TITLE 35 - PUBLIC HEALTH AND SAFETY

CHAPTER 1 - ADMINISTRATION

ARTICLE 1 - IN GENERAL

35-1-101. Local contributions; disposition.

All monies paid to the state treasurer representing contributions by city councils, county commissioners, trustees of school districts, or other public agencies, for public health purposes, shall be set up and designated on the books of the state treasurer in a separate account, and shall be expended and disbursed upon warrants drawn by the state auditor against said account when the vouchers therefor have been approved by the department of health.

35-1-102. Sanitation of public institutions.

It shall be the duty of the officers, managers, superintendents, proprietors and lessees of all hospitals, asylums, infirmaries, prisons, jails, schools, theaters, public places and public institutions to remedy any and all defects relating to the unsanitary condition of such institution, or institutions, as may be under their control, when such defects shall have been called to their attention in writing by the department of health.

35-1-103. Neglect or failure of officials to perform duty.

Any member of the department of health, any county health officer, or any officer, superintendent, or principal of any city, town, county or institution named in this act, who shall fail or neglect to perform any of the duties herein required of them, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in the sum of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00), or shall be confined in the county jail for a period of not less than six (6) months, nor more than a year, or both.

35-1-104. Applicability of provisions; exceptions.

This act shall not apply to publications, advertisements or notices of the United States government, the state of Wyoming or of any city in the state of Wyoming.

35-1-105. Prohibited acts; penalty for violations.

(a) No person, corporation or other organization nor representative thereof shall:

(i) Willfully violate, disobey or disregard the provisions of the public health laws of Wyoming or the terms of any lawful notice, order, rule or regulation issued pursuant thereto;

(ii) Repealed by Laws 1982, ch. 75, § 5.

(iii) Being a person charged by law or rule of the department of health with the duty of reporting the existence of disease or other facts and statistics relating to the public health, fail to make or file such reports as required by law or requirement of the department;

(iv) Conduct a business or activity for which the department requires a certificate or permit without such a certificate or permit;

(v) Willfully and falsely make or alter any certificate or certified copy thereof issued pursuant to public health laws of Wyoming;

(vi) Knowingly transport or accept for transportation, interment or other disposition a dead human body without an accompanying permit issued in accordance with the public health laws of Wyoming or the rules of the department; or

(vii) Being the owner or occupant of private property upon which there shall exist a nuisance, source of filth or cause of sickness, willfully fail to remove the same at his own expense within forty-eight (48) hours after being ordered to do so by health authorities.

(b) Upon conviction of any of the offenses prohibited in subsection (a) of this section, the violator shall be fined not to exceed one hundred dollars ($100.00) or imprisonment not to exceed six (6) months, or both, and shall be liable for all expense incurred by health authorities in removing the nuisance, source of filth or cause of sickness. No conviction under the penalty provisions of this act or of any other public health laws shall relieve any person from an action in damages for injury resulting from violation of public health laws.

35-1-106. Penalty for violations.

Any person who shall violate any of the provisions of this act, or any lawful rule or regulation made by the state department of health pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by any state, county or municipal health officer pursuant to the authority granted in this act shall be deemed guilty of misdemeanor, and shall be punished except as otherwise provided therein by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment for not more than one (1) year or by both such fine and imprisonment.

ARTICLE 2 - DEPARTMENT OF HEALTH

Division 1. Generally

35-1-201. Exceptions with reference to religion.

Except as provided in W.S. 35-4-113, with respect to all persons who, either on behalf of themselves or their minor children or wards, rely in good faith upon spiritual means or prayer in the free exercise of religion to prevent or cure disease, nothing in this act shall have the effect of requiring or giving any health officer or other person the right to compel any such person, minor child or ward, to go or be confined in a hospital, or other medical institution unless no other place for quarantine of such person, minor child, or ward can be secured, nor to compel any such person, child, or ward to submit to any medical treatment.

Division 2. Powers and Duties

35-1-220. Legal advisers; provisions as to enforcement.

The attorney general of Wyoming shall be legal adviser for the department of health and shall defend it in all action and proceedings brought against it. The district attorney for the county in which a cause of action may arise, shall bring any action requested by the department to abate a condition which exists in violation of, or to restrain or enforce any action which is in violation of, or to prosecute for the violation of, or for the enforcement of, the public health laws of Wyoming. If he fails to so act, the department may bring any such action and shall be represented by the attorney general or by special counsel.

35-1-221. Judicial review of decisions.

(a) Any person aggrieved and affected by a decision of the department of health shall be entitled to judicial review thereof, by filing in the district court of the Wyoming county of his residence, within thirty (30) days after such decision, an appropriate action requesting such review. The court may make any interested person a party to the action. The review shall be conducted by the court without a jury and shall be confined to the department's record, if a complete record is so presented, except that in cases of alleged irregularities in the record or in the procedure before the department, testimony may be taken in and by the court, which may affirm the department's decision or may reserve or modify it if the substantial rights of the appellant have been prejudiced as a result of the findings and decisions of the department because:

(i) Contrary to or affecting constitutional rights or privileges; or

(ii) In excess of statutory authority or jurisdiction of the department, or resulting from other error or law; or

(iii) Made or promulgated upon unlawful procedure; or

(iv) Unsupported by substantial evidence in view of the entire record as submitted; or

(v) Arbitrary or capricious.

(b) Any party may have a review of the final judgment or decision of the district court by appeal to the supreme court of Wyoming.

35-1-222. Sanitary information generally.

The department of health shall cause all proper sanitary information in its possession to be promptly forwarded to the county health officers, adding thereto such useful suggestions as the experience of the department may supply, and it is also hereby made the duty of said county health officers to supply the like information and suggestions to the department of health, and the department of health is authorized to require reports and information at such times of such facts and of such nature and extent relating to the safety of life and promotion of health as its bylaws or rules may provide; from all public or private dispensaries, hospitals, asylums, infirmaries, prisons,

schools, and from managers, principals, and officers thereof, and from all other public institutions, their officers, managers and from the proprietors, managers, lessees, and occupants of all places of public resort in the state, but such reports and information shall only be required concerning matters or particulars in respect to which they may in their opinion need information for the proper discharge of their duties. The department shall, when requested by public authorities, or when they may deem it best advise the officers of the state, counties, cities, or towns or local governments in regard to sanitary drainage and the location, drainage, ventilation and sanitary provisions of any public institution, building or public place.

35-1-223. Cooperation to prevent spread of contagious diseases; report of epidemics or diseases required from local health officials.

The department of health shall give all information that may be reasonably requested concerning any threatened danger to the public health, and the local health officers and all the state, county, city and town officers in the state shall give the like information to the state health officer, and the department and said state, county, city and town officers, insofar as legal and practicable, shall cooperate to prevent the spread of diseases, and for the protection of life and the promotion of health within the sphere of their respective duties. When in any county, an epidemic or contagious or infectious disease including venereal diseases, is known to exist, it shall be the duty of the county health officer of such county to immediately notify the state health officer of the existence of the same, with such facts as to its cause and continuance as may then be known.

35-1-224. Inspection of public buildings and grounds or plans or description thereof.

It is hereby made the duty of all boards and agents having the control, charge or custody of any public structure, work, ground or erection, or of any plan, description, outlines, drawings thereof, or relating thereto, made, kept or controlled by any public authority, to promote and facilitate the examination and inspection and the making of copies of the same by any officer or person by the department of health authorized; and the members of the department may, without fee or hindrance enter, examine and survey all such grounds, erection, structures, buildings and places.

35-1-225. Inspection of water supply; duties as to streets and public structures generally.

The department of health is authorized and empowered to investigate and ascertain as far as possible, in relation to the pollution of streams and natural waters of this state by artificial causes, or of all waterworks, and water systems belonging to any city or town, sanitary district, corporation, company or individual, in this state and supplying water for public consumption, which in their judgment may be necessary to determine the sanitary and economic effects of such pollution, and to enter in and upon the grounds, buildings and premises, waterworks, reservoirs, pipelines, pump houses and everything connected with the collection and distribution of water to the inhabitants of any city or town, to make, institute, and conduct needful experiments pertaining thereto, and shall have power to summon witnesses, administer oaths, and hear evidence relating to such matters, and to make full report to the city, town or sanitary district authorities and also to the proper officers of any privately owned water utility when included in such investigations, of their operations and investigations in writing; and it shall be the duty of all such officers when notified of any unsanitary conditions of streets, alleys, sidewalks, waterworks, or other public ways, structures or improvements under their control, to at once take steps to repair, cleanse, abate or destroy the same.

35-1-226. Power of department in cities and towns.

It shall be the duty of the state department of health, upon petition of at least twenty (20) taxpayers in any community, to send a competent representative to any incorporated city or town in this state for the purpose of inspecting and thoroughly investigating the sanitary condition of such city or town and the department shall have the power and it shall be the duty of the department to condemn, in any such city or town, any buildings, sewers, water connections, or other things, that in their judgment are in such condition as is likely to produce or cause the spread of epidemic diseases. And the department shall give notice to the mayor and council of such city or town to repair, remove, cleanse or remedy such defect or defects, within ten (10) days, and if the same shall not be done within the time specified in said notice, as directed by the department of health, it shall be the duty of the department to have same done; and the department is authorized to employ sufficient labor and furnish all necessary materials for the performance of

such work, and it shall be the duty of the department, upon the completion of such work, to issue certificates to the person or persons performing such work and furnishing material therefor, and to file a report of the expense incurred in the performance of such work with the clerk of said city or town; and it shall be the duty of the council of such city or town where such work has been performed, to issue warrant or warrants to the proper parties for the payment of all such expense. Said warrant or warrants to be paid by the treasurer of such city or town as other warrants are paid.

35-1-227. Supervision of county health officers.

The county health officers of this state shall be under the direction and supervision of the state department of health, and the state department of health shall have authority to make such rules and regulations for the government and direction of said county health officers as in their judgment may be best suited to maintain the public health.

35-1-228. Repealed by Laws 1991, ch. 221, § 3.

35-1-229. Rules and regulations.

(a) The state department of health is hereby empowered and directed to make such rules and regulations as shall in its judgment be necessary for the carrying out of the provisions of this act, including rules and regulations providing for the control and treatment of persons isolated or quarantined under the provisions of W.S. 35-4-133 and 35-4-134, and such other rules and regulations not in conflict with provisions of this act concerning the control of venereal diseases and concerning the care, treatment and quarantine of persons infected therewith as it may from time to time deem advisable. All such regulations so made shall be of force and binding upon all county and municipal health officers and other persons affected by this act and shall have the force and effect of law; provided, further, that the expense incident to the quarantine and treatment of venereally infected persons in prisons shall be borne by the county in which the person or persons are imprisoned, excepting inmates of state institutions which shall be borne by the state, when evidenced by proper vouchers and receipts approved by the department of health.

(b) The department of health may promulgate rules and regulations to set standards for the chemical, bacteriological, physical or radiological content of a small water supply and

shall be applicable only when a legal interest in real property to which the small water supply is appurtenant is conveyed from one (1) party to another or when a conveyance is reasonably anticipated and when such standards are required by a lender. As used in this subsection, "small water supply" means any water supply with not more than nine (9) service connections, which is currently used for human consumption or for which plans exist for its future use for human consumption. The cost of any testing to determine the chemical, bacteriological, physical or radiological content of a small water supply shall be borne by the parties.

Division 3. Administration

35-1-240. Powers and duties.

(a) Subject to subsection (c) of this section, the department of health, through the state health officer, or under his direction and supervision, through the other employees of the department, shall have and exercise the following powers and duties:

(i) To exercise in Wyoming, all the rights and powers and perform all duties hereunder;

(ii) To investigate and control the causes of epidemic, endemic, communicable, occupational and other diseases and afflictions, and physical disabilities resulting therefrom, affecting the public health;

(iii) To establish, maintain and enforce isolation and quarantine, and in pursuance thereof, and for such purpose only, to exercise such physical control over property and over the persons of the people within this state as the state health officer may find necessary for the protection of the public health;

(iv) To close theaters, schools and other public places, and to forbid gatherings of people when necessary to protect the public health;

(v) To abate nuisances when necessary for the protection of the public health;

(vi) To enforce such sanitary standards for the protection of public health as to the quality of water supplied to the public and as to the quality of the effluent of sewerage

systems and trade wastes discharged upon the land or into the surface or ground waters of the state, as are or may be established by law, and to advise with municipalities, utilities, institutions, organizations and individuals, concerning the methods or processes believed by him best suited to provide the protection or purification of water and the treatment of sewage and trade wastes to meet such minimum standards;

(vii) To collect, compile, and tabulate reports of marriages, divorces and annulments, births, deaths and morbidity, and to require any person having information with regard to the same to make such reports;

(viii) To regulate the disposal, transportation, interment and disinterment of the dead;

(ix) To establish, maintain and approve chemical, bacteriological and biological laboratories and to conduct or require such laboratory investigations and examinations as it may deem necessary or proper for the protection of the public health;

(x) To make, approve, and require standard diagnostic tests and to prepare, distribute and require the completion of forms of certificates with respect thereto;

(xi) To purchase and to distribute to licensed physicians, with or without charge, as the department may determine, or to administer such vaccines, serums, toxoids and other approved biological or therapeutic products as may be necessary for the protection of the public health;

(xii) To exercise sanitary control over the use of water employed in the irrigation of vegetables or other edible crops intended for human consumption, and to exercise sanitary control over the use of fertilizer derived from excreta of human beings or from the sludge of sewage disposal plants. The state health officer shall have authority to impound any and all vegetables and other edible crops and meat and animal products intended for human consumption which have been grown or produced in violation of the orders, rules and regulations of the department, and upon five (5) days notice and after affording reasonable opportunity for a hearing, to the interested parties before the state health officer or his designee, to condemn and destroy the same if it deems such necessary for the protection of the public health;

(xiii) To certify, inspect and exercise sanitary control over hospitals, sanitoriums, convalescent homes, maternity homes, asylums, and other similar institutions;

(xiv) To establish standards and make sanitary, sewerage and health inspections for charitable, penal and other state and county institutions;

(xv) To enforce current sanitary standards, or those that may be established by law, for the operation and maintenance of lodging houses, hotels, public conveyances and stations, schools, factories, workshops, industrial and labor camps, recreational resorts and camps, and other buildings, centers and places used for public gatherings;

(xvi) To establish and enforce sanitary standards for the operation of toilet facilities in all garages, filling stations and other places of business which maintain such facilities for the convenience of their patrons;

(xvii) To disseminate public health information;

(xviii) To exercise all the rights and powers and perform all the duties vested in or imposed by law upon the state department of health, its officers and employees, as constituted before this act, becomes effective; to hold hearings, administer oaths, subpoena witnesses and take testimony in all matters relating to the exercise and performances of the powers and duties vested in or imposed upon the department;

(xix) To advise the director of the department about public health issues, programs and policies for the state;

(xx) To operate a public health nursing program which may include, but is not limited to, provision of immunizations, evaluation of the need of individuals for nursing home admission or services and the operation of an infant public health nurse home visitation subprogram. The public health nursing program may, where and to the extent appropriate, be administered through or in conjunction with county, municipal or district health departments;

(xxi) During a public health emergency as defined by W.S. 35-4-115(a)(i), the state health officer may prescribe

pharmaceutical or therapeutic interventions en masse as necessary to protect the public health;

(xxii) Administer the Wyoming physician recruitment grant program provided in W.S. 35-1-1101;

(xxiii) Develop initiatives and provide information to the public regarding palliative care as provided in W.S. 35-1-1203.

(b) In carrying out duties prescribed under paragraphs (a)(ii) and (vii) of this section, the department shall:

(i) Develop and require the uniform registration and reporting of medical information by hospitals, physicians and other health care providers as necessary to establish the Wyoming central tumor registry in accordance with the American college of surgeons guidelines;

(ii) By rule and regulation establish registration fees for hospitals, physicians or other health care providers required to register medical information with the registry under paragraph (b)(i) of this section in an amount to ensure that, to the extent practicable, the total revenue generated from the fees collected approximates but does not exceed the direct and indirect costs of administering and operating the registry. Fees collected under this paragraph shall be deposited in the general fund.

(c) Any order issued under this section that restricts individuals' movements or their ability to engage in any activity, that applies to individuals not under an isolation or quarantine order and that is designed to prevent or limit the transmission of a contagious or possibly contagious disease shall be effective for a period of not more than ten (10) days. Subsequent orders for the same or substantially same purpose shall only be issued by the governor, with consultation provided by the state health officer and shall be in effect for not more than sixty (60) days.

35-1-241. Safe disposal of corpses in emergency circumstances.

(a) The state health officer in consultation with the appropriate county coroner, during the period that a public health emergency exists, may:

(i) Adopt and enforce measures to provide for the safe disposal of corpses as may be reasonable and necessary for emergency response. These measures may include the embalming, burial, cremation, interment, disinterment, transportation and disposal of corpses;

(ii) Take possession or control of any corpse;

(iii) Order the disposal of any corpse of a person who has died of an infectious disease through burial or cremation within twenty-four (24) hours after death;

(iv) Compel any person authorized to embalm, bury, cremate, inter, disinter, transport or dispose of corpses to accept any corpse or provide the use of his business or facility if the actions are reasonable and necessary for emergency response. The use of a business or facility may include transferring the management and supervision of the business or facility to the state health officer and granting the right for the state health officer to take immediate possession for a limited or unlimited period of time, but shall not exceed beyond the termination of the public health emergency.

(b) Every corpse prior to disposal pursuant to subsection (a) of this section shall be clearly labeled with all available information to identify the decedent and the circumstances of death. Any corpse of a deceased person with an infectious disease shall have an external, clearly visible tag indicating that the corpse is infected and, if known, the infectious disease.

(c) Every person in charge of disposing of any corpse pursuant to subsection (a) of this section shall maintain a written record of each corpse and all available information to identify the decedent and the circumstances of death and disposal. If a corpse cannot be identified, prior to disposal a qualified person shall, to the extent possible, take fingerprints and one (1) or more photographs of the corpse, and collect a DNA specimen. All information collected under this subsection shall be promptly forwarded to the state health official.

(d) As used in this section "public health emergency" means as defined by W.S. 35-4-115(a)(i).

35-1-242. Repealed by Laws 2016, ch. 69, § 2.

35-1-243. Public health nursing.

(a) In exercising its powers and duties under W.S. 35-1-240(a)(xx), the department of health may enter into memoranda of understanding with the several counties separately for the organization, management, delivery and financing of public health nursing and related functions. The county commissioners of each county shall have at least the following choices for organizing public health nursing and related functions:

(i) A partnership memorandum of understanding system;

(ii) A state administered public health nursing system with a county contribution; or

(iii) Subject to the limitation stated in subsection (e) of this section, a system under which the state contracts with a county for the provision of all or a portion of the public health nursing and other public health functions.

(b) A memorandum of understanding entered into pursuant to this section may:

(i) Specify how the state and county employees will be supervised and disciplined;

(ii) Specify the hours that public health offices will be open and the holidays that will be observed and may require both state and county employees in the public health functions to conform to a common work schedule, which may be different in different counties;

(iii) Specify which resources, including financial and physical resources, will be furnished by the state and which by the county or other local entity;

(iv) Contain any other provisions useful in the organization, management or delivery of public health services.

(c) Any county entering into a memorandum of understanding with the department to provide public health nursing services under the systems specified in paragraph (a)(i) or (ii) of this section shall be allowed to provide services under a different system specified in paragraph (a)(i), (ii) or (iii) of this section at any time on or before July 1, 2018. After July 1, 2018, a county shall not be allowed to change the system under

which public health nursing services are provided unless the department consents to the change.

(d) If the commissioners of a county enter into a memorandum of understanding to provide public health nursing services under the system specified in paragraph (a)(ii) of this section, at the request of the commissioners of the county, county employee positions assisting in providing public health functions may be transferred to state at-will employee contract positions under W.S. 9-2-3207(a)(xi)(F) or to permanent state positions, provided that the number of positions transferred under this subsection shall not exceed the largest number of public health nursing positions in the county between July 1 and December 31 of the year prior to the transfer. A transfer under this subsection shall mean payment of monies to the department for the purpose of creating a position under W.S. 35-1-243(a)(ii). Any state employee position created shall comply with the state of Wyoming personnel rules. The department may charge an administrative fee and accept county or other local funds to defray the cost of transferred positions as provided in the memorandum of understanding. The funds shall be deposited by the state treasurer in a separate account. The funds in the account are continuously appropriated to the department of health and shall be paid out upon request of the department as provided by law. Positions transferred under this subsection into state permanent positions shall be paid benefits in the same manner and at the same rates as for comparable state employees pursuant to the state of Wyoming compensation policy. The department's authorization for employee positions shall be expanded by operation of law to accommodate all positions transferred to the state under this subsection and shall continue so long as the county that requested the transfers satisfies its obligations under its memorandum of understanding with the department. Upon a county's failure to make all payments required by its memorandum of understanding with the department or upon the county's request, the department shall no longer have any state positions transferred by the county under this subsection and, upon written notice to the transferred employees and the county, shall follow the state of Wyoming personnel rules regarding reductions in force. All positions created under this subsection shall be included within the department's standard or supplemental budget request.

(e) Any entity providing public health nursing services under paragraph (a)(i) or (ii) of this section and which maintains a city, county or district board of health under W.S. 35-1-301 through 35-1-309 may enter into a contract with the

department to perform public health nursing services under paragraph (a)(iii) of this section pursuant to subsection (c) of this section. This subsection and any contract made pursuant to it shall be operable only for the period for which the department is specifically authorized by law to transfer funds between expenditure series for the purpose of making payments to those entities that operate public health nursing services pursuant to this subsection. The department's authorization for employee positions shall be reduced automatically to correspond with any transfer of funds from a salary expenditure series to a contract series. All contracts made pursuant to this subsection shall be conditioned upon the availability of appropriate funding and the authority to transfer funds as provided in this subsection. A contract made pursuant to this subsection shall provide, with as much specificity as is reasonable and practical given the time available, the services to be performed, the resources and other assistance to be provided by the state and the outcomes expected.

(f) When compensation to state public health nursing employees is increased, the department shall determine a corresponding increase to contract amounts for counties providing public health nursing services under paragraph (a)(iii) of this section and request this increase in the department's standard budget or supplemental budget request.

(g) If the commissioners of two (2) or more counties desire to form a joint powers board to manage all or part of the public health functions in the respective counties, the relevant memoranda of understanding may be modified accordingly and may provide for transition to a joint powers board upon its creation pursuant to the Wyoming Joint Powers Act.

(h) The county commissioners of each county may choose for all or a portion of their county to use, for the delivery and management of public health nursing and related functions, any existing organization which currently delivers any or all public health services.

35-1-244. Public health laboratory fees.

(a) The department of health may charge reasonable fees for laboratory testing services provided to other state agencies, local law enforcement entities and other individuals or organizations in accordance with the following:

(i) Fees shall be established by rule or regulation promulgated in accordance with the Wyoming Administrative Procedure Act;

(ii) Fees shall be established in an amount sufficient to recoup the department's cost of providing the laboratory testing services.

(b) The department shall only charge fees pursuant to this section if the department makes personnel available to testify in criminal trials as to the department's laboratory testing results.

(c) Fees collected by the department pursuant to this section shall be credited to a special revenue account. No funds shall be expended from the special revenue account unless and until the legislature appropriates the funds.

ARTICLE 3 - COUNTY, MUNICIPAL AND DISTRICT HEALTH DEPARTMENTS

35-1-301. Definitions; establishment; participation by municipality in district department.

(a) For the purposes of this act, the word "municipality" shall mean and include any town, village or city of this state, and the word "district" shall mean and include any combination of said towns, villages, cities and counties of this state.

(b) Any county, municipality, or district may, by resolution of the board of county commissioners or municipal governing body or by a majority of the votes cast by the qualified electors of such county, municipality, or district, establish and maintain a county, municipal, or district health department.

(c) Any two (2) or more adjacent counties may, by resolutions of the boards of county commissioners or by a majority of the votes cast by the qualified electors establish and maintain a district health department.

(d) Any municipality within a health department district may, by resolution of the municipal governing body or by a majority of the votes cast by the qualified electors of such municipality, participate in such a district health department.

35-1-302. Organization of units; membership of boards; removal.

(a) Within thirty (30) days after the adoption of a resolution or resolutions to establish and maintain a county and/or city or district health department, the board or boards of county commissioners and/or city governing body, as the case may be, shall proceed to organize such a department by the appointment of a county and/or city or district board of health, hereinafter referred to as the board.

(b) Each county and/or city board of health shall consist of five (5) members, all of whom shall be qualified electors of the county in which they serve, and one (1) shall have the degree of doctor of medicine and one (1) shall have the degree of doctor of dental surgery when available in said county. One (1) member of the board to be appointed for one (1) year; one (1) for two (2) years; one (1) for three (3) years, one (1) for four (4) years; and one (1) for five (5) years. Thereafter appointments for full term shall be for five (5) years. Vacancies for unexpired terms shall be filled by appointment by the board of county commissioners and/or city governing body.

(c) The number of members on the district board shall be at least equal to the number of participating political subdivisions; each participating political subdivision shall have at least one (1) representative on the board; the board shall not have less than seven (7) members; at least one (1) member of the board shall have the degree of doctor of medicine and at least one (1) member shall have the degree of doctor of dental surgery. For the original board, one (1) member shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, two (2) for three (3) years, two (2) for four (4) years. Thereafter, each appointment shall be for a term of four (4) years. The district board of health shall be appointed by a committee composed of one (1) member of each of the boards of county commissioners of the counties comprising the district.

(d) Meetings of the board shall be held quarterly at such place as is designated by the board and at such other time as may be desirable upon call by the county and/or city or district health officer. Members of the board shall serve without compensation, but shall be entitled to payment for travel and other necessary expense incurred while attending meetings of the board.

(e) The governing body which appointed the member of the board may remove that member of the board for cause without a public hearing unless the member requests that the action be

taken during a public hearing. Vacancies on the board shall be filled by the governing body for the balance of the unexpired term created by the vacancy.

35-1-303. Rules and regulations; jurisdiction.

(a) County and/or city and district boards of health may enact rules and regulations pertaining to the prevention of disease and the promotion of public health in the area over which such respective boards have jurisdiction. But in no instance shall such rules and regulations be less effective than, or in conflict with, rules and regulations promulgated by the state department of health. The district and/or city health officers shall have all powers vested by law in county health officers.

(b) The jurisdiction of the county and/or city or district health department shall extend over all unincorporated areas and over all municipalities within the territorial limits of the county or counties comprising the district except municipalities of Class I may maintain their own health departments. However, any municipalities of Class I may merge its health services with that of the county or district in which such city is located.

35-1-304. Treasurer designated; fund to be created; composition and use of fund; preparation and submission of budget; tax levy authorized.

(a) In the case of a county and/or city health department, the county and/or city treasurer, as a part of his official duties as county and/or city treasurer, shall serve as treasurer of the department, and his official bond as county and/or city treasurer shall extend to and cover his duties as treasurer of the department. In the case of a district health department, the county treasurer of the county in the district having the largest population, as a part of his official duties as county treasurer, shall serve as treasurer of the district department and his official bond as county treasurer shall extend to and cover his duties as treasurer of the department.

(b) The treasurer of a county and/or city or district health department shall, upon organization of the department, create a county and/or city or district health department fund to which shall be credited:

(i) Any moneys that may be appropriated from the general county fund or funds;

(ii) Any moneys received from state, federal or other grants or donations for local health purposes;

(iii) Any moneys received from mill levies authorized by this act.

(c) Any moneys credited to said fund shall be expended only for maintenance and operation of the department and claims or demands against said fund shall be allowed upon certification by the health officer or a designated member of the board of health.

(d) A county and/or city board of health shall, annually before April 1st of each year, estimate the total cost of maintaining the department for the ensuing fiscal year, and the amount of moneys that may be available from unexpended surpluses or from state or federal grants or other grants or donations. The estimates shall be submitted in the form of a budget to the board of county commissioners and/or city governing body and the board shall provide any moneys necessary over estimated moneys from surpluses, grants and donations to cover the total cost of maintaining the department for the ensuing fiscal year. If the city has chosen to have a biennial budget pursuant to W.S. 16-4-104(h), then the city board of health shall submit their budget to the city on April 1 of every other year in accordance with the city budget.

(e) A district board of health shall, annually before April 1st of each year, estimate the total cost of maintaining and operating the department for the ensuing fiscal year and the amount of monies that may be available from unexpended surpluses or from state or federal grants or other grants or donations. The estimates shall be submitted in the form of a budget to a committee composed of the chairmen of the boards of county commissioners and/or city governing body of all counties and/or cities comprising the district. The cost of maintaining and operating the department, over estimated monies from surpluses, grants or donations, shall be apportioned by the committee among the counties comprising the district on a basis of population of each participating county in proportion to the total population of all counties comprising the district. The boards of county commissioners of the respective counties shall provide any monies necessary to cover the proportionate share of their county. If the cities in the district have chosen to have a biennial budget pursuant to W.S. 16-4-104(h), then the district board of health shall submit their budget to the cities on April

1 of every other year in accordance with the cities' budget. If all the cities in the district are not on the same budget schedule, the district shall still submit a biennial budget. However, for those cities who budget annually, they shall appropriate an annual amount.

(f) A tax levy may be made by the board of county commissioners specifically for the public health purposes on assessed valuation.

35-1-305. Appointment of health officers and other personnel generally; local board of health may fix fees for certain services.

(a) In the counties, municipalities or districts where health departments are created, as provided herein, the local board of health may appoint a full-time or part-time health officer, deputy health officers, public health nurses, sanitarians, environmental health specialists and such other public health personnel as may be deemed necessary to adequately protect the public health. Any full-time or part-time health officer shall have a degree of doctor of medicine, be an advanced practice registered nurse as defined in W.S. 33-21-120(a)(i) or be a physician assistant as defined in W.S. 33-26-501(a)(iii). A full-time or part-time health officer appointed under this section shall assist the state department of health in carrying out the provisions of all health and sanitary laws and regulations of the state and shall complete continuing education in public health as directed by the local board of health. Subject to subsection (c) of this section, the local board of health may fix reasonable fees and charges for services, except for follow-up of communicable diseases and for individuals who receive services under the public health nursing infant home visitation subprogram created by W.S. 35-27-102. No person shall be denied necessary nursing services within the limits of available personnel because of an inability to pay the cost of such services.

(b) All moneys collected hereunder shall be paid directly to the city or county treasurer and placed in the corresponding health department fund.

(c) Prior to the establishment of any fee under this section, the local board of health, the city council or the board of county commissioners, as appropriate, shall hold a public hearing after providing forty-five (45) days written notice of the hearing. No fee shall be imposed by the local

board of health under this section without the prior approval of the city council or the board of county commissioners, as appropriate. No fee established under this section shall exceed five hundred dollars ($500.00).

35-1-306. Appointment of health officer and other personnel where departments not established; fees and charges for services; payment.

(a) In counties or municipalities where such departments are not established the boards of county commissioners or municipal governing body shall appoint the county or municipal health officer and other necessary personnel. The governing body of any combination of municipalities, counties, or municipalities and counties where such departments are not established may form a health district and appoint a district health officer thereof. The term of office for the county, municipal or district health officer shall be four (4) years unless sooner removed by the board of county commissioners, municipal or district governing body. The county, municipal or district health officer shall have a degree of doctor of medicine, be an advanced practice registered nurse as defined in W.S. 33-21-120(a)(i) or be a physician assistant as defined in W.S. 33-26-501(a)(iii). The county, municipal or district health officer shall assist the state department of health in carrying out the provisions of all health and sanitary laws and regulations of the state and shall complete continuing education in public health as directed by the local board of county commissioners, health district or municipal governing body.

(b) Each part-time county, municipal, or district health officer shall receive a minimum compensation of not less than twenty-five dollars ($25.00) per month and necessary travel expenses incurred while engaged in the duties of his office.

(c) There is hereby authorized to be appointed by the boards of county commissioners, municipal, or district governing bodies so desiring, a deputy health officer, public health nurses, sanitarians, and such other public health personnel as may be deemed necessary to adequately protect the public health to serve under the county, municipal or district health officer. Such deputy health officer shall have the same authority in his area as the health officer and shall be compensated at a maximum rate of two-thirds the salary paid to the health officer of the county, municipality or district.

(d) Each public health nurse, sanitarian, and such other professional public health personnel appointed under the provisions of this act shall meet the position specifications established by the state merit rule for such positions. Boards of county commissioners, municipal, or district governing bodies are authorized and empowered to make appropriations for the compensation and necessary expenses for such public health personnel from such unencumbered funds as may be available. Said boards shall have the power to set all salaries for all personnel.

(e) Boards of county commissioners, municipal or district governing bodies may fix reasonable fees and charges for services, except for follow-up of communicable diseases and for individuals who receive services under the public health nursing infant home visitation subprogram created by W.S. 35-27-102. No person shall be denied necessary nursing services within the limits of available personnel because of an inability to pay the cost of such services.

(i) Repealed By Laws 2001, Ch. 127, § 2.

(ii) Repealed By Laws 2001, Ch. 127, § 2.

(iii) Repealed By Laws 2001, Ch. 127, § 2.

(iv) Repealed By Laws 2001, Ch. 127, § 2.

(v) Repealed By Laws 2001, Ch. 127, § 2.

(f) Payment, in whole or in part for such services may be accepted from any person. Payment of any charges due may be accepted from a local county, state or federal public assistance agency or any combination thereof; or from any individual, governmental agency, or corporation, public or private, when such services are provided any person, including but not limited to a recipient of any type of social security aids administered by the federal or state governments, or a recipient of direct relief.

(g) All monies collected or appropriated hereunder shall be paid directly to the treasurer of the county, municipality or district, as the case may be, for credit to a county, municipal, or district health fund in the manner provided in W.S. 35-1-304, for county, municipal, and district health departments. Any monies credited to said fund shall be expended only for the compensation and necessary expenses for such public health

personnel and claims or demand against said fund shall be allowed upon certification by the health officer or a designated member of the governing board.

35-1-307. Purpose of health units.

The establishment of full-time local health units is for public health and preventive medical purposes for the people of the state of Wyoming.

35-1-308. Dissolution and discontinuance.

Any county and/or city or district health department may be dissolved and discontinued by resolution of the board of county commissioners and/or city governing body of a county and/or city maintaining a county and/or city health department, or by resolutions of the boards of county commissioners and/or city governing board of the counties and/or cities maintaining a district health department; provided, however, that no department shall be dissolved within the two (2) year period following the date of its establishment. Within ninety (90) days after the passage of a resolution or resolutions dissolving a department, the county and/or city or district board of health shall proceed to terminate the affairs of the department. After payment of all obligations, any moneys remaining in a county and/or city health department fund shall be credited to the general fund of the county and/or city, and any moneys remaining in a district health department fund shall be apportioned among the counties comprising the district in the same manner as the cost of maintaining the department was apportioned among the counties, and credited to their respective general funds. All other property of the county and/or city or district health department shall be disposed of as may be agreed upon by the county and/or city or district board of health.

35-1-309. Adjacent county without department becoming part of health district by agreement.

(a) Generally.-Any county adjacent to a district maintaining a district health department may become a part of such district by agreement between its board of county commissioners and the boards of county commissioners of the counties comprising the district. Any such county upon being accepted into the district, shall thereupon become subject to all the provisions of this act as though it were originally a part of the district.

(b) Withdrawing from districts.-Any county in a district may withdraw from the district by resolution of its board of county commissioners; provided, however, that no county may withdraw from a district within the two (2) year period following the establishment of the district or the county's becoming a part of the district, and then only after ninety (90) days written notice given to the department. In the event of withdrawal of a county from a district, any funds which had been appropriated by the county before withdrawal, to cover its proportionate share of maintaining the district, shall not be returned to the county withdrawing.

35-1-310. Limitation on orders.

