Experiments.

(a) Subject to the conditions in Section 4(b) of this Chapter and without obtaining a license amendment pursuant to Chapter 4 of these rules, a licensee may:

(i) Make changes to the components of the licensed facility, which have a nexus to licensed material described in the most updated license application;

(ii) Make changes in the procedures as described in the most updated license application involving licensed material; and

(iii) Conduct tests or experiments not described in the most updated license application involving licensed material.

(b) The licensee shall obtain a license amendment pursuant to Chapter 4 of these rules prior to implementing a proposed change, test, or experiment if the change, test, or experiment would result in or create the following:

(i) More than a minimal increase in the frequency of occurrence of an accident involving licensed materials, previously evaluated in the most updated license application;

(ii) More than a minimal increase in the likelihood of occurrence of a malfunction of facility structure equipment, or monitoring system (SEMS) important to licensed material safety previously evaluated in the most updated license application;

(iii) More than a minimal increase in the consequence of an accident involving licensed material previously evaluated in the most updated license application;

(iv) More than a minimal increase in the consequences of a malfunction of a

SEMS important to licensed material safety previously evaluated in the most updated license application;

(v) A possibility for a credible and potentially significant accident scenario of a different type, involving licensed material, than any previously evaluated in the most updated license application;

(vi) A possibility for a malfunction of a SEMS important to licensed material safety with a different result than previously evaluated in the most updated license application; and

(vii) A departure from the method of evaluation of radiological safety described in the most updated license application used by the Department. For NRC licenses transferred and recognized by the Department, a departure from the method of evaluation of radiological safety discussed in the NRC's final safety evaluation report (SER), any federal environmental impact statement (EIS) or environmental assessment (EA), technical evaluation reports (TER), or other analyses and evaluation for license amendments.

(c) For purposes of this Chapter, and as applied to NRC licenses recognized by the Department, SEMS means any SEMS which have been referenced in an NRC SER, TER, EA, or EIS, including supplements and amendments thereof.

(d) Licensees must obtain a license amendment unless the change, test, or experiment is consistent with the Department's and NRC's previous conclusions pertaining to radiological safety, or the basis of, or analysis leading to, the conclusion of actions, designs, or design configuration analyzed and selected in the site or facility's SER, TER, and EIS, or EA performed by the NRC. This would include all supplements and amendments, and TERs, EAs, and EISs issued with amendments to a license. NRC's previous conclusions would include, but would not be limited to Regulatory Issues Summaries (RIS), executive orders, or information notices.

Section 5. Safety and Environmental Review Panel.

(a) Each licensee shall develop a Safety and Environmental Review Panel (SERP). The SERP’s purpose is to evaluate changes to the license application, procedures, or physical processes to the criteria in Section 4 of this Chapter and determine if the action can be completed without a license amendment.

(b) The SERP shall consist of, at a minimum, the following three members that are employees of the licensee:

(i) One member having expertise in management (e.g., Plant Manager). This member shall be responsible for financial approval for changes;

(ii) One member having expertise in operations or construction. This member shall have responsibility for implementing any operational changes; and

(iii) One member that is the licensee’s radiation safety officer (RSO) or equivalent. This member shall maintain the responsibility of assuring changes conform to

radiation safety and environmental requirements. The Department may approve a qualified contractor to fulfill this role where circumstances prevent the licensee from utilizing a qualified employee. Department approval must be obtained in writing.

(c) Additional members of the SERP may include, as appropriate, individuals to address and assist with technical aspects such as ground or surface water hydrology, specific earth sciences, or other technical disciplines. Temporary or permanent members, other than the three above-specified individuals, may be consultants or contractors.

(d) The licensee shall maintain records of any changes made pursuant to this Chapter until license termination. These records shall include written safety and environmental evaluations made by the SERP that provide the basis for determining changes are in compliance with Section 4 of this Chapter. The licensee shall furnish, in an annual report to the Department, a description of such changes, tests, or experiments, including a summary of the safety and environmental evaluation of each made pursuant to this Chapter. In addition, the licensee shall annually submit to the Department any changed pages, which shall include both a change indicator for the area changed (i.e., a bold line vertically drawn in the margin adjacent to the portion actually changed), and a page change identification (date of change or change number), to the Operations Plan and Reclamation Plan of the most updated approved license application to reflect changes made under this condition.

(e) All SERP evaluations shall be made available to the Department during site inspections. The Department may review all the SERP evaluations to ensure that it concurs with the conclusions. In events where the Department disagrees with the conclusions of a SERP, an amendment application will be required. The Department may take enforcement action or issue penalties as necessary relative to the SERP evaluations.

Section 6. Contents of a SERP Evaluation.

The evaluation through the SERP process must answer the items presented in Sections 4(b) and 4(c) of this Chapter. For each item the evaluation shall present their justification and this document shall be reviewed by the Department at the time of inspection for concurrence. Certain items within Section 4 of this Chapter may require a risk assessment to be performed to determine the significance of an event. Those risk assessments will be reviewed by the Department at the time of the inspection.

Section 7. Exclusions to the SERP Process.

(a) The following items shall not be approved through the SERP process and shall be sent to the Department as a license amendment for approval:

(i) Amending license conditions; and

(ii) Changes to license boundary.

Chapter 9

Transportation of Radioactive Material

Section 1. Purpose.

(a) This Chapter establishes requirements for packaging, preparation for shipment, and transportation of licensed material.

(b) The packaging and transport of licensed material are also subject to the Wyoming Environmental Quality Act, Wyoming Statute § 35-11-2001 *et seq*., the Program's rules, and the regulations of other federal agencies (such as the U.S. Department of Transportation, the U.S. Postal Service, and the Commission) having jurisdiction over means of transport. The requirements of this Chapter are in addition to, and not in substitution for, other applicable requirements.

Section 2. Scope.

This Chapter applies to any licensee authorized by specific or general license issued by the Department to acquire, own, possess, use, transfer, offer or receive for transport, or dispose of licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this Chapter allows for the unauthorized possession of licensed material.

Section 3. Incorporation by Reference (IBR) of 10 Code of Federal Regulations (C.F.R.) Part 71; Packaging and Transportation of Radioactive Material.

(a) The Department fully adopts and hereby incorporates by reference 10 C.F.R. Part 71, §§ 71.0 through 71.137, revised as of January 1, 2025, including all sections and any notes and appendices therein, unless expressly provided otherwise in these rules. The U.S. Department of Transportation's regulations, as cited in 10 C.F.R. § 71.5 (January 1, 2025), are also fully adopted and hereby incorporated by reference. These rules do not include any later amendments or editions of the incorporated matter.

(b) The following 10 C.F.R. sections, including all subparts, as of January 1, 2025 are excluded from these rules and are not incorporated by reference: 71.0, 71.1, 71.2, 71.6, 71.7, 71.9, 71.11, 71.12, 71.13, 71.14(b), 71.15, 71.16, 71.18, 71.19, 71.22, 71.23, 71.24, 71.25, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, 71.51, 71.53, 71.55, 71.57, 71.59, 71.61, 71.63, 71.64, 71.65, 71.70, 71.71, 71.73, 71.74, 71.75, 71.77, 71.81, 71.83, 71.85(a)-(c), 71.87(g), 71.88, 71.91(a)(5), 71.91(a)(7), 71.91(b), 71.95, 71.97, 71.99, 71.100, 71.101(c)(2), 71.101(d), 71.101(e), 71.101(g), 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123, and 71.125.

(c) The terms "Close reflection by water," "Critical Safety Index," "Containment System," "Deuterium," "Fissile material," "Graphite," "Maximum normal operating pressure," "Optimum interspersed hydrogenous moderation," "Special Form," "Spent nuclear fuel" or

"Spent fuel," "State," "Depleted uranium," and "Enriched uranium" as defined in 10 C.F.R. § 71.4 as of January 1, 2025 are excluded from these rules and are not incorporated by reference.

(d) Any references in the federal rules adopted by reference to the United States Nuclear Regulatory Commission (NRC), or any component thereof, shall be deemed to be a reference to the Department and the Source Material Program, with the following exceptions:

(i) When used in 10 C.F.R. §§ 71.5(b) and 71.10, 71.17(c)(3), 71.17(e), 71.85(c), and 71.93(c); and

(ii) The definitions of “certificate holder” and “certificate of compliance (CoC)” in 10 C.F.R. 71.4.

(e) If, for any reason, the U.S. Department of Transportation’s regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of 49 C.F.R. Parts 171 through 180 appropriate to the mode of transport to the same extent as if the shipment was subject to these rules.

(f) A request for modification, waiver, or exemption from the requirements in 49 C.F.R. Parts 171 through 180, and any notification referred to in those requirements, must be filed with, or made to, the Department.

Appendix B to Subsection 4.2
Compatibility Tables

10 CFR PART 19

Please Note: The brackets "[ ]" around a compatibility category designation means that the Section may have been adopted elsewhere in a State rule, and it is not necessary to adopt it again. IBR means Incorporation by Reference.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Not Was a Comment Generated?
§19.1	Purpose	Ch. 5. Sec. 1	D	YES	NO	Compatibility D, adjusted for use by the State.
§19.2	Scope	Ch. 5, Sec. 2	D	YES	NO	Compatibility D, adjusted for use by the State.
§19.3	Definitions	Ch. 1, Sec. 5				
§19.3	Act	Ch. 1, Sec. 5(b)	D	YES	NO	Compatibility D, adjusted for use by the State.
§19.3	Commission	Ch. 1, Sec. 5(w)	D	YES	NO	Compatibility D, adjusted for use by the State.
§19.3	Exclusion	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§19.3	License	Ch. 1, Sec. 5(bn)	[D]	YES	NO	Compatibility D, adjusted for use by the State.
§19.3	Licensee	Ch. 1, Sec.5(bo)	[D]	YES	NO	Compatibility D, adjusted for use by the State.
§19.3	Regulated activities	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§19.3	Regulated entities	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§19.3	Restricted area	Ch. 1, Sec. 5(cv)	[A]	NO		
§19.3	Sequestration	N/A	D	YES	NO	Compatibility D, not included in State regulations.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Not Was a Comment Generated?
§19.3	Worker	Ch. 1, Sec. 5(dv)	C	YES	NO	Adjusted for use by the State.
§19.4	Interpretations	Ch. 5, Sec. 3(a)	D	NO		
§19.5	Communications	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§19.8	Information collection requirement: OMB approval	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§19.11	Posting of notices to workers	Ch. 5, Sec. 3(a)	C	Yes	NO	Incorporated by reference, excluding 19.11(b) and (e).
§19.12	Instructions to workers	Ch. 5, Sec. 3(a)	C	NO		
§19.13	Notification and reports to individuals	Ch. 5, Sec. 3(a)	C	NO		
§19.14(a)	Presence of representatives of licensees and workers during inspections	Ch. 5, Sec. 3(b)	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§19.14(b)-(g)	Presence of representatives of licensees and	Ch. 5, Sec. 3(a)	C	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Not Was a Comment Generated?
	workers during inspections					
§19.15	Consultation with workers during inspections	Ch. 5, Sec. 3(a)	C	NO		
§19.16	Requests by workers for inspections	Ch. 5, Sec. 3(a)	C	NO		
§19.17	Inspection not warranted; informal review	Ch. 5, Sec. 3(a)	C	NO		
§19.18	Sequestration of witnesses and exclusion of counsel in interviews conducted under subpoena	Ch. 5, Sec. 3(b)	D	YES	NO	Compatibility D, not included in State regulations.
§19.20	Employee Protection	Ch. 5, Sec. 3(a)	D	NO		
§19.30	Violations	Ch. 2, Sec. 4	D	YES	NO	Compatibility D, adjusted for use by the State.
§19.31	Application for exemptions	Ch. 5, Sec. 3(a)	D	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Not Was a Comment Generated?
§19.32	Discrimination prohibited	Ch. 5, Sec. 3(a)	D	NO		
§19.40	Criminal penalties	Ch. 2	D	YES	NO	Compatibility D, adjusted for use by the State.

10 CFR PART 20

Please Note: The brackets "[ ]" around a compatibility category designation means that the Section may have been adopted elsewhere in a State rule, and it is not necessary to adopt it again. IBR means Incorporation by Reference.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1001	Purpose	Ch. 3, Sec. 1	D	YES	NO	Compatibility D, adjusted for use by the State.
§20.1002	Scope	Ch. 3, Sec. 2	D	YES	NO	Compatibility D, adjusted for use by the State.
§20.1003	Definitions	Ch. 1, Sec. 5				
§20.1003	Absorbed Dose	Ch. 1, Sec. 5(a)	A	NO		
§20.1003	Accelerator-produced radioactive material	N/A	H&S	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§20.1003	Act	Ch. 1, Sec. 5(b)	D	YES	NO	Compatibility D, adjusted for use by the State.
§20.1003	Activity	Ch. 1, Sec. 5(d)	A	NO		
§20.1003	Adult	Ch. 1, Sec. 5(e)	A	NO		
§20.1003	Airborne Radioactive Material	Ch. 1, Sec. 5(g)	A	NO		
§20.1003	Airborne Radioactivity Area	Ch. 1, Sec. 5(h)	A	NO		
§20.1003	Air-Purifying Respirator	Ch. 1, Sec. 5(i)	B	NO		
§20.1003	As Low As Reasonably Achievable (ALARA)	Ch. 1, Sec. 5(l)	A	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1003	Annual Limit on Intake (ALI)	Ch. 1, Sec. 5(k)	A	NO		
§20.1003	Assigned Protection Factor (APF)	Ch. 1, Sec. 5(m)	B	NO		
§20.1003	Atmosphere-Supplying Respirator	Ch. 1, Sec. 5(n)	B	NO		
§20.1003	Background Radiation	Ch. 1, Sec. 5(o)	A	YES	NO	Adjusted for use by the State.
§20.1003	Bioassay (radiobioassay)	Ch. 1, Sec. 5(q)	A	YES	NO	Adjusted for use by the State.
§20.1003	Class (or lung class or inhalation class)	Ch. 1, Sec. 5(t)	A	NO		
§20.1003	Collective Dose	Ch. 1, Sec. 5(u)	A	NO		
§20.1003	Commission	Ch. 1, Sec. 5(w)	D	YES	NO	Compatibility D, adjusted for use by the State.
§20.1003	Committed Dose Equivalent ($H_{T,50}$)	Ch. 1, Sec. 5(y)	A	NO		
§20.1003	Committed Effective Dose Equivalent ($H_{E,50}$)	Ch. 1, Sec. 5(y)	A	NO		
§20.1003	Constraint (dose constraint)	Ch. 1, Sec. 5(z)	C	NO		
§20.1003	Controlled Area	Ch. 1, Sec. 5(ab)	D	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1003	Critical Group	Ch. 1, Sec. 5(ac)	B	NO		
§20.1003	Declared Pregnant Woman	Ch. 1, Sec. 5(ae)	A	NO		
§20.1003	Decommission	Ch. 1, Sec. 5(af)	[C]	NO		
§20.1003	Deep-Dose Equivalent (H_d)	Ch. 1, Sec. 5(ag)	A	NO		
§20.1003	Demand Respirator	Ch. 1, Sec. 5(ah)	B	NO		
§20.1003	Department	Ch. 1, Sec. 5(ai)	D	YES	NO	Compatibility D, adjusted for use by the State.
§20.1003	Derived Air Concentration (DAC)	Ch. 1, Sec. 5(aj)	A	NO		
§20.1003	Derived Air Concentration-Hour (DAC-hour)	Ch. 1, Sec. 5(ak)	A	NO		
§20.1003	Disposable Respirator	Ch. 1, Sec. 5(am)	B	NO		
§20.1003	Distinguishable from Background	Ch. 1, Sec. 5(an)	B	NO		
§20.1003	Dose	Ch. 1, Sec. 5(ao)	D	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1003	Dose Equivalent (H_T)	Ch. 1, Sec. 5(ap)	A	NO		
§20.1003	Dosimetry Processor	Ch. 1, Sec. 5(ar)	D	NO		
§20.1003	Effective Dose Equivalent (H_E)	Ch. 1, Sec. 5(as)	A	NO		
§20.1003	Embryo/Fetus	Ch. 1, Sec. 5(at)	A	NO		
§20.1003	Entrance or Access Point	Ch. 1, Sec. 5(au)	C	NO		
§20.1003	Exposure	Ch. 1, Sec. 5(aw)	D	NO		
§20.1003	External Dose	Ch. 1, Sec. 5(ay)	D	NO		
§20.1003	Extremity	Ch. 1, Sec. 5(az)	A	NO		
§20.1003	Filtering Facepiece (dusk mask)	Ch. 1, Sec. 5(bb)	B	NO		
§20.1003	Fit Factor	Ch. 1, Sec. 5(bc)	B	NO		
§20.1003	Fit Test	Ch. 1, Sec. 5(bd)	B	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1003	Generally Applicable Environmental Radiation Standards	Ch. 1, Sec. 5(be)	D	YES	NO	Compatibility D, adjusted for use by the State.
§20.1003	Government Agency	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§20.1003	Gray	Ch. 1, Sec. 6(b)(i)	A	NO		
§20.1003	Helmet	Ch. 1, Sec. 5(bf)	B	NO		
§20.1003	High Radiation Area	Ch. 1, Sec. 5(bg)	A	NO		
§20.1003	Hood	Ch. 1, Sec. 5(bh)	B	NO		
§20.1003	Individual	Ch. 1, Sec. 5(bi)	A	NO		
§20.1003	Individual Monitoring	Ch. 1, Sec. 5(bj)	A	YES	NO	Adjusted for use by the State.
§20.1003	Individual Monitoring Devices	Ch. 1, Sec. 5(bk)	C	YES	NO	Adjusted for use by the State
§20.1003	Internal Dose	Ch. 1, Sec. 5(bl)	A	NO		
§20.1003	Lens Dose Equivalent (LDE)	Ch. 1, Sec. 5(bm)	A	NO		
§20.1003	License	Ch. 1, Sec. 5(bn)	D	YES	NO	Compatibility D, adjusted for use by the State.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1003	Licensed Material	Ch. 1, Sec. 5(bp)	D	YES	NO	Compatibility D, adjusted for use by the State.
§20.1003	Licensee	Ch. 1, Sec. 5(bo)	D	YES	NO	Compatibility D, adjusted for use by the State.
§20.1003	Limits (dose limits)	Ch. 1, Sec. 5(bq)	A	NO		
§20.1003	Loose-Fitting Facepiece	Ch. 1, Sec. 5(br)	B	NO		
§20.1003	Lost or Missing Licensed Material	Ch. 1, Sec. 5(bs)	B	NO		
§20.1003	Member of the Public	Ch. 1, Sec. 5(bt)	A	NO		
§20.1003	Minor	Ch. 1, Sec. 5(bu)	A	NO		
§20.1003	Monitoring	Ch. 1, Sec. 5(bv)	A	NO		
§20.1003	Nationally Tracked Source	Ch. 1, Sec. 5(bw)	B	YES	NO	Adjusted for use by the State.
§20.1003	Negative Pressure Respirator (tight fitting)	Ch. 1, Sec. 5(bx)	B	NO		
§20.1003	Nonstochastic Effect[i]	Ch. 1, Sec. 5(by)	A	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1003	NRC	Ch. 1, Sec. 5(w)	D	YES	NO	Compatibility D, adjusted for use by the State.
§20.1003	Occupational Dose	Ch. 1, Sec. 5(ca)	A	NO		
§20.1003	Particle Accelerator	N/A	H&S	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§20.1003	Person	Ch. 1, Sec. 5(cc)	[C]	YES	NO	Adjusted for use by the State.
§20.1003	Planned Special Exposure	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§20.1003	Positive Pressure Respirator	Ch. 1, Sec. 5(ce)	B	NO		
§20.1003	Powered Air-Purifying Respirator (PAPR)	Ch. 1, Sec. 5(cf)	B	NO		
§20.1003	Pressure Demand Respirator	Ch. 1, Sec. 5(cg)	B	NO		
§20.1003	Public Dose	Ch. 1, Sec. 5(cj)	A	NO		
§20.1003	Qualitative Fit Test (QLFT)	Ch. 1, Sec. 5(ck)	B	NO		
§20.1003	Quality Factor (Q)	Ch. 1, Sec. 5(cl)	A	NO		
§20.1003	Quantitative Fit Test (QNFT)	Ch. 1, Sec. 5(cm)	B	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1003	Quarter	Ch. 1, Sec. 5(cn)	D	NO		
§20.1003 & §20.1004	Rad	Ch. 1, Section 6 (b)(ii)	A	NO		
§20.1003	Radiation	Ch. 1, Sec. 5(co)	A	NO		
§20.1003	Radiation Area	Ch. 1, Sec. 5(cp)	A	NO		
§20.1003	Reference Man	Ch. 1, Sec. 5(cs)	A	NO		
§20.1003 & §20.1004	Rem	Ch. 1, Section 6 (b)(iii)	A	NO		
§20.1003	Residual Radioactivity	Ch. 1, Sec. 5(ct)	B	YES	NO	Adjusted for use by the State.
§20.1003	Respiratory Protective Device	Ch. 1, Sec. 5(cu)	C	NO		
§20.1003	Restricted Area	Ch. 1, Sec. 5(cv)	A	NO		
§20.1003	Sanitary Sewerage	Ch. 1, Sec. 5(cx)	A	NO		
§20.1003	Self-Contained Breathing Apparatus (SCBA)	Ch. 1, Sec. 5(cy)	B	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1003	Shallow-Dose Equivalent (H_S)	Ch. 1, Sec. 5(cz)	A	NO		
§20.1003	Site Boundary	Ch. 1, Sec. 5(dc)	D	NO		
§20.1003	Source Material	Ch. 1, Sec. 5(dd), and W.S. § 35-11-103(j)(iii)	[A]	YES	NO	Used definition in §40.4, slightly different.
§20.1003	Special Nuclear Material	Ch. 1, Sec. 5(df)	[A]	NO		
§20.1003	Stochastic Effects[ii]	Ch. 1, Sec. 5(dg)	A	NO		
§20.1003	Supplied-Air Respirator (SAR) or Airline Respirator	Ch. 1, Sec. 5(dh)	B	NO		
§20.1003	Survey	Ch. 1, Sec. 5(di)	A	NO		
§20.1003	Tight-Fitting Facepiece	Ch. 1, Sec. 5(dk)	B	NO		
§20.1003	Total Effective Dose Equivalent (TEDE)	Ch. 1, Sec. 5(dl)	A	NO		
§20.1003	Unrestricted Area	Ch. 1, Sec. 5(dn)	A	YES	NO	Adjusted for use by the State.
§20.1003	Uranium Fuel Cycle	N/A	D	NO		Not included in State regulations as it does not pertain to the scope of authority Wyoming is

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
						seeking.
§20.1003	User Seal Check (fit check)	Ch. 1, Sec. 5(dp)	B	NO		
§20.1003	Very High Radiation Area	Ch. 1, Sec. 5(dq)	A	NO		
§20.1003	Waste	Ch. 1, Sec. 5(dr)	B	YES	NO	Adjusted for use by the State.
§20.1003	Week	Ch. 1, Sec. 5(ds)	D	NO		
§20.1003	Weighting Factor	Ch. 1, Sec. 5(dt)	A	NO		
§20.1003	Whole Body	Ch. 1, Sec. 5(du)	A	NO		
§20.1003	Working level (WL)	Ch. 1, Sec. 5(dw)	A	YES	NO	Adjusted for use by the State.
§20.1003	Working level month (WLM)	Ch. 1, Sec. 5(dx)	A	NO		
§20.1003	Year	Ch. 1, Sec. 5(dy)	A	NO		
§20.1004	Units of radiation dose	Ch. 1, Sec. 6; Ch. 3, Sec 4(a)	A	YES	NO	Table 1004(b).2 is Incorporated by reference.
§20.1005	Units of radioactivity	Ch. 1, Sec. 7;	A	YES	NO	Adjusted for use by the State.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
		Ch. 1 Secs. 5(p) and 5(ad)				
§20.1006	Interpretations	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§20.1007	Communications	Ch. 1, Sec. 8	D	YES	NO	Compatibility D, adjusted for use by the State.
§20.1008	Implementation	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§20.1009	Information collection requirements: OMB approval	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§20.1101	Radiation protection programs	Ch. 3, Sec. 4(a)	H&S	NO		
§20.1101(d)	Radiation protection programs	Ch. 3, Sec. 4(a)	C	NO		
§20.1201	Occupational dose limits for adults	Ch. 3, Sec. 4(a)	A	NO		
§20.1202	Compliance with requirements for summation of external and internal doses	Ch. 3, Sec. 4(a)	A	NO		
§20.1203	Determination of external dose from airborne radioactive material	Ch. 3, Sec. 4(a)	A	NO		
§20.1204	Determination of internal exposure	Ch 3, Sec 4(a)	A	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1205	Reserved	N/A				
§20.1206	Planned special exposures	N/A	D	NO		Compatibility D, not included in State regulations.
§20.1207	Occupation dose limits for minors	Ch. 3, Sec. 4(a)	A	NO		
§20.1208	Dose equivalent to an embryo/fetus	Ch. 3, Sec. 4(a)	A	NO		
§20.1301 (a),(b), & (c)	Dose limits for individual members of the public	Ch. 3, Secs. 4(a) & 4(b)	A	YES	NO	§20.1301(c) is not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§20.1301(d)	Dose limits for individual members of the public	Ch. 3, Sec. 4(a)	C	NO		
§20.1301(e)	Dose limits for individual members of the public	Ch. 3, Sec. 4(a)	D	NO		
§20.1301(f)	Dose limits for individual members of the public	Ch. 3, Sec. 4(a)	D	NO		
§20.1302 (a) & (b)	Compliance with dose limits for individual members of the public	Ch. 3, Sec. 4(a)	H&S	NO		
§20.1302(c)	Compliance with dose limits for individual members of the public	Ch. 3, Sec. 4(a)	D	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1401	General provisions and scope	Ch. 3, Sec. 4(a)	C	NO		
§20.1402	Radiological criteria for unrestricted use	Ch. 3, Sec. 4(a)	C	NO		
§20.1403	Criteria for license termination under restricted conditions	Ch. 3, Sec. 4(a)	C	NO		
§20.1404	Alternate criteria for license termination	Ch. 3, Sec. 4(a)	C	NO		
§20.1405	Public notification and public participation	Ch. 3, Sec. 4(a)	C	NO		
§20.1406(a)	Minimization of contamination	Ch. 3, Sec. 4(a)	C	NO		
§20.1406(b)	Minimization of contamination	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§20.1501	General	Ch. 3, Sec. 4(a)	H&S	NO		
§20.1502	Conditions requiring individual monitoring of external and internal occupational dose	Ch. 3, Sec. 4(a)	H&S	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1601	Control of access to high radiation areas	Ch. 3, Secs. 4(a) & 4(b)	H&S	YES	YES	§20.1601(f) is not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§20.1602	Control of access to very high radiation areas	Ch. 3, Sec. 4(a)	H&S	NO		
§20.1701	Use of process or other engineering controls	Ch. 3, Sec. 4(a)	H&S	NO		
§20.1702	Use of other controls	Ch. 3, Sec. 4(a)	H&S	NO		
§20.1703	Use of individual respiratory protection equipment	Ch. 3, Sec. 4(a)	H&S	NO		
§20.1704	Further restrictions on the use of respiratory protection equipment	Ch. 3, Sec. 4(a)	D	NO		
§20.1705	Application for use of higher assigned protection factors	Ch. 3, Sec. 4(a)	B	NO		
§20.1801	Security of stored material	Ch. 3, Sec. 4(a)	H&S	NO		
§20.1802	Control of material not in storage	Ch. 3, Sec. 4(a)	H&S	NO		
§20.1901	Caution signs	Ch. 3, Sec. 4(a)	A	NO		
§20.1902	Posting requirements	Ch. 3, Sec. 4(a)	A	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.1903	Exceptions to posting requirements	Ch. 3, Sec. 4(a)	D	YES	YES	§20.1903(b) and §20.1903(d) are not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§20.1904	Labeling containers	Ch. 3, Sec. 4(a)	A	NO		
§20.1905 (a) – (f)	Exceptions to labeling requirements	Ch. 3, Sec. 4(a)	A	NO		
§20.1905(g)	Exceptions to labeling requirements	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§20.1906	Procedures for receiving and opening packages	Ch. 3, Sec. 4(a)	H&S	NO		
§20.2001	General requirements (Waste Disposal)	Ch. 3, Sec. 4(a)	C	NO		
§20.2002	Method for obtaining approval of proposed disposal procedures	Ch. 3, Sec. 4(a)	D	No		
§20.2003 (a)(1)	Disposal by release into sanitary sewerage	Ch. 3, Sec. 4(a)	H&S	NO		
§20.2003 (a)(2)&(a)(3)	Disposal by release into sanitary sewerage	Ch. 3, Sec. 4(a)	A	NO		
§20.2003 (a)(4)	Disposal by release into sanitary sewerage	Ch. 3, Sec. 4(a)	C	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.2003 (b)	Disposal by release into sanitary sewerage	N/A	D	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§20.2004	Treatment or disposal by incineration	Ch. 3, Sec. 4(a)	D	NO		
§20.2005	Disposal of specific wastes	Ch. 3, Sec. 4(a)	D	NO		
§20.2006	Transfer for disposal and manifests	Ch. 3, Sec. 4(a)	B	NO		
§20.2007	Compliance with environmental and health protection regulations	Ch. 3, Sec. 4(a)	D	NO		
§20.2008	Disposal of certain byproduct material	N/A	B	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§20.2101	General provisions	Ch. 3, Sec. 4(a)	C	NO		
§20.2102	Records of radiation protection programs	Ch. 3, Sec. 4(a)	D	NO		
§20.2103	Records of surveys	Ch. 3, Sec. 4(a)	D	NO		
§20.2104	Determination of prior occupational dose	Ch. 3, Sec. 4(a)	D	YES	NO	§20.2104 (b) is not included in the State Regulations.
§20.2105	Records of planned special exposures	Ch. 3, Sec 4(b)	D	YES	NO	Compatibility D, not included in State regulations.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.2106 (a) & (e)	Records of individual monitoring results	Ch. 3, Sec. 4(a)	C	NO		
§20.2106 (b),(c),(d), & (f)	Records of individual monitoring results	Ch. 3, Sec. 4(a)	D	YES	NO	§20.2106 (d) is not included in the State Regulations.
§20.2107	Records of Dose to individual members of the Public	Ch. 3, Sec. 4(a)	D	NO		
§20.2108	Records of Waste Disposal	Ch. 3, Sec. 4(a)	D	NO		
§20.2110	Form of Records	Ch. 3, Sec. 4(a)	D	NO		
§20.2201 (a),(b),(d), & (e)	Reports of theft or loss of licensed material	Ch. 3, Sec. 4(a)	C	YES	YES	§20.2201(a)(2)(i) and §20.2201(b)(2)(i), and are not included in the State Regulations, as they do not pertain to the scope of authority Wyoming is seeking.
§20.2201(c)	Reports of theft or loss of licensed material	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§20.2202 (a),(b),(c), & (d)	Notification of Incidents	Ch. 3, Sec. 4(a)	C	YES	YES	§ 20.2202(d)(1) is not included in the State Regulations, as it does not pertain to the scope of authority Wyoming is seeking.
§20.2202(e)	Notification of Incidents	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§20.2203 (a) & (b)	Reports of exposures, etc., exceeding the limits	Ch. 3, Sec. 4(a)	C	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.2203(c)	Reports of exposures, etc., exceeding the limits	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§20.2203(d)	Reports of exposures, etc., exceeding the limits.	Ch. 3, Sec 4(a)	D	NO		
§20.2204	Reports of Planned special exposures	N/A	D	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§20.2205	Reports to individuals of exceeding dose limits	Ch. 3, Sec. 4(a)	C	NO		
§20.2206 (a)(1), (a)(3), (a)(4), & (a)(5)	Reports of Individuals Monitoring	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§20.2206 (a)(2), (a)(6), (a)(7), (b), & (c)	Reports of Individuals Monitoring	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§20.2207	Reports of transactions involving nationally tracked sources	Ch. 3, Sec 4(a)	B	NO		
§20.2301	Applications for Exemptions	Ch. 3, Sec. 4(a)	D	NO		
§20.2302	Additional Requirements	Ch. 3, Sec. 4(a)	D	NO		
§20.2401	Violations	Ch. 2, Sec. 4	D	YES	NO	Compatibility D, adjusted for use by the State.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§20.2402	Criminal Penalties	Ch. 2	D	YES	NO	Compatibility D, adjusted for use by the State.
Appendix A	Assigned Protection Factors for Respirators	Ch. 3, Sec. 4(a)	B	NO		
Appendix B (Tables 1,2, & 3)	Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs), of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage	Ch. 3, Sec. 4(a)	A	NO		
Appendix C	Quantities of licensed materials requiring labeling	Ch. 3, Sec. 4(a)	A	NO		
Appendix D	United States Nuclear Regulatory Commission Regional Offices	N/A	D	YES	NO	Compatibility D, not included in State regulations.
Appendix E	Nationally tracked source thresholds	Ch. 3, Sec. 4(a)	B	NO		
Appendix F	Reserved	N/A				
Appendix G	Requirements for Low-level radioactive waste intended for disposal at land disposal facilities and manifests	Ch. 3, Sec. 4(a)	B	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
Appendix G Forms 540, 540A, 541, 541A, 542, & 542A	Requirements for Low-level radioactive waste intended for disposal at land disposal facilities and manifests	Ch. 3, Sec. 4(a)	D	NO		

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Please Note: The brackets "[ ]" around a compatibility category designation means that the Section may have been adopted elsewhere in a State rule, and it is not necessary to adopt it again. IBR means Incorporation by Reference.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§40.1	Purpose	Ch. 4, Sec. 1	D	YES	NO	Compatibility D, adjusted for use by the State.
§40.2	Scope	Ch. 4, Sec. 2	D	YES	NO	Compatibility D, adjusted for use by the State.
§40.2a	Coverage of inactive tailings sites	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§40.3	License requirements	Ch. 4, Sec. 2(b)	C	YES	NO	Adjusted for use by the State.
§40.4	Definitions	Ch. 1, Sec. 5				
§40.4	Act	Ch. 1, Sec. 5(b)	D	YES	NO	Compatibility D, Adjusted for use by the State.
§40.4	Agreement State	Ch. 1, Sec. 5(f)	B	YES	NO	Adjusted for use by the State.
§40.4	Alert	Ch. 1, Sec. 5(j)	[A]	NO		
§40.4	Byproduct material	Ch. 1, Sec. 5(r), refers directly to §35-11-103(j)(i)	H&S	YES	YES	The definition in statute is intended for the Uranium Recovery Program.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§40.4	Commencement of construction Paragraph 1	Ch. 1, Sec. 5(v)	C for States authority to regulate uranium mill activities (11e.(2))	No		
§40.4	Commencement of construction Paragraph 2	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.4	Commission	Ch. 1, Sec. 5(w)	D	YES	NO	Compatibility D, adjusted for use by the State.
§40.4	Construction Paragraph 1-8, 9i	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.4	Construction, Paragraph 9ii "common defense and security"	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.4	Corporation	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§40.4	Decommission	Ch. 1, Sec. 5(af)	[C]	NO		
§40.4	Department of Energy	N/A	[D]	YES	NO	Compatibility D, not included in State Regulations.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§40.4	Depleted uranium	N/A	A	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§40.4	Effective kilogram	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§40.4	Foreign obligations	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.4	Government agency	N/A	D	YES	NO	Compatibility D, not included in State Regulations.
§40.4	License	Ch. 1, Sec. 5(bn)	[D]	YES	NO	Compatibility D, adjusted for use by the State.
§40.4	Persons	Ch. 1, Sec. 5(cc)	[C]	YES	NO	Adjusted for use by the State.
§40.4	Pharmacist	N/A	[D]	YES	NO	Compatibility D, not included in State Regulations.
§40.4	Physician	Ch. 1, Sec. 5(cd)	[D]	NO		
§40.4	Principal activities	Ch. 1, Sec. 5(ch)	[D]	NO		
§40.4	Reconciliation	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.4	Residual Radioactive Material	Ch. 1, Sec. 5(ct)	A- States with authority to regulate uranium mill activities	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
			(11e.(2) byproduct material)			
§40.4	Site Area Emergency	Ch. 1, Sec. 5(db)	[A]	NO		
§40.4	Source Material	Ch. 1, Sec. 5(dd)	[A]	NO		
§40.4	Special Nuclear Material	Ch. 1, Sec. 5(df)	A	NO		
§40.4	Transient shipment	N/A	[D]	YES	NO	Compatibility D, not included in State Regulations.
§40.4	United States	N/A	[D]	YES	NO	Compatibility D, not included in State Regulations.
§40.4	Unrefined and unprocessed ore	Ch. 1, Sec. 5(dm)	B	NO		
§40.4	Uranium enrichment facility	N/A	[D]	YES	NO	Compatibility D, not included in State Regulations.
§40.4	Uranium milling	N/A	A- States with authority to regulate uranium mill activities (11.e(2) byproduct material)	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§40.5	Communications	Ch. 4, Sec. 3(d)(iv)	D	YES	NO	Compatibility D, adjusted for use by the State.
§40.6	Interpretations	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§40.7	Employee protection	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§40.8	Information collection requirements: OMB approval	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§40.9	Completeness and accuracy of information	Ch. 4, Secs. 4(c) & 4(d)	D	YES	NO	Compatibility D, adjusted for use by the State.
§40.10	Deliberate misconduct	Ch. 1, Sec. 9	C	YES	NO	Adjusted for use by the State.
§40.11	Persons using source material under certain Department of Energy and Nuclear Regulatory Commission contracts	Ch. 4, Sec. 5(g)	B	YES	NO	Adjusted for use by the State.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§40.12(a)	Carriers	Ch. 4, Sec. 5(f)	B	NO		
§40.12(b)	Carriers	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.13 (a), (b), (c), & (d), except for (c)(5)(iv)	Unimportant quantities of source material	Ch. 4, Sec. 5(a)	B	YES	YES	40.13(c) is not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§40.13 (c)(5)(iv)	Unimportant quantities of source material	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.14	Specific exemptions	Ch. 4, Sec. 5	D	YES	NO	Compatibility D, adjusted for State use.
§40.20(a)[iii]	Types of licenses	N/A	C	YES	NO	Not incorporated. See ML17164A278.
§40.20 (b) & (c)	Types of licenses	N/A	D	YES	NO	Not incorporated. See ML17164A278.
§40.21	General license to receive title to source or byproduct material	N/A	C	YES	NO	Not incorporated. See ML17164A278.
§40.22(a), (b)(1)-(3), & (b)(5)	Small quantities of source material	N/A	B	YES	NO	Not incorporated. See ML17164A278.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§40.22(b)(4)	Small quantities of source material	N/A	D	YES	NO	Not incorporated. See ML17164A278.
§40.22(c)	Small quantities of source material	N/A	C	YES	NO	Not incorporated. See ML17164A278.
§40.22(d)	Small quantities of source material	N/A	B	YES	NO	Not incorporated. See ML17164A278.
§40.22(e)	Small quantities of source material	N/A	B	YES	NO	Not incorporated. See ML17164A278.
§40.23	General license for carriers of transient shipments of natural uranium other than in the form of ore or ore residue	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.25	General license for use of certain industrial products or devices	N/A	C	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§40.26	General license for possession and storage of byproduct	N/A	C- States with authority to regulate uranium mill activities	YES	NO	Not incorporated. See ML17164A278.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
	material as defined in this part		(11e.(2) byproduct material)			
§40.27	General license for custody and long-term care of residual radioactive material disposal sites	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.28	General license for custody and long-term care of uranium or thorium byproduct materials disposal sites	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.31 (a), (b), (c), (d), (e), (f), (g), & (h)	Application for specific licenses	Ch. 4, Secs. 4 and 8	D	YES	NO	Compatibility D, adjusted for State use.
§40.31(i)	Application for specific licenses	Ch. 6 & Ch. 4, Sec. 7(e)(ii)	H&S	YES	NO	Adjusted for use by the State.
§40.31 (j), (k), (l), & (m)	Application for specific licenses	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§40.32 (a) & (f)	General requirements for issuance of specific licenses	Ch. 4	D	YES	NO	Compatibility D, adjusted for State use.
§40.32 (b), (c), and the portions of paragraph (e) which apply to uranium mills for States with uranium mill authority	General requirements for issuance of specific licenses	N/A	H&S	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§40.32 (d), (g), and those portions of paragraph (e) which apply to uranium enrichment and uranium hexafluoride facilities	General requirements for issuance of specific licenses	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.33	Issuance of a license for a uranium	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
	enrichment facility					
§40.34 (a)(1),(b), & (c)	Special requirements for issuance of specific licenses	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§40.34 (a)(2)&(a)(3)	Special requirements for issuance of specific licenses	N/A	B	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§40.35(a)	Conditions of specific licenses issued pursuant to §40.34	N/A	C	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§40.35 (b) & (c)	Conditions of specific licenses issued pursuant to §40.34	N/A	B	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.
§40.35 (d), (e), & (f)	Conditions of specific licenses issued pursuant to §40.34	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§40.36 (a), (b), (d), & (f)	Financial assurance and	Ch. 6	H&S	YES	NO	Adjusted for use by the State.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
	recordkeeping for decommissioning					
§40.36 (c), (e), & (g)	Financial assurance and recordkeeping for decommissioning	Ch. 6	D	YES	NO	Adjusted for use by the State.
§40.38	Ineligibility of certain applicants	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.41 (a),(b), & (c)	Terms and conditions of licenses	Ch. 4	C	YES	NO	Adjusted for use by the State.
§40.41 (d), (e)(1), (e)(3), (g), & (h)	Terms and conditions of licenses	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.41 (e)(2) & (e)(4)	Terms and conditions of licenses	Ch. 4	D	YES	NO	Compatibility D, adjusted for use by the State.
§40.41(f)	Terms and conditions of licenses	Ch. 4	H&S	YES	NO	Adjusted for use by the State.
§40.42 (a), (b), & (k)(4)	Expiration and termination of licenses and	Ch. 4, Sec. 10	D	YES	NO	Compatibility D, adjusted for use by the State.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
	decommissioning of sites and separate buildings or outdoor areas					
§40.42 (c), (d), (e), (f), (g), (h), (i),(j), (k)(1), (k)(2), (k)(3), & (l)	Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas	Ch. 4, Sec. 10	H&S	YES	NO	Adjusted for use by the State.
§40.43	Renewal of licenses	Ch. 4, Sec. 11	D	YES	NO	Compatibility D, adjusted for State use.
§40.44	Amendment of licenses at request of licensee	Ch. 4, Secs. 8, 11, and 12	D	YES	NO	Compatibility D, adjusted for State use.
§40.45	Commission action on applications to renew or amend	Ch. 4, Sec. 13(b)	D	YES	NO	Compatibility D, adjusted for State use.
§40.46	Inalienability of licenses	Ch. 4, Sec. 7(e)	C	YES	NO	Adjusted for use by the State.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§40.51 (a),(b)(1)-(5), (b)(7), (c), & (d)	Transfer of source or byproduct material	Ch. 4, Secs. 2(a), (b), and Sec. 6 (b), Sec.7 (d) and (e)	C	NO		
§40.51(b)(6)	Transfer of source or byproduct material	Ch. 4, Sec 3(a)	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.52	Certain items containing source material; requirements for license to apply or initially transfer	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.53	Conditions for licenses issued for initial transfer of certain items containing source material: Quality control, labeling, and records and reports	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.54	Requirements for license to initially transfer source material for use under the ‘small	Ch. 4, Sec 3(a)	B	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
	quantities of source material' general license					
§40.55 (a), (b), (c), & (d)	Conditions of licenses to initially transfer source material for use under the 'small quantities of source material' general license: Quality control, labeling, safety instructions, and records and reports	Ch. 4, Sec 3(a)	B	NO		
§40.55(e)	Conditions of licenses to initially transfer source material for use under the 'small quantities of source material' general license: Quality control, labeling, safety instructions, and	Ch. 4, Sec 3(a)	C	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
	records and reports					
§40.56	Restrictions on the use of Australian-obligated source materials	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.60 (a),(b),(c)(1), & (2)	Reporting requirements	Ch. 4, Sec. 9	C	YES	NO	Adjusted for use by the State.
§40.60(c)(3)	Reporting requirements	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§40.61(a) & (b)	Records	Ch. 4, Sec. 3(a)	C	NO		
§40.61(c) & (f)	Records	Ch. 4, Sec. 3(a)	D	NO		
§40.61(d) & (e)	Records	Ch. 4, Sec. 3(a)	H&S	NO		
§40.62	Inspections	Ch. 2, Sec. 3(a)	D	YES	NO	Compatibility D, adjusted for use by the State.
§40.63	Tests	Ch. 2, Sec. 3(b)	D	YES	NO	Compatibility D, adjusted for use by the State.
§40.64	Reports	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§40.65	Effluent monitoring reporting requirements	Ch. 4, Sec. 9(b)	C - States with authority to regulate uranium mill activities (11e.(2) byproduct material)	YES	NO	Adjusted for use by the State.
§40.66	Requirements for advance notice of export shipments of natural uranium	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.67	Requirement for advance notice of importation of natural uranium from countries that are not party to the Convention on the Physical Protection of Nuclear Material	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§40.71	Modification and revocation of licenses	Ch. 4, Sec. 13	D	YES	NO	Compatibility D, adjusted for use by the State.
§40.81	Violations	Ch. 2, Sec. 4	D	YES	NO	Compatibility D, adjusted for use by the State.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§40.82	Criminal penalties	Chapter 2	D	YES	NO	Compatibility D, adjusted for use by the State.
APPENDIX A to Part 40	Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content	N/A	Definitions -A for States with authority to regulate uranium mill activities (11e.(2) byproduct material). Criteria 11A. - F. and Criterion 12 are NRC. All of the remaining portions of the section are C-for States with authority to regulate uranium milling activities	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking.

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Please Note: The brackets "[ ]" around a compatibility category designation means that the Section may have been adopted elsewhere in a State rule, and it is not necessary to adopt it again. IBR means Incorporation by Reference.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.0 (a), (b), (d), (e), (f), & (g)	Purpose and Scope	N/A	D	YES	NO	Compatibility D, not included in State Regulations.
§71.0(c)	Purpose and Scope	Ch. 9, Secs. 1 and 2	[B]	YES	NO	Adjusted for use by the State.
§71.1	Communications and Records	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§71.2	Interpretations	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§71.3	Requirements for license	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Definitions	Ch. 9, Sec. 3(a)	[B]	NO		Incorporated by reference (with a few exceptions shown below).
§71.4	A_1	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	A_2	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Carrier	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Certificate holder	Ch. 9, Sec. 3(a)	[B]	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.4	Certificate of Compliance (CoC)	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Close reflection by water	N/A	D	YES	NO	Compatibility D, not included in State regulations (excluded in Ch. 9, Sec. 3(c))
§71.4	Consignment	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Containment system	N/A	D	YES	NO	Compatibility D, not included in State regulations (excluded in Ch. 9, Sec. 3(c))
§71.4	Contamination	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Conveyance	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Criticality Safety Index (CSI)	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9, Sec. 3(c))
§71.4	Deuterium	Ch. 9, Sec. 3(c)	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9, Sec. 3(c))
§71.4	DOT	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Exclusive use	Ch.1, Sec. 5(av) & Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Fissile material	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9, Sec. 3(c))

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.4	Graphite	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9, Sec. 3(c))
§71.4	Indian tribe	Ch. 9, Sec 3(a)	B	NO		
§71.4	Licensed material	Ch. 9, Sec 3(a)	[D]	NO		
§71.4	Low Specific Activity (LSA) material	Ch. 9, Sec 3(a)	[B]	NO		
§71.4	Low toxicity alpha emitters	Ch. 9, Sec 3(a)	[B]	NO		
§71.4	Maximum normal operating pressure	N/A	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9, Sec 3(c))
§71.4	Natural thorium	Ch. 9, Sec 3(a)	[B]	NO		
§71.4	Normal form radioactive material	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Optimum interspersed hydrogenous moderation	N/A	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9, Sec 3(c))
§71.4	Package	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Packaging	Ch. 9, Sec. 3(a)	[B]	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.4	Special form radioactive material	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9, Sec. 3(c))
§71.4	Specific activity	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Spent nuclear fuel	Ch. 9, Sec. 3(c)	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9, Sec 3(c))
§71.4	State	Ch. 9, Sec. 3(c)	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9, Sec 3(c))
§71.4	Surface Contaminated Object (SCO)	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Transport Index (TI)	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Tribal official	Ch. 9, Sec. 3(a)	B	NO		
§71.4	Type A quantity	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Type B quantity	N/A	[B]	NO		
§71.4	Unirradiated uranium	Ch. 9, Sec. 3(a)	[B]	NO		
§71.4	Uranium-natural, depleted, enriched	Ch. 9, Sec. 3(a)	[B]	YES	YES	Only natural uranium is defined. "Depleted" and "Enriched" will not be included. It is not in the scope of material Wyoming is seeking. (excluded in Ch. 9, Sec. 3(c))
§71.5	Transportation of licensed material	Ch. 9, Sec. 3(a)	[B]	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.6	Information collection requirements: OMB approval	N/A	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9, Sec 3(c))
§71.7	Completeness and accuracy of information	N/A	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9, Sec 3(c))
§71.8	Deliberate misconduct	Ch. 9, Sec. 3(a)	C	NO		
§71.9	Employee protection	N/A	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9, Sec 3(c))
§71.10	Public inspection of application	Ch. 9, Sec. 3(a)	[B]	NO		
§71.11	Protection of Safeguards Information	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.12	Specific exemptions	Ch. 9, Sec. 3(a)	[B]	NO		
§71.13	Exemption of physicians	N/A	B	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9 Sec. 3(b))
§71.14(a)	Exemption for low-level materials	Ch. 9, Sec. 3(a)	[B]	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.14(b)	Exemption for low-level materials	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.15	Exemption from classification as fissile material	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9 Sec. 3(b))
§71.16	Reserved	N/A				
§71.17	General license: NRC-approved package	Ch. 9, Sec. 3(a)	B	NO		
§71.18	Reserved	N/A				
§71.19	Previously approved package	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9 Sec. 3(b))
§71.20	[Removed]	N/A	The general license in 10 C.F.R 71.20 expired on October 1, 2008, and has been deleted from Part 71.			
§71.21	General license: Use of foreign approved package	Ch. 9, Sec. 3(a)	B	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.22	General license: Fissile material	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9 Sec. 3(b))
§71.23	General license: Plutonium beryllium special form material	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9 Sec. 3(b))
§71.24	Reserved	N/A				
§71.25	Reserved	N/A				
§71.31	Contents of application	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.33	Package description	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.35	Package evaluation	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.37	Quality assurance	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.38	Renewal of a certificate of compliance or quality assurance program approval	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.39	Requirement for additional information	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.41	Demonstration of compliance	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.43	General standards for all packages	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.45	Lifting and tie-down standards for all packages	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.47	External radiation standards for all packages	Ch. 9, Sec 3(a)	[B]	NO		
§71.51	Additional requirements for Type B packages	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.53	Reserved	N/A				
§71.55	General requirements for fissile material packages	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.57	Reserved	N/A				
§71.59	Standards for arrays of fissile material packages	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.61	Special requirements for Type B packages containing more than 10^5 A_2	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.63	Special requirements for plutonium shipments	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.64	Special requirements for plutonium air shipments	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.65	Additional requirements	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.70	Incorporations by reference	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.71	Formal conditions of transport	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.73	Hypothetical accident conditions	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.74	Accident conditions for air transport of plutonium	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.75	Qualification of special form radioactive material	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.77	Qualification of LSA-III material	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.81	Applicability of operating controls and procedures	N/A	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9 Sec. 3(b))
§71.83	Assumptions as to unknown properties	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9 Sec. 3(b))
§71.85(a) – (c)	Preliminary determinations	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.85(d)	Preliminary determinations	Ch. 9, Sec. 3(a)	B	NO		
§71.87	Routine determinations	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9 Sec. 3(b))
§71.88	Air transport of plutonium	N/A	[B]	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9 Sec. 3(b))
§71.89	Opening instructions	Ch. 9, Sec. 3(a)	[B]	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.91(a)	Records	Ch. 9, Secs. 3(a)	C	YES	YES	§71.91(a)(5) & (a)(7) are not included in State regulations as they do not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9 Sec. 3(b))
§71.91(b)	Records	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.91(c) – (d)	Records	Ch. 9, Sec. 3(a)	[B]	NO		
§71.93	Inspection and tests	Ch. 9, Sec. 3(a)	D	NO		
§71.95	Reports	N/A	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9 Sec. 3(b))
§71.97	Advance notification of shipment of irradiated reactor fuel and nuclear waste	N/A	B	YES	YES	Not included in State regulations as it does not pertain to the scope of authority Wyoming is seeking. (excluded in Ch. 9 Sec. 3(b))
§71.99	Violations	N/A	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9 Sec. 3(b))
§71.100	Criminal penalties	N/A	D	YES	NO	Compatibility D, not included in State regulations. (excluded in Ch. 9 Sec. 3(b))

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.101 (a),(b)& (c)(1)	Quality assurance requirements	Ch. 9, Sec. 3(a)	C**	NO		
§71.101 (c)(2), (d)&(e)	Quality assurance requirements	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.101 (f)	Quality assurance requirements	Ch. 9, Sec. 3(a)	D	NO		
§71.101 (g)	Quality assurance requirements	Ch. 9, Sec. 3(a)	C**	NO		
§71.103 (a)&(b)	Quality assurance organization	Ch. 9, Sec. 3(a)	C**	NO		
§71.103 (c),(d),(e), & (f)	Quality assurance organization	Ch. 9, Sec. 3(a)	D	NO		
§71.105	Quality assurance program	Ch. 9, Sec. 3(a)	C	NO		
§71.106	Changes to quality assurance program	Ch. 9, Sec. 3(a)	C	NO		
§71.107	Package design control	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.109	Procurement document control	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.111	Instructions, procedures and drawings	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.113	Document control	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.115	Control of purchased material, equipment, and services	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.117	Identification and control of materials, parts and components	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.119	Control of special processes	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.121	Internal inspection	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.123	Test control	Ch. 9, Sec. 3(b)	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))
§71.125	Control of measuring and test equipment	Ch. 9, Sec. 3(b)	NRC	YES	NO	Reserved for NRC, not included in State regulations (excluded in Ch. 9 Sec. 3(b))

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
§71.127	Handling, storage, and shipping control	Ch. 9, Sec. 3(a)	[C]	NO		
§71.129	Inspection, test, and operating status	Ch. 9, Sec. 3(a)	[C]	NO		
§71.131	Nonconforming materials, parts, or components	Ch. 9, Sec. 3(a)	[C]	NO		
§71.133	Corrective action	Ch. 9, Sec. 3(a)	C	NO		
§71.135	Quality assurance records	Ch. 9, Sec. 3(a)	C**	NO		
§71.137	Audits	Ch. 9, Sec. 3(a)	C	NO		
Appendix A	Determination of A_1 and A_2	Ch. 9, Sec. 3(a)	[B]	NO		
Appendix A, Table A–1	A_1 and A_2 Values for Radionuclides	Ch. 9, Sec. 3(a)	[B]	NO		
Appendix A, Table A–2	Exempt Material Activity Concentrations and Exempt Consignment Activity Limits for Radionuclides	Ch. 9, Sec. 3(a)	[B]	NO		

NRC Regulation Section	Section Title	State Section	Compatibility Category	Different Y/N	Significant Y/N	If Difference, Why or Why Not was a Comment Generated?
Appendix A, Table A–3	General Values for A_1 and A_2	Ch. 9, Sec. 3(a)	[B]	NO		

**Note: §71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicates that this section satisfies §71.17(b) and therefore will satisfy those sections referenced in this provision (§§71.101 through 71.137).

