

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.

(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), (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 insure 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.

(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. 35-11-103(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) 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.

**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 reseedling 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) 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.

(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) 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.

#### **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 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.

(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, 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.