(a) No public health order requested or issued by a county, municipal or district health officer under this article shall become effective without notice being provided to the public not less than forty-eight (48) hours before the order is to become effective and an opportunity to provide public comment through written and electronic submissions is provided, except when the delay will result in immediate and life threatening physical harm, exposure or transmission beyond the existing affected area. Any order issued under this chapter by a county, municipal or district health officer that restricts individuals' movements or their ability to engage in any activity, that applies to individuals not under an isolation or quarantine order and that is designed to prevent or limit the transmission of a contagious or possibly contagious disease shall be effective for a period of not more than ten (10) days. Subsequent orders, including order extensions, for the same or substantially same purpose of any duration shall only be issued as follows:

(i) The board of county commissioners, by a vote of the majority of the board, may issue an order subsequent to an order issued by a county health officer;

(ii) The governing body of a municipality, by a vote of the majority of the governing body, may issue an order subsequent to an order issued by a municipal health officer;

(iii) The governing body of a political subdivision that is a member of a health district or a district health department, by a majority vote of the governing body, may issue an order subsequent to an order issued by a district health officer to have effect within the governing body's political subdivision only.

(b) Nothing in this chapter shall be construed to limit a parent or guardian's right to the care, custody and control of a minor child under the care of the parent or guardian.

(c) Nothing in this chapter shall be construed to limit a caregiver's right to the care, custody and control of a vulnerable adult.

(d) As used in this section:

(i) "Caregiver" means a family member responsible, or a person with court ordered responsibility, for the care, custody and control of a vulnerable adult;

(ii) "Vulnerable adult" means as defined in W.S. 35-20-102(a)(xviii).

ARTICLE 4 - VITAL RECORDS

35-1-401. Definitions.

(a) As used in this act:

(i) "Vital records" means records of birth, death, stillbirth, marriage, divorce and data relating thereto;

(ii) "System of vital records" includes the registration, collection, preservation, amendment, and certification of vital records and activities related thereto including the tabulation, analysis, and publication of statistical data derived from such records;

(iii) "Filing" means the presentation of a certificate, report, or other record of a birth, death, stillbirth, adoption, marriage, or divorce, for registration by vital records services;

(iv) "Registration" means the acceptance by vital records services and the incorporation in its official records of certificates, reports or other records of births, deaths, stillbirths, adoption, marriages, and divorces;

(v) "Live birth" means the complete expulsion or extraction from its mother or its gestational carrier of a fetus, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart,

pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

(vi) "Stillbirth" means a birth after twenty (20) completed weeks gestation in which the child shows no evidence of life after complete birth;

(vii) "Dead body" means a lifeless human body, or such severed parts of the human body, or the bones thereof, from the state of which it reasonably may be concluded that death occurred;

(viii) "Final disposition" means the burial, interment, cremation, or other disposition of a dead body or stillbirth;

(ix) "Person in charge of interment" means any person who places or causes to be placed a deceased, stillbirth, or dead body, or after cremation the ashes thereof, in the earth, a grave, tomb, vault, urn or other receptacle, either in a cemetery or at any other place, or otherwise disposes of a body;

(x) "Physician" means a person authorized or licensed to practice medicine as provided in W.S. 33-26-101 through 33-26-601;

(xi) "Institution" means any establishment, public or private, which provides inpatient medical, surgical or diagnostic care or treatment, or nursing, custodial or domiciliary care to two (2) or more unrelated individuals, or to which persons are committed by law;

(xii) "Advanced practice registered nurse" means as provided in W.S. 33-21-120(a)(i);

(xiii) "Physician assistant" means as provided in W.S. 33-26-501(a)(iii);

(xiv) "Gestational agreement" means a written, notarized agreement between two (2) intended parents and a gestational carrier where:

(A) The gestational carrier agrees to pregnancy by means of assisted reproduction;

(B) The gestational carrier, and her spouse if she is married, agree to relinquish all rights and duties as the parent of any child that is delivered from the gestational carrier;

(C) The agreement specifies that the intended parents shall become the parents of the child;

(D) All parties to the agreement are twenty-one (21) years of age or older;

(E) The intended parents have been residents of the state of Wyoming for not less than one (1) year immediately preceding the date of the gestational agreement;

(F) The agreement is filed with the state registrar of vital records. Any agreement filed under this subparagraph shall be sealed and placed in a special file and may be opened only upon order of a court of competent jurisdiction or as otherwise provided by law;

(G) Compensation is limited to expenses related to prenatal care, delivery of the child and any other costs including the cost of lost opportunity that are directly connected to the pregnancy.

(xv) "Gestational carrier" means a woman twenty-one (21) years of age or older who gives birth to a child under a gestational agreement;

(xvi) "Intended parents" means two (2) persons who enter into a gestational agreement with a gestational carrier for the birth of a child for which the two (2) persons shall assume paternity or maternity.

35-1-402. State office established.

The department of health shall establish a state office of vital records services, which shall install, maintain, and operate the system of vital records throughout this state.

35-1-403. Appointment of state registrar.

The director of the department of health shall be the state registrar. He shall appoint a deputy who shall carry out the provisions of this act.

35-1-404. Duties of state registrar.

(a) The state registrar shall:

(i) Make, promulgate and enforce all necessary rules and regulations for carrying out the purpose of this act;

(ii) Receive, index and statistically compile the returns of births, deaths, stillbirths, marriages and divorces from the entire state;

(iii) Prescribe and distribute such forms as are required by this act and the rules and regulations issued hereunder;

(iv) Direct, supervise and control the activities of local registrars and the activities of other local officials related to the operation of the vital records system and provide them with necessary postage;

(v) Submit to the governor an annual report of the administration of this act;

(vi) Keep a correct account of all fees received and turn the same over to the state treasurer as provided by law;

(vii) Delegate such functions and duties vested in him to officers and employees of the office of vital records services and to the local registrars as he deems necessary or expedient;

(viii) Investigate all of the cases of irregularity or violation of this act and any regulations.

35-1-405. Registration districts.

The state registrar shall from time to time establish registration districts throughout the state. He may consolidate or subdivide such districts to facilitate registration.

35-1-406. Appointment and removal of local registrars and deputy local registrars.

(a) The state registrar shall appoint a local registrar and one or more deputy local registrars of vital records for each registration district. He may remove a local registrar or deputy local registrar for reasonable cause.

(b) Each person so appointed shall be notified in writing, setting forth the area for which he is responsible for promoting and supervising vital registration, and he shall inform the state registrar in writing of his acceptance of the appointment.

35-1-407. Duties of local registrars.

(a) Each local registration official shall serve as an agent of the state registrar in his district and shall:

(i) Register only births, stillbirths and deaths that occur in his district;

(ii) Examine certificates, record them in his register, numbering each in order of filing;

(iii) Issue burial and removal permits for properly filed death certificates;

(iv) Make prompt returns on or before the fifth day of each month to the state registrar or report that no births or deaths occurred in his district;

(v) See that the provisions of this act are enforced in his district and that all births, stillbirths and deaths that occur are fully registered and make prompt report to the state registrar of any case of failure or neglect to file certificates;

(vi) In accordance with regulations issued hereunder, the deputy local registrar shall perform the duties of the local registrar in the absence or incapacity of such local registrar and shall perform such other duties as may be prescribed by the state registrar.

35-1-408. Repealed by Laws 2023, ch. 90, § 1.

35-1-409. Form of certificates.

(a) In order to promote and maintain uniformity of the system of vital statistics the forms of the certificates, reports and other returns required by the act or by regulations adopted hereunder, shall include as a minimum the items recommended by the federal agency responsible for national vital statistics subject to approval of and modification by the

department of health. Social security numbers, if available, will be required on death certificates.

(b) Each certificate, report and form required to be filed under this act shall have entered upon its face the date of registration duly attested.

35-1-410. Birth registration.

(a) A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs within ten (10) days after such birth and shall be registered by the registrar if it has been completed in accordance with this section. When a birth occurs on a moving conveyance a birth certificate shall be filed in the district in which the child was first removed from the conveyance.

(b) When a birth occurs in an institution, or en route thereto, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar. The person in attendance will certify to the facts of the birth and provide the medical information required by the certificate within seven (7) days after birth. If the attendant has not signed the certificate within seven (7) days of the date of the birth, the person in charge of the institution or a designated representative shall complete and sign the certificate.

(c) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(i) The physician in attendance at or immediately after the birth, or in the absence of such a person;

(ii) Any other person in attendance at or immediately after the birth; or

(iii) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

(d) For purposes of birth registration, unless a court of competent jurisdiction orders otherwise at any time or except as

provided in subsection (e) of this section, the woman who gives birth to the child shall be deemed the mother.

(e) Upon the birth of a child under a gestational agreement, the intended parents of the child born under the gestational agreement shall be deemed to be the mother and father of the child, including for purposes of birth registration and the birth certificate, upon satisfying the following conditions:

(i) Submission of a complete application by the intended parents as the state office of vital records services prescribes; and

(ii) Verification by the state office of vital records services that the gestational agreement complies with the requirements of W.S. 35-1-401(a)(xiv).

35-1-411. Name of father on birth certificate.

(a) If the mother was married either at the time of conception or birth of child, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless:

(i) Paternity has been determined otherwise by a court of competent jurisdiction; or

(ii) The husband signs an affidavit denying that he is the father and the mother and the person to be named as the father sign an affidavit of paternity under this section. Affidavits may be joint or individual or a combination thereof, and each signature shall be individually notarized. The name of the person signing the affidavit of paternity shall be entered as the father on the certificate of birth.

(b) If the mother was not married either at the time of conception or birth of child, or between conception and birth, the name of the father shall not be entered on the certificate of birth without an affidavit of paternity signed by the mother and the person to be named as father, unless a determination of the paternity has been made by a court of competent jurisdiction.

(c) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the father and surname of the child shall be entered on the

certificate of birth in accordance with the finding and order of the court.

(d) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

35-1-412. Report required of person assuming custody of foundlings; information to be shown; report to constitute birth certificate; subsequent identification and certificate.

(a) Whoever assumes the custody of a living child of unknown parentage shall report within seven (7) days on a form to be approved by the state registrar, to the local registrar of the registration district in which custody is assumed, the following information:

(i) Date of finding or assumption of custody;

(ii) Place of finding or assumption of custody;

(iii) Sex;

(iv) Race;

(v) Approximate age;

(vi) Name and address of the person or institution with whom the child has been placed for care, if any;

(vii) Name given to the child by the finder or custodian; and

(viii) Other data required by the state registrar.

(b) The place where the child was found, or custody has been assumed shall be known as the place of birth, and the date of birth shall be determined by approximation. The foundling report shall constitute the certificate of birth for such foundling child and the provisions of this act relating to certificates of birth shall apply in the same manner and with the same effect to such report. If a foundling child shall later be identified and a regular certificate of birth be found or obtained, any report registered under this section shall be sealed and placed in a special file and may be opened only upon order of a court of competent jurisdiction or as provided by regulation.

35-1-413. Delayed registration of births.

(a) When the birth of a person born in this state has not been registered, a certificate may be filed in accordance with the regulations of vital records services. The certificate shall be registered subject to such evidentiary requirements as vital records services shall prescribe to substantiate the alleged facts of birth. Certificates of birth registered one (1) year or more after the date of occurrence shall be marked "Delayed" and show on their face the date of the delayed registration. A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate. Evidence affecting delayed certificates should be microfilmed and then returned to the registrant.

(b) When an applicant does not submit the minimum documents required in the regulations for delayed registration, or when the state registrar of vital records finds reason to question the validity or adequacy of the documentary evidence, the state registrar of vital records shall not register the delayed certificate and shall advise the applicant of the reasons for this action. Applications for delayed certificates which have not been completed within one (1) year from the date of application may be dismissed at the discretion of the state registrar. Upon dismissal the state registrar shall advise the applicant of his decision and all documents submitted in support of such registration shall be returned to the applicant.

35-1-414. Delayed registration of death and marriage.

When a death or marriage occurring in this state has not been registered, a certificate may be filed in accordance with regulations of the division of health and medical services. The certificate shall be registered subject to such evidentiary requirements as the division of health and medical services shall by regulation prescribe to substantiate the alleged facts of death or marriage. Certificates of death and marriage registered one (1) year or more after the date of occurrence shall be marked "Delayed" and shall show on their face the date of the delayed registration.

35-1-415. Judicial procedure to establish facts of birth.

(a) If a delayed certificate of birth is rejected under the provisions of this act, a petition may be filed with a court of competent jurisdiction for an order establishing a record of

the date and place of the birth and the parentage of the person whose birth is to be registered. The petition shall be made on a form prescribed and furnished by the state registrar of vital records and shall allege:

(i) The person for whom a delayed certificate of birth is sought was born in this state;

(ii) No record of birth of such person can be found in the office of the state or local custodian of birth records;

(iii) Diligent efforts by the petitioner have failed to obtain the evidence required in accordance with this act;

(iv) The state registrar of vital records has refused to register a delayed certificate of birth; and

(v) Such other allegations as may be required.

(b) The petition shall be accompanied by a statement of the registration official made in accordance with this act and all documentary evidence which was submitted to the registration official in support of registration. The petition shall be sworn to by the petitioner.

(c) The court shall fix a time and place for hearing the petition and shall give the registration official who refused to register the petitioner's delayed certificate of birth appropriate notice of the hearing. Such official, or his authorized representative, may appear and testify in the proceeding.

(d) If the court from the evidence presented finds that the person for whom a delayed certificate of birth is sought was born in this state, it shall make findings as to the place and date of birth, parentage and such other findings as the case may require, and shall issue an order on a form prescribed and furnished by the state registrar of vital records to establish a record of birth. This order shall include the birth data to be registered, a description of the evidence presented in the manner prescribed by this act, and the date of the court's action.

(e) The clerks of courts of competent jurisdiction shall forward a certified copy of the order to the state registrar of vital records not later than the tenth day of the calendar month following the month in which it was entered. The order shall be

registered by the state registrar of vital records and shall constitute the record of birth, from which copies may be issued in accordance with this act.

35-1-416. Court reports of adoption.

(a) For each adoption of a child born in this state that is decreed by any court in this state, the court shall require the preparation of a report of adoption on a form prescribed and furnished by the state registrar of vital records. The report shall include such facts as are necessary to locate and identify the certificate of birth of the person adopted, provide information necessary to establish new certificate of birth of the person adopted, and shall identify the order of adoption and be certified by the clerk of the court. The report of adoption as well as a certified copy of adoption decree shall be furnished to the state registrar as specified in subsection (c) of this section.

(b) Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof which shall include such facts as are necessary to identify the original adoption report and the facts amended in the adoption decree as necessary to properly amend the birth record. The report of the amended or annulled adoption decree shall be furnished to the state registrar as specified in subsection (c) of this section.

(c) Not later than the fifth day of each calendar month the clerk of court shall forward to the state registrar of vital records the report of adoption, records of decrees of adoption, and any annulment or amendment thereof entered in the preceding month together with such related reports as the state registrar shall require.

(d) When the state registrar receives a record of adoption, or annulment, or amendment thereof, from a court for a person born outside this state, the record shall be forwarded to the appropriate registration authority in the state of birth. For an adoption of a child born in a foreign country, the record of adoption shall be forwarded to the U.S. immigration and naturalization service, U.S. department of justice, or such other office as the federal government may designate.

35-1-417. New certificate of birth following adoption; court determination of paternity; and paternity acknowledgment.

(a) The state registrar of vital records shall establish a new certificate of birth for a person born in this state when he receives the following:

(i) An adoption report from the courts of this state, the several states of the United States or a foreign country, and a certified copy of the decree of adoption together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; except that a new certificate of birth shall not be established unless so requested by the court decreeing the adoption, the adoptive parents or the adopted person;

(ii) A request that a new certificate be established and evidence as required by regulation proving that a court of competent jurisdiction has determined the paternity of the person, or that both parents have acknowledged the paternity of such person.

(b) When a new certificate of birth is established, the actual city and county and date of birth shall be shown. It shall be substituted for the original certificate of birth. If a new certificate of birth is issued under this section, and in the case of adoptions, the original certificate of birth and evidence of adoption shall not be subject to inspection except upon order of a court of competent jurisdiction.

(c) Upon receipt of a decree of annulment of adoption, the original certificate of birth shall be restored to its place in the file and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction.

(d) Repealed By Laws 2003, Ch. 93, § 3.

(e) The state registrar of vital records shall establish a new certificate of birth, on a form he prescribes, for a person born in a foreign country upon receipt of a certified copy of the decree of adoption entered pursuant to W.S. 1-22-111(a)(iii) and a request for a new certificate by the court decreeing the adoption, the adoptive parents or the adopted person.

(f) If no certificate of birth is on file for the person for whom a new certificate is to be established under this section, a delayed certificate of birth shall be filed with the state registrar of vital records as provided by this act, before a new certificate of birth is established.

(g) Repealed By Laws 2003, Ch. 93, § 3.

35-1-418. Death registration.

(a) A death certificate for each death which occurs in this state shall be filed with the local registrar of the registration district in which the death occurred within three (3) days after the death and prior to removal of the body from the state and shall be registered by such registrar if it has been completed and filed in accordance with this section, provided:

(i) That if the place of death is unknown, a death certificate shall be filed in the registration district in which a dead body is found within three (3) days after such occurrence; and

(ii) If the death occurs in a moving conveyance, a death certificate shall be filed in the registration district in which the dead body is first removed from such conveyance.

(b) The funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate. He shall obtain the personal data from the next of kin or the best qualified person or source available. He shall obtain the medical certification of cause of death from the person responsible therefor.

(c) The medical certification shall be completed and signed within a reasonable time after death by the primary health care provider in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by the postmortem examination. If the death occurred without medical attendance or if the primary health care provider last in attendance refuses or for any reason fails to sign the certificate immediately, the funeral director or person acting as funeral director shall notify the appropriate local registrar. In that event the local registrar shall inform the local health officer and refer the case to him for immediate investigation and certification of cause of death prior to issuing a permit for burial, cremation or other disposition of the body. If the circumstances of the case suggest that the death was caused by other than natural causes, the local registrar shall refer the case to the coroner for investigation and certification. The coroner shall examine the body and consider the history of the case, and obtain the assistance and

advice of a competent physician who will assist the coroner in determining the cause of death by examination of the body, autopsy, inquest or other procedure determined necessary. The nonmedical coroner shall not diagnose the cause of death without the assistance and advice of a competent physician, advanced practice registered nurse or physician assistant. The coroner or local health officer shall complete and sign the medical certification within a reasonable time after taking charge of the case.

(d) For purposes of this section, "primary health care provider" means as defined in W.S. 35-22-402(a)(xiv).

35-1-419. Stillbirth registration.

(a) A stillbirth certificate for each stillbirth which occurs in this state after gestation period of twenty (20) completed weeks or more shall be filed with the local registrar of the registration district in which the delivery occurred within three (3) days after the delivery and prior to removal of the stillbirth from the state. If the place of stillbirth is unknown, a stillbirth certificate shall be filed in the registration district in which a stillbirth was found within three (3) days after the occurrence. If a stillbirth occurs on a moving conveyance, a stillbirth certificate shall be filed in the registration district in which the stillbirth was first removed from the conveyance.

(b) The funeral director or person acting as such who first assumes custody of a stillbirth shall file the stillbirth certificate. In the absence of such a person, the physician or other person in attendance at or after the delivery shall file the stillbirth certificate.

(c) The medical certification shall be completed and signed within a reasonable time after delivery by the physician in attendance at or after delivery except when inquiry is required by the postmortem examination. When a stillbirth occurs without medical attendance to the mother at or after the delivery or when inquiry is required by the postmortem examination, the coroner shall investigate the cause of stillbirth and shall complete and sign the medical certification within a reasonable time after taking charge of the case.

35-1-420. Permits.

(a) The funeral director or person acting as such who first assumes custody of a dead body or stillbirth shall obtain a burial-transit permit prior to final disposition or removal from the state of the body or stillbirth and within seventy-two (72) hours after death. The burial-transit permit shall be issued by the local registrar of the district where the certificate of death or stillbirth was filed in accordance with the requirements of this act. A burial-transit permit issued under the law of another state which accompanies a dead body or stillbirth brought into this state shall be authority for final disposition of the body or stillbirth in this state.

(b) No permit for burial, cremation, removal, or other disposition shall be issued by any local registrar until a certificate of death or stillbirth, as far as it can be completed under the circumstances of the case, has been filed with him, and until all the regulations of the administrator of the division of health and medical services in respect to the issuance of such permit have been complied with. No permit shall be issued which would be contrary to the sanitary laws of this state.

(c) A permit for disinterment and reinterment shall be required prior to disinterment of a dead body or stillbirth except as authorized by regulation or otherwise provided by law. The permit shall be issued by the local registrar to a licensed funeral director, embalmer, or other person acting as such, upon proper application.

35-1-421. Extension of time.

(a) The department of health may, by regulation and upon such conditions as it may prescribe to assure compliance with the purposes of this act, provide for the extension of the periods prescribed in this act, for the filing of death certificates, stillbirth certificates, and for the obtaining of burial-transit permits in cases in which compliance with the applicable prescribed period would result in undue hardship.

(b) Regulations of the department of health may provide for the issuance of a burial-transit permit under this act, prior to the filing of a certificate of death or stillbirth upon conditions designed to assure compliance with the purposes of this act in cases in which compliance with the requirement that the certificate be filed prior to the issuance of the permit would result in undue hardship.

35-1-422. Marriage registration.

(a) A record of each marriage performed in the state shall be filed with the state registrar of vital records as provided in this section. The officer who issues the marriage license shall prepare the certificate on the form furnished by the state registrar of vital records upon the basis of information obtained from the parties to be married, as provided by W.S. 20-1-103 and signed by the bride and groom.

(b) Every person who performs a marriage shall certify the fact of marriage and file the record with the officer who issued the license within ten (10) days after the ceremony. This certificate shall be signed by the witnesses to the ceremony, one (1) copy of which shall be given to the parties so married. Every office issuing marriage licenses shall complete and forward to the state registrar of vital records on or before the tenth day of each calendar month the certificates of marriage filed with him during the preceding calendar month.

35-1-423. Court reports of divorce and annulment of marriage.

For each divorce and annulment of marriage granted by any court in this state a report shall be prepared and filed by the clerk of court with the state registrar of vital records. The information necessary to prepare the report shall be furnished, with the filing of the complaint for divorce, to the clerk of court on forms prescribed and furnished by the state registrar of vital records, and a hearing on the divorce complaint shall not be held until the foregoing information has been filed by the attorney for the plaintiff. On or before the tenth day of each month the clerk of court shall forward to the state registrar of vital records the report of each divorce and annulment granted during the preceding calendar month, and such related reports as may be required by regulations.

35-1-424. Correction and amendment of vital records.

(a) A certificate or record registered under this act may be amended only in accordance with this act and regulations thereunder adopted by the division of health and medical services to protect the integrity and accuracy of vital records. A certificate that is amended under this section shall be marked "Amended" except as provided in subsection (d) of this section. The date of amendment and a summary description of the evidence

submitted in support of the amendment shall be endorsed on or made a part of the record.

(b) Vital records services shall prescribe by regulations the conditions under which additions or minor corrections shall be made to birth certificates within one (1) year after the date of birth without the certificate being considered as amended.

(c) Upon receipt of a certified copy of a court order changing the name of a person born in this state and upon request of such person or his parent, guardian, or legal representative, the state registrar of vital records shall amend the certificate to reflect the new name, by attaching an abstract of the court order.

(d) After one (1) year no correction shall be made on the face of the certificate.

35-1-425. Reproduction of records.

To preserve original documents, the state registrar of vital records is authorized to prepare typewritten, photographic or other reproductions of original records and files in his office. Such reproductions when certified by him shall be accepted as the original record.

35-1-426. Disclosure of records.

(a) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the vital records system, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital records, or to copy or issue a copy of all or part of any such record except as authorized by regulations.

(b) The department of health may authorize the disclosure of data contained in vital records for research purposes.

(c) Information in vital records indicating that a birth occurred out of wedlock shall not be disclosed except as provided by regulations or upon order of a court of competent jurisdiction.

(d) The department of health is authorized to provide the necessary information in death records to the secretary of state for the maintenance of the voter registration system by removing

names of voters who are deceased from the voter registration list. This disclosure of death records shall be conducted in accordance with the terms agreed upon by the secretary of state and the director of the department of health.

35-1-427. Copies of data from vital records.

(a) Only the state registrar of vital records shall upon request issue a certified copy of any certificate or record in his custody or of a part thereof. Each copy issued shall show the date of registration and copies issued from records marked "Delayed", "Amended", or "Court Order" shall be similarly marked and show the effective date. A certified copy of a certificate or any part thereof, issued in accordance with this subsection shall be considered for all purposes the same as the original, and shall be prima facie evidence of the facts therein stated, except that the evidentiary value of a certificate or record filed more than six (6) months for birth, and one (1) year for death and marriage, after the event, or a record which has been amended, shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

(b) The federal agency responsible for national vital statistics may be furnished such copies as it may require for national statistics if the state is reimbursed for the cost of furnishing the data, and the data is not used for other than statistical purposes by the federal agency responsible for national vital statistics.

(c) Federal, state, local and other public or private agencies may, upon request, be furnished copies or data for statistical purposes upon such terms or conditions as may be prescribed by the department of health.

(d) No person shall prepare or issue any certificate which purports to be an original, certified copy or copy of a certificate of birth, death or stillbirth, except as authorized by this act or regulations adopted hereunder.

35-1-428. Fees for copies and searches; surcharges.

(a) The department of health shall in accordance with guidelines imposed upon boards and commissions under W.S. 33-1-201, prescribe reasonable fees for certified copies of certificates or records or for a search of the files or records

when no copy is made. Fees collected shall be deposited into the general fund.

(b) In addition to fees imposed by department rule and regulation under subsection (a) of this section, the department shall collect a surcharge of five dollars ($5.00) for each copy of a certificate or record issued pursuant to this article and five dollars ($5.00) for each five (5) year period or portion thereof that a search of files or records is undertaken pursuant to this article. Revenues collected from the surcharge imposed under this subsection shall be deposited by the state treasurer in accordance with the following:

(i) For the period from July 1, 2019 through June 30, 2024, seventy-five percent (75%) into the Wyoming children's trust fund established under W.S. 14-8-106(a) and twenty-five percent (25%) into the Wyoming children's income account established under W.S. 14-8-106(b);

(ii) Beginning July 1, 2024, one hundred percent (100%) into the Wyoming children's trust fund established under W.S. 14-8-106(a).

(c) In addition to the fees imposed by department of health rules under subsection (a) of this section and the surcharges imposed under subsection (b) of this section, the department shall collect a surcharge of five dollars ($5.00) for each copy of a death certificate issued pursuant to this article. Revenues collected from the surcharge imposed under this subsection shall be deposited by the department in the indigent persons burial account, which is hereby created. All funds within the account shall be invested by the state treasurer and all investment earnings from the account shall be deposited in the account. Subject to legislative appropriation, the department of family services shall disperse one-half (1/2) of the funds within the account to counties that made a request for reimbursement under W.S. 18-3-504(c) or 19-14-101(a) and the remaining one-half (1/2) of funds shall be available to the department of family services for expenses incurred under W.S. 42-2-103(c). If a legislative appropriation is insufficient to reimburse all county reimbursement requests, the department of family services shall disperse the available funds so that each county that made a reimbursement request receives equal percentage reimbursements.

35-1-429. Persons required to keep records.

(a) Every person in charge of an institution as defined in this act shall keep a record of personal particulars and data concerning each person admitted or confined to the institution. The record shall be limited to information required by the standard certificate of birth, death and stillbirth forms issued under the provisions of this act. The record shall be made at the time of admission from information provided by the person, but when it cannot be so obtained, the same shall be obtained from relatives or other persons acquainted with the facts. The name and address of the person providing the information shall be a part of the record.

(b) When a dead human body is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the deceased, date of death, name and address of the person to whom the body is released, date of removal from the institution, or if finally disposed of by the institution, the date, place and manner of disposition.

(c) A funeral director, embalmer or other person who removes from the place of death or transports or finally disposes of a dead body or stillbirth, in addition to filing any certificate or other form required by this act, shall keep a record which shall identify the body, and such information pertaining to his receipt, removal, and delivery of the body as may be prescribed in regulations adopted by the division of health and medical services.

(d) Records maintained under this section shall be retained for a period of not less than ten (10) years and shall be made available for inspection by the state registrar of vital records or his representative upon demand.

35-1-430. Duties to furnish information relative to vital events.

Any person having actual knowledge of the facts shall furnish such information as he may possess regarding any birth, death, stillbirth, marriage or divorce upon demand of the state registrar of vital records.

35-1-431. Penalties.

(a) Any person who willfully and knowingly: (i) makes any false statement in a report, record, or certificate required to be filed under this act, or in an application for an amendment thereof, or supplies false information intending that such

information be used in the preparation of any such report, record, or certificate, or amendment thereof; or (ii) without lawful authority and with the intent to deceive, makes, alters, amends, or mutilates any report, record, or certificate required to be filed under this act or a certified copy of such report, record, or certificate; or (iii) uses or attempts to use, or furnish to another for use, for any purpose of deception, any certificate, record, report or certified copy thereof so made, altered, amended, or mutilated; or (iv) with the intention to deceive uses or attempts to use any certificate of birth or certified copy of a record of birth knowing that such certificate or certified copy was issued upon a record which is false in whole or in part or which relates to the birth of another person; or (v) furnishes a certificate of birth or certified copy of a record of birth with the intention that it be used by a person other than the person to whom the record of birth relates; shall be punished by a fine of not more than one hundred dollars ($100.00) or imprisoned not more than six (6) months, or both.

(b) Any person who: (i) knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided in this act; or (ii) refuses to provide information required by this act; or (iii) willfully neglects or violates any of the provisions of this act or refuses to perform any of the duties imposed upon him by this act; shall be punished by a fine of not less than one hundred dollars ($100.00) or be imprisoned for not more than six (6) months, or both.

ARTICLE 5 - INDUSTRIAL HEALTH SERVICE

35-1-501. Short title.

This act shall be cited as the Industrial Health Service Act of 1945.

35-1-502. Service of industrial hygiene created.

The state department of health is hereby authorized and empowered to create and maintain a service of industrial hygiene as the state health officer may deem necessary.

35-1-503. Investigations; annual report required.

The industrial hygiene service shall investigate places of employment and study those conditions which might be responsible

for ill health of the industrial workers and submit a yearly report to the state treasurer.

ARTICLE 6 - COMMUNITY HUMAN SERVICES

35-1-601. Repealed by Laws 1979, ch. 155, § 3.

35-1-602. Repealed by Laws 1979, ch. 155, § 3.

35-1-603. Repealed by Laws 1979, ch. 155, § 3.

35-1-604. Repealed by Laws 1979, ch. 155, § 3.

35-1-605. Repealed by Laws 1979, ch. 155, § 3.

35-1-606. Repealed by Laws 1979, ch. 155, § 3.

35-1-607. Repealed by Laws 1979, ch. 155, § 3.

35-1-608. Repealed by Laws 1979, ch. 155, § 3.

35-1-609. Repealed by Laws 1979, ch. 155, § 3.

35-1-610. Repealed by Laws 1979, ch. 155, § 3.

35-1-611. Short title.

This act shall be known as the "Community Human Services Act".

35-1-612. Purpose.

The purpose and intent of this act is to establish, maintain and promote the development of a comprehensive range of services in communities of the state to serve priority populations and other persons affected by mental illness, substance use disorders, or developmental disabilities, and to provide shelter and crisis services for victims of family violence and sexual assault.

35-1-613. Definitions.

(a) As used in this act:

(i) "Community board" means a community mental health board, a substance use disorder board, a developmental disabilities board, or a family violence and sexual assault board, or a board offering a combination of human services

programs, created under this act. For the purposes of this act every community board is also a public agency;

(ii) "Developmental disabilities" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism or any other neurological condition requiring services similar to those required by persons with intellectual disabilities, that has continued or can be expected to continue indefinitely and constitutes a substantial impairment to the individual's ability to function in society;

(iii) "Department" means the department of health;

(iv) "Human services program" means community facilities, services and programs which exclusively or in part, are used or operated to prevent or treat mental illness, substance use disorders or developmental disabilities, to provide shelter and crisis services for victims of family violence or sexual assault or to provide other community based services which serve a public purpose;

(v) "Mental illness" means a condition which is manifested by a disorder or disturbance in behavior, feeling, thinking or judgment to such an extent that care and treatment are required, but does not include addiction to drugs or alcohol, drug or alcohol intoxication or developmental disabilities;

(vi) "Public agency" means an organization operated by a unit of local government or a combination of governments or agencies formed under the Wyoming Joint Powers Act;

(vii) "Substance" means alcoholic beverages and other drugs;

(viii) "Substance use disorder" means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment or to cause socially dysfunctional behavior;

(ix) "Client" means any individual receiving services from a human service program authorized under this act;

(x) "Crisis services for victims of family violence and sexual assault" means emergency intervention, information,

referral services and medical, legal and social services advocacy;

(xi) "Sexual assault" means any act made criminal under W.S. 6-2-302 through 6-2-304 and 6-4-402;

(xii) "Family violence" means domestic abuse as defined by W.S. 35-21-102(a)(iii);

(xiii) "Shelter" means a place of temporary refuge, offered on a twenty-four (24) hour, seven (7) day per week basis to victims of domestic violence and their children;

(xiv) "Adults with acute mental illness" means persons who are subject to an emergency detention under W.S. 25-10-109, an involuntary hospitalization order under W.S. 25-10-110 or a directed outpatient commitment order under W.S. 25-10-110.1, or who were released from an emergency detention or were discharged from an involuntary hospitalization or directed outpatient commitment order within the last six (6) months;

(xv) "Adults with severe mental illness" means persons who, based on diagnosis and history, have a substantial probability of being unable to meet their needs for food, shelter and medical care if they do not receive regular mental health treatment or case management;

(xvi) "Behavioral health center" means:

(A) A nationally accredited organization that is licensed to conduct business in the state of Wyoming and provides a comprehensive range of services for the treatment and management of mental illness and substance use disorders for priority populations; or

(B) For the purpose of federal reimbursement, a tribal federally qualified health center or a behavioral health service provider certified by the Indian health service of the United States department of health and human services.

(xvii) "Families at high risk" means:

(A) Children who have been discharged from an acute psychiatric facility or a psychiatric residential treatment facility within the previous six (6) months, and their immediate family members as defined by rule of the department of family services;

(B) A child or the parent, legal guardian or other immediate family member of a child, as defined by rule of the department of family services, who has been referred to a behavioral health center by the department of family services for treatment for a mental illness or a substance use disorder and the treatment is necessary to prevent the removal of the child from the child's home or to reunify the child with the child's family;

(C) A child who has been referred to a behavioral health center by a youth crisis shelter, school, primary care provider, licensed therapist or law enforcement officer for treatment for mental illness or a substance use disorder that impacts the child's life.

(xviii) "General access clients" means persons who do not meet the definition of a priority population under paragraph (xxii) of this subsection;

(xix) "Indigent general access clients" means persons who do not have private or public health insurance that provides coverage for mental illness or substance use disorder treatment and whose total household income is not more than two hundred percent (200%) of the federal poverty level;

(xx) "Indigent clients with high needs" means persons who meet the definition of indigent general access clients under paragraph (xix) of this subsection and who have a mental illness or substance use disorder that substantially impairs their ability to function in society;

(xxi) "Nonstate level justice involved" means:

(A) Persons who within the previous six (6) months have been placed on probation and made subject to an intensive supervision program under W.S. 7-13-1102 that includes treatment for a mental illness or a substance use disorder;

(B) Persons who within the previous six (6) months have been convicted of or pled nolo contendere to a criminal offense and ordered to enroll in a treatment program for a mental illness or substance use disorder as part of their sentence;

(C) Persons on probation, parole or who have been conditionally released, who within the previous six (6)

months have been sanctioned under W.S. 7-13-1802(b)(iv) through (vi) and ordered to receive treatment for a mental illness or a substance use disorder;

(D) Qualified offenders under W.S. 7-13-1301 through 7-13-1304 who within the previous six (6) months have been ordered to receive treatment for a substance use disorder.