10 CFR PART 150

Please Note: The brackets "[ ]" around a compatibility category designation means that the Section may have been adopted elsewhere in a State rule, and it is not necessary to adopt it again. IBR means Incorporation by Reference.

NRC Regulation Section	Section Title	State Section	Compatibility Category	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not was a Comment Generated?
§150.1	Purpose	Ch. 4, Sec. 1(a)	D	YES	NO	Compatibility D, adjusted for use by the State.
§150.2	Scope	Ch. 4, Sec. 2(a)	D	YES	NO	Compatibility D, adjusted for use by the State.
§150.3	Definitions					
§150.3	Act	Ch. 1, Sec. 5(b)	D	YES	NO	Compatibility D, adjusted for use by the State.
§150.3	Agreement State	Ch. 1, Sec. 5(f)	B	YES	NO	Adjusted for use by the State.
§150.3	Byproduct Material	Ch. 1, Sec. 5(r), refers directly to §35-11-103(j)(i)	H&S	YES	YES	The definition in Statute is intended for the Uranium Recovery Program.
§150.3	Commission	Ch. 1, Sec. 5(w)	D	YES	NO	Compatibility D, adjusted for use by the State.
§150.3	Discrete source	Ch. 1, Sec. 5(al)	H&S	NO		
§150.3	Foreign obligations	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§150.3	Government Agency	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§150.3	Offshore Waters	N/A	B	YES	YES	Term excluded from State regulations. Scope of material Wyoming is seeking to assume would not have transboundary effects that would affect offshore waters. Those rights reserved to NRC in offshore waters is still preserved through statute and rules.
§150.3	Person	Ch. 1, Sec.	C	YES	NO	Adjusted for use by the State.

		5(cc)				
§150.3	Production facility	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§150.3	Source material	Ch. 1, Sec. 5(dd)	A	YES	NO	Used 10 CFR Part 40 definition.
§150.3	Special nuclear material	Ch. 1, Sec. 5(df)	A	NO		
§150.3	State	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§150.3	Utilization facility	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§150.3	Uranium enrichment facility	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§150.4	Communications	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§150.5	Interpretations	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§150.7	Persons in offshore waters not exempt	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§150.8	Information collection requirements: OMB approval	N/A	D	YES	NO	Compatibility D, not included in State regulations.
§150.10	Persons exempt	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§150.11	Critical mass	N/A	B	YES	YES	This definition is not applicable to the scope of authority that Wyoming is seeking, therefore the definition is not included.
§150.14	Commission regulatory authority for physical protection	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§150.15	Persons not exempt	Ch. 4, Sec. 3(d)	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§150.15a	Continued	Ch. 4, Sec. 3(d)	NRC	YES	NO	Reserved for NRC, not included in State

	Commission authority pertaining to byproduct material					regulations.
§150.16	Submission to Commission of nuclear material transfer reports	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§150.17	Submission to Commission of source material reports	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§150.17a	Compliance with requirements of US/ IAEA safeguards agreement	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§150.19	Submission to Commission of tritium reports	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§150.20	Recognition of Agreement State licenses	Ch. 4, Sec. 3(c)	C	NO		
§150.21	Transportation of special nuclear material by aircraft	N/A	NRC	YES	NO	Reserved for NRC, not included in State regulations.
§150.30	Violations	Ch. 2, Sec. 4	D	YES	NO	Compatibility D, adjusted for use by the State.

§150.31	Requirements for Agreement State regulation of byproduct material	Ch. 4, Secs. 3(c) & 3(d)	C- States with authority to regulate uranium mill activities 11e.(2) byproduct material D- States without authority	YES	NO	The Terms for "Construction" and "Commencement of Construction" were excluded since they are defined in Ch. 1, "General Provisions" Sec 5 (w) & (ab). §150.31(b)(3)(iv) is specifically excluded in Ch. 4, Sec. 3(d).
§150.32	Funds for reclamation or maintenance of byproduct material	Ch. 6, Sec. 4(b)	C- States with authority to regulate uranium mill activities (11e.(2) byproduct material) D- States without authority	YES	NO	Wording is different, but the principle is the same.
§150.33	Criminal penalties	N/A	D	YES	NO	Compatibility D, not included in State Regulations

FOOTNOTES:

[i] The term "Deterministic effect", if defined essentially identical to "Nonstochastic effect", is an acceptable substitute.
[ii] The term "Probabilistic effect", if defined essentially identical to "Stochastic effect", is an acceptable substitute.
[iii] States may adopt a single provision that incorporates those requirements in 10 CFR 30.31, 40.20, and 70.18.

Subsection 4.3
Licensing Program Elements



4.3 Licensing Program Elements

The review team should determine whether the technical licensing procedures are thorough, complete, consistent, and of acceptable technical quality to address health and safety. The State's procedures should include requirements for pre-licensing verification and for ensuring enhanced security requirements are in place prior to issuing a license, where these requirements are necessary. A State may adopt technical licensing procedures modeled on the NRC procedures or those used by an existing Agreement State.

Nontechnical administrative procedures are usually not key contributors to program performance. The review team usually reviews samples of these procedures. The team only needs to conclude that the State has written administrative procedures or licensing, and that they contain no obvious major defects.

- Wyoming's technical licensing procedures titled, *Licensing Procedural Manual* is found in Appendix A.

4.3.1 Procedures for the Technical Evaluation of Proposed Uses of Radioactive Material

The technical procedures address the radiation safety issues necessary for the safe and secure storage, possession, and use of the licensed materials. They do not address license fees, license file maintenance, or other materials program administrative issues.

- Wyoming's procedures for the technical evaluation of the proposed uses of the radioactive material, found in Appendix A of Subsection 4.3, Section 2.0 (Technical Procedures for License Review) and Section 3.0 (Procedures for Handling Licensing Actions), are compatible with NRC requirements.

4.3.1.1 Information needed

The State should submit its technical licensing procedures. If not part of the procedures, the State should include standard review plans, checklists, and licensing guides.

- Wyoming's procedures for the technical evaluation of the proposed uses of the radioactive material, found in Appendix A, Section 2.0 and Section 3.0.

4.3.1.2 Evaluation criteria

The technical procedures are detailed and complete so that State program staff can perform a comprehensive evaluation of this application. The procedures should cover each type of license (by program code) for which an NRC licensee will transfer to the State. Guidance documents, or copies of the procedures containing guidance, will be available to license applicants.

The procedures should:

a. Address assessment of the applicant's facilities and safety equipment, training, and experience in the use of the materials for the purpose requested, and proposed managerial controls;

- See Appendix A, Section 3.2 (“Assessment of Applicant’s Facilities, Safety, and Managerial Controls”) of the SMP *Licensing Procedural Manual*.

b. Address security requirements for radioactive materials with Part 37 quantities of concern, and pre-licensing visits for the following:

   i. New entities that do not have an existing Agreement State or NRC license;
   ii. Licensees changing ownership to an unknown entity; or
   iii. Licensees that are significantly expanding the size or scope of their existing license;

- See Appendix A, Section 3.3 (“Security Requirements for Licensed Materials”).

c. Provide for information exchange between the program's inspection staff and licensing staff.

- See in Appendix A, Section 3.4 (“Information Exchange between Inspection and Licensing Staff”).

d. Specify the required qualifications of license reviewers for each license program code. Alternately, the procedures may reference a staff qualification plan.

- Wyoming procedures for qualifications of staff are covered in Appendix A, Section 3.5 (“Qualifications for License Reviewers”). This particular section references procedures in Section 4.6.2 “Formal Qualification Plan” which is found in Section 4.6 of this application titled, “Technical Staffing and Training Program Elements.”

State procedures should provide guidance for the evaluation of technical issues in license applications. The issues evaluated should include places and conditions of storage and places and conditions of use and decommissioning of facilities and equipment. Evaluation of the places of storage and use should address environmental considerations. State procedures for evaluating the conditions of storage and use should address safety equipment and security against unauthorized removal. Procedures for evaluating the conditions of use should address the following:

a. Qualification of users;

b. License operating and emergency procedures;

c. Appropriate surveys;

d. Personnel monitoring under the close supervision of technically qualified individuals; and

e. Preparations for transport

Procedures for evaluating decommissioning address decontamination, disposal, and any restrictions on the future uses of the property. The procedures should also address funding and sureties.

- Decommissioning procedures may be found in Appendix A, Section 4.0

("Decommissioning of Facilities and Equipment").

In licensing research and development, medical uses, or other activity involving multiple uses of materials, the State may issue broad scope licenses without evaluating each specific use.

- Wyoming is amending the current agreement to be authorized to issue licenses for source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

The team may use the NUREG-1556 series of consolidated guidance and associated guidance to evaluate the State procedures. However, the NRC does not require States to adopt the NRC procedures and consolidated guidance. The State procedures should provide the same level of detail as the equivalent NRC procedure. The State's procedures should address all significant technical issues. Procedures for the Evaluation of Radiation Safety Information on Sealed Sources and Devices and Registration for Distribution

- Wyoming has not adopted these procedures since the NRC will retain the authority over sealed sources and devices.

4.3.2 Procedure for Conducting the Evaluation of a Regulatory Program for a Low-level Radioactive Waste Land Disposal Site

- Wyoming has not adopted these procedures since the NRC will retain the authority over low-level radioactive waste land disposal sites.

4.3.3 Procedure for Conducting the Evaluation of a Regulatory Program for 11e.(2) Byproduct Material including Uranium or Thorium Milling Facilities

- This is not within the scope of authority Wyoming is seeking at add. Wyoming already has authority over this with the existing Agreement.

4.3.4 Procedures for Assuring the Technical Quality of Licenses

A secondary review of license applications is beneficial for quality assurance purposes and can be used to evaluate the completeness of initial reviews of license applications. Peer and supervisory review are commonly used. Larger programs may use a committee to conduct reviews of selected application evaluations recently completed. Other forms of effective quality assurance programs are acceptable.

- Wyoming's procedures for assuring the completeness and technical quality of an application are outlined in Appendix A, Section 5.0.

4.3.4.1 Information Needed

The State should submit its procedures that address peer review, supervisory review, and any other method to assure the quality of licensing actions.

- The technical quality of licenses may be found in Appendix A, Section 5.0 ("Procedures for Assuring the Technical Quality of Licenses").

4.3.4.2 Evaluation Criteria

The State should have written licensing procedures that provide a standard process for reviewing the quality of licensing actions. The procedures should reflect the organization of the State program and any special requirements of State law.

- Wyoming's procedures for reviewing the quality of licensing actions may be found in Appendix A, Section 5.0 (“Procedures for Assuring the Technical Quality of Licenses”).

4.3.5 Administrative Licensing Procedures

The routine operation of the program requires administrative processing of licenses beyond the technical evaluations. Written procedures describing the administrative processing steps are useful to assure that all procedural requirements are completed. They may become critical if there is an unexpected turnover of senior staff.

On the effective date of the Agreement, the NRC transfers to the State those NRC licenses that the State will regulate under the authority of its Agreement. The NRC and the State must make appropriate arrangements so that there will be no interference with or interruption of licensed activities or the processing of license applications because of the transfer. Licensees must be able to continue their licensed activities without interruption upon transfer of the license on the effective date of the Agreement. The licensee will continue under the State regulatory framework at this point. The NRC is committed to transferring complete license files that the State can use in issuing its own license to licensees. The State can recognize the transferred NRC licenses, including licenses under timely renewal, as State licenses. Those licenses then continue in effect until they are replaced by licenses issued by the State. The State may decide to use the NRC’s Web Based Licensing (WBL) system for its licensing program. Prior to the Agreement’s effect date, the State should receive training and become familiar with WBL to facilitate an efficient transfer of authority over the regulated community.

4.3.5.1 Information Needed

The State should submit its administrative procedures for licensing. The procedures should address the following:

- Receipt of licensing actions;
- Timely renewal notifications;
- Assignment of licensing actions to technical evaluators
- License document preparation;
- Tracking of action progress;
- The signing of completed licenses;
- Transmittal of the signed license to the licensee; and
- Maintenance of license files.

The State should submit procedures for ensuring the continued validity of licenses affected by the Agreement. The State should have procedures to receive, store, and regulate the licenses as State licenses. The transfer should produce the least interference with licensed activities or the processing of license applications, as is practical.

- Wyoming's procedures for administrative processing of licenses may be found in Appendix A, Section 3.0 (“Procedures for Handling Licensing Actions”).

4.3.5.2 Evaluation Criteria

The State should have program specific written procedures to guide licensing program staff. The procedures should reflect the program organization and any special requirements of State law (i.e., who can sign licenses). Since these procedures do not require a thorough review, the team may review a selected sampling of the procedures instead.

The State must provide a statement as to how it will handle the transferred licenses from the NRC. Often, a State will have statutory authority to accept the NRC licenses as State licenses, with all legal authority under the State law, until the State converts the NRC license to a State license.

- See in Appendix A, Sections 3.0 (“Procedures for Handling Licensing Actions”) and 6.0 (“Transfer of NRC Licenses to the State of Wyoming SMP”).

Appendix A to Subsection 4.3
Licensing Procedure Manual
Source Material Program

June 2025

Approved: Charlee Anne Boger, Source Material Program Manager

Effective Date:

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1.0 Introduction

Wyoming's Source Material Program (SMP) has developed procedures for licensing requirements for radioactive licensed materials within the State of Wyoming. The procedures included in this manual are based upon the following Nuclear Regulatory Commission (NRC) and State of Wyoming references and resources:

1. NRC Inspection Manual Chapter 2602, *Decommissioning Oversight and Inspection Program for Fuel Cycle Facilities and Materials Licenses;*
2. NRC Inspection Manual Chapter 2882, *Transfer of NRC License Files to Agreement State(s);*
3. NRC Management Directive 5.6, *Integrated Materials Performance Evaluation Program (IMPEP);*
4. NRC State Agreement Procedure SA-104, *Reviewing the Common Performance Indicator, Technical Quality of Licensing Actions;*
5. NRC (1987), *Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material;*
6. NUREG-1507, *Minimum Detectable Concentrations with Typical Radiation Survey for Instruments for Various Contaminants and Field Conditions;*
7. NUREG-1556, V.12, *Consolidated Guidance About Material Licenses;*
8. NUREG – 1556, V.16, Revision 1, *Program Specific Guidance About Licenses Authorizing Distribution to General Licenses;*
9. NUREG – 1556, V.18, *Program Specific Guidance About Service Provider Licenses;*
10. Applicable portions of NUREG-1569, *Standard Review Plan for In Situ Leach Uranium Extraction* License Applications;
11. NUREG-1575, *Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM);*
12. NUREG-1575, Supplement 1, *Multi-Agency Radiation Survey and Assessment of Materials and Equipment (MARSAME);*
13. Applicable portions of NUREG-1727, *NMSS Decommissioning Standard Review Plan;*
14. NUREG-1736, *Standards for Protection Against Radiation;*
15. NUREG-1748, *Environmental Review Guidance for Licensing Actions Associated with NMSS Programs;*
16. NUREG-1757 (V. 1-3), Consolidated Decommissioning Guidance;
17. REGULATORY GUIDE 4.14. Effluent and Environmental Monitoring for Uranium Mill Sites;
18. REGULATORY GUIDE 4.15, *Quality Assurance for Radiological Monitoring Programs;*
19. REGULATORY GUIDE 8.10, *Operating Philosophy for Maintaining Occupational and Public Radiation Exposures As Low As Is Reasonably Achievable;*
20. REGULATORY GUIDE 8.13, *Instructions Concerning Prenatal Radiation Exposure;*
21. REGULATORY GUIDE 8.20, *Applications of Bioassay for Radioiodine;*
22. REGULATORY GUIDE 8.25, *Calibration and Error of Air Sampling Instruments for Total Volume of Air Sampled;*
23. REGULATORY GUIDE 8.29, *Instruction Concerning Risks from Occupational Radiation Exposure;*

24. Applicable portions of REGULATORY GUIDE 8.30, *Health Physics Surveys in Uranium Recovery Facilities;*
25. Applicable portions of REGULATORY GUIDE 8.31, *Information Relevant to Ensuring That Occupational Radiation Exposures at Uranium Recovery Facilities Will Be As Low As Is Reasonably Achievable;*
26. SMP Rules, Chapters 1 through 9

2.0 Technical Procedures for License Review

Radioactive materials licensing is a process whereby applicants are approved to receive, possess, and use licensed materials governed by the SMP in Wyoming. These licensed materials include source material from any mineral resources processed primarily for purposes other than obtaining the source material content.

As qualified license reviewers, the SMP reviews and approves the use of the licensed materials, the qualifications of the operators, and the place of use. There are several basic questions which should be asked to preface this license review procedure. These are:

- What is a license review?
- How is a license review performed?
- When is a license review performed?
- Who performs the license review?

This Procedure answers each one of these questions. Adequate licensed materials programs must have personnel and procedures that address each of these questions.

2.1 What is a license review?

A license review is a requested evaluation, based on health physics and other scientific principles, in order to:

- change or update an existing license, or
- request authorization for a new use condition in an existing license, or
- request a new license and authorization, or
- request a new or unusual use of licensed material.

The license review is designed to assure that the uses of, and authorizations for, licensed material will be adequate to protect the public health and safety of the general public and workers. It is the job of the SMP to assure that license reviewers are well-trained in health physics, geology, or engineering principles, and that they understand the rules governing the safe handling of licensed material.

2.2 How is a license review performed?

The license review is based on regulations, guidance, scientific, and health physics principles. Using the appropriate licensing guidance available, the reviewer must read the requestor's application and supporting information and decide if the application meets SMP safety and

technical criteria.

After safety and operational criteria have been reviewed and deficiencies are identified, the reviewer writes a Request for Additional Information (RAI) letter. If there are no deficiencies, the reviewer writes a draft license along with a State Decision Document (SDD) explaining why the SMP is justified in issuing a license. After peer and supervisory review, and public involvement, the license is issued.

2.3 When is a license review performed?

A license review is done any time a licensee submits a request for a license amendment (change to an existing license), a new license, or a renewal of an existing license.

2.4 Who does the license review, and what is the review process?

The SMP staff will review the source material portions of combined, Wyoming Department of Environmental Quality (WDEQ), Land Quality Division (LQD) permit-to-mine applications, as well as the licensing actions for facilities previously regulated by the NRC. The SMP licensee project manager will then work collaboratively with the LQD permit coordinator during the review of combined source material and LQD permit-to-mine applications.

The license review is done by at least two persons: a main technical staff reviewer and a secondary peer staff reviewer. Both the main technical staff reviewer and the secondary peer staff reviewer may rely on the help and expertise of LQD staff. Additionally, the SMP reserves the right to consult with third-party technical consulting services when expertise on certain licensing actions is required. The SMP staff will initiate a completeness review of the licensing application or action provided by the applicant to determine if essential and necessary elements are available to begin a detailed Technical Review (TR). It is determined to be complete if the licensing application or action has all of the essential and necessary elements and rounds of TRs may occur based on the complexity of the licensing application or action with peer review throughout the process.

The technical reviewer is responsible for the initial completeness review and the technical adequacy of a licensing action. The completeness review determines whether essential or necessary elements of the licensing application or action submitted by the licensee are available for TR. This determination is generally based on criteria found in SMP Rules, such as Chapter 4, *Licensing Requirements for Source Material*, or in various guidance documents such as Section 8 of NUREG-1556, V.12. During the completeness review, the technical reviewer has the responsibility of identifying any gross health and safety deficiencies in a licensing application or action, which could include an amendment request. Once the completeness review is approved by the SMP, the technical reviewer notifies the licensee by letter. The notification letter will inform the licensee that the TR will commence.

Technical reviewers will use appropriate standard guidance to review licensing actions to assure proper quality control, to conform to regulatory positions and evaluate health and safety issues and concerns. Various guidance documents may be useful for license reviews and processing

(refer to referenced guidance documents found in Section 1.0; though this list is not exhaustive). Good health physics practices, earth science, and engineering principles will also guide the TR evaluations of any licensing application or action.

The peer reviewer is responsible for the quality control review of the licensing application or action. The purpose of this review is to serve as a quality control check on the accuracy of decisions made in the TR.

The technical reviewer may encounter deficiencies, errors, or need clarification on the proposed licensing application or action. The technical reviewer will request this information from the licensee and then review responses to these requests and the revised material to ensure the deficiencies, errors, or need clarifications are adequately addressed.

Correspondence and revised material sent to or received from the licensee is also subject to TR. Once the material presented to support a licensing application or action is deemed technically adequate, the technical reviewer develops a technical document or SDD depending on the type of proposal. If necessary, the licensee is formally notified that the presented material is technically adequate and provided appropriate procedures for conducting final public notice of the proposal. If the licensing application or action requires no final public notice, it will be approved, and the licensee is formally notified of the approval.

Contested licensing applications or actions may require a hearing with the LQD Administrator upon request of the aggrieved party. Interested parties may also request to be heard before the Wyoming Environmental Quality Council (EQC) for issues related to the licensing activities conducted by the SMP. Once it has been determined that contested issues are resolved, the licensing application or action will be approved.

3.0 Procedures for Handling License Actions

3.1 General Licensing Actions

(a) Upon receipt of the licensing application or action, the submittal is logged into the Land Quality Division's (LQD) digital filing system, MIDAS (Mining Information Database Acquisition System) and is given a Temporary Filing Number (TFN) by the LQD Records staff. After the submission has been logged into this system, the action item is given to the Source Material Program Manager for assignment to a main staff reviewer and staff peer reviewer. Unless it does not warrant it, the licensee will file an application for a Noncoal permit-to-mine through the WDEQ-LQD, which will require coordination with the LQD permit-to-mine reviewer. Pursuant to its existing processes, LQD will perform a separate review of the Noncoal permit-to-mine.

(b) The SMP will prepare and send a letter to the applicant or licensee acknowledging receipt of the submission. Next, the Source Material Program Manager forwards the submission to the main staff reviewer for a completeness review. For new applications the Source Material Program Manager must confirm that the application was accompanied by the appropriate application fee.

(c) If the submission is a renewal application, the SMP must determine if it was filed in a timely manner. All licensees who send applications to the SMP on time so that they are received at least 30 days before the expiration date are sent a letter acknowledging SMP receipt of the license renewal. This letter states that the submission was filed in a timely manner.

Any licensee who does not send the license renewal in a timely manner receives a letter acknowledging SMP receipt of the renewal, however this letter may also describe any stipulations or notices resulting from the late submittal. Some renewal submissions may require enforcement action such as a Notice of Violation (NOV) if the license being renewed is not brought into timely renewal.

Next, the Source Material Program Manager forwards the submission to a staff reviewer for Technical Review (TR).

(d) After the TR, the submission is sent to the staff peer reviewer for a quality assurance review. The reviewers of the application may request additional information (RAI) from the applicant to address concerns or inadequacy identified in the application. Efforts will be made to consolidate this request into one document sent out to the licensee. The TR is deemed adequate or complete once the RAI's have been resolved.

(e) After the licensing application or action reviews are completed, the staff reviewers create a draft license along with a SDD or technical evaluation that explains why the State is justified in approving a licensing application or action. Both documents are routed to the Source Material Program Manager for supervisory review of all significant licensing actions.

(f) After the Source Material Program Manager has reviewed the draft decision, and if public notice is required, the staff reviewer notifies the applicant that the draft decision is ready to go out for public notice, along with necessary instructions, the draft SDD and the draft license. After the public notice and comment period has ended, and all comments addressed, the staff reviewer finalizes all documents and sends them to the Source Material Program Manager for approval.

(g) Upon approval of the Source Material Program Manager, the approval package is forwarded to the Land Quality Division Administrator for review and signature as an official license issuance or amendment.

(h) The LQD Records Staff or administrative assistant logs the action in the program tracking log, photocopies/electronically scans the license, and distributes a file copy and/or electronic copy to the licensing staff.

(i) The records process is detailed in the document titled, “SMURP TFN Records Process.” This document describes procedures how copies associated with the licensing application or action are filed. It also outlines requirements for notifying the applicant of the final

licensing action signed by the Source Material Program Manager with a letter. Additionally, this document addresses procedures for management of the hard or electronic copies of the license and the SDD. The most updated version of this document is maintained by the Source Material Program Manager and LQD records staff assigned to the SMP.

3.2 Assessment of Applicant's Facilities, Safety, and Managerial Controls

The license reviewers must assess the applicant's facilities and safety equipment, training, and experience in the use of the materials for the purpose requested and proposed managerial controls. This may require inspections prior to the issuance of a license.

3.3 Security Requirements for Licensed Materials

Inspections conducted throughout the life of a facility shall assess that contaminated material at licensed sites are secured and controlled. Containers of contaminated materials shall be labeled in accordance with SMP rules and regulations. Contaminated materials in buildings shall be secured and controlled by locking buildings, rooms, or areas.

Contaminated materials in outside areas shall be secured and controlled by fencing or soil covers. Eight-foot, cyclone-type fencing is generally acceptable. Other fencing types, such as barbed wire fences, may be sufficient in low population, rural areas. Access to buildings, rooms, or indoor and outdoor areas having contaminated materials shall be limited only to individuals having the licensee's or responsible party's permission for access.

3.4 Information Exchange Between Inspection and Licensing Staff

The structure of the SMP is such that qualified staff who are responsible for reviewing license applications or actions will be qualified for both inspection and licensing duties within the program, thus eliminating the need for separate inspectors and licensing staff. On an as-needed basis, staff may be responsible for reviewing specific sections of licenses, and for conducting specific inspections that suit their specialty (e.g. geology, engineering controls, health physics, etc.).

3.5 Qualifications of License Reviewers

The SMP has a staff qualification plan which covers both license inspectors and license reviewers. The plan is titled, "Source Material and Uranium Recovery (SMURP) Qualification Journal." The most updated version of this qualification plan is maintained by the administrative assistant. Upon completion of the plan, the staff will be qualified to review licenses for the SMP.

3.6 Places and Conditions of Storage

License reviewers should review environmental considerations, security against unauthorized removal of licensed materials, and the safety equipment employed at the facility storage areas.

3.7 Places and Conditions of Use

License reviewers should review environmental considerations, security against unauthorized removal of licensed materials, and the safety equipment with areas of use within the licensed facility. The following items are reviewed relative to the areas of use at the facility:

1. Qualification of employees;
2. Licensee operating and emergency procedures;
3. Appropriate surveys;
4. Personnel monitoring under the close supervision of technically qualified individuals; and
5. Preparations for transport

3.8 New License Applications

(a) Criteria found in rules, for instance, SMP Rules, Chapter 4, *Licensing Requirements for Source Material*, and other various guidance documents such as NUREG-1556, V.12, are used to confirm that the application meets technical requirements. Additionally, the application is reviewed to confirm that operating and emergency procedures and the following are adequate. Further, the following items are reviewed to ensure adequacy:

1. Application signed and dated by applicant's management;
2. Radiation Safety Officer (RSO) designated and has adequate training;
3. Place of use is authorized; surveys and environmental factors addressed if appropriate;
4. Waste disposal, survey documentation and procedures are adequate;
5. Instrumentation and calibration adequate;
6. Licensed materials: quantity, form, use, handling and packaging designated with adequate procedures; and
7. Other conditions: bioassay, maintenance, distribution, etc.

(b) Confirm that all financial assurance documents have been received and are being processed and approved through the accounting staff of the WDEQ Administration Division. The SMP cannot issue a new license without payment.

(c) Scheduled pre-licensing visit with the operator.

(d) New licenses should be issued in a timely manner. The SMP has an internal goal to process the new application and complete the TR review in 150 days after the application is deemed complete. Approval of a new application may be longer depending on the number of deficiencies and clarifications that need to be resolved.

(e) Coordinate with the different divisions within WDEQ, including LQD, Solid and Hazardous Waste Division (SHWD), Air Quality Division (AQD), and Water Quality Division (WQD) for their concerns with the license application and any aspects of their programs which will be impacted by the license application, including permit forms, reclamation, waste management, injection well and monitor well abandonment, etc.

3.9 Renewal Applications

(a) Renewal applications should be complete, stand-alone applications. Using an appropriate review checklist, confirm that operating and emergency procedures are adequate and that all items on the application are complete:
   1. Application signed and dated by licensee's management;
   2. The Permit/License application reflects current operations;
   3. The renewal incorporates changes to industrial standards codified in the regulations;
   4. Incorporation of operational data to accurately set design objectives;
   5. RSOs are designated and their training is adequate;
   6. Place of use authorized; surveys and environmental factors are addressed if appropriate;
   7. Waste disposal, survey, if licensed materials handling and packaging procedures have changed, that documentation and procedures are adequate.
   8. Instrumentation and calibration are adequate;
   9. Licensed material: quantity, form, use are designated with adequate procedures;
   10. Other conditions: bioassay, maintenance, distribution, etc.

(b) If the renewal application is a major change in the License Type, confirm that all financial assurance aspects of the change have been cleared through the Source Material Program Manager and the accounting staff of the WDEQ Administration Division.

(c) Renewal licenses should be issued in a timely manner.

(d) Coordinate with the different divisions within WDEQ, including LQD, SHWD, AQD, and WQD for their concerns with amendments to the license and any aspects of their programs which will be impacted by the license amendment, including permit forms, reclamation, waste management, injection well and monitor well abandonment, etc.

3.10 Amendment Requests

(a) Amendment requests are carefully reviewed to ensure that:

   1. Training documents are complete and adequate;
   2. If place of authorized use has changed, that surveys and environmental factors are addressed if appropriate; state should verify when appropriate;
   3. Waste disposal, survey, if licensed materials handling and packaging procedures have changed, that documentation and procedures are adequate.
   4. If instrumentation and calibration request is made, that procedures are adequate.

(b) Confirm that all financial assurance aspects of the change have been cleared through the Source Material Program Manager and the accounting staff of the WDEQ Administration Division.

(c) Amendments should be issued in a timely manner.

(d) Coordinate with the different divisions within WDEQ, including LQD, SHWD, AQD,

and WQD for their concerns with amendments to the license and any aspects of their programs which will be impacted by the license amendment, including permit forms, reclamation, waste management, injection well and monitor well abandonment, etc.

3.11 Procedure for Termination of Licenses

(a) General documents needed:

1. Written request for termination;
2. Copies of licensed materials transfers, licensee closeout surveys, qualified signatures and dates, instrument records including calibration records and dates, maps, diagrams of surveys;
3. Statement of how decontamination criteria in SMP Rules, Chapter 1, Section 11, *General Provisions*, and Chapter 3, Section 4(a), *Radiation Protection Standards* have been met;
4. Most current license and any previous licenses if available, with any amendments or revisions;
5. Check for amendments deleting previously authorized materials and their disposition;
6. Cross check with termination request to determine if everything is accounted for;
7. Check for any unusual conditions within the previous amendments or revisions; and
8. Documentation the basis for conclusion as described below in (f).

(b) Inspection reports:

1. Recent and historical inspection reports as far back as possible;
2. Check and cross check with license and with termination request regarding relocations and licensed materials;
3. Check for indication/citation of unauthorized use, disposal, spills, incidents, losses, or transportation of licensed materials. Additionally, determine if there is there a poor compliance history;
4. Obtain recent and historical correspondence; and
5. Review reports of incidents and losses.

(c) SMP close-out surveys/inspections:

1. Reference recent and historical site maps and reports;
2. Surveys of some points evaluated by licensee;
3. Surveys where contamination could be expected (restricted areas);
4. Surveys for contamination where none should have occurred (unrestricted areas, soils, drains, sewers, lobbies, offices, homes); Records stating decontamination criteria, including instrumentation used and calibration records, including disposition/transfer of licensed materials and inventories, record of the personnel who did the surveys;
5. Review of disposition of licensed material and radioactive wastes generated by the licensee, including liquid and solid wastes; and
6. Review of decontamination activities, including personnel exposures and monitoring records, bioassay records, effluent records.

(d) Other involved parties:

1. In cases of the transfer of licensed materials, verify recipients were both authorized for receipt of licensed materials and that they received the licensed materials;

2. Discuss with other staff reviewer's previous conversations with operators, phone calls, and other historical occurrences at the facility;
3. Find operator personnel who have institutional knowledge of facility history; and

(e) Miscellaneous

1. Upon transfer of licensed materials to out-of-state licensees, call NRC or State radiation control program to verify recipient is properly licensed and to request verification that licensed materials were received;
2. Be thorough and complete, as this is the last opportunity to review the licensee and operation prior to termination of the license; and
3. Coordinate with the different divisions within WDEQ, including LQD, SHWD, AQD, and WQD for their concerns with amendments to the license and any aspects of their programs which will be impacted by the license amendment, including permit forms, reclamation, waste management, injection well and monitor well abandonment, etc.

(f) Documentation of Basis for Conclusion:

1. A brief description of licensee's activities associated with decommissioning and license termination.
2. Groundwater information which demonstrates that the groundwater has been adequately restored to meet applicable standards and requirements (if applicable).
3. Decommissioning information which documents that all radiologically contaminated materials have been properly disposed of, transferred to licensee(s) authorized to possess such materials, or meet applicable standards and requirements for release.
4. Decommissioning information which documents that all radiologically contaminated materials have been properly disposed of, transferred to licensee(s) authorized to possess such materials, or meet applicable standards and requirements for release.
5. Discussion of the results of radiation surveys and soil sample analyses which confirm that the licensed site meets applicable standards and requirements for release.
6. Discussion of results of the States site closure inspection(s). For partial terminations, documentation that release of a portion of the site will not negatively impact the remainder of the site to be closed at a later date.
7. Discussion of results of the States site closure inspection(s).
8. For partial terminations, documentation that release of a portion of the site will not negatively impact the remainder of the site to be closed at a later date.

3.12 Expired License Policy and Procedure

(a) Expiration of licenses is regulated under Chapter 4, Section 10 of the SMP Rules and Regulations, *Licensing Requirements for Source Material.*

(b) If the licensee does not submit a request for termination or renewal of the license thirty (30) days in advance of the license expiration date, a letter from the SMP to the licensee should be sent as a reminder of the expiration date of the license.

(c) The issuance of a new license number when the original license has passed its term date will be reviewed on a case-by-case basis.

(d) Per SMP Rules, Chapter 2, Section 5 (Inspections, Enforcement, and Penalties), the SMP may issue a Notice of Violation on a case-by-case basis for delays in the processing or submission of license renewal or termination documentation to the SMP.

(e) In the event that a license expires, the following procedures should be followed:

1. If the licensee never acquired licensed material, the SMP will request a written statement that material was never acquired, and that final termination of the license is requested.
2. If the licensee already disposed of the licensed material, the SMP will request written documentation as to the appropriate disposition of the licensed material, a statement as to the retention of all required records, and of the licensed a formal request to terminate the license. Until the license can be terminated the licensee must maintain compliance with the expired license.
3. If the licensee currently possesses licensed material and does not plan to renew the license, the SMP may issue a Notice of Violation for possession of licensed material without a valid licensed material license. The licensee should be informed of the need to dispose of the material to an authorized recipient. The SMP should also request written documentation as to the appropriate disposition of the licensed material, a statement as to the retention of all required records, and a formal request to terminate the license. The licensee is still held to the conditions of the expired license.
4. If the licensee currently possesses licensed material and plans to renew the license, the SMP may issue a NOV for possession of licensed material without a valid license. A request for the renewal application updates will be made and the licensee will be required to ask for an extension describing when the application will be received by the SMP. The licensee must maintain compliance to the conditions outlined in the expired license.
5. If the licensee currently possesses licensed material and has submitted an application to renew the license, SMP will review the request, and until final SMP ruling the conditions in the expired license will continue in effect until license renewal.

(f) Coordinate with the other divisions of the Wyoming Department of Environmental Quality including the land quality, solid and hazardous waste, air quality and water quality to determine if the other divisions have any concerns with respect to their individual permits related to the facility.

4.0 Decommissioning of Facilities and Equipment

4.1 Scope of Decommissioning

Decommissioning is the process of removing a facility or site safely from service and reducing residual radioactivity to a level that permits either the release of the property for unrestricted use,

or release of the property under restricted conditions. For licensed facilities or sites, decommissioning includes termination of the license or amending the license to remove the facility or site as a location of use from the license. Additionally, the SMP will inform the appropriate landowners that the facility or site is released for unrestricted use.

Any separate building or area that has not been used for two years must be promptly remediated or the licensee must submit within one year of the two-year inactivity date for SMP review and approval a decommissioning plan showing the time frame of reclamation. The decommissioning process is to be completed within two years from the submittal of the decommissioning plan, unless an alternative schedule is approved in the decommissioning plan. The licensee may postpone reclamation after approval from the SMP that postponement would not cause undue risk or harm to the public or environment, and that postponing reclamation may provide some future benefit.

4.2 Decommissioning Plan

A decommissioning plan is a detailed description of the activities that the licensee intends to use to assess the radiological status of its facility, to remove radioactivity attributable to licensed operations at its facility to levels that permit release of the site in accordance with SMP regulations and termination of the license, and to demonstrate that the facility meets SMP requirements for release. The objective of the decommissioning plan is to describe the activities and procedures that a licensee intends to undertake to remove residual radioactive material attributable to licensed activities at the facility to levels that meet SMP criteria in sufficient detail to allow SMP staff to determine whether decontamination of the facility can be accomplished safely. To the extent that licensed material is mingled with elevated (i.e., above background levels) naturally occurring radioactive material (NORM), the elevated NORM is also remediated in decommissioning.

Components of the Decommissioning Plan:

The applicant must address the components of Section 6.0 in NUREG-1569, or applicable sections of NUREG-1620 in the development of their decommissioning plan. The reviewer(s) will use applicable decommissioning guidance documents as noted in Section 1.0 above for a completeness evaluation of the applicant's Decommissioning Plan. Further TR will be required to be completed by knowledgeable staff or subject matter experts.

(a) Site Characterization: SMP requirements for decommissioning require that proposed decommissioning plans include a description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan. Licensees can develop this information using institutional knowledge about radioactive material use at their facility, by performing a site characterization survey, or by a combination of these methods. Some licensees may require heightened attention by SMP staff during characterization planning. For these licensees it may be appropriate for SMP staff to meet with the licensee prior to, or during, site characterization. The applicant's decommissioning plan will address the characterization of impacted and potentially impacted groundwater, soils, surface waters, and sediments.

(b) Remediation Plan. SMP rules and regulations require a licensee to meet decommissioning requirements of SMP Rules, Chapter 1, Section 11, *General Provisions*, and Chapter 3, Section 4(a), *Radiation Protection Standards* prior to requesting license termination. Licensees that do not meet those requirements will not be allowed license termination by the State or by the NRC. The NRC must concur with any SMP findings prior to license termination. The remediation plan will consist of several components, including a description of the remediation tasks, a health and safety plan, and a quality assurance plan. The applicant must demonstrate:

1. The development of remediation goals;
2. Remediation plans; and
3. Verification techniques which are applicable to the environmental media, i.e. soil and groundwater, required to meet the license termination standards set forth in SMP Rules, Chapter 1, Section 11 and Chapter 3, Section 4(a).

(c) Decommissioning Funding Plan: SMP Rules, Chapter 6, *Financial Assurance*, specify the requirements for licensees to provide financial assurance. Financial assurance must cover the proper disposal of any wastes remaining on-site, including hazardous wastes. Financial assurance will also address building decontamination, soil remediation, groundwater remediation, and other components addressed in the remediation plan. The applicant must maintain a financial surety to cover potential restoration costs in the event that monitoring results are contrary to model predictions and groundwater restoration must be initiated. The applicant must maintain financial surety reflecting all of the costs necessary to carry out all required decommissioning activities prior to license termination, and if applicable, enable the State to assume and carry out responsibilities for any necessary control and maintenance of the site.

(d) Final Status Survey Plans: Licensees wishing to terminate their licenses must demonstrate to the SMP that residual radioactive material at their facility attributable to past licensed operations does not exceed SMP criteria for release of the facility. SMP regulations require that all decommissioning plans contain a description of the planned final radiation survey to demonstrate that the facility meets SMP's criteria for release and termination of the license.

4.3 Decommissioning Records Management

During licensed operations the SMP requires licensees to maintain records important to safe and effective decommissioning. For licensees who must submit a decommissioning plan, these records should subsequently be used to develop the site-specific portion of the decommissioning plan. Following decommissioning and before license termination, additional SMP regulations prescribe the disposition of these records. Finally, SMP staff is responsible for maintaining decommissioning records following license termination.

4.4 Decommissioning License Termination

The final action required by the licensee after completion of remediation and adequate

demonstration that the facility is suitable for release in accordance with SMP requirements is the written request to terminate the license. If the licensee has satisfied all of the conditions for remediating its site as outlined in the decommissioning plan, reclamation plan, or other commitments, SMP staff will document the basis for conclusion and the State will terminate the license.

For sites with non-radiological contamination, SMP should inform the other State agencies or divisions that may have jurisdiction over any hazardous chemical contamination (WDEQ Solid and Hazardous Waste Division) and the U.S. Environmental Protection Agency (EPA) about the intent to terminate the license. In addition, the termination is intended as a final agency action and should include appropriate language in the termination letter to reflect this intent. Please see Section 3.11, *Procedure for Termination of Licenses* in this manual.

4.5 Decommissioning Restricted Use Criteria

SMP staff will review the information supplied by the licensee to determine if the description of the activities undertaken by the licensee is adequate to allow the staff to conclude that the licensee has complied with the applicable requirements of SMP Rules, Chapter 1, Section 11, *General Provisions*, and Chapter 3, Section 4(a), *Radiation Protection Standards* for those licensees who intend to request termination of their radioactive materials licenses. After the standards are met, SMP will develop the basis for conclusion and the license will be terminated.

4.6 Partial Site Decommissioning

A licensee who has submitted a decommissioning plan that has not yet been approved or a licensee who has an approved decommissioning plan may opt to release a portion of its site early. For the case of partial site release, the licensee must submit a request for a license amendment to the extent that the actions are not described in the decommissioning plan. A site enters into partial site decommissioning in one of two ways: the licensee requests that a portion of its facility be removed from the license, or a licensed facility is required to begin decommissioning a portion of its facility.

4.7 Decommissioning Inspection Program

(a) The purpose of the decommissioning inspection program is to ensure the following:

1. The licensee documents are adequately implemented, maintained, and reflect the status of decommissioning;
2. Licensee activities, organization, and controls are effective to provide reasonable assurance that decommissioning can be conducted safely and in accordance with regulatory requirements;
3. SMP staff project oversight and inspection resources are effective, consistent, and appropriately focused; and
4. Licensee radiation and radioactivity measurement programs provide accurate quantification and classification of radioactivity.

(b) Timing and Frequency of Decommissioning Inspections: The decommissioning inspection program is formally initiated when the licensee is approved to begin decommissioning under SMP regulations. The inspection program continues until the site, including all buildings and other structures and outdoor areas, are remediated in accordance with SMP requirements and the appropriate licensing action is completed, which could be license termination or amendment, or documentation the site is being released for unrestricted use if it is a non-licensed entity.

The frequency of inspections will vary depending on the decommissioning activities taking place. In determining the inspection frequency, the SMP should factor in the radiological history of the licensee, the licensee's past performance, the licensee's planned schedule of activities, the potential for the decommissioning activities to affect the health and safety of workers and the public, and the level of public interest. Inspections should be scheduled to allow the inspector to observe, at a minimum, all significant decommissioning activities.

Inspection of significant activities can include activities such as: structure removal, soil remediation; observing the removal or dismantlement of equipment that possess a high source term; conducting confirmation measurements to determine compliance with license commitments, decommissioning plans, regulatory requirements, or procedures; investigating previously identified violations or other identified weaknesses; evaluating performance following a significant change in the licensee or contractor work force; inspecting prior to an upcoming public meeting or; inspecting to address public concerns. Some sites have separate buildings and outdoor areas where licensed activities have ceased and are being decommissioned, while licensed activities continue to be conducted at other site locations. In these cases, inspections of the locations being decommissioned can be coordinated with inspections of routine operations or they may be performed independent of operations at the discretion of the inspection staff.

At least one inspection should be conducted while the site is being characterized for major decommissioning efforts that involve large quantities of contaminated soil, groundwater contamination, onsite disposal, extensive surface contamination, dismantlement of major buildings and structures, or the potential for significant worker or public exposures. For such major efforts, the inspection schedule should also include an inspection during remediation of key buildings, equipment, outdoor areas, and during and after the licensee's final survey. In general, inspections may be conducted more frequently if necessary to verify that work and public exposures are maintained As Low As is Reasonably Achievable (ALARA).

(c) Extent of Licensee Decommissioning Activities: When a licensee can use existing approved procedures to perform decommissioning activities, the inspector should be able to perform inspections using the same routine inspection procedures that were used during operational inspections (see Inspection Procedures, SMP-01).

(d) Security and Control of Contaminated Material: Inspections conducted throughout decommissioning shall continue to assess that contaminated material at licensed and

unlicensed sites undergoing decommissioning is secured and controlled in accordance with SMP Rules, Chapter 1, Section 11 and Chapter 3, Section 4(a).

(e) Decommissioning Inspection Coordination: Prior to performing inspections at a site undergoing decommissioning, the SMP should coordinate inspection activities, as appropriate, with the licensee, relevant Federal, State and other organizations interested in or affected by site activities. The SHWD will also be consulted if the decommissioning involves hazardous wastes.

(f) Decommissioning Environmental Concerns: Inspectors should review environmental data related to airborne and liquid effluent releases and groundwater sampling for compliance with SMP standards and requirements. Groundwater monitoring should be performed at sites with substantial volumes of contaminated soils, known groundwater impacts, or onsite disposal areas.

(g) Decommissioning Health Concerns: Inspections shall be conducted with reference to SMP rules, approved decommissioning plans, and license conditions for key decommissioning activities that are important for health and safety. The major health concerns may include but are not limited to: radiation protection for workers, environmental programs related to possible offsite releases of radioactive materials, fire protection, essential systems and services, onsite waste management prior to offsite disposition, transportation of radioactive wastes for disposal, corrective action program, in-process confirmatory surveys and implementation of a licensee quality assurance program carried on throughout the decommissioning process.

(h) Scope of Decommissioning Inspections after Remediation: Decommissioning activities after remediation of the site include a licensee-conducted final status survey and in some cases, a SMP confirmatory survey.

1. Licensee Final Status Survey: As part of the decommissioning plan, the licensee will prepare a final status survey to demonstrate compliance with the SMP decommissioning criteria. The final status survey should include the licensed premises and offsite areas that were, or may have been, contaminated by the licensee's operations, and will be reviewed and approved by the SMP and LQD Administrator. It is recommended that inspectors have adequate familiarity with these licensee documents to facilitate planning and executing inspections. Depending on the adequacy of the surveys conducted, the quality of the final status survey report, the licensee's history of use, the contaminants present, whether there were documented past spills, etc., the inspector must determine whether a SMP confirmatory inspection would be appropriate. If an inspection can be conducted during the licensee's final status survey (during which side-by-side surveys can be conducted) the need for a confirmatory inspection would in most cases be eliminated. However, many licensees have completed the final status survey prior to informing the SMP of the desire to release the areas for unrestricted use, so this is not always possible.

2. Confirmatory Surveys: SMP confirmatory surveys are an audit of the licensee's

final status survey results to determine that the licensee's survey report is accurate and meets decommissioning criteria. A comprehensive confirmatory survey is usually performed following the decommissioning of a facility. However, based on the results of inspections, SMP manager may decide that a confirmatory inspection is not necessary. Examples include: (1) an in-process inspection of the licensee has identified multiple weaknesses; (2) repetitive violations are identified during the decommissioning process; (3) significant public interest exists; or (4) in-process inspections were not conducted.

SMP confirmatory surveys will not be used to demonstrate (for the licensee) compliance with residual contamination standards since the licensee always retains responsibility for compliance. The licensee's final survey plan and report should be adequate to demonstrate the condition of the site before any confirmatory survey is conducted by the SMP and confirmatory surveys may be conducted in phases as decommissioning proceeds.

Prior to arranging a confirmatory survey, the inspector should review the documentation of decommissioning activities and the results of the licensee's final radiological survey. Questions or concerns will be communicated to the licensee for substantiation or clarification. Additionally, a written confirmatory survey plan will be prepared, and the survey conducted as soon as possible.

The SMP may consult with a third-party technical consulting service to perform the confirmatory survey when (1) the licensee's final survey involves unique or complex technical issues (2) the confirmatory survey is expected to require significant resources to complete field surveys and sampling, or (3) the confirmatory survey is a very high priority that cannot be completed by SMP staff in a timely manner. Contractor quality assurance plans will be approved before contracted services can begin.

When selecting contractors and laboratories, the SMP will select only contractors and laboratories that are able to meet the data quality objectives (DQOs) of the project.

5.0 Procedures for Assuring the Technical Quality of Licenses

The quality assurance for licensing actions involves training of staff, use of appropriate procedures, and supervisory review of work performed. Quality review of licensing applications takes precedence over arbitrary completion deadlines. Supervisory review of all actions is required.

(a) To determine the technical quality of licensing actions, the following should be evaluated:

1. Technical correctness with regard to license conditions, issue and expiration dates, and nomenclature;

2. Application must be properly completed and signed by applicant's management;
3. Any significant errors, omissions, deficiencies, or missing information in licensing action files should be noted (i.e. documents, letters, file notes, and telephone conversations). Licenses should be properly supported by information in the file. Any significant deficiencies related to health and safety should be documented, discussed with the Source Material Program Manager, and communicated to the applicant.
4. Improper and/or illegal license authorizations: Any variances/exceptions to standards should receive management approval and not undermine health and safety;
5. Appropriate financial assurance instruments are in place for licenses authorizing possession of licensed material;
6. Any pre-licensing visits are completed for complex and major licensing actions;
7. Licenses should be reviewed prior to renewal to assure that supporting information in the file reflects the current scope of the licensed program. Licensing guides and policy memoranda must be consistent with current NRC and SMP practice;
8. Appropriate use of signature authority;
9. Consideration of the present compliance status of licensees during reviews of licensing actions.
10. Use of standard license conditions to expedite and provide uniformity to the licensing process, whenever practicable;
11. Verification of specific "tie-down" license conditions; and
12. Implementation of licensing initiatives, in particular the reviewer should identify these initiatives for a performance-based review.

(b) Secondary Review of License Applications.

A secondary review of license applications will be conducted by other qualified SMP peer review staff for quality assurance purposes. The secondary peer reviews can be used to evaluate the completeness of initial reviews of license applications.

If the initial and secondary peer reviews indicate a systematic weakness on the part of one reviewer or problems with respect to one or more type(s) of licensing action(s), additional similar license files should be obtained and reviewed to determine the magnitude of the programmatic weakness and its root cause. If previous reviews indicate a programmatic weakness in a particular area, additional casework in that area should be reviewed to assure that the weakness has been addressed.

6.0 Transfer of NRC Licenses to the State of Wyoming SMP

(a) Upon completion of the Agreement, all NRC licenses involving source material will be recognized and be automatically transferred to the State. Once those licenses are amended or renewed the State will issue a license in accordance with the SMP program.

(b) A new license number, if appropriate, an expiration date will be included. The document

will contain the following statements:

"This license authorizes receipt, acquisition, possession, and transfer of byproduct and source material; the authorized use(s), purposes, and the places of use as designated on the NRC license. The licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures, listed in the NRC license. The Wyoming Department of Environmental Quality Rules shall govern unless the statements, representations, and procedures in the licensee's application and correspondence are more restrictive than the rules."

(c) Electronic copies of the licenses shall be stored on the SMP electronic protected network drive, and hard copies of licenses shall be stored in a file cabinet in a secured area within the main SMP office.

(d) The SMP will coordinate with NRC to determine an appropriate process and timeline for handling the transfer of licenses according to NRC guidance This coordination with NRC will include the following: transfer of active inspection files, active licensing files, licenses in the renewal process, licenses. in the application process, and expired licenses that have not yet been closed out.

Subsection 4.4
Inspection Program Elements

4.4 Inspection Program Elements

A State may adopt technical inspection procedures modeled on Inspection Manual Chapter 2800, or the procedures of an existing Agreement State.

Non-technical administrative procedures, such as a procedure for assigning inspections to inspectors, are usually not key contributors to program performance. The review team usually reviews samples of these procedures. The team only needs to conclude that the State has written administrative procedures for inspections, and that they contain no obvious major defects.

- Wyoming has adopted technical inspection procedures (SMP-01, SMP-04, and SMP-05) modeled on NRC manual chapters, NRC inspection procedures, and procedures of existing Agreement States. These chapters are provided in Appendix A of Subsection 4.4
- Wyoming has written administrative procedures for inspections that meet NRC's criteria.