(xxii) "Priority population" means any person, as determined by the department, who falls into any of the following categories:

(A) State level justice involved;

(B) Nonstate level justice involved;

(C) Families at high risk;

(D) Adults with acute mental illness;

(E) Adults with severe mental illness;

(F) Indigent clients with high needs;

(G) Indigent general access clients.

(xxiii) "State level justice involved" means persons that within the previous six (6) months have been released or paroled from an institution as defined by W.S. 7-13-401(a)(vi) or who are awaiting admission to, evaluation from or have been evaluated by a facility as defined under W.S. 7-11-301(a)(ii) and who require continuing treatment for a mental illness or substance use disorder;

(xxiv) "This act" means W.S. 35-1-611 through 35-1-627.

35-1-614. Counties, school districts and cities may contract for human services programs; counties may establish community boards.

(a) A county may contract with behavioral health centers or private or public agencies to provide human services programs for the county. The county may appropriate funds for the programs.

(b) A municipality may contract with behavioral health centers or private agencies or a community board to provide human services programs for the municipality. The municipality may appropriate funds for the programs.

(c) A school district may contract with behavioral health centers or private or public agencies to provide human services programs for school age children.

(d) A county may establish, or two (2) or more counties may agree to establish a community board, or community boards in accordance with this act. A community board shall provide human services to the entire county or counties in which it is established. A community board may offer one (1) or more services for persons affected by mental illness, substance use disorders, developmental disabilities or victims of family violence or sexual assault.

35-1-615. Community board is agency of county; appropriations; joint community board agreements.

(a) A community board is an agency of the county government.

(b) A county which establishes or agrees to establish a community board, or community boards may appropriate funds for human services programs.

(c) When two (2) or more counties have agreed to establish a community board, the funds appropriated by the counties shall be expended by the board in accordance with the agreement between the counties. The agreement shall require each county to bear a cost proportionate to the services provided in the county. The agreement may specify that, for particular purposes, officers and employees of a joint community board are considered employees of a participating county.

35-1-616. Community boards; membership; appointment; terms of office; removal; vacancies; compensation.

(a) A community or joint board shall consist of not more than nine (9) members, unless the board is comprised of members from two (2) or more counties in which event the board shall consist of not more than fifteen (15) members.

(b) The members of a community board shall be appointed by the county commissioners. When two (2) or more counties have

agreed to establish a community board, the county commissioners of each participating county shall appoint members as provided in the agreement of the counties. The members appointed by each county shall represent their county on the community board.

(c) Members of community boards shall serve for rotating terms of four (4) years. Of the members first appointed, one-third (1/3) shall be appointed for two (2) years, one-third (1/3) for three (3) years and one-third (1/3) for four (4) years. No member shall serve more than two (2) consecutive terms.

(d) A member of a community board may be removed by the appointing authority for neglect of duty, misconduct or malfeasance in office after receiving a written statement of charges and an opportunity to be heard.

(e) Vacancies shall be filled for unexpired terms in the same manner as original appointments.

(f) The members of a community board may receive per diem compensation and may be allowed necessary and actual expenses to be audited and paid in the same manner as other expenses of the county.

35-1-617. Community boards; meetings; officers.

(a) A majority of the board constitutes a quorum. All actions of the board shall be approved by a majority of those present at the meeting.

(b) A community board shall elect from its members a chairman to preside at meetings, a secretary to maintain the records and a finance officer who shall file with the board a bond with an approved corporate surety in the penal sum designated by the board.

35-1-618. Community boards; powers.

(a) For each human services program authorized by the county commissioners the community boards may contract with a behavioral health center or a local public or private nonprofit provider or:

(i) Appoint a director whose qualifications meet the standards fixed by the division;

(ii) Prescribe the director's duties and fix his compensation;

(iii) Make rules or regulations relating to the operation of services and facilities under the board's supervision, including a reasonable schedule of fees not inconsistent with the division's uniform fee schedule;

(iv) Contract for facilities or support services;

(v) Accept donations of money or property; and

(vi) Expend funds for the purposes and programs of the community board, including necessary capital construction, as authorized by the county commissioners.

35-1-619. Community boards; duties.

(a) Subject to this act, a community board shall:

(i) Review and evaluate human services programs operating within its jurisdiction;

(ii) Submit to the commissioners for the county of which it is an agency a comprehensive plan for the establishment, development and promotion of human services programs;

(iii) Insure that the human services programs which are authorized by the county commissioners and funded by the county or the division are executed and maintained; and

(iv) Insure that clients are charged fees for services promulgated by the division.

35-1-620. Powers and duties of the department and its divisions.

(a) The department through its divisions may:

(i) Enter into cooperative contracts with behavioral health centers, private agencies, public agencies and community boards by negotiation without competitive bids or by competitive bidding. The department shall not contract with any entity which is not in substantial compliance with the standards and guidelines under subsection (b) of this section. The department

shall not contract with any entity to purchase shelter and crisis services for victims of domestic abuse or sexual assault;

(ii) Consult with and advise community boards, political subdivisions, nonprofit corporations, state agencies, health and medical groups within the state and the United States public health service about standards for the promotion of services to residents of Wyoming for the prevention, diagnosis and treatment of mental illness, substance use disorders and developmental disabilities and for the provision of other community based services which serve a public purpose.

(b) The department shall:

(i) Prescribe professional standards for personnel providing services purchased in whole or in part by the state under this act. The standards do not replace the standards for licensing under any other Wyoming law;

(ii) Prescribe standards for the quality of human services programs which provide state funded services under this act;

(iii) Establish payment policies for state funded services provided to priority populations that take into account a client's ability to pay and utilize general funds authorized for expenditure as the payment of last resort;

(iv) Repealed by Laws 2021, ch. 79, § 2.

(v) Repealed by Laws 2021, ch. 79, § 2.

(vi) Prioritize behavioral health centers as the providers of state funded services. If a behavioral health center cannot provide sufficient services, the department shall select the most appropriate service provider in order to achieve an effective and efficient delivery of mental illness and substance use disorder services and human services programming;

(vii) Repealed by Laws 2021, ch. 79, § 2.

(viii) Repealed by Laws 2021, ch. 79, § 2.

(ix) Prioritize the delivery of state funded services to priority populations and allocate those services between priority populations in the following order of priority, with

tier 1 being the highest priority and tier 3 being the lowest priority among priority populations:

(A) Tier 1: priority populations specified under W.S. 35-1-613(a)(xxii)(A) through (E);

(B) Tier 2: priority populations specified under W.S. 35-1-613(a)(xxii)(F), who do not otherwise qualify under Tier 1;

(C) Tier 3: priority populations specified under W.S. 35-1-613(a)(xxii)(G), who do not otherwise qualify under Tiers 1 or 2.

(x) Subject to subsection (c) of this section, the priority populations tier requirements under paragraph (ix) of this subsection and in addition to other contractual payments to behavioral health centers and other service providers under this act, the department may provide essential subsidy payments to eligible behavioral health centers, or to other eligible service providers under paragraph (vi) of this subsection, to help defer continuing operating costs needed to provide services to priority populations. A behavioral health center or other service provider under paragraph (vi) of this subsection shall be eligible to receive essential subsidy payments only upon demonstrating a need for operational cost assistance as determined by rule of the department. The amount of any essential subsidy payment shall be subject to available funding and based on service needs as demonstrated by the behavioral health center;

(x) Subject to subsection (c) of this section, the priority populations tier requirements under paragraph (ix) of this subsection and in addition to other contractual payments to behavioral health centers and other service providers under this act, the department shall provide essential subsidy payments to eligible behavioral health centers, or to other eligible service providers under paragraph (vi) of this subsection, to help defer continuing operating costs needed to provide services to priority populations. A behavioral health center or other service provider under paragraph (vi) of this subsection shall be eligible to receive essential subsidy payments only upon demonstrating a need for operational cost assistance as determined by rule of the department. The amount of any essential subsidy payment shall be subject to available funding and based on the total population of the geographic area served by the behavioral health center or other provider and the number

of other behavioral health care providers within a thirty-five (35) mile radius;

(x) Subject to subsection (c) of this section, the priority populations tier requirements under paragraph (ix) of this subsection and in addition to other contractual payments to behavioral health centers and other service providers under this act, the department may provide essential subsidy payments to eligible behavioral health centers, or to other eligible service providers under paragraph (vi) of this subsection, to help defer continuing operating costs needed to provide services to priority populations. A behavioral health center or other service provider under paragraph (vi) of this subsection shall be eligible to receive essential subsidy payments only upon demonstrating a need for operational cost assistance as determined by rule of the department. The amount of any essential subsidy payment shall be subject to available funding and based on service needs as demonstrated by the behavioral health center;

(xi) Prioritize behavioral health centers for the delivery of gatekeeping services as provided by W.S. 25-10-112(g) and only assume the expenses associated with a gatekeeper under W.S. 25-10-112(j) when the gatekeeper has been contracted through a behavioral health center.

(c) Behavioral health centers may provide mental health or substance use disorder services to general access clients provided that the service is funded through any combination of sources other than state funding for priority populations under this section. Behavioral health centers may use the facilities, supplies and personnel funded under paragraph (x) of this subsection to provide services to general access clients provided services to priority populations are not materially diminished. When the means of the state allow, the department is authorized to seek funding through the budget process to deliver mental health or substance use disorder services to general access clients.

35-1-621. All state funds for human services contracted to department; federal and private funding not affected.

A state agency which provides state or federal funds to a community based mental health, substance use disorder, developmental disabilities or other human services program shall contract the funds to the department. The department shall expend the funds in accordance with W.S. 9-2-102 and this act.

This section does not impair the ability of community based programs to apply for or receive funds directly from federal or private sources, subject to W.S. 35-1-620(b)(i).

35-1-622. Department; budget requests; purchase of service contracts.

(a) The department's budget request shall recommend:

(i) The types of services that the division shall purchase, in accordance with the priority populations tier requirements provided by W.S. 35-1-620(b)(ix), which shall not include shelter and crisis services for victims of domestic abuse or sexual assault;

(ii) The levels of services that the division shall purchase based on population, needs assessment, regional cost differences necessary to provide reasonably similar access to services and other criteria; and

(iii) The quality of services that the division shall purchase.

(b) Repealed by Laws 2021, ch. 79, § 2.

35-1-623. Contracts; reports; regular payments; termination.

(a) Every contract awarded pursuant to this act shall require:

(i) The provider to submit annual financial and expenditure reports to the department;

(ii) The division to make regular payments to the provider based on the services provided;

(iii) Compliance with W.S. 18-3-516(e).

(b) The division shall terminate a contract with a behavioral health center or other provider made under this act when the division finds, after a hearing in accordance with W.S. 16-3-107 through 16-3-112 if requested by the provider, that the provider is not using contract funds for contract purposes, or that a contract is not being administered in accordance with this act.

35-1-624. Repealed by Laws 2021, ch. 79, § 2.

35-1-625. Protection of clients' rights.

(a) Every contract awarded under this act shall require the provider to guarantee the clients' rights to:

(i) An individualized plan of appropriate services which provides for the least restrictive treatment that may reasonably be expected to benefit the client;

(ii) Send and receive sealed mail;

(iii) Wear his own clothing, to keep and use personal possessions, including toilet articles, unless the articles may be used to endanger their own or others' lives, and to keep and be allowed to spend his own money;

(iv) Be free from physical restraints and isolation except for emergency situations or when isolation or restraint is a part of a treatment program;

(v) Be free from unnecessary or excessive medication;

(vi) Make and receive telephone calls within reasonable limits;

(vii) Receive visitors daily; and

(viii) Be informed orally and in writing of the rights under this section at the time of admission.

(b) Every contract awarded under this act shall require the provider to:

(i) Post copies of this section conspicuously in each client area;

(ii) Make copies of this section available to the client's guardian or immediate family.

35-1-626. Isolation; restraint; medication.

(a) Isolation or restraint of a client may be used only when less restrictive measures are ineffective or not feasible for the welfare of the client and shall be used for the shortest time possible. Each center or facility shall have a written

policy covering the use of restraint or isolation which ensures that the dignity and safety of the individual are protected and that there is regular, frequent monitoring by trained staff.

(b) No medication may be administered to a client except on the written order of a physician. A record of the medication which is administered to each patient shall be kept in his treatment record. Medication may not be used as punishment, for the convenience of staff or in quantities that interfere with a client's treatment program.

35-1-627. Examination of accounts.

The governing body of any entity receiving state funds under this act shall not less than every two (2) years cause to be made an audit or other oversight of the financial affairs and transactions of all funds and activities of the entity in accordance with W.S. 16-4-121(b) and (c) and 16-4-122. Costs of the audit or other oversight shall be borne by the entity. Copies of audit reports or other reports shall be submitted to the division upon completion. The director of the state department of audit may examine the accounts of any entity receiving state funds under this act. The legislative service office may audit the accounts of any entity. These accounts shall be maintained in a manner to guarantee confidentiality of the patient's identity. The state auditor and treasurer shall not disburse any state money to any entity refusing access to its accounts and records for the purposes of this section.

35-1-628. Community based respite care services.

(a) The department of health shall develop and administer a statewide program to provide community based respite care services to families with a member age birth to twenty-one (21) years who has developmental disabilities who is not eligible for home and community based waiver services under medicaid. This program shall be designed so as to permit persons with developmental disabilities who are under twenty-one (21) years of age to be cared for by the family to the greatest extent possible. The department in consultation with the Wyoming governor's council on developmental disabilities shall:

(i) Establish criteria for eligibility for respite care services which shall include consideration of:

(A) The family's need for services, including factors such as the demonstrated willingness and ability of

family members to provide care and special requirements of the family member with a developmental disability;

(B) Family income;

(C) Family expenses, including those related to care of the individual with a developmental disability;

(D) Reasonable payment by the family for respite care services provided.

(ii) By rule and regulation limit the ability of individual eligible families to use the program so that all eligible families are able to use the program without exceeding the appropriation available;

(iii) Promulgate rules and regulations necessary for the administration of the program.

(b) As used in this section:

(i) "Developmental disability" means a severe, chronic disability of a person which is attributable to a mental, emotional or physical impairment or combination of impairments, manifested before the person attains twenty-two (22) years of age, is likely to continue indefinitely and results in substantial functional limitations in three (3) or more of the following areas:

(A) Self-care;

(B) Receptive and expressive language;

(C) Learning;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living; and

(G) Economic self-sufficiency.

(ii) "Respite care" means care of a developmentally disabled person by a competent person, trained to meet the individualized needs of a child who meets the eligibility

criteria of this program, for short periods of time to allow other members of the family reprieve from continuous care.

ARTICLE 7 - SCHOOL HEALTH

35-1-701. Joint committee created.

A joint committee on school health composed of the state department of education and the state department of health is hereby created and established.

35-1-702. Duties of joint committee; limitation upon application of policies.

It shall be the duty of the joint committee on school health to prescribe uniform policies regarding the medical services, sanitary environment and health instruction of the school children. Provided that any policies prescribed relating to medical treatment or physical examination shall not be applicable to any student whose parent or guardian in writing objects to such regulation on religious grounds. Such objection shall not exempt the student from the quarantine laws of the state, nor prohibit an examination for infectious or contagious diseases.

ARTICLE 8 - EMERGENCY MEDICAL SERVICES AND TRAUMA SYSTEM

35-1-801. Department of health to develop comprehensive emergency medical services and trauma system.

The department of health shall develop a comprehensive emergency medical services and trauma system.

35-1-802. Designation of trauma areas; trauma system hospitals.

(a) The department of health shall designate within the state trauma areas consistent with local resources, geography and current patient referral patterns.

(b) Each trauma area shall have:

(i) Medical control for all field care and transportation consistent with geographic and current communications capability;

(ii) Specified triage protocols;

(iii) Hospitals categorized according to existing standards of the department.

(c) On and after July 1, 1993, the department may designate trauma system hospitals in areas that meet state objectives and standards.

(d) On or after July 1, 1994, the department may implement area trauma system plans.

35-1-803. Trauma system hospitals designation.

Applications to be categorized or designated as trauma system hospitals shall be made upon forms provided by the department of health.

35-1-804. Department of health to promulgate rules; contents.

The department shall promulgate reasonable rules and regulations which specify state trauma system objectives and standards, hospital categorization criteria and criteria and procedures to be utilized in designating trauma system hospitals and for the prevention of trauma and injuries. The rules shall be in conformance with the most current standards of the American college of surgeons committee on trauma standards, but may be expanded into further categories.

35-1-805. Duties of the department of health.

The department of health shall identify the causes of trauma in Wyoming and propose programs of prevention thereof for consideration by the legislature, health care providers and other agencies concerned with accident prevention or aftercare.

ARTICLE 9 - MEDICAL MALPRACTICE INSURANCE ASSISTANCE ACCOUNT

35-1-901. Repealed by Laws 2021, ch. 149, § 3.

35-1-902. Repealed by Laws 2016, ch. 37, § 2.

35-1-903. Repealed by Laws 2021, ch. 149, § 3.

ARTICLE 10 - WYOMING CRITICAL ACCESS/RURAL HOSPITAL ENDOWMENT

35-1-1001. Wyoming critical access or rural hospital endowment challenge program.

The Wyoming critical access/rural hospital endowment challenge program is created.

35-1-1002. Definitions.

(a) As used in this article:

(i) "Challenge account" means the critical access or rural hospital endowment challenge account created under this article;

(ii) "Critical access or rural hospital" means:

(A) A county hospital established pursuant to W.S. 18-8-101, et seq., or a special district hospital established pursuant to W.S. 35-2-401, et seq., that is certified to receive cost-based reimbursement from Medicare or has forty (40) beds or less; or

(B) A hospital that is certified to receive cost-based reimbursement from Medicare or has forty (40) beds or less which is owned by a private not for profit entity and is operated in a county in this state in which there is no hospital meeting the requirements of subparagraph (A) of this paragraph.

(iii) "Endowment gift" means an irrevocable gift or transfer to a Wyoming critical access or rural hospital foundation of money or other property, whether real, personal, tangible or intangible, and whether or not the donor or transferor retains an interest in the property, where the gift or the foundation's interest in the property is required to be used by the foundation exclusively for endowment purposes, provided:

(A) The gift was received or the transfer occurred during the period July 1, 2007, through June 30, 2014; or

(B) A commitment to make the gift or transfer was made in writing to the respective critical access or rural hospital foundation, which commitment was received during the period July 1, 2007, through June 30, 2014, and the gift was received or the transfer occurred not later than June 30, 2015.

(iv) "Foundation" means an organization established for each critical access or rural hospital that among other purposes, exists to generate additional revenues for critical access or rural hospital programs and activities;

(v) "Permanent endowment funds managed by a Wyoming critical access or rural hospital foundation" means the endowment funds that are invested by the respective Wyoming critical access or rural hospital foundation on a permanent basis and the earnings on those investments are dedicated to be expended exclusively to benefit and promote the mission, operation or any program or activity of the respective critical access or rural hospital, including but not limited to capital and programmatic expenses, healthcare, increases to the corpus of the endowment and to defray reasonable costs of endowment administration;

(vi) "Unobligated," for purposes of W.S. 35-1-1003(b), means no commitment meeting the requirements of subparagraph (iii)(B) of this subsection was received prior to June 30, 2012.

35-1-1003. Wyoming critical access or rural hospital endowment challenge account.

(a) The Wyoming critical access or rural hospital endowment challenge account is created and, until June 30, 2013, shall consist of separate accounts, one (1) account for each Wyoming critical access or rural hospital.

(b) On June 30, 2012, from amounts which are within the challenge account, or as necessary within separate accounts which are unobligated, one million five hundred thousand dollars ($1,500,000.00) shall be segregated within the endowment challenge account for distribution as provided in W.S. 35-1-1004(k).

(c) The state treasurer shall invest funds within the account created under subsection (a) of this section and shall deposit the earnings from account investments to the general fund.

(d) Repealed by Laws 2025, ch. 63, § 2.

35-1-1004. Endowment challenge account matching program; matching payments; agreements with foundations; annual reports.

(a) Until June 30, 2012, funds within the challenge account shall be expended as provided in this subsection. Funds within a separate account which are obligated for commitments made prior to July 1, 2012 shall remain in the separate account to fulfill the obligation in accordance with this subsection until June 30, 2013. From and after July 1, 2012 funds in the challenge account shall be expended as provided in subsection (k) of this section. To the extent funds are available in the separate account of any critical access or rural hospital within the endowment challenge account, the state treasurer shall match endowment gifts actually received by that critical access or rural hospital's foundation. A match shall be paid under this subsection by the state treasurer at the time any accumulated amounts actually received by a critical access or rural hospital foundation total ten thousand dollars ($10,000.00) or more. The match shall be made by transferring from the separate challenge account to the appropriate critical access or rural hospital board of trustees an amount equal to the amount accumulated by the foundation or, if the critical access or rural hospital was eligible to receive revenues from any tax imposed under W.S. 35-2-414(b) and (c) and a tax was not levied or was levied pursuant to one (1) but not both of those subsections, an amount equal to fifty percent (50%) of the amount accumulated by the foundation. The board shall immediately transfer all matching funds received to its foundation. The critical access or rural hospital foundation shall match the funds received under this subsection with an equal amount of foundation funds to be managed in accordance with subsection (b) of this section.

(b) Each critical access hospital shall enter into an agreement with its foundation under which the foundation shall manage the matching funds received under subsection (a) of this section in the same manner as other permanent endowment funds are managed by its foundation, including the permanent investment of funds, maintenance of the fund corpus as inviolate and the expenditure of fund earnings for endowment purposes only.

(c) Earnings from endowment funds established with matching funds under this section shall be expended only for the purpose of the endowment, including increasing the balance in the fund corpus and reasonable costs of administration.

(d) The state treasurer shall make transfers to the appropriate critical access hospital board under this section not later than the end of the calendar quarter following the quarter during which foundation gifts total at least ten

thousand dollars ($10,000.00). If gifts are made through a series of payments or transfers, no matching funds shall be transferred under this section until the total value of all payments or transfers actually received totals at least ten thousand dollars ($10,000.00).

(e) Matching funds paid under this section shall not be distributed to or encumbered by any critical access or rural hospital foundation in excess of the amount in the challenge account for that critical access or rural hospital. Matching funds shall not be transferred to any critical access or rural hospital board by the state treasurer or from any such board to a foundation except to match gifts actually received by the foundation.

(f) If the foundation's board of any critical access or rural hospital determines that the purpose of an endowment gift to the critical access or rural hospital is not consistent with the mission or capability of that critical access or rural hospital, the gift shall not qualify for matching funds under this section.

(g) For the purpose of computing the matching amount, the state treasurer shall use the value of an endowment gift based upon its fair market value at the time the gift is received by the critical access or rural hospital foundation. The critical access or rural hospital shall provide evidence of fair market value for any gift if requested by the state treasurer and shall fund the cost of providing any requested evidence.

(h) Each critical access or rural hospital shall on or before October 1 of each year submit a report to the state treasurer from its foundation on the endowment matching program under this section for the preceding fiscal year. The report shall include a financial summary and a review of the accomplishments resulting from endowment program expenditures. The report required under this subsection shall be for each applicable fiscal year through June 30, 2015.

(j) Notwithstanding any other provision of this article, for any critical access or rural hospital qualifying under the provisions of W.S. 35-1-1002(a)(ii)(B), funds provided under this article shall be disbursed only to the board of county commissioners in which the hospital is located. The board of county commissioners shall provide those funds to the critical access or rural hospital under contract between the board of county commissioners and the critical access or rural hospital,

which contract shall incorporate all provisions of this article and which shall control the distribution and use of those funds.

(k) From and after July 1, 2012, to the extent a critical access or rural hospital has not received matching funds under this article totaling at least two hundred fifty thousand dollars ($250,000.00), and to the extent funds segregated under W.S. 35-1-1003(b) are available in the challenge account, the state treasurer shall match endowment gifts actually received by that critical access or rural hospital's foundation. A match shall be paid under this subsection by the state treasurer at the time any accumulated amounts actually received by a critical access or rural hospital foundation total ten thousand dollars ($10,000.00) or more. The match shall be made by transferring from the challenge account to the appropriate critical access or rural hospital board of trustees an amount equal to the amount accumulated by the foundation or, if the critical access or rural hospital was eligible to receive revenues from any tax imposed under W.S. 35-2-414(b) and a tax was not levied pursuant to that subsection, an amount equal to fifty percent (50%) of the amount accumulated by the foundation. The board shall immediately transfer all matching funds received to its foundation. The critical access or rural hospital foundation shall match the funds received under this subsection with an equal amount of foundation funds to be managed in accordance with subsection (b) of this section.

ARTICLE 11 - PROVIDER RECRUITMENT GRANT PROGRAM

35-1-1101. Provider recruitment grant program.

(a) There is created the Wyoming provider recruitment program administered by the department.

(b) There is created the Wyoming provider recruitment account. Funds in the account are continuously appropriated to the department to provide grants for provider recruitment. Up to ten percent (10%) of the funds may be used to advertise the provider recruitment program.

(c) Subject to the availability of funds, the department shall solicit provider recruitment applications from hospitals, physicians and others seeking to recruit providers. The applications shall be prioritized by need based on geographic area, then by medical need within the geographic area. Priority shall be given to recruitment of private practice providers. The department shall issue award letters to the persons or

entities receiving grant authorizations within sixty (60) days after the close of an application period. The grant authorizations shall authorize the person or entity receiving it, for a period of one (1) year, to make a firm offer of recruitment incorporating the benefits authorized by this section to a candidate, conditioned upon Wyoming licensure and the candidate's signed written agreement to the conditions of this section.

(d) The department shall promulgate rules and regulations to administer the program, including provisions for:

(i) Application forms for grants under the program;

(ii) Termination of grants and full or partial repayment if a provider fails to comply with the conditions of this section, rules and regulations of the department adopted pursuant to this section or the terms of the written incentive agreement;

(iii) Reporting requirements for grant recipients.

(e) Grants provided under this section shall be subject to the following:

(i) The provider shall be recruited to a stipulated geographic area;

(ii) A provider shall relocate his practice to the state of Wyoming from outside of the state to be eligible for a grant. Providers relocating to the state of Wyoming to become employed by the state or by the United States shall not be eligible for grants. The requirement to relocate pursuant to this paragraph shall not apply to providers recruited from a family practice residency in the state or recruitment of providers employed by the United States department of defense;

(iii) The recruitment conditions between a hospital and a physician shall meet the conditions set forth in 42 C.F.R. 411.357(e), as amended;

(iv) Recruitment of new providers shall be based on demonstrable need. Those recruiting persons or entities demonstrating the greatest need, in the discretion of the department shall be given the highest priority in receiving grants pursuant to this section;

(v) All recruitment incentives shall be in writing and shall be reported on federal income tax forms;

(vi) The recruited provider shall agree to provide medical services in the community to which he was recruited for a period of not less than two (2) years or the recruiting entity shall repay any monies granted under subparagraphs (e)(viii)(B) through (D) of this section to the state of Wyoming plus interest at the rate of ten percent (10%) per annum;

(vii) The recruited provider shall agree to provide medical care for not less than two (2) years in underserved areas of the state and shall accept patients qualified under the Medical Assistance and Services Act, Title XVIII of the federal Social Security Act and the child health insurance program who seek medical care which the health care provider is qualified to provide or the recruiting entity shall repay any monies granted under this section to the state of Wyoming plus interest at the rate of ten percent (10%) per annum;

(viii) Costs reimbursed through grants under the program shall be documented by the provider as required by the department and may include:

(A) As incentive to the provider recruitment process, recruitment actual costs, up to ten thousand dollars ($10,000.00) per recruited provider, may be awarded to the successful recruiting person or entity paying those costs;

(B) Relocation expenses, not to exceed twenty thousand dollars ($20,000.00);

(C) Malpractice insurance premium for two (2) years, not to exceed ten thousand dollars ($10,000.00) per year;

(D) Signing bonuses not to exceed thirty thousand dollars ($30,000.00).

(ix) Repealed by Laws 2015, ch. 89, § 2.

(x) Repealed by Laws 2015, ch. 89, § 2.

(f) As used in this section:

(i) "Department" means the department of health;

(ii) "Hospital" means a county memorial, rural health care district or special hospital district formed and licensed under the laws of the state;

(iii) "Physician" means an individual licensed or eligible to be licensed under the laws of this state to practice medicine;

(iv) "Program" means the Wyoming provider recruitment grant program;

(v) "Recruiting entity" means a hospital, physician, clinic or other appropriate local organization;

(vi) "Provider" means an individual licensed or eligible to be licensed in a health care profession under title 33 of the Wyoming statutes.

ARTICLE 12 - PALLIATIVE CARE

35-1-1201. Repealed by Laws 2022, ch. 55, § 1.

35-1-1202. Repealed by Laws 2022, ch. 55, § 2.

35-1-1203. Repealed by Laws 2022, ch. 55, § 1.

35-1-1204. Repealed by Laws 2022, ch. 55, § 1.

35-1-1205. Sunset.

W.S. 35-1-1201, 35-1-1203 and 35-1-1204 are repealed effective July 1, 2023.

CHAPTER 2 - HOSPITALS, HEALTH CARE FACILITIES AND HEALTH SERVICES

ARTICLE 1 - IN GENERAL

35-2-101. Repealed by Laws 1989, ch. 277, § 2.

35-2-102. Repealed by Laws 1989, ch. 277, § 2.

35-2-103. Repealed by Laws 1989, ch. 277, § 2.

35-2-104. Repealed by Laws 1989, ch. 277, § 2.

35-2-105. Repealed by Laws 1989, ch. 277, § 2.

35-2-106. Repealed by Laws 1989, ch. 277, § 2.

35-2-107. Repealed by Laws 1989, ch. 277, § 2.

35-2-108. Repealed by Laws 1989, ch. 277, § 2.

35-2-109. Repealed by Laws 1989, ch. 277, § 2.

35-2-110. Repealed by Laws 1989, ch. 277, § 2.

35-2-111. Repealed by Laws 1989, ch. 277, § 2.

35-2-112. Repealed by Laws 1989, ch. 277, § 2.

35-2-113. Doctors of medicine, osteopathy, chiropractic, dentistry or podiatrists may practice in public hospitals.

Any hospital owned by the state, or any hospital district, county or city thereof, and any hospital whose support, either in whole or in part, is derived from public funds, shall be open for practice to doctors of medicine, doctors of osteopathy, doctors of chiropractic, doctors of dentistry and podiatrists, who are licensed to practice medicine or surgery, chiropractic, dentistry or podiatry in this state. Provided, however, that these hospitals by appropriate bylaws shall promulgate reasonable and uniform rules and regulations covering staff admissions and staff privileges. Admission shall not be predicated solely upon the type of degree of the applicant and the governing body shall consider the competency and character of each applicant.

35-2-114. Liability insurance authorized; effect of procurement.

(a) The governing body of any county memorial hospital, hospital district or other governmental agency which provides health care services or mental health services within this state may procure any type or amount of liability insurance coverage as it deems prudent to cover any loss by reason of liability for damages on account of injury, sickness or disease, death, property loss or damage. This shall not be construed as creating a liability of such county memorial hospital, hospital district or governmental agency insuring itself, nor shall the failure to procure any such insurance be construed as creating any liability of the county memorial hospital, hospital district or other governmental agency.

(b) To the extent of any such insurance coverage procured by a county memorial hospital, hospital district or other governmental agency providing health care or mental health services, the defense of governmental immunity is expressly waived. All defenses which would be available to a private corporation in an action against the corporation are available to the county memorial hospital, hospital district or other health care governmental agency.

(c) None of these provisions shall be construed as waiving the individual immunity of any employee, board member or officer of a county memorial hospital, hospital district or other health care governmental agency when the person is acting within the scope of his employment or authority.

35-2-115. Emergency services.

(a) Emergency service and care shall be provided, at the regularly established charges of the hospital, to any person requesting such services or care, or for whom such services or care is requested, for any condition in which the person is in danger of loss of life, or serious injury or illness, at any hospital licensed in the state of Wyoming that maintains and operates emergency services to the public when such hospital has appropriate facilities and qualified personnel available to provide such services or care.

(b) Neither the hospital, its employees, nor any physician licensed to practice in the state of Wyoming shall be held liable in any action arising out of a refusal to render emergency services or care at such licensed hospital, if ordinary medical care and skill is exercised in determining the condition of the person, and a decision is made that such refusal shall not result in any permanent illness or injury to such person or a decision is made that sufficient qualified personnel are not available to treat said person, or a decision is made that facilities or equipment are not available to treat said person or in determining the appropriateness of the facilities, the qualifications and availability of personnel to render such services.

35-2-116. Repealed by Laws 1983, ch. 63, § 2.

35-2-117. Repealed by Laws 1983, ch. 63, § 2.

35-2-118. Reserved.

35-2-119. Repealed by Laws 1989, ch. 277, § 2.

35-2-120. Repealed by Laws 1989, ch. 277, § 2.

35-2-121. Repealed by Laws 1987, ch. 52, § 1.

35-2-122. In-person visitation with clergy members.

(a) As used in this section:

(i) "Clergy member" means a rabbi, priest, minister or any person acting as a lay religious counselor of any religious denomination or sect;

(ii) "Health care facility" includes but is not limited to as defined in W.S. 35-2-901(a)(x);

(iii) "Public health emergency" means as defined in W.S. 35-4—115(a)(i).

(b) Except as provided in subsection (c) of this section, no health care facility shall prohibit a resident or patient of that facility from receiving in-person visitation with a clergy member during a public health emergency, provided that the visitation is at the request of:

(i) The patient or resident; or

(ii) The patient's or resident's legally authorized representative, including a family member of the patient or resident, if the patient or resident is incapacitated.

(c) During a public health emergency, a health care facility may impose and enforce requirements promulgated under W.S. 35-1-240 or by the centers for disease control and prevention, the centers for Medicaid and Medicare services, the state health officer under W.S. 35-1-240, the joint commission on the accreditation of healthcare organizations or other accredited organizations that provide deemed status on behalf of the centers for Medicaid and Medicare services for health care for clergy members to comply with to visit patients or residents of that facility. A health care facility shall not prohibit a clergy member from visiting a patient or resident in that facility unless the clergy member refuses to follow the requirements that the health care facility has required in accordance with this subsection.

ARTICLE 2 - NEW INSTITUTIONAL HEALTH SERVICES

35-2-201. Repealed by Laws 1985, ch. 227, § 4; 1987, ch. 225, § 1.

35-2-202. Repealed by Laws 1985, ch. 227, § 4; 1987, ch. 225, § 1.

35-2-203. Repealed by Laws 1985, ch. 227, § 4; 1987, ch. 225, § 1.

35-2-204. Repealed by Laws 1985, ch. 227, § 4; 1987, ch. 225, § 1.

35-2-205. Repealed by Laws 1985, ch. 227, § 4; 1987, ch. 225, § 1.

35-2-206. Repealed by Laws 1985, ch. 227, §§ 1, 4; 1987, ch. 225, § 1.

35-2-207. Repealed by Laws 1985, ch. 227, §§ 2, 4; 1987, ch. 225, § 1.

35-2-208. Repealed by Laws 1985, ch. 227, § 4; 1987, ch. 225, § 1.

35-2-209. Repealed by Laws 1985, ch. 227, § 4; 1987, ch. 225, § 1.

35-2-210. Repealed by Laws 1985, ch. 227, § 4; 1987, ch. 225, § 1.

35-2-211. Repealed by Laws 1985, ch. 227, § 4; 1987, ch. 225, § 1.

35-2-212. Repealed by Laws 1985, ch. 227, § 2.

35-2-213. Repealed by Laws 1985, ch. 227, § 2.

35-2-214. Repealed by Laws 1985, ch. 227, § 2.

ARTICLE 3 - STATE HOSPITAL AND MEDICAL FACILITIES

Division 1. In General

35-2-301. Short title.

This act may be cited as the "State Hospital and Medical Facilities Survey and Construction Act."

35-2-302. Definitions.

(a) As used in this act:

(i) "Commissioner" means the director of the state department of health. The director of the state department of health shall be, ex officio, the commissioner;

(ii) "The federal act" means title VI of the Public Health Service Act (42 U.S.C. § 291 et seq.) as is now and as may hereafter be amended;

(iii) "The surgeon general" means the surgeon general of the public health service of the United States;

(iv) "Hospital" includes public health centers and general, tuberculosis, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care;

(v) "Public health center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics and administrative offices operated in connection with public health centers;

(vi) "Nonprofit hospital" means any hospital or medical facility owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(vii) "Medical facilities" means diagnostic or diagnostic and treatment centers, rehabilitation facilities and nursing homes as those terms are defined in the federal act and such other medical facilities for which federal aid may be authorized under the federal act.

35-2-303. Department of health; sole agency for making an inventory and developing and administering state plan.

(a) The department of health shall constitute the sole agency of the state for the purpose of:

(i) Making an inventory of existing hospitals and medical facilities, surveying the need for construction of hospitals and medical facilities, and developing a program of hospital construction as provided in W.S. 35-2-320 through 35-2-322; and

(ii) Developing and administering a state plan for the construction of public and other nonprofit hospitals and medical facilities as provided in W.S. 35-2-340 through 35-2-345.

35-2-304. Powers and duties of commissioner enumerated.

(a) In carrying out the purposes of the act, the commissioner is authorized and directed:

(i) To require such reports, make such inspections and investigations and prescribe such regulations as he deems necessary;

(ii) To provide such methods of administration, appoint personnel and take such other action as may be necessary to comply with the requirements of the federal act and the regulations thereunder;

(iii) To procure the temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(iv) To the extent that he considers desirable to effectuate the purposes of this act, to enter into agreements for the utilization of the facilities and services of other departments, agencies, and institutions, public or private;

(v) To accept on behalf of the state and to deposit with the state treasurer any grant, gift or contribution made to assist in meeting the cost of carrying out the purposes of this act, and to expend the same for such purposes;

(vi) As required by W.S. 9-2-1014, to report to the governor concerning activities and expenditures and

recommendations for such additional legislation as the commissioner considers appropriate to furnish adequate hospital, clinic, and similar facilities to the people of this state.

35-2-305. Repealed by Laws 1979, ch. 155, § 3.

35-2-306. Disbursement of funds.

All claims against funds made available for the administration of this act shall be submitted, audited, allowed and paid in the same manner as other claims against the state and in addition thereto shall be approved by the commissioner.

Division 2. Survey and Planning

35-2-320. Duties of commissioner.

The commissioner is authorized and directed to make an inventory of existing hospitals and medical facilities, including public, nonprofit and proprietary hospitals and medical facilities, to survey the need for construction of hospitals and medical facilities, and, on the basis of such inventory and survey, to develop a program for the construction of such public and other nonprofit hospitals and medical facilities as will, in conjunction with existing facilities, afford the necessary physical facilities for furnishing adequate hospital, medical facility and similar services to all the people of the state.

35-2-321. Construction program.

The construction program shall provide, in accordance with regulations prescribed under the federal act, for adequate hospital facilities for the people residing in this state and insofar as possible shall provide for their distribution throughout the state in such manner as to make all types of hospital and medical facility services reasonably accessible to all persons in the state.

35-2-322. Application for and use of federal funds.

The commissioner is authorized to make application to the surgeon general for federal funds to assist in carrying out the survey and planning activities herein provided. Such funds shall be deposited in the state treasury and shall be available for expenditure for carrying out the purposes of W.S. 35-2-320 through 35-2-322. Any such funds received and not expended for

such purposes shall be repaid to the treasury of the United States.

Division 3. State Plan

35-2-340. Preparation and submission to surgeon general; notice and hearing prerequisite to submission; publication upon approval; subsequent modifications.

The commissioner shall prepare and submit to the surgeon general a state plan which shall include the hospital and medical facilities construction program developed under W.S. 35-2-320 through 35-2-322 and which shall provide for the establishment, administration, and operation of the hospital and medical facilities construction activities in accordance with the requirements of the federal act and regulations thereunder. The commissioner shall, prior to the submission of such plan to the surgeon general, give adequate publicity to a general description of all the provisions proposed to be included therein, and hold a public hearing at which all persons or organizations with a legitimate interest in such plan may be given an opportunity to express their views. After approval of the plan by the surgeon general, the commissioner shall publish a general description of the provisions thereof in at least one (1) newspaper having general circulation in each county in the state, and shall make the plan, or a copy thereof, available upon request to all interested persons or organizations. The commissioner shall from time to time review the hospital and medical facilities construction program and submit to the surgeon general any modifications thereof which he may find necessary and may submit to the surgeon general such modifications of the state plan, not inconsistent with the requirements of the federal act, as he may deem advisable.

35-2-341. Minimum standards of maintenance.

The commissioner shall by regulation prescribe minimum standards for the maintenance and operation of hospitals and medical facilities which receive federal aid for construction under the state plan.

35-2-342. Relative need for projects to be set forth.

The state plan shall set forth the relative need for the several projects included in the construction program determined in accordance with regulations prescribed pursuant to the federal act, and provide for the construction, insofar as financial

resources available therefor and for maintenance and operation make possible, in the order of such relative need.

35-2-343. Applications for construction projects; conformity to federal and state requirements required.

Applications for hospital and medical facility construction projects for which federal funds are requested shall be submitted to the commissioner and may be submitted by the state or any political subdivision thereof or by any public or nonprofit agency authorized to construct and operate a hospital or a medical facility. Each application for a construction project shall conform to federal and state requirements.

35-2-344. Hearing and approval of applications for construction.

The commissioner shall afford to every applicant for a construction project an opportunity for a fair hearing. If the commissioner, after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that a project application complies with the requirements of W.S. 35-2-343 and is otherwise in conformity with the state plan, he shall approve such application and shall recommend and forward it to the surgeon general.

35-2-345. Inspection of construction projects; payment of installment of federal funds.

From time to time the commissioner shall inspect each construction project approved by the surgeon general, and, if the inspection so warrants, the commissioner shall certify to the surgeon general that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of federal funds is due to the applicant.

ARTICLE 4 - HOSPITAL DISTRICTS

35-2-401. Establishment of hospital district.

(a) Repealed by Laws 1998, ch. 115, § 5.

(b) Repealed by Laws 1998, ch. 115, § 5.

(c) Repealed by Laws 1998, ch. 115, § 5.

(d) A special hospital district may be established and subsequent elections held under the procedures for petitioning, hearing and election of special districts as set forth in the Special District Elections Act of 1994.

(i) Repealed by Laws 2017, ch. 106, § 2.

(ii) Repealed by Laws 2017, ch. 106, § 2.

(iii) Repealed by Laws 2017, ch. 106, § 2.

(e) As an alternative to the procedures specified in subsection (d) of this section, a special hospital district may be established and subsequent elections held through the following procedures:

(i) The board of county commissioners may, by resolution, submit the question of establishing the special hospital district to the electors of the proposed district at the next general election or another date as provided by W.S. 22-2-104. The board shall provide notice that it will consider the resolution at least thirty (30) days prior to the meeting at which the resolution will be considered. Notice of the election shall be given as required by W.S. 22-29-110;

(ii) If a majority of the voters in the proposed district voting at the election specified in paragraph (i) of this subsection vote for the establishment of the district the board of county commissioners shall enter that fact upon its record and the district is established;

(iii) Any subsequent election for a special hospital district established under this subsection shall be held as set forth in the Special District Elections Act of 1994.

35-2-402. Repealed by Laws 1998, ch. 115, § 5.

35-2-403. Body corporate; name and style; powers generally; rules and regulations of trustees; definitions of certain terms.

(a) Each district is a body corporate, the name of which shall be selected by the board of county commissioners of the county in which the greater area of land within the district is located and which shall be entered upon the commissioner's records. In the name selected, the district may hold property and be a party to contracts, shall have power to sue and be

sued, shall be empowered through its governing board to acquire real and personal property and equipment for hospital purposes by gift, devise, bequest or purchase, and enter into contracts for the acquisition by purchase or lease of real and personal property and equipment and convey, lease and otherwise dispose of its property for the hospital. The trustees may make rules and regulations necessary for the purposes of the hospital district and shall file them with the county clerk for each county in which the district is located, and establish sinking funds for hospital purposes as well as issue bonds for the purchase of real property and improvements and equipment for hospital purposes in the manner hereinafter provided.

(b) As used in this act:

(i) "Hospital" and "hospital purposes" means any institution, place, building or agency in which any accommodation is maintained, furnished or offered for the hospitalization of the sick or injured or care of any person requiring or receiving chronic or convalescent care or emergency medical services, and includes public health centers, community mental health centers and other types of hospitals and centers, including but not limited to general, tuberculosis, mental and chronic disease hospitals, and also medical facilities, and related facilities;

(ii) "Medical facilities" includes but is not limited to diagnostic or treatment centers, rehabilitation facilities and nursing homes, as those terms are defined in the Federal Act Public Law 482, 83 congress, July 12, 1954 (C. 471, Sec. 4 (c)-(f), 68 Stat. 465-466), as amended;

(iii) "Related facilities" means but is not limited to laboratories, outpatient departments, nurses' homes and nurses' training facilities and central service facilities operated in connection with hospitals.

(c) In addition to subsection (a) of this section, each district may engage in activities authorized under:

(i) W.S. 18-8-301 subject to requirements and conditions specified therein;

(ii) W.S. 35-2-1202(a) for the purpose of providing senior health care as defined in W.S. 35-2-1201(b). This paragraph shall not be construed to authorize an increase to the

district mill level beyond the limits established in W.S. 35-2-414.

(d) Subject to constitutional limitations, in addition to any other securities the legislature authorizes or has authorized by law for investment, any funds of the district may be invested by the board in any security which has been recommended by an investment advisor registered under the Uniform Investment Advisor's Act of 1940 as amended, or any bank exercising its trust powers, and approved by the district board. In approving securities for the investment under this subsection, the board shall be subject to and act in accordance with the provisions of the Wyoming Uniform Prudent Investor Act. The provisions of this subsection shall not be construed to authorize the use of any revenues generated from taxes to engage in any activity authorized under W.S. 18-8-301(a).

35-2-404. Procedure for initial election of trustees; number, term of trustees; qualifications; disposition of ballots and affidavits.

(a) An election of trustees shall be held in accordance with the Special District Elections Act of 1994 at the same time as the election for the formation of the district. At the election a board of five (5) trustees shall be elected who shall serve without compensation to govern the affairs of the district. There shall be elected three (3) members to serve until the next succeeding district election and two (2) members to serve until the second succeeding district election and until their successors are elected and qualified. Thereafter, members shall be elected for terms of four (4) years. The board of trustees shall, prior to the publication of notice required under W.S. 22-29-112(c), determine whether the board of trustees should be established at five (5) members or seven (7) members. If the board determines that the number of trustees should be expanded it may appoint the additional members in accordance with W.S. 22-29-202 until the next subsequent trustee election. The next subsequent trustee election shall reflect any modification made. If a board of trustees fails to establish the number of trustees to be elected, the board shall be established at five (5) members. No current term of any trustee shall be affected by any modification made under this subsection. Subsequent elections shall be held in accordance with the Special District Elections Act of 1994.

(b) Excluding employees of the district, any qualified elector resident in a hospital district is eligible to hold the office of hospital district trustee in the hospital district.

(c) After the official certificate of election has been prepared, ballots and affidavits shall be sealed in envelopes and retained by the appropriate board for six (6) months or until termination of any election contest affected by the ballots or affidavits and shall then be destroyed. Prior to destruction, the envelope shall be opened only on court order.

35-2-405. Repealed by Laws 1980, ch. 19, § 3.

35-2-406. Repealed by Laws 1980, ch. 19, § 3.

35-2-407. Repealed by Laws 1980, ch. 19, § 3.

35-2-408. Repealed by Laws 1980, ch. 19, § 3.

35-2-409. Repealed by Laws 1980, ch. 19, § 3.

35-2-410. Repealed by Laws 1980, ch. 19, § 3.

35-2-411. Repealed by Laws 1980, ch. 19, § 3.

35-2-412. Repealed by Laws 1998, ch. 115, § 5.

35-2-413. Repealed by Laws 1998, ch. 115, § 5.

35-2-414. Administration of finances; assessment and levy of tax.

(a) The board of trustees of special hospital districts shall administer the finances of such districts according to the provisions of the Uniform Municipal Fiscal Procedures Act. The assessor shall at the time of making the annual assessment of his district also assess the property of each special hospital district in his county and return to the county assessor at the time of returning the assessment schedules, separate schedules listing the property of each such district assessed by him. Said separate schedules shall be compiled by the county assessor, footed and returned to the board of county commissioners as provided for other assessment schedules.

(b) The board of county commissioners, at the time of making the levy for county purposes shall levy a tax for that year upon the taxable property in such district in its county

for its proportionate share based on assessed valuation of the estimated amount of funds needed by each such district, but in no case shall the tax for such district exceed in any one (1) year the amount of three (3) mills for operation on each dollar of assessed valuation of such property except as provided by subsection (c) of this section. There shall be no limit on the assessment for the payment of principal and interest on bonds approved by the board of county commissioners and approved by the electors of the district as provided in W.S. 35-2-415. The taxes and assessments of all special hospital districts shall be collected by the county collector at the same time and in the same manner as state and county taxes are collected, provided, however, said assessment and tax levied under the provisions of this act shall not be construed as being a part of the general county mill levy.

(c) Notwithstanding subsection (b) of this section, if the board of trustees votes to increase the mill levy beyond three (3) mills as authorized by subsection (b) of this section, the board of county commissioners shall call an election within the district upon the question of whether the mill levy should be increased beyond three (3) mills. The election shall be called, conducted and canvassed as provided for bond elections by the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112, on the first date authorized under W.S. 22-21-103 which is not less than sixty (60) days after the trustees vote to increase the mill levy beyond three (3) mills. In no event shall the tax in a district exceed in any one (1) year the amount of six (6) mills for operation and maintenance on each dollar of assessed valuation of property. The increase in mill levy is effective only if the question is approved by a majority of those voting thereon within the hospital district. The cost of any special election under this subsection shall be borne by the board of trustees.

(d) If the proposition to authorize a mill levy is approved, the same proposition or a proposition to impose a mill levy in a different amount, not to exceed three (3) mills, shall be submitted to the voters, until defeated, at the second general election following the election at which the proposition was initially approved and at the general election held every four (4) years thereafter. If the proposition to impose or continue the tax is defeated, the proposition shall not again be submitted to the electors for at least twenty-three (23) months.

35-2-415. General obligation coupon bonds; requirements as to issuance generally; submission of question to electors.

The board of trustees of a hospital district may upon approval of the board of county commissioners submit to the electors of the district the question whether the board shall be authorized to issue the general obligation coupon bonds of the district in a certain amount, not to exceed five percent (5%) of the assessed value of the taxable property in the district, and bearing a certain rate of interest, payable and redeemable at a certain time, not exceeding twenty-five (25) years for the purchase of real property, for the construction or purchase of improvements and for equipment for hospital purposes.

35-2-416. General obligation coupon bonds; conduct and results of election.

The election authorized under W.S. 35-2-415 shall be called, conducted and the results thereof canvassed and certified in all respects as near as practicable in the same manner as is provided for bond elections by the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112.

35-2-417. General obligation coupon bonds; issuance, form, notice, value, rejection of bids, and private sale.

If the proposal to issue said bonds shall be approved, the board of trustees may issue such bonds in such form as the board may direct and shall give notice by publication in some newspaper published in the counties in which said district is located and in some newspaper of general circulation in the capital of this state of its intention to issue and negotiate such bonds, and to invite bidders therefor; provided that in no case shall such bonds be sold for less than their full or par value and the accrued interest thereon at the time of their delivery. And the said trustees are authorized to reject any bids, and to sell said bonds at private sale, if they deem it for the best interests of the district.

35-2-418. General obligation coupon bonds; preparation and execution; register to be kept.

After ascertaining the best terms upon and the lowest interest at which said bonds can be negotiated, the board shall secure the proper engraving and printing and consecutive numbering thereof, and said bonds shall thereupon be otherwise properly prepared and executed. They must bear the signature of the president of the board of trustees and be countersigned by the secretary of the board and bear the district seal and be

countersigned by the county treasurer of the county in which said district's funds are kept, and the coupons attached to the bonds must be signed by the said president, secretary and county treasurer; and the secretary of the board shall endorse a certificate upon every such bond, that the same is within the lawful debt limit of such district and is issued according to law and he shall sign such certificate in his official character. When so executed, they shall be registered by the county treasurer where said district's funds are kept in a book provided for that purpose, which must show the number and amount of each bond and the person to whom the same is issued.

35-2-419. General obligation coupon bonds; payment guaranteed.

The full faith and credit of each hospital district is solemnly pledged for the payment of the interest and the redemption of the principal of all bonds which are issued by such district.

35-2-420. General obligation coupon bonds; payment of interest and principal.

The county treasurer where said district's funds are kept may pay out of any moneys belonging to said district tax fund, the interest and the principal upon any bonds issued by such district, when the same becomes due, upon the presentation at his office of the proper coupon or bond, which must show the amount due, and each coupon must also show the number of the bond to which it belonged, and all bonds and coupons so paid, must be reported to the district trustees at their first regular meeting thereafter.

35-2-421. General obligation coupon bonds; validity.

All hospital districts heretofore formed and organized under the provisions of chapter 58 of the Session Laws of Wyoming, 1949, or under the provisions of chapter 141, Session Laws of Wyoming, 1951, are hereby declared to be duly organized and existing hospital districts; and all bonds heretofore issued and sold for the purpose of providing for the purchase of real property and improvements and equipment for hospital purposes, by any hospital district established under the provisions of chapter 58, Session Laws of Wyoming, 1949, or under the provisions of chapter 141, Session Laws of Wyoming, 1951, where the purchase money for such bonds has been actually received and retained for the purpose for which such bonds were sold, are hereby declared to be the valid and legally binding obligations of such district

and all proceedings under which such bonds were issued are approved, ratified and declared valid.

35-2-422. Additional area within district; annexation; method.

(a) Whenever a hospital district has been established as provided by law, it may be enlarged by annexation of additional, contiguous territory within the county.

(b) Whenever a petition, signed by twenty-five percent (25%) of the registered electors residing within the area to be annexed in the county which is not part of an established hospital district in the county, is presented to the board of county commissioners of the county, the county commissioners shall within five (5) days request the board of trustees of the established hospital district either to approve or reject the petition.

(c) The board of trustees of the hospital district shall act upon the request within thirty (30) days. If no action is taken within that time, the petition is deemed rejected by the trustees. If the petition is accepted by the trustees, the board of county commissioners shall call an election within the county upon the question of whether the area described by the petition shall be annexed to the existing hospital district. The election shall be called for the next election date authorized under W.S. 22-21-103 which is not less than sixty (60) days after the petition is accepted and be conducted in accordance with the procedure for bond elections as provided by the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112. The annexation is effective only if the question is approved by a majority of those voting thereon both within the existing hospital district and within the area described by the petition. The board of county commissioners shall by resolution declare the district expanded by the additional area and shall designate a name for the expanded hospital district.

(d) After the resolution declaring the existence of the expanded hospital district, the board of county commissioners shall call an election for the purpose of election of trustees of the hospital district as expanded. The board of trustees of the hospital district shall be qualified electors of the entire district so expanded. The election shall be called for a date determined by the board of county commissioners and shall be held in the manner provided by law for the first election of trustees of the original district. Trustees of the original

district shall remain in office until the trustees of the expanded district are elected and qualified.

35-2-423. Restriction on maintenance of hospitals in cities and towns.

No city or town which is within the boundaries of a special hospital district organized under W.S. 35-2-401 through 35-2-436 shall construct or operate a hospital more than one (1) year after the formation of the hospital district. Nothing in this section prohibits a city or town from contributing to the support of a hospital district.

35-2-424. Securities for acquiring and improving hospitals and related facilities; issuance authorized; lines of credit and tax and revenue anticipation notes.

(a) The trustees of a hospital district established pursuant to W.S. 35-2-401, are hereby authorized to issue revenue bonds, notes and warrants or other revenue securities, hereinafter referred to as securities, for the purpose of acquiring, erecting, constructing, reconstructing, improving, remodeling, furnishing and equipping hospitals and related facilities including any facilities for senior health care as defined under W.S. 35-2-1201(b), and acquiring a site or sites therefor, from time to time hereafter as the trustees may determine.

(b) If there are no monies available to the trustees of a hospital district before receipt of property taxes the trustees may issue warrants in anticipation of the receipt of property taxes for payment of operational expenses. The aggregate amount of the warrants shall not exceed the total amount of taxes levied. The warrants shall be payable solely from the collected taxes.

(c) The trustees of a hospital district may obtain financing for its operations by entering into agreements for lines of credit with any financial institution as defined in W.S. 13-1-101(a)(ix). The line of credit may either be unsecured, or secured by a pledge of revenues anticipated to be received during the current fiscal year.

(d) In addition to its authority to issue warrants under this section, the trustees of a hospital district may issue tax and revenue anticipation notes in amounts not to exceed eighty percent (80%) of the total amount of taxes levied for operation

of the district for the fiscal year during which the notes are issued when the board determines that insufficient funds are available to meet the obligations of the hospital during any fiscal year. A hospital district shall not enter into agreements or issue instruments of the type allowed by this section for any fiscal year until all debts financed by such agreements or instruments for any prior fiscal year have been paid in full. Tax and revenue anticipation notes issued under this subsection are subject to the procedural requirements of W.S. 9-4-1103 through 9-4-1105 for state tax and revenue anticipation notes, except:

(i) The authority of the state treasurer referenced in W.S. 9-4-1103 through 9-4-1105 shall be exercised by the board issuing the notes; and

(ii) Notwithstanding W.S. 9-4-1105(a), investments of the proceeds of the notes by the board are limited to those investments authorized under W.S. 9-4-831.

35-2-425. Securities for acquiring hospitals and related facilities; requirements generally.

(a) Except as otherwise provided, securities issued hereunder shall be authorized by resolution adopted by the trustees, shall bear date or dates, shall be in a denomination or denominations, shall mature at a time or times but in no event exceeding fifty (50) years from their date, shall be sold at public or private sale, and the securities and coupons shall be payable in a medium of payment at a banking institution or other place or places within or without the state, as determined by the trustees, may be made subject to prior redemption in advance of maturity in order or by lot or otherwise at a time or times without or with the payment of a premium or premiums not exceeding ten percent (10%) of the principal amount of the security so redeemed, as determined by the trustees. The resolution may provide for the accumulation of net revenue for a reserve fund and shall contain other or further covenants and agreements as may be determined by the governing board for the protection of bondholders.

(b) Any resolution authorizing the issuance of securities or other instruments appertaining thereto may provide for the capitalizing of interest on any securities during any period of construction estimated by the trustees and one (1) year thereafter and any other cost of any project herein authorized,

by providing for the payment of the amount capitalized from the proceeds of the securities.

(c) Securities may be issued with privileges for conversion or registration, or both, for payment as to principal or interest, or both.

(d) Any resolution authorizing the issuance of securities, or any other instrument appertaining thereto may provide for their reissuance in other denominations in negotiable or nonnegotiable form and otherwise in such manner and form as the trustees may determine.

(e) Any resolution authorizing, or other instrument appertaining to, any securities hereunder may provide that each security therein authorized shall recite that it is issued under authority hereof. Such recital shall conclusively impart full compliance with all of the provisions hereof, and all securities issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

(f) Subject to the payment provisions herein specifically provided, any securities, any interest coupons thereto attached, shall be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code, except as the trustees may otherwise provide, and each holder of such security, or of any coupons appertaining thereto, by accepting such security or coupon shall be conclusively deemed to have agreed that such security or coupon (except as otherwise provided) is and shall be fully negotiable within the meaning and for all purposes of said Uniform Commercial Code.

(g) Notwithstanding any other provision of law, the trustees in any proceedings authorizing securities hereunder:

(i) May provide for the initial issuance of one (1) or more securities aggregating the amount of the entire issue or any part thereof;

(ii) May make such provisions for installment payments of the principal amount of any such security as it may consider desirable;

(iii) May provide for the making of any such security payable to bearer or otherwise, registrable as to principal or as to both principal and interest, and where interest accruing

thereon is not represented by interest coupons, for the endorsing of payment of interest on such securities.

(h) Except for any securities which are registrable for payment of interest, interest coupons payable to bearer and appertaining to the securities shall be issued and shall bear the original or facsimile signature of the president of the trustees.

(j) Any securities herein authorized may be executed as provided by W.S. 16-2-101 through 16-2-103.

(k) The securities and any coupons bearing the signature of the officers in office at the time of the signing thereof, shall be valid and binding obligations of the trustees, notwithstanding that before the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices.

35-2-426. Securities for acquiring hospitals and related facilities; not a general obligation of hospital district or trustees; payable from special fund.

The securities to be issued hereunder shall not constitute a general obligation of the hospital district, nor of the trustees, but shall be payable solely from a special fund to contain the net revenue to be derived from the operation of the hospitals and related facilities including any facilities for senior health care as defined under W.S. 35-2-1201(b), such revenues being defined as those remaining after paying the costs of operating and maintaining said facilities.

35-2-427. Securities for acquiring hospitals and related facilities; issuance from time to time in one or more series.

The securities authorized hereby may be issued from time to time and in one (1) or more series as the trustees may determine.

35-2-428. Securities for acquiring hospitals and related facilities; obligation of trustees to holders; suit for default, misuse of funds.

The obligation of the trustees to the holders of the securities shall be limited to applying the funds, as set forth above, to the payment of interest and principal on said securities, and the securities shall contain a provision to that effect. In the event of default in the payment of said securities or the

interest thereon, and in the event that the trustees are misusing such funds or not using them as provided by this act and the resolution authorizing the securities, or in the event of any other breach of any protective covenant or other contractual limitation, then such holders, or any of them, may bring suit against the trustees in the district court of the county in which the hospital or any of its related facilities including any facilities for senior health care as defined under W.S. 35-2-1201(b), are located for the purpose of restraining the trustees from using such funds for any purpose other than the payment of the principal and interest on such securities in the manner provided, or for any other appropriate remedy.

35-2-429. Construction to be done by contract based on competitive bidding; alternate delivery methods.

(a) Except as provided under subsection (b) of this section and otherwise, the work of constructing the various buildings shall be done by contract based on competitive bidding. Notice of call for bids shall be for such period of time and in such manner as the trustees may determine, and the trustees shall have the power to reject any and all bids and readvertise for bids as they consider proper.

(b) Any hospital district may contract for design and construction services through an alternate delivery method as defined in W.S. 16-6-701.

35-2-430. Board may insure facilities.

The board may insure said facilities against public liability, property damage or loss of revenues from any cause.

35-2-431. Investment in securities.

Securities issued pursuant to this act shall be eligible for investment by banking institutions and for estate, trust, and fiduciary funds, and such securities and the interest thereon shall be exempt from taxation by this state and any subdivision thereof. The state treasurer of the state of Wyoming with the approval of the governor and the attorney general is hereby authorized to invest any permanent state funds available for investment in the securities to be issued hereunder.

35-2-432. Refunding securities.

(a) Any securities of the board of a hospital district issued hereunder or pursuant to any other act and payable from any pledged revenues may be refunded by the board by the adoption of a resolution or resolutions by the board authorizing the issuance of securities at public or private sale:

(i) To refund, pay, and discharge all or any part of such outstanding securities of any one (1) or more or all outstanding issues, including any interest thereon in arrears, or about to become due for any period not exceeding three (3) years from the date of the refunding securities; or

(ii) For the purpose of reducing interest costs or effecting other economies; or

(iii) For the purpose of modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds, otherwise concerning the outstanding securities, or to any facilities appertaining thereto; or

(iv) For the purpose of avoiding or terminating any default; or

(v) For any combination thereof.

(b) Nothing contained in this act nor in any other law of this state shall be construed to permit the board to call securities now or hereafter outstanding for prior redemption in order to refund such securities or in order to pay them prior to their stated maturities, unless the right to call such securities for prior redemption was specifically reserved and stated in such securities at the time of their issuance.

(c) Except as provided in this section, refunding securities shall be subject to the same rights, liabilities, conditions and covenants as are provided for the securities contained in this act.

35-2-433. Powers and responsibility of board of trustees.

The board of trustees have plenary powers and responsibility for the acquisition, construction, and completion of all projects authorized by the resolution to issue revenue securities or refunding securities.

35-2-434. Board may accept grants.

The board may accept grants of money or materials or property of any kind from the federal government, the state, any agency or political subdivision thereof, or any person, upon such terms and conditions as the federal government, the state, or such agency or political subdivision, or person may impose.

35-2-435. Charges and rentals.

The board shall establish and collect charges for services and rentals for use of facilities furnished, acquired, constructed, or purchased from the proceeds of such securities, sufficient to pay the principal or the interest, or both, on the securities as they become due and payable, together with such additional sums as may be deemed necessary for accumulating reserves and providing for obsolescence and depreciation and to pay the expenses of operating and maintaining such facilities. The board shall establish all other charges, fees, and rates to be derived from the operation of the hospital or any other facility of the hospital district.

35-2-436. Liberal construction.

This act being necessary to secure the public health, safety, convenience and welfare, shall be liberally construed to effect its purposes.

35-2-437. Trustee districts by rule; requirements.

When the assessed valuation of the property within a hospital district exceeds three million dollars ($3,000,000.00), the board of trustees for that hospital district may divide the district into no more than three (3) trustee districts and provide for the election of at least one (1) trustee from each trustee district. To become effective, the rule creating trustee districts shall be approved by order of the board of county commissioners of the county in which the greater area of property within the district is located. All trustees shall be residents or property owners of the trustee district from which elected. The board of trustees may provide for the trustees to be elected at-large if these trustees are residents of the hospital district.

35-2-438. Dissolution; bankruptcy.

(a) Subject to the requirements of this section, the trustees of a hospital district may vote to file bankruptcy under chapter 9 of the United States bankruptcy code or to

dissolve and terminate the district. The plan to dissolve and terminate the district shall provide for the following:

(i) Payment of all bonded and other indebtedness against the district;

(ii) Disposition of assets of the district upon dissolution. The assets may either be donated to a nonprofit or governmental hospital or health care facility which provides services to the residents of the hospital district upon such conditions as agreed to by the nonprofit or governmental hospital or health care facility, or conveyed to the county to be used solely for health care purposes by the county.

(b) Before any plan to dissolve and terminate a hospital district is effective, the plan shall be approved by a majority of the qualified electors of the hospital district who vote on the question. The vote on the question may be submitted to the qualified electors at an election following the provisions of W.S. 22-29-404 as applicable. The question to be presented to the qualified electors is: "Shall Hospital District .... be dissolved in accordance with the plan of dissolution approved by the board of trustees?"

Yes ☐ No ☐

(c) If the qualified electors of the district approve the dissolution and termination plan, the board of trustees are empowered to take all action necessary to effectuate the plan and dissolve and terminate the hospital district.

(d) Filing of bankruptcy under subsection (a) of this section shall not require a vote of qualified electors. Before any vote by the trustees of a hospital district to file bankruptcy, the bankruptcy petition and initial plan for adjustment of debts shall be posted on any website operated by the district and be publicly available for a period of not less than seven (7) days prior to the first public meeting of the trustees where the petition and plan will be considered. If the trustees approve the bankruptcy petition and initial plan for adjustment of debts, the trustees may take all action necessary to obtain confirmation of the plan of adjustment and closure of the case under chapter 9 of the United States bankruptcy code.

ARTICLE 5 - WYOMING SANITARIUM

35-2-501. Repealed by Laws 1982, ch. 62, § 4.

35-2-502. Repealed by Laws 1982, ch. 62, § 4.

35-2-503. Repealed by Laws 1982, ch. 62, § 4.

ARTICLE 6 - HOSPITAL RECORDS AND INFORMATION

35-2-601. Repealed by Laws 1991, ch. 194, § 2.

35-2-602. Repealed by Laws 1991, ch. 194, § 2.

35-2-603. Repealed by Laws 1991, ch. 194, § 2.

35-2-604. Repealed by Laws 1991, ch. 194, § 2.

35-2-605. Repealed by Laws 2019, ch. 78, § 3.

35-2-606. Repealed by Laws 2019, ch. 78, § 3.

35-2-607. Repealed by Laws 2019, ch. 78, § 3.

35-2-608. Repealed by Laws 2019, ch. 78, § 3.

35-2-609. Repealed by Laws 2019, ch. 78, § 3.

35-2-610. Repealed by Laws 2019, ch. 78, § 3.

35-2-611. Repealed by Laws 2019, ch. 78, § 3.

35-2-612. Repealed by Laws 2019, ch. 78, § 3.

35-2-613. Repealed by Laws 2019, ch. 78, § 3.

35-2-614. Repealed by Laws 2019, ch. 78, § 3.

35-2-615. Repealed by Laws 2019, ch. 78, § 3.

35-2-616. Repealed by Laws 2019, ch. 78, § 3.

35-2-617. Repealed by Laws 2019, ch. 78, § 3.

35-2-618. Medical staff committees; record confidentiality.

(a) All reports, findings, proceedings and data of medical staff committees shall be confidential and privileged. No claim or action shall accrue against any hospital, medical staff

member or any employee of either arising out of the denial of staff privileges to any applicant or out of the suspension of, expulsion of or any other restrictive or disciplinary action against any medical staff member or hospital employee unless the action is arbitrary, capricious and without foundation in fact.

(b) For the purpose of subsection (a) of this section, "medical staff committee" means any committee within a hospital, consisting of medical staff members or hospital personnel, which is engaged in supervision, discipline, admission, privileges or control of members of the hospital's medical staff, evaluation and review of medical care, utilization of the hospital facilities or professional training.

ARTICLE 7 - RURAL HEALTH CARE DISTRICTS

35-2-701. Procedure for proposing establishment of special rural health care districts.

(a) Repealed by Laws 1998, ch. 115, § 5.

(b) Repealed by Laws 1998, ch. 115, § 5.

(c) Repealed by Laws 1998, ch. 115, § 5.

(d) Repealed by Laws 1998, ch. 115, § 5.

(e) A special rural health care district may be established under the procedures for petitioning, hearing and election of special districts as set forth in the Special District Elections Act of 1994.

35-2-702. Repealed by Laws 1998, ch. 115, § 5.

35-2-703. Body corporate; name and style; powers generally; rules and regulations of trustees.

(a) Each district so established is a body corporate and shall be designated by the name of the .... rural health care district. The district name shall be entered upon the commissioners' records and shall be selected by the board of county commissioners of the county in which the greater area of land within the district is located. In the name so selected, the district through its governing board may:

(i) Hold property and be a party to contracts;

(ii) Sue and be sued;

(iii) Acquire real and personal property and equipment for rural health care purposes by gift, devise, bequest or purchase;

(iv) Enter into contracts for the acquisition by purchase or lease of real and personal property and equipment;

(v) Convey, lease and otherwise dispose of its property for rural health care purposes;

(vi) Establish sinking funds;

(vii) Issue bonds for the purchase of real property and improvements and equipment;

(viii) Make necessary rules and regulations for the proper operation of the district and shall file them with the county clerk for each county in which the district is located;

(ix) Engage in activities authorized under:

(A) W.S. 18-8-301 subject to specified requirements and conditions;

(B) W.S. 35-2-1202(a) for the purpose of providing senior health care as defined in W.S. 35-2-1201(b). This paragraph shall not be construed to authorize an increase to the district mill level beyond the limits established in W.S. 35-2-708.

(x) Employ or otherwise contract with physicians and other health care providers to provide health care services, including emergency medical services, in the district and any other persons necessary or desirable to effect the purposes of the district. As used in this paragraph "health care provider" means a person or facility licensed, certified or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession;

(xi) Construct, purchase or own a hospital, nursing home and related facilities.