4.4.1 Procedures for Inspecting Facilities Where Radioactive Material is Stored or Used

The technical inspection procedures should address the following areas:

(a) Scheduling of inspections and the different kinds of inspections (i.e., routine, reactive, reciprocity, security, etc.)

- See Appendix A of Subsection 4.4 SMP-01 Section 16.

(b) Inspection frequencies, including information on conducting pre-licensing inspections.

- See Appendix A of Subsection 4.4 SMP-01 Section 16.

(c) The format and guidance of inspection reports.

- See Appendix A of Subsection 4.4, SMP-01 Section 8, SMP-04 Section 3.

(d) Performance of inspections, including performance-based criteria,

- See Appendix A of Subsection 4.4 (ex. SMP-01 Section 8).

(e) Notification to licensees of results and whether or not the licensee is in compliance; and

- See Inspection Procedures Appendix A of Subsection 4.4 (ex. SMP-01 Sect.14).

(f) State field instrumentation and laboratory analysis, including calibration and quality assurance.

- See Appendix A of Subsection 4.4, SMP-05.

(g) The technical procedures should not address administrative matters such as inspection fees.

4.4.1.1 Information needed

(a) The State should submit inspection procedures, including inspection report formats, checklists, and status reports. Procedures submitted should cover all NRC license program codes of licensees that will transfer to the State. The State should also submit its priority schedule for inspection by program code and its schedule for reciprocity inspections.

- See Appendix A of Subsection 4.4 SMP Inspection Procedures.

4.4.1.2 Evaluation Criteria

(a) The State should perform inspections following written procedures that address inspection activities appropriate to the category of licensee being inspected.

- See Appendix A of Subsection 4.4 SMP Inspection Procedures.

(b) The State should correlate inspection frequency to the amount and kind of material and type of operation licensed. Routine, initial, and reciprocity inspections should not be less frequent than NRC inspections as listed in Inspection Manual Chapter 2800.

- See Appendix A of Subsection 4.4, SMP-01.

(c) Inspection procedures should provide for information exchange between the inspection staff and the licensing staff, as appropriate.

- The staff in the SMP will be responsible for inspections and license review. Efforts will be made to share information between staff members.

(d) The procedures should provide guidance to the State Program staff on the use of both field and laboratory instrumentation. The instrumentation is used to evaluate the licensee's control of materials and to verify the licensee measurements. The State should submit a list of its instrumentation for review. The procedures should include procedures on instrument calibration.

- See Appendix A of Subsection 4.4, SMP-05.

(e) If the Agreement covers Section 11e.(2) byproduct material, the procedures should also:

1. The State should notify licensees of the result of inspections in a short time period.

- Wyoming's current agreement covers the regulation of 11e.(2) material, as defined in the Atomic Energy Act of 1954. Wyoming is currently amending this agreement to include source material. See Appendix A of Subsection 4.4 SMP Inspection Procedures.

2. The team may use the NRC inspection procedures as guidance to evaluate the State inspection procedures. The State procedures should provide a similar level of detail as the equivalent NRC procedures. However, the procedures are not required to be the same as the NRC's procedures as long as they address all significant technical issues. The NRC does not require States to adopt the NRC procedures.

- See Appendix A of Subsection 4.4, SMP Inspection Procedures.

4.4.2 Procedures for Assuring the Technical Quality of Inspections and Inspection Reports

Secondary reviews of inspection reports are beneficial for quality assurance purposes and can be used to evaluate the accuracy and integrity of the inspection process. Peer and supervisory reviews are commonly used. Larger programs may use a committee to conduct reviews of selected inspections recently completed. Other forms of effective quality assurance programs are acceptable.

4.4.2.1 Information Needed

The State should submit its procedures addressing peer review, supervisory review, and any other method to ensure the quality of inspections and inspection reports.

- See Appendix A to Subsection 4.4, SMP-04, Technical Quality of Inspections and Inspection Reports.

4.4.2.2 Evaluation Criteria

The State should have written procedures to guide program staff. The NRC does not have a preference for any particular format or method. The procedure should reflect the organization of the State Program and any special requirements of State law.

- See Appendix A of Subsection 4.4, SMP Inspection Procedures.

4.4.3 Administrative Procedures for Inspections

The routine operation of the program requires administrative processing of an inspection report after the inspector has written it. Written procedures describing the administrative processing steps are useful to ensure that all procedural requirements are completed. They may become critical if there is an unexpected turnover of senior staff.

4.4.3.1 Information Needed

The State should submit its inspection program administrative procedures.

- See Appendix A of Subsection 4.4, SMP Inspection Procedures.

4.4.3.2 Evaluation Criteria

The State should have program-specific written procedures. The procedures should reflect the organization of the State program and any special requirements of State statute (i.e., public disclosure or confidentiality).

- See Appendix A of Subsection 4.4, SMP Inspection Procedures.

Because these procedures do not require a thorough review, the team may review a selected sampling of the procedures instead.

Appendix A, Subsection 4.4
Inspection Program Procedures
Source Material Program

Wyoming Department of Environmental Quality
Land Quality Division
Source Material Program

Source Material Program Inspection Procedures (SMP-01) (NRC equivalent IP 89001 and IMC 2801)

Approved: Charlee Anne Boger, Source Material Program Manager
Effective Date:
Revision Number:

Section 1. Purpose

This Inspection Procedure (IP) establishes the routine safety inspection program for operations licensed and regulated under the Source Material Program (SMP) Rules. The Source material Program regulates material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. The SMP inspection program obtains sufficient information through observations, personnel interviews, independent measurements, and review of facility records and procedures, to ascertain, in a timely manner, whether facility operations, and radiological and non-radiological programs regulated by the Wyoming Department of Environmental Quality (WDEQ) conform with regulatory requirements and the conditions of the applicable license. Included in the program are inspection procedures related to all phases of activities: construction and pre-operations, operations, and reclamation/closure. As a result, the inspection program determines that regulated source material mills and associated material are managed throughout their entire life cycle in a manner that provides protection from radioactivity to employees, members of the public, and the environment.

Section 2. Objectives

The objectives of this procedure are to establish a general policy, uniform process, priorities, and specific requirements for the inspection of regulated source material mills.
Specifically, the objectives of the SMP Inspection Procedure are to determine if the licensed activities:

(a) Are being conducted in a manner that will protect the environment, health and safety of workers, and general public;
(b) Implement a radiation safety program that controls the release of radioactive materials, and the radiation exposure as low as reasonably achievable (ALARA);
(c) Implement a security program that properly controls the licensed material to preclude access or use by unauthorized personnel;
(d) Are in accordance with the rules, license, and commitments made in the license application; and
(e) Have established specific requirements for the inspection topics which should be performed at facilities.

Section 3. Scope

This SMP Inspection Procedure establishes inspection procedures for operating SMP facilities in addition to inspection requirements and assessment activities for facilities in construction, pre-operation, start-up status, and decommissioning. For the purposes of this procedure, contaminated waste will be referred to as byproduct material.

(i) Inspection procedures from other U.S. Nuclear Regulatory Commission (NRC) programs can be applied, in full or in part, to many aspects of regulated source material mill and associated material inspections, and that additional inspection procedures specific to disposal technology and on-site activity can be developed and employed incrementally, as needed. Table 1 provides a listing of NRC procedures and guidelines that are currently available and include comments concerning their

applicability. Adoption of the minimum frequency of inspection should be risk informed and tailored to both the level of site activity and to the performance of the licensee.

(ii) Inspections during the operational phase begin upon the issuance of the facility license, continuing until the facility ceases all operations and is placed on standby/inactive status, or is decommissioned. For inspections of facilities in standby/inactive status, or in decommissioning status, the SMP will refer to NRC Inspection Manual Chapter (IMC) 2801 and NUREG 1575 *MARSIMM (Mufti-Agency Radiation Survey and Site Investigation Manual).*

The following NRC Inspection Procedures (in full or in part) will be used to guide inspections:

(a) IP 89045, Effluent Control and Environmental Protection at Uranium Recovery and 11e.(2) Byproduct Material Facilities
(b) IP 88030, Radiation Protection,
(c) IP 88005, Management Organization Controls. In addition, applicable sections of the following Inspection Procedures will be used as a guide:
(d) IP 83822 Radiation Protection,
(e) IP 89045 IP Radioactive Waste Management,
(f) IP 86740 Inspection of Transportation Activities,
(g) IP 87125 Materials Processor/Manufacturer Programs,
(h) IP 87140 Source, Special Nuclear Material, and Other Alpha Emitter Use Programs, and
(i) IP 89015 Construction and Preoperational Inspection Program at Uranium Recovery and 11e.(2) Byproduct Material Facilities
(j) IMC 2602, Decommissioning Inspection Program for Fuel Cycle Facilities and Materials Licenses,
(k) IP 89035, Radioactive Waste Management and Transportation at Uranium Recovery and 11e.(2) Byproduct Material Facilities,
(l) IP 89050 Emergency Preparedness and Fire Protection at Uranium Recovery and 11e.(2) Byproduct Material Facilities

(iii) Regulated Source Material facilities in non-operating status generally do not pose the same risk levels as operating facilities, especially if licensed material has not yet been introduced into the facilities or has been placed in storage and is not in process. Inspection topics may be adjusted to reflect the level of risk attached to each situation. The NRC IPs listed in this procedure are only a guideline and the descriptions and examples contained are intended as illustrative examples of topics that should be covered in an inspection. Examination of other significant safety-activities in an inspection is left to the individual inspector's judgment, with consideration of the relative degree of safety risk posed by the subject activity.

(iv) This Inspection Procedure identifies requirements for the inspection of the health, safety, and environmental aspects of licensee activities. The inspector should be completely familiar with the current regulatory requirements and commitments

associated with the license. These include the comparable parts of Wyoming SMP Chapters 1-9, the license application, applicable guides, and other codes referenced in the license. In the case that NRC guidance documents are updated after a license or amendment is issued, the licensee is generally only committed to follow the original guidance. Thus, the revision of the guidance to which the licensee has been committed is of importance.

(v) Inspection activities for new facilities or those undergoing major modification when no source material is present are conducted adjunct to the licensing process. Their purpose is to establish the accuracy of representations made in the license application that certain facility structures or equipment meet stated safety and environmental criteria. Inspections are justified before a license is issued where inspection for the intended purpose would not be practical after construction is complete.

(vi) Facilities for which decommissioning plans are being prepared, or have been submitted but not approved, remain as operating facilities. Inspection requirements specified in this chapter remain in effect in these situations but may be adjusted to account for the lower risk associated with curtailed operations.

(vii) For sites in decommissioning, not all inspection procedures may be applicable, and inspection requirements may be adjusted to reflect the different activities and the increased and decreased levels of risk.

Section 4. Inspection Program

4.1 General Description

The goal of each inspection is to review the licensee's performance since the last inspection to determine if the inspection objectives in Section 2 of this procedure have been met. The inspection includes observation of the licensed activities, interviews of workers, independent or confirmatory radiation measurements, and documentation of the reviews. Table 1 in Section 16 provides a summary of the items to be covered during routine inspections. Observations of activities in progress, equipment, facilities, and use areas, etc., are good indicators of the licensee's overall radiation safety program than reviewing records alone.

(i) Some of the requirements and guidance sections of this procedure instruct the inspector to "verify" the adequacy of certain aspects of the licensee's program. Whenever possible, verification should be accomplished through discussion, observation, and demonstration.

(ii) In the records reviewed, look for trends such as increasing doses or effluent releases. Records such as surveys, waste disposal, effluent releases, transportation of regulated source material, training, and air sampling may be examined randomly until the inspector is satisfied that the records are being maintained and are complete. Other records that are more closely related to health and safety (such as personnel bioassay records and radiation work permits) should be examined in detail.

(iii) In general, inspectors should use caution before retaining copies of licensee documents, unless they are needed to support apparent violations, expedite the inspection (e.g. licensee materials inventories), or make the licensing file more complete. In all cases where licensee documents are retained beyond the inspection, the documents will be subject to WDEQ Public Record Policy in §35-11-1101. Licensees must clearly identify which records are confidential and which records should be withheld from public disclosure.

(iv) The inspector should:

(a) Keep the licensee apprised of the inspection findings throughout the course of the inspection instead of waiting until the exit meeting to discuss important inspection results.

(b) Whenever possible, keep SMP management informed of significant events (e.g., safety hazards, willful violations, and other potential escalated enforcement issues) identified during the inspection.

4.2 Program Adjustments

This program provides the SMP flexibility to adjust the frequencies and scope of inspections for different functional areas at a facility, as well as the periodicity of specific areas of inspections. Various inspection procedure guidelines are specified in Tables 1. Periodic inspection interval adjustments should be based on inspection history, licensee performance and safety significance of findings, as delineated in Sections 4.2.1-4.2.2. Occasional adjustments may also occur in response to other events or activities, as determined by the SMP Manager. A reasonable allowance for responding to these events or activities should be incorporated in the inspection plan for the facility. Necessary adjustments may be difficult to implement within the constraints imposed by limited inspection resources within the SMP.

(i) Inspections during the construction and pre-operational phase of a facility will be conducted on a case-by-case basis. Pre-operational inspections will be conducted at least once before startup of facility operations. The applicable inspection procedures for the construction/pre-operational phases are provided in Table 1.

(ii) Substantial adjustments in the planned inspection schedule for a facility (i.e., those that involve shifts in resources which may affect other facilities or result in exceeding a "normal" inspection frequency) should be coordinated with SMP management.

4.2.1 Extension of Inspection Interval

The interval between inspections may be extended (lengthened) based on good licensee performance. The main consideration in extending the inspection interval should be evidence of well-managed and effective radiation safety and environmental protection programs which show a history of compliance. Specifically, the inspection interval may be extended for licensees meeting the following conditions:

(a) The violations identified during the licensee's current and preceding inspection were of a low safety significance and no more than two violations per inspection were identified; and

(b) The licensee has not had a significant program change since the preceding inspection. Significant program changes should relate to changes in the scope or type of operations, changes in the authorized materials or possession limits, changes in key personnel, or changes in locations of use. (NOTE: Extension should not be considered for licensees who have undergone significant program changes to ensure the licensee can maintain adequate performance over the next inspection period.)

To document the extension in the interval between inspections, a note (e.g., a memorandum or section within the inspection report) should be written by the inspector, approved and signed by the inspector's immediate supervisor, and placed in the licensing file. The decision to extend the inspection should be made after each routine inspection. The Project Manager for the site should be informed and the master inspection plan updated accordingly.

4.2.2 Reduction of Inspection Interval

The interval between inspections may be reduced (shortened) and inspections conducted more frequently than specified in the priority system on the basis of failure to satisfy inspection standards and poor performance identified during inspections. The main consideration in reducing the inspection interval should be evidence of moderate to severe problems in the licensee's radiation safety or environmental protection programs. Poor compliance history is one indicator of such problems, while a lack of licensee management involvement or control over the radiation safety program is another indicator. Specifically, licensees that meet the following conditions shall be considered for reduction in inspection interval:

(a) Issuance of an Order or escalated enforcement on the most recent inspection; or,

(b) An event requiring a reactive inspection; or

(c) Repetitive violations; or

(d) A significant violation to health, safety, or the environment identified in the most recent inspection.

The above list is not exhaustive. The inspection interval may be reduced for any other reason deemed pertinent by the SMP Manager. The extension shall be valid only until the next inspection. The main consideration in extending the inspection interval should be evidence of well-managed and effective radiation safety and environmental protection program which shows a history of compliance. Specifically, the inspection interval may be extended for licensees meeting the following conditions:

1. The violations identified during the licensee's current and preceding inspections were of low safety significance and no more than two (2) low safety significant violations were found; and,
2. The licensee has not had a significant program change since the preceding inspection. Significant program changes should relate to changes in the scope or type of

operations, changes in the authorized materials or possession limits, changes in key personnel, or changes in location of use. (Note: Extensions should not be considered for licensees who have undergone significant program changes to ensure that the licensee can maintain adequate performance over the next inspection period.

Licensees which meet the above criteria may have their inspection interval extended. For licensees that are inactive or in standby, where the SMP manager deems the risk level appropriately low to do so, the inspection intervals may be extended, by a memo signed by the SMP manager, from annually to not to exceed 3 years, as determined by the SMP Manager and according to the activities at the site.

The interval between inspections may be reduced (shortened) and the inspection conducted more frequently than specified on the basis of failure to satisfy SMP inspection standards or poor performance during SMP inspections. The main consideration in reducing the inspection interval should be evidence of moderate or severe problems in the licensee's radiation safety or environmental protection programs. Poor compliance history is one indicator of such problems, while lack of management involvement or control over the radiation safety program is another indicator. Any of the following conditions may warrant an increase in inspection frequency:

1. Issuance of an order or escalated enforcement in the most recent inspection;
2. An event requiring a reactive inspection;
3. Repetitive violations; or
4. A significant violation to health, safety, or the environment was identified in the most recent inspection.

The above list is not exhaustive. The inspection interval can and should be reduced for any other reason as determined by the SMP Manager. If an escalated enforcement action has occurred for a particular licensee, a follow-up inspection should be scheduled and conducted within 6 months of the resolution of the enforcement action.

Inspections will cover the different inspection topics listed in Table 1. Column 3 in Table 1 contains lists of NRC Inspection Procedures, manual chapters, and guidance to help inspectors understand the items to cover under each inspection topic. The regulatory guidance is provided in Table 1 to help the inspector understand the material to be inspected, but not held as a SMP standard, unless the guidance is incorporated into the specific license as a license condition.

Licensees that meet the above criteria may have their inspection interval reduced by any length. For instance, licensee with a nominal annual inspection frequency and a poor performance record could be rescheduled for its next inspection in 6 months. The reduction may be valid only until the next inspection or until another time specified by the SMP. However, the SMP Manager shall consider the results of the next inspection when determining whether the reduced frequency should be continued, changed, or returned to normal.

(a) To document the reduction in the interval between inspections, a note (e.g., a memorandum or section within the inspection report) should be written by the inspector, approved and signed by the inspector's immediate supervisor, and placed in the licensing file; and

(b) The decision to reduce the inspection interval may be made at any time, but consideration to all affected parties should be given immediately after each routine inspection. The Project Manager for the site and the licensee should be informed, and the master inspection plan updated.

The inspection interval can and should be reduced for any other reason deemed pertinent by the Administrator. If escalated enforcement actions have taken place for a particular licensee, a follow-up inspection should be scheduled and conducted within six months of the enforcement action.

Section 5. Review of Events

Inspections should include a review of licensee reportable and non-reportable events that involve contamination, releases, equipment malfunctions, or other significant review should cover corrective actions taken by the licensee and follow-up actions taken to prevent recurrence. In the case of reports received by WDEQ involving radiological health and safety, the SMP is responsible for determining the seriousness of the reported incident and whether an immediate reactive inspection is necessary.

Non-reportable events are those determined by the licensee to fall outside criteria requiring them to be reported to WDEQ. Although these events are not reported formally to WDEQ, licensees occasionally may contact the department informally to describe the event and explain the basis as to why it is considered a non-reportable event. Often, licensees are required by the license conditions to maintain records of non-reportable events onsite. Non-reportable events should be examined during inspections to determine appropriate corrective actions or investigated to prevent recurrence. Such events may relate to safety issues requiring referral or follow-up actions by other responsible agencies such as Occupational Safety and Health Administration, or the Mine Safety and Health Administration. These events may also relate to existing or potential operational concerns not otherwise reportable, such as bio intrusion in disposal units, erosion or sloughing of trench walls, or uncontrolled wind erosion. Additional guidance on non-reportable events is contained in the “SMURP Events and Allegations Procedure Manual.”

Section 6. Independent Inspection Effort

Each inspector should spend time onsite performing independent inspections at their assigned licensed facilities. The amount of time spent should be commensurate with the level of risk, the complexity of the facility, and the degree to which inspection resources have already been committed to significant safety and environmental issues that have already been identified in the facility. This effort may include more in-depth inspection in selected technical areas than normally called for by formal procedures. The major objective of this effort should be to gain an increased understanding of potential safety and environmental hazards of particular activities of interest, such as those that may have been involved in a series of recent non-reportable events.

The inspector and licensee's findings may uncover unresolved safety and environmental concerns, improper maintenance practices, and other problems that may not be discovered

through other means. Discovered hazards outside the scope of WDEQ regulatory authority should be conveyed to the licensee at the exit interview (as set forth in Section 10 of this document), described to management during debriefing, and included in the formal inspection report. In cases where regulatory jurisdiction for the observed potential hazard is clear, the finding shall be reported to the responsible agency for action (i.e., another State Agency, Mine Safety and Health Administration, U.S. Environmental Protection Agency, etc.). In all cases where the finding involves a potential effect on radiological health and safety, the finding shall be followed up during subsequent inspections until the licensee has resolved the concern. However, special follow-up inspections solely based on Mine Safety and Health Administration issues are not required unless the potential hazard poses a radiological health or safety concern.

Section 7. Random Selection and Examination of Records

Many of the inspection procedures normally require the inspector to select certain types of records at random for closer examination. However, random selection is not always required. The inspector may seek out certain records of interest when so inclined.

All inspections are to be risk informed and the primary focus should remain on activities and records that are important to risk management. The SMP inspection program is predicated on the fact that the licensee is ultimately responsible for the safety of the licensed facility. Random selection, where specified in a procedure, allows the inspector to sample specific aspects of the licensee's safety and environmental program to be studied at a level of great detail. When random selection is specified in a procedure, the inspector should select records corresponding to activities that relate to the SMP regulatory role, such as effluent monitoring records or groundwater restoration records. Also included should be records required to be retained for later decommissioning.

Section 8. Inspection Topics During the Various Phases of a Facility's Life

To reasonably verify that activities are conducted safely and in an environmentally acceptable manner, the inspector also should randomly select personnel for interviews. The extent and depth to which random selections or examinations are needed are left to the inspector's judgment, depending on how satisfactorily the licensee's operational and safety procedures are being followed.

8.1 Inspection During the Construction and Pre-Operational Phase

(a) Purpose. The purpose of this instruction is to provide guidance for planning and conducting inspections during the construction/pre-operations phase of a facility. Activities encompassed during the construction/pre-operations phase of a regulated source material mill or disposal site include: disposal trench construction, liner placement, observation and verification of placement and compaction of cover materials, equipment use, fire protection program (equipment and training procedures), and compliance with applicable construction specifications requirements in accordance with applicable management controls and quality assurance procedures. Activities encompassed during start-up of a mill that has been on stand-by would

include equipment operation/function and safety.

(b) Implementation. This inspection program begins on issuance of the license, or license amendment to restart the mill, and continues until the site begins active receipt and disposal of waste associated with regulated source material or processing of ore at a mill. Situations may arise in which inspection requirements specified for other phases may apply concurrently with those specified here for the pre-operational phase. For example, certain requirements may apply in the construction, pre-operational checks, and start-up of a major modification to the site.

The regulated source material mill or associated waste material disposal site pre-operational inspection program is defined by selection from among the list of procedures in Table 1. The areas covered during an inspection need not be limited only to those elements discussed in the procedures but may need to include examination of other activities not expressly delineated or covered in existing procedures. In such cases, the inspector must exercise good professional judgment in modifying the inspection and in identifying to SMP management the possible need for development of supplemental guidance. Conformance with the principles of reducing radiation exposure to As Low As is Reasonably Achievable (ALARA) should be a principal concern at all times.

For the normal inspection frequency, each procedure should be executed for each specific frequency. In practice, part or all of the procedural elements may need to be examined during each inspection visit.

During inspections emphasis should be placed on physical examinations, observation of conduct of operations, independent measurements, and personnel interviews. Attention should be directed toward the availability of written procedures, the degree to which they are being followed, and the state of training of on-site personnel. Effort should be concentrated on areas of perceived concern (highest safety risk) and site activities performed since the last inspection.

Review of records should involve only a sampling of those records important to safety of personnel and the general public. For example, if the organizational structure has not changed with respect to personnel and assigned functions and responsibilities, the inspector should not pursue the subject of organization in any detail, unless there is reason to believe that such is not the case. Discretion in such areas is left to the inspector's judgment.

(c) Regulatory Considerations. The inspector should be familiar with current license requirements; previous inspection reports, applicable codes, standards and guides; and the following regulations:

- Chapter 2, Inspections, Enforcement, and Penalties
- Chapter 3, Radiation Protection Standards
- Chapter 4, Licensing Requirements for Source Material
- Chapter 5, Notices, Instructions, and Reports to Workers

(d) Guidance for Use of Inspection Procedures during the Pre-Operational Phase. The inspection procedures indicated in Table 1 for the construction/pre-operations phase are applicable to inspections conducted at regulated source material mills during construction/pre-operations. The inspection staff can determine the applicable elements of each procedure by reviewing the procedure, the facility license, and reports of previous inspections.

8.2 Inspection during the Operations Phase

(a) Purpose. The purpose of this instruction is to provide guidance for planning and conducting inspections during the operations phase of the facility. Activities encompassed during the operations phase include receipt and handling of incoming regulated source material, or the processing of ore and packaging of regulated source associated waste; emplacement of the regulated source associated material for disposal; radiation safety and environmental monitoring activities; and records management.

(b) Implementation. This inspection program begins with the issuance of the facility license, or a license amendment to allow a regulated source material mill on stand-by to restart and continues until the facility ceases active receipt of materials and/or disposal of waste. Situations may arise in which inspection requirements specified for other phases may apply concurrently with those specified here for the operations phase. For example, certain requirements may apply in the operations, or start-up of a facility.

The areas covered during an inspection need not be limited only to those elements discussed in the procedures but may need to include examination of other activities not expressly delineated or covered in existing procedures. In such cases, the inspector must exercise good professional judgment in modifying the inspection and in identifying to the SMP management the possible need for development of supplemental guidance. Conformance with the principles of ALARA should be a principal concern at all times.

For the normal inspection frequency, each procedure should be executed for each specific frequency. In practice, part or all of the procedural elements may need to be examined during each inspection visit. Emphasis should be placed on physical examinations, observation of conduct of operations, independent measurements, and personnel interviews. Attention should be directed toward the availability of written procedures, the degree to which they are being followed, and the state of training of on-site personnel. Effort should be concentrated on areas of perceived concern (highest safety risk) and licensee activities conducted since the last inspection.

Review of records should otherwise involve only a sampling of those records important to safety of personnel and the general public. For example, if the organizational structure has not changed with respect to personnel and assigned functions and responsibilities, the inspector should not pursue the subject of organization in any detail, unless there is reason to believe that such is not the case. Discretion in such areas is left to the inspector's judgment.

(c) Regulatory Considerations. The inspector should be familiar with current license requirements; previous inspection reports; applicable codes, standards and guides; and the following regulations:

Source Material Program Rules

- Chapter 1, General Provisions
- Chapter 2, Inspections, Violations, and Penalties
- Chapter 3, Radiation Protection Standards
- Chapter 4, Licensing Requirements for Source Material
- Chapter 5, Notices, Instructions, and Reports to Workers
- Chapter 6, Financial Assurance Requirements
- Chapter 7, Fees
- Chapter 8, Risk Informed, Performance Based Licensing and Inspection
- Chapter 9, Transportation of Radioactive Material

(d) Guidance for Use of Inspection Procedures During Operations. The inspection procedures indicated in Table 1 for the Operations Phase are applicable to inspections conducted at regulated source material mills, including mills authorized for disposal of regulated source material waste and other associated material. The inspection staff can determine the applicable elements of each procedure by reviewing the procedure, the facility license, and reports of previous inspections.

8.3 Inspection During the Reclamation/Closure Phase

(a) Purpose. The purpose of this instruction is to provide guidance for planning and conducting inspections during the period of reclamation/closure of a regulated source material mill site or associated material disposal site. In some cases, as specifically allowed or required by license condition, some closure activities may occur for some parts of a facility during the operations phase. The purpose of the inspection is to verify, by field observations and review of licensee records, that decontamination of soil, sediment, surface waters, and groundwater, as well as reclamation of the disposal cell, are being performed in accordance with SMP-approved plans.

(b) Implementation. This program is initiated when the licensee begins implementation of any portion of the approved reclamation/decommissioning plan. The foundation for planning and scheduling inspections will thus be the licensee's progress in implementing the reclamation plan (construction schedule). The criteria for inspections will be license conditions and applicable regulations, some of which will directly address reclamation activities. In many cases, portions of the reclamation plan may be implemented for part of a site while active operations continue elsewhere on site. In these cases, the appropriate portions of this program should be implemented in conjunction with the operations inspection program. The reclamation plan itself, as amended during site operation and approved by SMP, should be reviewed to

determine if procedural or scheduling modifications are necessary to enable planning of an efficient inspection program. The inspection program continues in effect until the licensee has implemented all elements of the reclamation plan in accordance with SMP Chapters 4, 6, and 8, the license is terminated by the WDEQ.

For inspections during site remediation/closure (includes licensee performing cleanup verification measurements and risk informed inspections), each procedure should be executed for each specific frequency. In practice, part or all of the procedural elements may need to be examined during each inspection visit. Emphasis should be placed on physical examinations, observation of the conduct of operations, limited independent measurements (e.g., split samples), and personnel interviews. Attention should be directed toward the availability of the licensee's written procedures, the degree to which they are being followed, and the state of training of on-site personnel. Areas of effort should be risk informed. Discretion in such areas is left to the inspector's judgment in consultation with SMP staff (Project Manager, technical reviewers).

A confirmatory survey may be performed as an audit of the licensee's final survey results to independently confirm that the report is accurate and representative of site conditions but is only necessary if there is significant doubt regarding the licensee's final survey results. A confirmatory survey will be performed if any of the following applies to decommissioning of the site:

1. Repeated violations, with the inclusion of an "executive summary;"
2. Issuance of an order;
3. Failure to take short-term corrective measures;
4. An event requiring a reactive inspection;
5. Limited financial and technical viability of the licensee; and
6. Significant problems identified with the reclamation plan or final survey data.

(c) Regulatory Considerations. The inspector should be especially familiar with current license requirements; previous inspection reports; applicable codes, standards and guides; and the following regulations:

- SMP Rules, Chapter 3 Radiation Protection Standards
- SMP Rules, Chapter 4 Licensing Requirements for Source Material

(d) Guidance for Use of Inspection Procedures During Closure. The inspection procedures indicated in Table 1 are applicable to inspections conducted at regulated source material mills during closure. The inspection staff can determine the applicable elements of each procedure by reviewing the procedure, the facility license, and the licensee's closure and reclamation plan.

Attachment:
Table 1 Inspection Procedures Applicable to Pre-Operational Inspection of a Regulated Source

Material or Associated Waste Material Disposal Site

Section 9. Inspection Team

Each inspection will be planned by the project lead and led by a lead inspector. In most cases, the project lead and lead inspector will be the same qualified source material program employee.

Project Lead: Each licensee will be assigned to one of the qualified source material program inspectors as the "Project Lead." Responsibilities of the project lead are to:

(a) Review the Final Inspection Report from the previous year and identify unresolved or outstanding issues;
(b) Prepare the Inspection Plan at the beginning of each calendar year;
(c) Select and assign tasks to the inspection team;
(d) Review the Inspection Reports for each individual inspection in the Inspection Plan; and
(e) Prepare the Final Inspection Report.

Lead Inspector: Each individual inspection in the Inspection Plan will be led by one inspector designated as the "Lead Inspector." Responsibilities of the Lead Inspector are to:

(a) Be familiar with the applicable regulations and license conditions of the assigned inspection topics and previous inspection findings for the topics;
(b) Select the appropriate survey meters for the inspection and verify proper calibration;
(c) Lead the inspection and conduct entrance and exit meetings;
(d) Determine the compliance status and issue a Notice of Violation, if applicable; and
(e) Prepare the Inspection Report for the assigned inspection.

Section 10. Inspection Preparation

During the inspection, inspectors should focus on whether the licensee is in compliance with the statutes, SMP Rules, commitments made in the license application, and the facility license, including any license conditions, license amendments issued since the last inspection, and any program changes described by the licensee since the last inspection. This requires review of documentation submitted in support of the licensing action before the inspection. For new license amendments, the inspection represents the SMP's first opportunity to verify whether the licensee has implemented the most recent changes to the license. In other areas, the inspection is an opportunity to verify the continued compliance with the regulations and commitments made in the license application and submittals supporting existing license conditions.

Before the inspection, the inspector should do the following:

(a) Review the applicable parts of regulations, the licensee's license application, and the facility license;
(b) Review the licensee's previous inspection history (at a minimum review the past

two inspections), the license, and the status of any allegations or incidents. Note the licensee's commitments in response to previous violations for follow-up during the inspection;

(c) Review event/incident files, to determine whether the licensee was involved in any incident or events. If the SMP did receive notification of an incident, review that incident during the inspection and document the licensee's follow up in the inspection report;

(d) Review the most current ALARA audit, semi-annual effluent report, and if applicable the land use survey;

(e) Review pending licensing actions; and

(f) Make necessary travel arrangements and prepare itinerary.

The inspector must be prepared to meet all entry requirements established by the licensee (i.e. use of personal protective equipment, licensee training requirements, etc.).

Section 11. Entrance Meeting

The entrance meeting should be conducted after arriving at the site and prior to the inspection. The entrance meeting should include the licensee's management personnel, Radiation Safety Officer (RSO), and as many staff as possible.

The purpose of the entrance meeting is to:

(a) Inform the licensee management and staff that an inspection is being conducted, and if the inspection is either routine or for cause;

(b) Indicate the scopes and schedules of the inspection activities; and

(c) Schedule meetings and interviews with management personnel and staff.

During the entrance meeting one should also include the following discussions:

(a) Operational status and licensed activity updates, such as number of workers/operators during the day and night shifts, facility production, impoundment, evaporation ponds, and on-site construction;

(b) Status updates on any changes in operation, management, and radiation safety personnel, equipment, etc.;

(c) Updates on corrective actions for any accidents, incidents, spills, or emergencies;

(d) Status updates on any violations and unresolved or outstanding issues identified from previous inspections; and

(e) Anything that the licensee wants to tell the inspector prior to start of the inspection, such as self-identified violations or any concerns or questions regarding the license or inspection.

Section 12. Inspection Topics

An inspector may also inspect documentation of the following during a routine facility inspection for regulated source material (see Table 1 for list of Inspection Topics and Inspection

Procedures):

(a) Management Organization and Controls

The purpose is to verify, through interviewing cognizant licensee representatives, that there are enough qualified radiation personnel working and an adequate radiation safety program is being implemented. The inspector should be familiar with the licensee's administrative procedures, including management responsibilities for safety, qualifications for the radiation workers, and worker training. Inspection activities include the following:

(i) Organizational Structure and Changes.

A. Review the licensee's organization chart and identify radiation personnel changes. Verify if there is enough radiation staff to implement radiation safety and environmental programs;
B. Determine whether the RSO has sufficient authority, and fulfills the appropriate duties commensurate with the size and scope of licensed activities;
C. Review Safety and Environmental Evaluation Review Panel (SERP) activities and verify the licensee had the required membership for the panel. Verify activities were within the authority of the SERP panel (see SMP Chapter 8, NRC IP 37001, and 10 C.F.R Part 50.59 for more guidance);
D. Review qualification and training of new radiation workers (10 C.F.R Part 19.12);
E. Review qualifications of RSO and Health Physics Technician(s) (HPT) in accordance with Regulatory Guide 8.31; and
F. Interview staff (e.g. RSO, HPT, other radiation and environmental workers, and operators) to understand their roles and responsibilities, level of involvement and management support in the Radiation Safety Program.

(ii) Worker Training for Radiation Safety.

A. Ask what types of training have been offered (employee's training for radiation safety, procedures, license, and company policy. (Department of Transportation (DOT) training if applicable every 3 years, daily briefing, training for survey-out meter, etc.). Ask about the content and frequency of each training;
B. Verify that the training program for all site personnel is as described in NRC Regulatory Guide 8.31.
C. Review selected training records for the following categories: employees, contractors, visitors, and new employees;

D. Review RSO's refresher training records, and ask how the licensee gets each necessary worker to attend the training (i.e., is there notice prior to training, a sign-in sheet during training, etc.); and

E. Review audits performed to meet the requirements of 10 C.F.R Part 20.ll0l(c).

(b) ALARA Program

The purpose of the ALARA (As Low As Reasonably Achievable) Program is to determine if the licensed activities implement ALARA principles and maintain occupational and public doses ALARA. The inspector should be familiar with the licensee's procedures for audits and routine inspections, management involvement in the ALARA program and audits, ALARA reviews for procedures (approved and proposed), and roles of radiation safety committee, if any.

(i) Inspection Activities Should Include the Following:

A. Review records for daily walk-through, weekly/monthly inspections, and quarterly audits;

B. Review meeting records from the radiation safety committee for procedures and program review for ALARA;

C. Review licensee's ALARA goals and how the licensee is meeting them;

D. Verify if workers receive training to understand the ALARA principle and the licensee's ALARA program and goals;

E. Verify that radiation workers are provided with, and wear appropriate protective clothing and equipment commensurate with activities being performed; and

F. Review self-identification violation record.

(ii) Applicable Items to Review Before Inspection:

A. Licensee's Most Recent ALARA Report; and

B. Dose History for the Site

(c) Radiation Protection

The purpose is to verify the performance of the licensee's radiation protection program. The radiation protection program includes:

(i) Occupational Exposure Control and Monitoring

The goal is to verify that workers' exposures, including external and internal

exposures, have been controlled ALARA and that the exposures do not exceed regulatory limits specified in 10 C.F.R Part 20. Prior to the inspection, the inspector should be familiar with the licensee's occupational monitoring procedures for occupational air monitoring (general breathing zone; air particulates, and radon), personal dosimetry for external exposure, and bioassay program. The inspector should also be familiar with the licensee's engineering controls for effluent releases. In addition, the inspector should be familiar with any regulatory limits and action levels of each monitoring program. The following inspection activities should be conducted:

A. Review monitoring data for each program (air monitoring, personal dosimetry for external exposure, and bioassay) for all workers (radiation workers, other employees, and contractors);
B. Review workers' dose calculations and dose summary. Identify workers with higher doses (external, internal, or TEDE) and further investigate the causes. Verify workers' exposures are ALARA;
C. Determine whether the methods for calculating internal exposure to airborne radioactivity are technically correct. Evaluate the licensee's calculations for technical accuracy;
D. Verify that personnel bioassays are being performed at the correct frequencies and are appropriate for the activities at the site;
E. Identify any positive bioassay results. Further investigate the causes and any corrective actions performed for results above action levels;
F. Verify that the exposures of pregnant workers have been kept ALARA and below regulatory limits for embryo/fetus;
G. Review prior exposure records for new employees;
H. Verify workers are notified of their dose monitoring results per 10 C.F.R Part 19.13(b), as incorporated by reference in SMP Rules, Chapter 5, Section 3;
I. Verify that no food or tobacco products or trash are present in radioactive material use areas;
J. Examine some instruments used in air monitoring program. Evaluate the equipment type, calibration, operability, and sample analysis;
K. Verify that personnel dosimetry devices are worn by appropriate licensee personnel. Verify that dosimeters are processed by a National Voluntary Laboratory Accreditation Program that is an approved-and-accredited processor; and
L. Review applicable regulations and guidance for occupational exposure control and monitoring.

(ii) Respiratory Protection

The goal is to verify that the licensee's respiratory protection program has been properly

implemented. The inspector should be familiar with the licensee's procedure for the respiratory protection program. Inspection activities include:

A. Determine proper selection of equipment;
B. Determine that all equipment is certified or approved;
C. Determine if equipment is available for those workers who need respiratory protection and if these workers are properly fit-tested;
D. Verify worker's training for the use of the equipment;
E. If protection factors have been considered in the occupational dose calculations, verify if these workers are using adequate respiratory protection equipment.

(iii) Surveys and Radiation Detection Equipment

The goal is to verify that the licensee is conducting surveys in accordance with the approved procedures with properly calibrated instruments. Surveys include routine and non-routine area and surface contamination (e.g., lunchroom, break rooms, change rooms), equipment release, vehicle, drum containing regulated source material, and personnel surveys. The inspector should be familiar with all survey procedures (survey protocols, survey locations, instruments, survey frequencies, corrective action, etc.). Inspection activities include:

A. Observe workers who are performing different type of surveys. Verify that the workers understand the limits for free release, action levels, and procedures for decontamination and corrective actions. Ask what actions are taken if survey results are above the limits;
B. Review and verify that process equipment, monitoring equipment, and/or administrative controls are adequate to maintain airborne radioactivity within the limits established by the license and other regulatory requirements and are ALARA;
C. Observe workers performing survey instrument calibrations, if applicable;
D. Verify that equipment and instrumentation are appropriate, operable, calibrated, adequately maintained, and conform to those described in the license application;
E. Verify that the licensee performs surveys for fixed and removable contamination at the required frequencies. If the licensee has had spills or other incidents of contamination exceeding the licensee's action level, verify that the licensee has taken appropriate action;
F. Randomly select some equipment (survey meters and counting equipment) and check the operability and calibration;
G. Verify correct geometry is being used and ask what isotope was used for the calibration;
H. Review random selection of survey records and calibration records. Pay attention to any high readings;
I. Ask what non-routine surveys were performed and why, if applicable;

J. Ask if any corrective actions were conducted and what triggered them; and
K. Review training records;

(iv) Security and Control of Licensed Radioactive Material

The goal is to verify that the licensee is controlling the licensed radioactive materials to preclude uses by any unauthorized personnel. The inspector should be familiar with the radioactive materials possessed by the licensee and the procedures for site and material security and controls. Inspection activities include:

A. Verify that the licensee has established procedures for maintaining security and control of regulated source material, and that these procedures are understood and implemented by appropriate personnel;
B. Review the licensee's radioactive material inventory and any documentation for receipt, transfer, and disposal of licensed material;
C. Verify that regulated source material (in storage) in controlled or unrestricted areas is secure from unauthorized removal or access.
D. Verify that regulated source material (not in storage) in controlled or unrestricted areas is controlled and under constant surveillance.
E. Verify that access to the restricted area is limited by the licensee;
F. Review records for material placed in impoundments;
G. Examine the security to the restricted areas, including ore pads, processing buildings, areas that store drums containing regulated source material prior to shipping, laboratories, areas that store radioactive wastes, and any other areas that store radioactive material;
H. Verify that access to the restricted areas is limited by the licensee;
I. Verify that the licensee is controlling the licensed materials in accordance with approved procedures;
J. Verify that the drums containing regulated source material are in constant surveillance when not in secured storage;
K. Verify that workers are trained to understand the procedure for the security and control of the radioactive materials and access controls to restricted areas;
L. Ask about the roles and responsibilities of security personnel; and
M. Check fences and verify that they are adequate and in good order.

(v) Posting

The goal is to verify that the licensee has posted the appropriate documents, notices, forms, and caution signs as required:

A. Verify that containers of regulated source material are labeled appropriately;
B. Boundary fences are posted with "Caution, Radioactive Material(s)" or" Danger, Radioactive Material(s) signs;
C. Areas with radiation level greater than 5 mR/hr are posted with "CAUTION RADIATION AREA" signs. Ask how often the radiation area postings are verified (how and by whom); and
D. Notices to Employees, current license, emergency contacts and procedures, and the regulations are posted in areas normally occupied by workers.

(vi) Radiation Work Permits (RWPs).

The goal is to make sure the licensee is conducting non-routine/maintenance work with proper radiation protection and ALARA. The inspector should have a basic understanding of the routine occupational monitoring program and facility operation and should be familiar with the procedure for RWPs. Inspection activities include:

A. Review of all RWPs that were issued since the last inspection; and
B. Verify that all workers (employees and contractors) involved in the RWPs had proper radiation protection equipment if needed and occupational monitoring. Look at the workers' dose monitoring results to verify their exposures did not exceed limits in the SMP Rules and that the exposures were maintained ALARA.

(d) Public Doses and Environmental Protection

The purpose is to verify that: (1) doses to the members of the public do not exceed the limits in 10 C.F.R Part 20, as incorporated by reference in SMP Rules, Chapter 3, Section 4; and (2) effluents released from the licensed facilities to the unrestricted areas are adequately controlled and the environment is protected. The inspector should be familiar with the licensee's public dose assessment methods and procedures for environmental monitoring. Prior to the inspection, the inspector should also be familiar with the results of the public dose assessment and environmental monitoring in the most recent versions of the Semiannual Effluent Report and Annual Report. The inspector should pay attention to any abnormal effluent releases or trends showing increasing releases from these reports:

(i) Public Dose Inspections

A. Are there any public access areas on-site and, if so, evaluate the licensee's assessment for doses and contamination levels.
B. Determine if all significant release pathways are monitored, all un-

monitored pathways have been characterized, and all surveillance procedures for effluents are being implemented.

C. Tour some of the environmental monitoring stations (site boundary and nearest resident) and sampling locations.

(ii) Other Environmental Items

A. Determine whether effluent monitoring systems and the associated analytical equipment are adequate to detect and quantify effluents with sufficient sensitivity, and whether they are maintained, calibrated, and operated in accordance with manufacturers' recommendations and good health physics practices.

B. Discuss any abnormal monitoring results with the licensee and any corrective actions taken, if applicable.

C. Verify that water disposal operations such as surface-water discharge, deep-well injection, or land disposal are being operated to conform to applicable license conditions.

D. Verify that the environmental staff has proper training in environmental monitoring and understanding of the procedures by asking them to explain the process of sampling, processing and analysis, data management, and QA/QC and result reporting.

E. If available, observe the environmental monitoring activities, such as environmental sample taking, filter/sampler changing, laboratory sample preparation, etc., to verify equipment functionality and adequate procedure. The inspector should also review equipment calibration records.

F. Verify that all liquid effluents from process buildings and other waste streams, with exception of sanitary wastes, are disposed of as required by license condition.

G. Split samples or independent samples may be taken by the inspector, typically during special inspections.

(e) Operation and Facilities

The purpose is to verify that the licensee is conducting operations safely and that licensed activities are in accordance with the Regulations, License, companies' procedures, and commitments made in the license application. The inspector should be familiar with the licensee's operation for regulated source material and relevant operating procedures. Inspection activities include:

(i) Verify that operational procedures are being followed by observing licensee personnel perform tasks at a selected workstations and by comparing their activities with established procedures;

(ii) Verify that procedures are readily available to any person having responsibility for which the procedures apply, and in addition, ensure that up-to-date copies of written procedures are kept in the process areas to which they apply;

(iii) If applicable, verify the licensee's compliance with any special license conditions that are unique to a particular practice, procedure, or piece of equipment used by

the licensee. In these instances, the inspector should verify that the licensee understands the additional requirements, and maintains compliance with the special license conditions;

(iv) During the site tour identify areas that are utilized to store, use, process, and dispose of source material. Verify if the facilities operation is conducted in accordance with the license and approved procedures. Continuous radiation scanning should be performed during the site tour;

(v) Ask about the operators' training and responsibilities;

(vi) Tour the control room and ask operators to explain functions on the control panel and how the processes are controlled (electronically/manually);

(vii) Evaluate the mechanism to stop the operational circuit in case of an emergency;

(viii) Review operator's logbook;

(ix) Inspect the ventilation system, including hood flow rates, filter exchanges, and air flow pathways. Ask to see system performance records;

(x) Look for any leaks around the processing tanks;

(xi) Observe and survey equipment potentially affected by source material generated from any mineral resources processed primarily for purposes other than obtaining the source material content;

(xii) Check efficiency of the air filtering system through monitoring records review;

(xiii) Pay attention to any new changes since the last inspection, such as new equipment or configuration in the facilities circuit.

(f) Waste Management

The purpose is to verify that the licensee is handling the source material and associated waste as prescribed by rules, license conditions, and the license application. Inspection items include:

(i) Verify that the regulated waste is stored and controlled in a secure and safe manner;

(ii) Verify that radiation levels in unrestricted areas surrounding the storage area do not exceed the limits of 10 C.F.R Part 20.1301, "Dose limits for individual members of the public, as incorporated by reference in SMP Rules, Chapter 3, Section 4;"

(iii) Verify that the licensee is conducting appropriate surveys before disposing of the waste;

(iv) Verify that indoor waste storage areas are properly ventilated and monitored for radon;

(v) Review the licensee's procedures and records to verify that each shipment of source material radiation waste intended for offsite disposal is accompanied by a shipment manifest that includes all the required information;

(vi) Verify that source material wastes are transferred to an authorized recipient specifically licensed to receive source material waste; and

(vii) Verify that records of source material waste storage, transfer, and disposal are maintained in accordance with the requirements of 10 C.F.R Part 20, as incorporated by reference in SMP Rules, Chapter 3, Section 4, and the license.

(g) Transportation of Radioactive Materials

The purpose is to verify the licensee receives and transports licensed material in accordance with Chapter 9 of the SMP's rules and regulation and DOT regulations. Transportation of licensed material in an operating source material facility mainly includes shipment of source material waste. The inspector should have basic knowledge of all DOT rules pertaining to radioactive material transportation and should be particularly familiar with DOT requirements for shipping source material ores and associated waste. Inspection activities include:

(i) Transportation of regulated source material:

A. Inspect the storage area for security, safety, ALARA, and inventory control.
B. Inspect the integrity of the drums and shipping containers; in particular, look for any dents and rustiness. Note that the shipping container should be lined.
C. Verify proper labeling/marking/placarding on the drums, shipping container and trucks.
D. Observe how workers survey the drums, shipping container and trucks. Verify that the survey results are consistent with the information in the shipping papers.
E. Verify that meters are properly calibrated. The inspector should also perform independent surveys around the drums and trucks.
F. If source material shipments arrive or are being shipped during the course of an inspection, the inspector should, when practical, observe personnel perform the required shipment surveys.
G. Inspect documents the truck driver carries with the shipment (shipping paper, emergency contact and procedures, and the License).
H. Review shipping records and shipping papers since last inspection. Verify if all DOT required information is properly included (proper shipping name, signature/date, emergency contact information, and shipper name and address).
I. Verify that regulated source material wastes are transferred to an authorized recipient specifically licensed to receive regulated source material waste.
J. Verify that records of waste storage, transfer, and disposal are maintained in accordance with the requirements of 10 C.F.R Part 20, as incorporated by reference in SMP Rules, Chapter 3, Section 4, and the license.
K. Ask or observe how the licensee determines the radioactivity of source material for each drum and shipment.
L. Verify that the shipping container is not leaking.

(h) Emergency Preparedness

The purpose is to verify that the licensee is implementing an adequate emergency response program. The inspector should be familiar with the licensee's emergency response procedures. Inspection activities include:

(i) Discuss any incidents, spills, accidents, and emergencies since the last inspection;

(ii) Review spill records and discuss what, if any, corrective actions were taken. In

the case of spills, corrective actions include cleanup and mitigation, and steps taken to prevent a similar spill in the future;

(iii) Ask operators what actions will be taken in the case of spills or emergencies to verify their training and knowledge. Ensure training covers hazardous materials comingles with source material. Explore different scenarios;

(iv) Ask operators about offsite response support;

(v) Inspect the alarm system and ask how the operator would respond if the alarm sounded. Also, ask how the operators know an alarm is occurring when they are not in the control room or process buildings. Explore different scenarios;

(vi) Ask how often the emergency showers, eye wash stations, and fire extinguishers are checked. Review records;

(vii) Ask about the frequency of emergency drills. Were there any emergency drills conducted since last inspection? Who were, or are normally, involved in the emergency drills?; and

(viii) Ask what emergency preparedness and response training is provided to workers. Review records.

(i) Laboratory Inspection

At regulated source material facility operations there will be a laboratory for chemical and radiometric analyses relating to production. In some instances, there are also analyses for bio-metric and/or environmental exposures. Inspection of those facilities include, but are not limited to the following activities:

(i) Survey contamination levels on the lab benches, hoods, storage areas, and places where people consistently work. Frequency of contamination and area surveys.

(ii) Examine where regulated laboratory sources are stored and used.

(iii) Review the Quality Assurance Plan, if applicable, to ensure quality assurance objectives are being met.

(iv) Check chemical storage and waste storage areas. Do they have contaminated trash?

(v) Ask about handling of regulated source material. Where is the source material normally handled? If fume hoods are used, do they have sufficient flow?

(vi) Ask about Spill Clean-up procedures, where kept, when spills are reported, to whom, and where spill event records are kept.

(vii) Ask to see comparisons to third party laboratory data, especially for upper control limit (UCL) analyses.

(viii) Does the lab have sufficient ventilation, and is there effluent monitoring?

(j) Decommissioning and Financial Assurance

The inspector should review the decommissioning record to:

(i) Verify that record is being kept in accordance with 10 C.F.R Part 40,

as incorporated by reference in SMP Rules, Chapter 1, Section 11;

(ii) Verify that the licensee is recording and keeping a record of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment or site; and

(iii) Verify that the record contains as-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored.

The inspector should review the licensee's financial assurance submittal to:

(i) Verify whether it was provided to the SMP; and

(ii) Verify whether radiological and environmental conditions at the facility have changed since the financial assurance instrument was submitted such that the document needs to be changed to address the new conditions. Examples of changes are radiological incidents such as spills or process changes. If the inspector identifies changes that may affect the financial assurance instrument, he/she should notify the Source Material Program (SMP) Manager of the deficiency.

Section 13. Site Tour and Area Survey

The inspector should take a site tour, especially if conducting the inspection topics related to radiation safety or facility operations. The site tour should include visits to areas that store, use, process, and dispose of the licensed materials. The purpose of the site tour is for the inspector to make an overall observation to determine the following:

(a) The licensed material is being handled and controlled safely and in good health physics practices;

(b) The ALARA program is being properly implemented;

(c) Verify, through observation, and by direct independent measurements, that the radiation levels are within the limits of 10 C.F.R Part 20, as incorporated by reference in SMP Rules, Chapter 3, Section 4, and are properly posted. Independent verifications of the licensee's measurements must be done with SMP instruments. The inspector's instruments must be in current calibration and sourced checked before they leave the office;

(d) The inspector may ask the licensee to spot-check radiation levels in selected areas, using the licensee's own instrumentation;

(e) The licensed activities are being conducted in accordance with the statutes, SMP Rules, and the license;

(f) Verify that instruments and equipment are operable, having proper alarm settings (if applicable), and are calibrated and checked for appropriate response in accordance with license requirements and license procedures;

(g) Verify the following: that the facilities, including environmental monitoring stations and the plant, conform to the description in the license application; that material receipt, use, and storage areas are secured; and that the licensee uses processes or other engineering controls to maintain doses as low as is reasonably achievable (ALARA);

(h) Workers and operators are familiar with, and are following, all applicable operating and radiation safety procedures;

(i) Site security is adequate; and

(j) Fences are adequate and in good order. Postings are in place.