35-2-704. Procedure for election of trustees generally; number, compensation and term of trustees.

The district shall be managed and controlled by a board of five (5) trustees who shall serve without compensation. Members of the initial board shall be elected at the formation election to serve until the first regular subsequent director election and until their successors are elected and qualified. At the first regular subsequent director election members shall be elected to staggered terms so that three (3) members are elected for two (2) year terms and two (2) for four (4) year terms. Thereafter, all members shall be elected for terms of four (4) years.

35-2-705. Bond of trustees.

Each trustee of any district, prior to entering upon the duties of office, shall execute and file with the county clerk of the county in which the district, or the greater portion of the area thereof, is located his bond, with one (1) or more sureties, to be approved by the county clerk, running to the state of Wyoming in the penal sum of five thousand dollars ($5,000.00), conditioned for the faithful performance by the trustee of his official duties and the faithful accounting by him for all funds and property of the district that shall come into his possession or control during his term of office. The premium, if any, on any such bond shall be paid out of the funds of the district. Suit may be brought on a bond by any person, firm or corporation that has sustained loss or damage because of a breach of that bond.

35-2-706. Repealed by Laws 1998, ch. 115, § 5.

35-2-707. Repealed by Laws 1998, ch. 115, § 5.

35-2-708. Administration of finances; assessment and levy of taxes.

(a) Repealed by Laws 2017, ch. 62, § 3.

(b) The assessor shall assess the property of each rural health care district.

(c) The board of county commissioners, at the time of making the levy for county purposes shall levy a tax for that year upon the taxable property in the district in its county for its proportionate share based on assessed valuation of the estimated amount of funds needed by each rural health care district, but, except as provided in this subsection, in no case shall the tax for the district exceed in any one (1) year the amount of two (2) mills on each dollar of assessed valuation of

the property. Up to an additional two (2) mills may be imposed on each dollar of assessed valuation of the property if approved by the board of trustees and if approved by the electors as provided in subsection (d) of this section.

(d) If the board of trustees votes to increase the mill levy beyond two (2) mills as authorized by subsection (c) of this section, the board of county commissioners shall call an election within the district upon the question of whether the mill levy should be increased beyond two (2) mills. The election shall be called, conducted and canvassed as provided for bond elections by the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112, on the first date authorized under W.S. 22-21-103 which is not less than sixty (60) days after the trustees vote to increase the mill levy beyond two (2) mills. In no event shall the tax in a district exceed in any one (1) year the amount of four (4) mills on each dollar of assessed valuation of property. The increase in mill levy is effective only if the question is approved by a majority of those voting thereon within the rural health care district. The cost of any special election under this subsection shall be borne by the board of trustees.

(e) If the proposition to authorize an additional mill levy is approved, the tax shall remain in effect until a petition to discontinue the tax, signed by not less than ten percent (10%) of the voters of the district, is received by the board of county commissioners, and the proposal to discontinue the tax is approved by the voters. The proposal to discontinue the tax shall be submitted to the voters of the district at the expense of the county at the next general election. If the proposition to impose or continue the tax is defeated, the proposition shall not again be submitted to the electors for at least twenty-three (23) months.

35-2-709. Bond issue.

(a) The board of county commissioners at the request of the board of trustees of any rural health care district may submit to the electors of the district the question of whether the board of trustees shall be authorized to issue the bonds of the district in a certain amount, not to exceed two percent (2%) of the assessed value of the taxable property in the district, and bearing a certain rate of interest, not exceeding ten percent (10%) per annum, payable and redeemable at a certain time, not exceeding twenty-five (25) years, for the purchase of real property, for the construction or purchase of improvements

and for equipment for rural health care purposes or senior health care purposes as defined in W.S. 35-2-1201(b). The question shall be submitted at an election called, conducted, canvassed and returned in the manner provided for bond elections by the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112.

(b) If the proposal to issue bonds is approved, the board of trustees may issue bonds in such form as the board directs, provided any bonds issued under this article shall be in registered or bearer form and shall otherwise comply with W.S. 16-5-501 through 16-5-504. The board of trustees shall give notice by publication in some newspaper published in the counties in which the district is located of its intention to issue and negotiate the bonds and to invite bidders therefor. In no case shall the bonds be sold for less than their full or par value and the accrued interest thereon at the time of their delivery. The trustees are authorized to reject any bids, and to sell the bonds at private sale, if they deem it for the best interests of the district.

(c) The full faith and credit of each rural health care district is solemnly pledged for the payment of the interest and the redemption of the principal of all bonds which are issued by the district.

(d) The county treasurer where the district's funds are kept may pay out of any monies belonging to the district tax fund, the interest and the principal upon any bonds issued by the district, when due, upon presentation at his office of the proper coupon or bond, which shall show the amount due. Each coupon shall also show the number of the bond to which it belonged, and all bonds and coupons so paid, shall be reported to the district trustees at their first regular meeting thereafter.

35-2-710. Securities for acquiring and improving hospitals, nursing homes and related facilities; issuance authorized; lines of credit and tax and revenue anticipation notes.

(a) The trustees of a rural health care district established pursuant to W.S. 35-2-701, are authorized to issue revenue bonds, notes and warrants or other revenue securities for the purpose of acquiring, erecting, constructing, reconstructing, improving, remodeling, furnishing and equipping hospitals, nursing homes and related facilities including

facilities for senior health care as defined under W.S. 35-2-1201(b), and acquiring a site or sites as the trustees may determine.

(b) If there are no funds available to the trustees of a rural health care district before receipt of property taxes, the trustees may issue warrants in anticipation of the receipt of property taxes for payment of operational expenses. The aggregate amount of the warrants shall not exceed the total amount of taxes levied. The warrants shall be payable solely from the collected taxes.

(c) The trustees of a rural health care district may obtain financing for its operations by entering into agreements for lines of credit with any financial institution as defined in W.S. 13-1-101(a)(ix). The lines of credit may either be unsecured or secured by a pledge of revenues anticipated to be received during the current fiscal year.

(d) In addition to its authority to issue warrants under this section, the trustees of a rural health care district may issue tax and revenue anticipation notes in amounts not to exceed eighty percent (80%) of the total amount of taxes levied for operation of the district for the fiscal year during which the notes are issued when the trustees determine that insufficient funds are available to meet the obligations of the district during any fiscal year. A rural health care district shall not enter into agreements or issue instruments of the type allowed by this section for any fiscal year until all debts financed by any agreement or instrument for any prior fiscal year have been paid in full. Tax and revenue anticipation notes issued under this subsection are subject to the procedural requirements of W.S. 9-4-1103 through 9-4-1105 for state tax and revenue anticipation notes, except:

(i) The authority of the state treasurer provided in W.S. 9-4-1103 through 9-4-1105 shall be exercised by the trustees issuing the notes; and

(ii) Notwithstanding W.S. 9-4-1105(a), investments of the proceeds of the notes by the trustees are limited to those investments authorized under W.S. 9-4-831.

35-2-711. Securities for acquiring hospitals and related facilities; requirements generally.

(a) Except as otherwise provided:

(i) Securities shall be authorized by resolution adopted by the trustees and shall:

(A) Bear a date or dates;

(B) Be in a denomination or denominations;

(C) Mature at a time or times but in no event exceeding fifty (50) years from their date of issuance;

(D) Be sold at a public or private sale; and

(E) The securities and coupons shall be payable in a medium of payment at a banking institution or other place or places within or without the state, as determined by the trustees.

(ii) Securities may be made subject to prior redemption in advance of maturity in order or by lot or otherwise at a time or times without or with the payment of a premium or premiums not exceeding ten percent (10%) of the principal amount of the security redeemed, as determined by the trustees. The resolution may provide for the accumulation of net revenue for a reserve fund and shall contain other or further covenants and agreements as may be determined by the governing board for the protection of bondholders.

(b) Any resolution authorizing the issuance of securities or other instruments may provide for the capitalizing of interest on any securities during any period of construction estimated by the trustees and one (1) year thereafter and any other cost of any project authorized, by providing for the payment of the amount capitalized from the proceeds of the securities.

(c) Securities may be issued with privileges for conversion or registration, or both, for payment as to principal or interest, or both.

(d) Any resolution authorizing the issuance of securities or any other instrument pertaining to the issuance of securities may provide for their reissuance in other denominations in negotiable or nonnegotiable form and otherwise in any manner and form as the trustees may determine.

(e) Any resolution authorizing, or other instrument pertaining to, any securities may provide that each security authorized shall recite that it is issued under authority of this section. The recital shall conclusively impart full compliance with all of the provisions and all securities issued containing the recital shall be incontestable for any cause whatsoever after their delivery for value.

(f) Subject to the payment provisions specifically provided, any securities or interest coupons attached to the securities shall be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code, except as the trustees may otherwise provide, and each holder of the security or any coupons, by accepting such security or coupon shall be conclusively deemed to have agreed that the security or coupon, except as otherwise provided, is and shall be fully negotiable within the meaning and for all purposes of the Uniform Commercial Code.

(g) Notwithstanding any other provision of law, the trustees in any proceedings authorizing securities:

(i) May provide for the initial issuance of one (1) or more securities aggregating the amount of the entire issue or any part thereof;

(ii) May make provisions for installment payments of the principal amount of any security as they may consider desirable;

(iii) May provide for the making of any security payable to bearer or otherwise, registrable as to principal or as to both principal and interest, and where interest accruing is not represented by interest coupons, for the endorsing of payment of interest on the securities.

(h) Except for any securities which are registrable for payment of interest, interest coupons payable to bearer and appertaining to the securities shall be issued and shall bear the original or facsimile signature of the president of the board of trustees.

(j) Any securities authorized may be executed as provided by W.S. 16-2-101 through 16-2-103.

(k) The securities and any coupons bearing the signature of the officers in office at the time of the signing shall be

valid and binding obligations of the board of trustees, notwithstanding that before the delivery and payment, any or all of the persons whose signatures appear shall have ceased to fill their respective offices.

35-2-712. Securities for acquiring hospitals, nursing homes and related facilities; not a general obligation of rural health care district or trustees; payable from special fund.

The securities issued pursuant to W.S. 35-2-711 through 35-2-722 shall not constitute a general obligation of the rural health care district, nor of the trustees, but shall be payable solely from a special fund to contain the net revenue to be derived from the operation of the hospitals, nursing homes and related facilities including any facilities for senior health care as defined under W.S. 35-2-1201(b), the revenues being defined as those remaining after paying the costs of operating and maintaining the facilities.

35-2-713. Securities for acquiring hospitals and related facilities; issuance from time to time in one or more series.

The securities authorized may be issued from time to time and in one (1) or more series as the trustees may determine.

35-2-714. Securities for acquiring hospitals and related facilities; obligation of trustees to holders; suit for default, misuse of funds.

The obligation of the trustees to the holders of the securities shall be limited to applying the funds to the payment of interest and principal on the securities and the securities shall contain a provision to that effect. In the event of default in the payment of the securities or the interest thereon and in the event that the trustees are misusing the funds or not using the funds as provided by W.S. 35-2-711 through 35-2-722 and the resolution authorizing the securities, or in the event of any other breach of any protective covenant or other contractual limitation, then any holder may bring suit against the trustees in the district court of the county in which the rural health care district or any of its facilities are located for the purpose of restraining the trustees from using the funds for any purpose other than the payment of the principal and interest on the securities in the manner provided or for any other appropriate remedy.

35-2-715. Construction to be done by contract based on competitive bidding; alternate delivery methods.

(a) Except as provided under subsection (b) of this section and otherwise, the work of constructing the various buildings shall be done by contract based on competitive bidding. Notice of call for bids shall be for the period of time and in a manner as the trustees may determine. The trustees shall have the power to reject any and all bids and readvertise for bids as they consider proper.

(b) Any rural health care district may contract for design and construction services through an alternate delivery method as defined in W.S. 16-6-701.

35-2-716. Trustees may insure facilities.

The trustees may insure the facilities against public liability, property damage or loss of revenues from any cause.

35-2-717. Investment in securities.

Securities issued pursuant to this article shall be eligible for investment by banking institutions and for estate, trust and fiduciary funds. The securities and the interest shall be exempt from taxation by this state and any subdivision. The state treasurer of the state of Wyoming with the approval of the governor and the attorney general is authorized to invest any permanent state funds available for investment in the securities to be issued pursuant to W.S. 35-2-711 through 35-2-722.

35-2-718. Refunding securities.

(a) Any securities of the trustees of a rural health care district issued pursuant to W.S. 35-2-711 through 35-2-722 and payable from any pledged revenues may be refunded by the trustees by the adoption of a resolution by the trustees authorizing the issuance of securities at a public or private sale:

(i) To refund, pay and discharge all or any part of the outstanding securities of any one (1) or more or all outstanding issues, including any interest thereon in arrears, or about to become due for any period not exceeding three (3) years from the date of the refunding securities;

(ii) For the purpose of reducing interest costs or effecting other economies;

(iii) For the purpose of modifying or eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding securities or to any facilities pertaining thereto;

(iv) For the purpose of avoiding or terminating any default; or

(v) For any combination provided in this subsection.

(b) Nothing contained in W.S. 35-2-711 through 35-2-722 nor in any other law of this state shall be construed to permit the board of trustees to call securities now or hereafter outstanding for prior redemption in order to refund the securities or in order to pay them prior to their stated maturities, unless the right to call the securities for prior redemption was specifically reserved and stated in the securities at the time of their issuance.

(c) Except as provided in this section, refunding securities shall be subject to the same rights, liabilities, conditions and covenants as are provided for the securities contained in W.S. 35-2-711 through 35-2-722.

35-2-719. Powers and responsibility of board of trustees.

The board of trustees has plenary powers and responsibility for the acquisition, construction and completion of all projects authorized by the resolution to issue revenue securities or refunding securities.

35-2-720. Trustees may accept grants.

The trustees may accept grants of money or materials or property of any kind from the federal government, the state, including any agency or political subdivision, or any person upon terms and conditions as the federal government, the state, including any agency or political subdivision, or person may impose.

35-2-721. Charges and rentals.

The trustees shall establish and collect charges for services and rentals for use of facilities furnished, acquired, constructed or purchased from the proceeds of the securities

sufficient to pay the principal or the interest, or both, on the securities as they become due and payable, together with the additional sums as may be deemed necessary for accumulating reserves and providing for obsolescence and depreciation and to pay the expenses of operating and maintaining the facilities. The trustees shall establish all other charges, fees and rates to be derived from the operation of the hospital, nursing home or any other facility of the rural health care district.

35-2-722. Liberal construction.

The provisions of this article pertaining to bonding, being necessary to secure the public health, safety, convenience and welfare, shall be liberally construed to effect its purposes.

35-2-723. Applicability.

The provisions of W.S. 35-2-711 through 35-2-722 shall not apply to W.S. 35-2-708 and 35-2-709.

ARTICLE 8 - STATE HEALTH CARE DATA AUTHORITY

35-2-801. Terminated by Laws 1985, ch. 217, § 2; 1988, ch. 47, § 1.

35-2-802. Terminated by Laws 1985, ch. 217, § 2; 1988, ch. 47, § 1.

35-2-803. Terminated by Laws 1985, ch. 217, § 2; 1988, ch. 47, § 1.

35-2-804. Terminated by Laws 1985, ch. 217, § 2; 1988, ch. 47, § 1.

35-2-805. Terminated by Laws 1985, ch. 217, § 2; 1988, ch. 47, § 1.

35-2-806. Terminated by Laws 1985, ch. 217, § 2; 1988, ch. 47, § 1.

35-2-807. Terminated by Laws 1985, ch. 217, § 2; 1988, ch. 47, § 1.

ARTICLE 9 - LICENSING AND OPERATIONS

35-2-901. Definitions; applicability of provisions.

(a) As used in this act:

(i) "Acute care" means short term care provided in a hospital;

(ii) "Ambulatory surgical center" means a facility which provides surgical treatment to patients not requiring hospitalization and is not part of a hospital or offices of private physicians, dentists or podiatrists. "Ambulatory surgical center" shall include any surgical abortion facility as defined by W.S. 35-6-201(a)(x);

(iii) "Birthing center" means a facility which operates for the primary purpose of performing deliveries and is not part of a hospital;

(iv) "Boarding home" means a dwelling or rooming house operated by any person, firm or corporation engaged in the business of operating a home for the purpose of letting rooms for rent and providing meals and personal daily living care, but not habilitative or nursing care, for persons not related to the owner. Boarding home does not include a lodging facility or an apartment in which only room and board is provided;

(v) Repealed by Laws 2025, ch. 102, § 2.

(vi) "Department" means the department of health;

(vii) "Division" means the designated division within the department of health;

(viii) "Freestanding diagnostic testing center" means a mobile or permanent facility which provides diagnostic testing but not treatment and is not part of the private offices of health care professionals operating within the scope of their licenses;

(ix) Repealed By Laws 1999, ch. 119, § 2.

(x) "Health care facility" means any ambulatory surgical center, assisted living facility, adult day care facility, adult foster care home, alternative eldercare home, birthing center, boarding home, freestanding diagnostic testing center, home health agency, hospice, hospital, freestanding emergency center, intermediate care facility for people with intellectual disability, medical assistance facility, nursing

care facility, rehabilitation facility and renal dialysis center;

(xi) "Home health agency" means an agency primarily engaged in arranging and directly providing nursing or other health care services to persons at their residence;

(xii) "Hospice" means a program of care for the terminally ill and their families given in a home or health facility which provides medical, palliative, psychological, spiritual and supportive care and treatment. Hospice care may include short-term respite care for non-hospice patients, if the primary activity of the hospice is the provision of hospice services to terminally ill individuals and provided that the respite care is paid by the patient or by a private third party payor and not through any governmental third party payment program;

(xiii) "Hospital" means an institution or a unit in an institution providing one (1) or more of the following to patients by or under the supervision of an organized medical staff:

(A) Diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick persons;

(B) Rehabilitation services for the rehabilitation of injured, disabled or sick persons;

(C) Acute care;

(D) Psychiatric care;

(E) Swing beds.

(xiv) "Intermediate care facility for people with intellectual disability" means a facility which provides on a regular basis health related care and training to persons with intellectual disabilities or persons with related conditions, who do not require the degree of care and treatment of a hospital or nursing facility and services above the need of a boarding home. The term also means "intermediate care facility for the mentally retarded" or "ICFMR" or "ICFs/MR" as those terms are used in federal law and in other laws, rules and regulations;

(xv) "Medical assistance facility" means a facility which provides inpatient care to ill or injured persons prior to their transportation to a hospital or provides inpatient care to persons needing that care for a period of no longer than sixty (60) hours and is located more than thirty (30) miles from the nearest Wyoming hospital;

(xvi) "Nursing care facility" means a facility providing assisted living care, nursing care, rehabilitative and other related services;

(xvii) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine or surgery under state law;

(xviii) "Psychiatric care" means the in-patient care and treatment of persons with a mental diagnosis;

(xix) "Rehabilitation facility" means an outpatient or residential facility which is operated for the primary purpose of assisting the rehabilitation of disabled persons including persons with acquired brain injury by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluations and training or any combination of these services and in which the major portion of the services is furnished within the facility;

(xx) "Renal dialysis center" means a freestanding facility for treatment of kidney diseases;

(xxi) "Swing bed" means a special designation for a hospital which has a program to provide specialized in-patient long term care. Any medical-surgical bed in a hospital can be designated as a swing bed;

(xxii) "Assisted living facility" means a dwelling operated by any person, firm or corporation engaged in providing limited nursing care, personal care and boarding home care, but not habilitative care, for persons not related to the owner of the facility. This definition may include facilities with secured units and facilities dedicated to the special care and services for people with Alzheimer's disease or other dementia conditions;

(xxiii) "Adult day care facility" means any facility not otherwise certified by the department of health, engaged in the business of providing activities of daily living support and

supervision services programming based on a social model, to four (4) or more persons eighteen (18) years of age or older with physical or mental disabilities;

(xxiv) "Adult foster care home" means a home where care is provided for up to five (5) adults who are not related to the provider by blood, marriage or adoption, except in special circumstances, in need of long term care in a home like atmosphere. "Adult foster care home" does not include any residential facility otherwise licensed or funded by the state of Wyoming. The homes shall be regulated in accordance with this act and with the Wyoming Long Term Care Choices Act, which shall govern in case of conflict with this act;

(xxv) "Alternative eldercare home" means a facility as defined in W.S. 42-6-102(a)(iii). The homes shall be regulated in accordance with this act and with the Wyoming Long Term Care Choices Act which shall govern in case of conflict with this act;

(xxvi) "Freestanding emergency center" means a facility that provides services twenty-four (24) hours a day, seven (7) days a week for life threatening emergency medical conditions and is at a location separate from a hospital;

(xxvii) "This act" means W.S. 35-2-901 through 35-2-914.

(b) This act does not apply to hospitals or any other facility or agency operated by the federal government which would otherwise be required to be licensed under this act or to any person providing health care services within the scope of his license in a private office.

35-2-902. License required.

No person shall establish any health care facility in this state without a valid license issued pursuant to this act.

35-2-903. Application for license; submission of evidence prerequisite to issuance.

(a) An applicant for a license under this act shall file a sworn application with the division on a form provided by the division. The form shall request the following information:

(i) The applicant's name;

(ii) The type of health care facility to be operated;

(iii) A description of and the location of the facility buildings;

(iv) The name of the person in charge of the health care facility;

(v) Whether the applicant has had a license to operate a health care facility or agency providing health care services in this or any other state denied, suspended, revoked or otherwise terminated for cause and the specific reasons for such action. Evidence that the facility subject to the application is currently in compliance with all applicable statutes, rules and regulations is required;

(vi) Evidence that the applicant is capable of complying with applicable rules and regulations;

(vii) Such other information as the division may require pursuant to rules promulgated under this act.

(b) An application by other than an individual shall be made by two (2) officers of the organization or by its managing agents.

35-2-904. Issuance of license; fee; duration; renewal; transferability; provisional licenses; procedures.

(a) The division shall issue a license under this act:

(i) If the applicant is in compliance with this act and in substantial compliance with the rules and regulations promulgated pursuant to this act; and

(ii) Upon payment of a license fee for each health care facility as specified in subsection (g) of this section. The department may adopt rules which provide for reasonable fees for health care facilities not specified in subsection (g) of this section in amounts not to exceed five hundred dollars ($500.00) designed to recover administrative and operational expenses of the department in conducting its licensure program under this article for those facilities.

(b) Licenses are issued for a period of one (1) year beginning on July 1 of the year of issuance and ending on June

30 of the succeeding year. The full fee is due whether the license is issued for the entire year or for part of the year.

(c) Licenses are renewed annually upon payment of the license fee unless suspended or revoked pursuant to W.S. 35-2-905.

(d) Fees collected under this act shall be deposited in the general fund.

(e) Licenses are not assignable or transferable.

(f) Applicants not complying with this act and not substantially complying with the rules and regulations promulgated pursuant to this act may be granted a provisional license subject to restrictions imposed by the division if the operation of the facility will not endanger the health, safety and welfare of patients. All applicants found in noncompliance shall be notified of the reason for noncompliance.

(g) Health care facilities shall be assessed the following fees:

(i) Adult day care facility $250.00;

(ii) Adult foster care home $250.00;

(iii) Ambulatory surgical center . . . $500.00;

(iv) Assisted living facility:

(A) For a facility with a bed capacity of at least one (1) but not more than twenty-five (25) $250.00;

(B) For a facility with a bed capacity of more than twenty-five (25) but not more than fifty (50) $500.00;

(C) For a facility with a bed capacity of more than fifty (50) . . . . . $1,000.00.

(v) Birthing center $500.00;

(vi) Boarding home in an amount established by the department within this range . . . . . $500.00-$750.00;

(vii) Critical access hospital $500.00;

(viii) Renal dialysis center $500.00;

(ix) Freestanding diagnostic testing center $500.00;

(x) Freestanding emergency center . . . $500.00;

(xi) Home health agency $150.00;

(xii) Hospice facility $250.00;

(xiii) Hospital $1,000.00;

(xiv) Intermediate care facility for people with intellectual disability $250.00;

(xv) Medical assistance facility . . . $250.00;

(xvi) Nursing care facility:

(A) For a facility with a bed capacity of at least one (1) but not more than twenty-five (25) $250.00;

(B) For a facility with a bed capacity of more than twenty-five (25) but not more than fifty (50) $500.00;

(C) For a facility with a bed capacity of more than fifty (50) . . . . . $1,000.00.

(xvii) Psychiatric hospital $1,000.00;

(xviii) Rehabilitation facility $500.00;

(xix) Rehabilitation hospital . . . . . $500.00.

(h) In addition to the fees imposed under subsection (g) of this section, if a licensed health care facility changes its name, location or number of beds, the facility shall pay a fee in the amount of two hundred fifty dollars ($250.00) for a revised license.

35-2-905. Conditions, monitoring or revoking a license.

(a) The division may place conditions upon a license, install a division approved monitor or manager at the owner's or operator's expense, suspend admissions, or deny, suspend or revoke a license issued under this act if a licensee:

(i) Violates any provision of this act or the rules and regulations promulgated pursuant to this act;

(ii) Permits, aids or abets the commission of any illegal act by a licensee;

(iii) Conducts practices detrimental to the health, safety or welfare of the patients of the licensee;

(iv) Repealed By Laws 2008, Ch. 116, § 2.

(v) Fails to pay a nursing care facility assessment and the department determines to suspend or revoke the license as provided in W.S. 42-8-107(b)(ii);

(vi) Violates any provision of W.S. 35-2-1501 through 35-2-1507. This paragraph is repealed effective July 1, 2029.

(b) No license issued pursuant to this act shall be suspended or revoked or have conditions placed upon it or admissions suspended nor shall the division install an approved monitor or manager without notice to the licensee and an opportunity for a hearing under W.S. 16-3-101 through 16-3-115.

(c) If the division suspends the admission of new patients to a health care facility, the health care facility shall be provided an opportunity to abate the condition or conditions prior to suspension of admissions. If the conditions leading to the suspension of new admissions continue unabated beyond the period allowed for abatement, the division may continue the suspension of new admissions, or suspend or revoke the license.

(d) Any hearing held by the division under this section shall be held in the city or town in which the facility is located, or in the closest city or town with appropriate facilities for a hearing.

(e) If the division finds that conditions in a health care facility are in violation of this act and rules and regulations adopted under this act to the extent that there exists a substantial and immediate threat to the health or safety of patients, it may summarily suspend the license of that facility

and take action necessary to protect the health and safety of patients. In cases of suspension under this subsection, the licensee shall be afforded an opportunity for a hearing within ten (10) days after the suspension.

(f) If a license is revoked pursuant to this act, an application for a new license may be made to the division only after the conditions upon which revocation was based have been corrected and evidence of this fact has been furnished to the division. A new license shall be granted only if the applicant is in compliance with all provisions of this act and rules and regulations promulgated pursuant to this act.

35-2-906. Construction and expansion of facilities; exemption.

(a) A licensee who contemplates construction of or alteration or addition to a health care facility shall submit plans and specifications to the division for preliminary inspection and approval prior to commencing construction. Significant changes to the original plans must also be submitted and approved prior to implementation. The plans and any changes shall indicate any increase in the number of beds. Information submitted pursuant to this subsection shall be used by the division only for purposes of health care and life safety compliance determinations.

(b) Repealed by Laws 2025, ch. 102, § 2.

(c) Repealed by Laws 2025, ch. 102, § 2.

(d) Repealed By Laws 2002, Ch. 87, § 2.

(e) Repealed By Laws 2002, Ch. 87, § 2.

(f) Repealed by Laws 2025, ch. 102, § 2.

(g) Repealed by Laws 2025, ch. 102, § 2.

35-2-907. Inspection of licensed establishments; exceptions; assisted living facility inspection procedure.

(a) Except as otherwise provided in this section every licensed health care facility shall be periodically inspected by the division under rules and regulations promulgated by the department. A licensed health care facility which has been accredited by a nationally recognized accrediting body approved

by federal regulations shall be granted a license renewal without further inspection. Inspection reports shall be prepared on forms prescribed by the division. Licensees accredited by the nationally recognized accrediting body shall submit the inspection report pursuant to its accreditation. If the standards of the nationally recognized accrediting body fail to meet or exceed the state standards for licensure, the division may inspect the licensed facility with regard to those matters which did not meet state standards.

(b) Except as required in administrative and judicial proceedings, information obtained from licensees under this act is subject to public disclosure only after deletion of information which reveals the identity of patients, persons who file complaints with the division and employees of the health care facility.

(c) The division shall:

(i) Provide for the selection of an inspector to inspect and evaluate an applicant for an assisted living facility;

(ii) Approve and establish a fee to be paid by the applicant to the selected inspector. The division shall notify the applicant of the inspection fee prior to the inspection and evaluation;

(iii) Act on the application within thirty (30) days after receiving a report from the selected inspector on the inspection and evaluation of the applicant.

35-2-908. Rules and regulations.

The department shall promulgate and enforce reasonable rules and regulations necessary to protect the health, safety and welfare of patients of health care facilities licensed under this act.

35-2-909. Penalties for violations.

Except for violations otherwise punishable as a felony under the laws of this state, any person establishing or operating a facility or providing a service without first obtaining a license as required in this act is guilty of a misdemeanor punishable by a fine of not to exceed seven hundred fifty dollars ($750.00), by imprisonment for not more than six (6)

months, or both. Each calendar week or portion thereof during which a violation continues is a separate offense.

35-2-910. Quality management functions for health care facilities; confidentiality; immunity; whistle blowing; peer review.

(a) Each licensee shall implement a quality management function to evaluate and improve patient and resident care and services in accordance with rules and regulations promulgated by the division. Quality management information relating to the evaluation or improvement of the quality of health care services is confidential. Any person who in good faith and within the scope of the functions of a quality management program participates in the reporting, collection, evaluation, or use of quality management information or performs other functions as part of a quality management program with regard to a specific circumstance shall be immune from suit in any civil action based on such functions brought by a health care provider or person to whom the quality information pertains. In no event shall this immunity apply to any negligent or intentional act or omission in the provision of care.

(b) Health care facilities subject to or licensed pursuant to this act shall not harass, threaten discipline or in any manner discriminate against any resident, patient or employee of any health care facility for reporting to the division a violation of any state or federal law or rule and regulation. Any employee found to have knowingly made a false report to the division shall be subject to disciplinary action by the employing health care facility, including but not limited to, dismissal.

(c) No hospital shall be issued a license or have its license renewed unless it provides for the review of professional practices in the hospital for the purpose of reducing morbidity and mortality and for the improvement of the care of patients in the hospital. This review shall include, but not be limited to:

(i) The quality and necessity of the care provided to patients as rendered in the hospital;

(ii) The prevention of complications and deaths occurring in the hospital;

(iii) The review of medical treatments and diagnostic and surgical procedures in order to ensure safe and adequate treatment of patients in the hospital; and

(iv) The evaluation of medical and health care services and the qualifications and professional competence of persons performing or seeking to perform those services.

(d) The review required in subsection (c) of this section shall be performed according to the decision of a hospital's governing board by:

(i) A peer review committee appointed by the organized medical staff of the hospital;

(ii) A state, local or specialty medical society; or

(iii) Any other organization of physicians established pursuant to state or federal law and engaged by the hospital for the purposes of subsection (c) of this section.

35-2-911. Nonbinding functional assessments.

The department may, with the consent of the person seeking admission into a nursing care facility or his representative, conduct a nonbinding functional assessment for that person at the state's expense.

35-2-912. Repealed by the terms of Laws 2005, Ch. 243, § 1.

35-2-913. Exceptions.

(a) No freestanding emergency center shall require separate licensure under this act when operated by the provider based emergency department of a Wyoming licensed hospital.

(b) On and before June 30, 2025, freestanding emergency centers operated by a hospital district or rural health care district shall not require licensure under this act provided a hospital transfer agreement is in place.

(c) Any freestanding emergency center shall accept patients regardless of age, Medicare, Medicaid or other insurance status or ability to pay. A freestanding emergency center not owned by a Wyoming hospital shall have an appropriate hospital transfer agreement in place.

(d) A license to operate a freestanding emergency center shall not be construed as a license to operate a hospital and shall not allow any freestanding emergency center to hold a patient within its facility for more than twenty-four (24) hours unless an emergency arises that prevents the safe transport of the patient.

35-2-914. Visitation rights.

(a) A health care facility, as defined by W.S. 35-2-901(a)(x), that provides twenty-four (24) hour per day care shall allow visitation for a person receiving care in that facility. The visitation required under this section shall not apply to persons involuntarily detained under W.S. 25-10-109 or 25-10-110 or adults who have been charged with or convicted of a crime and are in the custody of the state or a local jurisdiction.

(b) A health care facility subject to subsection (a) of this section may impose and enforce restrictions on visitation that limit the number or age of visitors, limit the location or time of visitation, require protective equipment or impose requirements otherwise required under W.S. 35-1-240 or by the centers for Medicaid and Medicare services, the centers for disease control or the joint commission on the accreditation of healthcare organizations. Visitation may be further restricted or limited under this section when the health care facility determines a restriction or limitation is necessary due to a court order, violent or disruptive behavior or reasonable suspicion of abuse or neglect against a person receiving care in the facility. A health care facility shall provide a written copy of its visitation policy upon request and shall visibly post in the facility one (1) copy of the most current visitation restrictions imposed in accordance with this subsection. The health care facility shall allow the person receiving care or that person's representative to designate persons as visitors or to prohibit some or all visitation under this section.

ARTICLE 10 - DESIGNATION OF HOSPITALS

35-2-1001. Designation of heart attack and stroke centers.

(a) The department of health shall establish by rule and regulation the process for recognition and designation of hospitals as any one (1) or more of the following:

(i) Heart attack receiving centers;

(ii) Heart attack referring centers;

(iii) Comprehensive stroke centers;

(iv) Primary stroke centers;

(v) Acute stroke ready centers.

(b) The designation of hospitals pursuant to subsection (a) of this section shall recognize those hospitals that are accredited by the society for cardiovascular patient care, the American heart association, the joint commission on the accreditation of healthcare organizations or another nationally recognized accreditation organization as determined by the department in its rules and regulations.

(c) The department shall withdraw the designation of a hospital pursuant to subsection (a) of this section if the department determines that the hospital is not in compliance with the requirements of this section or rules and regulations adopted pursuant to this section.

(d) The department shall adopt rules and regulations to enforce this article, which shall include all of the following:

(i) Specific criteria for qualification pursuant to subsection (a) of this section, including identification of accrediting organizations;

(ii) Designation application procedures;

(iii) Procedures for withdrawal of a designation;

(iv) Support for the coordination among designated hospitals for the referral and transfer of patients to facilitate appropriate care for acute heart attack and stroke patients.

(v) Evidence based prehospital care protocols for emergency medical services providers to assess, treat and transport stroke and acute heart attack patients. The office of emergency medical services shall work in coordination with licensed emergency medical providers in developing the protocols which shall include:

(A) Plans for the triage and transport of stroke patients to the closest comprehensive or primary stroke center or, when appropriate, to an acute stroke ready center;

(B) Plans for the triage and transport of acute heart attack patients to the closest receiving or referring center within a specified time after a patients report of symptoms.

ARTICLE 11 - HEALTH CARE FACILITY RECEIVERSHIP

35-2-1101. Short title.

This act may be cited as the "Health Care Facility Receivership Act."

35-2-1102. Definitions.

(a) As used in this act:

(i) "Department" means the department of health;

(ii) "Health care facility" means any facility licensed or certified by the department that is a hospital or that normally provides twenty-four (24) hour per day care for individuals, including the facility's owner, operator or licensee;

(iii) "This act" means W.S. 35-2-1101 through 35-2-1109.

35-2-1103. Petition for receivership; hearing; parties; emergency order.

(a) The department may file a petition in the district court to appoint a receiver for a health care facility, if the facility:

(i) Is operating without a license or the facility's license has been suspended, revoked or not timely renewed; or

(ii) Presents a situation, physical condition, practice or method of operation that causes an imminent danger of death or significant mental or physical harm to its residents or patients.