In addition, during the site tour the inspector should take appropriate radiation surveys to identify areas with high radiation readings to verify that all radiation areas are properly posted. The site tour is also a good opportunity for the inspector to identify problems such as spills or uncontrolled radioactive materials, and to determine if there is any area that needs to be further investigated or remediated.

Section 14. Exit Meeting

At the end of the inspection, a formal exit meeting with the operations management personnel, RSO, and other invited staff shall be conducted. Prior to the exit meeting, all inspectors should meet and discuss/determine their preliminary findings in terms of "Apparent Violations," "Items of Concern," and "Recommendations." The purpose of the exit meeting is to formally inform the licensee of the inspectors' preliminary determination of the licensee's compliance status. The exit meeting will be led by the lead inspector. The following topics may be discussed:

(a) Acknowledgment of the licensee's cooperation and time;

(b) Discuss the licensee's good performance and acknowledge the licensee's efforts in operating the facility safely for workers and the public. Also acknowledge licensee efforts to meet regulations and the license;

(c) Discuss the inspection findings in terms of "Apparent Violations," "Items of Concern," and "Recommendations," if any, and discuss possible corrective actions;

(d) Discuss the licensee's questions/concerns regarding the inspection findings; and

(e) Discuss any follow-ups for the licensee.

Section 15. Post Inspection Activities

After an inspection, the inspector shall summarize the findings, with the SMURP Program Manager. An inspection report will be issued to document the occurrence of the inspection. This is especially important if there are, or are expected to be, controversial issues arising from the findings. After briefing management, an inspection report serves to summarize the activities that were investigated, areas of noncompliance, and open items for the next inspection. Inspection reports will be a narrative of the inspection items reviewed and will conform to the narrative inspection report as outlined in SMURP Rules Chapter 4, Technical Quality of Inspections, Section 3, titled Quality Assurance of Inspection and Inspection Reports. In addition, the report shall contain but is not limited to:

(a) Sufficient detail to describe the inspection that was conducted including operations observed to document the performance-based part of the inspection;

(b) The procedures used;

(c) The focus areas examined and compliance status of topics;

(d) The status of follow-up items involving prior enforcement or reported licensee events;

(e) Sufficient information to support cited violations, non-cited violations, and closed violations identified during a previous inspection;

(f) Enough information such that a different inspector should be able to use the inspection report in preparing for a subsequent inspection and determine whether corrective actions have been taken.

If several staff conducted the inspection, the lead inspector will designate who will draft the different sections of the report. The draft report is then sent to SMP management to review and comment. The report is returned as either needing further action or as a final document. If further action is needed, the lead inspector makes the appropriate changes. Once the report is finalized, it is sent to the licensee and is made publicly available.

Section 16. Schedule for Inspection

Active SMP facility operations shall be inspected once annually at a minimum unless inspection frequency is altered by formal policy. More specifically, each inspection topic should be conducted according to the guidelines shown in Table 1. Standby, inactive, or operations in restoration should be inspected according to the inspection topics modified to the level of risks presented by each scenario.

Occasionally the SMP may perform a reactive inspection in response to an allegation or incident. Reactive inspections differ from routine inspections in that they are focused on a limited issue and are not within the scope of preparation for routine inspection. Determination of whether a reactive inspection is necessary will be made on a case-by-case basis by the SMP Manager. Preparation for a reactive inspection includes reviewing specific documentation related to the incident under review and consultation with DEQ management on the best items to review before the inspection is conducted.

The interval between inspections may be extended (lengthened) based on good license performance and/or the status of the facility with the SMP Manager’s approval. See Section 4.2.1-4.2.2 of this Procedure (SMP-01) for details.

Table 1 Inspection Guidelines

Inspection Topics (As Applicable)	Reference to Section 12 of this Document (SMP-01)	Regulations, Procedures, and Guidance	SMP Rules
Management Organization and Controls	12(a)	10 C.F.R. 19.12, 10 C.F.R. 20.1 l0I(c), IP 88005, IP 89001, RG 8.31	SMP Rules Chapters 1,4, and 8
ALARA Program	12(b)	10 C.F.R. 20.1101(b), IP 87102, RG 8.10, RG 8.31	SMP Rules Chapters 1 and 4
Occupational Exposure Control and Monitoring	12(c)(i)	10 C.F.R. 19.13(b) and 20.1201-1204, 20.1207, 20.1501-1502, IP 83822, IP 83750, IP 83728, IP 83750, RG 8.7, RG 8.9, RG 8.10, RG 8.11, RG 8.13, RG 8.22, RG 8.25, RG 8.29, RG 8.30, RG 8.31, RG 8.34, RG 8.36, NUREG 1400, NUREG 4884	SMP Rules Chapters 1 and 4
Respiratory Protection	12(c)(ii)	10 C.F.R. 20.1703, RG 8.15, NUREG 0041	SMP Rules Chapters 1, 2, and 3
Surveys and Radiation Detection Equipment	12(c)(iii)	10 C.F.R. 20.1203-1204, 20.1501, and 20.2103, IP 83726, RG 8.30, NUREG 1507	SMP Rules Chapter 4
Security and Control of Licensed Material	12(c)(iv)	10 C.F.R. 20.1601-1602, 20.1801, and 20.1802	SMP Rules Chapters 1, 3, and 4
Postings	12(c)(v)	10 C.F.R. 19.11, 20.1902-1905, 20.1501-1502	SMP Rules Chapters 4 and 5
Radiation Work Permits	12(c)(vi)	NUREG-1702	
Public Dose Inspections	12(d)(i)	IP 88045, RG 3.51, RG 3.59, RG 3.63, RG 4.14, NUREG 3332, NUREG 7213	SMP Rules Chapters 1, 3, and 4
Public Doses and Environmental Protection	12(d)	IP 89045, RG 3.56, RG 3.63, RG 4.14, RG 4.15, RG 8.37	SMP Rules Chapters 4 and 8
Other Environmental Items	12(d)(ii)	IP 89045, RG 3.56, RG 3.63, RG 4.14, RG 4.15, RG 8.37	SMP Rules Chapters 4 and 8

Inspection Topics (As Applicable)	Reference to Section 12 of this Document (SMP-01)	Regulations, Procedures, and Guidance	SMP Rules
Operation and Facilities	12(e)	IMC 2602, IP 89001, IP 87654, RG 8.30	SMP Rules Chapters 1 4, and 8
Radioactive Waste Management and Transportation at Uranium Recovery and 11e.(2) Byproduct Material Facilities	12(d, f & g)	IP 86740, IP 86750, IP 89035	SMP Rules Chapters 1, 4, and 9
Emergency Preparedness and Fire Protection at Uranium Recovery and 11e.(2) Byproduct Material Facilities	12(h)	IP 89050, IP 88055, IP 89035	SMP Rules Chapters 1 and 4
Lab Inspections	12(i)		SMP Rules Chapters 1
Decommissioning & Financial Assurance	12(j)		SMP Rules Chapter 6
Effluent Control and Environmental Protection at Uranium Recovery and 11e.(2) Byproduct Material Facilities	12(b,c,&d)	IP 87102, IP 89045, RG 3.56, RG 4.14, RG 4.15, RG 8.37	SMP Rules Chapter 4 and 8
QA/QC Reports	12(vii)	RG 4.14, RG 4.15	SMP Rules Chapters 1 and 2, SMP-04, SMURP-05
ALARA Reports	12(b)	IP 87102, RG 8.10, RG 8.31, RG 8.37	SMP Rules Chapters 1 and 2
Independent Auditor Reports			

Wyoming Department of Environmental Quality
Land Quality Division
Source Material Program

Source Material Program, Inspection Procedures Technical Quality of Inspections and Inspection Reports (SMP-04) (Section 4.4.2 of NRC Handbook)

Approved: Charlee Anne Boger, Source Material Program Manager
Effective Date:
Revision Number:

Section 1. Purpose

This procedure establishes the quality assurance measures taken by the program to ensure the accuracy and integrity of the inspection process.

Section 2. Objectives

The objectives of the Technical Quality of Inspections and Inspection Reports program is to 1) to list measures taken to ensure that the inspection process is accurate and uniform, and 2) to inform inspectors of the quality assurance measures taken by the Program.

Section 3. Quality Assurance of Inspection and Inspection Reports

To ensure the quality of inspections for the SMP, the following measures must be followed:

(a) Inspectors will be required to obtain the training as listed in the formal qualification plan for inspectors;
(b) When performing inspections follow the inspection procedures that are pertinent to the area of inspection;
(c) Inspection Reports will follow a narrative format;
(d) Inspection Reports will follow administrative procedures which include supervisory review of all inspection reports;
(e) During team inspection the lead inspector is responsible for drafting the inspection report, but team members should peer review the report for accuracy of content before supervisory review; and
(f) Periodic inspection evaluations will be used to ensure the quality of inspections. The form for inspection evaluations is contained as an attachment to this Inspection Procedure.

Section 4. Purpose of Inspection Reports for Source Material Operations

This Inspection Procedure summarizes the format for narrative reports following inspections of Source Material operations licensed and regulated under the Wyoming Department of Environmental Quality (WDEQ), Source Material Program (SMP) rules and regulations. Inspection procedures for inspection of licensed materials facilities in Wyoming are contained in SMP guidance titled *Source Material Program Inspection Procedures.* The purpose of the narrative inspection report is to summarize inspection findings, including violations, items of concern, unresolved items, and decisions regarding future inspections.

If violations are identified, the inspector must provide sufficient detail for the reader to understand what requirements were violated, how the requirements were violated, who violated the requirements, when the requirements were violated and lastly, the cause of the violation. Additionally, the inspection report should be used to describe what procedures or activities were observed and/or demonstrated by the licensee during the inspection, and any items of concern that were not cited as a violation of regulatory requirements.

The inspection report should also address any violations or items of concern that were discussed

in the exit meeting following the inspection visit. Finally, the inspection report should be written after consultation with the appropriate program supervisor, particularly if violations were identified during the inspection.

Section 5. Format of the Inspection Report Cover Letter

The inspection report cover letter should be written on WDEQ LQD's letterhead, and should include the following:

1. Date;
2. Licensee name and address;
3. Subject/Reference line: "SMP Inspection Report", Facility name, Company name, license number for the facility, permit number (if applicable);
4. Greeting;
5. Body of text;
    - Type of inspection (announced or unannounced);
    - Date(s) of inspection;
    - Facility Name, location (county, Wyoming);
    - Name(s) of SMP inspector(s), titles;
    - Findings of the inspection;
    - Reference to any notices of violation (NOVs) or particular areas of concern;
    - Reference to attachments/enclosures such as the main inspection report, supportive previous inspection information or documents, etc;
    - Requirements for response from the licensee and timeframe for response;
    - Any SMP rules and regulations, statutes, or license conditions applicable to the situation; and
    - Contact information for SMP staff
6. Enclosures; and
7. Contacts who have been "cc'd." Please "cc" relevant State and/or Federal agencies with whom the SMP has Memoranda of Understanding/Memoranda of Agreement (MOUs/MOAs)

Section 6. Format of the Body of the Inspection Report

The information which follows concerning the body of the inspection report has been modeled after historical NRC inspection reports of licensed facilities in Wyoming. In general, the inspection report should contain the following items:

6.1 Executive Summary

The executive summary provides a broad-scope summary of the results of the inspection. The heading of the summary should include the name of the facility, the SMP license number, the date(s) of the inspection, and the name(s) and title(s) of the SMP inspector(s). Under the heading of the executive summary, the inspector should provide a brief summary of the inspection results.

6.2 Report Details

This section provides the specific details recorded by the inspector during the inspection visit, and the supportive facts for determinations of violations or other concerns resulting from the inspection. Each subsection should provide discussions of the inspection scope, observations and findings, and conclusions. A summary of the information to be included in each subsection is provided below.

6.2.1 Entrance Meeting Summary

Review the major attendees at the entrance meeting and any major operational changes discussed during the meeting, including changes to staffing, operational changes, safety concerns, equipment updates, corrective actions, updates from previous inspections, and anything noted by the licensee such as self-identified violations or their concerns in advance of the inspection.

6.2.2 Site Status

Provide a brief history of the facility's operation, including type of facility, licensed materials handled at the facility, significant dates of operation, major license modifications, and licensee changes (ownership, etc.). Also provide a summary of the present decommissioning status, groundwater restoration, etc. Note any results from previous inspections, any violations or items of concern outstanding, NOVs and orders as appropriate, public or landowner concerns, and outstanding SMP review items for the facility.

6.2.3 Management Organization and Controls

Provide a summary of any organizational structural changes since the last inspection. Summarize Safety and Environmental Review Panel (SERP) records and results, and detail training that has occurred since the last inspection. Deficiencies in radiation protection personnel, RSO authority, SERP analysis, and training of staff should be discussed here with reference to standards that were violated.

6.2.4 ALARA Program

The purpose of this section is to report on items reviewed during inspection that ensure licensed activities are implemented using ALARA principles in maintaining occupational and public dose ALARA. The inspector should report on inspection activities related to ALARA records, onsite inspections, goals, trainings, personal protective equipment, and self-identified violations as outlined in SMP Inspection Procedure SMP-01 and SMP Rules Chapter 2. Deficiencies with the ALARA program should be discussed here with reference to the standards that were violated.

6.2.5 Radiation Protection

As part of the evaluation of the licensee's Radiation Protection Program summarize items evaluated in the inspector's analysis. Analysis should follow the inspection items listed in SMP Inspection Procedure SMP-01 under Radiation Protection, and the SMP Rules Chapter 3, Radiation Protection Standards. If the following items were reviewed during the inspection include those in the report:

1. The highest occupational dose received as a result of licensed activities;
2. Any positive bioassays;
3. Summary of monitoring data that was reviewed during the inspection;
4. Confirmatory measurements of postings throughout licensee operations; and

5. Summary of Radiation Work Permits reviewed, and whether proper protocols were adhered.

Deficiencies with the licensee's Radiation Program should be discussed here with reference to the SMP standards that were violated.

6.2.6 Public Doses and Environmental Protection

The purpose of this subsection is to report on inspection activities that verified that doses to members of the public did not exceed dose limits, and that effluents released from the licensed activities to the unrestricted areas are adequately controlled and the environment is protected. The following information at a minimum should be included in this section if it was reviewed during the inspection:

1. Dose of Maximally Exposed Individual;
2. Number of significant spills, and that they were adequately reported to correct agencies;
3. Discuss if reporting and monitoring requirements have been kept; and
4. Discuss any restoration activities.

Deficiencies with the licensee's Public Dose and Environmental Protection Program should be discussed here with reference to the SMP standards that were violated.

6.2.7 Operation and Facilities

The purpose of this section is for the inspector to document inspection activities as it relates to operations. The inspection report should, at a minimum, document the following inspection activities as they were conducted:

1. Discuss any observations of work practices to established procedures;
2. Document any new changes since the last inspection, such as new equipment or configuration in the facilities circuit; and
3. Summarize current operations with details such as flow rates and production.

Deficiencies with the Operation and Facilities Program should be discussed here with reference to the standards that were violated.

6.2.8 Radioactive Waste Management & Transportation

The purpose is to determine if transportation and disposal activities were conducted in compliance with regulatory requirements. Inspectors should discuss inspection activities performed to ensure this objective. The following items should be included under this section if they were reviewed during the inspection:

1. Discuss if licensee disposal agreement for waste material is still valid (if applicable);
2. Number of associated waste shipments since last inspection and if the shipments were performed correctly;
3. Number associated waste shipments made since last inspection, and if the shipments were performed correctly;
4. Discuss observations of resin shipments during inspection;
5. Discuss any observations of placarding, shipping papers, or other shipping documents.

Deficiencies with the licensee's Radioactive Waste and Transportation Program should be discussed here with reference to the SMP standards that were violated.

6.2.9 Emergency Preparedness

Discuss review of emergency response procedures and any incidents, spills, accidents, and emergencies since the last inspection. Note any corrective actions taken, results of review of training records, alarm inspections, and emergency drill records.

6.2.10 Laboratory Inspection

Discuss any items that were reviewed during the inspection to ensure the safe use of licensed materials in the laboratory.

6.2.11 Decommissioning and Financial Assurance

Discuss the review of records conforming to SMP Rules, Chapter 6, records of spills or other contamination at the facility, and review of records such as drawings showing modification of structures in restricted areas where licensed materials are used or stored. Confirm that financial assurance has been provided to the Department, and whether or not radiological or environmental conditions (spills or process changes) at the facility have changed since the financial assurance was submitted. Determine whether the financial assurance needs to be updated to reflect the changes at the facility.

6.2.12 Site Tour and Area Survey

Include a discussion of the site areas visited during the site tour, the processes observed including licensed materials handling, and the licensee representatives present for the site tour and area survey. Also note signage and security measures (fences, gates, locked doors, restricted areas), safety procedures, condition of radiological monitoring equipment, and radiological surveys conducted by the inspector (including instrument and calibration due date).

6.2.13 Exit Meeting Summary

Provide the date the exit meeting was conducted, whether or not proprietary information was reviewed by the inspector, concerns by the licensee, and a statement that the inspection results were presented to the licensee's representatives, including "Apparent Violations", "Items of Concern", and "Recommendations". Discuss any follow-up commitments made by the inspector to the licensee, or any action items committed to by the licensee.

6.3 Supplemental Inspection Information

The following information may be included to clarify those persons involved in the inspection, the references used by the inspector(s), discussion items, schedule for future inspections, and acronyms used in the inspection report:

6.3.1 Partial List of Persons Contacted

This subsection should contain any licensee, division, state or federal agency or any other persons that were contacted during the inspection process, entrance interview, site tour and survey, and exit interview.

6.3.2 Inspection Procedures Used

Several inspection procedures are available for reference during site inspections. The references used during the inspection or for writing the inspection report should be provided in the report. These references may include (but are not limited to) *Source Material Program Inspection Procedures-01,* and NRC inspection procedures below, which may include appropriate sections of the following:

IP 83822	Radiation Protection
IP 86740	Inspection of Transportation Activities
IP 87102	Maintaining Effluents from Materials Facilities ALARA
IP 88005	Management Organization and Controls
IP 89035	Radioactive Waste Management and Transportation at Uranium Recovery and 11e.(2) Byproduct Material Facilities
IP 89045	Effluent Control and Environmental Protection at Uranium Recovery and 11e.(2) Byproduct Material Facilities
IP 89050	Emergency Preparedness and Fire Protection at Uranium Recovery and 11e.(2) Byproduct Material Facilities
TI 2600/017	Implementation of the Decommissioning Planning Rule

6.3.3 Items Opened, Closed, and Discussed

This subsection may contain information regarding previous inspections, NOVs and Orders, or unresolved items relative to the present inspection.

6.3.4 Schedule for Future Inspections

If possible, provide an estimate for the timing of the next regularly scheduled inspection. In general, each facility can expect two SMP inspections per year exclusive of any special inspections resulting from violations or events of concern at a facility.

Attachment A
Inspector Evaluation Form

Wyoming Department of Environmental Quality
Source Material Program
INSPECTOR EVALUATION REPORT

Inspector:	_____	Evaluator:	_____
Licensee:	_____	License Number:	_____
Location:	_____	Date of Inspection:	_____
Inspection Type:	_____		

Preliminary Discussion with Inspector:	**Done**
Explain the extent of the reviewer's participation in the inspection	☐
Discuss the procedure for introducing the reviewer to the licensee and explaining his/her presence during the inspection	☐
Explain the method that will be used for evaluating the inspector's performance	☐

Summary of Evaluation:
Inspector's performance rating:

☐ Meets Guidelines
☐ Needs Improvement

Comments:

The inspector would benefit from additional training in:

Inspection Preparation

	YES	NO	*N/A*
I. Has the inspector reviewed the license and prior compliance history?			
2. Has the inspector planned the inspection?			
3. Does the Inspector have the appropriate instruments?			
4. Are the instruments in calibration?			
5. Does the inspector have the necessary supplemental materials? (regulations, inspection procedures, personnel dosimetry, TD, etc)			

Comments:

Opening

	YES	NO	*N/A*
1. Was the opening interview conducted with management?			
2. Were incidents or other self-identified violations discussed?			
3. Did the licensee understand the purpose, scope, and techniques?			

Comments:

Inspection

	YES	NO	*N/A*
1. Did the inspector perform a walkthrough of the facilities?			
2. Were licensee operations and use of handling of materials observed?			
3. Were the facilities checked for proper posting?			
4. Was security verified?			
5. Were workers interviewed to verify their understanding of safety procedures?			
6. Were workers checked for personnel dosimetry?			
7. Were adequate wipes, surveys, and measurements taken?			
8. Did inspector check for adherence to A LARA?			

Comments:

Closing

	YES	NO	*N/A*
1. Was there careful assembly of supporting information prior to the exit interview?			
2. Did the inspector close with appropriate level of management or make every effort to do so?			
3. Were recommendations clearly distinguished from items of non-compliance?			
4. Were items of noncompliance fully explained with regulations or license conditions cited?			
5. Did the inspector explain that follow-up actions would occur?			
6. Was the licensee advised of any requirements?			
7. Did the inspector properly decide if certain practices or operations should cease immediately?			
8. Were previous items of noncompliance discussed?			

Comments

Professionalism

	YES	NO	*N/A*
1. Did the inspector use proper judgment in evaluating radiation safety?			
2. Did the inspector demonstrate an adequate knowledge of health physics and regulations?			
3. Was the inspector's appearance appropriate for the type of inspection?			
4. Was rapport with management and workers sufficient for free exchange of information?			
5. Were the inspector's questions phrased appropriately?			

Comments

Inspection Report

	YES	NO	*N/A*
1. Did the inspector document all items in the inspection report?			
2. Were all deficiencies addressed?			
3. Was the inspection report generated in a timely manner?			

Comments

Reviewed:

Program Manager **Date**

Wyoming Department of Environmental Quality
Land Quality Division
Source Material and Uranium Recovery Program

Source Material and Uranium Recovery Program Instrumentation: Field Function Checks and Use (SMURP-05)

Approved: Charlee Anne Boger, Source Material and Uranium Recovery Program Manager

Effective Date:

Revision Number:

Section 1. Purpose

The purpose of this Inspection Procedure is to instruct Source Material and Uranium Recovery Program (SMURP) inspectors on the quality control and quality assurance of portable radiation survey instrumentation. SMURP inspectors will be trained in the use of this procedure, and the instruments (or their equivalents) listed in the procedure, prior to any inspection using portable radiation instrumentation. This procedure also describes other sampling procedure QA/QC as necessary.

Section 2. Objectives

Ensure instruments are in calibration and function correctly prior to use and
ensure the proper use and operation of the instrumentation, as well as correct interpretation of the results.

Section 3. Scope

This Inspection Procedure describes the methods for performing an instrument function check and for the proper use of direct reading portable radiation survey instruments. The objective of this procedure is to ensure that instruments are correctly calibrated. The survey instruments are tested once after coming back from calibration, in addition to before and after use of them in the field. The purpose of testing and calibration is to demonstrate that the survey instruments are operating, and to provide records verifying that they are operating properly. The SMURP Supervisor is responsible to provide training and direction to designated personnel to ensure that the proper procedures are followed and that instruments are properly calibrated.

Portable survey instruments are used for a variety of purposes during routine operations at a licensee location. These instruments may be used to detect fixed or removable contamination on surfaces and personnel to minimize the potential or the spread of contamination, or they can be used similarly to a direct gamma exposure rate meter, depending on the instrument setup, as described later in this procedure. Direct gamma exposure rate meters are used to measure exposure rates for the purpose of determining background levels, locating areas where radionuclide concentrations may be elevated, and evaluating the potential radiation dose to workers or members of the public.

In order to perform its function properly, a portable survey meter must be calibrated by a qualified vendor at an established frequency (normally one year or less) and its performance checked on a daily basis by the Senior Health Physicist or other qualified employee. Adequate records of calibrations and instrument checks must be maintained by the Senior Health Physicist to assure the quality of the data obtained. Instruments which are not in calibration must be sent to a qualified vendor for calibration prior to use.

Section 4. Portable Radiation Survey Instruments

A variety of portable radiation survey instruments are available. For detecting radiation from naturally occurring uranium, thorium, and the associated decay products, the three basic types of radiation that will need to be detected are: alpha, beta, and gamma radiation. The SMURP

proposes to use a Ludlum Model 43-93 probe (or equivalent), paired to a Ludlum Model 2224-1 ratemeter/scaler (or equivalent) for the detection of alpha and beta radiation contamination. The Ludlum Model 43-93 is a "phoswich" probe, which consists of a silver doped zinc sulfide (ZnS(Ag)) scintillator and a plastic scintillator "sandwiched" together. The zinc sulfide scintillator responds to alpha radiation, while the plastic scintillator responds to beta radiation. The ratemeter/scaler may be operated such that the readout, in counts per minute (cpm), will be the response of the detector to alpha or beta radiation separately, with minimal cross-talk. The ratemeter/scaler may also be operated so that the readout in cpm reflects the total of alpha and beta radiation.

A Ludlum Model 19 (or equivalent), also known as a microR meter (or equivalent), will be used to identify exposure rates at various locations at licensee facilities. The Model 19 contains an internally housed 1 inch by 1 inch (l" x 1") thallium doped sodium iodide (Nal(Tl)) crystal which responds to gamma radiation. The detector shall be calibrated to read out in microRoentgen per hour (μR/hr) in a radium 226 (Ra-226) gamma radiation field.

The Ludlum Model 44-10 probe or its equivalent, paired with a Ludlum Model 2221 ratemeter/scaler, or its equivalent, will be used to measure low level gamma radiation fields in certain instances where sensitivity is an issue. The Model 2221 may be programmed to read out in cpm, μR/hr, or a myriad of other output options. Table 1 contains a list of radiation detection equipment the Source Material and Uranium Recovery Program will make available to our staff.

Table: 1 below is a list of Equipment Available for SMURP Staff Use:

Table 1

Equipment	Detector	Quantity
Ludlum Model 19	Nal	3
Ludlum 2224-1	Ludlum 43-93	2
Ludlum 2221	Ludlum 44-10	1
Ludlum Model 25	(Personal Radiation Monitor)	2

Section 5. Instrument Quality Checks

(a) Ludlum Model 19, Paired Ludlum Model 44-10/Model 2221, and Paired Ludlum Model 43-93/ Ludlum Model 2224-1 Quality Control and Daily Function Check

The Model 43-93 probe or Model 44-10 probe is attached to the Model 2224-1 or Model 2221 ratemeter/scalar using a coaxial connector cable. Ensure the cable is not damaged prior to use. The Model 43-93 has a thin metalized polyester window.

Ensure there is no damage to this window prior to use. Should a hole in the window occur, a "light leak" will be present, and the instrument background will increase dramatically with exposure to light. One way to check this (as holes can be small and difficult to see, i.e. "pin holes") is to hold the instrument up towards a light source and examine the count rate. Should the count rate increase dramatically once the detector is held up to the light, the window is damaged, and this instrument must be repaired. The Model 19 is a single unit that requires no cables or cords. The Model 19, Model 2221, and the Model 2224-1 require D batteries to operate. To

check the battery level, press "BAT", or turn the selector to "BAT". Change the batteries if the needle stops near or below the "BAT OK" mark, or below approximately 4.6 V for the Model 2221.

Upon receipt of the paired instruments from the calibration facility, the instrument will be fully quality-checked and efficiency-checked to ensure the instrument arrived in functioning condition. Upon receipt of an instrument, the function check sheet for the specific instrument type, an example of which is available in Appendices B and C, shall be used to ensure the instrument is properly functioning. If the instrument is not functioning properly the instrument shall be returned to the calibration facility to be recalibrated or repaired. Subsequent function checks will be performed prior to use. The Ludlum Model 43-93/Model 2224-1 function check sheet titled Example Equipment Calibration Sheet found in Appendix A may be used for this purpose, or an equivalent form may be used. A beta-emitting check source, such as a Tc-99 or Sr/Y-90 source, and an alpha-emitting check source, such as Th-230, will be made available to the inspector for this purpose. For the Model 19 and Model 44- 10, a gamma-emitting source, such as a Cs-137 source, will be made available.

The Ludlum Model 19, and Model 44-10/Model 2221 will also need to be quality controlled and function-checked in the same manner as the Ludlum Model 43-93/Model 2224-1. However, the Model 19 does not have an integrating scaler capability, nor are measurements often used for purposes of releasing materials. Therefore, instead of 1-minute counts, or using a source, the user will test the Model 19 against average background in the office. For Cheyenne, the background exposure rate is approximately 20 μR/hr. Additionally, any measurements at a facility may be measured against the facility's instrumentation for verification, at the request of the licensee.

More advanced issues or questions than what are addressed in this inspection procedure should be researched at the Ludlum website: https://ludlums.com/ or by calling the manufacturer directly.

(i) Upon receipt of the instrument:
- (A) Record the pertinent instrument information on the quality control form, Example Equipment Calibration Sheet, Appendix A.
  - i. Make and Model of the detector and ratemeter;
  - ii. Serial numbers of both the detector and ratemeter;
  - iii. Date of calibration (ensure within one year prior to use);
  - iv. Source types used (e.g. Th-230, Tc-99);
  - v. Source serial numbers; and
  - vi. Source strength/activity in decays per minute (DPM) (decay corrected as necessary)
- (B) Take ten background 1-minute counts in both the alpha and beta channels (or only the single channel for the Model 44-10/Model 2221 and Model 19).
  - vii. Take ten 1-minute counts with the probe completely centered over the alpha-emitting source in both the alpha and beta channels. For the Model 19 and Model 44-10/Model 2221, use the gamma-emitting source (Cs-137) and proceed directly to step "E".
  - i. Ensure the source is returned to the holder.
- (C) Take ten 1-minute counts with the probe completely centered over the beta-

emitting source in both the alpha and beta channels.

i. Ensure the beta source is returned to the holder and placed at least a meter away from the detector when not in use.

(D) Using the Example Equipment Calibration Sheet form, Appendix A, and the provided equations therein, determine the efficiency and control values of the Model 43-93 for both alpha and beta radiation. Consult the SMURP Health Physics Supervisor if you have questions or issues.

(ii) Daily, prior to, and after use:

(A) Record the pertinent instrument information on the Function Check form in Appendix C.

i. Make and Model of the detector and ratemeter/scaler
ii. Serial numbers of both the detector and ratemeter/scaler;
iii. Date of calibration, ensure this is within one year prior to use;
iv. Source types used (e.g. Th-230, Tc-99);
v. Source serial numbers; and
vi. Source strength in DPM (decay corrected as necessary).

(B) Take a background 1 -minute count in both the alpha and beta channel. (or only the single channel for the Model 44-10/Model 2221 and Model 19).

(C) Take a 1-minute count with the probe completely centered over the alpha-emitting source in both the alpha and beta channels. For the Model 44-10/Model 2221 and Model 19, place the Cs-137 source about 12 inches from the center of the probe. Use the provided template in Appendix A for this purpose. Proceed to step "E".

i. Ensure the source is returned to the holder.

(D) Take a 1 -minute count with the probe completely centered over the beta-emitting source in both the alpha and beta channels.

i. Ensure the beta source is returned to the holder and placed away from the detector by at least a meter when not in use.

(E) Using the form in Appendix A, and the provided equations therein, determine that the instrument is within the provided control values, calculated in Section 5(a)(i) above. If within the control values, proceed using the instrument. If not, ensure that there is no other issue with the instrument, e.g. batteries need replaced, the high voltage needs adjusted, or high radon levels in building. If an issue is identified, do not use the instrument for values which will be recorded or used to identify issues. Keep the function check sheets for each inspection with the documentation from that inspection.

Documentation shall be maintained to indicate instrument operability and/or malfunction problems daily when instruments are in use. QA documentation should be kept for both background counts and counts with a check source. The attached instrument QA daily check charts in Appendices B and C are available for use. An equivalent form may also be used. The "Calculation of Mean and Control Limits" charts, page 2 of Appendix A, are also available for use. Equivalent charts may be used at the discretion of the SMURP Health Physics technical lead. Daily instrument checks could be completed on a chart, similar to the attached daily instrument QA charts in Appendices B and C.

(b) Use of the Ludlum Model 19

i. Using the buttons on the left side of the top plate, check the “High Voltage (HV)” and “Battery (BAT)” and complete the quality control procedure, per the procedure in (a).

ii. Once the quality control procedure is completed, use the switch to turn the operation to FAST mode (“F”, with a rabbit pictogram).

iii. Turn the selector from OFF to 25 (in red). This is the lowest reading setting, used for measuring low level radiation from 0 to about 25 microRoentgen per hour (μR/hr). If the needle is "pinged" to the far right of the scale, switch to a higher setting, starting at 50, and increase the selector settings as necessary.

iv. To read the instrument, use the needle and scale. If the scale is set on 250 (Red) or 500 (Black), add one zero to the readings. If the scale is set at 5000 (Black), then add two zeros to the readings.

v. To take a measurement to be recorded, switch from FAST mode to SLOW mode. Measurement recordings should be completed in SLOW mode, which helps to stabilize the reading. Allow the instrument ample time to stabilize in slow mode.

(c) Use of the paired Ludlum Model 43-89/Ludlum Model 2224-1

i. Using the toggle for HV and the turning selector knob for the battery, check the HV and BAT and complete the quality control procedure, per the procedure in (a).

ii. Turn the selector knob to "x 1", increasing the scale if areas which max out the scale are found.

iii. For scanning, slowly move the detector over the area of interest in the alpha only mode. Hold the detector above the surface of the area of interest by less than 1 cm, preferable less than 0.5 cm. Remove debris which may puncture the thin window.

iv. For scaler counts, turn the MIN selector knob to 1-minute. Hold the detector against the object or area of interest only if you can be sure that the action will not contaminate the detector. Otherwise, hold the detector 0.5 cm above the surface of the area of interest. Press the button in the handle of the Model 2224-1 to begin the scaler count.

(d) Use of the paired Ludlum Model 44-10/Ludlum Model 2221

i. Flip the ON switch for approximately one second to turn the Model 2221 ON (flip the switch to OFF to turn the Model 2221 OFF).

ii. Press the MODE button to advance between the three operating modes.

iii. Use the COUNT mode for scaler counting, the RATE mode for exposure rate measurements, and the MAX mode to discover the highest recorded reading of the session.

iv. The instrument should be set up by the SMURP Health Physics technical lead prior to use. The programming should not be attempted by inspectors unless they are trained to do so.

Section 6. Other Inspection Sampling Processes

Occasionally, soil sampling, air sampling, liquid (surface or ground water) sampling, swipe sampling, filters for airborne contamination, or other sampling may be completed at the discretion of the SMURP. These samples may be taken as confirmatory samples, split samples of licensee samples, field duplicates of licensee samples, or other samples. These samples will be sent to laboratories deemed appropriate by the SMURP. These laboratories' Quality Management Programs will be reviewed by the SMURP for QA/QC procedures deemed appropriate by the state. Specific procedures for each sampling effort will be developed by the SMURP prior to any sampling event.

(a) Soil and Sediment Sampling - General Procedure

NOTE: This procedure should be viewed as a general procedure. While this procedure could be used in aiding the development of a more specific soil sampling procedure, this procedure is not specific to a single sampling event. SOPs, by definition, are specific to a planned event or goal, and not general in nature. However, this procedure is provided as guidance for a future procedure, developed specifically to the goals of the sampling event. Procedures for specific types of sampling, such as composite sampling, or soil profiles should be completed prior to any sampling even requiring these types of samples.

(i) Equipment and Supplies

A. Trowel, auger or other soil gathering tool acceptable for the required sampling
B. Plastic re-sealable bags (half gallon or larger) (Ziploc type)
C. Permanent Marker
D. Laboratory Supplied Chain of Custody (COC)
E. Field Notebook
F. Handheld GPS
G. Equipment Manuals
H. Tape Measure or Ruler
I. Stiff bristle brush
J. Wipes for removable surface contamination
K. Filters for airborne contamination
L. Spray bottle filled with water (deionized or distilled) (as necessary)
M. First Aid Kit
N. Digital Camera (as necessary)
O. Personnel Protective Equipment (as necessary)
P. Water resistant ink pens
Q. Hard sided shipping container or cooler
R. Shipping Tape
S. Disposable Gloves
T. Pin flags
U. Water resistant sample labels
V. Paper towels

(ii) Obtaining Samples

A. Wash hands or change disposable gloves prior to sample collection as necessary.

B. Locate the sampling location utilizing the GPS instrumentation available

C. Note the location coordinates in the coordinate system of interest for the site. Adjustments to a previously decided upon location should be made in cases of dangerous conditions (such as on the side of a steep slope).

D. Clear grass, rocks, sticks, debris, and organic substances from the top of the location. If present in the sample, remove these items to the extent practical.

E. Using the auger or trowel, sample the soil to the depth of interest, generally the top 0-5 cm or 0-15 cm. However, in some cases, a soil profile may be of interest, generally, 0-30 cm, 30-60 cm, and 60-100 cm. Development of a specific soil profile sampling procedure should be completed prior to completing a soil profile sample. If a composite sample is being taken, the development of a composite sampling procedure should be completed.

F. Record relevant information in the logbook such as sampler name, sample ID, date, time, soil type, soil color, moisture, QA/QC information, irregularities in the sample/sampling technique, other field observations, sample coordinates etc. Take a picture using the digital camera as necessary.

G. Record the date, time, and sample ID onto the bag and the label. A label may include other information, such as relevant analytes or conditions relevant to the sample

H. Store samples in the hard-sided container

I. Complete the COC as necessary for the sample and analysis

J. Clean the sampling tool with the spray bottle, paper towels, and brush as necessary for QA/QC purposes

(b) Bioassay Sampling

Should bioassay sampling be necessary, the state would contract with an qualified and experienced company that follows all necessary NRC guidelines and protocols to provide required specimen collection, labeling and shipping instructions.

(c) Surface Water Sampling

(i) Equipment and Supplies

A. Permanent marker
B. Laboratory supplied Chain of Custody (COC)
C. Field notebook
D. Handheld OPS
E. Equipment manuals
F. First aid kit
G. Digital camera (as necessary)
H. Personnel protective equipment (as necessary)
I. Water resistant ink pens
J. Hard sided shipping container or cooler
K. Shipping tape
L. Disposable gloves

M. Water resistant sample labels
N. Paper towels
O. Preservatives as required
P. Sample collection containers (e.g. beaker, dipper)
Q. Dissolved oxygen/pH/conductivity/temperature meters as necessary
R. Ice packs
S. Filtering equipment
T. pH buffers and standards as necessary

(ii) Obtaining Samples

A. All sampling equipment should be free of residuals, triple rinsed using deionized (DI) water and decontaminated prior to sampling events.

B. Instruments for field measurements, such as any conductivity or dissolved oxygen meters should be calibrated prior to the sample event, or in the field, per the manual for the instrument. These readings and calibrations shall be recorded in the field notebook.

C. Prior to sampling, field conditions shall be recorded in the field notebook. Any abnormalities will be recorded.

D. Grab samples will be collected near the edges of water bodies such as ponds and lakes. For streams and rivers, grab samples will be taken in areas easily accessible and safe for the sampler. If an ephemeral stream shall be sampled, sampling devices will need to be placed in the thalweg of the drainage such that any amount of water flow in the drainage may be collected.

E. Water samples will be labeled clearly, and the COC will be filled.

F. The following information will be recorded in the field notebook:
   i. sampling location;
   ii. actual time and date when the sample was obtained;
   iii. person(s) performing the sampling;
   iv. temperature, pH, conductivity and dissolved oxygen (as required);
   v. sample identification numbers, including those for any QA/QC samples;
   vi. number of samples taken;
   vii. field observations; and
   viii. irregularities or problems that may have a bearing on sample QA/QC

(d) QA/QC Sampling

A. QA/QC of field measuring equipment involves the review of calibration procedures and the use of standards. QA/QC of field sampling documentation involves the routine verification of field log- books and/or forms and the required sign-off on the Chain-of-Custody (COC) forms. Each QA/QC sample should be labeled with the correct QA/QC identification number and sent along with the other samples to the independent laboratory for analysis. The number and frequency of QA/QC samples to be collected is generally defined as 10% of the samples taken (i.e. when collecting monthly samples this would correlate to one of each type of field QA/QC sample every ten months) or one

per year, whichever is more frequent. Specific work plans may specify a different frequency of QA/QC samples. Sample containers and preservatives for QA/QC samples should be prepared in the same manner as all other sample containers.

i. Field Duplicate Samples - samples that have been divided into two or more portions at some step in the measurement process. Each portion is then carried through the remaining steps in the measurement process. An example of a field duplicate sample is a water sample that has been collected and poured into two sets of sample containers.

ii. Equipment Rinsate Samples (also known as equipment blank or rinsate blank) samples that are obtained by collecting deionized or distilled water that has contacted the decontaminated sample collection equipment (i.e. beaker or dipper). These samples are then sent to the laboratory for analysis of the same parameters as the sample taken with the same equipment. These samples will be used to determine if decontamination procedures have been effective. Equipment rinsate samples may also be taken from decontaminated equipment planned for dedicated used, prior to use at the dedicated location.

iii. Field Blank Samples - samples that are collected by pouring deionized water directly into a sample container. The blank will be analyzed for the same parameters as the samples that were collected or are associated with that blank.

iv. Matrix Spike Samples - The laboratory will analyze the sample for the analytes being measured in other related samples within the sample delivery group. The laboratory will then add (spike) a known quantity of a specific analyte to the sample and reanalyze the sample for the spiked analyte. The percent recovery of the spiked analyte is determined, and matrix interferences are evaluated. A sufficient quantity of samples will be collected to allow the laboratory to spike the sample for each analyte to be analyzed.

(e) Packaging and Shipping

i. All samples will be sent to qualified laboratories for analysis

ii. Ship samples in a cooler or hard-sided container, as necessary, as soon as possible and ensure samples will not exceed analyte-specific holding times.

iii. Copy the final chain of custody for site records and insert the original into a re-sealable bag and tape it to the inside top of the shipping container. Tape the container shut and sign the custody seal, if used. Ship samples as coordinated with the laboratory.

iv. All records and documentation associated with sample collection shall be retained in accordance with regulatory requirements. Chain of Custody forms are maintained in a binder or folder designated by the Project or Field Manager for that purpose. The site logbook is maintained electronically or by bound logbook as designated by the Project or Field Manager. Laboratory results are maintained electronically and by hard copy in a binder or folder designated by the Project or Field Manager for that purpose.

Surveyor:		John Smith				Model 43-93 S/N:		PR358000	Model 2224-1 S/N:		322121	Bat Check:	OK
Date:		1-Jan-24				Calibration Due Date:		31-Jul-19	HV		625		
Count 1 (counts/source)		Count 2		Count 3		Count 4		Count 5		Count 6		Count 7	
Bkg α	2	Bkg α	0	Bkg α	1	Bkg α	0	Bkg α	2	Bkg α	0	Bkg α	1
Bkg β	328	Bkg β	340	Bkg β	321	Bkg β	316	Bkg β	341	Bkg β	366	Bkg β	342
α/α	2707	α/α	2698	α/α	2644	α/α	2657	α/α	2713	α/α	2684	α/α	2681
β/α	704	β/α	652	β/α	693	β/α	690	β/α	637	β/α	630	β/α	679
α/β		α/β		α/β		α/β		α/β		α/β		α/β	
β/β		β/β		β/β		β/β		β/β		β/β		β/β	
Count 8		Count 9		Count 10		h		2σ of Sample Gross Mean		Gross Lower Control Limit (λ-2σ)		Gross Upper Control Limit (λ+2σ)	
Bkg α	0	Bkg α	0	Bkg α	0	Bkg α	0.6	Bkg α	2	Bkg α	0	Bkg α	2
Bkg β	327	Bkg β	291	Bkg β	328	Bkg β	330	Bkg β	39	Bkg β	291	Bkg β	369
α/α	2658	α/α	2596	α/α	2589	α/α	2663	α/α	86	α/α	2576	α/α	2749
β/α	629	β/α	613	β/α	691	β/α	662	β/α	66	β/α	596	β/α	728
α/β		α/β		α/β		α/β	#DIV/0!	α/β	#DIV/0!	α/β	#DIV/0!	α/β	#DIV/0!
β/β		β/β		β/β		β/β	#DIV/0!	β/β	#DIV/0!	β/β	#DIV/0!	β/β	#DIV/0!
Alpha Efficiency (2π):		0.45	Alpha Scan MDC (dpm/100cm²):		638	Beta Efficiency (2π):		#DIV/0!	Beta Scan MDC (dpm/100cm²):		#DIV/0!	Alpha Surface Efficiency	0.25
Alpha Static MDC (dpm/100cm²):		88				Beta Static MDC (dpm/100cm²):		#DIV/0!				Beta Surface Efficiency	0.5
Beta Source S/N:		5112-03	Date:			Aug-03	Activity (dpm):		28100	Isotope:		Tc-99	Efficiency from calibration sheets
Alpha Source S/N:		10862	Date:			2/15/1978	Activity (dpm):		11715	Isotope:		Th-230	Used for Eff. Calc
d' (Table 6.5 MARSSIM for 95% true positive, 60% false positive)	1.38	Minimum detectable number of net counts	4.7	MDCR	149	Scan Speed	5	cm/s	Width of 43-93	9.53	cm	Observation Interval (s)	1.91

Instructions: Take 10 1-minute background counts, record alpha and beta channel results. Take 10 1-minute alpha source counts, record alpha and beta channel results. Take 10 1-minute beta source counts, record alpha and beta channel results. In the chart, the first symbol is the channel, and the second symbol is beta, i.e. α/β would represent the 1-minute alpha channel count result with the beta source. Next, use the above equations to complete the table.

Table 6.5 Values of d' for Selected True Positive and False Positive Proportions

False Positive Proportion	True Positive Proportion							
	0.60	0.65	0.70	0.75	0.80	0.85	0.90	0.95
0.05	1.90	2.02	2.16	2.32	2.48	2.68	2.92	3.28
0.10	1.54	1.66	1.80	1.96	2.12	2.32	2.56	2.92
0.15	1.30	1.42	1.56	1.72	1.88	2.08	2.32	2.68
0.20	1.10	1.22	1.36	1.52	1.68	1.88	2.12	2.48
0.25	0.93	1.06	1.20	1.35	1.52	1.72	1.96	2.32
0.30	0.78	0.91	1.05	1.20	1.36	1.56	1.80	2.16
0.35	0.64	0.77	0.91	1.06	1.22	1.42	1.66	2.02
0.40	0.51	0.64	0.78	0.93	1.10	1.30	1.54	1.90
0.45	0.38	0.52	0.66	0.80	0.97	1.17	1.41	1.77
0.50	0.26	0.38	0.52	0.68	0.84	1.04	1.28	1.64
0.55	0.12	0.26	0.40	0.54	0.71	0.91	1.15	1.51
0.60	0.00	0.13	0.27	0.42	0.58	0.82	1.02	1.38

$s_i = d' \sqrt{b_i}$ $\quad \alpha\ scan\ MDC = \dfrac{\left[-ln\left(1 - p(n \geq 1)\right)\right] * 60}{\varepsilon_i \varepsilon_s t}$

$MDCR = s_i \times (60/i)$ $\quad$ Static $MDC = \dfrac{1}{\varepsilon} * \dfrac{1}{100\ cm^2} * (3 + 4.65\sqrt{B})$

$$Scan\ MDC = \frac{MDCR}{\sqrt{p}\ \varepsilon_i\ \varepsilon_s \dfrac{probe\ area}{100\ cm^2}}$$

Appendix B

M-19 Equipment Calibration Sheet
(Function Check Sheet)

Surveyor:					Model 19 S/N:		321482	Bat Check:	Ok
Date:					Calibration Due Date:		17-Oct-25	HV	1500
Source Cs-137 S/N:	505	Manufacture Date:			3/1/2013	Activity (µCi):		0.8	
Background (µR/hr)	20								
Source (µR/hr)	60								
Instructions: Take reading of the background and radioative source Cs-137 at 4.5 cm.									

Surveyor:					Model 19 S/N:		321465	Bat Check:	Ok
Date:					Calibration Due Date:		17-Oct-25	HV	1500
Source Cs-137 S/N:	505	Manufacture Date:			3/1/2013	Activity (µCi):		0.8	
Background (µR/hr)	22								
Source (µR/hr)	60								
Instructions: Take reading of the background and radioative source Cs-137 at 4.5 cm.									

Surveyor:					Model 19 S/N:		321420	Bat Check:	Ok
Date:					Calibration Due Date:		14-Nov-25	HV	1500
Source Cs-137 S/N:	505	Manufacture Date:			3/1/2013	Activity (µCi):		0.8	
Background (µR/hr)	23								
Source (µR/hr)	60								
Instructions: Take reading of the background and radioative source Cs-137 at 4.5 cm.									

Appendix C

M2221 44-10 Equipment Calibration Sheet
(Function Check Sheet)

Surveyor:					**Model 44-10 S/N:** **Model 2221 S/N:**		PR370720 329085	**Bat Check:**	**Ok**
Date:					**Calibration Due Date:**		12-Nov-25	HV	939
Source Cs-137 S/N:	505	**Manufacture Date:**			3/1/2013	**Activity (µCi):**		0.8	
Background (CPM)									
Source (CPM)									
Instructions: Take reading of the background and radioative source Cs-137 at surface.									

Subsection 4.5
Enforcement Program Elements



Section 4.5 of SA-700, *Handbook for Processing an Agreement* states the Wyoming Department of Environmental Quality ("WDEQ") may adopt enforcement procedures modeled on the NRC procedures, or those used by another Agreement State. The Enforcement Program Elements are governed by the Wyoming Environmental Quality Act, Wyoming Statutes §§ 35-11-701, -901, - 903 through -904, and the Source Material and Uranium Recovery Program's rules and regulations.

SA-700, *Handbook for Processing an Agreement*

4.5 Enforcement Program Elements

A State may adopt enforcement procedures modeled on the NRC procedures, those used by another Agreement State, or the State's existing enforcement program. The routine procedures include a notice of the violation to the licensee. Escalated enforcement procedures supplement routine enforcement procedures and are for serious or repeated violations.

4.5.1 Routine Enforcement Procedures

Routine enforcement procedures describe the actions the program takes in response to a violation of a regulatory requirement that is not serious in nature and is not a repeated violation.

- See Wyo. Stat. §§ 35-11-701 and -2003;
- See Source Material and Uranium Recovery Program's *Enforcement Procedure*, Appendix A of this subsection;
- See Source Material Program Rules, Chapter 2, *Inspections, Enforcement, and Penalties*; and
- See Source Material Program Rules, Chapter 8, *Risk Informed, Performance Based Licensing and Inspection.*

4.5.1.1 Information Needed

The State should submit its procedures for routine enforcement.

- See SMURP's *Enforcement Procedure*, Appendix A of this subsection.

4.5.1.2 Evaluation Criteria

The State should have procedures for assuring the fair and impartial administration of regulatory law. They should scale the actions to the seriousness of the violation.

The procedures should establish standard methods of communicating sanctions to the licensee. The State should give written notice using standardized wording and format. Legal counsel should review the wording and format.

The procedures should include a means for tracking the completion of enforcement actions.

- See SMURP's *Enforcement Procedure*, Appendix A of this subsection.

4.5.2 Escalated Enforcement Procedures

For serious or repeated violations of regulatory requirements, the program should use escalated enforcement.

- See SMURP's *Enforcement Procedure*, Section 3.0 Escalated Enforcement, Appendix A of this subsection; and
- Wyo. Stat. §§ 35-11-115, -701, -901(j) through (k), and -2003.

Escalated enforcement actions usually supplement the routine actions. Escalated enforcement actions may include:

(a) Administrative or civil monetary penalties;

- Wyo. Stat. § 35-11-901(a).

(b) The modification, suspension, or revocation of the license; and

- Wyo. Stat. §§ 35-11-109(a)(xiii), -409, -412, -2003(f).

(c) Referral for criminal prosecution.

- Wyo. Stat. §§ 35-11-901(j) through (k) and -904; and
- See Source Material Program Rules, Chapter 2, *Inspections, Enforcement, and Penalties*, Section 4.

4.5.2.1 Information Needed

The State should submit its procedures for escalating enforcement actions.

- See SMURP's *Enforcement Procedure*, Section 3.0, Escalated Enforcement, Appendix A of this subsection.

4.5.2.2 Evaluation Criteria

The State should scale the sanctions in escalated enforcement cases to the seriousness of the violation. The sanctions should be more severe than routine enforcement.

The procedures should address notifying the licensee of proposed escalated enforcement actions. The notice should be in writing, using standard wording and format when practical.

The enforcement program element manager, or higher, should sign notices of escalated enforcement.

Escalated enforcement actions should be coordinated with legal counsel.

- See SMURP's *Enforcement Procedure*, Section 3.0 Escalated Enforcement, Appendix A of this subsection.

Appendix A to Subsection 4.5

Enforcement Procedures

Source Material and Uranium Recovery Program

June 2025

1.0 GENERAL INFORMATION

1.1 Purpose

The purpose of the Wyoming Source Material and Uranium Recovery Program (SMURP) is to protect public health, safety, and the environment through appropriate enforcement actions. Enforcement action should be used to:

- Deter noncompliance by emphasizing the importance of regulatory compliance; and
- Encourage prompt identification and comprehensive corrective action following the occurrence of violations.

1.2 Applicability

The SMURP's *Enforcement Procedure* applies to all SMURP licensees and applicants and those engaging in unlicensed or unpermitted activities. This includes, but is not limited to, the employees, agents, and contractors of licensed or unlicensed entities involved in SMURP-regulated activities.

1.3 Statutory Authority and Regulatory Framework

The statutory authority for enforcement under the SMURP is provided in the Wyoming Environmental Quality Act and Wyoming Statutes §§ 35-11-102 and -2001 through -2004.

1.4. References

1. NRC Criteria Policy Statement, Criteria 1, 18, 19, and 23;
2. NRC Enforcement Policy, https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html;
3. NRC Inspection Manual Chapters 2800 and 2801; and
4. SMP and URP Rules and Regulations, Chapter 2, *Inspections, Enforcement, and Penalties*.
5. Wyoming Statute §§ 35-11-101 *et seq*.

1.5 Definitions

Definitions for the *Enforcement Procedure* may be found in the Wyoming Environmental Quality Act, Wyoming Statute §§ 35-11-101 *et seq*. and the SMURP's rules and regulations Chapter 2, *Inspections, Enforcement, and Penalties*.

2.0 ENFORCEMENT ACTION

This section describes the various ways the SMURP will handle violations. The manner in which a violation is handled will vary depending on the nature of the violation and will account for the seriousness of the violation and the circumstances surrounding the violation. The actions, including sanctions and penalties, taken by the SMURP will be scaled according to the seriousness of the violation(s).

Notices of Violations and other escalated enforcement actions are reviewed by the Wyoming Attorney General's Office.

2.1 Administrative Actions

2.1.1 Demands for Information

A written demand for information is used to determine whether an order or other action is warranted.

2.1.2 Inspection Reports

An inspection report is issued at the conclusion of an inspection to document the occurrence of the inspection, the inspector's findings, and potential or existing violations. An inspection report may demand resolution of issues or problems identified by the inspector or violation within a certain amount of time as determined by the SMURP. Potential or existing violations are typically documented as Observations, Findings or Violations. Observations are the lowest severity level, Findings are a slightly higher severity level, and Violations are the highest severity level, resulting in the issuance of a Notice of Violation (NOV). When determining the severity of the compliance concern, the following are taken into consideration:

- actual safety consequences
- potential safety consequences
- potential for impacting the SMURP's ability to perform its regulatory function, and
- any willful aspects of the compliance concern.

When assessing the severity of potential or existing violations the SMURP manager will consider the above items, as well as precedent set by both the NRC and SMURP when addressing similar concerns.

2.1.3 Pre-Enforcement Letter

In addition to the inspection report, a Pre-Enforcement Letter may be issued to notify licensees or non-licensees of potential or existing violations. A Pre-Enforcement Letter may request self-identification and remedy of a violation within a specified time-frame. A Pre-Enforcement Letter is generally utilized prior to issuing an NOV or Order, giving the licensee or non-licensee the opportunity to come into compliance without the need for escalated enforcement.

2.1.4 Informal Enforcement Conference

An informal enforcement conference may occur to discuss potential or existing enforcement actions. An informal enforcement conference can be used to gather more information, resolve any potential or existing violations, or to determine whether an order or other action is warranted.

2.1.5 Stipulated Settlements and Settlement Agreements

The Wyoming Department of Environmental Quality (WDEQ) and SMURP may negotiate and enter into stipulated settlements and settlement agreements in lieu of litigation. Stipulated settlements and settlement agreements may involve the payment of penalties, implementation of compliance schedules, or other settlement negotiations.

2.1.6 Enforcement Tracking

Enforcement documentation will be tracked according to the facility permit/license number in addition to the docket number in the case of NOVs and orders. Completion of enforcement actions will be recorded in the facility license file and will be kept secure in the SMURP headquarters office in Cheyenne, Wyoming.

2.1.7 Notices of Violation (NOV)

A Notice of Violation is written notification of a violation of the Wyoming Environmental Quality Act, or any rule, regulation, standard, or license adopted or issued thereunder. A Notice of Violation must specify the provision of law being alleged to be violated and the facts alleged to constitute the violation. A Notice of Violation must be signed, at a minimum, by the Director of the Wyoming Department of Environmental Quality.

A Notice of Violation may be accompanied by an Order requiring a person to cease and desist from the violation within a certain amount of time as determined by the Director of the Wyoming Department of Environmental Quality. Additionally, violations are subject to penalties, injunctive relief, and other civil or criminal remedies as provided by the law.

2.2 Civil Monetary Penalties and Injunctions

Any person who violates the Wyoming Environmental Quality Act, or any rules, regulations, standards, or licenses adopted or issued thereunder, is subject to monetary penalties and/or an injunction. Monetary penalties and shall not exceed $10,000.00 per day per violation. Monetary penalties and injunctions are to be determined by a court of competent jurisdiction in a civil action.

2.3 Orders

An Order is a written directive by the Director of the Wyoming Department of Environmental Quality to demand a licensee or other person cease and desist violations or unauthorized or illegal activities, to suspend or revoke a license, or to take such other action as may be proper. Orders are deemed final unless a request for a hearing before the Wyoming Environmental Quality Council is made no later than 10 days after the date of the Order.

2.4 Exercise of Discretion

Notwithstanding the normal guidance contained herein, the SMURP may choose to exercise discretion and either escalate or mitigate enforcement sanctions within SMURP's statutory authority to ensure that the resulting enforcement action takes into consideration all the relevant circumstances of the particular case.

3.0 Escalated Enforcement

This section describes escalated enforcement action that the SMURP may take for serious, willful or repeated violations. Escalated enforcement can include civil penalties and revocation or suspension of licenses. The SMURP may utilize escalated enforcement pursuant to SMURP rules and Wyoming Statutes, §§35-11-901(a) for first violations (a Notice of Violation), and (j) which increases the maximum limit for penalties per day and allows for criminal penalties. For subsequent violations, the maximum penalties are again increased. Enforcement will be handled on a case-by-case basis and will be scaled according to the seriousness of the violation(s). SMURP will notify licensees of escalated enforcement.

Pursuant to Wyoming Statutes and the SMURP's rules, the SMURP is authorized to assess civil or monetary penalties, modify, suspend, and revoke a license, and refer matters for criminal prosecution. Notices of escalated enforcement should be signed by the Director of DEQ and the Administrator of the Land Quality Division. Escalation of enforcement actions would likely occur if the NOV is not responded to or the terms of a settlement are ignored or timeframes for compliance were not met. Enforcement actions should be reviewed by the Wyoming Attorney General's office. SMURP will notify licensees of escalated enforcement actions in writing.

3.1 Emergency Orders

An Emergency Order may be issued by the director in concurrence with the governor for conditions which pose immediate and substantial danger to human or animal health or safety, requiring persons to immediately stop actions causing the conditions. This may be followed by a council hearing to modify, approve or set aside the director’s order (W.S. §35-11-115).

3.2 Civil Penalties

Any person who willfully or knowingly violates the Wyoming Environmental Quality Act, or rules, regulations, standards, or license adopted or issued thereunder, is subject to higher penalties not to exceed $25,000.00 per day per violation. For a subsequent conviction for a violation, the person shall be subject to a fine of not more than fifty thousand dollars ($50,000.00) per day of violation, imprisonment for not more than two (2) years, or both. For multiple violations penalties may be assessed up to the maximum amount specified in this subjection for each day of each separate violation.

3.3 Criminal Sanctions

Any person who willfully or knowingly violates the Environmental Quality Act, or rules, regulations, standards, or licenses adopted or issued thereunder, is subject to imprisonment for not more than one year, or not more than two years for a subsequent conviction.

4.0 Training

The WDEQ receives periodic training on the enforcement process from the Wyoming Attorney General's Office. The training is considered privileged attorney-client communication, and its content is not included in this application.

5.0 Enforcement Flow Chart.

The process by which WDEQ handles violations is governed by Wyoming Statute and is shown in Figure 1. For violations that have low health and safety significance to the public, the worker(s), or the environment (as determined by the SMURP Manager), the LQD Administrator attempts to promptly eliminate the source or cause of the violations by conference, conciliation, and persuasion (W.S. §35-11-701(c)). The licensee/permittee is notified of confirmed violations through formal inspection letters.

Potential or existing violations are typically documented as Observations, Findings or Violations. Observations are the lowest severity level, Findings are a slightly higher severity level, and Violations are the highest severity level, resulting in the issuance of a Notice of Violation (NOV). When determining the severity of the compliance concern, the following are taken into consideration:

- actual safety consequences
- potential safety consequences
- potential for impacting the SMURP's ability to perform its regulatory function, and
- any willful aspects of the compliance concern.

When assessing the severity of potential or existing violations the SMURP manager will consider the above items, as well as precedent set by both the NRC and SMURP when addressing similar concerns.

If a violation is not corrected or if a violation is of significant risk to the health and safety of the public, worker(s), or the environment (as determined by the SMURP Manager), a Notice of Violation (NOV) will be issued. The NOV may be accompanied by an order if, after reviewing the violation, the LQD Administrator and the WDEQ Director determine it is warranted. For violations that have immediate and substantial danger to human or animal health or safety, the WDEQ Director may issue an Emergency Order (W.S. §35-11-115).

Each NOV that is issued is tailored to the individual violation and is issued by both the LQD Administrator and the WDEQ Director. WDEQ prefers to avoid formal litigation and, where possible, prefers to negotiate settlements to expeditiously resolve violations. All NOVs and their corresponding Settlement Agreements are posted on the LQD website for public access.

In determining if a civil penalty is warranted, the following are considered:

- the severity of the violation
- past penalties imposed for similar violations
- whether the entity gained any financial benefit from noncompliance
- if the violation is a repeat violation.

If the violation is handled through a settlement agreement, the DEQ determines the monetary

penalty amount through negotiations with the company. If the violation goes to litigation, the court will decide civil penalty amount, based on recommendations from the WDEQ and the courts own judgement. If the violation is handled through a settlement agreement, the company agrees to pay the penalty. If the penalty is not paid, the issue will be litigated. If the violation is handled through litigation, the civil penalty is imposed through a court ordered judgement. In the litigation route, the WDEQ will propose a civil penalty amount, but the court has sole power to decide on the civil penalty amount.

WDEQ Enforcement Flow Chart

Violation Occurs

Inspection Report Documents Violation

Is a Notice of Violation (NOV) Warranted?

NO

W.S. 35-11-701(c) Observation Finding

Is Violation Corrected Prior to Next Inspection?

YES

Inspection Report Documents Violation is Corrected

Violation Mitigated

YES

Is an Order Necessary? W.S. § 35-11-701(c) (i) & (ii)

* Emergency Orders W.S. § 35-11-115

NO

Preferred Route if Possible

NOV Issued Without Order W.S. § 35-11-701(c)(i)

Penalties W.S. § 35-11-901(a)

Preferred Route if Possible

WDEQ Settlement Agreement W.S. § 35-11-901(a)(ii) Penalties W.S. § 35-11-901(a)

Company Complies with Agreement

YES

Violation Mitigated

NO

Litigation W.S. § 35-11-901(a)(ii)

Start/End: This shape represents first and last step in process

Document: This shape represents a step that results in a document

Decision: This shape indicates a point where the outcome of a decision dictates the next step (yes/no).

YES

NOV Issued With Order W.S. § 35-11-701(c) (i) Penalties W.S. § 35-11-901(a)

Hearing with EQC Requested W.S. § 35-11-701(c)(ii)

NO

Company Complies with Order & NOV

YES

Violation Mitigated

NO

Litigation W.S. § 35-11-901(a)(ii)

YES

EQC Affirms Order & NOV W.S. § 35-11-701(c)(iii)

NO

Order & NOV Rescinded W.S. § 35-11-701(c)(iii)

YES

Company Complies with Order & NOV

NO

YES

Litigation W.S. § 35-11-901(a)(ii)

Violation Mitigated

Subsection 4.6
Technical Staffing and Training Program Elements

4.6 Technical Staffing and Training Program Elements

The Source Material Program (SMP) has adopted the technical staffing standards listed in Nuclear Regulatory Commission (NRC) Inspection Manual 1248, Appendices H and I. The SMP will consist of one program manager, two technical positions, one attorney through the Wyoming Attorney General's Office, and one existing LQD Full-Time Equivalent (FTE).

4.6.1 Technical Staff Organization

The State should conduct an analysis of the expected workload and establish an appropriate staffing plan. The analysis should consider the number, distribution, and sizes of the licensees that will transfer under the Agreement.

The staffing analysis should also consider if the State will perform radiation safety reviews of sealed sources and devices containing radioactive material and register the sealed sources or devices for distribution; license a LLRW commercial land disposal site; license uranium or thorium recovery facility subject to the requirements of UMTRCA; license major manufacturers, universities with major research programs, or other large scale materials users; or will need to perform increased controls inspections on affected licensees.

- See Subsection 4.6.1 of this application.

4.6.1.1 Information Needed

The State should submit its program staffing plan, including organizational charts. The staffing plan should show the number of staff members assigned to specific responsibilities, such as license review and inspection and for each major category of licensee. It should estimate the workload for the licensees that will transfer, and the other duties of the program.

- See Subsection 4.1.2 and 4.6.1 of this application.

4.6.1.2 Evaluation Criteria

The State is not required to use the sample forms in Appendix B of the Handbook. If used, the State should modify the forms as needed to reflect the mix of license programs that the State will regulate.

- See Subsection 4.6.1 of this application.

The State must staff the program with enough qualified personnel. The staff must consist of at least two technical staff.

- See Subsection 4.6.1 of this application.

The NRC does not have a specific requirement for the number of staff required, but the experience of existing Agreement States should be considered. Depending on training and experience, Agreement State programs typically employ 1 to 1.5 technical staff members per 100 active licenses. Waste disposal sites or uranium mills require additional staff. The distribution of staff should be based on workload estimates that are

consistent with the NRC and other Agreement State programs experience.

- See Subsection 4.6.1 of this application.

The State workload estimate should be based on the State's organization, policies, practices, and procedures. The State should not create a staffing plan based solely on NRC staffing plan.

4.6.2 Formal Qualification Plan

The ability to conduct an effective material program depends on having enough trained and experienced staff members. The State should develop a formal qualification plan to address training of staff. In addition, a key to this process is having strategies in place to address staff retirements, promotions and departures.

- See Appendix A and B of subsection 4.6.2 of this application

4.6.2.2 Information Needed

The State should submit its position descriptions and its qualification plan for formal qualification of technical staff members.

- See Subsection 4.6.2 Qualification Plan of this application.

4.6.2.3 Evaluation Criteria

Each technical staff position should require a bachelor’s degree in the physical or life sciences, or engineering. An equivalent combination of education and experience may substitute for the degree.

The program should have a written qualification plan. It should address job specific training and experience. The plan should specify the qualification procedures, including times for completing requirements. It should address the credentialing of individuals qualified to work independently. The plan should provide for interim qualification and certification by the State Program Director, or designee. IMC 1248 may be used as general guidance.

- See Subsection 4.6.2 SMP Position Descriptions and Qualification Plan.

4.6.3 Qualification of Current Technical Staff

The program staff qualifications should cover both routine functions and emergency cases. The distribution of staff qualifications and the distribution of licensees transferred should match. For example, there should be enough inspectors qualified to inspect industrial radiography licensees that a backlog of industrial radiography inspections will develop.

- See Subsection 4.6.3 of this application.

4.6.3.1 Information Needed

The State should submit the resume of each current member of the technical staff. The resume should, as a minimum, show the educational level, experience, and any specialized training.

For staff members admitted into training courses not yet completed, submit the course name or description and scheduled dates. For each current staff member, identify the individual's qualifications under the State's written qualification plan.

- See Section 4.6.3 of this application.

4.6.3.2 Evaluation Criteria

Except for some junior positions, all staff members should meet the program's own qualification requirements.

The review team may consider the State's experience working with the NRC inspectors and license reviewers. It may also consider experience regulating non-Agreement materials and machine-produced sources of radiation.

- See Subsection 4.6.3 of this application

Subsection 4.6.1
Technical Staffing Organization

4.6.1 Technical Staff Organization

The Wyoming Department of Environmental Quality (WDEQ) has established an appropriate staffing plan using the Wyoming URP as a model. In determining the staffing plan the WDEQ relied on workload projections from the Nuclear Regulatory Commission (NRC), the Wyoming URP, and comments received on Wyoming's initial Agreement Application. It is estimated that at the time of the Agreement, the State would assume regulatory authority over one licensee: Rare Earth Resources

House Bill 0061 (2023) provided funding for 2 FTE required to staff the newly created Source Material Program (SMP). Additionally, the SMP would use one FTE from the existing Land Quality Division (LQD) workforce. The 3 FTE are not specific individuals but represent billable hours to the equivalent of 6,240 hours, accounting for the LQD expertise in Geology, Hydrogeology, Ecology, Biology, Soil Sciences, and Engineering. The expertise within the SMP will primarily be centralized around Health Physics and Geology/Hydrogeology. The Program Manager's time will be split between the URP and SMP for a total of .15 FTE budgeted for the SMP oversite and program representation.

The expertise of the SMP Program along with the area of effort is presented in Table 1.

Table 1: SMP Program Staffing

Name	Position	Area of Effort (%)	
		Admin/ Oversite	Source Material Program (inspections/ review)
Brandi O'Brien	LQD Administrator	5%	
Charlee Boger	Program Manager	10%	
Daniel Call	Health Physicist		100%
Monte Buchanan	Health Physicist		100%
1 LQD (1,784 hrs.)	Multiple Disciplines		100%
Totals		**0.15 FTE (312 hrs)**	**3 FTE (6,240 hrs)**

WDEQ determined staffing needs based upon an available 2,080 hours per employee, per year. This is taking into consideration holidays, vacation and sick leave.

To estimate the SMP inspection workload, the WDEQ consulted with the NRC, considered the URP's functions and workload and the estimated traveling distances between the SMP's office in Cheyenne, Wyoming and the regulated facility. WDEQ determined 0.39 FTE (804 hrs.) for SMP inspection-related activities. In projecting resources for inspections, the SMP budgeted for an inspection twice annually at the Rare Earth Resources site. Inspections will follow NRC guidance, and other relevant SMP procedures, to set inspection frequencies appropriately.

Table 3 Inspection Workload/Year							
Average Inspections per year	# of staff	Hours of Prep before Inspection	Travel Hours for Inspection	Staff Hours at Facility	Inspection Write up	Total Hours Per Inspection	Inspection activity hours per year
Rare Element Resources 2	2	30	15	24	30	198	396
Additional Inspection (Enforcement/ Allegation Response/Pre-operation inspection) 2	2	30	12	30	30	204	408
Total Hours							**804 hrs.~ 0.39 FTE**

To estimate the workload for license review and project management, WDEQ consulted with the NRC, and reviewed the URP's workload to determine the necessary FTE. The SMP has determined that 0.5 FTE (1,040 hrs.) per active licensee are required for project management. For inactive licensees or licensees undergoing decommissioning, the URP dedicated 0.2 FTE (416 hrs.) for project management, the SMP will do the same for decommissioning. Using the above estimates, WDEQ determined that 1.0 FTE are required by the program for licensing or review. Table 4 below provides justification for this estimate.

Wyoming's dedicated 3.15 FTE (6552 hrs.) for SMP inspections and license review is consistent with the URP.

Table 4: License Review/Project Management Workload/Year	
Site	FTE for Project Management or Licensing Activity (hrs.)
Rare Earth Resources	.5 FTE
New Applications/ Major Licensing Actions	.5 FTE
Total Hours	**2,080 hrs.~1.0 FTE**

Lastly, as shown in Table 5 below, WDEQ identifies common licensing actions and how existing LQD staff may help the SMP with those reviews.

Table 5 Common License Amendment Request by Type and Level			
Amendment Request	Facility Type	How it will be budgeted	Other WDEQ involvement
New Application	All	New Application/Major Amendment	LQD, WQD, and URP
Facility Upgrades	All	Project Management	LQD and URP
Site Decommissioning Plan	All	Project Management	LQD and URP
Site Closure/License Termination	All	Project Management	LQD, WQD, and URP

Subsection 4.6.2
Formal Qualification Plan

Appendix A to Subsection 4.6.2
Source Material Program
Position Descriptions

Job Description for ENNR-13 URP/SMP Program Manager

State of Wyoming

ENNR13-2021-02244-Natural Resources Program Manager-Cheyenne

SALARY	$6,901.14 - $8,893.23 Monthly	**LOCATION**	Cheyenne, WY
JOB TYPE	Full Time	**JOB NUMBER**	2021-02244
DEPARTMENT	020-Land Quality	**OPENING DATE**	12/13/2021
CLOSING DATE	1/21/2022 11:59 PM Mountain	**FLSA**	Exempt

Description and Functions

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

Open Until Filled

GENERAL DESCRIPTION:

Manage the States NRC program that includes reviewing all legal outputs from a technical perspective, participating in all public processes, setting fee structure and writing, or revising all NRC guidance documents, MOU's and Rules and Regulations. Manage and/or Supervise all NRC staff.

Human Resource Contact: Cristina Donovan 307-777-7939 cristina.donovan@wyo.gov

ESSENTIAL FUNCTIONS: The listed functions are illustrative only and are not intended to describe every function which may be performed at the job level.

- Implement plans and goals of the NRC Program, ensuring that the DEQ mission is met.
- Organize, plan, and oversee all NRC Program and Staff activities.
- Assign staff to coordinate and oversee the NRC permitting process and initiate and track enforcement actions (Conference and Conciliation, Notice of Violation, Order, Settlement Agreements, etc.).
- Serve as lead on all Bond Forfeiture proceedings that occur within the Program.
- In cooperation with the Administrator, develop and revise policies, rules, regulations, and guidelines, and engage in planning efforts, budget matters, and personnel issues.
- Provide project management for special projects, including researching, editing, planning, and presenting results.

- Assist LQD administrator in budget preparation and budget management.
- Monitor Federal legislation and administrative activities relative to land quality and mining issues.
- Consult with legislatures, attorneys, engineers, and the public regarding land quality and mining issues.
- Represent the NRC program by consulting with high-level officials in industry, at other state agencies, in the federal government, in non-governmental organizations, and with members of the public.
- Present expert testimony on uranium mining issues during hearings and other legal proceedings.
- Serve as the initial contact for and subsequent liaison with the general public inquiries and complaints.
- Serve as the DEQ/NRC representative at conferences and/or meetings with other state and federal agencies.
- Participate in national and regional organizations as appropriate.
- Supervise subordinate supervisors to ensure program goals and objectives are met.
- Coordinate and perform Performance Management Initiative reviews of subordinate staff.
- Coordinate and participate in writing public announcements for LQD District staff openings and job descriptions; arrange, coordinate, conduct interviews, and secure necessary DEQ approvals to hire new staff.
- Establish, coordinate, and track staff training as other state agencies, federal agencies, or private entities offer.
- Coordinate and complete special projects assigned by the DEQ Director or LQD Administrator.

Qualifications

PREFERENCES:

Preference will be given to those having degrees in natural or environmental sciences or engineering.

KNOWLEDGE:

- Knowledge of analytical methods and techniques as applied to NRC management.
- Knowledge of principles and practices of management and administration, including budget development and control, planning, and personnel development, leadership, and management.
- Knowledge of uranium mining and reclamation processes and the ability to review technical information to issue sound permits that meet regulatory guidelines.
- Extensive understanding of Wyoming environmental law and NRC regulations.
- Knowledge of Wyoming environmental law as it relates to NRC and Uranium Mining; and permitting processes, federal environmental laws and requirements applicable to delegated programs, general understanding of regional environmental programs and requirements, general understanding of environmental laws of surrounding states; federal and state legislative processes; rulemaking procedures; case law interpretation; compacts and decrees to which Wyoming is a party.
- Skill in interpersonal relations as applied to interaction with representatives of industry, government, the general public, and the scientific community.
- Skill in dealing with complex concepts in an agile, comfortable, and competent manner.
- Skill in oral and written communication.
- Ability to manage technical staff in a team approach to meet agency goals.
- Ability to prioritize work quickly so that deadlines are met while maintaining quality.
- Ability to train and mentor staff.

MINIMUM QUALIFICATIONS:

Education:
Bachelor's Degree (typically in The Sciences)

Experience:
3-5 years of progressive work experience (typically in The Sciences) with acquired knowledge at the level of a Natural Resources Program Supervisor

OR

Education & Experience Substitution:
6-8 years of progressive work (typically in The Sciences) with acquired knowledge at the level of a Natural Resources Program Supervisor

Certificates, Licenses, Registrations:
Specific to each agency, please refer to recruitment.

Necessary Special Requirements

PHYSICAL WORKING CONDITIONS:

- Participation in the various groups as Wyoming's representative
- Requires extensive travel and the ability to work in various outdoor environmental conditions.

NOTES:

- FLSA: Exempt

Supplemental Information

020-Department of Environmental Quality - Land Quality

Click here to view the State of Wyoming Classification and Pay Structure.

URL: http://agency.governmentjobs.com/wyoming/default.cfm

Class Specifications are subject to change, please refer to the A & I HRD Website to ensure that you have the most recent version.

Agency
State of Wyoming

Address
See Human Resource Contact Information in the General Description Section for questions RE Post
Statewide, Wyoming, 82002

Website
http://agency.governmentjobs.com/wyoming/default.cfm

Job Description for the ENNR-11 Health Physicist SMP Positions

State of Wyoming

ENNR11-2023-00780-Natural Resources Program Supervisor- Cheyenne

SALARY	$6,757.91 - $7,508.79 Monthly	**LOCATION**	Cheyenne, WY
JOB TYPE	Permanent Full-time	**JOB NUMBER**	2023-00780
DEPARTMENT	020-Land Quality	**OPENING DATE**	03/28/2023
CLOSING DATE	7/18/2023 11:59 PM Mountain	**FLSA**	Determined by Position

Description and Functions

DEQ

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

Open Until Filled

GENERAL DESCRIPTION:

A great place to live for those interested in outdoor activities as Cheyenne is just 30 minutes from Curt Gowdy State Park, about an hour from Rocky Mountain National Park, and about 90 minutes from Glendo State Park and Reservoir. Located just 45 miles from two (2) Division 1 schools, the University of Wyoming and Colorado State University, for those who may want to pursue additional educational opportunities. Outdoor activities include hunting, fishing, camping, boating, backpacking, mountain biking, and skiing, and just a 90-minute drive to Denver International Airport.

This position is a Health Physicist in the Land Quality Division (LQD). Under limited supervision, this position functions as a specialist in health physics, helping the LQD obtain an agreement with the Nuclear Regulatory Commission (NRC) to create the Source Material Program. This position will be required to draft and promulgate rules, as well as draft any necessary regulatory guidance documents and develop the new training program. This position will regularly work with the NRC to ensure that the newly developed program meets all of the compatibility requirements of the NRC. This position will ultimately implement the new program and be responsible for technically evaluating the radiological hazards associated with source material incidentally recovered from mineral resources. In addition, this position will meet the NRC equivalent training to become a licensed reviewer and inspector.

Human Resource Contact: Rachael Reinhardt 307-777-6143 rachael.reinhardt2@wyo.gov

ESSENTIAL FUNCTIONS: The listed functions are illustrative only and are not intended to describe every function which may be performed at the job level.

- Participates in developing and implementing rules, regulatory guidance, and technical positions concerning operations that generate source material.
- Develop the new training program, as well as a training tracking system.
- Regularly interact with the NRC to ensure the new program meets the NRC's adequacy and compatibility requirements.
- Transfer certain NRC records and licenses into the MIDAS system.
- Analyzes and comprehends licensee-provided data (such as environmental monitoring data and exposure data) and, using professional judgment, ensures operators are in compliance and maintaining exposures as low as is reasonably achievable (ALARA).
- Performs complex technical review, analysis, and evaluation of license applications, renewals, and amendments using Health Physics principles.
- Reviews radiological surveys, reports, and decommissioning activities using sound health physics principles.
- Serves as technical lead in on-site inspections of licensed facilities to determine compliance with State and Federal radiological regulations, license conditions, and requirements contained in the licensee application.
- Clearly communicates complex technical analysis, issues, and recommendations both orally and written to the staff, the public, the regulated community, and other government agencies.
- Produces detailed, well-written technical reports, inspection reports, and division correspondence.
- Analyzes impacts of licensed operations' activities on public health, safety, and the environment.
- Obtains qualification to become an NRC equivalent license reviewer and inspector.

Qualifications

PREFERENCES:

Preference will be given to those candidates with a minimum of a bachelor's degree in health physics, environmental science, engineering, or other closely related field.

KNOWLEDGE:

- Knowledge of radiological health or risk assessment concepts.
- Knowledge of NRC and Wyoming rules, regulations, and enabling statutes related to radiation protection.
- Understanding of LQD's administrative rulemaking process.
- Understanding of detection limits and uncertainties in obtaining field data.
- Ability to clearly communicate complex technical analysis, issues, and recommendations both orally and written to staff, the public, and the regulated community.
- Ability to prioritize work quickly so that deadlines are met while maintaining quality.
- Advanced technical writing skills related to drafting regulations and guidance.

MINIMUM QUALIFICATIONS:

Education:

Bachelor's Degree (typically in The Sciences)

Experience:
1-3 years of progressive work (typically in The Science) with acquired knowledge at the level of a Natural Resources Principal

OR

Education & Experience Substitution:
4-7 years of progressive work experience (typically in The Sciences) with acquired knowledge at the level of a Natural Resources Principal

Certificates, Licenses, Registrations:
None

Necessary Special Requirements

PHYSICAL WORKING CONDITIONS:

- Must be able to walk on uneven or rough terrain.
- Must be able to deal with all types of inclement weather.
- Must have a valid driver's license.

NOTES:

- FLSA: Exempt

Supplemental Information

020-Department of Environmental Quality-Land Quality Division

Click here to view the State of Wyoming Classification and Pay Structure.

URL: http://agency.governmentjobs.com/wyoming/default.cfm

The State of Wyoming is an Equal Opportunity Employer and actively supports the ADA and reasonably accommodates qualified applicants with disabilities.

Class Specifications are subject to change, please refer to the A & I HRD Website to ensure that you have the most recent version.

Employer	Address
State of Wyoming	

Appendix B to Subsection 4.6.2

Source Material and Uranium Recovery Qualification Journal

Training Requirements and Qualification Journal for Source Material Uranium Recovery Inspectors and Technical Reviewers

1.0 Introduction

The Wyoming Department of Environmental Quality (WDEQ) Source Material and Uranium Recovery Program (SMURP) qualification program requires completion of a variety of activities, each of which are designed to help you learn information or practice skills to independently work as both inspectors and technical reviewers. Those under the Uranium Recovery Program (URP), will only be required to complete training for the URP. Source Material Program (SMP) staff members will be cross trained as URP technical reviewers and inspectors. SMP specific training can be found in Appendix A of this Qualification Journal. When you have completed the entire qualification process, you will have demonstrated each of the competencies required as an inspector/technical reviewer.

Your manager may assign one or more experienced and/or senior uranium recovery inspector/technical reviewer(s) as a resource and/or mentor for you. This person (mentor) would assist you by answering questions or providing guidance as you work to complete this qualification journal.

A qualified inspector and technical reviewer will accomplish the following:

- Understand the basis for the SMURP's regulatory authority and the regulatory processes as well as the WDEQ organizational structure and the objectives.
- Understand the processes and procedures that the SMURP uses.
- Master the techniques and skills needed to collect, analyze, and apply information using a safety and security focus to develop a supportable regulatory conclusion.
- Have the personal and interpersonal skills to carry out assigned regulatory activities, either individually or as a member of a team.

2.0 Training Objectives

Successful completion of the qualification requirements documents your understanding of the role of the department, division programs, and your role as an inspector/technical reviewer. Inspector competency and proficiency will determine readiness for the completion for each qualification. Upon successful completion of all the activities in the qualification journal, you will be recognized as a qualified URP technical reviewer and inspector. SMP staff will, in addition, complete Appendix A to become a qualified SMP inspector/technical reviewer.

3.0 Qualification Journal Organization

The qualification journal identifies training courses, Individual Study Activities (ISAs), Discussion Activities and On-The-Job Training (OJT) activities you will complete. Document your progress on the Qualification Cards as you move through the qualification process. Then once a Qualification Card is complete you will obtain the manager's signature on the Signature

Card. The Qualification Cards and Manager Signature Card form the permanent record of completing the inspector/technical reviewer qualification program and will be available to the Nuclear Regulatory Commission (NRC) during program evaluations. Please note that Appendix A follows a similar format.

4.0 Required Training Courses
There are several courses that are **required** for inspectors/technical reviewers to become qualified. These NRC-sponsored training courses are critical to assist the individual in meeting or fulfilling their responsibilities. Details of these required courses can be seen in the first table of Qualification Card 7 (pg. 17 of Qualification Journal).

5.0 Specialized Training Courses
The specialized courses represent examples of specialized training that are helpful, but not required to become a qualified staff member. The courses are **optional** unless assigned to you by your manager, or mentor. Details of the courses can be found in the second table of Qualification Card 7 (pg. 17-18 of Qualification Journal). Staff members may request to take these specialized courses as time allows.

Your manager has the authority to waive any courses based on experience of candidate seeking qualification as an inspector/technical reviewer by drafting a memo with the justification.

6.0 Independent Study Activities
The independent study activities (ISAs) direct and focus your efforts as you review documents and perform technical training assignments important to the performance of your job. Each activity has a purpose statement informing you of why the activity is important and how it relates to the inspector/ technical reviewer function, found in the Independent Study Training section of this document. The evaluation criteria identify what you are expected to achieve upon completing the activity. Use the evaluation criteria to help you focus on what is most important. The tasks outline the things you will do to successfully address the evaluation criteria. The following general guidance applies as you complete the various ISAs:

- Your manager, or mentor, will act as a resource as you complete each activity. Your manager may also designate other experienced and/or senior staff to work with you as you complete the various activities. Discuss questions you may have about the content of what you read with your manager or mentor.
- You are responsible for keeping track of the tasks you have completed. Be sure to complete all the tasks in each activity before meeting with your manager for signature.

7.0 On-the-Job Training
The On-the-job training (OJT) activities require you to perform inspection accompaniments under the supervision of a qualified or senior/experienced inspector. (See Qualification Card 8) You are required to go on a minimum of four (4) accompaniments, however, more may be required at the discretion of the Program Manager. Typically, you will be expected to assist the qualified inspector on the first inspections and then gradually take on more of the responsibility for the inspection until you are leading the inspection. Until you are qualified, you shall discuss

report reviews and licensing actions with the lead inspector. Qualified staff members will review all work you produce and sign off on anything requiring signature.

The following general guidance applies as you complete the various OJT activities:

- Complete all parts of each activity.
- Your manager or mentor will act as a resource as you complete each activity.
  Discuss any questions you may have about how a task will be done or how the guidance is to be applied. Your manager, or mentor, may also designate other staff to work with you as you complete the various activities.
- You are responsible for keeping track of the tasks you have completed. Be sure that you have completed all aspects

8.0 Refresher Training

Qualified employees will maintain their qualification by completing 24 hours of refresher training or professional development training each year. The qualified employee will work with their manager, or mentor, to determine which training courses are appropriate for the training. To document your professional development, you must describe the training with the number of hours and document that the training was completed, updating your tab in in the SMURP Tracker under “Refresher Training.” SMURP Tracker.xlsx

Examples of refresher training include optional NRC-Sponsored Courses, external training courses, attending lectures, professional conferences or workshops, webinars and directed self-study courses, or independent study.

INDEPENDENT STUDY TRAINING

Qualification Card 1: (ISA) Background on Uranium Recovery (See Page 10)

PURPOSE: The purpose of this activity is to familiarize you with the history of uranium recovery.

OBJECTIVE: Upon completion of this activity, you will understand the regulatory history, more about uranium mining technologies, and how past events have led to today's regulations.

TASKS:

1. Review the documents and history.

DOCUMENTATION: As Topics in Qualification Card 1 are completed, you should record the date of completion in qualification card 1. Once all topics for this qualification card have been completed, obtain your manager's signature in the line item on the Qualification Journal Signature Card.

Qualification Card 2: (ISA) Wyoming State Statutes and Rules (See Page 11)

PURPOSE: The purpose of this activity is to acquaint you with the applicable state statute and regulations.

OBJECTIVE: Upon completion of the tasks in this activity, you will understand the content of applicable state statutes and regulations.

TASKS:

1. Understand Wyoming Regulatory structure and how to read and understand statutes and rules.
2. Be familiar with the Wyoming Environmental Quality Act, Land Quality Rules Non-Coal Chapter 11, and Uranium Recovery Program Rules.
3. Ability to locate and access electronically the statute and all applicable regulations.

DOCUMENTATION: As Topics in Qualification Card 2 are completed, you should record the date of completion in qualification card 2. Once all topics for this qualification card have been completed, obtain your manager's signature in the line item on the Qualification Journal Signature Card.

Qualification Card 3: (ISA) Land Quality Division (LQD) and Uranium Recovery Program (URP) Guidelines, Policies and Procedures (See Page 12)

PURPOSE: The purpose of this activity is to familiarize you with the program specific documents of LQD and URP.

OBJECTIVE: Upon completion of this activity, you will understand the division's mission and functions and URP procedures.

TASKS:

1. Review WDEQ's structure and mission statement
2. Review LQD's mission and vision statements
3. Read the LQD and URP Guidelines, policies and procedures.
4. Be familiar with the applicable LQD and URP Guidelines, Policies and Procedures.
5. Read applicable URP Agreement State documents.

DOCUMENTATION: As Topics in Qualification Card 3 are completed, you should record the date of completion in qualification card 3. Once all topics for this qualification card have been completed, obtain your manager's signature in the line item on the Qualification Journal Signature Card.

Qualification Card 4: (ISA) NRC Regulations and History (See Page 13)

PURPOSE: The purpose of the activity is to acquaint an individual with the NRC regulations that specify the requirements of radioactive materials and to familiarize an individual with the regulatory history of the NRC and its relationship to Agreement States.

OBJECTIVE: After completion of the assigned reading an individual should have a general knowledge of the Code of Federal Regulations (CFRs) and understand the States relationship with the NRC.

TASKS:

1. Review the NRC website regarding Agreement State Programs.
2. Read the NRC Regulations (CFRs).
3. Be familiar with all applicable State Agreement and Management Directive Procedures.

DOCUMENTATION: As Topics in Qualification Card 4 are completed, you should record the date of completion in qualification card 4. Once all topics for this qualification card have been completed, obtain your manager's signature in the line item on the Qualification Journal Signature Card.

Qualification Card 5: (ISA) Federal Regulatory Guidance (See Pages 14-15)

PURPOSE: The purpose of this activity is to become familiar with applicable regulatory guidance, and other documents.

OBJECTIVE: Upon completion of the tasks in this activity, you will understand applicable NRC guidance and other documents included in Qualification Card 5:

1. Purpose of the statute, regulations, regulatory guidance, and other documents regarding uranium recovery licensing reviews.

TASKS:

1. Be familiar with applicable federal guidance, and other documents.
2. Ability to locate and access electronically the statute, regulations, and guidance documents.

DOCUMENTATION: As Topics in Qualification Card 5 are completed, you should record the date of completion in qualification card 5. Once all topics for this qualification card have been completed, obtain your manager's signature in the line item on the Qualification Journal Signature Card.

Qualification Card 6: (ISA) Review of Significant Uranium Recovery Events (See Page 16)

PURPOSE: The purpose of this activity is to provide you with an understanding of significant events in Uranium Recovery and how those events were handled.

Objective: Upon completion of this activity, you will be knowledgeable of past events in uranium recovery.

TASKS:

1. Read and review documents in the discussion section
2. Discuss what you learned with your manager or mentor.
3. Ask questions and get clarification on points you may have missed.

DOCUMENTATION: As Topics in Qualification Card 6 are completed, you should record the date of completion in qualification card 6. Once all topics for this qualification card have been completed, obtain your manager's signature in the line item on the Qualification Journal Signature Card.

Qualification Card 7: (ISA) Formal Training (See Pages 17-18)

PURPOSE: The purpose of this activity is to provide you with formal training, typically offered by the NRC. This training will provide you with the tools that you will use to conduct inspections, produce reports and review licenses.

Objective: Upon completion of this activity, you will have the technical basis needed to become a qualified inspector/technical reviewer.

Tasks:

1. Apply and schedule in person and virtual classes
2. Review course material and pass all testing for each course.
3. Required courses must be done to become qualified, however, optional classes may be taken at the discretion of the manager.

DOCUMENTATION: As Topics in Qualification Card 7 are completed, you should record the date of completion on qualification card 7. Once all topics for this qualification card have been

completed, obtain your manager's signature in the line item on the Qualification Journal Signature Card.

ON THE JOB TRAINING

Qualification Card 8: (OJT) Inspector Accompaniments and Documenting Inspections (See Page 19)

PURPOSE: The purpose of this activity is to familiarize you with inspection tasks commonly performed by an inspector and provide the opportunity to observe how inspectors use licensing documents to identify appropriate activities for inspection. You will also become familiar with documenting and entering inspection reports into MIDAS and Teams, databases used to store information by the SMURP.

Objective: Upon completion of this activity, you should be able to do the following:

1. Understand the inspection process.
2. Describe the contents and purpose of the site-specific inspection plan.
3. Describe how the inspector used the reference documents to conduct the inspection.
4. Describe the activities accomplished by the staff during the inspection(s) and their purpose.
5. Discuss how the inspection will be documented.

TASKS:

1. Participate in the scheduling of an inspection.
2. Assist in the inspection preparation activities (i.e., collect background information as necessary; identify any follow-up that may be required from previous inspections, or allegations; identify any site-specific access requirements).
3. Review the following documents to understand how they provide background information, current issues, and areas for emphasis and support for the inspection effort you plan to accomplish:
    a. Previous inspection reports
    b. Appropriate licensee documents
    c. Applicable inspection procedures
    d. Other applicable documents (e.g., regulatory guidance documents, enforcement/allegation history)
4. Observe and participate in an entrance meeting.
5. During a planned inspection, perform the following tasks:
    a. Observe implementation of inspection procedures
    b. Observe interviews and discussions with facility personnel.
    c. Observe facility work activities.
    d. Review documentation and records.

    e. Discuss inspection results with the lead inspector.
6. Observe and participate in an exit meeting.
7. Assist the inspector in developing the inspection documentation.
8. Read and be familiar with the instruction manual on using MIDAS.
9. Enter an inspection report using MIDAS.

DOCUMENTATION: After completing an inspection accompaniment, document your visit on Qualification Card 8, by listing the name of the site you visited and signing, then obtain the lead inspector's signature and the manager's signature. Once all four (4) inspection accompaniments have been completed, obtain the manager's signature on the signature card for Qualification Card

Source Material and Uranium Recovery Technical Reviewer and Inspector Initial Signatures

The Source Material and Uranium Recovery Inspector and Technical Reviewer Qualification Journal was agreed upon between the manager and the employee. The candidate inspector/technical reviewer is now working on being qualified under this qualification journal.

Employee's Name	Employee's Signature	Date
Manager's Name	Managers Signature	Date

Qualification Card 1
Background on Uranium Recovery

*This is an independent-study activity

EMPLOYEE TRACKING AND SPECIFIC DOCUMENTS		Date Completed
Qualification card 1: Background on Uranium Recovery		
01	NRC Uranium Recovery Information	
02	Uranium Decay Series	
03	Chemistry of Uranium in Groundwater	
04	Fundamentals of Alkaline In-Situ Leaching of Uranium	
05	In-Situ Leach Process Flowchart	
06	In-Situ Leach Process	
07	Aquifer Restoration Techniques for In-Situ Leach Uranium Mines	
08	USGS Groundwater Restoration at Uranium In-Situ Recovery Mines South TX	
09	TOTAL Mineral Corp Description of Bacteria Problem at Christensen Ranch	
10	Engineering an In-Situ Uranium Well Field	
11	Uranium Solution-Mineral Equilibria at Low Temperatures	
12	The Carbonate Chemistry of Uranium Theory and Applications	
13	Design Requirements for Uranium Ion Exchange from Acidic Solutions in a Fluidized System	
14	Technical Outline for Evaluation of Uranium ISL Properties (May 1989)	
15	Cogema Mining- the Christensen Mine ISL Project Summary (August 1996)	
16	Protection of NRC Employees Against Ionizing Radiation Handbook MD 10.131	

Discussion/notes:

Qualification Card 2
Wyoming State Statues, Rules and Regulations

*This is an independent-study activity

EMPLOYEE TRACKING AND SPECIFIC DOCUMENTS		Date Completed
Qualification Card 2: Wyoming Statutes and Regulations		
A. Statute Presentation		
B. Wyoming Environmental Quality Act		
Article 1	General Provisions	
Article 4: 35-11-401	Land Quality: Compliance generally; exceptions	
Article 4: 35-11-428 through 429	Land Quality: In situ mining permit; Requirement for application; Contents of application & Contents of permit	
Article 20	Nuclear Regulatory Agreement	
C. Land Quality Regulations Noncoal and Uranium Recovery Program Regulations		
Chapter 1	Noncoal Authorities and Definitions	
Chapter 11	Noncoal In-Situ Mining	
URP Chapter 1	General Provisions	
URP Chapter 2	Inspections, Violations, and Penalties	
URP Chapter 3	Radiation Protection Standards	
URP Chapter 4	Licensing Requirements for Source and Byproduct Material	
URP Chapter 5	Notices, Instructions, and Reports to Workers	
URP Chapter 6	Financial Assurance Requirements	
URP Chapter 7	Fees	
URP Chapter 8	Risk Informed, Performance Based Licensing and Inspection	
URP Chapter 9	Transportation of Radioactive Material	

Discussion/notes:

Qualification Card 3
Wyoming LQD and URP Guidelines, Policies and Procedures

*This is an independent-study activity

EMPLOYEE TRACKING AND SPECIFIC DOCUMENTS		Date Completed
Qualification Card 3: LQD and URP Guidelines, Policies and Procedures		
A. Wyoming Department of Environmental Quality		
Mission Statement		
Structure		
B. Land Quality Division		
Mission Statement		
Vision Statement		
C. State Guidance Documents		
LQD Guideline 4	LQD Guidance Document, In Situ Mining Non-Coal	
URP	Licensing Procedures Manual	
SMURP	Enforcement Manual Procedures	
SMURP	Event and Allegation Response Procedural Manual	
D. Uranium Recovery Program Inspection Procedures		
URP-01	In-situ Inspection Procedures	
URP-02	Uranium Mill 11e.(2) Byproduct Material Disposal Site and Facility Inspection	
URP-03	Uranium Mill Site Decommissioning Inspection	
URP-04	Technical Quality of Inspection	
SMURP-05	Instrumentation Field Function Checks and Uses	

Discussion/notes:

Qualification Card 4
NRC Regulations and History

*This is an independent-study activity

EMPLOYEE TRACKING AND SPECIFIC DOCUMENTS		Date Completed
Qualification Card 4: NRC Regulations and History		
A. Familiarization with NRC Agreement State Website https://www.nrc.gov/agreement-states.html		
B. CFR Familiarization with the following:		
10 CFR 19	Notices, Instructions and reports to workers	
10 CFR 20	Standards for protection against radiation	
10 CFR 40	Domestic licensing of source material	
10 CFR 51	Environmental protection regulations for domestic licensing and related regulatory functions	
10 CFR 71	Packaging and transportation of radioactive material	
29 CFR 1910	General industry standards -respiratory protection	
30 CFR 828	Special permanent program performance standards in-situ processing	
40 CFR 141	National primary drinking water regulations	
40 CFR 192	Health and environmental protection standards for uranium and thorium mill tailings	
C. NUREGs (Latest revisions, where applicable)		
NUREG 1620	Standard Review Plan for the Review of a Reclamation plan for Mill Tailings Sites	
NUREG 2126	Standard Review Plan for Conventional Uranium Milling and Heap Leach Facilities	
NUREG 1569	Standard Review Plan for In Situ Leach Uranium Extraction License Applications	

Discussion/notes:

Qualification Card 5
Federal Regulatory Guidance

*This is an independent study activity

EMPLOYEE TRACKING AND SPECIFIC DOCUMENTS		Date Completed
Qualification Card 5: Federal Regulatory Guidance		
A. Regulatory Guides (RG)		
RG 8.22	Bioassay at Uranium Mills	
RG 8.25	Air Sampling in the Workplace	
RG 8.29	Instructions Concerning Risks from Occupational Radiation Exposure	
RG 8.30	Health Physics Surveys in Uranium Recovery Facilities	
RG 8.31	Information Relevant to Ensuring that Occupational Radiation Exposures at Uranium Recovery Facilities Will be As Low As is Reasonably Achievable	
RG 8.34	Monitoring Criteria and Methods to Calculate Occupational Radiation Dose	
RG 8.36	Radiation Dose to the Embryo/Fetus	
RG 8.37	ALARA Levels for Effluents from Material Facilities	
B. Information Notices (IN)		
IN 93-60	Reporting Fuel Cycle and Material Events to the NRC Operational Center, Supplement 1	
IN 94-23	Guidance to Hazardous, Radioactive, and Mixed Waste Generators on Elements of Waste Minimalization	
IN 95-55	Handling Uncontaminated Yellowcake Outside of Facility Processing Circuit	
IN 96-47	Record Keeping, Decommissioning Notifications for Disposal of Radwaste by Land Burial	
IN 97-55	Calculation of Surface Activity for Contaminated Equipment and Materials	
IN 97-57	Leak Testing of Packaging Used in Transport of Radioactive Material	
IN 97-58	Mechanical Integrity of In-Situ Leach Injection Wells and Piping	
IN 99-03	Exothermic Reaction Involving Dried Uranium Oxide Powder Rev.1	
C. Regulatory Issue Summaries (RIS)		
RIS 2015-19	Decommissioning Timeliness Rule Implementation and Associated Regulatory Relief	

Qualification Card 6
Review of Significant Uranium Recovery Events

*This is a Discussion Section, once the qualifying individual has studied the listed events, discussion with the training coordinator will begin.

EMPLOYEE TRACKING AND SPECIFIC DOCUMENTS	Date Completed
Qualification Card 8: Review and Discussion of Significant Uranium Recovery Events	
A. Reviewed (title): Yellowcake Pressurized Drum incident	
B. Discussed with:	

Discussion/notes:

A. Reviewed (title): Cameco transportation spill incident	
B. Discussed with:	

Discussion/notes:

A. Reviewed (title):	
B. Discussed with:	

Discussion/notes:

A. Reviewed (title):	
B. Discussed with:	

Discussion/notes:

Qualification Card 7
Formal and Specialized Training

*The following core training courses are mandatory in becoming a qualified inspector/technical reviewer.

Title of Course		Date of Training	Employee's Initials	Date
Required Training				
F-104	Health Physics for Uranium Recovery			
G-108	Inspection Procedures Course			
G-109	Licensing Practice & Procedures			
G-205	Root Cause/Incident Investigation Workshop Course			
H- 122S	Fundamentals of Health Physics			
H-122L	Labs Fundamentals of Health Physics Laboratory (To register, must first have completed the H-122S Course)			
30hr	OSHA (30 hour) or HAZWOPER			

Discussion/notes:

*The following specialized training courses are **optional**

Title of course		Date of Training	Employee's Initials	Date
Specialized Training				
H-115S	Characterization and Planning for Decommissioning			
H-117S	Introduction to Health Physics			
H-120S	MARSAME			
H-121S	MARSSIM			
H-130S	Environmental Monitoring and Air Sampling for Radioactivity (Self-Study)			
H-130L	Environmental Monitoring and Air Sampling for Radioactivity Laboratory (Must first complete H-130S Course)			
H-201	Advanced Health Physics			

Title of course		Date of Training	Employee's Initials	Date
Specialized Training				
H-301	Health Physics Statistics			
H-308S	Transportation of Radioactive Material			
H-312S	Internal Dosimetry			
H-408	RESRAD Overview			
H-412	Advanced RESRAD			
H-413	MILDOS Area Training			
H-500	Visual Sampling Plan			

Discussion/notes:

Qualification Card 8
Inspection Accompaniments

Facility	Certified Inspector signature	Date
Employee signature	**Manager Signature**	**Date**

Discussion/notes:

Facility	Certified Inspector signature	Date
Employee signature	**Manager Signature**	**Date**

Discussion/notes:

Facility	Certified Inspector signature	Date
Employee signature	**Manager Signature**	**Date**

Discussion/notes:

Facility	Certified Inspector signature	Date
Employee signature	**Manager Signature**	**Date**

Discussion/notes:

Signature Card

Name: _____

	Employee Signature	Manager Signature	Date
Qualification Card 1			
Background on Uranium Recovery			
Qualification Card 2			
Wyoming State Statutes, Rules and Regulations			
Qualification Card 3			
Land Quality Division (LQD) and Uranium Recovery Program (URP) Guidelines, Policies and Procedures			
Qualification Card 4			
NRC Regulations and History			
Qualification Card 5			
Federal Regulatory Guidance			
Qualification Card 6			
Discussion of Significant Events			
Qualification Card 7			
Formal and Specialized Training			
Qualification Card 8			
Inspection Accompaniments			

Appendix A
Source Material Program Training



Qualification card 1
Background on Source Material and Rare Earth

*This is an independent- study activity

EMPLOYEE TRACKING AND SPECIFIC DOCUMENTS	Date Completed
Qualification card 1: Background on Source Material and Rare Earth	
Application to Amend Wyoming's Agreement	
Rare Earth Resources Application	
NRC definition, sources, commercial uses, importance, and regulations for Source Material. https://www.nrc.gov/materials/types/srcmaterial.html	
EPA summary of Superfund National Priorities List (NPL) site near Chicago contaminated with radioactive thorium wastes from a nearby facility known as the Rare Earths Facility (REF). https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.cleanup&id=0500762	

Discussion/notes:

Qualification Card 2
Source Material Program Rules

*This is an independent-study activity

EMPLOYEE TRACKING AND SPECIFIC DOCUMENTS		Date Completed
Qualification card 2: Source Material Guidelines, Policies and Procedures		
SMP Chapter 1	General Provisions	
SMP Chapter 2	Inspections, Violations, and Penalties	
SMP Chapter 3	Radiation Protection Standards	
SMP Chapter 4	Licensing Requirements	
SMP Chapter 5	Notices, Instructions and Reports to Workers	
SMP Chapter 6	Financial Assurance Requirements	
SMP Chapter 7	Fees	
SMP Chapter 8	Risk Informed, Performance Based Licensing and Inspection	
SMP Chapter 9	Packaging and Transportation of Radioactive Material	

Discussion/notes:

Qualification Card 3
Source Material Guidelines, Policies and Procedures

*This is an independent-study activity

EMPLOYEE TRACKING AND SPECIFIC DOCUMENTS		Date Completed
Qualification card 3: SMP Guidelines, Policies and Procedures		
SMP	Licensing Procedures	
SMP-01	Inspection Procedures	
SMP- 04	Inspection Procedures, Technical Quality of Inspections and Inspection Reports	
	Other (will be added as developed)	

*Please note that other than inspection and licensing procedures, all URP procedures apply to the SMP.