(b) Service of process shall be made in any manner as provided by the Rules of Civil Procedure. If personal service cannot practicably or promptly be made as provided in the Rules of Civil Procedure, service may be made by delivery of the summons with the petition attached to any person in charge of the health care facility at the time service is made.

(c) The court shall hold a hearing on the merits of the petition not later than ten (10) days after the date the petition is filed.

(d) Following a hearing, the district court shall appoint the director of the department as the receiver if it finds by a preponderance of the evidence that any of the conditions in subsection (a) of this section exist.

(e) The court may appoint a receiver upon an ex parte motion when affidavits, testimony or any other evidence presented indicates there is a reasonable likelihood that any of the conditions in paragraph (a)(ii) of this section exist. Notice of the petition and ex parte order appointing the receiver shall be served in any manner as provided by the Rules of Civil Procedure and shall be posted in a conspicuous place inside the facility not later than twenty-four (24) hours after issuance of the order. A hearing on the original petition shall be held not later than five (5) days after the issuance of the ex parte order unless the health care facility consents to a later date or waives the hearing.

(f) Following any regular or ex parte hearing, the director of the department may designate a qualified person, experienced in health facility management, to act as the receiver. The designated person shall be free of conflict of interest with the health care facility that is in receivership.

(g) After the appointment of a receiver, the court shall conduct a hearing on the status of the receivership every six (6) months.

35-2-1104. Effect of appointment.

When a receiver is appointed under this act, the health care facility shall be divested of possession and control in favor of the receiver. The appointment of the receiver shall not affect the rights of the health care facility to defend against any claim, suit or action against the facility, including, but not

limited to, any licensure, certification or injunctive action taken by the department.

35-2-1105. Powers and duties of a receiver.

(a) A receiver appointed under this act shall:

(i) Have the same powers as a receiver under W.S. 1-33-104 and shall exercise those powers necessary to remedy the conditions that constituted grounds for the imposition of the receivership, assure adequate health care for the residents or patients and preserve the assets and property of the health care facility;

(ii) Notify each resident or patient and each resident or patient's guardian or conservator, if any, or other responsible party, if known, of the receivership;

(iii) Collect incoming payments from all sources;

(iv) Apply the current revenue and current assets of the health care facility to current operating expenses of the facility;

(v) Pay taxes against the health care facility which become due during the receivership;

(vi) Be entitled to take possession of all property, assets and records of residents or patients which are in the possession of the health care facility. The receiver shall preserve all property, assets and records of residents or patients of which the receiver takes possession.

(b) In addition to the powers and duties provided in subsection (a) of this section, a receiver may exercise the following powers:

(i) Assume the role of administrator and take control of day-to-day operations of the health care facility or name a qualified administrator to conduct the day-to-day operations of the health care facility subject to the supervision and direction of the receiver;

(ii) Correct or eliminate any deficiency in the structure or furnishings of the health care facility that endangers the safety or health of the residents or patients while they remain in the facility, provided the total cost of

correction does not exceed three thousand dollars ($3,000.00). The court may order expenditures for this purpose in excess of three thousand dollars ($3,000.00) on application from the receiver;

(iii) Remedy violations of federal and state laws and regulations governing the operation of the health care facility;

(iv) Contract for or hire agents and employees to maintain and operate the facility; and

(v) Hire or discharge any employees including the health care facility's administrator.

(c) The receiver in its discretion may, but shall not be required to, defend any claim, suit or action against the receiver or the health care facility arising out of conditions, actions or circumstances occurring or continuing at the health care facility after the appointment of the receiver.

(d) The district court may limit or expand the powers or duties of a receiver.

35-2-1106. Termination of receivership.

(a) The court, upon a motion by the receiver, the health care facility or the owner of the physical facility, may terminate the receivership if:

(i) The receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist;

(ii) All of the residents in the facility have been transferred or discharged and the facility is ready to be closed; or

(iii) The owner of the physical facility or the health care facility enters into a lease or sale agreement with a prospective operator of the facility who is licensed or can be licensed by the department and who in the judgment of the department will likely remedy the cause of the receivership.

(b) In its termination order, the court may include terms it deems necessary to prevent the future occurrence of the conditions upon which the receivership was ordered.

35-2-1107. Priorities.

(a) During a receivership under this act, the following expenses and claims have priority in the following order:

(i) The costs and expenses of the administration of the health care facility during the term of the receivership;

(ii) Claims for:

(A) Wages actually owing to employees, other than officers of the facility, for services rendered within three (3) months prior to the date of commencement of the receivership proceeding against the facility, but not exceeding one thousand dollars ($1,000.00) to each employee;

(B) Secured claims, including claims for taxes and debts due the federal or any state or local government, which are secured prior to the appointment of the receiver.

(iii) Claims by or on behalf of individual patients or clients for the cost of health care services which were to be provided by the facility, but were not received by the patient or client for whom the care was paid;

(iv) Unless otherwise provided by law, all other claims of general creditors not falling within any other priority under this section, including claims for taxes and debts due to the federal government or any state or local government which are not secured claims;

(v) Proprietary claims of shareholders, members or officers of the health care facility.

(b) Upon motion by a claimant or by one (1) of the parties to a receivership action under this act, the district court may amend the priorities listed in subsection (a) of this section and order payment of claims as may be necessary in the interest of justice.

35-2-1108. Receiver's liability.

(a) The liability of the department shall be limited as set forth in the Wyoming Governmental Claims Act for the operation of medical facilities and the provision of health care.

(b) If a person is designated to act as a receiver pursuant to W.S. 35-2-1103(f) and is not covered by the Wyoming Governmental Claims Act, the designated receiver shall only be held liable in a personal capacity for the designated receiver's own gross negligence, intentional acts or breach of fiduciary duty.

35-2-1109. Applicability.

The receivership provisions of W.S 1-33-101 through 1-33-110 shall apply to actions under this act to the extent that they do not conflict with this act.

ARTICLE 12 - SENIOR HEALTH CARE DISTRICTS

35-2-1201. Senior health care districts; establishment; definitions.

(a) A senior health care district may be established under the procedures for petitioning, hearing and election of special districts as set forth in the Special District Elections Act of 1994.

(b) As used in this article "senior health care" means "health care" as defined in W.S. 35-22-402(a)(viii) that is delivered to a person who is at least sixty (60) years of age, a disabled adult who is at least eighteen (18) years of age, or a person with medical or behavioral health care needs as determined by appropriate medical assessments and is provided:

(i) By a person or facility licensed, certified or otherwise authorized by the laws of this state in the ordinary course of business or practice of a profession to provide health care services;

(ii) Through home care services, assisted living programs, skilled nursing facilities, nursing homes, hospice services, residential care homes or other related facilities; or

(iii) As specified under W.S. 18-15-111(a)(i) through (iii).

35-2-1202. Body corporate; name and style; powers generally; rules and regulations of trustees.

(a) Each district is a body corporate and shall be designated by the name of the .... senior health care district.

The district name shall be entered upon the commissioners' records and shall be selected by the commissioners of the county in which the greater area of land within the district is located. In the name so selected, the district through its trustees may:

(i) Direct the affairs of the district in the same manner as a rural health care district under W.S. 35-2-703(a)(i) through (xi) for the purpose of providing senior health care;

(ii) Provide directly or by contract for the provision of programs or services under this article. Contracts under this section shall:

(A) Require the provider, if an organization or agency, to be incorporated under the laws of this state as a nonprofit corporation prior to the receipt of any funds;

(B) Specify the manner in which the funds are expended and the programs or services provided; and

(C) Require the provider of the programs or services to present an annual budget for review to determine compliance with this article and for approval by the district.

35-2-1203. Administration of finances; assessment and levy of taxes.

(a) The board of trustees of a senior health care district shall administer the finances of the district according to the provisions of the Uniform Municipal Fiscal Procedures Act, except that an annual audit in accordance with W.S. 16-4-121 is not required. Each senior health care district shall comply with the provisions of W.S. 9-1-507(a)(iii).

(b) The assessor shall assess the property of each senior health care district.

(c) The board of county commissioners, at the time of making the levy for county purposes shall levy a tax for that year upon the taxable property in the district in its county for its proportionate share based on assessed valuation of the estimated amount of funds needed by each senior health care district but in no case shall the tax for the district exceed in any one (1) year the amount of two (2) mills on each dollar of assessed valuation of the property.

35-2-1204. Applicability.

A senior health care district shall be operated, administered and is otherwise subject to the provisions that govern a rural health care district under Wyoming statutes, title 35, chapter 2, article 7, except W.S. 35-2-701, 35-2-705 and 35-2-708 shall not apply. W.S. 35-2-711 through 35-2-722 shall not apply to W.S. 35-2-1203. The question of approval of the issuance of bonds for senior health care purposes pursuant to W.S. 35-2-709(a) shall be submitted to electors only at a general election.

ARTICLE 13 - ELECTRONIC MONITORING OF LONG-TERM CARE

35-2-1301. Short title.

This act may be cited as the "Long-term Care Electronic Monitoring Act."

35-2-1302. Definitions.

(a) As used in this act:

(i) "Capacity to consent" means an individual's ability to:

(A) Understand and appreciate the significant benefits, risks and alternatives to proposed health care;

(B) Understand and appreciate the nature and consequences of making decisions concerning one's person; and

(C) Make and communicate a health care decision.

(ii) "Department" means the Wyoming department of health;

(iii) "Electronic monitoring" means the placement and use of an electronic monitoring device by a resident in the resident's room pursuant to the requirements of this act;

(iv) "Electronic monitoring device" means a video camera or other surveillance instrument with a fixed position that captures, records, transmits or broadcasts audio, video or both and that is installed in a resident's room and used for electronic monitoring of the resident and activities in the room;

(v) "Facility" means an assisted living facility or a nursing care facility certified, licensed or otherwise authorized or permitted by law to provide long-term care in the facility's ordinary course of business and through its employees acting within the scope of their duties;

(vi) "Resident" means a person who is eighteen (18) years or older residing at a facility;

(vii) "Resident's representative" means an individual with a power of attorney for health care or other legal authority to make health care decisions on behalf of a resident who lacks capacity to consent;

(viii) "Resident's room" means a resident's private or shared primary living space within a long-term care facility;

(ix) "This act" means W.S. 35-2-1301 through 35-2-1308.

35-2-1303. Authorized electronic monitoring; applicability.

(a) No facility or resident of a facility shall engage in electronic monitoring or use electronic monitoring devices except as provided in this act.

(b) Notwithstanding W.S. 7-3-702, nothing in this act shall be construed to authorize or permit the use of an electronic monitoring device for the nonconsensual interception or unauthorized recording, storage or disclosure of private communications or actions occurring in a resident's room.

(c) A facility may install and use security surveillance devices in the facility's common areas and other locations except for resident rooms as the facility deems necessary for monitoring the facility. Any recording made by security surveillance devices under this subsection shall be the property of the facility.

(d) A resident or resident's representative may seek to install and use electronic monitoring devices in the resident's room pursuant to the requirements of this act. Any recording made by an electronic monitoring device under this subsection shall be the property of the resident or the resident's

representative but may be used by a facility as provided by rule of the department.

35-2-1304. Authorized electronic monitoring; notice.

(a) Every facility where electronic monitoring devices are in use shall post and maintain a notice or signage in a conspicuous location at or near the facility's main entrances stating that electronic monitoring devices may be in use in or throughout the facility.

(b) A facility shall post and maintain notice or signage in a conspicuous location at the entrance to each resident's room where an electronic monitoring device is being used. The notice or signage shall state that the resident's room is being monitored by an electronic monitoring device.

(c) When electronic monitoring or security surveillance is used at a facility, upon admission or at any other necessary time as determined by the facility, a facility shall obtain the resident's or the resident's representative's signature on a form furnished by the department and provided to the resident or representative by the facility. The form must at a minimum list the following:

(i) That each resident has the right to use electronic monitoring devices in the resident's room, provided that any other residents in the room consent to the electronic monitoring;

(ii) That the use of unauthorized electronic monitoring devices or covert placement of an electronic monitoring device is prohibited;

(iii) That other residents in the facility may be using electronic monitoring devices in their rooms;

(iv) That a resident may file a grievance with the facility if a facility interferes with a resident's right to use electronic monitoring and that a resident may file a grievance with the department if the facility fails to resolve or respond to the grievance;

(v) The security and privacy risks associated with the use of electronic monitoring devices;

(vi) Any other provisions required by the department pursuant to rules promulgated in accordance with this act.

35-2-1305. Capacity; request; consent; records.

(a) A resident with capacity to consent may request and consent to electronic monitoring pursuant to the provisions of this act. For a resident who lacks capacity to consent, the resident's representative may request and consent to electronic monitoring, provided the use of electronic monitoring does not contravene any prior expressed wishes of the resident and the resident does not object to electronic monitoring.

(b) A resident or the resident's representative shall request to use electronic monitoring in the resident's room using a form provided by the department and furnished to the resident or representative by the facility. The form required under this subsection shall require the resident or his representative to:

(i) Acknowledge that, by using an electronic monitoring device, the resident may reveal personal or sensitive information, including health-related information, to individuals with authorized access to the electronic monitoring device and confirm that the resident or his representative consents to any disclosure;

(ii) Waive any claim of liability against the facility for any civil damages for any release or use of a recording made by security surveillance devices under the control or in the custody of the facility or for a violation of the resident's right to privacy in connection with the use of electronic monitoring devices, except for acts or omissions constituting gross negligence or willful or wanton misconduct;

(iii) Acknowledge that the consent of other residents residing in the same room is required and that the other residents residing in the same room may limit the resident's use of an electronic monitoring device;

(iv) Specify the desired type and number of devices, the proposed date of installation and a copy of any contracts with commercial entities that will oversee the installation and maintenance of the electronic monitoring devices;

(v) Acknowledge that facility approval of the type, number, location and installation of electronic monitoring devices is required before installation;

(vi) Acknowledge that the resident is responsible for all fees associated with the electronic monitoring device including purchase, installation, removal, maintenance, internet connectivity and repair of any damage or markings resulting from installation;

(vii) Complete any other requirements specified by the department.

(c) No resident shall install an electronic monitoring device in the resident's room without the consent of any other resident residing in the same room. A resident may obtain the consent of all other residents in the same room by using a form furnished by the department and provided to the resident by the facility. The form shall require the consenting resident or his representative to:

(i) Acknowledge that he is not required to consent and may revoke his consent at any time;

(ii) Acknowledge the resident's right to impose limits on electronic monitoring pursuant to W.S. 35-2-1306(g);

(iii) Waive any claim of liability against the facility for any civil damages for any release or use of a recording made by an electronic monitoring device under the control or in the custody of the facility or for a violation of the resident's right to privacy in connection with the use of electronic monitoring devices, except for acts or omissions constituting gross negligence or willful or wanton misconduct;

(iv) Complete any other requirements specified by the department.

(d) A resident requesting to use electronic monitoring may request to switch rooms or roommates, subject to availability and at the resident's expense. A facility unable to accommodate a resident's request shall reevaluate the request at least one (1) time every two (2) weeks until the facility is able to accommodate the request. A facility shall not be responsible for its inability to accommodate a resident's request at the time of the request.

(e) A resident or resident's representative who consented as provided in subsection (c) of this section may revoke that consent at any time and for any reason. If consent is revoked, a resident must immediately cease using any electronic monitoring devices in the room. A facility shall have authority to remove or disable any electronic monitoring device from a room after consent is revoked and if the resident does not immediately cease using the device.

(f) All facilities shall obtain and retain all forms submitted by residents under this act. Forms shall be retained consistent with requirements for retaining medical records consistent with state and federal law.

35-2-1306. Facility rules; installation of electronic monitoring devices; accommodation by facility.

(a) A facility shall not refuse to admit, remove or retaliate against a resident who requests to use, uses or declines to consent to use electronic monitoring in his room pursuant to this act.

(b) A facility may develop policies governing the placement and installation of electronic monitoring devices, subject to the provisions of this act and any rules promulgated by the department.

(c) A facility shall not unnecessarily impair or impede a resident's use of electronic monitoring devices but may require installation of devices by a licensed contractor or facility personnel and may limit the placement of devices to maintain resident privacy and dignity.

(d) A resident shall obtain the facility's approval before installing or using any electronic monitoring device, subject to the consent of any other resident residing in the same room as required under W.S. 35-2-1305(c).

(e) A resident or the resident's representative shall be responsible for all costs associated with purchasing, installing, using, maintaining, servicing and removing electronic monitoring devices. For electronic monitoring devices requiring an internet connection, the facility may restrict or limit a resident's use of the facility's network services for those devices and may charge a reasonable fee to the resident using the facility's internet for electronic monitoring.

(f) All electronic monitoring devices used by facilities and residents in facilities shall be conspicuous and in plain view. The facility is responsible for ensuring that no electronic monitoring device is installed in a location that:

(i) Jeopardizes the privacy or dignity of any resident;

(ii) Contravenes any imposed limitation on its placement or use as set forth by the department, the facility, the resident or any other resident residing in the same room;

(iii) Jeopardizes the safety of a resident, employee, visitor or other person;

(iv) Violates federal, state or local regulations.

(g) Any resident residing in a room with electronic monitoring may establish limits on the use of electronic monitoring. The resident may impose limits restricting monitoring during specific times, in the presence of specific individuals, during times of personal care and treatment or for any other reason. Upon request by the resident, the facility shall make reasonable efforts to disable or obscure the electronic monitoring devices and to accommodate the resident's requested limits on electronic monitoring when the facility can reasonably do so. The facility shall document all limits requested by the resident and the facility's efforts to accommodate those requests.

(h) A facility or employee of the facility shall not have access to video or audio recordings captured by an electronic monitoring device except as specified in this act.

35-2-1307. Admissibility of electronic monitoring; liability; reporting.

(a) No court or state agency shall admit into evidence or consider during any proceeding any recording created using an electronic monitoring device in a facility unless the recording is otherwise admissible under the Wyoming Rules of Evidence.

(b) Upon request, a facility shall receive a copy of any recording that a party uses in an administrative proceeding against the facility.

(c) A facility shall have no criminal or civil liability for:

(i) Disclosing a recording made by an electronic monitoring device for any purpose pursuant to this act; and

(ii) The disclosure of a recording for any purpose not authorized by this act by a resident, the resident's representative or any agent of the resident or the resident's representative.

(d) A facility that provides internet or network access to a resident for the resident's electronic monitoring device shall not be liable for any network security breach caused by or resulting in unauthorized access to the electronic monitoring devices or any data captured, recorded, transmitted or broadcasted by the devices.

(e) A facility shall have no civil or criminal liability for a violation of a resident's right to privacy that arises out of any electronic monitoring conducted in accordance with this act.

35-2-1308. Electronic monitoring devices; rulemaking; compliance with rules.

(a) The department shall promulgate rules necessary to implement this act including rules for receiving and resolving grievances received from residents.

(b) Any resident or facility using an electronic monitoring device before, on or after October 1, 2020 shall comply with this act.

ARTICLE 14 - PLANS OF SAFE CARE FOR INFANTS

35-2-1401. Definitions; plans of safe care; requirements.

(a) As used in this article:

(i) "Early intervention and education program" means a program that provides services for infants and children with developmental delays and disabilities;

(ii) "Patient care team" means a team of health care providers, including one (1) or more licensed health care providers, who provide medical care services to a patient;

(iii) "Plan of safe care" means a plan designed to ensure the safety and wellbeing of an infant with prenatal substance use exposure following the infant's release from the care of a health care provider by addressing the health and substance use treatment needs of the infant and the affected family or caregiver.

(b) When an infant is born with and identified, or identified prenatally, as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug or alcohol exposure, a member of a patient care team shall develop a plan of safe care, in cooperation with the infant's parents, families or guardians and with a priority of keeping the infant in the home as the safety and wellbeing of the infant allows in order to:

(i) Ensure the safety and wellbeing of the infant;

(ii) Address the health and substance use treatment needs of the infant and affected family members or caregivers; and

(iii) Ensure that appropriate referrals are made for the infant and affected family members or caregivers upon discharge from the hospital or other health care provider, including a referral to a local early intervention and education program.

(c) The plan of safe care shall take into account whether the infant's prenatal drug exposure occurred as a result of medication assisted treatment or medication prescribed for the mother by a healthcare provider, and whether the infant's mother is or will be actively engaged in ongoing substance use disorder treatment that would mitigate the future risk of harm to the infant following discharge.

(d) If applicable, a copy of the plan of safe care shall be provided to the appropriate community partners involved in the infant's future care and included in the instructions for the infant upon discharge from the hospital or other health care provider.

(e) The patient care team shall report the total number of infants and families for whom a plan of safe care has been developed to the department of family services pursuant to the

Comprehensive Addiction and Recovery Act of 2016, P.L. No. 114-198.

(f) A plan of safe care shall contain a termination date not to exceed one (1) year after the plan of safe care is initiated. The patient care team and the parents, families or guardians may initiate subsequent plans of safe care after the termination of the initial plan of safe care under this subsection.

ARTICLE 15 - HOSPITAL PRICE TRANSPARENCY ACT

35-2-1501. Short title; purpose; sunset.

(a) This act shall be known and may be cited as the "Hospital Price Transparency Act."

(b) The purpose of this act is to require hospitals to disclose prices for certain items and services and to provide civil penalties.

(c) This article is repealed effective July 1, 2029.

35-2-1502. Definitions.

(a) As used in this act:

(i) "Department" means the department of health;

(ii) "De-identified maximum negotiated charge" means the highest charge a facility has negotiated with any third party payors for a facility item or service;

(iii) "De-identified minimum negotiated charge" means the lowest charge a facility has negotiated with any third party payors for a facility item or service;

(iv) "Discounted cash price" means the charge that applies to a person who pays cash, or a cash equivalent, for a facility item or service;

(v) "Facility" means a hospital located within the state and licensed under title 35, chapter 2, article 9 of the Wyoming statutes;

(vi) "Facility item or service" means all items and services, including individual items and services and service

packages, that may be provided by a facility to a patient in connection with an inpatient admission or an outpatient department visit, including:

(A) Supplies and procedures;

(B) Room and board;

(C) Use of the facility and other areas, generally referred to as facility fees;

(D) Services of health care providers, generally referred to as professional charges;

(E) Any other item or service offered by the facility.

(vii) "Gross charge" means the charge for a facility item or service that is reflected on a facility's list, less any discounts;

(viii) "Machine-readable format" means a digital representation of information that can be imported or read into a computer system for processing;

(ix) "Payor-specific negotiated charge" means the charge that a facility has negotiated with a third party payor for a facility item or service;

(x) "Shoppable service" means a facility item or service that may be scheduled by a patient in advance;

(xi) "Standard charge" means the regular rate established by the facility for a facility item or service provided to a specific group of paying patients. The term includes all of the following:

(A) The gross charge;

(B) The payor-specific negotiated charge;

(C) The de-identified minimum negotiated charge;

(D) The de-identified maximum negotiated charge;

(E) The discounted cash price.

(xii) "Third party payor" means a person who is, by statute, contract or agreement, legally responsible for payment of a claim for a facility item or service;

(xiii) "This act" means W.S. 35-2-1501 through 35-2-1507.

35-2-1503. List of standard charges required.

(a) A facility shall:

(i) Maintain a list of all standard charges for facility items or services in accordance with this section;

(ii) Maintain a list of the standard charges required under paragraph (i) of this subsection for not less than three hundred (300) shoppable services provided by the facility, or as many of the shoppable services the facility provides, in accordance with this section; and

(iii) Make the lists required by paragraphs (i) and (ii) of this subsection available to the public at all times.

(b) The lists required to be maintained by a facility under subsection (a) of this section shall reflect the standard charges applicable to each location as required by federal rules and regulations.

(c) The lists required under subsection (a) of this section shall include the following items, if applicable:

(i) A description of each facility item or service provided by the facility;

(ii) The following charges, expressed in dollar amounts, for each individual facility item or service:

(A) All standard charges;

(B) Any code used by the facility for purposes of accounting or billing; and

(C) A list of charges for shoppable services as required by paragraph (a)(ii) of this section, including but not limited to:

(I) The charges for shoppable services specified by the centers for Medicare and Medicaid services in 45 C.F.R. part 180; or

(II) If the facility does not provide all of the shoppable services described by subdivision (I) of this subparagraph, then the facility shall provide as many of the charges for those shoppable services as the facility does provide.

(d) The lists required by subsection (a) of this section shall be displayed in a prominent location on the home page of the facility's publicly accessible website or accessible through a link on that website.

(e) The lists required under subsection (a) of this section shall:

(i) Be available:

(A) Free of charge;

(B) Without having to establish a user account or password;

(C) Without having to submit personal identifying information;

(D) Without having to enter a code to access the list.

(ii) Be accessible to a common commercial operator of an internet search engine to the extent necessary for the search engine to index and display the lists as a result in response to a search query of a user of the search engine;

(iii) Be digitally searchable;

(iv) Use the naming convention specified by the centers for Medicare and Medicaid services.

(f) Each facility shall update the lists required by subsection (a) of this section not less than annually. Each facility shall clearly indicate on its website the date that the lists were updated.

35-2-1504. Monitoring.

(a) The department shall monitor each facility's compliance with the requirements of this act using any of the following methods:

(i) Evaluating complaints made by persons to the department regarding noncompliance with the act;

(ii) Reviewing any analysis prepared regarding noncompliance with this act;

(iii) Auditing the websites of facilities for compliance with this act.

(b) Notwithstanding any provision of law to the contrary, in considering an application for renewal of a facility's license or certificate, the department may consider whether a facility is or has been in substantial compliance with this act.

35-2-1505. Material violation; corrective action plan.

(a) A facility materially violates this act if the facility fails to comply with the requirements of W.S. 35-2-1503.

(b) If the department determines that a facility has materially violated this act, the department shall issue a material violation notice to the facility and require that the facility submit a corrective action plan. The notice shall indicate the form and manner that the corrective action plan shall be submitted to the department and shall clearly state the date by which the facility shall submit the plan.

(c) The facility that receives a notice under subsection (b) of this section shall:

(i) Submit a corrective action plan in the form and manner, and by the specified date, prescribed by the notice of violation; and

(ii) Act to comply with the corrective action plan by the date required by paragraph (d)(ii) of this section.

(d) A corrective action plan submitted to the department shall:

(i) Describe in detail the corrective action the facility will take to address any violation identified by the department in the notice provided under subsection (b) of this section; and

(ii) Provide a date that corresponds with federal rules and regulations by which the facility will complete the corrective action plan.

(e) A corrective action plan is subject to review and approval by the department. After the department reviews and approves a facility's corrective action plan, the department shall monitor and evaluate the facility's compliance with the plan.

35-2-1506. Civil penalty for violations.

(a) The department may impose a civil penalty on a facility if a facility fails to:

(i) Respond to the department's notice to submit a corrective action plan within the timeframe specified by federal rules and regulations; or

(ii) Comply with the requirements of a corrective action plan submitted to the department within the timeframe specified by federal rules and regulations.

(b) A civil penalty imposed under subsection (a) of this section shall be:

(i) For facilities categorized as critical access hospitals:

(A) For a first offense within any twelve (12) month period, one hundred dollars ($100.00) per day for each day the department imposes a civil penalty under subsection (a) of this section;

(B) For a second offense within any twelve (12) month period, five hundred dollars ($500.00) per day for each day the department imposes a civil penalty under subsection (a) of this section;

(C) For a third or subsequent offense within any twelve (12) month period, one thousand dollars ($1,000.00) per

day for each day the department imposes a civil penalty under subsection (a) of this section.

(ii) For hospitals with prospective payment systems, one thousand dollars ($1,000.00) per day for each day within any twelve (12) month period the department imposes a civil penalty under subsection (a) of this section.

35-2-1507. Legislative recommendations.

The department may propose to the legislature any necessary recommendations for amending this act, including recommendations in response to amendments by the centers for Medicare and Medicaid services to 45 C.F.R. part 180.

CHAPTER 3 - SANITARY AND IMPROVEMENT DISTRICTS

35-3-101. Procedure for proposing establishment of sanitary and improvement districts.

(a) Repealed by Laws 1998, ch. 115, § 5.

(b) Repealed by Laws 1998, ch. 115, § 5.

(c) Repealed by Laws 1998, ch. 115, § 5.

(d) Repealed by Laws 1998, ch. 115, § 5.

(e) Repealed by Laws 1998, ch. 115, § 5.

(f) Repealed by Laws 1998, ch. 115, § 5.

(g) A special sanitary and improvement district may be established under the procedures for petitioning, hearing and election of special districts as set forth in the Special District Elections Act of 1994.

35-3-102. Contents of petition; lands not to be included.

The petition for the establishment of said district shall contain a definite description of the territory intended to be embraced in such district according to government survey and the name of the proposed district. No lands included within any municipal corporation shall be included in any sanitary and improvement district, and no tract of twenty (20) acres or more which is outside any municipal corporation and is used primarily for industrial purposes shall be included in any sanitary and

improvement district organized under this act without the written consent of the owner of such tract.

35-3-103. Election of trustees at organization; term; salary; corporate powers.

At the election for the organization of the district, there shall be elected two (2) trustees for a term of two (2) years and three (3) trustees for a term of four (4) years. Thereafter their respective successors shall be elected for a term of four (4) years and until their successors are elected pursuant to the Special District Elections Act of 1994. At the first meeting after election of one (1) or more members, the board shall elect one (1) of their number president. Such district shall be a body corporate and politic by name of "Sanitary and Improvement District of ....", with power to sue, be sued, contract, acquire, and hold property, and adopt a common seal. The trustees shall each receive as his salary the sum of three dollars ($3.00) for each meeting.

35-3-104. Bond of trustees.

Each trustee of any such district shall, prior to entering upon his office, execute and file with the county clerk of the county in which said district, or the greater portion of the area thereof, is located his bond, with one (1) or more sureties, to be approved by the county clerk, running to the state of Wyoming in the penal sum of five thousand dollars ($5,000.00), conditioned for the faithful performance by said trustee of his official duties and the faithful accounting by him for all funds and property of the district that shall come into his possession or control during his term of office. The premium, if any, on any such bond shall be paid out of the funds of the district. Suit may be brought on said bonds by any person, firm or corporation that has sustained loss or damage in consequence of the breach thereof.

35-3-105. Election and compensation of clerk; employment of engineer; ordinances, rules and regulations; publication of proceedings.

The board of trustees shall elect one (1) of their members clerk and have the power to appoint, employ and pay an engineer, who shall be removable at pleasure. The clerk may be paid not to exceed five hundred dollars ($500.00) per year by said board. The board shall have power to pass all necessary ordinances, orders, rules and regulations for the necessary conduct of its

business and to carry into effect the objects for which such sanitary and improvement district is formed. Immediately after each regular and special meeting of said board, it shall cause to be published in one (1) newspaper of general circulation in the district, a brief statement of its proceedings, including an itemized list of bills and claims allowed, specifying the amount of each, to whom paid and for what purpose; provided, no publication shall be required unless the same can be done at an expense not exceeding one-third of the rate for publication of legal notices.

35-3-106. Power of trustees to establish water mains, sewers and disposal plants; approval by state department of health.

The board of trustees of any district organized under this act shall have power to provide for establishing, maintaining and constructing water mains, sewers and disposal plants, and disposing of drainage, waste and sewage of such district in a satisfactory manner. Any system established shall be approved by the Wyoming state department of health. The district may construct its sewage disposal plant and other sewerage improvements, in whole or in part, inside or outside the boundaries of the district and may contract with corporations or municipalities for disposal of sewage and use of existing sewerage improvements.

35-3-107. Contracts.

All contracts for work to be done, the expense of which is more than five hundred dollars ($500.00), may employ alternate design and construction delivery methods as defined in W.S. 16-6-701 and shall be let to the lowest responsible bidder, upon notice of not less than twenty (20) days of the terms and conditions of the contract to be let. The board of trustees shall have power to reject any and all responses or bids and readvertise for the letting of such work.

35-3-108. Repealed by Laws 2017, ch. 62, § 3.

35-3-109. Annual tax levy authorized; certification and collection; treasurer designated.

The board of trustees may annually levy and collect taxes for corporate purposes upon property within the limits of such sanitary and improvement district, to the amount of not more than one (1) mill on the dollar of the actual valuation for

general purposes and file the resolution in the office of the county clerk who shall record the same in the county where the district lies. The board shall also certify the same to the county assessor of the counties in which the district is located, who shall extend the same upon the county tax list. The same shall be collected by the county treasurer in the same manner as state and county taxes. The county treasurer of the county in which the greater portion of the area of the district is located shall disburse the same on warrants of the board of trustees, and in respect to such fund the county treasurer shall be ex officio treasurer of the sanitary and improvement district.

35-3-110. Eminent domain; power conferred.

Such sanitary and improvement district may acquire by purchase, condemnation or otherwise, real or personal property, right-of-way, and privilege, within or without its corporate limits, necessary for its corporate purposes.

35-3-111. Eminent domain; manner of exercise; ascertaining damage to property.

Whenever the board of trustees of any sanitary and improvement district shall by order determine to make any public improvement under the provisions of this act which shall require that private property be taken or damaged, the district may cause the damage therefor to be ascertained as nearly as may be according to the provisions of law for the appropriation of right-of-way by railway companies.

35-3-112. Right-of-way over public lands.

Whenever it is necessary, in making any improvement under the provisions of this act, to enter upon or cross any state or public lands, the district may acquire a right-of-way over the lands subject to any rules, regulations or requirements as may be necessary and by paying fair market value for the right-of-way as determined by the board of land commissioners subject to appeal to district court as to the determination of fair market value.

35-3-113. Annual oversight of accounts; information to be shown; powers and duties of director.

(a) The director of the state department of audit shall cause there to be oversight of the books of account, kept by the

board of trustees of each sanitary and improvement district in the state of Wyoming, in accordance with W.S. 9-1-507 or 16-4-121(f), as applicable.

(i) Repealed by Laws 1995, ch. 199, § 2.

(ii) Repealed by Laws 1995, ch. 199, § 2.

(iii) Repealed by Laws 1995, ch. 199, § 2.

(iv) Repealed by Laws 1995, ch. 199, § 2.

(v) Repealed by Laws 1995, ch. 199, § 2.

(vi) Repealed by Laws 1995, ch. 199, § 2.

(vii) Repealed by Laws 1995, ch. 199, § 2.

(viii) Repealed by Laws 1995, ch. 199, § 2.

(ix) Repealed by Laws 1995, ch. 199, § 2.

(x) Repealed by Laws 1995, ch. 199, § 2.

(xi) Repealed by Laws 1995, ch. 199, § 2.

(b) All reports under subsection (a) of this section shall be and remain a part of the public records in the office of the director of the state department of audit. The expense of such oversight shall be paid out of the funds of the district. The director of the state department of audit or his designee shall be given access to all books and papers, contracts, minutes, bonds and other documents and memoranda of every kind and character of such district and be furnished all additional information possessed by any present or past officer or employee of any such district, or by any other person, that is essential to the making of a comprehensive and correct report.

35-3-114. Annexation by city or village.

If the district, or any part of it, is annexed by any city or village, such city or village shall assume and pay the bonds and other obligations outstanding at the time of annexation.

35-3-115. Bonds; general requirements as to issuance; tax levy.

The district may borrow money for corporate purposes and issue its general obligation bonds therefor, but the principal amount of the general obligation bond shall not exceed ten percent (10%) of the assessed valuation of the taxable property in the district and the district shall cause to be levied and collected annually a tax by valuation on all the taxable property in the district, except intangible property, sufficient to pay the interest and principal of the bonds as the interest and principal become due and payable. In lieu of the issuance of general obligation bonds, the district may issue its revenue bonds to pay all or part of the cost of the improvements and pledge and hypothecate the revenues and earnings of its sewer system for the payment of the revenue bonds, and enter into a contract with reference thereto as may be necessary or proper. The district may pay part of the cost of the improvements by the issuance of general obligation bonds and part by the issuance of revenue bonds. The procedure for the issuance of the bonds shall be that prescribed by this act. The limit on the amount of the bonds shall not apply to revenue bonds payable solely from the revenues and earnings of the district.