Discussion/notes: **Qualification Card 4**

Relevant NRC Regulations and Documents

*This is an independent-study activity

EMPLOYEE TRACKING AND SPECIFIC DOCUMENTS		Date Completed
Qualification card 4: Relevant NRC Regulations and Documents		
NUREG 2216	Standard Review Plan for Transportation Packages for Spent Fuel and Radioactive Material: Final Report	

Discussion/notes:

Qualification Card 5
SMP Inspections Accompaniments

Facility	Certified Inspector signature	Date
Employee signature	**Manager Signature**	**Date**

Discussion/notes:

Facility	Certified Inspector signature	Date
Employee signature	**Manager Signature**	**Date**

Discussion/notes:

Signature Card

Name: _____

	Employee Signature	Manager Signature	Date
Qualification Card 1			
Background on Source Material and Rare Earth			
Qualification Card 2			
Source Material Program Rules			
Qualification Card 3			
Source Material Guidelines, Policies and Procedures			
Qualification Card 4			
Relevant NRC Regulations and Documents			
Qualification Card 5			
Inspection Accompaniments			

Subsection 4.6.3

Qualifications of Current Technical Staff

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Daniel Call, Health Physicist

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Monte Buchanan, Health Physicist

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4.6.3 Qualifications of Current Technical Staff

SMP staff will be trained as both a uranium recovery inspector and a project manager/technical reviewer as well as being trained as Source Material inspector and technical reviewer using a compatible training program to the NRC. The staff has already completed portions of the training and are projected to complete all necessary training in 2025. Technical staff hired in the future will also undergo this training. The URP manager will also manage the SMP and will dedicate 10% of their time to SMP.

Charlee Anne Boger

RELEVANT EXPERIENCE & EMPLOYMENT

PHYSICAL SCIENTIST – SITE MANAGER April 2021 – April 2025
U.S. Department of Energy – Grand Junction, CO

- Site manager for Uranium Mill Tailings Radiation Control Act (UMTRCA) sites
- Title II transition lead and subject matter expert, specializing in license termination process prior to long-term custody of sites by the Department of Energy
- Works with the Nuclear Regulatory Commission (NRC) on inspections, long-term surveillance plan approval, and workshops
- Reviewer of disposal facilities and tank closures as a member of DOE's Low-Level Waste Disposal Facility Federal Review Group
- Reviews completion review reports, license amendments, licensee documentation, groundwater evaluations, geotechnical evaluations, and other reports and provides comments
- Authors documents and letters to NRC
- Contracting officer representative for $45m annual program support contract, responsible for budgeting, cost estimating, invoice review, and payment
- Program manager for the Office of Legacy Management's (LM's) technical review and reimbursement program under Title X of the Energy Policy Act of 1992
- Public point of contact for sites managed and Title X program including attendance at community advisory group meetings
- Directs the work of 5 contractor staff conducting, inspections, guidance document revisions, public outreach, and environmental compliance activities
- Presents on status of uranium recovery sites and other UMTRCA topics at the NRC Agreement State Workshop

SCIENTIST IV April 2017 – April 2021
Navarro Research and Engineering – Grand Junction, CO

- Project manager for portfolio of Uranium Mill Tailings Control Act (UMTRCA) sites managed by the Department of Energy's Office of Legacy Management (LM)
- Coordinated meetings with Agreement States, the Nuclear Regulatory Commission, and UMTRCA site licensees in support of LM
- Developed presentations for the NRC Agreement State Workshop, National Mining Association Uranium Recovery Workshop, and Waste Management Symposia
- Planned and executed complex UMTRCA Title II site transition projects, communicated progress to LM, and prepared reports on technical and compliance-related information
- Inspected, maintained, and monitored remediated uranium mill tailings sites
- Tracked training requirements for inspection and other onsite staff
- Participated in interview panels for hiring of new program staff
- Lead multidisciplinary contractor team performing groundwater monitoring, environmental compliance, maintenance, engineering reviews, environmental and spatial data management, and ecological projects
- Interpreted policies, guidance documents, regulations, statutes, and proposed rules and recommended actions to LM

PROJECT MANAGER August 2014 – Present
HRL Compliance Solutions, Inc. – Grand Junction, CO

- Coordinated and drafted environmental assessments and other technical reports for construction, oil and gas, and pipeline projects
- Hired and managed subcontractors such as paleontologists, archaeologists, and biologists and reviewed reports to ensure compliance with state and federal requirements, as applicable
- Interpreted soil and water sampling data to determine remediation actions
- Managed air sampling program under direction from air compliance specialist to facilitate flash gas sampling from storage tanks and natural gas sampling and analysis
- Performed infrared camera inspections on oil and gas operations to inspect for leaking components
- Performed air emissions calculations using Excel, GlyCalc, and E&P tanks; prepares and submits state air permit applications for engines, storage tanks, and other oilfield equipment
- Managed air compliance data utilizing Microsoft Access for numerous clients and develops systems to track and ensure compliance on a monthly and annual basis
- Developed Spill Prevention and Countermeasure Plans and worked with Professional Engineer to ensure compliance with regulations and obtain certification
- Managed all facets of federal, state, county, and city permits and plans for pipeline and well pad projects including stormwater, spill prevention (SPCC), emergency response, wildlife mitigation, reclamation, noxious weed management, and waste management

ENVIRONMENTAL SCIENTIST May 2005 – August 2014
Raven Ridge Resources, Incorporated – Grand Junction, CO

- Investigated international mineral leasing policies hindering gas recovery associated with coal mining and presented results at international conferences and to the Mongolian Ministry of Energy resulting in a policy change
- Managed energy market research projects and coalbed methane and power project feasibility studies
- Authored report on emissions from non-coal mines, including uranium, metal, gilsonite, and trona
- Developed feasibility studies on methane recovery at coal mines in the U.S., China, and Mongolia, which involved interpretation of mine diagrams, manipulation in AutoCAD, and area, ventilation, and coal volume calculations
- Managed a project for a non-governmental organization in Mongolia to sample coal and coal mine methane at mines in the South Gobi Desert
- Created outreach materials (brochures, web content, blogs), presented at conferences, and drafted articles published in World Coal and Elsevier

EDUCATION & AWARDS

ENVIRONMENTAL SCIENCE AND TECHNOLOGY (B.S.); Magna cum laude
Colorado Mesa University – Grand Junction, CO

Radioactivity for Scientists and Engineers at the Department of Energy: February, 2025

Project Management Professional (test in progress): 35 hours – January, 2025

Federal Acquisition Certification for Program and Project Managers (FAC-P/PM): 2024

Significantly Exceeds Expectations on Performance Evaluations (2022-2024); Special Act Award 2024

Daniel Call

Career Overview

ASBOG Certified Professional Geologist with a broad multi-disciplinary background

Qualifications

- WDEQ qualified Uranium ISR/conventional mining inspector/license reviewer
- Experience with Phase 1 and 2 investigations
- Experience with geostatistical analyses
- Experience with aquifer testing (pump, slug) and other geophysical techniques
- Experience with mapping and surface modeling software (ArcMap, Taiga)
- HAZWOPER 40 Hour certified

Relevant Coursework:

- F-104 Health Physics for Uranium Recovery – May 2025
- G-205 Root Cause – Nov 2024
- G-109 Licensing Procedures – July 2024
- H-308S Transportation of Radioactive Materials (self study) – June 2024
- H-130L Environmental Monitoring and Air Sampling for Radioactivity Lab – Apr 2024
- G-108 Inspection Procedures – Mar 2024
- H-122L Fundamentals of Health Physics Lab – Jan 2024
- H-130S Environmental Monitoring and Air Sampling for Radioactivity (self study) – Sept 2023
- H-122S Fundamentals of Health Physics (self study) Sept 2023
- H-117S Introduction to Health Physics (self study) Aug 2023

Work Experience

Wyoming DEQ – LQD – Uranium Recovery Program Aug 2023 to Present
Cheyenne, WY
Program Supervisor/Hydrologist

- Utilized geologic principles, modeling and statistical methods to evaluate licensee's uranium mining and hydrologic submissions to WDEQ.
- Developed evaluation processes to meet the Land Quality Division's requirements for wellfield restorations and Alternate Concentration Limit applications.
- Participated in and led URP inspections of In-Situ Recovery and Conventional Mining licensees within Wyoming.

Larsen & Associates Oct. 2015 to Mar 2022
Lawrence, KS
Field Geologist

- Oversaw jobsite drilling and work operations related to LSAs and RBCAs associated with Kansas' Dept of Health and Environment's UST and AST monitoring projects.
- Performed soil and water sampling for further lab analysis and performed photoionization detection (PID) analysis in the field.

- Trained new crew members to meet the requirements proscribed by the State of Kansas regarding environmental drilling and media sampling.

Paradigm Alliance Jan. 2013 to July 2014
Wichita, KS
GIS Tech/Analyst

- Performed multiple GIS analyses from inception to completion using ESRI 10.x software.
- Analysis included extensive use of ArcTools for data management and analysis functions, as well as multiple address standardizations and Geocoding software to produce standard mailing databases for RP 1162 Pipeline Safety Awareness materials and hard copy cartographic maps.

Emporia State University Aug. 2010 to July 2012
Emporia, KS
Graduate Teaching Assistant

- Developed lesson plans and taught Introductory Earth Science lab sections.
- Aided in teaching proper field collection methods and how to properly identify rock units for Field Geology class projects.

Florence Manufacturing June 2005 to Aug. 2008
Manhattan, KS
Powder-coat Technician (Paint Level III)

- Trained Powder-coat operators on approved department procedures, planned and helped lead department production.
- Programmed and maintained the correct functioning of two (2) $250,000 automated powder-coat paint booths and their attendant 5 stage wash cycle and cure ovens.
- Frequently led production related to the construction of USPS mass deposit mailboxes.

Education and Training

Emporia State University
Emporia, KS
Master of Science: Physical Science (Earth Science concentration)

Emporia State University
Emporia, KS
Graduate Certificate: Geospatial Analysis

Kansas State University
Manhattan, KS
Bachelor's of Science: Psychology

*This SMURP staff member is fully qualified, the entirety of the Qualification Journal is available upon request.

Signature Card

Name: Daniel Call

	Employee Signature	Manager Signature	Date
Qualification Card 1			
Background on Uranium Recovery	Daniel Call	Brandi O'Brien	~~12~~ ~~12~~ 12/21/23
Qualification Card 2			
Wyoming State Statutes, Rules and Regulations	Daniel Call	Brandi O'Brien	12/12/23
Qualification Card 3			
Land Quality Division (LQD) and Uranium Recovery Program (URP) Guidelines, Policies and Procedures	Daniel Call	Brandi O'Brien	12/18/23
Qualification Card 4			
NRC Regulations and History	Daniel Call	Brandi O'Brien	1/28/25
Qualification Card 5			
Federal Regulatory Guidance	Daniel Call	Brandi O'Brien	10/4/23
Qualification Card 6			
Discussion of Significant Events	Daniel Call	Brandi O'Brien	5/2/24
Qualification Card 7			
Formal and Specialized Training	Daniel Call	Brandi O'Brien	1/12/25
Qualification Card 8			
Inspection Accompaniments	Daniel Call	Brandi O'Brien	1/20/25

Signature Card

Name: Daniel Call

	Employee Signature	Manager Signature	Date
Qualification Card 1			
Background on Source Material and Rare Earth	Daniel Call		7/31/25
Qualification Card 2			
Source Material Program Rules	Daniel Call		7/29/25
Qualification Card 3			
Source Material Guidelines, Policies and Procedures	Daniel Call		7/31/25
Qualification Card 4			
Relevant NRC Regulations and Documents	Daniel Call		7/31/25
Qualification Card 5			
Inspection Accompaniments	Daniel Call		7/31/25

Monte Buchanan

Health Physicist, WDEQ, Source Material Program

Professional Summary

Bachelor of Science in Geophysics with an emphasis on geology coursework. Geotechnical engineering, drilling, logging, and materials testing experience. Skilled in geologic and geomorphic mapping for mineral resource evaluation. Global Positioning Systems (GPS) and Geographic Information Systems (GIS) experience. 17 years permitting, regulating, and enforcing of state environmental law relating to solid mineral extraction operations and reclamation practices as a Natural Resource Analyst/Geologist. Basic knowledge of uranium recovery (in situ) mining methods and restoration practices. Currently completing NRC equivalent qualification training as a Health Physicist with the goal of being a qualified license reviewer and inspector.

Professional Work Experience

Health Physicist – *Wyoming DEQ/Source Material Program, Cheyenne, Wyoming*
July 2023 - PRESENT

- Assist in drafting and promulgating new rules for the state Source Material Program.
- Assist in amending the Agreement State application with the Nuclear Regulatory Commission (NRC).

Natural Resource Analyst/Geologist - *Wyoming DEQ/Land Quality Division, Cheyenne, Wyoming*
December 2006 – July 2023

- Evaluation and enforcement duties of coal and noncoal solid mineral mining operations to ensure compliance; Technical review evaluations of mining and reclamation permit applications; Technical review of annual reports, monitoring data (including surface water and groundwater data), and reclamation performance bond estimates; Conduct field inspections of active mining operations and reclamation sites and identify compliance issues.

Quarry Technician – *Mountain Cement, Co., Laramie, Wyoming*
January 2005 - December 2006

- Continuation of previous duties; Regulatory report preparation, reporting and submittal to local, state, and federal agencies; Oversight of air quality monitoring and emission data at the cement manufacturing plant. Compile and submit air quality and emission data

Quarry Intern – *Mountain Cement, Co., Laramie, Wyoming.*
November 2002 - January 2005

- Mine planning, sequencing, and permitting of limestone, gypsum, and shale quarries that supply material for cement manufacture; Exploration and characterization of mineral reserves; Utilize XRF and laboratory equipment to analyze elemental compositions of material; Groundwater well monitoring and sampling;

Contract Geologist – *Royal Gold, Inc., Denver, Colorado*
August 1997 – September 1997

- Geological characterization and sampling of naturally forming stream-bed sediment traps to locate kimberlite pipes (diamond-forming diatremes).

Engineering Technician III – *Maxim Technologies, Inc., North Platte, Nebraska*
October 1996 – July 1997

- Geotechnical & environmental consulting, research and report preparation for construction materials engineering (CME); Earthwork monitoring and supervision of contractors of various construction projects, including on-site soil moisture & density testing utilizing nuclear gauge equipment (Troxler); Investigate soil and foundation material; Field & laboratory testing and inspections of concrete and asphalt; Groundwater-monitoring well installation, monitoring, and sampling; Assess environmental groundwater impacts from underground fuel storage tanks.

Student Research – *University of Wyoming, Laramie, Wyoming*
September 1993 - May 1995

- Research credit toward geology coursework; Assist geochronological & isotopic dating research team; Collect and crush rock samples; Isolate zircon grains using magnetic and chemical separation and scoping techniques.

Education

Bachelor of Science/Geophysics – *University of Wyoming, Laramie, Wyoming*
May 1994

Professional Coursework & Training

- GPS Mapping ESRI Certification (2001)
- Intro to ArcGIS ESRI Certification (2001)
- BLM Land Status Training (2007)
- WDEQ/LQD Blasting Certification Course (2007)
- Trimble GeoXT/Pathfinder/TerraSync (2007)
- American Society of Mining & Reclamation (ASMR) attendee (2007)
- ArcPad 7 Mobile GIS (2008)
- Intro to ArcGIS for Permitting and Reclamation (2009)
- AutoCAD Fundamentals for Permitting and Reclamation (2009)
- Blasting and Inspection (2010)
- Advance Blasting/Adverse Affects (2010)
- WDEQ/LQD GIS Training Workshop (2011)
- Reclamation Workshop, University of Wyoming (2011)
- ESRI GIS User Conference Training, San Diego, CA (2012)
- Underground Mining Technology (2013)
- Evidence and Testimony (2013)
- ArcGIS Spatial Analyst (2013)
- Surface and Groundwater Hydrology (2014)
- Geochemistry Workshop, Casper, WY (2014)
- WDEQ Evidence and Investigative Training (2015)
- Erosion and Sediment Control Presentation (2015)
- US Army Corps Presentation (2015)
- Applied Engineering Principles (2015)
- ESRI GIS User Conference Training, San Diego, CA, (2015)
- WDEQ Drafting Enforcement Documents Training (2016)
- Sage Grouse Workshop, WG&FD (2016)
- Statistical Analysis using R software (2016)
- Coal Field Communications (2016)
- ArcPAD 10 Mobile GIS (2016)
- Groundwater VISTAS Groundwater Modeling (2017)
- Erosion and Sediment Control (2017)
- Health Physics Course, ORAU/Uranium Recovery Program (2017)
- Forensic Hydrological Investigations (2018)
- Global Mapper GIS Software (2018)
- GIS/GPS Mobile Devices for SMCRA (2018)
- LQD Blasting Certification Course (2020)
- H-117s (online) – Intro. to Health Physics (December 2023)
- G-109 – Licensing Practices & Procedures, Chatt., TN (April 2024)
- H-122s (online) – Fundamentals of Health Physics (April 2024)
- H-122 Labs – Fundamentals of Health Physics Labs, Chatt., TN (May 2024)
- G-205 – Root Cause/Incident Investigations Workshop, Chatt., TN (August 2024)
- H-130s (online) – Env. Monitoring & Air Sampling/Radioactive (August 2024)
- G-108 – Inspection Procedures, Chatt., TN (September 2024)
- F-104 – HP for Uranium Recovery, Casper, WY (May 2025)

*This SMURP staff member is fully qualified, the entirety of the Qualification Journal is available upon request.

Signature Card

Name: Monte Buchanan

	Employee Signature	Manager Signature	Date
Qualification Card 1			
Background on Uranium Recovery	Monte Buchanan	Brandi OBrien	7/1/2025
Qualification Card 2			
Wyoming State Statutes, Rules and Regulations	Monte Buchanan	Brandi OBrien	7/1/2025
Qualification Card 3			
Land Quality Division (LQD) and Uranium Recovery Program (URP) Guidelines, Policies and Procedures	Monte Buchanan	Brandi OBrien	7/1/2025
Qualification Card 4			
NRC Regulations and History	Monte Buchanan	Brandi OBrien	7/1/2025
Qualification Card 5			
Federal Regulatory Guidance	Monte Buchanan	Brandi OBrien	7/1/2025
Qualification Card 6			
Discussion of Significant Events	Monte Buchanan	Brandi OBrien	7/1/2025
Qualification Card 7			
Formal and Specialized Training	Monte Buchanan	Brandi OBrien	7/1/2025
Qualification Card 8			
Inspection Accompaniments	Monte Buchanan	Brandi OBrien	7/1/2025

Signature Card

Name: Monte Buchanan

	Employee Signature	Manager Signature	Date
Qualification Card 1			
Background on Source Material and Rare Earth	Monte Buchanan	Brandi O'Bar	7/1/2025
Qualification Card 2			
Source Material Program Rules	Monte Buchanan	Brandi O'Bar	7/1/2025
Qualification Card 3			
Source Material Guidelines, Policies and Procedures	Monte Buchanan		8/4/2025
Qualification Card 4			
Relevant NRC Regulations and Documents	Monte Buchanan		8/4/2025
Qualification Card 5			
Inspection Accompaniments	Monte Buchanan		8/4/2025

Subsection 4.7

Event and Allegation Response Program Elements

4.7.1 Procedures for Responding to Events and Allegations

The program should have written procedures for responding to allegations of violations of regulatory requirements. The program does not need to have investigatory capability within the program of its parent agency in the allegations are deliberate or criminal in nature. However, the program's procedures should include steps for contacting the appropriate authorities when needed.

4.7.1.1 Information Needed

The State should submit its procedures for responding to events and allegations.

- The Source Material Program (SMP) shall follow the procedures for responding to materials events and allegations provided in the SMURP's *Event and Allegation Response Procedural Manual*.

4.7.1.2 Evaluation Criteria

Event response procedures should be consistent with but need not be identical to NRC procedures. The procedures should address the following:

a. Immediate response and actions to mitigate an event.

- The Source Material Program (SMP) shall follow the procedures for responding to materials events provided in the SMURP's *Event and Allegation Response Procedural Manual* in Appendix A to Subsection 4.7 *Event and Allegation Response Procedural Manual* Section 2.0, Attachment D, the State of Wyoming Response Plan (October 2008), Nuclear/Radiological Incident Annex, and Attachment E, the WDEQ Emergency Response Plan (May 2016).

b. Follow-up inspections and enforcement actions.

- The Source Material Program (SMP) shall follow the procedures for follow-up inspections and enforcement actions provided in the SMURP's *Event and Allegation Response Procedural Manual,* Appendix A to Subsection 4.7 *Event and Allegation Response Procedural Manual* Section 2.5, Section 2.6, and Appendix B to Subsection 4.7, *Event Reporting Procedural Manual*, Section 7.4.

c. Notifications to licensing staff.

- The Source Material Program (SMP) shall follow the procedures for responding to materials events provided in the SMURP's *Event and Allegation Response Procedural Manual*, Appendix A to Subsection 4.7 *Event and Allegation Response Procedural Manual*, Section 2.1, Section 2.3, and Appendix B to Subsection 4.7, *Event Reporting Procedural Manual*, Section 2.1, Section 6.0, Section 7.0, and Attachment A.

d. Reports to the incident file.

- The SMP shall follow the procedures for responding to materials events and allegations provided in the SMURP's *Event and Allegation Response Procedural Manual*, Appendix B to Subsection 4.7, *Event Reporting Procedural Manual*, Attachment A.

e. Notifications to other affected licensees of generic problems.

- The SMP shall follow the procedures for responding to materials events and allegations provided in the SMURP's *Event and Allegation Response Procedural Manual,* Appendix B to Subsection 4.7, *Event Reporting Procedural Manual*, Section 1.1.

Allegation procedures should address response, follow-up and closeout. They should also provide for protection of the identity of a person making an allegation when requested. The procedures should also provide for the protection of other sensitive information.

- The Source Material Program (SMP) shall follow the procedures for responding to allegations provided in Appendix A to Subsection 4.7 *Event and Allegation Response Procedural Manual*, Section 3.0, Overview of SMURP Allegation Procedures.

4.7.2 Procedures for Identifying Significant Events and Submitting for Entry into the Nuclear Material Events Database

The States must report all events to the NRC that NRC regulations (or equivalent State regulations) require the licensees to report. The States must report events directly to the NRC, its (Nuclear Material Events Database) NMED contractor, or to the NRC Operations Center for events that require immediate notification or notification within 24 hours.

- See Appendix B of Section 4.7 SMURP's *Event Reporting Procedural Manual*

4.7.2.1 Information Needed

The State should submit its procedures for generating event reports. It should also submit its procedures for reporting events to the NRC. above.

- See Appendix A of Section 4.7 SMURP's *Events and Allegations Procedure Manual*
- See Appendix B of Section 4.7 SMURP's *Event Reporting Procedural Manual*

4.7.2.2 Evaluation Criteria

The State procedures should assign responsibility for the completion of the reports and for ensuring the quality of the reports. The procedures should also include specific times for completion of the reports and submitting them to the NRC. The procedures should provide guidance for identifying abnormal occurrences.

The State procedures should contain criteria for identifying reportable events. The procedures should include guidance for reporting events (notification, follow-up, and closeouts) to the NRC or its contractor for inclusion into the NMED database, as well as procedures for reporting events to the NRC Operations Center. The State procedures should be consistent with the State Agreement Procedure SA-300 Handbook, Nuclear Material Event Reporting in the Agreement States.

- See Appendix A in Section 4.7, SMURP's *Events and Allegations Procedure Manual*
- See Appendix B in Section 4.7 SMURP's *Event Reporting Procedural Manual*

Appendix A to Subsection 4.7
Events and Allegations Response Procedural Manual
Source Material and Uranium Recovery Program

August 2025

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1.0 Introduction

The Wyoming Source Material and Uranium Recovery Program (SMURP) has developed procedures in this manual for responding to radiological materials events, and allegations of statutory and regulatory violations.

The procedures included in this manual are based upon the following Nuclear Regulatory Commission (NRC) and State of Wyoming references and resources:

1. NRC Criteria Policy Statement, Criteria 1 and 11;
2. NRC Management Directive 5.6, *Integrated Materials Performance Evaluation Program (IMPEP);*
3. NRC Management Directive 8.8, *Management of Allegations;*
4. NRC Inspection Manual Chapters 1301 through 1303, and 1330;
5. NMSS Procedure SA-105, *Reviewing Common Performance Indicator #5, Response to Incidents and Allegations;*
6. NMSS Procedure SA-300, *Reporting Material Events;*
7. NMSS Procedure SA-400, *Management of Allegations;*
8. State of Wyoming, *Wyoming Response Plan, Nuclear/Radiological Incident Annex,* October 6, 2008, see Attachment D; and
9. State of Wyoming, Department of Environmental Quality, *Emergency Response Plan,* January 2023, see Attachment E.
10. State of Wyoming, Department of Environmental Quality, Rules, Chapters 1-9.

Written procedures for reporting radiological material events to the NRC Nuclear Materials Events Database (NMED) are provided separately in SMURP's *Event Reporting Procedural Manual,* Subsection 4.7, Appendix B, dated June2025.

2.0 Overview of SMURP Event Response Procedures

This section provides general information related to event/incident response within SMURP.

2.1 Introduction to Incident/Event Response Procedures

SMURP staff should use this section as guidance when responding to radiological source material or byproduct material incidents. If upon receipt of the material incident report, SMURP determines that the incident is a major emergency, SMURP will notify the State and Federal entities listed in Section 4. Radiological material incidents should be reported to SMURP via phone, fax, or electronically as described in Section 4 of this manual. The SMURP should record the incident on the incident form provided in Attachment A and report the incident to the NRC via the procedures detailed in the SMURP *Event Reporting*

Procedural Manual dated November 2025. Allegation response is covered in Section 3 of this manual.

2.2 Coordination with Federal Agencies Upon the Discovery of Radioactive Material in Unrestricted Areas

If the incident involves the discovery of radioactive material in an unrestricted area and the material is known to be licensed (not just licensable) by NRC or an Agreement State under the Atomic Energy Act (AEA), then NRC is the Lead Federal Agency (LFA) for the Federal response, under the Federal Radiological Emergency Response Plan (FRERP). If the incident involves radioactive material owned by or for the U.S. Department of Defense (DOD) or the U.S. Department of Energy (DOE), then DOD or DOE is the LFA for the Federal response. If the incident involves radioactive material of other origin (foreign, naturally occurring, accelerator- produced, or unknown licensee), then the U.S. Environmental Protection Agency (EPA) is the LFA for the Federal response. Under the FRERP, the U.S. Department of Justice (DOJ) is the LFA for coordinating the Federal response to acts of terrorism in the United States and its territories. The Federal Bureau of Investigation (FBI) will manage the law enforcement aspect of the Federal response to such incidents. The FBI also is responsible for investigating all alleged or suspected criminal violations of the Atomic Energy Act of 1954, as amended, and Title 18 of the Code of Federal Regulations. The SMURP will provide follow-up actions for incidents at byproduct and source material operations licensed in Wyoming by the SMURP.

2.3 Follow-up Actions for Notifications

(a) The SMURP will obtain details surrounding the incident and record the details on the incident form provided in Attachment A in order to determine which action to take, and who has lead responsibility at the State and Federal levels. Under the AEA, the mechanism by which a state assumes such regulatory function is through a formal "Agreement" between the NRC and the Governor of the state. Therefore, as an agreement state, Wyoming has only assumed regulatory authority over source material involved in uranium or thorium recovery or milling and the associated 11e.(2) byproduct material including source material recovered from any other mineral resources processed primarily for purposes other than obtaining the source material content.

(b) In cases involving intakes of radioactive materials that are reportable under 10 C.F.R Part 20.2202, "Notification of Incidents," as incorporated by reference in URP/SMP Chapter 3, Section 4:

(i) Obtain detailed information on the initial assessment of intake made by the licensee. Evaluate the adequacy and reliability of the assessment. Request immediate additional measurements if the initial assessment appears inadequate. Determine whether the incident requires inspection attention before the next routine inspection, based on an evaluation of its safety significance. Request assistance from the NRC or other listed State/Federal agencies in Section 4 of this manual as necessary. Assess the assumptions made by obtaining the initial assessments to make sure they are reasonable under the circumstances. The initial assessment is important because it will determine the type of actions to be taken

to mitigate the consequences of the intake.

(ii) Based on the initial assessment of the intake, it may be necessary to review the licensee's plans in the following areas:

- The need for medical evaluation of the exposed person;
- The possibility of immediate initiation of therapy to reduce the committed doses;
- The need to start a bioassay program for the contaminated personnel; and

(iii) Repeat the licensee's calculations that estimate the intake to ensure that errors have not been made.

(iv) The threshold for seeking outside expert internal dosimetry assistance. When reviewing the bioassay program, you should review the adequacy of the sampling frequencies and ensure the availability of adequate analytical capabilities.

(v) Evaluate the need for a hazardous chemical consultant. The Wyoming Department of Environmental Quality (WDEQ) can help contact chemical safety experts. The EPA may also be contacted for logistical assistance from an EPA On-Site Coordinator.

(vi) Discuss with the licensee the measures taken to regain control of the licensed material and to preclude further contamination.

2.4 Follow-up Actions for Written Reports

(a) The SMURP staff is responsible for screening, evaluation, follow-up, and closeout of written reports of all types of incidents reported by licensees for byproduct and source materials.

(b) The SMURP staff should record the incidents on the incident form provided in Attachment A. Allegation reports should be recorded on the allegation form provided in Attachment B. The reports should be forwarded to the NRC and recorded in the NMED database per the *SMURP Event Reporting Procedural Manual,* Subsection 4.7, Appendix B.

(c) All types of reports of incidents should be documented in an inspection report and on WDEQ Spills and Complaints website at https://deq.wyoming.gov/spill-and-complaints/ . Corrective actions should be tracked to completion. Any closure documents should be included in the report.

2.5 Criteria for Evaluating Special Inspections (URP/SMP rules, Chapters 2 and 3)

(a) The following examples are events which normally require consideration of immediate dispatch of inspectors (typically within 2 days):

(i) Single exposure of an occupational worker in excess of the dose limits in 10 C.F.R

Part 20.1201, as incorporated by reference in URP/SMP Chapter 3, Section 4(a);

(ii) Loss of control of radioactive material that caused a member of the public to receive an exposure in excess of the limits in 10 C.F.R Part 20.1301, as incorporated by reference in URP/SMP Chapter 3, Section 4(a);

(iii) Discovery of SMURP-licensed material in an unrestricted area;

(iv) An unplanned contamination event that requires a 24-hour report to Wyoming SMURP per URP/SMP Chapter 4, Section 9(c)(ii) [refer to l0 C.F.R Part 30.50(b), 40.60(b), or 70.50(b)], as applicable;

(v) An intake of radioactive material in excess of an annual limit on intake;

(vi) Note: If an inspector is not dispatched immediately, the SMURP will determine whether conducting a special inspection is necessary before the next routine inspection.

(b) Examples that normally require consideration of a special inspection before the next routine inspection (typically within a few weeks) may include the following:

(i) Release of radioactive material to an unrestricted area in excess of 2 times the concentration limits in 10 C.F.R Part 20.1302, as incorporated by reference in URP/SMP Chapter 3, Section 4(a);

(ii) Disposal of license material in quantities or concentrations in excess of the limits in 10 C.F.R Part 20.2003, 20.2004, or 20.2005 as incorporated by reference in URP/SMP Chapter 3, Section 4.

(iii) Loss of control of radioactive material that could have caused a member of the public to receive an exposure in excess of the limits in 10 C.F.R Part 20 1301, as incorporated by reference in URP/SMP Chapter 3, Section 4.

2.6 Criteria for Conducting Special Inspections

(a) During a special inspection, the SMURP should make an initial determination of the hazard, the need for further action, and should proceed as follows:

(i) Discuss the current status of the incident with the licensee, or if not a licensee, the individual(s) who found the radioactive material;

(ii) Collect details about the cause of the incident and the incident chronology;

(iii) Review licensee follow-up actions for consistency with the regulations, license requirements, approved procedures, and the nature of the incident;

(iv) Evaluate the potential radiological consequences and personnel exposure;

(v) Evaluate the need for a medical consultant, based on the potential radiological consequences and personnel exposure;

(vi) Determine if proposed licensee actions and plans will provide a safe recovery

from the incident and help prevent a recurrence;

(vii) Notify and discuss with Federal agencies, and State and local governments, as necessary, any new developments or significant changes; and

(viii) Evaluate the need for continued onsite presence of SMURP, and for other SMURP actions.

2.7 Documentation Guidance

Any follow-up actions that the SMURP takes on a reported incident should be summarized in writing and maintained in the WDEQ Spills and Complaints website at https://deq.wyoming.gov/spill-and-complaints/ . A formal report of the results of each special inspection should be prepared and distributed in light of the involved staff and Federal/State agencies. Evaluate each incident and determine if it meets the criteria for an Abnormal Occurrence Report per the document, SMURP *Event Reporting Procedural Manual.*

2.8 Additional Guidance on Events

(a) Confirm problem, considering the following factors:

(i) Location of radioactive material (e.g., on specific articles, on persons, along highway, in public buildings, or in private homes);

(ii) Availability of radiation monitoring resources near scene of incident (Wyoming SMURP, licensee's qualified staff, hospital, or university with radiation protection technicians).

(b) Determine how far the radioactive material has spread

(i) Assess the need for assistance from other State or Federal Agencies listed in Section 4 of this manual;

(ii) Assess the need for the U.S. DOE to conduct an aerial survey.

2.9 Establish the Degree of the Health Hazard

(a) Possible scenarios and/or re-enactments of incident, to provide a best estimate of radiation dose.

(b) Pathways for ingestion or inhalation by persons and possible doses from intake of radioactive material.

(c) Calculate possible doses to persons from exposure to ionizing radiation (internal and external).

(d) Nature of population at risk: groups of individuals, number of individuals.

(e) Calculate total population doses (collective dose), considering the extent of radioactive material in public places.

2.10 Keep Public Informed

Inform the public about the incident through the appropriate State and Federal contacts listed in Section 4 of this manual. Consider the following factors:

(a) Extent of public risk and public perception of the risk.

(b) Extent of media interest.

(c) Confidence in validity of information reported to SMURP.

(d) Reassessing the measures that have been taken (e.g., health physics and medical services that have been made available to the public).

(e) Coordination of information among the WDEQ offices, Federal agencies, and State and local agencies. Ensure that other Federal agencies are informed of any information to be released to the media or the public. If contacted by the media or public refer them to the WDEQ Public Information Supervisor at (307) 777-7753.

(f) Assurance of correctness of information provided to the news media and the public.

(g) Actions taken by Federal agencies, States, and local authorities.

2.11 Stop Spread of Radioactive Material

Ensure that no radioactive material is further disseminated to other areas, considering the following factors:

(a) The reliability of the licensee that controls the locations or the articles where radioactive material has been detected.

(b) Steps necessary to prevent further dissemination of the radioactive material.

2.12 Control, Recovery, and Disposal of Radioactive Articles

Ensure control, recovery, and safe disposal of radioactive articles, considering the following factors:

(a) Exposure potential.

(b) Cost/benefit impacts in barring use of radioactive materials.

(c) Degree of radiation hazard.

(d) Keeping public exposure as low as is reasonably achievable.

(e) Alternative methods of decontaminating property and disposing of radioactive and contaminated materials and waste.

When it is not possible to locate the responsible licensee, or the responsible licensee is unable to take possession of any radioactive material in question, radioactive material discovered in unrestricted areas may need to be immediately disposed of through DOE (see NRC Manual Chapter 1303, "Requesting Emergency Acceptance of NRC-Licensed Material by DOE").

2.13 Examine Regulatory Significance of Incident

Examine regulatory significance of the incident and close out the SMURP response, considering the following factors:

(a) Possibility of generic implications and possible notifications to other affected licensees of generic problems.

(b) Value of documented case study.

(c) Need to prevent recurrence.

(d) Possible need for new rulemaking.

2.14 Response to Transportation Accidents Involving Radioactive Materials

The SMURP procedures for responding to transportation accidents involving source and byproduct materials are based upon NRC Inspection Manual 1330, Nuclear/Radiological Incident Annex (Attachment D), and the State of Wyoming/WDEQ Emergency Response Plan (Attachment E). In the case of a transportation accident involving radioactive materials, the WDEQ and SMURP will provide the following support:

(a) Provide technical assistance in analyzing immediate and long-term effects of pollution (air, soil, and water) caused by radioactive material release.

(b) Provide technical assistance and advice on disposal of radioactive debris/waste.

(c) Notify downstream users and recommend protective actions in the event of an incident affecting surface or ground water.

2.15 Follow-up Actions and Action Levels for Radiation Exposures Associated with Materials Incidents Involving Members of the Public

The actual doses to members of the public are likely to be uncertain, especially during the initial follow-up after an incident. Doses will usually be estimated in a dose range, or a maximum dose based on the circumstances of the incident. For this reason, it is important to talk with exposed individuals because this can help the staff in assessing the incident and in estimating the dose.

Depending on the nature of the incident, further analysis of the estimated dose may be necessary, using techniques such as bioassays, whole body counting, and cytogenetic analysis, and should be considered as the estimated doses approach 10-20 rem and up. In evaluating the need for these types of analyses, staff should keep in mind that performing the study can help reassure an individual who was exposed to radiation, but it can also increase the anxiety about the exposure. Therefore, staff should be sensitive to this and use their best judgement in deciding when to recommend cytogenetic analysis.

Because people are often more anxious about radiation exposure than with other hazards and risks, staff should be especially sensitive when providing information about the incident and the estimated doses. Staff must be as factual as possible about characterizing the dose based on available information, without causing undue stress. Staff should not discuss medical

issues or provide medical advice to exposed individuals. Instead, staff should refer individuals to their personal physicians.

(a) Dose Range from 0 to 1 mSv (100 mrem)

Exposures with estimated doses in this range are within the public dose limit in l 0 C.F.R Part 20, as incorporated by URP/SMP Chapter 3, Section 4. There are no regulatory requirements requiring reporting and notifications.

Typically, no further action is needed, but the need for additional action must be evaluated based on the specific incident.

(b) Dose Range from 1 mSv (100 mrem) to 50 mSv (5 rem)

In cases when the estimated dose is between 1 and 50 mSv (100 mrem and 5 rem), the incident needs to be evaluated following the guidance in NRC Inspection Manual Chapters MC 1301, "Response to Radioactive Material Incidents that do not Require Activation of the NRC Incident Response Plan", and MC 1360, "Use of Physician and Scientific Consultants in the Medical Consultant Program." Staff will need to determine if a medical consultant is necessary. If a medical consultant is necessary, the medical consultant will determine whether or not a medical evaluation of exposed individuals is necessary. Staff should not discuss medical issues with an individual who was exposed or provide medical advice. Instead, if an individual expresses concern or wishes additional information on possible medical affects, staff should refer the individual to his/her personal physician, or to a WDEQ medical consultant if WDEQ has consulted with one to analyze the incident. If additional assistance is needed, WDEQ staff can call the Radiation Emergency Assistance Center/Training Site (REAC/TS) at 865-576-3131.

(c) Dose Range Greater than 50 mSv (5 rem)

For estimated doses that appear to be over 50 mSv (5 rem), assess the incident following the guidance in (b) above. If the calculated effective dose equivalent is more than l 00 mSv (10 rem), further medical evaluation should be considered. Depending on the circumstances of the incident, a medical consultant may be brought in, the exposed individual will be referred to his/her personal physician, and/or REAC/TS may be consulted for additional guidance. At dose estimates in this range, and approaching 200 mSv (20 rem), the need for further analysis of the dose, as discussed above, should be evaluated.

(d) Members of the Public Who Are Pregnant

Information regarding the disclosure of pregnancy must be on a voluntary basis because of issues involving individual privacy. If, in the course of evaluating an incident involving exposures to members of the public, staff is informed by a female member of the public that she is pregnant, the follow-up action is essentially the same as in (a) through (c) above, extending the evaluation to look at the impact on the embryo/fetus. A medical consultant will probably be asked to evaluate the incident and the likely dose to the embryo/fetus. As stated previously, staff should not discuss medical issues or provide medical advice to the woman, but should refer her to her personal physician. Additional information on exposures to the embryo/fetus can be found in: 1) Regulatory Guide 8.13, "Instruction Concerning Prenatal Radiation Exposure," and

2) National Council on Radiation Protection and Measurements Report No. 128, "Radionuclide Exposure of the Embryo/Fetus." Additionally, staff may get additional guidance if needed from REAC/TS.

3.0 Overview of SMURP Allegation Procedures

This section provides general information related to managing the receipt, evaluation, and follow-up and closure of allegations received by the SMURP.

3.1 Allegation/ Alleger Definition

(a) An "allegation" is a declaration, statement, or assertion of impropriety or inadequacy associated with SMURP-regulated activities, the validity of which has not been established. Potential licensee wrongdoing suspected by SMURP staff that prompts an investigation by the SMURP is also processed as an allegation. A more detailed definition, including exceptions, is provided in Attachment C, "Glossary," of this manual.

(b) An "alleger" is any individual or organization that submits an allegation to the SMURP or that provides information in a public forum that is recognized as an allegation involving a nuclear or radiological safety matter or possible wrongdoing related to a nuclear or radiological safety matter.

3.2 Evaluation of an Allegation

(a) There is no threshold for the acceptance of a concern that meets the definition of an allegation provided in Attachment C, "Glossary," of this manual.

(b) Allegation evaluation is accomplished through any combination of the following:

(i) Technical review;

(ii) Inspection;

(iii) Evaluation of information requested from the affected licensee, or another SMURP regional or headquarters office; or

(iv) Obtaining the results of investigations or evaluations conducted by:

- NRC,
- The Department of Justice (DOJ),
- The Department of Labor (DOL),
- A State agency, or
- Another Federal agency.

3.3 Methods Through Which an Allegation May Be Received

(a) Any SMURP employee may receive or recognize an allegation. An alleger's concern may be made known to SMURP via several methods, for example:

(i) In person,

(ii) By telephone,

(iii) By e-mail, or

(iv) In print.

(b) An allegation may also be recognized by an SMURP staff member in information provided in a public forum including, but not limited to:

(i) Television,

(ii) Radio,

(iii) Newspaper,

(iv) Internet, or

(v) Social media (e.g., Facebook, Twitter, blog).

3.4 Allegation Intake

If an allegation is received in person or by telephone, the SMURP staff will be courteous, professional, and responsive to the alleger. All communications with the alleger shall be documented on the allegation form provided in Attachment B. The alleger should be asked if they want to remain anonymous. If the alleger wants to be anonymous the SMURP staff should not note record names or contact information.

Off-the-Record Information: The SMURP does not accept "off-the-record" information from allegers. An alleger who attempts to provide information "off-the-record" is to be advised that all information received by SMURP is accepted officially and appropriately acted upon.

A staff member who receives an allegation in person or by telephone will attempt to obtain as much information as possible about the alleger's concern(s) so that safety significance may be determined and to facilitate - review of the concern(s).

If the alleger's name and contact information is not initially provided, an effort should be made to obtain it so that feedback may be provided to the alleger and so that the alleger may be subsequently contacted if additional information is needed. If the alleger makes known to the SMURP staff that he or she wishes to remain anonymous, the SMURP staff will not take down the alleger's personal information, such as their name or phone number. All allegations will be placed into the WDEQ's complaints and spills online portal at https://deq.wyoming.gov/spill-and-complaints/ This portal allows allegers or SMURP staff to place allegation information into a format which provides for anonymity for the alleger.

Allegers will be informed of the online portal option when they call into the SMURP and asked if they would like to complete the forms themselves, or SMURP staff will input this information, using Attachment B.

If the alleger is willing to provide his or her name and contact information, he or she is informed that SMURP staff will provide feedback regarding the allegation.

3.5 Security Concerns

If the alleger is involved in security-related activities or has security concerns, the alleger is to be reminded of the proper protocol for transmitting classified information. See Management Directive (MD) 12.2, "NRC Classified Information Security Program," MD 12.4, "NRC

Telecommunications Systems Security Program," MD 12.5, "NRC Automated Information Security Program," and MD 12.7, "NRC Safeguards Information Security Program," for additional details.

If a setting is inappropriate for transmitting such information, separate arrangements will be made to enable proper transmittal.

3.6 If the Alleger Requests No Contact with SMURP

On occasion, an alleger will provide contact information but request no further contact with the SMURP. When this occurs during the intake process involving allegations received in person or by telephone, the employee receiving the allegation should explain the advantages of continued involvement in the allegation process (i.e., to facilitate SMURP's understanding of the concerns raised, to obtain additional information as needed, to afford the alleger the opportunity to assess and provide feedback regarding SMURP's conclusions, and to encourage the alleger's continued involvement). If the alleger continues to request no further contact the SMURP will honor the request.

Allegations may also be accepted through WDEQ's online complaint system. Allegers can maintain anonymity using this system.

3.7 Matters of Potential Wrongdoing Identified by SMURP Staff

During inspection or assessment of licensee activities, SMURP staff may identify matters that involve potential wrongdoing on the part of licensee employees or licensee contract employees. Any allegation from an external source that asserts a failure to meet regulatory requirements may have the potential for being willful with respect to the licensee. Staff must therefore be alert to any implicit issues and indicators of wrongdoing when reviewing such an allegation, and the staff should identify the issues for consideration by the SMURP if they are not identified by the alleger as potential wrongdoing.

3.8 Alleger Identity Protection

Alleger identity protection is an important aspect of the program. All reasonable efforts are taken not to disclose an alleger's identity outside of the SMURP. An alleger's identity, or information that would reveal an alleger's identity, is not normally distributed or discussed among SMURP staff. If discussion of an alleger's identity is necessary to evaluate an allegation, the discussion shall only involve staff with a need to know.

The staff is responsible for controlling documents that could reveal an alleger's identity, using applicable allegation documentation control guidance. The staff will also ensure that the alleger's information is not unnecessarily recorded.

An alleger will be informed of the degree to which his or her identity can be protected by the SMURP. If an allegation is received in person or by telephone, information about alleger identity protection should be provided during the initial discussion, if possible.

If an allegation is received by other means (e.g., letter, electronic mail), and the alleger's identity and contact information is known, SMURP staff will notify the alleger by telephone (if possible), letter, or electronic mail and explain to the alleger the degree to which his or her

identity can be protected. This action is taken so that an alleger does not incorrectly assume that his or her identity is protected by SMURP under all circumstances.

Staff should be sensitive to the location of allegation-related discussions in order to provide reasonable assurance that sensitive allegation information is not disclosed to staff without a need-to-know or to non-SMURP personnel.

As a general rule, documents containing the alleger's identity and information that could identify the alleger are maintained in the official allegation database.

SMURP-generated documents related to an allegation are not to include information that could identify an alleger, with the exception of allegation intake documentation.

SMURP practice is to neither confirm nor deny to a licensee or the public that an individual is an alleger.

Inspections and inspection-related documents should address relevant issues without acknowledging that an issue was raised in the context of an allegation. Approval of the SMURP Program Manager is required if a licensee is to be informed that an inspection activity is related to an allegation. The licensee is notified when it is deemed necessary during the conduct of an inspection requested by a worker in accordance with Chapter 5 Section 3(a) of the URP and SMP rules. Sometimes, the licensee is already aware of the allegation based on an earlier Request for Information (RFI) related to the allegation.

Information identifying the alleger may be released to the licensee when the alleger has clearly indicated no objection to being identified, and releasing the alleger's identity is necessary to obtain resolution of the allegation or otherwise serves the needs of the agency.

When information identifying the alleger is released to the licensee:

(a) The identity of the alleger should normally be provided to the licensee verbally rather than in a letter requesting information from the licensee.
(b) Written documentation of the alleger's lack of objection to the identity release will be noted in the related allegation file.

3.9 Limitations on Alleger Identity Protection

All allegers are informed of the limitations on SMURP's ability to protect their identity:

(a) During the initial receipt of the allegation, or other discussion with the alleger prior to the issuance of an acknowledgment letter, if possible; or
(b) In an acknowledgment letter (after the initial receipt of the allegation.

The alleger is informed that SMURP may be compelled to disclose his or her identity under one or more of the following circumstances:

(a) Disclosure is necessary because of an overriding safety issue.
(b) Disclosure is necessary pursuant to an order of a court or SMURP adjudicatory authority or to inform Congress or State or Federal agencies in furtherance of SMURP responsibilities under law or public trust.
(c) Disclosure is necessary to support a hearing on an enforcement matter.

(d) Disclosure is necessary to further a wrongdoing investigation.
(e) The alleger has taken actions that are inconsistent with and override the purpose of protecting the alleger's identity.
(f) Disclosure is mandated by the Freedom of Information Act (FOIA) or Wyoming Public Records Act.
(g) SMURP staff may reveal an alleger's identity outside the agency if the alleger has clearly stated no objection to being identified. However, this course of action is not normally taken unless releasing the alleger's identity is necessary to obtain resolution of the allegation, or otherwise serves the needs of the agency.

(h) The decision to reveal an alleger's identity will be made at the SMURP Manager level or higher.

3.10 Allegations Involving Discrimination

For allegations involving discrimination, the SMURP will work with the Department of Labor (DOL) on a case-by-case basis. These requests may involve technical issues associated with protected activity, the organizational structure of employers, or WDEQ requirements. WDEQ is available to assist DOL personnel and individuals with accessing WDEQ information, understanding technical issues, or determining whether an individual is engaged in protected activity. The SMURP Program Manager is the WDEQ contact if DOL is requesting information about a specific allegation. If this contact occurs, staff should respond promptly because DOL investigators have a short statutory time frame within which to complete their investigation.

3.11 Processing the Received Allegation

(a) Actions of the Receiving Employee:
  (i) A SMURP employee receiving an allegation will record the allegation on the form in Attachment A (Incident Casework Review Summary Sheet) within 5 calendar days of receipt of the allegation and will inform his or her supervisor of the allegation. Additionally, the employee receiving the allegation will enter the allegation into the State database as discussed in Section 3.20. If the alleger wishes to remain anonymous, the SMURP employee will not record the allegers personal information, such as their name or phone number.

  (ii) Generally, action will not be taken to determine the validity of an allegation, nor will an allegation be discussed with licensees or other affected organizations until after the designated staff has briefed appropriate SMURP management.

(b) Allegation Documentation
  (i) A unique identifying number is established for each allegation when SMURP staff document the allegation.

  (ii) The SMURP staff member establishes a file for each allegation which will contain all allegation-related documentation. The allegation files are to be retrievable by allegation number (i.e., there must be no alleger identifying

information on the outside of the allegation file folder).

(iii) Documentation that contains the identity of an alleger or other information that would identify an alleger may be separated from the official allegation file if it is appropriately protected.

- The documentation must have the appropriate cover sheet to indicate that it contains sensitive allegation information.
- The documentation should be conspicuously marked (typed or stamped) to indicate that the document identifies an alleger, depending on the document type.
- The following are examples of document types that could identify an alleger:
  - ▶ A letter to an alleger;
  - ▶ A letter from an alleger;
  - ▶ A document from an alleger; or
  - ▶ Another type of document that specifically identifies the alleger or contains other alleger identifying information.

(c) Storage of Official Agency Allegation Files and Documents

(i) Official agency allegation files shall be maintained online on the Land Quality Division's (LQD) digital filing system, MIDAS (Mining Information Database Acquisition System) and on the WDEQ spills and complaints website at https://deq.wyoming.gov/spill-and-complaints/, in some cases, a physical storage location where LQD maintains sensitive confidential information such as names off allegers, Health Insurance Portability and Accountability Act (HIPAA) protected information, and cultural resource locations. To access files, WDEQ personnel can request files through the records group.

(ii) Keycard or keyed access to SMURP buildings with locked file cabinets maintained by the records group provides adequate security for allegation files and documents containing the identity of an alleger.

(iii) SMURP staff will limit the distribution of allegation file documentation outside of the SMURP office to allegation information that is being transferred to another regional office or documentation that is produced in response to an allegation- related FOIA request.

3.12 Allegation Evaluation

(a) Acknowledgment Letter

When the identity of an alleger is known, an acknowledgment letter is to be issued to the alleger, normally within 30 calendar days of the date of receipt of the allegation. The

acknowledgment letter may be prepared and signed by the appropriate SMURP Program Manager or Division Administrator. The acknowledgment letter shall include a restatement of the alleger's concerns, along with information relevant to the issues involved (e.g., the identity protection, important contacts, whether concerns are being referred to another entity, or whether an RFI from the licensee is being considered). Sensitive, security-related information will not be included in the acknowledgement letter.

Whenever possible, acknowledgment letters (and all other written correspondence to an alleger) should be sent using a delivery mechanism that allows for verification of receipt. **Note:** For instances in which an alleger requests electronic correspondence (e- mail), the SMURP should request that the alleger verifies receipt of the information.

For sensitive, security-related concerns, the acknowledgment letter will reiterate the concern(s) raised, but will inform the alleger that SMURP, following evaluation of the concerns, may only be able to provide limited information regarding the staff's review, assessment, and findings. The letter shall not include classified or sensitive security information.

(b) Alleger Interview by SMURP Technical Staff

In some cases, an interview with the alleger by the SMURP technical staff may be warranted. Depending on the nature of the allegation and the time sensitivity of the issue, assistance from other resources may be requested. If an alleger requests an interview with SMURP to more clearly explain his or her concerns, or to present information, every effort should be made to accommodate such a request. All contacts with the alleger should be documented and forwarded to the allegation file.