35-3-116. Bonds; judicial examination and approval; prerequisite to sale.

The board of trustees of a sanitary and improvement district organized under the provisions of this act, shall, before issuing and before selling any bonds of such district, commence special proceedings, in and by which the proceedings of the board and of the district providing for and authorizing the issue and sale of the bonds of the district shall be judicially examined, approved and confirmed, or disapproved and disaffirmed.

35-3-117. Bonds; judicial examination and approval; petition.

The board of trustees of the district or such holder or holders of any bond or bonds of the district shall file in the district court of the county in which the lands of the district, or the greater portion thereof, are situated, a petition praying in effect that the proceedings aforesaid may be examined, approved, and confirmed by the court. The petition shall state the facts showing the proceedings had for the issuance and sale of the bonds and shall state generally that the sanitary and improvement district was duly organized, and that the first board of trustees was duly elected. The petition need not state

the facts showing such organization of the district or the election of the first board of trustees.

35-3-118. Bonds; judicial examination and approval; notice and hearing.

The court shall fix the time for the hearing of the petition, and shall order the clerk of the court to give and publish a notice of the filing of the petition. The notice shall be given as is provided in section 3. The notice shall state the time and place fixed for the hearing of the petition and prayer of the petition, and that any person interested in the organization of the district, or in the proceedings for the issuance or sale of the bonds may, on or before the day fixed for the hearing of the petition, move to dismiss the petition or answer thereto. The petition may be referred to and described in the notice as the petition of .... (giving its name), praying that the proceedings for the issuance and sale of such bonds of such district may be examined, approved and confirmed by the court.

35-3-119. Bonds; judicial examination and approval; objections to petition; pleading and practice.

Any person interested in the district, or in the issuance or sale of the bonds, may move to dismiss the petition or answer thereto. The provisions of the Code of Civil Procedure respecting motions and answer to a petition shall be applicable to motions and answer to the petition in such special proceedings. The persons so filing motion and answering the petition shall be the defendants in the special proceedings, and the board of trustees shall be the plaintiff. Every material statement of the petition not specially controverted by the answer must, for the purpose of such special proceedings, be taken as true. Each person failing to answer the petition shall be deemed to admit as true all the material statements of the petition. The rules of pleading and practice provided by the Code of Civil Procedure which are not inconsistent with the provisions of this act are applicable to the special proceedings herein provided for.

35-3-120. Bonds; judicial examination and approval; powers of court; confirmation or disapproval of issue; cost; history of proceedings; endorsement and registration.

Upon the hearing of such special proceedings, the court shall have power and jurisdiction to examine and determine the legality and validity of, and approve and confirm or disapprove

and disaffirm each and all of the proceedings for the organization of such district under the provisions of this act, from and including the petition for the organization of the district, and all other proceedings which may affect the legality or validity of the bonds and the order of sale and the sale thereof. The court in inquiring into the regularity, legality or correctness of such proceedings, must disregard an error, irregularity or omission which does not affect the substantial rights of the parties to such special proceedings. It may approve and confirm such proceedings in part and disapprove and declare illegal or invalid other and subsequent parts of the proceedings. The court shall find and determine whether the notice of the filing of the petition has been duly given and published for the time and in the manner prescribed in W.S. 35-3-118. The costs of the special proceedings may be allowed and apportioned between the parties in the discretion of the court. If the court shall determine the proceedings for the organization of the district and for the voting and issuing of the bonds legal and valid, the board of trustees shall then prepare a written statement beginning with the filing of the petition for the organization of the district, including all subsequent proceedings for the organization of the district and voting and issuing of the bonds, and ending with the decree of the court finding the proceedings for the organization of the district and the proceedings for the voting and issuing of the bonds legal and valid, and shall present such written statement and the bonds to the director of the state department of audit. The written statement shall be certified under oath by the board of trustees of the district, and the director shall then examine the statements and the bonds so submitted to him and if he is satisfied that the bonds have been voted in conformity to law and are in all respects in due form, he shall record the statement and register the bonds in his office. No such bonds shall be issued or be valid unless they shall be so registered and have endorsed thereon a certificate of the examiner showing that such bonds are issued pursuant to law, the data filed in the office of the director being the basis of such certificate.

35-3-121. Bonds; objections to issuance; submission of question to voters; issuance upon favorable vote; rate of interest.

If the electors of the district, equal in number to forty percent (40%) of the electors of the district voting at the last general state election, file written objections to the proposed issuance of the bonds with the clerk of the board of trustees within twenty (20) days after the first publication of notice,

the board of trustees shall submit the proposition of issuing the bonds to the electors of the district at an election on a date as determined by the board of county commissioners and authorized under W.S. 22-21-103, notice of which shall be given by publication in a legal newspaper published or of general circulation in the district three (3) consecutive weeks. If a majority of the qualified electors of the district, voting upon the proposition, vote in favor of issuing bonds, the board of trustees may issue and sell bonds and, if revenue bonds are issued, pledge for the payment of same the revenues and earnings of the improvements as proposed in the notice, and enter into contracts in connection therewith as may be necessary or proper. The bonds shall draw interest from and after the date of the issuance thereof, at a rate determined by the board. In the event the electors fail to approve the proposition by majority vote, the proposition shall not be again submitted to the electors for their consideration until five (5) months have elapsed from the date of the election.

35-3-122. Rules and regulations of trustees; determination and collection of service charges; discontinuance of service.

The board of trustees may make all necessary rules and regulations governing the use, operation, and control thereof. The board may establish an initial connection charge to be paid by any person, firm or corporation connecting to the system at the time of connection and establish just and equitable rates or charges to be paid to it for connections and the use of the water mains, disposal plant and sewerage system by each person, firm or corporation whose premises are served thereby. If the service charge so established is not paid when due, such sum may be recovered by the district in an action for the recovery of money or it may be certified to the county assessor and assessed against the premises served, and collected or returned in the same manner as other district taxes are certified, assessed, collected and returned. The district through its board of trustees, may make contracts or agreements whereby a person or corporation, public or private, furnishing water to the inhabitants of the district, shall turn off and refuse to sell water to any such water user who is delinquent in the payment of any sewer rental or service charges over forty-five (45) days. Notice of such discontinuance of water service to such person or corporation and water user shall be given by registered mail.

35-3-123. Required connections with sewer.

Whenever a sewer system has been established, all dwellings in the district shall connect therewith and all septic tanks shall be dispensed with. The board of trustees shall have the authority to institute court proceedings in a court of competent jurisdiction to carry out the provisions of this section.

35-3-124. Preparation of plans and specifications for improvement; estimate of cost; notice required before adoption; information to be shown in notice.

(a) The board of trustees of such district shall first cause plans and specifications for said improvements and an estimate of the cost thereof to be made by a special engineer employed for that purpose. Such plans, specifications and estimate of cost, after being approved and adopted by the board of trustees, shall be filed with the county clerk and be open to public inspection.

(b) The board of trustees shall then, by resolution entered in the minutes of their proceedings, direct that public notice be given in regard thereto. This notice shall state:

(i) The general nature of the improvements proposed to be made;

(ii) That the plans, specifications and estimate thereof are on file in the office of the county clerk and are open to public inspection;

(iii) The estimated cost thereof;

(iv) That it has proposed to pay for the same by:

(A) Direct obligation bonds payable from unlimited ad valorem taxes on all the property located in the district in which the bonds are issued;

(B) Revenue bonds payable from service charges from present and future residents of the district; or

(C) A combination of the two (2) methods.

(v) The principal amount of said bonds which it proposes to issue;

(vi) The maximum rate of interest which the bonds will bear and that they shall mature in not to exceed forty (40) years from the date of issuance thereof;

(vii) That in the event revenue bonds are issued, the payment of said bonds will be a lien upon and will be secured by a pledge of the revenues and earnings from the improvements;

(viii) The kind of improvements whose revenues and earnings are to be so pledged;

(ix) That any qualified elector of the district may file written objections to the issuance of said bonds with the clerk of the board of trustees of the district within twenty (20) days after the first publication of said notice;

(x) That if such objections are filed within said time by qualified electors of the district, equal in number to forty percent (40%) of the electors of the district who voted at the last general state election, the bonds will not be issued unless the issuance of such bonds is otherwise authorized in accordance with law; and

(xi) That if such objections are not so filed by such percentage of such electors, the board of trustees of the district proposes to pass a resolution authorizing the sale of said bonds and making such contracts with reference thereto as may be necessary or proper.

(c) Such notice shall be signed by the clerk of the board of trustees and be published three (3) consecutive weeks in a legal newspaper published or of general circulation in the district.

CHAPTER 4 - HEALTH REGULATIONS GENERALLY

ARTICLE 1 - COMMUNICABLE DISEASES

Division 1. Generally

35-4-101. Department of health to prescribe rules and regulations; penalty for violation; resisting or interfering with enforcement.

The state department of health shall have the power to prescribe rules and regulations for the management and control of communicable diseases. Any persons violating or refusing to obey

such rules and regulations or resisting or interfering with any officer or agent of the state department of health while in the performance of his duties shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by the imposition of such penalty as may be provided by law. Or in the discretion of the court said person may be punished by a fine of not more than one hundred dollars ($100.00) or imprisonment not exceeding thirty (30) days, or both such fine and imprisonment.

35-4-102. Liability of county for medical services; indigent patients.

The respective counties of the state shall not be liable for the payment of any claim for service rendered by any physician in the treatment of contagious diseases, unless such treatment shall be for the care of indigent persons who are a public charge.

35-4-103. Investigation of diseases; quarantine; regulation of travel; employment of police officers to enforce quarantine; report of county health officer; supplies and expenses.

The department of health shall, immediately after the receipt of information that there is any smallpox, cholera, scarlet fever, diphtheria or other infectious or contagious disease, which is a menace to the public health, in any portion of this state, order the county health officer to immediately investigate the case and report to the state health officer the results of the investigation. The state health officer shall, subject to W.S. 35-4-112 and if in his judgment the occasion requires, direct the county health officer to declare the infected place to be in quarantine. The county health officer shall place any restrictions upon ingress and egress at this location as in his judgment or in the judgment of the state health officer are necessary to prevent the spread of the disease from the infected locality. The county health officer shall upon declaring any city, town or other place to be in quarantine, control the population of the city, town or other place as in his judgment best protects the people and at the same time prevents the spread of the disease. If necessary for the protection of the public health and subject to W.S. 35-4-112, the state health officer shall establish and maintain a state quarantine and shall enforce practical regulations regarding railroads or other lines of travel into and out of the state of Wyoming as necessary for the protection of the public health. The expenses

incurred in maintaining the state quarantine shall be paid out of the funds of the state treasury appropriated for this purpose and in the manner in which other expenses of the department are audited and paid. The county health officer or the department may employ a sufficient number of police officers who shall be under the control of the county health officer, to enforce and carry out any quarantine regulations the department may prescribe. The regulations shall be made public in the most practicable manner in the several counties, cities, towns or other places where the quarantine is established. If the quarantine is established by the county health officer, he shall immediately report his actions to the state health officer. The county health officer shall furnish all supplies and other resources necessary for maintaining the quarantine. Upon certificate of the county health officer approved by the director of the state department of health, the county commissioners of any county where a quarantine has been established shall issue warrants to the proper parties for the payment of all expenses, together with the expense of employing sufficient police force, to maintain and enforce the quarantine. For purposes of this act, "state health officer" means as defined in W.S. 9-2-103(e).

35-4-104. Quarantine regulations generally; modification or abrogation.

In case of the existence of smallpox, cholera, typhoid fever, scarlet fever, diphtheria, or any infectious or contagious disease, including venereal diseases, that is a menace to public health, or of any epidemic of any such disease, the state health officer may, if he deems proper, proceed to the locality where such disease exists, and make such investigation as is necessary to ascertain the cause therefor, and in case of quarantine established by the county health officer, the state health officer shall have power after close personal inspection, to modify or abrogate any or all quarantine regulations after the same have been established.

35-4-105. Escape from quarantine deemed crime; punishment.

Any person or persons confined in any quarantine established in this state under the provisions of this act who shall escape therefrom or attempt to escape therefrom, without having been dismissed upon the certificate or authority of the county health officer may be charged with a crime and shall be quarantined for tuberculosis or other emergent disease or condition that might pose comparable risk for transmission in the absence of strict

quarantine, and confined to a site designated by the state health officer and the director of the department of health until such disease is cured or becomes inactive or noninfectious. Upon conviction of a violation of this section, a person may be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than one (1) year.

35-4-106. Vaccination for smallpox; penalty for refusal.

The state department of health may adopt such measures for the general vaccination of the inhabitants of any city, town or county in the state, as they shall deem proper and necessary to prevent the introduction or arrest the progress of smallpox; and every person who shall refuse to be vaccinated, or prevent any person under his care and control from being vaccinated, or who shall fail to present himself or herself to the county health officer or a practicing physician acting under the direction of the department or county health officer, for the purpose of being vaccinated, if such physician believes vaccination necessary, shall upon conviction be fined not more than one hundred dollars ($100.00) or less than ten dollars ($10.00) or imprisoned in the county jail not more than thirty (30) days.

35-4-107. Report required of physician; record of each case to be kept; duty of individuals to report diseases.

(a) Pursuant to department of health rules and regulations, the state health officer or his designee shall publish a list of communicable diseases or conditions to be reported by licensed physicians and laboratories in the state. It shall be the duty of every practicing or licensed physician or other health care provider as provided by department rules and regulations in the state of Wyoming to report immediately to the state health officer or his designee in the manner established by department rule and regulation through published reporting procedures provided to each licensed physician or laboratory. The state health officer or his designee shall collect and provide information which may include the name of the person suffering from disease only to the county health officer or health representatives where disease control efforts are required. For purposes of this section, "health representatives" means those health care workers assigned by federal, state or local health authorities to assist with disease control and investigation efforts under the direct supervision of the state health officer or his designee and local county health officer. Any person knowing of a case of a

serious contagious or infectious disease, not under the care of a physician, may report the same to the state health officer or his designee or the health officer of the county in which the disease exists.

(b) Pursuant to department of health rules and regulations, there may be a review of medical records by the state health officer, his designee or their designated health care representatives who shall be under the direct supervision of the state health officer or his designee to confirm diagnosis, investigate causes or identify other cases of disease conditions in a region, community or workplace in the state to determine if proper measures have been taken to protect public health and safety. Notwithstanding other provisions of state law, the review of records may occur without patient consent, but shall be kept confidential and shall be restricted to information necessary for the control, investigation and prevention of disease conditions dangerous to the public health. Any person who receives medical information under this subsection shall not disclose that information for any other purpose other than for purposes of the investigation and disease control efforts. Any violation of this subsection is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than one thousand dollars ($1,000.00), or both.

35-4-108. Penalty for failure to report or for false report.

Any practicing, licensed physician or other person required to report who fails to report to the state health officer or his designee any case of disease in the manner provided in W.S. 35-4-107, or who willfully makes any false report regarding any case, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000.00), or imprisonment in the county jail not more than six (6) months, or both.

35-4-109. Spreading contagious disease; prohibited.

Any person who shall knowingly have or use about his premises, or who shall convey or cause to be conveyed into any neighborhood, any clothing, bedding or other substance used by, or in taking care of, any person afflicted with the smallpox or other infectious or contagious disease, or infected thereby, or shall do any other act with intent to, or necessarily tending to the spread of such disease, into any neighborhood or locality, shall be deemed guilty of a misdemeanor, and upon conviction

thereof before any court of competent jurisdiction shall be fined in any sum not more than five hundred dollars ($500.00), or imprisoned in the county jail not exceeding six (6) months, or by both fine and imprisonment; and the court trying any such offender may also include in any judgment rendered, an order to the effect that the clothing or other property infected be burned or otherwise destroyed, and shall have power to carry such order into effect.

35-4-110. Spreading contagious disease; liability for damages in civil action.

Any person guilty of violating the provisions of W.S. 35-4-109, in addition to the penalties therein prescribed, shall be liable in a civil action in damages to any and all persons, who may, from that cause, become infected with such contagious disease; said damages shall be so assessed as to include, in addition to other damages, all expenses incurred by reason of such sickness, loss of time and burial expenses; and such action may also be maintained by the representative of any deceased person.

35-4-111. Reporting of Reye's Syndrome.

Every hospital or local health officer shall immediately report every diagnosed case of Reye's Syndrome to the state health officer of the department of health.

35-4-112. Right of appeal of quarantine.

(a) Any person who has been quarantined pursuant to this act may appeal to the district court at any time for release from the quarantine. The court may hold a hearing on the appeal after notice is provided to the state health officer at least seventy-two (72) hours prior to the hearing. After the hearing, if the court finds that the quarantine is not reasonably necessary to protect the public health, it shall order the person released from quarantine. The burden of proof for the need for the quarantine shall be on the state health officer, except that in the case of bona fide scientific or medical uncertainty the court shall give deference to the professional judgment of the state health officer unless the person quarantined proves by a preponderance of the evidence that the quarantine is not reasonably necessary to protect the public health.

(b) Any person quarantined shall have the right to communicate by telephone or any other available electronic

means, but the state health officer may, in order to protect the public health, deny the quarantined person's right to meet in person with any person not subject to the quarantine, except that a parent or legal guardian may upon request be quarantined with the minor patient.

(c) In the event of a public health emergency of unknown effect, the state health officer may impose a temporary quarantine until there is sufficient information to determine what actions, if any, are reasonably needed to protect the public health.

35-4-113. Treatment when consent is not available; quarantine.

(a) Except as provided by subsection (b) of this section, W.S. 14-4-116 and 21-4-309, the state health officer shall not subject any person to any vaccination or medical treatment without the consent of the person.

(b) During a public health emergency, the state health officer may subject a person to vaccination or medical treatment without consent in the following circumstances:

(i) If the parent, legal guardian or other adult person authorized to consent to medical treatment of a minor child cannot be located and consulted and the vaccination of or medical treatment for the minor child is reasonably needed to protect the public health or protect the minor child from disease, death, disability or suffering;

(ii) If the person authorized to consent on behalf of an incompetent person cannot be located and consulted and the vaccination of or medical treatment for the incompetent person is reasonably needed to protect the public health or protect the incompetent person from disease, death, disability or suffering.

(c) If a person withholds or refuses consent for himself, a minor or other incompetent when the vaccination or medical treatment is reasonably needed to protect the health of others from a disease carrying the risk of death or disability, then the person for whom the vaccination or medical treatment is refused may be quarantined by the state health officer.

35-4-114. Immunity from liability.

(a) During a public health emergency as defined by W.S. 35-4-115(a)(i) and subject to subsection (d) of this section, any health care provider or other person, including a business entity, who in good faith follows the instructions of a state, city, town or county health officer or who acts in good faith in responding to the public health emergency is immune from any liability arising from complying with those instructions or acting in good faith. This immunity shall apply to health care providers who are retired, who have an inactive license or who are licensed in another state without a valid Wyoming license and while performing as a volunteer during a declared public health emergency as defined by W.S. 35-4-115(a)(i). This immunity shall not apply to acts or omissions constituting gross negligence or willful or wanton misconduct.

(b) The licensing boards for any health care provider holding a permit or license as a health care provider regulated under title 33 of the Wyoming statutes shall provide by rule and regulations for the temporary licensure of health care providers during a public health emergency as declared by the governor pursuant to W.S. 35-4-115(a)(i). If necessary during a declared public health emergency, the state health officer may issue temporary practice licenses to health care providers who are retired, who have an inactive license or who are licensed in another state without a valid Wyoming license pending action on an application for issuance of a temporary license by the appropriate licensing board pursuant to this subsection.

(c) All temporary health care provider licenses issued by the state health officer under subsection (b) of this section shall terminate automatically upon declaration by the governor, pursuant to W.S. 35-4-115(a)(i), that the public health emergency has ended.

(d) Any health care provider, person or entity shall be immune from liability for damages in an action involving a COVID-19 liability claim unless the person seeking damages proves that the health care provider, person or entity took actions that constitutes gross negligence or willful or wanton misconduct. Nothing in this subsection shall be construed to limit any other immunity available under law, including the immunity provided in subsection (a) of this section. As used in this subsection, "COVID-19 liability claim" means as defined by W.S. 1-1-141(a)(iii).

(e) Any acts or omissions constituting the basis of a COVID-19 liability claim as defined by W.S. 1-1-141(a)(iii)

shall be stated with particularity and shall be proven by clear and convincing evidence.

35-4-115. Definitions.

(a) As used in this article:

(i) "Public health emergency" means an occurrence or imminent threat of an illness or health condition caused by an epidemic or pandemic disease, a novel and highly fatal infectious agent or a biological toxin that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. The governor shall declare when a public health emergency exists or has ended;

(ii) "Quarantine" means:

(A) The physical separation and confinement of an individual or group of individuals that has been, or may have been, exposed to, or is reasonably believed to be infected with, a contagious or possibly contagious disease, from nonquarantined individuals, to prevent or limit the transmission of the disease to nonquarantined individuals;

(B) The isolation of a geographic area where individuals are located who have been or are reasonably believed to have been exposed to or infected by a contagious or possibly contagious disease; or

(C) The physical separation and confinement of an individual or group of individuals or the isolation of a geographic area where a public health emergency of unknown effect has occurred or is reasonably believed to have occurred.

Division 2. Sexually Transmitted Diseases

35-4-130. Declared contagious and dangerous to health; list of reportable diseases established by department of health; violation of W.S. 35-4-130 through 35-4-134; penalty.

(a) Sexually transmitted diseases as included within the list of reportable diseases of the department of health are contagious, infectious, communicable and dangerous to public health.

(b) The department of health shall by rule and regulation develop a list of reportable sexually transmitted diseases

including all venereal diseases and acquired immune deficiency syndrome. The list shall be available to all physicians, health officers, hospitals and other health care providers and facilities within the state.

(c) Any person violating W.S. 35-4-130 through 35-4-134 or failing or refusing to comply with any order lawfully issued under W.S. 35-4-130 through 35-4-134 is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars ($750.00), imprisonment for not more than six (6) months, or both.

35-4-131. Consent of minors to treatment; treatment of infected or exposed persons; immunity from liability.

(a) Persons under eighteen (18) years of age may give legal consent for examination and treatment for any sexually transmitted disease infection.

(b) For the protection of public health, a physician, health officer or other person or facility providing health care in accordance with state or federal law shall for any individual regardless of age, sex, race or color:

(i) If reasonably suspected of being infected with any sexually transmitted disease, administer, refer for or recommend appropriate and adequate treatment;

(ii) If exposed to any sexually transmitted disease, recommend or offer treatment.

(c) Physical examination and treatment by a licensed physician or other qualified health care provider of a person under eighteen (18) years of age consenting to examination or treatment is not an assault or an assault and battery upon that person.

35-4-132. Report required of health care providers, facilities and laboratories; notification; confidentiality of information.

(a) A physician or other health care provider diagnosing or treating a case of sexually transmitted disease, the administrator of a hospital, dispensary, charitable or penal institution or any other health care facility in which there is a case of sexually transmitted disease and the administrator or operator of a laboratory performing a positive laboratory test

for sexually transmitted disease shall report the diagnosis, case or positive test results to both the department of health and the appropriate health officer in a form and manner directed by the department. Health care providers and facilities shall cooperate with and assist the department and health officers in preventing the spread of sexually transmitted disease.

(b) The department of health shall compile the number of reported cases within the state.

(c) Any physician or other health care provider and any administrator or operator of a health care facility or laboratory reporting a diagnosis, case or positive test result pursuant to subsection (a) of this section shall notify any health care professional and health care employee reasonably expected to be at risk of exposure to a dangerous or life-threatening sexually transmitted disease and involved in the supervision, care and treatment of an individual infected or reasonably suspected of being infected with a dangerous or life-threatening sexually transmitted disease.

(d) Information and records relating to a known or suspected case of sexually transmitted disease which has been reported, acquired and maintained under W.S. 35-4-130 through 35-4-134 are confidential and except as otherwise required by law, shall not be disclosed unless the disclosure is:

(i) For statistical purposes, provided that the identity of the individual with the known or suspected case is protected;

(ii) Necessary for the administration and enforcement of W.S. 35-4-130 through 35-4-134 and department rules and regulations related to the control and treatment of sexually transmitted diseases;

(iii) Made with the written consent of the individual identified within the information or records; or

(iv) For notification of health care professionals and health care employees pursuant to subsection (c) of this section as necessary to protect life and health.

35-4-133. Examination and treatment of infected persons; treatment at public expense; notification of exposed individuals; suppression of prostitution.

(a) Upon receipt of a report or notice of a case or a reasonably suspected case of sexually transmitted disease infection, a health officer within his respective jurisdiction:

(i) May isolate the individual in accordance with existing standards of medical practice;

(ii) If examination has not been performed, may provide for the examination of the infected individual or the individual reasonably suspected of suffering from a sexually transmitted disease and shall report the examination results to the individual;

(iii) May require the infected individual to seek adequate treatment or, subject to subsection (d) of this section, may require the individual to submit to treatment at public expense; and

(iv) May arrange for education and counseling of the infected individual as to the medical significance of the sexually transmitted disease.

(b) To the extent possible, the health officer shall identify any other person with whom the infected individual has had contact which may have resulted in significant exposure of that person to a dangerous or life-threatening sexually transmitted disease. For purposes of this subsection, "significant exposure" means:

(i) Contact of an emergency medical services provider's broken skin or mucous membrane with the infected individual's blood or bodily fluids other than tears or perspiration;

(ii) That a needle stick, or scalpel or other instrument wound has occurred in the process of caring for the infected individual;

(iii) Sexual contact;

(iv) Exposure that occurs by any other method of transmission defined by the department as a significant exposure; or

(v) Exposure that occurs during the course of examination or treatment by dental care providers.

(c) To the extent possible, a health officer shall make every reasonable effort to notify any person identified in subsection (b) of this section of his possible exposure to a sexually transmitted disease. Such notification shall include the name of the sexually transmitted disease to which the person may have been exposed, the approximate date of possible exposure, and shall advise the person of the nature of the disease and sources for education and counseling as to the medical significance of the disease. The health officer shall not provide information as to the specific identity of the infected individual unless the health officer has received written authorization for release of information from the infected individual.

(d) Public funds appropriated for treatment of any individual infected with a sexually transmitted disease shall be spent in accordance with priorities established by the department of health. In establishing priorities, the department shall consider the treatment's cost, effectiveness, curative capacity and public health benefit to the state.

(e) A health officer shall investigate sources of sexually transmitted disease, cooperate with the proper law enforcement officials in enforcing laws against prostitution and otherwise assist in the suppression of prostitution.

(f) Upon receipt of information documenting an actual exposure of a health care worker as provided in paragraphs (b)(i) and (ii) of this section to blood or body fluids of a patient where the exposure could lead to a communicable disease infection which is capable of transmission by blood or other body fluids, a health care provider acting within his scope of practice may order appropriate testing to be performed on a specimen from the patient by a duly licensed and accredited laboratory. If the patient's specimen is not available for testing, a health care provider acting within his scope of practice, or county health officer may, with the patient's consent, order the necessary testing according to the rules and regulations promulgated by the Wyoming department of health. If the patient does not consent to testing, the county health officer or the authority responsible for the care of the patient may apply to the district court for an order to have the necessary testing performed. Test results will be kept confidential and will be reported by the health care provider in accordance with W.S. 35-4-130 through 35-4-134. Reports to the department of health shall be made on an official state disease case report form or the report may be made by telephone with

confirmation by the written form. For purposes of this section, "health care worker" means all personnel involved in the care of a patient, including first responders, such as law enforcement officers, rescue personnel and those acting as good samaritans.

35-4-134. Examination and treatment of prisoners.

(a) Any individual confined or imprisoned in any state penal institution, county or city jail or any community correctional facility shall be examined for sexually transmitted diseases by the appropriate health officer or his qualified designee.

(b) To suppress the spread of sexually transmitted disease among the confined population, the health officer or his qualified designee may:

(i) Isolate prisoners infected with a treatable illness within the facility and require them to report for treatment by a licensed physician; or

(ii) In the case of an individual infected with a noncurable sexually transmitted disease, provide for the minimum care and treatment of the individual pursuant to rules promulgated by the department of health with the advice of the department of corrections.

(c) Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of a crime.

35-4-135. Repealed by Laws 1989, ch. 218, § 2.

35-4-136. Repealed by Laws 1989, ch. 218, § 2.

35-4-137. Repealed by Laws 1989, ch. 218, § 2.

35-4-138. Introduction of solution in eyes of newborn child by attending physician.

It shall be the duty of every practicing or licensed physician in the state of Wyoming, when attending the birth of a child, to introduce or cause to be introduced into the eyes of the newborn infant a stable solution or ointment of a broad spectrum antibiotic as prescribed by the state department of health. Provided, that this section shall not apply in cases where the

parents are religiously opposed to the use of drugs and so inform the attending physician.

35-4-139. Childhood immunizations.

The department of health through rule and regulation shall develop and implement a program to provide vaccines for all children of Wyoming residents who are not federally vaccine eligible children as defined in 42 U.S.C. § 1396s(b)(2) or subsequent similar federal enactment. Vaccines provided pursuant to this section shall include those determined to be necessary for the healthy development of children and prescribed in rules and regulations of the department based on recommendations from an advisory group which the department director shall appoint consisting of a representative of an organization representing physicians licensed in Wyoming, at least one (1) pediatric physician licensed in Wyoming and at least one (1) family physician licensed in Wyoming.

ARTICLE 2 - PROTECTION OF PUBLIC WATER SUPPLY

Division 1. Generally

35-4-201. Department of health to cooperate with municipal authorities, corporations and persons as to water, drainage and sewage; definitions of "drainage" and "sewage".

The department shall consult with and advise the authorities of cities and towns and persons having or about to have systems of water supply, drainage and sewage as to the most appropriate source of water supply and the best method assuring its purity or as to the best method of disposing of their drainage or sewage with reference to the existing and future needs of other cities, towns or persons which may be affected thereby. It shall also consult with and advise all corporations, companies or persons engaged or intending to engage in any manufacturing or other business whose drainage or sewage may tend to pollute any inland water as to the best method of preventing such pollution, and it may conduct experiments to determine the best methods of the purification or disposal of drainage or sewage. Cities, towns and all other corporations, companies or persons shall submit to the department for its advice and approval their proposed system of water supply or of the disposal of drainage or sewage, and no city, town or persons or company shall proceed to build or install or enlarge or extend any system of water supply, drainage or sewage disposal, without first obtaining the approval of the state department of health. In this section the

term "drainage" means rainfall, surface and subsoil water only, and "sewage" means domestic and industrial filth and waste.

35-4-202. Contamination of streams by sawmills, mining operations, or other manufacturing or industrial works prohibited; penalty; exceptions; special permits.

Any owner or owners of any sawmill, reduction works, smelter, milling, refining or concentration works, or other manufacturing or industrial works, or any agent, servant or employee thereof, or any person or persons whomsoever, who shall throw or deposit in, or in any way permit to pass into any natural stream or lake within the state, wherein are living fish, any sawdust, chemicals, mill-tailing, or other refuse matter of deleterious substance or poisons of any kind or character whatsoever, that will or may tend to the destruction or driving away from such waters any fish, or kill or destroy any fish therein, or that will or may tend to pollute, contaminate, render impure or unfit for domestic, irrigation, stock or other purposes for which appropriated and used, the waters of any such natural streams or lake, or that will or may tend to obstruct, fill in or otherwise interfere with the flow, channel or condition of such streams, lake or waters, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars ($50.00) or more than one hundred dollars ($100.00) or shall be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment for each offense; and where any of the foregoing unlawful acts are committed continuously, each of the days upon which committed shall be treated and considered as a separate and distinct offense; provided, that nothing in this section or W.S. 23-3-204 shall apply to the slag from smelter furnaces; provided further, that nothing in this section nor in any of the other laws of this state shall prevent the owner or owners of any mill, concentration works, reduction works or tailings pond or basin used in connection therewith, in this state, now or hereafter to be located upon any natural stream, or lake, from operating said mill, concentration works, reduction works or tailings pond or basin used in connection therewith, where the said owner or owners thereof shall build or cause to be built a dam or dams for settling purposes; provided however that before any dam or dams shall be built for any such purposes, the director of the state department of health, the director of the state game and fish department and the state engineer, acting as a joint committee and each member casting a vote of his department, shall review such plans and according to their findings shall approve or disapprove such plans for preventing

any deleterious substances from entering any waters beyond the project area; provided, that whenever a majority of the landowners on any irrigation stream shall petition the director of the state game and fish department to allow sawdust to be put in any stream that does not reach a main body of water or living stream he shall have the power to grant such permits.

Division 2. Drinking Water Standards

35-4-220. Definitions.

(a) The following words as used in this act, unless a different meaning is required by the context or is specifically prescribed, shall have the following meaning:

(i) "Service connection" shall mean and include any water line or pipe connected to a distribution supply main or pipe for the purpose of conveying water to a building or dwelling;

(ii) "Sanitary public water supply" shall mean and include any water supply being distributed by ten (10) or more service connections, such connections being utilized to furnish water for human consumption either in preparing foods or beverages for inhabitants of residences or business establishments;

(iii) "United States public health service drinking water standards" shall mean and include the standards prescribed by the United States public health service for the quality of water on interstate carriers, provided further that the section of these standards pertaining to physical and chemical characteristics of water shall not be included in these standards for the purpose of this act.

35-4-221. Periodical bacteriological analysis of water required.

(a) It shall be the duty and responsibility of any public or private utility engaged in the development, storage and distribution of a sanitary public water supply to provide for the safety and purity of such supply to every service connection and to collect samples of such water for bacteriological analysis at least once monthly or oftener as required by the state board of health. Such collection shall be made in special containers furnished for this purpose by the state health department division of laboratories and shall be returned to

this laboratory for examination. Such examination and reporting of results shall comply with the procedures outlined in the United States public health service drinking water standards. The results of such analysis shall be reported to the owners or persons responsible for the operation of the sanitary public water supply.

(b) When the water from such water supply has been determined by laboratory examination, inspection and report of the state department of health to be unsafe for human consumption as determined by the United States public health service drinking water standards, the owners or persons responsible for the operation of such water supply shall take immediate action to correct sanitary defects, improve operation, provide necessary water treatment, or make any other changes or additions necessary to provide assuredly safe water.

35-4-222. Notice of danger to health.

Whenever, in the opinion of the state department of health, investigations indicate that the water from a water supply as described in this act would endanger the health of the water consumers, the department shall give written notice to the owners or persons responsible for the operation of such sanitary public water supply, specifying the cause of the danger to the health of the water consumers.

35-4-223. Liability for damages.

Compliance with the requirements of this act shall in no way release the owners or persons responsible for the operation of a sanitary public water supply from any liability for damage to persons or property caused by or resulting from the installation, operation or maintenance of a sanitary public water supply.

35-4-224. Standards for mobile home parks eliminated.

The department of health has no authority to regulate, or to promulgate or enforce rules, regulations or standards regulating the design and construction of sewerage and water facilities within a mobile home park. This does not preclude the department from promulgating and enforcing rules and regulations or standards regulating the health of persons within a mobile home park and inspecting sewerage and water facilities within a mobile home park upon completion of the construction of such facilities.

ARTICLE 3 - RADIOACTIVE ISOTOPES OR MATERIAL

35-4-301. Repealed by Laws 1993, ch. 59, § 1.

35-4-302. Repealed by Laws 1993, ch. 59, § 1.

35-4-303. Repealed by Laws 1993, ch. 59, § 1.

ARTICLE 4 - FEDERAL MATERNITY BENEFITS

35-4-401. Repealed By Laws 2012, Ch. 84, § 104.

35-4-402. Repealed By Laws 2012, Ch. 84, § 104.

35-4-403. Repealed By Laws 2012, Ch. 84, § 104.

ARTICLE 5 - BLOOD TESTS FOR PREGNANT WOMEN

35-4-501. Definition of standard serological test; cost.