(c) Evaluation by SMURP Technical Staff

(i) After completing inspection activities or reviewing the allegation as directed by management to address an allegation, technical staff will notify designated responsible staff and the management of the completed actions. The allegation status can then be tracked, and subsequent allegation process activities may be initiated (e.g., the development of closure documentation).

(ii) The technical staff will document the evaluation of each allegation concern in a report or other appropriate correspondence and submit the documentation to management for inclusion in the allegation file, along with all supporting information.

(d) Allegation Transfers, RFIs, and Referrals

(i) Informing an Alleger of an Allegation Transfer, RFI, or Referral

When it is determined that information is to be requested from the licensee or an issue is to be referred to another Government agency or external entity, the alleger should receive feedback regarding such action. The notification may be provided

via a letter to, or a documented conversation with, the alleger. If an allegation is transferred within the WDEQ/SMURP, feedback may be provided to the alleger by either the receiving WDEQ office or the WDEQ office to which the allegation is transferred.

(ii) Allegation Transfers to WDEQ or NRC Regional Offices or Headquarters

When the SMURP office receives an allegation and determines that the allegation should be transferred to another WDEQ or NRC regional or headquarters office, the offices must contact each other before the transfer. The office to which the allegation is to be transferred should be in agreement that it is the appropriate office to evaluate the allegation. If agreement is reached, the allegation is transferred.

(f) Requests for Information from the Licensee

(i) Policy Regarding the Issuance of an RFI to the Licensee

- Engaging the licensee in the evaluation of an allegation provides SMURP with unique insights into the licensee's handling of employee concerns and provides the licensee with unique insights into its own safety culture.
- A licensee has primary responsibility for ensuring the safe operation of the facility and can promptly address issues through ready access to site personnel, equipment, and documentation related to allegation concerns; therefore, the SMURP should request information from the licensee in support of allegation closure whenever possible and appropriate.

(ii) Conditions Inhibiting the Issuance of an RFI to the Licensee

- A licensee may be asked to provide information regarding an allegation as deemed appropriate. However, in other circumstances, an RFI from the licensee should normally not be considered if any of the following conditions apply:
  - ▶ Information cannot be released in sufficient detail to the licensee without compromising the identity of the alleger (unless the alleger has no objection to the SMURP's requesting information from the licensee and understands the possibility that his or her identity may be compromised).
  - ▶ The licensee could compromise a SMURP investigation or inspection because of knowledge gained by the licensee from the RFI.
  - ▶ The allegation is made against senior licensee management or parties who would normally receive the RFI, such that an independent and effective evaluation is unlikely.
  - ▶ The basis of the allegation is information received from a Federal

or State agency that does not approve of the information being released to the licensee in an RFI.

(iii) Requesting Information from the Licensee in Response to an Overriding Safety Issue (OSI)

- If an allegation raises an OSI, then SMURP staff will normally issue an RFI to the licensee (verbally first, then in writing) regarding the allegation. In this instance, the consideration of a waiting period for alleger feedback regarding a proposed RFI is waived.
- **Note:** If the allegation is confidential, then SMURP may call the alleger, if possible, to determine if the alleger wishes to provide any additional information or feedback.

(iv) Informing the Alleger About an Allegation-Related RFI to the Licensee

- Before an RFI is provided to a licensee regarding an allegation, all reasonable efforts should be made to notify an alleger whose identity is known of the planned RFI. This includes instances where the alleger has requested no contact.
- The fact that an alleger is aware that an RFI may be or will be provided to the licensee is normally confirmed via the acknowledgment letter to the alleger.
- However, this understanding may be otherwise documented (e.g., during the initial documented contact with the alleger, or in a telephone conversation record).

(v) RFI Letter to the Licensee

- The RFI letter to the licensee regarding an allegation should reference the allegation number and inform the licensee of the concern(s) in a level of detail that will enable the licensee to evaluate the concern but should not include the identity of the alleger or information that could permit the licensee to identify the alleger. Please refer to Exhibit 14 in NRC Allegation Manual for guidance in drafting a letter.
- The letter should request that the licensee review the matter and provide a written report of the results of that review.
- Staff expectations regarding the quality and scope of the licensee's evaluation, the qualifications and independence of review personnel, and limitations on the distribution of the SMURP letter and its enclosure(s) should be conveyed, and the licensee should be requested to describe how these attributes were met in its response to the SMURP.
- If interviews are to be conducted or if samples of documentation, systems, structures, or components are to be evaluated, the licensee is expected to

provide the basis for determining the number of individuals interviewed, the interview questions used, and the adequacy of sample sizes.

- The licensee is expected to note any instance identified during the course of its review in response to a request for information letter indicating that a SMURP requirement may have been violated.
- Letters requesting information from licensees regarding allegations are not issued on the public docket.
- The letter requesting information from the licensee shall also request that the licensee contact SMURP staff to ensure a common understanding of the scope of the allegation and the SMURP 's expectations for follow-up and response, and to discuss the licensee's plans for evaluating the concerns that are the subject of the RFI.

(vi) Staff Review of Licensee Response to an RFI

- The technical staff will review the licensee's response to an RFI for adequacy.
- The staffs review should include some alternate verification of aspects of the information provided. Acceptable verification methods include, but are not limited to, the following:
  - ▶ Verify the existence and applicability of technical references, procedures, corrective action documentation, or calculations noted in the licensee's response.
  - ▶ Review recent inspection results in the functional area related to the allegation.
  - ▶ Ask follow-up questions on the material provided by the licensee.
  - ▶ Conduct an independent inspection or technical review.
  - ▶ If the licensee does not conduct a thorough review, it may be necessary for SMURP to request that the licensee perform a supplemental review or to independently inspect or investigate the allegation concern(s).
  - ▶ The staff should inform the licensee of an identified inadequacy in the licensee's response to the RFI.
  - ▶ SMURP staff conclusions with regard to the licensee's response and any independent verification, inspection, or investigative efforts should be documented for inclusion in allegation closure documentation.

(g) Referral of Concerns About Agreement State Licensees

(i) In accordance with the terms of the agreement between NRC and an Agreement State, NRC must refer concerns received regarding Agreement State licensees to the Agreement State for review and evaluation.

(ii) If, after the SMURP is described to an individual who contacts NRC with concerns about an SMURP licensee, the concerned individual agrees to contact and be contacted directly by the SMURP, the concerns are provided to the appropriate Regional State Agreements Officer (RSAO) for referral to the SMURP.

(h) Referral of Industrial Safety Concerns to the Occupational Safety and Health Administration (OSHA) Concerns submitted to SMURP within the purview of OSHA will be forwarded to the Wyoming Department of Workforce Services at 307-777-8650.

(i) Referral of Concerns to Government Agencies and Military Organizations including other Agreement States Concerns under the jurisdiction of Government agencies and the military or other organizations outside SMURP's jurisdiction will be referred by designated SMURP staff to the appropriate organization. [For example, concerns about environmental quality related to other than nuclear material or concerns about the radiological aspects of Superfund sites are to be referred to the Environmental Protection Agency (EPA)].

(i) Notification of Federal, State, local law enforcement agencies, the Wyoming Attorney General, and the determination of the amount of information to be provided to them are the responsibility of the SMURP and Director of WDEQ. Please see Section 4.0 of this manual for a list of State of Wyoming agencies to be notified in the event of major radiological events.

(ii) The concerned individual should be informed that the matter is not within SMURP regulatory jurisdiction and that he or she may contact any of these organizations directly.

(iii) Identity protection of the concerned individual should be considered in staff referrals of such matters in accordance with the identity protection guidance in this manual.

(j) Referral to the Office of the Attorney General

Occasionally, a submitted allegation may also include one or more assertions related to the performance of SMURP staff or contractors and/or mismanagement of agency programs or operations. Issues regarding suspected improper conduct by SMURP employees or SMURP contractors will be brought directly or through appropriate SMURP management to the attention of the Attorney General (AG). These issues are not considered allegations and are not to be described as such.

Any records pertinent to matters involving the AG should be excluded from the allegation file or appropriately redacted and forwarded either directly to the AG or to the director for

referral to the AG, as appropriate.

3.13 Periodic Status Letters to Allegers

In instances of unusual delay in evaluating an allegation, the SMURP should ensure that the alleger is provided periodic status letters regarding the SMURP's evaluation of concerns.

Normally, the alleger should be advised every 180 days or sooner of the status of pending open allegation concerns. For wrongdoing issues, the alleger should be informed that the review is in progress. If a closure letter is to be issued to the alleger within 2 weeks of the date a status letter is due, it is not necessary to send the status letter.

3.14 Allegation Closure

(a) Staff Action

As assigned, the technical staff shall develop closure documentation for each allegation concern, describing the scope and depth of the review performed and indicating the staff's conclusion as to the validity of the concern. The responsible SMURP Program Manager shall review and concur in the basis for closing each allegation concern, as developed by the technical staff.

(b) Closure of Event or Allegation

An allegation cannot be closed until all the concerns within the allegation are closed and a closure letter has been issued to the alleger (if the alleger's identity is known) or a document has been submitted to the allegation file that discusses closure of each concern, if the alleger's identity is unknown, if no written correspondence is to be provided to the alleger at the alleger's request, or if the concerns are SMURP-identified or licensee- identified.

(c) Documentation of Event or Allegation

A final document (e.g., memorandum, draft closure letter, inspection report, technical evaluation, field notes, investigation report) will be prepared by SMURP staff to document the evaluation and closure of the allegation concerns. The document should describe the safety/security and regulatory significance for any substantiated concern. If a closure letter or closure memorandum makes reference to a licensee's RFI response, the closure documentation should clearly:

(i) Identify each allegation concern as provided or as modified by the alleger.

(ii) Describe the licensee's evaluation and response.

(iii) Document SMURP's evaluation of the licensee's response and overall conclusions regarding the validity of the concern(s), including any SMURP staff independent verification, inspection, or investigative efforts conducted to validate aspects of the licensee's response.

(iv) If an alleger cannot be contacted, then the basis for not contacting the alleger will be documented in the allegation file.

(v) Information provided in closure letters to allegers with regard to security-related concerns will be limited in accordance with the sensitivity of the concern, as defined by the following categories which describe the concern sensitivity from high to low. This category should be determined based on the allegation concern, as received, assuming that the concern is true:

- Category I - Security-related concerns that involve a potential generic security vulnerability. Letters to allegers will reiterate the concerns but provide no details regarding the SMURP's evaluation or conclusion.
- Category II - Security-related concerns that, if true, would constitute a more than minor finding or violation, as determined by applicable guidance or review panels. Letters to allegers will reiterate the concerns and provide limited information regarding the SMURP's evaluation and conclusions so that an adversary may not exploit the information.
- Category III - Security-related concerns that would constitute a minor violation or finding, as determined by applicable guidance or review panels. Letters to allegers will reiterate the concerns and describe the actions taken by the staff to evaluate the concerns and the staff's conclusions regarding the validity of the concerns. but the letters will not include a description of the compensatory actions so that an adversary may not exploit the information.

3.15 Alleger Response After Closure

An alleger may provide feedback regarding SMURP's closure of his or her allegation by indicating that SMURP's response was, in some way, insufficient, inaccurate, or otherwise unacceptable. In such instances, responsible SMURP staff should review the alleger's response against the closure correspondence provided to assess the validity of the alleger's feedback. The matter will be discussed with senior management to determine appropriate additional actions. As appropriate, a SMURP response should be provided to the alleger, normally within 30 days of receiving the alleger's feedback, describing the actions taken by SMURP in response. If it is anticipated that it will take longer than 30 days to respond to the alleger's feedback, or if the alleger's feedback includes a new allegation, an initial response should be provided to the alleger acknowledging the alleger's feedback and/or the new allegation and indicating that additional SMURP feedback is forthcoming.

3.16 SMURP Response to Fears of Retaliation

SMURP may take action to prevent retaliation before it occurs at a licensee's facility.

If SMURP receives a credible report from an individual expressing reasonable fears of retaliation for engaging in protected activity, and the individual is willing to be identified to the licensee, the SMURP Program Manager should initiate actions to alert the licensee that SMURP has received information from an individual concerned that retaliation may occur for engaging in protected activities.

The need to notify the licensee should be discussed at a meeting with representatives from SMURP and the Wyoming Attorney General's (AG) office. If the AG considers it

appropriate to notify the licensee, the SMURP Program Manager should make a recommendation to the Land Quality Division Administrator or WDEQ Director that senior licensee management be notified by either holding a documented meeting, a documented management telephone call, or issuing a letter.

The general purpose of this interaction is to inform licensee management of the SMURP' s knowledge of the matter, potential effects on the safety conscious work environment, consequences to the licensee if discrimination was to occur, and the SMURP's intention to monitor the situation. So as not to expose the alleger to undue publicity, letters of this nature should not be docketed or otherwise made publicly available, and if a meeting is held, it should be closed to the public. The licensee should be asked to respond to the SMURP's concerns in writing. The licensee's response should not be docketed or otherwise submitted to the SMURP general file.

When a number of individuals from the same licensee or organization express concern about the potential for retaliation or other management behaviors that discourage the reporting of safety issues, other actions may be warranted, especially if a history of discrimination findings or settlements exists. Actions might include an inspection, investigation, survey, issuance of a Notice of Violation or other techniques for assessing the climate for raising concerns. As an example, please see definition of the term "chilling effect" in Attachment C, "Glossary," of this manual for further information.

3.17 Handling Allegations That May Impact Licensing or Certification Decisions or Allegations That Are Filed Late

Ideally, all allegations concerning a particular licensing, certification, or operational matter will be satisfactorily resolved by the applicant before any license or certificate is issued or any operational decision is made. If allegation concerns having a potential impact on the safety of a facility relate to the staff’s findings for pending licensing or certification decisions, these allegation concerns are termed "late-filed" and must be resolved by the applicant before the SMURP can issue a license or certificate. The applicant's resolution of less significant allegation concerns will be evaluated independent of the issuance of the license or certificate.

3.18 Wyoming Public Records Act

Public records requests shall be completed in accordance with state laws and WDEQ policies and procedures.

3.19 Training of the SMURP Staff

Since any SMURP employee may receive an allegation, and since SMURP employees must be able to recognize an allegation, all employees shall receive initial training regarding the implementation of the allegation process. After completing initial training, all regional and headquarters office staff who perform work involving SMURP regulated activity and/or who have the opportunity to periodically interface with SMURP licensee personnel or external stakeholders should receive allegation refresher training at least once every year.

3.20 Allegation Tracking and Follow Through

Once an allegation is received, that allegation will be assigned to a SMURP employee who

will be responsible for ensuring the allegation is appropriately responded to. This employee will complete all of the necessary documentation and will report directly to the SMURP manager regarding the allegation. This employee shall:

(i) Serve as the administrative point of contact for the processing and tracking of allegations assigned to the regional and headquarters offices.

(ii) Administer the action office's allegation program as set forth in this document.

(iii) Establish and maintain files, prepare reports, and schedules and participate in meetings regarding the allegation.

(iv) Prepare and distribute meeting minutes and coordinate allegation-related activities with the following, as appropriate:

1. Management and responsible staff,
2. The Attorney General (AG)

(v) Ensure that the allegation file contains all documentation provided by the alleger and all documents used in making decisions regarding the allegation.

(vi) Ensure that the allegation is placed in the spills and complaints electronic management system either by the alleger or by the employee. https://deq.wyoming.gov/spill-and-complaints/

(vii) Track allegation activities from receipt to closure on the EMS.

(viii) Respond to requests for information related to allegations.

(ix) Ensure that management and responsible staff are informed of allegations under their purview.

(x) Provide support to the responsible manager, such that the responsible manager is able to inform the other SMURP inspectors, as appropriate, about open allegations, and past allegation trends related to areas to be inspected.

(xi) Ensure that allegation-related correspondence and other staff-generated documentation related to allegations is consistent with the requirements of this procedure.

(xii) Ensure that actions taken to evaluate allegations and effect allegation closure are properly documented and appropriately address the concerns provided.

(xiii) Provide or support staff in providing information to an alleger regarding the evaluation of his or her allegation, as appropriate, unless notifying the alleger would interfere with ongoing AG activities or be detrimental to the protection of sensitive and security-related information.

4.0 Communicating Events to the Appropriate State and Federal Agencies

- Events and allegations may be reported to the Source Material and Uranium Recovery Program (SMURP) at 307-777-7756.
- For after-hours reporting of events and allegations, the SMURP may be contacted via the Wyoming DEQ 24-hour spill response number: 307-777-7501. In addition to the spill response phone number, the WDEQ also has an online form available for reporting complaints, spills, or releases at https://deq.wyoming.gov/spill-and-complaints/. Information received via the online form, or 24-hour phone number will be forwarded by the WDEQ Spill Coordinator to the SMURP in a timely fashion.
- For major radiological events and allegations emergencies, the SMURP will coordinate with other State Agencies, the NRC (24-hour Headquarters Operations Center, 301-816-5100 or by email at *Hoo.Hoc@nrc.gov; or Hoo1@nrc.sgov.gov* (secure); also, the Radiation Emergency Assistance Center/Training Site (REAC/TS) at 865-576-3131), and EPA (Region 8 National Response Center, 800-424-8802) in compliance with the Department of Environmental Quality Emergency Response Plan (see Attachment E). Wyoming has a Radiological Response Team, a subdivision of the State Emergency Response Commission, which consists of the following entities:
  - Wyoming Office of Homeland Security (WOHS), Radiological Services, Dillon Conner (307-777-7197)
  - Wyoming Department of Environmental Quality (WDEQ) Spill Coordinator, (307-777-5885)
  - WDEQ 24 hour spill hotline, 307-777-7501
  - Wyoming Department of Health (WDH), Public Health Emergency Line, 888-996-9104
  - University of Wyoming Health and Safety Office (UW Safety Office), 307-766-3277
  - Wyoming Department of Transportation (WYDOT), Highway Patrol Division, 307-777-4301
  - Wyoming Department of Transportation (WYDOT), Construction and Maintenance Division, 307-777-4375, after hours road hazard reporting 800-442-9090
- As described in Section 2 of this manual, the following Federal agencies may also be contacted depending on the severity of the incident:
  - Federal Bureau of Investigation (FBI), Washington D.C. (855-835-5324), Cheyenne WY (307-632-6224), Denver, CO (303-629-7171)
  - Department of Energy (DOE) 24-hour Emergency Operations Center 202-586-8100

Attachment A

INCIDENT CASEWORK REVIEW SUMMARY SHEET

SMURP REVIEW BY:._____ DATE:._____ A/S or NRC Office: _____

STATE INCIDENT NUMBER OR OTHER FILE IDENTIFICATION: _____ LICENSEE: _____
LICENSE #: _____
LOCATION OR SITE OF EVENT: _____
DATE OF INCIDENT:_____ DATE OF 1ST CONTACT: _____ DATE OF
INVESTIGATION:_____INVESTIGATION TYPE: SITE ☐ PHONE ☐ NEXT INSP ☐ NONE ☐

☐ OVEREXPOSURE
☐ RELEASE OF RAM
☐ LOST/STOLEN/ABANDONED RAM
☐ CONTAMINATION EVENT
☐ LOSS OF CONTROL
☐ DAMAGE TO EQUIPMENT OR FACILITY
☐ EQUIPMENT OR PROCEDURE FAILURE
☐ LEAKING SOURCE
☐ TRANSPORTATION
☐ MEDICAL EVENT
☐ OTHER: _____

BRIEF SUMMARY OF INCIDENT:

_____
_____
_____

EVENT MET AO REPORTING REQUIREMENTS? Y N POSSIBLE GENERIC PROBLEM? Y N
STATE'S ACTION:

_____

FINAL DISPOSITION:

_____
_____

NO.	COMMENTS FOR REPORT APPENDIX

INVESTIGATOR._____
SUPERVISORY REVIEW BY:_____
DATE: _____
FINDINGS DISCUSSED WITH:_____ON: _____

Attachment B

ALLEGATION REPORT FORM	
FACILITY NAME:	
Alleger:_____ Address: _____ _____ _____ Home Phone:_____ Work Phone:_____ _____ Alleger' s preference for method of contact (mail, phone, etc.) And time of contact:	Date Received:_____ Received by: Title: Identity Protection Requested: Y or N Disclosure of Alleger's Identity: The individual receiving the Allegation: Inform the alleger of the degree to which their identity can be protected. This is necessary since some allegers may incorrectly assume that the SMURP can or will protect their identity under all circumstances. Inform individuals to whom the SMURP has not granted confidentiality in accordance with the Commission's "Statement of Policy on Confidentiality" verbatim of the following: In resolving technical issues, the SMURP intends to take all reasonable efforts not to disclose your identity unless • You clearly indicate that you have no objection to being identified. • Disclosure is necessary because of an overriding safety issue. • Disclosure is necessary pursuant to an order of a court or SMURP adjudicatory authority or to inform Congress or State or Federal agencies in furtherance of SMURP responsibilities under law or public trust. • Disclosure is necessary in furtherance of a wrongdoing investigation, including an investigation of harassment and intimidation (H&I) allegations. • Disclosure is necessary to support a hearing on an enforcement matter. • You have taken actions that are inconsistent with and override the purpose of protecting your identity. For allegations involving H&I, the SMURP will normally disclose your identity during an SMURP investigation if you are the victim of the

	discrimination. For allegations involving wrongdoing (e.g., allegations involving record falsification, willful or deliberate violations, or other deliberate conduct in violation of URP regulatory requirements), your identity may be disclosed at the SMURP's discretion in order to pursue the investigation. Information provided under the Wyoming Public Records Act will, to the extent consistent with that act, be purged of names and other potential identifier of allegers; however, disclosures may be necessary under this act. If it is necessary to release your identity for reasons discussed above, we will make reasonable efforts to contact you and explain the need for the disclosure. U.S. Department of Labor (DOL) RIGHTS (if applicable): If you believe you have been discriminated against for engaging in a protected activity, you may have personal remedies through the DOL. The complaint must be submitted in writing within 180 days of occurrence of the discriminatory act to ensure that your personal employee rights are protected. The complaint should be filed with the Office of the Administrator Occupational Safety and Health Administration, DOL, Room S3502, 2000 Constitution Avenue, NW, Washington, DC 20210, or with the regional DOL office having jurisdiction over the matter. Confidentiality Protection Requested: Y or N
What is the allegation or concern?	
How did alleger find out about the allegation or concern?	

Where did alleged action or activity occurred?
When did allegation or concern occur?
Who is involved/witnessed action or activity?
How or why did it occur?
What evidence or records, if any, can be examined?
Did the individual express a concern to the licensee, facility or Agreement State involved?
What is the status of the licensee's, facility's, or State's action?
What is this an issue of? (Circle all applicable): (a) Safety; (b) Safeguards; (c) Drugs; (d) Falsification; (e) Discrimination (advise alleger of the 180 day DOL reporting requirement); (f) Agreement State personnel wrongdoing; (g) Agreement State performance; (h) Agreement State Licensee.
The alleger informed verbatim of the limitations on the protection of identity as described in Part I (A)(l)(b) through (e) of the allegations handbook 8.8 of Protection of Alleger Identity: Yes or No

PREPARED BY:	DATE PREPARED:
DATE PROVIDED TO STP OAC:	

Attachment C

Glossary

Adverse Action

An action that may adversely impact the compensation, terms, conditions, or privileges of employment including, but not limited to, a failure to receive a routine annual pay increase or bonus, demotion or arbitrary downgrade of a position, transfer to a position that is recognized to have a lesser status or be less desirable (e.g., from a supervisory to a non-supervisory position), failure to promote, overall performance appraisal downgrade, verbal or written counselling, or other forms of constructive discipline, or termination.

Allegation

A declaration, statement, or assertion of impropriety or inadequacy associated with SMURP- regulated activities, the validity of which has not been established. Excluded from this definition are:

- Technical questions generated by SMURP staff. SMURP staff members should direct their technical concerns to SMURP management for evaluation within appropriate processes (e.g., inspection program, differing professional opinion program);
- Inadequacies provided to SMURP staff by licensee employees acting in their official capacity; [1]
- Matters already entered into a licensee's corrective action program that are not otherwise accompanied by an assertion of inadequate licensee follow-up;
- Matters being handled by other formal processes, such as contentions filed in hearings or other formal proceedings;
- Misconduct by SMURP employees or SMURP Contractors;
- Non-radiological occupational health and safety issues;
- Performance or wrongdoing concerns regarding organizations or personnel from State regulatory bodies that oversee Agreement State licensee activities;
- Matters reported to NRC by Wyoming resulting from a SMURP inspection.
- Licensing activities that are forwarded to SMURP that involve law enforcement and other Government agencies.

1. This exclusion is intended to clarify that inadequacies discussed during official routine conversations between licensee employees and SMURP staff are not intended to be treated as allegations. However, if the information provided by the licensee employee involves a wrongdoing issue or the employee expresses dissatisfaction with the licensee's handling of the Alleger issue or another licensee, the information should be treated as an allegation. Licensee corrective

action processes provide the primary mechanism for the identification and resolution of problems. Once an issue is entered into the corrective action process, the licensee evaluates an identified problem, categorizes it in terms of safety significance, and takes action toward resolution. Unless a concerned individual can articulate why an item entered into the corrective action process was not or will not be handled properly by the licensee, such items should not be processed as allegations. An individual who or an organization that submits an allegation to SMURP or NRC or that provides information in a public forum that is recognized as an allegation. Anonymous concerns are accepted.

Allegation File
A file that contains the documentation concerning an allegation.

Allegation Management System
Refers to a database where incident/allegation information is stored.

Alleger
An "alleger" is any individual or organization that submits an allegation to the SMURP or that provides information in a public forum that is recognized as an allegation involving a nuclear or radiological safety matter or possible wrongdoing related to a nuclear or radiological safety matter.

Chilling Effect
A condition that occurs when an event, interaction, decision, or policy change results in a perception that the raising of safety concerns to the employer or to the SMURP is being suppressed or is discouraged.

Concerned Individual
An individual with concerns involving nuclear or radiological safety that may not reach the level of allegation. Concerned individual can be used interchangeably with alleger.

Confidential Source
An individual who requests that SMURP formally confirm, in writing, its intent to protect the individual's identity.

Confidentiality
Refers to identify protection of an alleger. SMURP staff cannot grant confidential source status and will protect the alleger's wishes to be anonymous by not recording contact information such as name, phone number, etc.

Discrimination
Adverse action taken by an employer against an employee, at least in part, for engaging in WDEQ protected activities.

Emergency Incident
An event in which the loss of control of radioactive material requires immediate action by the SMURP because it is causing, or has high potential to cause, a significant health and safety risk to members of the public.

Event and Allegation Manual
Refers guidance given to SMURP staff on how to evaluate and handle events and allegations.

Identity Protection
A term that refers to the protection of information that directly or otherwise could identify an allegers by name and/or the fact that an alleger provided information to SMURP. SMURP staff does not grant confidentiality status and protects the identity of the alleger by not recording contact information.

Inspection
For the purposes of this procedure, an evaluation conducted by the Wyoming SMURP staff and used to evaluate an allegation.

Licensee
Means a person who is licensed by the Department in accordance with the Environmental Quality Act and the Source Material and Uranium Recovery Program Rules.

NMED
The Nuclear Material Events Database (NMED), maintained by NRC, is a historical collection of incidents and events that have occurred throughout the United States involving the use of radioactive material covered under the Atomic Energy Act. This excludes events occurring at nuclear power plants.

NMSS
Office of Nuclear Material Safety and Safeguards

Overriding Safety Issue (OSI)
An issue that may represent an actual or potential immediate and/or significant threat to public health, safety, or security, warranting immediate action by the licensee to evaluate and address the issue.

Protected Activity
Activity related to the administration or enforcement of a requirement imposed under the Wyoming Environmental Quality Act, as amended, which include, but are not limited to, providing WDEQ or the employer with information about alleged violations of either statute or any requirements imposed under either statute; refusing to engage in any practice made unlawful under either statute if the employee identifies the alleged illegality to the employer; requesting WDEQ to institute action against the employer for administration or enforcement of these requirements; testifying before any State or Federal proceeding regarding any provision of the statutes; and assisting or participating in, or preparing to assist or participate in, these activities.

Radioactive Material Incident
Any event, reported to SMURP or NRC that involves or may involve the loss of control of radioactive material. It may not be known whether the radioactive material is subject

to NRC or Agreement State jurisdiction when the incident is reported.

Redaction

The process of concealing information to reasonably assure that a document related to an allegation does not contain alleger identifying information or classified, Safeguards, sensitive security, privacy, or proprietary information.

Referral

Requesting another Department or external entity to provide allegation-related feedback, forwarding an issue to another Department or outside entity in its entirety. Specifically, an allegation is referred when the issue is not under the SMURP purview for examples radioactive material outside the scope of Wyoming's Agreement or when the SMURP must obtain feedback from another Department or outside entity to respond to the concern.

Request for Information (RFI)

A request by the SMURP for information from the licensee regarding the validity of an allegation concern to enable a complete SMURP assessment in response to the concern.

Staff

As it relates to this manual, Wyoming Department of Environmental Quality (WDEQ) technical, investigative, and other administrative members including those that may assist WDEQ members.

Wrongdoing

A willful violation of regulatory requirements through deliberate action or a violation resulting from careless disregard of regulatory requirements.

Attachment D
State of Wyoming Response Plan (October 2008), Nuclear/Radiological Incident

Annex Purpose

The purpose of the Nuclear/Radiological Incident Annex is to serve as a guide for state and local agencies and to provide guidelines to assist public safety personnel in their preparedness activities. This annex applies to Nuclear/Radiological incidents including accidents, terrorism, and sabotage. The annex also provides means for state agencies to interface with local jurisdictions in response to any incident involving radioactive materials. The annex identifies responsibilities and provides for the coordination of state agencies with local jurisdictions to include coordination with other states in an effective response to incidents involving radioactive materials.

Scope

The level of state response to a specific incident is based on a number of factors including the ability of local resources to respond, the type and extent and/or amount of material involved, the extent of impact or potential impact on the environment, and the size of the affected area. In the event of an incident, licensees, local jurisdictions and the state of Wyoming have responsibilities related to response and recovery.

Shipper/Carrier/Licensee

The shipper, carrier, and licensee must be in compliance with all Federal, State, and local regulations. They are responsible for notifying proper authorities of an incident, providing expertise and shipping information to public safety and response personnel; providing equipment and personnel to conduct clean-up and recovery of the incident site; and reimburse response agencies as provided by law.

Local Jurisdictions

The "local jurisdiction" is defined as that local governmental entity which authorizes, regulates, or is otherwise deemed responsible for the health, welfare, and protection of residents and their property within the geographical boundaries in which a radioactive material incident occurs.

Local jurisdictions have the primary responsibility for performing emergency response functions. Local emergency management personnel, law enforcement officials, fire department officials, and emergency medical technicians/paramedics will provide their usual range of emergency services for an incident involving radioactive materials. This includes the responsibility for having personnel trained in radiological protection which would include scene assessment; application of protective measures (time, distance, and shielding); the use of instrumentation; maintaining a current roster of trained personnel; and maintaining an adequate quantity of radiological instruments/equipment.

In many cases, shippers/carriers/licensees may not be able to exercise their responsibilities quickly enough to protect the public from the consequences of a radiological incident. The local jurisdiction must be prepared to effectively initiate life- saving and protective measures. This includes, but may not be limited to:

(1) Emergency planning;

(2) Information gathering and exchange;

(3) Situation analysis;

(4) Evacuation and shelter of persons threatened;

(5) Rescue and medical care;

(6) Initiating and supporting radiological monitoring activities;

(7) Fire fighting;

(8) Access/egress control;

(9) Public information;

(10) Direct protection actions and decontamination when recommended by appropriate technical authorities; and

(11) Making notifications to other local and state authorities.

State of Wyoming

In accordance with Title 19, Chapter 13, *The Wyoming Emergency Management Act,* the Governor, in performing his duties may *make, amend and rescind the necessary orders, rules and regulations to carry out this act within the limits of the authority conferred upon him herein, with due consideration of the plans oi the federal government.*[1]
As such, the Governor has created the State Emergency Response Commission (SERC) (Executive Order 2001-6) [2] and has also assigned the duties of the Governor's Nuclear Waste Working Group to the SERC. The Governor has also directed the SERC to address radiological transportation issues by taking the following actions:

a) Develop, adopt, and maintain a radiological materials transportation emergency response plan;

b) Report the State's resources and needs to the Governor, recommend legislation to the Governor, and review appropriations generated from the radiological materials transportation emergency response fee, and

c) Prepare and maintain follow-up incident reports, records, and documentation for any transportation of radiological materials.

Executive Order 2001-6 also creates a Radiological Response Team which shall consist of representatives from the following agencies:

- Wyoming Office of Homeland Security (WOHS)
- Wyoming Department of Environmental Quality (WDEQ)
- Wyoming Department of Health (WDH)
- University of Wyoming Environmental Health and Safety Office Wyoming Department of Transportation (WYDOT), Wyoming Highway Patrol Division, Construction and Maintenance Division

For additional information on the Powers of the Governor under this act, please refer to the Radiological Services Program Resource Binder, Section A.

For additional information on the Governor's Executive Order 2001-6, please

refer to the Radiological Services Program Resource Binder, Section B.

Concept of Operations

A. Incident Management

1. Crisis Management

Crisis management focuses on causes and involves activities to address the threat or occurrence of an incident. This is especially applicable to terrorist incidents. It is predominantly a law enforcement function that includes measures to anticipate, prevent and/or resolve a threat or act of terrorism or other actions initiated by humans. The Lead Federal Agency (LFA) for crisis management is the FBI. This guide is not intended to provide instructions on crisis management issues associated with radioactive materials. It is however, a source of information on consequence management associated with radioactive materials incidents which may be used by those involved with the crisis management of an incident.

2. Consequence Management

Consequence management addresses the effects of an incident on lives and property. It includes measures to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by an incident. The Lead Federal Agency for consequence management is FEMA. This guide is developed to provide information and instructions to address consequence management for an incident involving radioactive materials, whether in transportation, fixed facility, or terrorism.

B. Incident Type and Classification

1. Incident Type

For the purpose of this guide, there are three types of incidents involving radioactive materials. They are:

a. Transportation Incident - an incident which occurs in association with any activity involving the movement of radioactive materials by a motorized conveyance on roadways, to include trucks, trains, plains, automobiles, etc. This does not include movement of materials at a facility by forklift, hand-truck or other transfer method. Such an incident would be considered a fixed facility incident.

b. Fixed Facility Incident - an incident which occurs in association with any activity involving radioactive materials at a fixed location. This would include industrial sites (uranium processing), temporary work sites (oil well injections, non- destructive testing of welds, etc.), manufacturing sites (thickness gauges, etc.), or any other location which does not involve the movement of radioactive materials by a motorized conveyance on roadways as described in #**1** above.

c. Terrorism Incident - an incident which occurs in association with any deliberate act of sabotage or destruction which includes the use of radioactive materials. This type of incident may include transportation or fixed facility, but due to the initiating event, will require coordination of response actions to insure crime scene issues are considered.

2. Incident Classification

There are also three classifications for incidents involving radioactive materials. They apply to each type of incident described above and are as follows:

a. Level I - an incident in which no release of radioactive material has occurred. This is determined by visual assessment of the incident scene. If there is not a high confidence level by the response personnel in declaring a Level I incident, it should default to a Level II incident.

b. Level II - an incident in which there may be a release of radioactive materials. This is determined by visual assessment of the incident scene. Level II would be declared when there is reasonable doubt to the integrity of the containment of the radioactive materials (package shows significant damaged, but there is no visible sign of material release).

c. Level III - an incident in which there is a release of radioactive materials. This is determined by visual assessment of the incident scene. There is a high level of confidence by the response personnel in declaring a Level III incident.

C. Incident Response Phases

1. Phase I - The "ATIONS" (pronounced a-shuns)

This phase includes Notification, Classification and Activation, the "ATIONS".

Notification - This component of Phase I begins when the initial call is received by public safety officials. If first responders determine there is a radiological aspect to the incident, or that information is supplied during the initial call, a request for assistance can/is made through the Wyoming Highway Patrol Dispatch Center. The dispatch center will call the Wyoming Office of Homeland Security (during normal work hours) or page the WOHS.

a. Duty Officer and supply whatever information may be available. The WOHS Duty Officer or staff person who received the call will initiate the notification procedures contained in the WOHS Duty Officer Manual.

b. Classification - The on-scene responder shall initiate the classification of the incident based on their assessment of the scene. If a notification has been made to the WOHS Radiological Services (RadSvc) Program, personnel from that program will contact appropriate personnel at the scene to determine the status of the incident and obtain additional information if possible. If the •information provided indicates a need to

change the classification, the Radiological Services personnel and the on-scene personnel (preferably the Incident Commander) will make that change cooperatively.

c. Activation - If assistance beyond verbal information is requested or determined necessary, RadSvc personnel will load out applicable equipment and supplies and respond to the incident scene. If it is determined that additional personnel or specialties (environmental, health, etc.) are required to support the incident, those notifications will be made by RadSvc personnel at this time. The Incident Commander will be notified when RadSvc personnel depart for the incident and an estimated time of arrival (ETA). This same information will be requested from all other support personnel activated to support the response. Upon departure for the incident scene, the next phase of the response will begin.

2. Phase II – Response

This phase begins upon departure from the WOHS facility. While enroute, additional information may be obtained from the scene or other resources, additional notifications made, and a review of operational options can be discussed.

Upon arrival at the incident scene, RadSvc personnel should provide proper identification to on-scene personnel and check-in with the logistics and/or the Incident Commander. The lead RadSvc person should request an update briefing by the I.C. to determine the current status of the situation, other hazards present and current action plan. The RadSvc person should provide a review of capabilities and recommendations for addressing the radiological aspect of the incident. The best option should then be chosen in a cooperative manner by all response personnel as appropriate.

Additional visual assessments and information gathering may be required prior to any entry into the incident scene. Appropriate level of personal protection with I.C. approval shall be utilized. Entry activities should be conducted in a timely manner. All information gathered and the resulting follow-up recommendations should be provided to the command personnel. All activities within the incident scene should be considered based on a risk-benefit outcome. Scene assessment should focus on determining impacts on the health of responders, victims, and the public and the potential for environmental insult. Further actions, such as bioassays, evacuation/sheltering, and recovery requirements should be based on this assessment.

3. Phase III – Recovery

Recovery options should be presented to the command personnel and coordinated with recovery personnel (provided by shipper/carrier). If recovery capabilities of the shipper/carrier prove unacceptable to ensure public well-being, RadSvc personnel may undertake appropriate options to ensure the incident scene does not result in a negative public health impact. RadSvc and other support personnel will also ensure that site recovery is to pre-incident

conditions.

Responsibilities (Primary and Support)

Primary: - Regional Response Teams/Wyoming Office of Homeland Security

Tasks:

-Activate Web EOC and provide reports to Governor and applicable personnel and agencies.

- Coordinate damage assessment.

- Support evacuation, shelter and re-entry activities.

- Coordinate area incident radiological monitoring activities.

-Coordinate communication support for field command.

post. At direction of governor coordinate and disseminate warnings.

-Evaluate and recommend protective actions for both the public and response personnel (in cooperation with Department of Health).

-Provide radiological monitoring support to include collection and maintenance of records for monitoring activities, work and public exposures, and decontamination data.

-Provide radiological monitoring equipment, to include survey instruments, dosimetry, diagnostic instruments, sampling supplies, and basic anti-contamination equipment personal protective equipment- (PPE)

Support/Primary: - Department of Health (WDH)

Tasks:

- Assist in evaluating health hazards present in an incident involving radioactive materials.

-Recommend levels of responses to be conducted by state and local jurisdiction authorities.

-Coordinate with appropriate federal agencies and personnel of other health organizations (other states, private organizations etc.)

-Commend proactive actions to be taken by the public.

-Coordinate protective action measures to be used for the food chain, to include criteria for deciding whether livestock (dairy and other) should be put on protected feed and water. This includes implementation of protective measures with appropriate agricultural agencies.

Support: Department of Environmental Quality

Tasks:

- Provide technical assistance in analyzing immediate and long-term effects of pollution (air, soil, and water) caused by radioactive material release.

-Provide technical assistance and advice on disposal of radioactive

debris/waste.

-Notify downstream users and recommend protective actions in the event of an incident affecting surface or ground water.

Support: - University of Wyoming Environmental and Safety Office

Tasks:

- In cooperation with Department of Health, evaluate and recommend protective actions for both the public and response personnel and level of response.

-Assist in evaluating health hazards present in an incident involving radioactive materials.

-Provide technical assistance and advice on disposal of radioactive debris/waste.

Support: - Wyoming Department of Transportation/Wyoming Highway Patrol

Tasks - Maintain order and public safety.

-Provide access/egress control of the incident area.

-Provide, if required, radiological surveys for public safety (primarily for large incidents or confirmed releases).

-Initial response operations (for transportation incidents) to include scene assessment, notifications, and rescue/medical actions, all within the scope of training and qualifications.

Support: - Wyoming Department of Transportation-Construction and Maintenance Division

Tasks:

-Provide manpower and equipment to support operations in the incident area.

-Support route control during operations/evacuations in the incident area.

-Organize and coordinate operations to address road closure due to the incident.

Attachment E

STATE OF WYOMING

EMERGENCY RESPONSE PLAN

January 2023

PURPOSE

The purpose of this plan is to provide guidance on the coordination of timely, effective response/notification activities by The Department of Environmental Quality (WDEQ) to emergency response activities. Following the plan will improve coordination between WDEQ and other state agencies as well as various divisions and offices within WDEQ.

The WDEQ will provide appropriate notification to other state, county, or local agencies/officials as the incident dictates.

IMPORTANT

In most cases, WDEQ should contact the responsible party and determine if their response is in an efficient and timely manner. This communication will help dictate the type of response / notifications required by the WDEQ.

STATE OF WYOMING DEPARTMENT OF
ENVIRONMENTAL QUALITY
Todd Parfitt,
Director Office
(307) 777-7555

Cheyenne Office
200 West 17th
Street 4th Floor
Cheyenne, WY 82002

Main Cheyenne Numbers
Administration (307) 777-7937
Abandoned Mine Lands (307) 777-6145
Air Quality Division (307) 777-7391
Industrial Siting Division (307) 777-7369
Land Quality Division (307) 777-7756
Solid & Hazardous Waste Division (307) 777-752
Water Quality Division (307) 777-7781

Casper Office
444 W. Collins Dr., Suite 1400
Casper, WY 82601

Main Casper Numbers
Air Quality Division (307) 473-3455
Solid & Hazardous Waste Division (307) 473-3450
Water Quality Division (307) 473-3465

Sheridan Office
2100 West 5th
Street Sheridan,
WY 82801

Main Sheridan Numbers
Air, Land & Water Quality Division (307) 673-9337

Lander Office
510 Meadowview Drive
Lander, WY 82520

Main Lander Numbers
Abandoned Mine Lands (307) 332-5085
Air Quality Division (307) 332-6755
Land Quality Division (307) 332-3047
Solid Waste Management (307) 332-6924
Water Quality Division (307) 332-3144

24 Hour Number
(307) 777- 7501

IN CASE OF EMERGENCY

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Regional Emergency Response Teams	RERT

HUMAN HEALTH OR SAFETY ISSUES

If yes is the answer to any of the following questions then the appropriate contacts listed on the following pages should be notified. Also, it may be appropriate to notify the Local Emergency Planning Committee under tab LEPC and/or the County Emergency Management Coordinator under tab County Coordinator.

I) Does the release present either an acute or chronic chemical exposure to humans?

Exposure includes, but is not limited to, inhalation, skin absorption, and ingestion.

2) Does the release create a fire or explosion potential?

Potential causes of fires/explosions are chemical reactions, ignition of flammable or explosive chemicals or vapors, ignition of materials due to oxygen enrichment, agitation of shock or friction sensitive compounds, and sudden releases of materials under pressure.

3) Does an oxygen deficient environment exist as a result of the release?

Oxygen deficiency can result from the displacement of oxygen by another gas or the consumption of oxygen by a chemical reaction.

4) Does the release of the product involve radiation emission to the environment? (Contact the Wyoming Highway Patrol Dispatcher (307-777-4321)

5) Does the release present any biological hazards?

Waste from hospital or research facilities may contain disease causing organisms that can infect humans by inhalation of the surrounding air or ingestion of contaminated water.

6) Does the release present safety hazards?

Safety hazards include objects that may fall, sharp objects, steep grades, slippery surfaces, uneven surfaces, unstable surfaces, exposed/downed power lines, impaired vision, excessive heat, excessive cold, excessive noise.

REPORTING CONTACTS FOR HUMAN HEALTH OR SAFETY ISSUES

LOCAL GOVERNMENT

Fire/Police/Sheriff Departments: 911

See list of Local Emergency Planning Committees under tab LEPC and notify appropriate county.

See list of County Emergency Management Coordinators under tab County Coordinators and notify appropriate county.

STATE GOVERNMENT

Department of Environmental Quality: (307) 777-7501 (24 hour number) Highway

Patrol/Department of Transportation: 1-800-442-9090

Highway Patrol Dispatcher (for radiological releases): (307) 777-4321 Wyoming

Department of Homeland Security: (307) 777-4900

Health Department: (307) 777-7656

OSHA: (307) 777-7786

FEDERAL GOVERNMENT

National Response Center: 1-800-424-8802

USEPA Region VIII: (303) 293-1788

The Poison Center: 1-800-955-9119

ACTION REQUIRED FOR HUMAN HEALTH & SAFETY ISSUES?

If yes is the answer to any of the questions below, then go to the options for human health page.

I) Is the release site readily accessible by people other than first responders?

2) Is the release a threat to people located downwind of the spill site?

3) Is the release a threat to enter a surface water or groundwater drinking water source?

ACTION OPTIONS FOR HUMAN HEALTH

The responsible party and local/state officials may choose more than one option listed below to address human health and safety issues resulting from a release event. There may be site specific options as well that are not represented here.

1) Provide a detour corridor away from release site and surrounding area as appropriate.

2) Secure release site and surrounding area as appropriate to prevent human exposure.

3) Evacuate people from the release site and surrounding area as appropriate.

4) Provide public notice regarding the release event and detail precautions required.

5) Provide alternate drinking water supplies.

6) Provide alternate housing for affected people.

7) Provide medical attention to any suspected exposed or impacted individuals.

8) Close public facilities.

9) Notify appropriate County Emergency Management Coordinators and/or appropriate WDEQ, Water Quality Division Supervisors. These individuals can identify downstream water users.

10) Notify appropriate downstream water users by contacting the local Sheriffs Department. They will be able to contact the appropriate Water Superintendent or assist you in contacting the correct individuals.

WATER ENTRY OR THREAT OF ENTRY AND REPORTABLE

Pursuant to Chapter 4 of the **WWQRR** the following releases are reportable to WDEQ:

I) Releases of "oil" and "hazardous substances" that enter waters of the state.

2) Releases that are determined to be a threat to enter waters of the state and are:

a) considered a "hazardous substance", or

b) an amount greater than either 10 barrels of any combination of crude oil/petroleum condensate/produced water or 25 gallons of refined crude oil products (such as, gasoline, diesel motor fuel, aviation fuel, asphalt, road oil, kerosene, fuel oil, and derivatives of mineral, animal, or vegetable oils).

Please note that non-reportable spill events are still required to be addressed immediately by containing, removing and disposing of the released product according to WDEQ regulations.

REPORTING CONTACTS FOR THE RESPONSIBLE PARTY

WDEQ: (307) 777-7501

National Response Center: 1-800-424-8802

US EPA Region VIII: (303) 293-1788

*The above contacts should be made by the responsible party.

*Spills can also be reported via the web at https://deq.wyoming.gov/spill-and-complaints/

IMPACTED WATERS?

If yes is the answer to any of the questions below then go to the impacted waters page.

I) Is the water visually impacted (sheen, turbid)?

2) Does the water have an odor or off-taste?

3) Do laboratory test results indicate impact?

4) Are there impaired/dead aquatic life, wildlife or livestock present in the spill area?

5) Is it a large spill that could threaten waters of the state and/or the environment?

Please note that waters include both surface and ground waters.

REPORTING CONTACTS FOR IMPACTED WATERS

DEQ: (307) 777-7781

Impacted Groundwater: (307) 777-7072

Impacted Surface Water: (307) 777-5504

For after hours, contact should be made to the appropriate Water Quality Division district supervisors listed under tab **WQD.**

Please note that when surface waters are impacted contact should also be made to: Wyoming

Game and Fish Department
Habitat Protection

Alan Osterland, Chief if Fisheries Paul (307) 777-4557 (office)

Dey, Aquatic Habitat Supervisor (307) 777-4505 (office)

The following neighboring state agencies should be immediately notified if an oil or hazardous substance release enters, or threatens to enter, their waters:

Montana Department of Environmental Quality
1520 East 6th Avenue
Helena, MT 59602
(406) 444-2544

Nebraska Department of Environmental Quality
1200 N. Street
Lincoln, NE 68509
(402) 471-2186

Utah Department of Environmental Quality 1469
West 288 North
PO Box 144870
Salt Lake City, UT 84114-4870 (801)
536-4400

South Dakota Department of Water & Natural
Resources, Joe Foss Building
Pierre, SD 57501
(605) 773-5559

Colorado Department of Public Health & Environment
Emergency Management Program
4300 Cherry Creek S. Drive Denver,
CO 80246
(303) 692-2000

Idaho Department of Environmental Quality
1410 North Hilton
Boise, ID 83706
(208) 373-0502

IMPACTED SOILS?

If yes is the answer to any of the questions listed below then go to the impacted soils page.

l) Is the soil visually impacted (stained, impaired/dead vegetation)?

2) Does the soil have an odor as a result of the release?

3) Do laboratory test results indicate contamination?

4) Is there a loss of use of the land?

5) Can the soil be characterized as hazardous waste?

6) Are there contaminant concerns (threats to surface water or ground water from infiltration)?

REPORTING CONTACTS FOR IMPACTED SOILS

Spill/Complaint Program (Call First) Solid	(307) 777-5885
and Hazardous Waste Division:	(307) 777-7752 SHWD
Land Quality Division (if the spill involves a mine)	(307) 777-7046 LQD
Water Quality Division:	(307)777-7781 WQD

For spills involving the oil and gas producing facilities contact:

Wyoming Oil & Gas Commission:	(307) 234-7147

For spills on or near public lands contact:

Bureau of Land Management:

Buffalo	(307) 684-1100
Casper	(307) 261-7600
Cheyenne	(307) 775-6256
Cody	(307) 578-5900
Kemmerer	(307) 828-4500
Lander	(307) 332-8400
New Castle	(307) 746-6600
Pinedale	(307) 367-5300
Rawlins	(307) 328-4200
Rock Springs	(307) 352-0256
Worland	(307) 775-6256

OTHER ENVIRONMENTAL ISSUES?

If yes is the answer to any of the questions below go to the other environmental issues page.

1) Has indoor/outside air quality been impacted?

2) Have aquatic life, wildlife or livestock been impacted or may be impacted?

3) Have trees or vegetation been impaired/dead or may be?

4) Have solid/hazardous wastes related to the release been generated or may be?

5) Will regulatory permitting be necessary for containment, treatment, disposal?

REPORTING CONTACTS FOR OTHER ENVIRONMENTAL ISSUES

Solid and Hazardous Waste Division:	(307) 777-7752 SHWD
Air Quality Division:	(307)777-7391 AQD
Land Quality Division (if the spill involves a mine)	(307) 777-7756 LQD

United States Fish & Wildlife Service:	(307) 772-2374
Wyoming Game & Fish Department:	(307) 777-4600
Wyoming Oil & Gas Commission:	(307) 234-7147
Bureau of Land Management:	(307) 775-6256
Wyoming Department of Transportation:	(307) 777-4484

OIL OR HAZARDOUS SUBSTANCE RELEASE

Chapter 4 of the Wyoming Water Quality Rules and Regulations (WWQRR) regulates the containment, cleanup and disposal of oil or hazardous substances released to waters of the state, or which threaten to enter waters of the state.

A "release" is defined as, but not limited to, any sudden spilling, leaking, pumping, pouring, emptying, emitting, discharging, dumping, addition of, escaping, leaching or unauthorized disposal of any oil or hazardous substance which enters or threatens to enter waters of the state. Intentional discharges of oil or hazardous substances are regulated by NPDES permits.

"Oil" means insoluble or partially soluble oil of any kind including, but not limited to, crude or fuel oil, lubricating oil, oily sludge, asphalt, crude oil condensate, gasoline, aviation fuel, kerosene, diesel motor fuels, road oil, waste oil, oil mixed with federally defined non-hazardous wastes and derivatives of mineral, animal or vegetable oils.

"Hazardous substance" means any substance or waste, which after release, constitutes a threat to public health or welfare, or other aquatic life or wildlife because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious, or radioactive characteristics.
The term also includes all substances so designated by the EPA. The term does not include oil.

The Wyoming Environmental Quality Act and Industrial Development Information and Siting Act defines "Waters of the State" as:

"Waters of the State" means all surface and groundwater, including waters associated with wetlands, within Wyoming.

Appendix B to Subsection 4.7

Event Reporting Procedural Manual

Source Material and Uranium Recovery Program

August 2025

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1.0 Introduction

The Wyoming Source Material and Uranium Recovery Program (SMURP) has established procedures for reporting radiological material events from within the State to the U.S. Nuclear Regulatory Commission (NRC) via the Nuclear Material Events Database (NMED). The procedures which follow are based upon the following NRC references and resources:

1. NRC Criteria Policy Statement, Criteria 1 and 11 (January 23, 1981);
2. Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-300, *Reporting Material Events*, and Appendix-*Handbook on Nuclear Material Event Reporting in the Agreement States*, Final Report (December 2024); and
3. MD 8.1 Abnormal Occurrence Reporting Procedure (May 2018)
4. NMED database, located at http://nmed.inl.gov.

The procedures which follow include the following:

1. Reporting events requiring notification within 24 hours to the NRC Operations Center;
2. Providing 5-30 day notification and follow-up event information;
3. Schedule for event reporting;
4. Reporting formats; and
5. Providing event information for events meeting the abnormal occurrence (AO) criteria.

1.1 Why do we collect event information?

Operating experience is an essential element in the regulatory process for ensuring that licensed activities are conducted safely. The reporting and analysis of incidents and events helps to identify deficiencies in the safe use of Atomic Energy Act of 1954 (AEA), as amended, nuclear material and to help ensure that corrective actions are taken to prevent recurrence. A 1993 General Accounting Office (GAO) report identified the compilation and presentation of national materials data as an area for improvement and recommended that NRC take appropriate action to ensure that the information on radiation events is reported completely and accurately. Further, reliable information should be available to NRC, the Congress, and the States to identify patterns and trends and determine appropriate changes for the programs. Event information is reported to Congress annually and this information is used to demonstrate that the NRC and the Agreement States are meeting the safety and security goals and the corresponding strategic outcomes in the NRC's strategic plan. NRC conducts reviews of all operating experience reports, from both NRC licensees and Agreement States, to identify safety concerns early, and to further evaluate individual events for the possible presence of generic safety concerns or generic issues that could apply to a broader class of licensees. Prompt reporting of event information, including 5-30 day report information, and updates to events, helps the staff identify or detect possible safety concerns or issues as early as possible. An event or condition could by itself appear insignificant, but when compared with national information, could indicate a generic concern or issue. In-depth

analysis of event report data may result in the identification of actions that could lead to improvements in the effectiveness of NRC and Agreement State regulatory programs. Event analysis may also result in the issuance of generic communications to provide information and guidance regarding safety concerns and issues.

NRC provides a quarterly and annual report that presents information on the results of statistical analysis of event data and any safety significant or generic issues or concerns. This information is published in the NMED Quarterly and Annual Reports, which are available in electronic form at the NMED Website (http://nmed.inl.gov). Also, the NRC Office of Nuclear Material Safety and Safeguards (NMSS) publishes a quarterly licensee newsletter (NUREG/BR-0117) that includes information on nuclear material safety concerns.

1.2 What is the governing regulatory authority?

Under Section 274 of the AEA, Wyoming has assumed regulatory authority over source material involved in uranium or thorium recovery or milling and the associated 11e.(2) byproduct material including source material recovered from any other mineral resources processed primarily for purposes other than obtaining the source material content. The AEA directs NRC to cooperate with the States in the formulation of standards to protect employees or the general public against hazards of radiation and to assure that State and Commission programs will be coordinated and compatible. Article VI of the Agreement between the State and the NRC states that "the State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implications or otherwise be of regulatory interest."

Under the AEA and the Energy Reorganization Act of 1974 (ERA), as amended, the NRC evaluates material event reports for both NRC and Agreement State licensees, and AOs that have occurred in licensed facilities. In addition, the ERA requires NRC to provide to Congress on an annual basis, information on events that meet the AO criteria.

Under the Government Performance Results Act of 1994 (GPRA), Federal agencies are required to establish measurable, outcome-oriented performance goals linked to Agency programs and activities in a strategic plan. An annual performance report to Congress is prepared that evaluates the NRC nuclear materials program against the metric performance goals. The metric goals are based on current and historical event reporting data. Due to the importance of nationwide operating experience as an essential element in the regulatory process for ensuring that licensed activities are conducted safely, the Commission directed the staff to make Agreement State reporting of events to NRC an item of compatibility (See Reference section, June 30, 1997, Staff Requirements Memorandum).

The guidance contained in this manual is provided to assist SMURP staff in the joint sharing and analysis of event information. The AEA directs the Commission to periodically review actions taken by the States under the Agreements to ensure adequacy and compatibility with the provisions of the Act. NRC conducts periodic

evaluations of Agreement State programs under the *Integrated Materials Performance Evaluation Program (IMPEP*), which includes an evaluation of event response, reporting, follow-up, and close- out. (See NMSS Procedures SA-100, *Implementation of the Integrated Performance Evaluation Program (IMPEP)* and SA-105, *Reviewing the Common Performance Indicator, Technical Quality of Incident and Allegation Activities*.

1.3 How do you determine if an event is reportable?

Wyoming's SMURP shall report to NRC all events reported to them in accordance with their State regulations that are compatible with NRC's reporting requirements. Section 2 of this document provides additional details regarding reporting events. Attachment A of this manual contains a listing of the most commonly encountered NRC regulatory reporting requirements for nuclear material events. The reporting requirements in Title 10 of the U.S. Code of Federal Regulations (C.F.R) form the basis for the compatible reporting requirements in Agreement State regulations. The table in Attachment A provides the specific regulatory requirement, followed by a brief description of the types of events that fall under the reporting requirement, and the periodicity for reporting. It should be noted that the information in Attachment A is only to be used as a reference and does not contain all of the regulatory reporting requirements. Please consult with the actual reporting requirements provided in NRC's regulations (10 C.F.R) as incorporated by reference in URP/SMP Chapters 3 and 4 to determine if an event is reportable. Attachment B provides examples of reportable nuclear material events or occurrences that are required to be reported by both NRC and Wyoming licensees.

1.4 What is the Nuclear Material Events Database (NMED)?

NMED contains a historical collection of information on the occurrence, description, and resolution of events involving the use of radioactive material in the United States. NMED accommodates the sharing of material event data submitted by Agreement States and the NRC. The data includes information on material events from January 1990 through the present. The Agreement States will be notified of changes made to NMED. The database is maintained by NMSS through a contractor. NMED is a tool available to both NRC and Wyoming to support evaluation of specific events, as well as assessment of event types, and identification of generic issues and concerns. NRC performs event assessments on a quarterly and annual basis, and these assessments can be found on the NMED website. To gain access to the NMED website, contact the NRC NMED Project Manager at https://nmed.inl.gov/. Also, Agreement States are encouraged to share with NRC and the other Agreement States any assessments or trending studies they have performed. These assessments or studies can be forwarded to the NRC NMED Project Manager for posting on the NMED website or distributed as an all Agreement State Letter.

2.0 Reporting Material Events

In accordance with the provisions of compatible Agreement State regulations, Wyoming

licensees are required to report the occurrence of material incidents and events to the Wyoming SMURP. As an item of compatibility, SMURP should provide reports of incidents and events involving the use of nuclear materials by Wyoming licensees to NRC. This section presents information on reporting (1) immediate or 24-hour reportable events, (2) 5 - 30 day reportable events, and (3) follow-up event information. As a general rule, SMURP must report events to NRC on the same timeframe that licensees must report to the Wyoming Department of Environmental Quality (WDEQ). For example, if a report is due from the licensee to the SMURP in 24 hours, Wyoming's report is due to the NRC within 24 hours of receiving the event notification/report from the licensee or non-licensee. Attachment A of this manual contains a table of the most encountered NRC event reporting requirements, and a summary of the event reporting schedule. Attachment C contains reporting methods and contact information.

2.1 Reporting Events Requiring Notification Within 24 Hours

Wyoming SMURP shall report events requiring notification within 24 hours to the NRC Headquarters Operations Officers (HOO) staff at the Headquarters Operations Center (HOC). Information should be initially reported to the HOO by email at HOO.HOC@nrc.gov or *Hoo1@nrc.sgov.gov* (secure), as the preferred method, or can be reported by phone at (301) 816-5100. Wyoming should assign and provide an Event Report Identification Number for each reported event. The format for this number is described in Section 2.3.a. ***"Assign Event Report Identification Number."*** Attachment D provides a listing of minimum event information that should be provided to complete an event report. When submitting an initial event report, please provide as much information as is known at the time the report is prepared regarding the items indicated in Attachment D. However, it is understood that this information may be incomplete or preliminary. Updated information should be subsequently provided in follow-up reports (see Section 2.4).

2.2 NMED Record for Events Reported Within 24 Hours

The NMED contractor uses the initial event notification (EN) information, which was provided to the NRC Operations Center from an Agreement State, to establish a record in the national NMED database. The NMED contractor will reference the Agreement State Event Report Identification Number (See Section 2.3.a for generating an Agreement State Event Report Identification Number) in the record. The Agreement State Event Report Identification Number will be reflected in the "Reference" field of the NMED record and will be used to ensure any subsequent updates are correctly associated with the initial event record (See Section 2.4 of this manual for guidance on reporting follow-up event information to NMED). In addition, each event entered into NMED is assigned a unique NMED item number.

2.3 5 – 30 Day Event Reporting

SMURP shall report events that require notification within 5 to 30 days directly to the NMED database. NRC staff encourages Wyoming to electronically report these events

using the local NMED Agreement State software or the document "Upload" program on the NMED website. All reports should be sent directly through NMED and do not need to be sent to the HOO. However, if the state prefers to send the event report via mail, then the report should be mailed to NRC's Radioactive Materials Safety Branch (RMSB).

The following paragraphs provide additional information on reporting events. For guidance on data entry, an electronic copy of the NMED users guide has been included in the local NMED Agreement State software.

a. Assign Event Report Identification Number
The Agreement State event report identification number should appear on all event reports, including preliminary, initial notification reports (e.g., ENs), and any follow-up reports. The event report identification number should consist of the two letter State agency ID, two-digit year corresponding to the reporting year, and a sequentially assigned four-digit ID number. The event report identification number should be referenced by the state for all telephone, electronic or written notifications involving each specific event.

b. Basic Event Information
Attachment E of this manual provides a listing of the minimum event information that should be provided. When submitting an initial event report, please provide as much information as is known at the time the report is prepared regarding the items indicated in the Attachment. It is understood that this initial information may be incomplete or preliminary. Updated information should be subsequently provided in follow-up reports (see Section 2.4).

c. Electronic Reporting to NMED
Wyoming may provide an electronic NMED report to the NMED contractor by using the local NMED Agreement State software, which may be downloaded from the NMED website, or by using the document "Upload" function on the NMED website. If you need additional help, you may contact the NMED contractor or the NRC NMED Project Manager. For contact via telephone, e-mail or mail, refer to the contact information on the NMED website.

d. Access to NMED
A search of the nationally collected data is available on the NMED website with several drop-down, point-and-click menus available. Access to the NMED is controlled through the NRC NMED Project Manager. If access is required, contact the NRC NMED Project Manager by e-mail at NMEDNRC@nrc.gov. Access to NMED is only provided to the NRC, Agreement States, other federal government agencies, and/or federal government contractors who have the need to use the event information in NMED.

2.4 Follow-up Reports

If additional information is needed to support the NMED record or information becomes available after the initial submission, Wyoming SMURP shall submit follow-up reports to NMED. Follow-up reports should be submitted when the information becomes available. Wyoming SMURP can upload inspection reports or other documents that contain the information needed to close the event; however, this is not required. All files are not required to be uploaded. Providing clear reference to documents within Wyoming's record management systems (e.g., an inspection report dated (YYYYMMMDD) can also support the NMED record. The SMURP may choose to submit a summary of the event in lieu of uploading inspection records.

2.5 Reporting Transportation Events

As required by URP/SMP Chapter 9, Section 3, "Transportation of licensed material," licensees shall comply with the applicable requirements of the U.S. Department of Transportation (DOT) regulations in 49 CFR parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

49 CFR 171.15, "Immediate notice of certain hazardous materials incidents," contains reportability requirements for transportation incidents involving hazardous material.18 The regulations are specific that "each person in physical possession of the hazardous material" (i.e., the carrier19) must provide notice by telephone or online to the National Response Center.

Wyoming, if notified before the National Response Center, should either recommend for the carrier or licensee to notify the National Response Center or do so themselves. If the HOC is notified first, then NRC will notify the National Response Center in accordance with the NRC-DOT memorandum of understanding (44 FR 38690).

When the reporting threshold within 49 CFR 171.15 is met, the Agreement State licensee should evaluate all other reporting requirements to determine if additional reporting is necessary. If these thresholds are met, then the event may also be reportable under URP/SMP Chapter 3, Section 4.

Table 1. The DOT reporting requirement for certain hazardous material incidents via NRC SA- 300

49 CFR 171.15, Immediate Notice of Certain Hazardous Materials Incidents
(a) General. As soon as practical but no later than 12 hours after the occurrence of any incident described in paragraph (b) of this section, each person in physical possession of the hazardous material must provide notice by telephone to the National Response Center (NRC) on 800-424-8802 (toll free) or 202-267-2675 (toll call) or online at http://www.nrc.uscg.mill. Each notice must include the following information: (1) Name of reporter; (2) Name and address of person represented by reporter; (3) Phone number where reporter can be contacted (4) Date, time, and location of incident; (5) The extend of injury, if any; (6) Class or division, proper shipping name, and quantity of hazardous material involved, if such information is available; and (7) Type of incident and nature of hazardous material involvement and weather a continuing danger to life exists at the scene.
(b) Reportable incident. A telephone report is required whenever any of the following occurs during the course of transportation in commerce (including loading, unloading, and temporary storage): (1) As a direct result of a hazardous material (i) A person is killed; (ii) A person receives an injury requiring admittance to a hospital; (iii) The general public is evacuated for one hour or more; (iv) A major transportation artery or facility is closed ot shut down for one hour or more; or (v) The operational flight pattern or routine of n aircraft os altered; (2) Fire, breakage spillage, or suspected radioactive contamination occurs involving a radioactive material (see also SS 176.48 of this subchapter); (3) Fire, breakage, spillage, or suspected contamination occurs involving an infectious substance other than a regulated medical waste;

(4) A release of a marine pollutant occurs in a quantity exceeding 450 L (119 gallons) for a liquid or 400 kg (882 pounds) for a solid; (5) A situation exists of such a nature (e.g., a continuing danger to life exists at the scene of the incident) that, in the judgement of the person in the possession of the hazardous material, it should be reported to the NRC even though it does not meet the criteria of paragraphs (b)(1), (2), (3) or (4) of this section; or (6) During transportation by aircraft, a fire, violent rupture, explosion or dangerous evolution of heat (i.e., an amount of heat sufficient to be dangerous to packaging or personal safety to include charring of packaging, melting of packaging, scorching of packaging or other evidence) occurs as a direct result of a battery or a battery-powered device.
(c) Written report. Each person making a report under this section must also make the report required by SS 171.16 of this subpart.

2.6 Radiological Emergency Response Assistance Available to the States

Wyoming may request radiological emergency response assistance by contacting the NRC's Operations Center. The Federal government, upon request, has the capability to provide assistance to States in responding to radiological emergencies. Under the National Response Framework, NRC is the coordinating agency for domestic incident management for incidents involving nuclear materials or facilities licensed by the NRC or Agreement States. As the coordinating agency, NRC may request assistance from other agencies, (e.g., Department of Homeland Security, Department of Energy, etc.) which could also include the Agreement States. Federal assistance could include ground and aerial radiological monitoring (e.g., missing source), medical advice on radiation effects and treatment, consequence projection, and protective action assessment.

2.7 International Nuclear Event Scale Reporting

Since 2004, the NRC and the Agreement States have shared event information with the international community for the rating and reporting of nuclear, transportation and radiation source events, using the International Atomic Energy Agency (IAEA) International Nuclear Event Scale (INES). INES is a scale that is used for rating safety significance of events associated with the use of nuclear or radioactive materials.

INES events involve those which are regulated by NRC or the Agreement States, and are eligible for rating. The NRC does not require the States to classify events or to

provide direct notifications to IAEA using the INES scale. The NRC will use information provided by the States during their initial reporting and updates of the event for classifying the event and notifying IAEA. The NRC has committed to transmit to the IAEA an INES-based rating for an applicable event that is rated at an INES Level 2 or higher. The NRC will notify the IAEA within 2 business days when it has been determined that an event has a provisional or final INES rating of Level 2 or higher. For events that occur in an Agreement State, the NRC Regional State Agreement Officer (RSAO) will provide the State with the draft INES event report within 24 hours of its generation. The States are asked to concur that the information in the report is factual. If the State cannot review the draft INES event report in time to meet the two business day reporting deadline, NRC will provide the report to INES, and mark the event Provisional.

For further information on INES reporting procedures and rating criteria, please see NRC Management Directive 5.12, "International Nuclear Event Scale Participation," which may be found at https://www.nrc.gov/reading-rm/doc-collections/management-directives/volumes/vol-5.html.

2.8 Reporting Theft or Terrorist Activity

The U.S. Federal Bureau of Investigation (FBI) notification should be considered if an event involves the possibility of *theft or terrorist activities*. Agreement States shall promptly notify the NRC Operations Center (i.e., the HOO) after contacting the appropriate Local Law Enforcement Agency (LLEA) and/or the FBI in cases involving actual or attempted theft, sabotage, or diversion of radioactive material containing quantities greater than or equal to the quantities of concern of radioactive material as indicated in Attachment G of this manual. Agreement State Regulatory Agencies should consider notifying the FBI or LLEA in all cases of actual theft, sabotage, diversions and possible terrorism of radioactive material, regardless of the quantity of radioactive material involved. This includes intentional use of radioactive materials that could be used in an unauthorized, malevolent manner that could lead to serious consequences. Agreement States should coordinate with the NRC their communications with other local, Federal and State Agencies, to ensure that shared information is accurate and consistent. Based on health and safety significance the issuance of a press release should also be considered. (See All Agreement State Letter SP- 98 -038, dated May 5, 1998, regarding expansion of the FBI criminal investigative jurisdiction to include byproduct material. A revision to the U.S. Code assigns lead responsibility for material events involving ***theft or terrorist activities*** to the FBI.) If it is not clear whether an event should be categorized as a possible theft or terrorist activity, the Agreement State should contact the NRC Headquarters Operations Center for assistance in determining if the event should be reported.

3.0 Closing and Completing Events

3.1 Events Closed in NMED

An NMED record remains open in NMED until the Agreement State has indicated that the NMED record should be closed. Wyoming SMURP should notify the NMED contractor when the event record has been officially closed (i.e., no further follow-up planned and/or no additional information expected). The State should ensure that the record contains all pertinent technical information, including follow-up information before closing the record. See Attachment C, for contact information.

3.2 Record Complete in NMED

A "complete record" refers to an NMED record that contains a specified minimum set of information. This minimum set of information is defined in Attachment E and may also be found on the NMED website under "Help." Once the minimum information is provided, the NRC/NMED contractor marks the NMED record as "complete." It should be noted that a "complete" record still remains open in NMED until the State has indicated the record should be closed.

4.0 NRC Publication and Distribution of Event Notifications

4.1 Event Notifications (ENs)

All events that are required to be reported to the NRC Operations Center are currently entered into the NRC Event Notification database. Most ENs are publicly available on NRC's public website at http://www.nrc.gov/reading-rm/doc-collections/, under "Events, Reports", within five business days of notification. As a result of public access to this information, Agreement States may be contacted by the public or media regarding events. In such cases, refer the public and media to WDEQ's Public Information Supervisor at (307)777-7753.

5.0 Event Notifications, Safety Reviews of Material Event Reports

5.1 Evaluation of Event Notifications (EN), NRC Review of Material Events for Safety Significance and Generic Assessment

RSO reviews the new and updated nuclear material ENs to ensure that they are familiar with the issues impacting Wyoming. The RSOs are responsible for serving as a point of contact for SMURP staff and management, if any questions arise.

Select SMURP staff to review all new updated ENs. SMURP staff should notify the appropriate RSAO if an event is reportable to the INES, a potential Abnormal Occurrence (AO), or if an event indicates the possible presence of a generic issue. ENs identified as having a significant potential risk to public health and safety, security, and/or the environment may receive additional NRC management or review.

***Requests for additional information*:** Based on the results of the nuclear material event safety and generic assessment review, SMURP staff may be contacted by the RSAO by phone or e-mail to discuss the event. Additional information may be requested to help

determine the safety significance and any possible generic implications (e.g., equipment malfunction or failure, significant exposures). For significant events (i.e., immediate or 24 hour reportable events) such requests, normally initiated by the RSAO or NRC's Operation Center staff, would occur on an as needed basis, possibly within hours to a few days of notification of the occurrence.

For events not considered to be significant (i.e., not required to be reported within 24 hours), the standard procedure is to allow at least 30 days before making such requests to provide reasonable time for SMURP review and evaluation, and submission of follow-up information. A request for follow- up information may also be sent routinely via e-mail by the NMED contractor, (e.g., when the NMED record is incomplete after 60 days from the date reported to the regulatory agency).

5.2 Actions NRC May Take after Review of "Significant" Events

Events identified as having a significant potential risk to public health and safety, security, and/or the environment may receive additional NRC management review. NRC headquarters and region staff continue to follow-up and review material events through closure of the event, which includes checking to see that the final report information has been entered into NMED. Based on potential risks identified as a result of event review and analyses, NRC may take actions to reduce potential risks by issuing safety-related notifications to licensees, (e.g., Information Notices (IN), concerning software problems, equipment modifications, etc.) Further research and analysis of events may also result in regulatory or programmatic changes.

6.0 Agreement State Safety Reviews of Material Event Reports

6.1 Agreement State Review of Material Events for Safety Significance and Generic Assessment

Wyoming should review events occurring within their jurisdiction, or related to products registered or licensed in their jurisdiction, to identify any events that may involve generic concerns or issues or could have significant impact on public health and safety, security, and/or the environment. Generic or significant events that warrant such a review include:

a. Multiple occurrences of an event (e.g., medical events, overexposures, lost or stolen sources of concern), or

b. A single occurrence of a significant or serious event (e.g., deaths, loss of organ function, significant release to the environment), or

c. Events involving possible generic concerns or issues (e.g., equipment malfunctions, equipment failures, inadequate user procedures, software problems), or

d. Consequences or causal factors not previously seen in the event assessment process.

6.2 Actions Agreement States May Take after Review of Significant Events

Events identified as having a significant potential risk to public health and safety, security, and/or the environment may receive additional State or NRC management review. Agreement States should continue to follow-up and review material events through the closure of the event, which includes checking to see that the final report information has been entered into NMED. Based on potential risks identified as a result of event review and analyses, States may take actions to reduce potential risks by issuing safety-related notifications to licensees. States are encouraged to share with NRC and the other States any findings, assessments, or trending studies. These can be forwarded to the NMED Project Manager for posting on the NMED website or, distribution in the NMED newsletter and/or an NRC Agreement State Letter.

6.3 Root Cause Analysis for Uranium Recovery and Source Material Facilities

For significant operational events at uranium recovery and source material facilities related to violations, accidents, or poor performance, SMURP staff will ask the licensee to perform a root cause analysis to determine the cause or causes of the incident at the facility. SMURP staff will evaluate the root cause using guidelines presented in the NRC training class titled "G-205, NRC Root Cause/Incident Investigation Workshop". This class is required by all SMURP personnel involved in inspections and licensing actions for uranium recovery facilities.

Methods to be employed in the evaluation of the root cause is determining if the SMURP agrees with the licensee analysis which may have include one or more of the following items:

a. Event and Conditional Factors Analysis + (ECFA+);

b. Fault Tree Analysis;

c. Pareto Analysis;

d. The 5-Whys Technique (Interviewing);

e. Critical Incident Technique (CIT);

f. Barrier Analysis; and/or

g. Management Oversight and Risk Tree Analysis (MORT)

The root cause analysis should include records and document review related to the incident(s) in question. The analysis should also include a review of safety culture, and how that culture may have contributed to poor performance or violations on the part of the licensee across different aspects of the uranium mining operation. A review of human performance and error is also included in the root cause analysis. Discussions with the licensee regarding significant operational events should identify items in the permit application, SOPs, or the license that may need to be updated considering the root cause analysis.

Evaluation of the root cause analysis should be communicated to the licensee in a timely fashion, typically as a topic within an inspection report. The licensee should be able to clearly understand how to fix or ameliorate the root cause.

7.0 Abnormal Occurrence (AO) Guidelines and Criteria

7.1 Introduction

This section presents the guidelines and criteria to be followed when assessing the significance of an event or occurrence to see if it meets the criteria established to identify an abnormal occurrence (AO). The NRC is responsible for determining if events reported by Wyoming SMURP meet the criteria of an AO. NMSS preforms an initial screening of all Wyoming events against the criteria in accordance with MD 8.1, "AO reporting," and may have follow up questions to these events. For more information on AO reporting please see NRC's Management Directive 8.1.

The RSAO contacts the SMURP staff if a potential AO is identified. Wyoming will support the NRC by providing information on potential AOs that have occurred in the State. The RSAO provides the Wyoming SMURP with a draft AO write-up. The SMURP staff shall review the draft AO write-up to verify that the details are correct and to provide corrections to the assigned RSAO.

7.2 AO Policy Information

The NRC submits a report to Congress identifying any AOs in compliance with Section 208 of the Energy Reorganization Act and the Federal Reports Elimination and Sunset Act of 1995.

The NRC's annual "Report to Congress on Abnormal Occurrences" is published in NUREG-0090 and can be accessed at http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0090/.

The SMURP staff will provide information on all reportable material events as a matter of compatibility with NRC regulations. Wyoming will file reports for all reportable events following guidance contained in the Office of Nuclear Safety and Safeguards (NMSS) Procedure SA-300, "Reporting Material Event."

7.3 AO Criteria

SMURP staff should routinely screen events against the AO criteria as part of their routine program. Any events identified as potential AOs should be reported to NRC. The NRC will prepare the draft write-ups for potential AOs and provide it for Wyoming's review and feedback. The criteria used to determine if an event is an AO can be found in the most recent version of NUREG-0090, "Abnormal Occurrence Report to Congress" (see Appendix A) at http://www.nrc.gov/reading-rm/doc-

collections/nuregs/staff/sr0090/. Please note that if the AO criteria changes, the NRC will notify Wyoming. Also, the State may contact their RSAO or the NRC NMED project manager to ensure they have the most current AO criteria.

8.0 Communicating Radiological Material Events to the Appropriate Entities in Wyoming

- Events and allegations may be reported to the Source Material and Uranium Recovery Program (SMURP) at 307-777-7756.

- For after-hours reporting of events and allegations, the SMURP may be contacted via the Wyoming DEQ 24-hour spill response number: 307-777-7501. In addition to the spill response phone number, the WDEQ also has an online website form available for reporting complaints, spills, or releases at (https://deqspills.wyo.gov/home). Information received via the online form, or 24-hour phone number will be forwarded by the WDEQ Spill Coordinator to the SMURP in a timely fashion.

- For major radiological events and allegations, the SMURP will coordinate with other State Agencies, the NRC (24-hour Headquarters Operations Center, 301-816-5100), and EPA (Region 8 National Response Center, 800-424-8802). Wyoming has a Radiological Response Team, a subdivision of the State Emergency Response Commission, which consists of the following entities:

    - Wyoming Office of Homeland Security (WOHS), Radiological Program, Dillon Conner (307-777-7197)
    - Wyoming Department of Environmental Quality (WDEQ) 24-hour Spills and Complaints Hotline, 307-777-7501, or https://deqspills.wyo.gov/home
    - WDEQ Spill Coordinator, 307-777-5885
    - Wyoming Department of Health (WDH), Public Health Emergency Line, 888-996-9104
    - University of Wyoming Safety Office (307-766-3277)
    - Wyoming Department of Transportation, Highway Patrol Division (307-777-4301)
    - Wyoming Department of Transportation, Construction and Maintenance Division (307-777-4375), after hours road hazard reporting (800-442-9090)

Attachment A

Wyoming SMURP Regulatory Reporting and Timeliness Requirements

Reporting Requirement (10 CFR)	Wyoming URP/SMP Reporting Requirement (Rule)	Brief Summary of Reporting Requirement	Agreement State Timeliness Requirement for Notifying the HOC	Licensee Reporting Requirement for Submitting a Written Report to the Agreement State	Agreement State Timeliness Requirement for Submitting Written Report to NMED
URP/SMP Chapter 3, "Radiation Protection Standards." (10 CFR Part 20, "Standards for Protection Against Radiation.)					
§ 20.1906(d)(1)	Ch. 3, Sec. 4(a) & Ch. 9, Sec. 3(a)]	Procedures for receiving and opening packages. Removable radioactive surface contamination exceeds the limits of § 71.87(i)	4 hours	N/A	N/A
§ 20.1906(d)(2)	Ch 3, Sec.4(a) & Ch. 9, Sec. 3(a)]	Procedures for receiving and opening packages. External radiation levels exceed the limits of § 71.47.	4 hours	N/A	N/A
§ 20.2201(a)(1)(i)	Ch 3, Sec. 4(a)	Reports of theft or loss of licensed material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Part 20 Appendix C.	4 hours	30 days after initial notification per § 20.2201(b) or compatible regulation.	30 days
§ 20.2201(a)(1)(ii)	Ch 3, Sec. 4(a)	Reports of theft or loss of licensed material in a quantity greater than 10 times the quantity specified in Part 20 Appendix C that is still missing at this time .	30 days	30 days after initial notification per § 20.2201(b) or compatible regulation.	30 days

§ 20.2202(a)(1)	Ch 3, Sec. 4(a)	Notification of incidents. Any event involving byproduct, source, or special nuclear material possessed by the licensee that may have caused or threatens to cause any of the following conditions an individual to receive (i) A total effective dose equivalent of 25 rems (0.25 Sv) or more; or (ii) A lens dose equivalent of 75 rems (0.75 Sv) or more; or (iii) A shallow-dose equivalent to the skin or extremities of 250 rads (2.5 Gy) or more; (Overexposure)	4 hours	30 days per § 20.2203(a)(1) or compatible regulation.	30 days
§ 20.2202(a)(2)	Ch 3, Sec. 4(a)	Notification of incidents. Any event involving byproduct, source, or special nuclear material possessed by the licensee that may have caused or threatens to cause the release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake five times the annual limit on intake (ALI).Note. Does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures. (Overexposure)	4 hours	30 days per § 20.2203(a)(1) or compatible regulation.	30 days
§ 20.2202(b)(1)	Ch 3, Sec. 4(a)	Notification of incidents. Any event involving loss of control of licensed material possessed by the licensee that may have caused, or threatens to cause, an	24 hours	30 days per § 20.2203(a)(1)or compatible regulation.	30 days

		individual to receive, in a period of 24 hours – (i) A total effective dose equivalent exceeding 5 rems (0.05 Sv); or (ii) A lens dose equivalent exceeding 15 rems (0.15 Sv); or (iii) A shallow-dose equivalent to the skin or extremities exceeding 50 rems (0.5 Sv) (Overexposure)			
§ 20.2202(b)(2)	Ch 3, Sec. 4(a)	Notification of incidents. Any event involving loss of control of licensed material possessed by the licensee that may have caused, or threatens to cause, the release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one occupational ALI. Note: the provisions of this paragraph do not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures. (Overexposure)	24 hours	30 days per § 20.2203(a)(1) or compatible regulation	30 days
§ 20.2203(a)(2)(i)	Ch 3, Sec. 4(a)	Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits. Doses in excess of any of the following: (i) The occupational dose limits for adults in § 20.1201; or (ii) The occupational dose limits for a minor in § 20.1207; or (iii) The limits for an embryo/fetus of a declared pregnant woman in § 20.1208; or (iv) The limits for an	N/A	30 days per § 20.2203(a)(2)(i) or compatible regulation.	30 days

		individual member of the public in § 20.1301; or (v) Any applicable limit in the license; or (vi) The ALARA constraints for air emissions established under § 20.1101(d). (Overexposure)			
§ 20.2203(a)(3)	Ch 3, Sec. 4(a)	Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits. Levels of radiation or concentrations of radioactive material in – (i) A restricted area in excess of any applicable limit in the license; or (ii) An unrestricted area in excess of 10 times any applicable limit set forth in this part or in the license (whether or not involving exposure of any individual in excess of the limits in § 20.1301).	N/A	30 days per § 20.2203(a)(3) or compatible regulation.	30 days
§ 20.2203(a)(4)	Ch 3, Sec. 4(a)	For licensees subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR Part 190, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those standards.	N/A	30 days per § 20.2203(a)(4) or compatible regulation.	30 days

Reporting Requirement (10 CFR)	Wyoming URP/SMP Reporting Requirement (Rule)	Brief Summary of Reporting Requirement	Agreement State Timeliness Requirement for Notifying the HOC	Licensee Reporting Requirement for Submitting a Written Report to the Agreement State	Agreement State Timeliness Req. for Submitting Written Report to NMED
URP/SMP Chapter 4, "Licensing Requirements for Source Material." (10 CFR Part 40, "Domestic Licensing of Source Material.")					
§ 40.60(a)	URP Ch 4, Sec. 10(c)(i) & SMP Ch 4, Sec. 9(c)(i)	Reporting requirements. Any event, such as a fire, explosion, or toxic gas release, that prevents immediate protective actions to avoid exceeding regulatory limits for radiation exposure or releases of radioactive materials.	4 hours	30 days per § 40.60(c)(2) or compatible regulation.	30 days
§ 40.60(b)(1)	URP Ch 4, Sec. 10(c)(ii)(A) & SMP Ch 4, Sec. 9(c)(ii)(A)	Reporting requirements. An unplanned contamination event	24 hours	30 days per § 40.60(c)(2) or compatible regulation.	30 days
§ 40.60(b)(2)	URP Ch 4, Sec. 10(c)(ii)(B) & SMP Ch 4, Sec. 9(c)(ii)(B)	Reporting requirements. An event in which equipment is disabled or fails to function as designed when: (i) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident; (ii) The equipment is required to be available and operable when it is	24 hours	30 days per § 40.60(c)(2) or compatible regulation.	30 days

		disabled or fails to function; and (iii) No redundant equipment is available and operable to perform the required safety function.			
§ 40.60(b)(3)	URP Ch 4, Sec. 10(c)(ii)(C) & SMP Ch 4, Sec. 9(c)(ii)(C)	Reporting requirements. An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.	24 hours	30 days per § 40.60(c)(2) or compatible regulation.	30 days
§ 40.60(b)(4)	URP Ch 4, Sec. 10(c)(ii)(D) & SMP Ch 4, Sec. 9(c)(ii)(D)	Reporting requirements. An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when: (i) The quantity of material involved is greater than five times the lowest ALI specified in Part 20 Appendix B for the material; and (ii) The damage affects the integrity of the licensed material or its container.	24 hours	30 days per § 40.60(c)(2) or compatible regulation.	30 days

Attachment B

Examples of Reportable Events

Examples of Reportable Events	
This Table provides examples of reportable nuclear material events that are required to be reported by the Agreement States to the NRC.	
NMED Item No. [redacted] Not NRC Reportable Event	**Release of Radioactive Material** [redacted] reported a release of yellowcake into the air at the [redacted] conversion facility that occurred on [redacted] shipped the Lot [redacted] drums from their [redacted] facility to [redacted] on [redacted] The lid of drum [redacted] (which was dried on [redacted] was being removed in the weighing and sampling plant when the lid lifted and U3O8 concentrates escaped, spreading in an approximately six-foot radius around the drum. The [redacted] employee performing the work was not visibly injured; bioassay results for this employee and a nearby employee were below administrative levels and airborne radioactivity measurements were below the administrative level for respiratory protection. The calculated doses for the two employees were 26 and 39 µSv (2.6 and 3.9 mrem). [redacted] reviewed records associated with the drum and determined that the drum's filling time, venting time, and percent moisture content were all in accordance with their procedures. No indication of pressurization (or risk of pressurization) was evident for any of the Lot [redacted] drums at the time of shipment from [redacted] suspended processing the remaining Lot [redacted] drums and began an on-site evaluation of the condition of the remaining drums. This examination included drilling the remaining drums to release any potential pressure build-up, removing the drum lids, sampling the drums, and re-lidding and storing the drums for further processing. [redacted] retained [redacted] to conduct a root cause analysis of this event. [redacted] determined that the direct cause was the decomposition of uranyl hydrates, resulting in the generation of oxygen gas in the drum. The gas generation likely occurred due to placement of the lid on the drum in such a way that the venting of gases during the cool-down period after drum filling was not properly completed. The NRC concluded that the root cause of this event was the lack of management oversight of the drum venting process. Corrective actions included improving the drum venting and cooling procedures, optimizing the heating and drying of the yellowcake, and revising the drum handling procedure.
NMED Item No. [redacted] Reportable within 24 hours under 10 CFR 40.60(b)(1)(i)	**Unplanned Contamination Event from Equipment Failure that Prohibited Entry** The Licensee reported a spill of Yellow Cake Slurry onto the ground both inside and outside of the building where it was being stored. The Yellow Cake thickener tank (product storage vessel) fell through the wall of the building where it was being stored when one of its legs failed, possibly due to the failure of the concrete floor. They believe approximately 75-80% of the 90,000 lbs of slurry is still in the tank. Damage to the tank has not yet been determined, but approximately a third of their filter press was damaged. The spillage is contained and they are putting the contaminated soil into drums and cleaning the inside of the building. There were no injuries or contamination to any workers. Update: The NRC conducted an unannounced inspection of in-situ uranium operations; cleanup and recovery activities following the spill of yellow cake material(U-308). The Licensee satisfactorily met its safety objectives in response to the spill.

	The event did not cause any personnel injuries, significant exposures, operational safety impact, or significant environmental impact. The Licensee reported the tank collapsed because of the presence of moisture in the soil under the concrete slab around the tank. Years of facility floor drainage had seeped under the concrete foundation and weakened the compacted soil.
NMED Item No. [redacted] Reportable with 24 hours under 10 CFR 40.60(b)(3)	**Contaminated Worker, Received Medical Treatment** [redacted] reported that an employee sustained multiple contusions and abrasions to his head, face, and body as a result of a fall from the permanently installed man-lift device on [redacted]. The individual was transported to the local medical facility with measurable levels of uranium (U3O8) contamination (5 kdpm/100 cm2) on his clothing. Health Physics personnel accompanied the injured individual to the hospital, where they provided contamination control recommendations to the attending medical staff. No contamination was detected at hospital facilities, equipment, or staff following treatment of the individual. Following decontamination of the injured individual, survey results were less than 1 kdpm/100 cm2. All contaminated materials from the individual's decontamination and treatment were collected and returned to the [redacted] facility.
NMED Item No. [redacted] Immediately reportable under 10 CFR Part 20.1906(d)(1)	**Transported Package Exceeded Removable Surface Contamination Limits** The licensee reported that six empty intermodal containers, which had been shipped from the licensee's [redacted] uranium mill site in [redacted] to the [redacted] (under contract with the U.S. Army Corps of Engineer's) [redacted] site in [redacted] were found to have localized areas of external surface contamination that exceeded transportation limits. The containers were previously used to ship contaminated [redacted] soil material from the [redacted] site to the licensee's [redacted] Mill, where it was processed as alternate feed material. Removable beta-gamma surface contamination levels reported on the containers ranged up to about 38,000 dpm/100 cm2. The contamination appeared to be splattered clumps of sandy, soil-like material on the outer walls of the containers. There were indications that the material may have been mud from the ore pad area of the mill near where the [redacted] material had been unloaded from the containers. However, comparisons between the shipping container contamination samples and samples of material typically found at [redacted] gave indications that the soil material found on the outside of the shipping containers did not originate from [redacted]. The licensee instantly implemented more thorough decontamination procedures for containers that are unloaded at their site. The licensee will also work closely with [redacted] and [redacted] transportation contractor to ensure that procedures complement in providing a comprehensive program for meeting applicable compliance limits on containers released for restricted use and on equipment used to transport the containers.
NMED Item No. [redacted] Reportable under 10 CFR Part 71.5	**Transportation Accident With Licensed Material** The licensee reported that a transportation incident occurred near [redacted] involving a truck transporting uranium contaminated soil. The soil contained approximately 17 GBq (459 mCi) of natural uranium. The exclusive-use truck carrying about 20 tons of the soil tipped over, spilling about 50% of its contents onto the ground on the north side of the highway between the highway and the rail track. The accident occurred on U.S. Highway [redacted] and [redacted] miles northeast

	of [redacted] The contaminated soil was being shipped in an intermodal container [redacted] from the rail transfer station in [redacted] to the licensee's [redacted] Mill in [redacted] The container was open at the top, but was covered by a tarpaulin. The incident occurred when the truck driver veered off the road to avoid oncoming traffic and was unable to recover. The driver of the truck sustained minor injuries but the truck was not seriously damaged. The [redacted] Sheriff's Department and the trucking company [redacted] initially responded to the incident. The spilled material was covered with a plastic cover and was secured pending cleanup. The trucking company later brought in a second, empty container [redacted] and retained the services of a third company [redacted] out of [redacted] to clean up the spill. The cleanup was completed at about 0230 [redacted] on [redacted] Approximately 10 cubic yards of material was recovered along with three to five cubic yards of virgin soil. The material was then returned to the loading site near [redacted] The site of the spill and all equipment used to cleanup the spill was surveyed by the licensee's RSO and determined to be free of contamination. In addition, soil samples were taken in the spill area for analysis by the licensee. The contaminated material involved in the incident was being shipped from the [redacted] site located near [redacted] The licensee is authorized to receive and process this material as alternate feed material for recovery of its uranium content. The average concentration of uranium in this material is normally 0.06% by weight.
NMED Item No. [redacted] Reportable within 30 days under 10 CFR 20.2203(a)(2)(iv)	**Exceedance of Dose Rates in Unrestricted Areas** During an NRC inspection at [redacted] conducted between [redacted] and [redacted] unrestricted areas were identified where dose rates exceeded the limit of 0.02 mSv/hr (2 mrem/hr). The dose rate in an unrestricted area adjacent to [redacted] was 0.03 mSv/hr (3 mrem/hr). Also, the dose rate in an unrestricted area adjacent to a locked and secured enclosed truck bed trailer, being used as storage for full yellowcake drums, was 0.03 mSv/hr (3 mrem/hr). [redacted] had not been surveying these areas due to misunderstanding the regulations. A fence was installed and the area was posted as a restricted area. The NRC inspection also identified areas that should have been posted as radiation areas. The dose rate near Precipitation Tank [redacted] was 0.05 mSv/hr (5 mrem/hr) at 30 cm from the tank surface. Also, the dose rate at 30 cm from a bag filter in [redacted] was 0.08 mSv/hr (8 mrem/hr). [redacted] determined that radiation levels in these areas fluctuate due to changes in the concentration of radon daughters. The survey frequency was increased from monthly to weekly and these areas were posted as radiation areas.
NMED Item No. [redacted] Not NRC Reportable Event	**Spill of Production Fluid** [redacted] reported the release of approximately 4,264 gallons of production fluid at the [redacted] Uranium Project in [redacted]. The release was discovered on [redacted] in Mine Unit [redacted] in the vicinity of Header House [redacted] and resulted from the failure of a steel connecting joint (spool) between poly line and steel pipeline. The release was stopped upon discovery during an inspection. A vacuum truck recovered 6,500 gallons of fluid, which included water from recent snow melt. The uranium content of the fluid was 11.5 ppm.

NMED Item No. [redacted] Not NRC Reportable Event	**Possible Leak in Storage Pond** On [redacted] reported a possible leak in the south storage pond that was identified by a steady influx of water into the leak detection sump. Approximately 30 gallons of water per day has been pumped out of the sump, as evidenced by the flow totalizer on the sump pump purge line. Conductivity readings from the pond and the sump showed that the sump results were greater than 50% of the pond value. The pond has been frozen since mid-November, making pond sample collection and liner inspection difficult. The four pond monitor wells were measured for water presence; all wells were dry except for one that had a persistent trace amount of water in the bottom. Corrective actions included having an off-site laboratory perform pond and sump water sampling and analysis for quality parameters. [redacted] will also inspect pond liners and perform repairs if necessary.

Attachment C

Reporting Methods and Contact Information

Table C.1 Reporting methods and contact information for the NRC

Report	Contact Information
Report to the NRC Headquarters Operations Center using one of the following methods.	NRC Headquarters Operations Center Email: HOO.HOC@nrc.gov or Hoo1@nrc.sgov.gov (secure) Telephone: (301)816-5100 Fax: (301)816-5151
Submit a report to the NMED contractor by using one of the following methods	Upload function on the NMED website: https://nmed.inl.gov
	Email the NMED contractor. NMED@inl.gov
	By mail: Director, Division of Materials Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, MD 20852-2738 Attention: Chief, Medical Safety & Events, Assessment Branch, Mail Stop T5B60

Table C.2 Reporting to other entities as required by NRC

Reason to Report	Reporting Methods and Contact Information
Ensure that the licensee reported the theft or terrorist activities to the local law enforcement and/or the Federal Bureau of Investigation (FBI).	Local Law Enforcement 911 FBI Telephone (202)324-3000
Share the concurrent report with the NRC Headquarters Operations Center (after the event has been reported to law enforcement).	Concurrent Report to the NRC Headquarters Operations Center
Transportation events 49 CFR 171.15, “Immediate notice of certain hazardous materials incidents.”	National Response Center (800)424-8802 (toll free) (202)267-2675 (toll call) Online at http://www.nrc.uscg.mil The National Response Center subsequently contacts the HOC.

Table C.3 Methods for reporting to the HOC as required by the NRC

Notification Method	Reports to the HOC
Email	To report to the HOC, the Agreement States should email the reports to the HOC using the email address, HOO.HOC@nrc.gov.
Telephone	To report to the HOC, the Agreement States should use the recorded telephone line to submit reports to the HOC at (301)-816-5100. The HOO may ask for Agreement States to follow-up with an email.
Facsimile	Agreement States should report to the HOC using the sample fax sheet in Attachment E (below) or by sending NRC Form 361A, "Fuel Cycle and Materials Event Notification Worksheet," through facsimile. The Fax Number is (301)-816-5151. The NRC Form 361A, "Fuel Cycle and Materials Event Notification Worksheet," can be downloaded from the NRC Forms public website, https://www.nrc.gov/reading-rm/doc-collections/forms/index.html. This can be used to report to the HOC via facsimile or email. This form is not often used but is available.

Attachment D

Minimum Required Event Information

The NMED records should include the minimum event information.

Essential Details

• Narrative event description (e.g., Event circumstances and details including source radionuclide and activity)
• Report identification number
• Event date and notification date
• Licensee name, license number, and address
• Whether the event is NRC reportable and the applicable reporting requirement
• Cause and corrective actions (Agreement State and licensees' actions)
• Notifications: local law enforcement, FBI, and other States, as needed
• Indicate if there are any generic implications (i.e., generic issues or concerns)

Source/Radioactive Material

• Isotope and activity
• Manufacturer
• Model and serial number
• Leak test results, if applicable

Device/Associate Equipment

• For equipment/device involved, indicate the manufacturer, model, and serial number
• Provide clear description of any equipment problems.

Release of Licensed Material or Contamination

• Release type (air or water)
• Contamination (person or surface)
• Isotope and activity released

Overexposure

• Radiation source and activity
• Exposure dose and exposure type (e.g., whole body, extremity, etc.)

Transportation

• Type of transport
• Identity of shipper
• Package type and ID number (if available)

Attachment E

Sample Event Report Cover Page

AGREEMENT STATE

EVENT REPORT ID NUMBER _____

(State\YY\No.)

Date:

To: **Branch Chief**
Medical Safety & Events Assessment Branch

Subject:

State:

Signature and Title: _____

_____

_____

_____

Public Availability of Event Information: Any event information that is considered preliminary pre-decisional information by the State should be clearly identified on the cover page as follows: "Preliminary, Not for Public Disclosure." For event information in the NRC's possession, the final determination on whether to withhold from public disclosure will be made by the NRC on a case-by-case basis in accordance with the requirements of 10 CFR Part 9.

Attachment F

Radionuclides of Concern

Radionuclide	Quantity of Concern[1] (TBq)	Quantity of Concern[2] (Ci)
Am-241	0.6	16
Am-241/Be	0.6	16
Cf-252	0.2	5.4
Cm-244	0.5	14
Co-60	0.3	8.1
Cs-137	1	27
Gd-153	10	270
Ir-192	0.8	22
Pm-147	400	11,000
Pu-238	0.6	16
Pu-239/Be	0.6	16
Ra-226[5]	0.4	11
Se-75	2	54
Sr-90 (Y-90)	10	270
Tm-170	200	5,400
Yb-169	3	81
Combinations of radioactive materials listed above[3]	See Footnote Below[4]	

[1] The aggregate activity of multiple, collocated sources of the same radionuclide should be included when the total activity equals or exceeds the quantity of concern.

[2] The primary values used for compliance with this Order are TBq. The curie (Ci) values are rounded to two significant figures for informational purposes only.

[3] Radioactive materials are to be considered aggregated or collocated if breaching a common physical security barrier (e.g., a locked door at the entrance to a storage room) would allow access to the radioactive material or devices containing the radioactive material.

[4] If several radionuclides are aggregated, the sum of the ratios of the activity of each source, *i* of radionuclide, *n*, $\mathbf{A_{(i,n)}}$, to the quantity of concern for radionuclide *n*, $\mathbf{Q_{(n)}}$, listed for that radionuclide equals or exceeds one. [(aggregated source activity for radionuclide A) ÷ (quantity of concern for radionuclide A)] + [(aggregated source activity for radionuclide B) ÷ (quantity of concern for radionuclide B)] + etc..... $\geq$1.

5On August 31, 2005, the NRC issued a waiver, in accordance with Section 651(e) of the Energy Policy Act of 2005, for the continued use and/or regulatory authority of Naturally Occurring and Accelerator-Produced Material (NARM), which includes Ra-226. The NRC plans to terminate the waiver in phases, beginning November 30, 2007, and ending August 7, 2009. The NRC has authority to regulate discrete sources of Ra-226, but has refrained from exercising that authority until the date of an entity's waiver termination. For entities that possess Ra-226 in quantities of concern, this Order becomes effective upon waiver termination. For information on the schedule for an entity's waiver termination, please refer to the NARM Toolbox website at http://nrcstp.ornl.gov/narmtoolbox.html.

Attachment G

References

The following is a list of NRC documents, manuals and procedures that contain additional information on event response and AOs.

NRC Policy

Staff Requirements Memorandum, *Procedures for Statement of Principles and Policy for the Agreement State Program and Policy Statement on Adequacy and Compatibility of Agreement State Programs,* dated June 30, 1997

Final Policy Statement on Adequacy and Compatibility of Agreement State Programs, dated September 3, 1997

NRC Report

Report to Congress on Abnormal Occurrences, NUREG-0090

Congressional Budget Justification FY 2013, NUREG-1100, Vol. 28, February 2012, annual report to Congress required by GPRA.

NMSS Licensee Newsletter, NUREG/BR-0017

NRC Management Directives

5.9 Adequacy and Compatibility of Agreement State Programs

5.12 International Nuclear and Radiological Event Scale (INES) Participation

6.4 Generic Issues Program

8.1 Abnormal Occurrence Reporting Procedure

8.10 NRC Assessment Program for an Event Occurring at a Medical Facility

8.14 Agency Action Review Meeting, AARM

NRC Inspection Manual Chapters

1301 Response to Radioactive Material Incidents That Do Not Require Activation of the NRC Incident Response Plan

1302 Follow-up Actions and Action Levels for Radiation Exposures Associated with Material Incidents Involving Members of the Public

1303 Requesting Emergency Acceptance of Radioactive Material by the U.S. Department of Energy (DOE)

1330 Response to Transportation Accidents Involving Radioactive Materials

1360 Use of Physician and Scientific Consultants in the Medical Consultant Program

2800 Materials Inspection Program

NMSS Correspondences

All Agreement State Letter (SP-98-018), dated March 17, 1998, "Use of the Nuclear Material Events Database (NMED) as a Central Listing of Lost or Stolen Sealed Sources and Devices."

All Agreement State Letter (SP-98-038), dated May 5, 1998, "Expansion of Federal Bureau of Investigation (FBI) Criminal Investigative Jurisdiction to Include Byproduct Materials."

NMSS Procedures

SA-100 Implementation of the Integrated Materials Performance Evaluation Program

SA-105 Reviewing the Common Performance Indicator, Technical Quality of Incident and Allegation Activities

SA-200 Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements

SA-300 Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-300, Reporting Material Events, and Appendix-Handbook on Nuclear Material Event Reporting in the Agreement States, Final Report (December 2024);

Event Notification and Response

FBI A revision to Section 831 of Chapter 39 of Title 18 of the U.S. Code regarding criminal activity includes a significant expansion of Federal Bureau of Investigation jurisdiction to initiate criminal investigations and pursue prosecutions when radioactive materials are involved. In instances involving the suspected criminal misuse of nuclear material and byproduct material, your notification of the FBI is warranted. However, the U.S. Attorney's Office and the FBI will determine whether or not a criminal investigation is to be conducted by the FBI or deferred to State or local authorities for investigation and prosecution. The Commission also requests that Agreement States inform NRC of reports of events involving theft or terrorist activities warranting FBI notification.

NRF The *National Response Framework* is a guide that details how the Nation conducts all-hazards response– from the smallest incident to the largest catastrophe. This document establishes a comprehensive, national, all-hazards approach to domestic incident response. The Framework identifies the key response principles, as well as the roles and structures that organize national response. It describes how communities, States, the Federal Government and private-sector and non-governmental partners apply these principles for a coordinated, effective national response. The NRC is the coordinating agency for domestic incident management for incidents involving nuclear materials or facilities licensed by the NRC or Agreement States.

DOT/NRC The National Response Center is a Department of Transportation, Pipeline and Hazardous Materials Safety Administration service that serves as a national point of contact for reporting hazardous materials transportation and pipeline accidents (e.g., oil, chemical, non- AEA radiological, biological, and etiological discharges). The Center maintains a 24 hour call line at 1-800-424-8802.

REAC/TS The Radiation Emergency Assistance Center/Training Site (REAC/TS), is a Department of Energy (DOE) resource headquartered in Oak Ridge, Tennessee, telephone (865) 576-1005. REAC/TS is available 24 hours a day to provide medical and radiological assistance either from the REAC/TS facility or the accident site. Additionally, REAC/TS maintains a listing of other professionals throughout the country who are recognized as having highly specialized expertise and equipment to manage a particular area of concern.

AVAILABILITY OF REFERENCE MATERIAL

NRC documents: Event Notifications, Preliminary Notifications, Inspection Manuals and Procedures, NUREG Series technical reports, Regulatory Guides, etc., are available at the NRC's document collections website at http://www.nrc.gov/reading-rm/doc-collections/. The Office of Nuclear Material Safety and Safeguards (NMSS) documents are available at the NMSS external website at http://nrc-stp.ornl.gov/.