For the purposes of this act, a standard serological test shall be a test for syphilis approved by the state department of health, and shall be performed in a laboratory approved by the state department of health. Such laboratory tests as are required by this act shall be performed on request without charge at the state department of health laboratory.

35-4-502. Duty of attending physician.

Every physician licensed to practice medicine attending a pregnant woman in the state for conditions relating to her pregnancy during the period of gestation or at delivery shall take, or cause to be taken, a sample of blood of such woman at the time of her first professional visit or within ten (10) days thereafter. The blood specimen thus obtained shall be submitted to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend pregnant women in the state but not permitted by law to take blood samples, shall cause a sample of blood of such pregnant women to be taken by a physician duly licensed to practice medicine and have such sample submitted to an approved laboratory for a standard serological test for syphilis.

35-4-503. Report of birth; statement as to blood test.

In reporting every birth and stillbirth, physicians and others required to make such reports shall state on the certificate whether a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed, and the approximate date when the specimen was taken. In no event shall the birth certificate state the result of the test.

35-4-504. Penalty.

Any licensed physician and surgeon, or other person, engaged in attendance upon a pregnant woman during the period of gestation and/or at delivery, or any representative of a laboratory who violates the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed one hundred dollars ($100.00); provided, however, every licensed physician and surgeon or other person engaged in attendance upon a pregnant woman during the period of gestation or at delivery, who requests such specimen in accordance with the provisions of W.S. 35-4-502, and whose request is refused, shall not be guilty of a misdemeanor.

35-4-505. Enforcement.

The district attorneys for the several counties in the state shall prosecute for violation of this act as for other crimes and misdemeanors.

ARTICLE 6 - DISPOSAL OF UNCLAIMED

35-4-601. Delivery of unclaimed bodies for anatomical study.

Any member of the following boards or officers to-wit: The board of health of any city, town or county in the state; the mayor or common council of any city, and the officers or board having direction or control of any almshouse, prison hospital, house of correction or jail, in the state, shall, when so requested, surrender the dead bodies of such persons as may be required to be buried at the public expense, to any regularly licensed physician or dentist or medical college in the state or to a person certified by a state or local law enforcement agency to train search and rescue animals, in accordance with such rules as may be prescribed by the state department of health; such bodies to be used by said physician, dentist, medical college or person, for the advancement of anatomical science or the training of search and rescue animals; preference being given to

the faculty of any legally organized state medical college or school of anatomy, for their use in the instruction of medical students; provided that in no case shall the faculties or other officers of such medical college or school of anatomy require or receive from any medical student or students, for such body so furnished therein, any sum of money in excess of the actual cost of procuring the same.

35-4-602. Exceptions as to certain bodies.

(a) No such body shall in any case be surrendered if:

(i) The deceased in his or her last illness requested to be not dissected; or

(ii) If within forty-eight (48) hours after his or her death, any person of kindred or a friend of the deceased shall request the body for burial; or

(iii) If such deceased was a stranger or a traveler who died suddenly before making himself or herself known; or

(iv) If such deceased person was honorably discharged from any arm of the military or naval service of the United States.

35-4-603. Restriction upon use of bodies; bond required of applicant; prohibited acts.

It shall not be lawful for any person so receiving dead bodies to use the same, except for the prosecution of anatomical science or the training of search and rescue animals, or elsewhere than in this state; and the state department of health in its rules and regulations in regard to the distribution of the same, may require each applicant to furnish a good and sufficient bond that the provisions of this act will be observed. Whosoever shall use said body for any other purpose, or shall remove the same beyond the limits of the state, or whosoever shall traffic, trade or deal with said bodies for a commercial purpose shall be deemed guilty of a misdemeanor and shall be fined, on conviction, not less than one hundred dollars ($100.00) and be imprisoned in the county jail for a period of not less than thirty (30) days or more than one (1) year; the fine accruing from said conviction to be paid to the school fund of the county, wherein such offense was committed.

35-4-604. Penalty for refusing to deliver body.

Any officer refusing to deliver the remains or dead body of the deceased person, when demanded in accordance with the provisions of this act and the rules and regulations set forth by the state department of health, shall pay a penalty of not less than fifty dollars ($50.00), nor more than one hundred dollars ($100.00); such penalties to be sued for by the department of health as the case may be.

35-4-605. Burial or cremation after use.

It shall be the duty of all parties, who may secure dead bodies under provisions of this act, to bury the same decently in some public cemetery within a reasonable time after dissection or use, or cremate the same or make such other disposition as may be prescribed by the state department of health. For any violation of this provision, the party or parties so neglecting shall on conviction, forfeit or pay a penalty of not less than fifty dollars ($50.00), nor more than one hundred dollars ($100.00), or be imprisoned in the county jail not less than six (6) months nor more than twelve (12) months or both, at the discretion of the court; such penalties to be sued for by the school officers or anyone interested therein, for the benefit of the school fund of the county in which the offense shall have been committed.

35-4-606. Rules and regulations.

The state department of health shall, within thirty (30) days after passage of this act, promulgate rules and regulations as called for by W.S. 35-4-601.

35-4-607. Who may have bodies in possession.

Any regularly licensed physician or dentist of the state, any medical student who is a regular matriculate of a recognized medical college, under authority of such physician, any person certified by a state or local law enforcement agency to train search and rescue animals or any person authorized by the Revised Uniform Anatomical Gift Act may have in his possession human dead bodies, or parts thereof, lawfully obtained, for the purpose of anatomical inquiry or dissection or for training of search and rescue animals.

ARTICLE 7 - SANITARY FACILITIES FOR

35-4-701. Repealed By Laws 2013, Ch. 190, § 1.

35-4-702. Repealed By Laws 2013, Ch. 190, § 1.

35-4-703. Repealed By Laws 2013, Ch. 190, § 1.

ARTICLE 8 - NEWBORN SCREENING

35-4-801. Screening required for detection of genetic and metabolic diseases and hearing defects in newborn children; conduct of screening; exceptions; fees.

(a) Every child born in the state of Wyoming shall be given medical examinations for detection of remedial inborn errors of metabolism, major hearing defects and any other metabolic or genetic diseases as determined by the committee established by subsection (b) of this section. The screening shall be conducted in accordance with accepted medical practices and in the manner prescribed in rule by the state department of health.

(b) The specific tests to be done shall be determined by a committee consisting of the following:

(i) The state health officer in the department of health;

(ii) The president of the Wyoming state medical society;

(iii) A member designated by the Wyoming state pediatric society;

(iv) A member who is a board-certified obstetrician/gynecologist.

(c) Informed consent of parents shall be obtained and if any parent or guardian of a child objects to a mandatory examination the child is exempt from subsection (a) of this section. The department of health shall provide educational information to healthcare providers for distribution to the parent containing information on the testing procedures, the diseases being screened and the consequences of screening or nonscreening.

(d) Following consultation with the committee described in subsection (b) of this section, the department of health may provide by rule and regulation for the assessment of a fee,

payable to the department, to cover the reasonable cost of the screenings required by this section. Fees collected pursuant to this subsection shall be deposited into a separate account and are continuously appropriated to the department of health for purposes of the newborn screening program required by this section.

35-4-802. Rules and regulations.

(a) The state department of health shall make all rules and regulations necessary for:

(i) Dissemination of the provisions of W.S. 35-4-801 to all hospitals and physicians within the state; and

(ii) Implementation of W.S. 35-4-801, as amended.

ARTICLE 9 - EMERGENCY ADMINISTRATION OF MEDICAL TREATMENT ACT

35-4-901. Short title.

This article may be cited as the "Emergency Administration of Medical Treatment Act."

35-4-902. Definitions.

(a) As used in this article:

(i) "Opiate antagonist" means any device or medication approved by the United States food and drug administration for the treatment of an opiate related drug overdose;

(ii) "Opiate related drug overdose" means a condition, including extreme physical illness, a decreased level of consciousness or respiratory depression resulting from the consumption or use of an opioid, or another substance with which an opioid was combined, that a reasonable person would believe to require medical assistance;

(iii) "Pharmacist" means any person licensed under Wyoming statutes as a pharmacist and who is practicing within the scope of their license;

(iv) "Practitioner" means any person licensed under Wyoming statutes as a physician, physician assistant or

advanced practice registered nurse and who is practicing within the scope of their license;

(v) "Standing order" means an order transmitted electronically or in writing by a practitioner for a drug or device for a patient or multiple patients with whom no prescriber-patient relationship exists;

(vi) "Entity" means any person as defined in W.S. 8-1-102(a)(vi), and includes the University of Wyoming and Wyoming community colleges, who employs persons who, in the course of their official duties or business, may encounter a person experiencing anaphylaxis or an opioid related drug overdose;

(vii) "Opioid" or "opiate" means an opiumlike compound that binds to one (1) or more of the major opioid receptors in the body;

(viii) "Epinephrine" means a device or method that administers the drug epinephrine to a person experiencing anaphylaxis and includes epipens, nasal sprays or any other device or method under a different name used for emergency epinephrine delivery for the treatment of anaphylaxis and which device or method is approved by the United States food and drug administration.

35-4-903. Prescription of epinephrine or opiate antagonist.

(a) A practitioner or a pharmacist acting in good faith and exercising reasonable care may, without a prescriber-patient relationship, prescribe epinephrine or an opiate antagonist to:

(i) A person at risk of experiencing anaphylaxis or an opiate related drug overdose;

(ii) A person in a position to assist a person at risk of experiencing anaphylaxis or an opiate related drug overdose;

(iii) A person who, in the course of the person's official duties or business, may encounter a person experiencing anaphylaxis or an opiate related drug overdose.

(b) A practitioner or pharmacist who prescribes epinephrine or an opiate antagonist under this article shall provide education to the person to whom the epinephrine or

opiate antagonist is prescribed, which shall include written instruction on how to:

(i) Recognize anaphylaxis or an opiate related drug overdose;

(ii) Respond appropriately to an anaphylaxis or opiate related drug overdose event, including how to administer epinephrine or administer an opiate antagonist;

(iii) Ensure that a person to whom epinephrine or an opiate antagonist has been administered receives, as soon as possible, additional medical care and a medical evaluation.

35-4-904. Standing order for epinephrine or opiate antagonist; anaphylaxis and drug overdose treatment policy; rules.

(a) A practitioner acting in good faith and exercising reasonable care may prescribe by a standing order epinephrine or an opiate antagonist to an entity that, in the course of the entity's official duties or business, may be in a position to assist a person experiencing anaphylaxis or an opiate related drug overdose.

(b) An entity prescribed epinephrine or an opiate antagonist by standing order shall establish an anaphylaxis or a drug overdose treatment policy in accordance with rules adopted by the department of health. The anaphylaxis or drug overdose treatment policy shall:

(i) Provide for the designation of individuals to receive training and instructional materials on how to recognize and respond to anaphylaxis or an opiate related drug overdose and ensure that a person to whom epinephrine or an opiate antagonist has been administered receives additional medical care and a medical evaluation;

(ii) Provide for reporting to the department of health, in the manner and form prescribed by the department, all anaphylaxis events or opiate related drug overdoses for which epinephrine or an opiate antagonist is administered under this article.

(c) The Wyoming state board of medicine and the Wyoming state board of nursing may adopt rules as necessary to implement

and administer a prescription of epinephrine or an opiate antagonist by a standing order.

35-4-905. Voluntary participation.

This article does not establish a duty or standard of care for a person to prescribe or administer epinephrine or an opiate antagonist.

35-4-906. Administration of epinephrine or opiate antagonist; immunity from liability; exemption from unprofessional conduct; relation to other law.

(a) A person acting in good faith may administer epinephrine or an opiate antagonist to another person who appears to be experiencing anaphylaxis or an opiate related drug overdose.

(b) A person who administers epinephrine or an opiate antagonist pursuant to this article is personally immune from civil or criminal liability for any act or omission resulting in damage or injury.

(c) A practitioner or pharmacist who prescribes epinephrine or an opiate antagonist pursuant to this article is personally immune from civil or criminal liability for any act or omission resulting in damage or injury.

(d) An entity that establishes an anaphylaxis or drug overdose treatment policy pursuant to this article is immune from civil or criminal liability for any act or omission related to the administration of epinephrine or an opiate antagonist resulting in damage or injury.

(e) Prescribing epinephrine or an opiate antagonist by a practitioner or pharmacist pursuant to this article shall not constitute unprofessional conduct.

(f) Should any grant of immunity, exception or imposition of liability within the Wyoming Governmental Claims Act conflict with any provision of this article, this article shall prevail.

ARTICLE 10 - GENDER-RELATED PROCEDURES

35-4-1001. Gender transitioning and reassignment procedures for children prohibited.

(a) As used in this section:

(i) "Child" means a person who is younger than eighteen (18) years of age;

(ii) "Health care provider" means a person other than a physician who is licensed, certified or otherwise authorized by Wyoming law to provide or render health care or to dispense or prescribe a prescription drug in the ordinary course of business or practice of a profession;

(iii) "Physician" means any person licensed to practice medicine in this state by the state board of medicine under the Medical Practice Act.

(b) Except as provided in subsection (c) of this section and for purposes of transitioning a child's biological sex as determined by the sex organs, chromosomes and endogenous profiles of the child or affirming the child's perception of the child's sex if that perception is inconsistent with the child's biological sex, no physician or health care provider shall:

(i) Perform a surgery that sterilizes the child, including castration, vasectomy, hysterectomy, oophorectomy, metoidioplasty, orchiectomy, penectomy, phalloplasty and vaginoplasty;

(ii) Perform a mastectomy;

(iii) Provide, administer, prescribe or dispense any of the following prescription drugs that induce transient or permanent infertility:

(A) Puberty suppression or blocking prescription drugs to stop or delay normal puberty;

(B) Supraphysiologic doses of testosterone to females;

(C) Supraphysiologic doses of estrogen to males.

(iv) Remove any otherwise healthy or nondiseased body part or tissue.

(c) This section shall not apply to:

(i) Procedures or treatments that are performed with the consent of the child's parent or guardian and are for a child who is born with a medically verifiable genetic disorder of sex development, including 46, XX chromosomes with virilization, 46, XY with undervirilization or both ovarian and testicular tissue;

(ii) Any procedure or treatment that is performed with the consent of the child's parent or guardian and is for a child with medically verifiable central precocious puberty.

(d) Nothing in this section shall be construed to prohibit a minor from receiving mental health treatment, provided that such treatment shall not include any treatments prohibited by subsection (b)(iii) of this section.

ARTICLE 11 - STEM CELL FREEDOM ACT

35-4-1101. Short title.

This act shall be known and may be cited as the "Stem Cell Freedom Act."

35-4-1102. Definitions.

(a) As used in this article:

(i) "Current good manufacturing practices" means the quality, safety and manufacturing practice standards employed under this act that are consistent with applicable federal law;

(ii) "Institutional review board" means a group duly constituted and currently registered in accordance with applicable federal law that provides initial approval and continuing oversight of the stem cell therapies being offered under this act, including adverse event reporting and the approval of a form to be used for informed consent between a physician and patient or the patient's legal representative prior to the use of stem cell therapy;

(iii) "Investigational drug, biological product or device" means a drug, biological product or device that has successfully completed phase one (1) of a clinical trial but has not yet been approved for general use by the United States food and drug administration and remains under investigation in a clinical trial;

(iv) "Physician" means a person licensed to practice medicine by the state board of medicine pursuant to title 33, chapter 26 of the Wyoming statutes. "Physician" shall not include a physician assistant as defined by W.S. 33-26-501(a)(iii);

(v) "Stem cell therapy" means treatment involving the use of autologous mesenchymal stem cells, including but not limited to the collection, processing, cultural expansion, manufacturing, storage and therapeutic use of stem cells. "Stem cell therapy" shall not include, whether directly or indirectly, the use of any biological material derived from an abortion;

(vi) "This act" means W.S. 35-4-1101 through 35-4-1106.

35-4-1103. Access to stem cell therapy; conditions; insurance coverage.

(a) Notwithstanding W.S. 35-7-118 and any other law to the contrary, a patient may receive, and a physician may perform, stem cell therapy that has not been approved by the United States food and drug administration if:

(i) The therapy is conducted in accordance with a current institutional review board approval or is an investigational drug, biological product or device;

(ii) The stem cells are manufactured and handled in accordance with current good manufacturing practice standards;

(iii) A physician-patient relationship exists between the physician administering the stem cell therapy and the person receiving the therapy;

(iv) The physician is registered with the Wyoming state board of medicine to provide stem cell therapy pursuant to this act;

(v) The patient or legally recognized representative of the patient has provided written informed consent acknowledging:

(A) The nature and character of the proposed stem cell therapy;

(B) That stem cell therapy is not approved by the United States food and drug administration;

(C) The potential benefits, risks and complications associated with stem cell therapy and the procedure to be performed; and

(D) The financial responsibility of the patient or legally recognized representative of the patient in paying for the stem cell therapy to be received.

(b) Stem cell therapy provided pursuant to this act shall be administered by a physician or under the direct supervision of a physician. Activities other than the actual administration of the stem cells to the patient shall be supervised by a physician.

(c) No person authorized under this act to perform stem cell therapy or manufacture stem cells shall be obligated by this act to provide stem cell therapy or stem cells but may do so according to the person's own discretion and judgment.

(d) A health carrier as defined by W.S. 26-13-303(a)(iii) may but shall not be required to provide coverage for costs associated with stem cell therapy.

(e) This act shall not prohibit the performing of any stem cell therapy or activity otherwise allowed by law. A person shall not perform, advertise or represent that the person is providing stem cell therapy under this act if the person does not comply with the provisions of this act.

35-4-1104. Action against physician license prohibited.

Notwithstanding any other provision of law, the Wyoming state board of medicine shall not revoke, fail to renew, suspend or take any other action against a physician's license based solely on the physician's recommendations to a patient regarding access to or treatment with stem cell therapy or the performance of stem cell therapy, provided that the recommendations or procedures are consistent with medical standards of care and that the physician is registered with the Wyoming state board of medicine to provide stem cell therapy under this act.

35-4-1105. Access to stem cell therapy.

An official, employee or agent of this state or any political subdivision of this state shall not prohibit or attempt to prohibit a patient's access to stem cell therapy. Counseling, advice or a recommendation consistent with medical standards of care from a licensed health care provider shall not constitute a violation of this section.

35-4-1106. No cause of action created.

This act shall not create a private cause of action against any person involved in the care of any patient using stem cell therapy or the manufacturing of stem cells if the person is complying with the requirements of this act and medical standards of care.

ARTICLE 12 - PREGNANCY CENTERS – PROTECTION

35-4-1201. Short title.

This act shall be known and may be cited as the "Wyoming Pregnancy Center Autonomy and Rights of Expression (CARE) Act."

35-4-1202. Definitions.

(a) As used in this act:

(i) "Abortion" means the act of using or prescribing any instrument, medicine, drug or any other substance, device or means with the intent to terminate the clinically diagnosable pregnancy of a woman and for the purpose of ensuring the death of the unborn child. "Abortion" shall not include any use, prescription or means specified in this paragraph if the use, prescription or means are done with the intent to:

(A) Save the life or preserve the health of the unborn child;

(B) Remove a dead unborn child caused by miscarriage or stillbirth;

(C) Remove an ectopic pregnancy; or

(D) Perform a procedure, based on reasonable medical judgment, that is necessary to save the life of or prevent serious physical injury to the pregnant woman.

(ii) "Abortion-inducing drug" means any medicine, drug or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman and for the purpose of ensuring the death of an unborn child. "Abortion-inducing drug" includes the off-label use of any substance intended to induce an abortion. "Abortion-inducing drug" does not include drugs that may be known to cause an abortion but are prescribed for other medical indications;

(iii) "Contraception" means the use of any natural or artificial means to prevent the fertilization of a human ovum;

(iv) "Ectopic pregnancy" means the state of carrying an unborn child outside of the uterine cavity;

(v) "Miscarriage" or "stillbirth" means a spontaneous loss of an unborn child;

(vi) "Pregnancy center" means a private nonprofit organization that promotes childbirth and alternatives to abortion and provides people with resources, counseling, classes, referrals and information related to pregnancy, childbearing, adoption and parenting. A medical pregnancy center may provide medical testing, counseling and pregnancy-related care;

(vii) "This act" means W.S. 35-4-1201 through 35-4-1204.

35-4-1203. Interference with pregnancy centers prohibited.

(a) The state and any of its political subdivisions, counties, cities, towns, special districts and agencies shall not, through the adoption or enactment of any law, ordinance, resolution, policy or similar measure:

(i) Require a pregnancy center to offer or perform abortions;

(ii) Require a pregnancy center to offer, provide or distribute abortion-inducing drugs or contraception;

(iii) Require a pregnancy center to refer any person for abortion, an abortion-inducing drug or contraception;

(iv) Require a pregnancy center to counsel in favor of abortion, abortion-inducing drugs or contraception;

(v) Require a pregnancy center to post any advertisement, sign, flyer or other similar material that promotes or provides any information about obtaining an abortion, abortion-inducing drugs or contraception;

(vi) Prohibit a pregnancy center from providing information, care, counseling, classes or other services related to pregnancy, childbirth or parenting because the pregnancy center does not perform, refer or counsel in favor of abortion, abortion-inducing drugs or contraception;

(vii) Prohibit a pregnancy center from providing prenatal and postnatal resources, including diapers, baby clothes, baby furniture, formula and similar items because the pregnancy center does not perform, refer or counsel in favor of abortion, abortion-inducing drugs or contraception;

(viii) Prohibit a medical pregnancy center from providing medical testing, counseling and care related to pregnancy or childbirth because the pregnancy center does not perform, refer or counsel in favor of abortion, abortion-inducing drugs or contraception;

(ix) Prohibit a medical pregnancy center from counseling a woman on any pregnancy-related care or treatment, including care or treatment that may reverse the effects of abortion-inducing drugs;

(x) Interfere with the pregnancy center's staffing or hiring decisions by requiring the center to interview, hire or continue to employ any person who does not affirm the center's mission statement or agree to comply with the center's pro-life ethic and operating procedure.

35-4-1204. Legal remedies.

(a) A pregnancy center or any person aggrieved by a violation of this act may commence a civil action for injunctive, equitable or declaratory relief permitted by law. Nothing in this subsection shall be construed to limit any other remedies that may be available under any other federal, state or municipal law.

CHAPTER 5 - ANATOMICAL GIFTS AND ORGAN TRANSPLANTATION

ARTICLE 1 - UNIFORM ANATOMICAL GIFT ACT/PROCEDURES

35-5-101. Repealed By Laws 2009, Ch. 97, § 3.

35-5-102. Repealed By Laws 2009, Ch. 97, § 3.

35-5-103. Repealed By Laws 2009, Ch. 97, § 3.

35-5-104. Repealed By Laws 2009, Ch. 97, § 3.

35-5-105. Repealed By Laws 2009, Ch. 97, § 3.

35-5-106. Repealed By Laws 2009, Ch. 97, § 3.

35-5-107. Repealed By Laws 2009, Ch. 97, § 3.

35-5-108. Repealed By Laws 2009, Ch. 97, § 3.

35-5-109. Repealed By Laws 2009, Ch. 97, § 3.

35-5-110. Repealed By Laws 2009, Ch. 97, § 3.

35-5-111. Repealed By Laws 2009, Ch. 97, § 3.

35-5-112. Repealed By Laws 2009, Ch. 97, § 3.

35-5-113. Repealed By Laws 2009, Ch. 97, § 3.

35-5-114. Repealed By Laws 2009, Ch. 97, § 3.

35-5-115. Repealed By Laws 2009, Ch. 97, § 3.

35-5-116. Repealed By Laws 2009, Ch. 97, § 3.

35-5-117. Repealed By Laws 2009, Ch. 97, § 3.

35-5-118. Repealed By Laws 2009, Ch. 97, § 3.

35-5-119. Repealed By Laws 2009, Ch. 97, § 3.

ARTICLE 2 - REVISED UNIFORM ANATOMICAL GIFT ACT

35-5-201. Short title.

This act may be cited as the "Revised Uniform Anatomical Gift Act".

35-5-202. Definitions.

(a) As used in this act:

(i) "Agent" means an individual:

(A) Authorized to make health-care decisions on the principal's behalf by a power of attorney for health care; or

(B) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(ii) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research or education;

(iii) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this act, a fetus;

(iv) "Department" means the department of transportation;

(v) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent or guardian of the individual who makes, amends, revokes or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under W.S. 35-5-211;

(vi) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card or donor registry;

(vii) "Donor" means an individual whose body or part is the subject of an anatomical gift;

(viii) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts;

(ix) "Driver's license" means a license or permit issued by the department to operate a vehicle, whether or not conditions are attached to the license or permit;

(x) "Eye bank" means a person who is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes;

(xi) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health or welfare of an individual. The term does not include a guardian ad litem;

(xii) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state or a subdivision of a state;

(xiii) "Identification card" means an identification card issued by the department;

(xiv) "Know" means to have actual knowledge;

(xv) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization;

(xvi) "Parent" means a parent whose parental rights have not been terminated;

(xvii) "Part" means an organ, an eye or tissue of a human being. The term does not include the whole body;

(xviii) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state;

(xix) "Procurement organization" means an eye bank, organ procurement organization or tissue bank;

(xx) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research or education. The term does not include an individual who has made a refusal;

(xxi) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift;

(xxii) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted;

(xxiii) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(xxiv) "Refusal" means a record created under W.S. 35-5-207 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part;

(xxv) "Sign" means, with the present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound or process.

(xxvi) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States;

(xxvii) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited or regulated under federal or state law. The term includes an enucleator;

(xxviii) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education;

(xxix) "Tissue bank" means a person that is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of tissue;

(xxx) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients;

(xxxi) "This act" means W.S. 35-5-201 through 35-5-225.

35-5-203. Applicability.

This act applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made. All anatomical gifts deemed to be effective under W.S. 35-5-101 through 35-5-119, prior to its repeal by this enactment, shall continue to be deemed and regarded to be effective after the effective date of this act.

35-5-204. Who may make anatomical gift before donor's death.

(a) Subject to W.S. 35-5-208, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research or education in the manner provided in W.S. 35-5-205 by:

(i) The donor, if the donor is an adult or if the donor is a minor and is:

(A) Emancipated; or

(B) Authorized under state law to apply for a driver's license because the donor is at least sixteen (16) years of age.

(ii) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(iii) A parent of the donor, if the donor is an unemancipated minor to whom subparagraph (i)(B) of this subsection does not apply; or

(iv) The donor's guardian, if the donor is an unemancipated minor to whom subparagraph (i)(B) of this subsection does not apply.

35-5-205. Manner of making anatomical gift before donor's death.

(a) A donor may make an anatomical gift:

(i) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(ii) In a will;

(iii) During a terminal illness or injury of the donor, by any form of communication addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness; or

(iv) As provided in subsection (b) of this section.

(b) A donor or other person authorized to make an anatomical gift under W.S. 35-5-204 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall:

(i) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(ii) State that it has been signed and witnessed as provided in paragraph (i) of this subsection.

(c) Revocation, suspension, expiration or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

35-5-206. Amending or revoking anatomical gift before donor's death.

(a) Subject to W.S. 35-5-208, a donor or other person authorized to make an anatomical gift under W.S. 35-5-204 may amend or revoke an anatomical gift by:

(i) A record signed by:

(A) The donor;

(B) The other person; or

(C) Subject to subsection (b) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign.

(ii) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to subparagraph (a)(i)(C) of this section shall:

(i) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(ii) State that it has been signed and witnessed as provided in paragraph (i) of this subsection.

(c) Subject to W.S. 35-5-208, a donor or other person authorized to make an anatomical gift under W.S. 35-5-204 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a) of this section.

35-5-207. Refusal to make anatomical gift; effect of refusal.

(a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(i) A record signed by:

(A) The individual; or

(B) Subject to subsection (b) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign.

(ii) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(iii) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.

(b) A record signed pursuant to subparagraph (a)(i)(B) of this section shall:

(i) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the individual; and

(ii) State that it has been signed and witnessed as provided in paragraph (i) of this subsection.

(c) An individual who has made a refusal may amend or revoke the refusal:

(i) In the manner provided in subsection (a) of this section for making a refusal;

(ii) By subsequently making an anatomical gift pursuant to W.S. 35-5-205 that is inconsistent with the refusal; or

(iii) By destroying or cancelling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in W.S. 35-5-208(h), in the absence of an express, contrary indication by the individual

set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

35-5-208. Preclusive effect of anatomical gift, amendment or revocation.

(a) Except as otherwise provided in subsection (g) and subject to subsection (f) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under W.S. 35-5-205 or an amendment to an anatomical gift of the donor's body or part under W.S. 35-5-206.

(b) A donor's revocation of an anatomical gift of the donor's body or part under W.S. 35-5-206 is not a refusal and does not bar another person specified in W.S. 35-5-204 or 35-5-209 from making an anatomical gift of the donor's body or part under W.S. 35-5-205 or 35-5-210.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under W.S. 35-5-205 or an amendment to an anatomical gift of the donor's body or part under W.S. 35-5-206, another person may not make, amend or revoke the gift of the donor's body or part under W.S. 35-5-210.

(d) A revocation of an anatomical gift of a donor's body or part under W.S. 35-5-206 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under W.S. 35-5-205 or 35-5-210.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under W.S. 35-5-204, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under W.S. 35-5-204, an anatomical gift of a part for one (1) or more of the purposes set forth in W.S. 35-5-204 is not a limitation on the making of an anatomical gift of the part for

any of the other purposes by the donor or any other person under W.S. 35-5-205 or 35-5-210.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

35-5-209. Who may make anatomical gift of decedent's body or part.

(a) Subject to subsections (b) and (c) of this section and unless barred by W.S. 35-5-207 or 35-5-208, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(i) An agent of the decedent at the time of death who could have made an anatomical gift under W.S. 35-5-204(a)(ii) immediately before the decedent's death;

(ii) The spouse of the decedent;

(iii) Adult children of the decedent;

(iv) Parents of the decedent;

(v) Adult siblings of the decedent;

(vi) Adult grandchildren of the decedent;

(vii) Grandparents of the decedent;

(viii) An adult who exhibited special care and concern for the decedent;

(ix) The persons who were acting as the guardians of the person of the decedent at the time of death; and

(x) Any other person having the authority to dispose of the decedent's body.

(b) If there is more than one (1) member of a class listed in paragraph (i), (iii), (iv), (v), (vi), (vii) or (ix) of subsection (a) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under W.S. W.S. 35-5-211 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) of this section is reasonably available to make or to object to the making of an anatomical gift.

35-5-210. Manner of making, amending or revoking anatomical gift of decedent's body or part.

(a) A person authorized to make an anatomical gift under W.S. 35-5-209 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c) of this section, an anatomical gift by a person authorized under W.S. 35-5-209 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one (1) member of the prior class is reasonably available, the gift made by a person authorized under W.S. 35-5-209 may be:

(i) Amended only if a majority of the reasonably available members agree to the amending of the gift; or

(ii) Revoked only if a majority of the reasonably available members agree to the revocation of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under subsection (b) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital or physician or technician knows of the revocation.

35-5-211. Persons that may receive anatomical gift; purpose of anatomical gift.

(a) An anatomical gift may be made to the following persons named in the document of gift:

(i) For purposes of research or education, a hospital, accredited medical school, dental school, college or university, organ procurement organization or any appropriate person;

(ii) Subject to subsection (b) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(iii) A named eye bank or tissue bank;

(iv) A person certified by a state or local law enforcement agency to train search and rescue animals.

(b) If an anatomical gift to an individual under paragraph (a)(ii) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (g) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one (1) or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(i) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(ii) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

(iii) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ;

(iv) If the part is an organ, an eye or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(d) For the purpose of subsection (c) of this section, if there is more than one (1) purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one (1) or more specific parts is made in a document of gift that does not name a person described in subsection (a) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(g) For purposes of subsections (b), (e) and (f) of this section, the following rules apply:

(i) If the part is an eye, the gift passes to the appropriate eye bank;

(ii) If the part is tissue, the gift passes to the appropriate tissue bank;

(iii) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under paragraph (a)(ii) of this section, passes to the organ procurement organization as custodian of the organ.

(j) If an anatomical gift does not pass pursuant to subsections (a) through (h) of this section or the decedent's body or part is not used for transplantation, therapy, research

or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(k) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under W.S. 35-5-205 or 35-5-210 or if the person knows that the decedent made a refusal under W.S. 35-5-207 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(m) Except as otherwise provided in paragraph (a)(ii) of this section, nothing in this act affects the allocation of organs for transplantation or therapy.

35-5-212. Delivery of document of gift not required; right to examine.

(a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under W.S. 35-5-211.

35-5-213. Rights and duties of procurement organization and others.

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the department and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization shall be allowed reasonable access to information in the records of the department to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical

suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this act, at any time after a donor's death, the person to whom a part passes under W.S. 35-5-211 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this act, an examination under subsection (c) or (d) of this section may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a) of this section, a procurement organization shall make a reasonable search for any person listed in W.S. 35-5-209 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to W.S. 35-5-211(j) and 35-5-223, the rights of the person to whom a part passes under W.S. 35-5-211 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this act, a person who accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to whom the part passes under W.S. 35-5-211, upon the death of the donor and before embalming, burial or cremation, shall cause the part to be removed without unnecessary mutilation.

(j) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(k) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

35-5-214. Coordination of procurement and use.

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

35-5-215. Sale or purchase of parts prohibited.

(a) Except as otherwise provided in subsection (b) of this section, a person who for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a felony punishable by imprisonment for not more than five (5) years, a fine of not more than fifty thousand dollars ($50,000.00) or both.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation or disposal of a part.

35-5-216. Other prohibited acts.

A person who, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars ($1,000.00) or both.

35-5-217. Immunity.

(a) A person who acts in accordance with this act or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution or administrative proceeding.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended or revoked under this act, a person may rely upon representations of an individual listed in W.S. 35-5-209(a)(ii), (iii), (iv), (v), (vi), (vii) or (viii) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

35-5-218. Law governing validity; choice of law as to execution of document of gift; presumption of validity.

(a) A document of gift is valid if executed in accordance with:

(i) This act;

(ii) The laws of the state or country where it was executed; or

(iii) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

35-5-219. Donor registry.

(a) The department shall electronically transfer to a procurement organization the information that appears on the front of the driver's license or identification card, to include the name, gender, date of birth, social security number if it appears on the license or card, driver's license or identification card number, issue date or renewal date and address of the individual identified as a donor. The department shall also electronically transfer any subsequent change in the donor's status, including revocation of the gift. The department shall submit to the department of health a statement

of costs incurred to initially install and establish the electronic transfer of donor information. The department of health shall direct the state auditor to reimburse the department for the costs from the anatomical awareness account under W.S. 35-5-225 to the extent there are funds in that account. There shall be no charge to a procurement organization for the transfer of donor information.

(b) With the information obtained from the department and from other sources including donors and donors' agents pursuant to W.S. 35-5-205(b), the procurement organization shall establish and maintain a statewide organ and tissue donor registry to facilitate organ and tissue donations. The cost incurred to create and maintain the registry shall be paid by the procurement organization. Registry information shall be accessible to any procurement organization located in Wyoming and may be disseminated to a procurement organization in another state for the recovery or placement of organs and tissue. Registry information may also be disseminated to Wyoming eye banks under this section.

(c) A donor registry shall:

(i) Allow a donor or other person authorized under W.S. 35-5-204 to include on the donor registry a statement or symbol that the donor has made, amended or revoked an anatomical gift;

(ii) Be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift; and

(iii) Be accessible for purposes of paragraphs (i) and (ii) of this subsection seven (7) days a week on a twenty-four (24) hour basis.

(d) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor or person who made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift.

(e) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any such registry shall comply with subsections (c) and (d) of this section.

35-5-220. Effect of anatomical gift on advance health care directive.

(a) In this section:

(i) "Advance health-care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health-care decision for the prospective donor;

(ii) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor;

(iii) "Health-care decision" means any decision regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance health-care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if none or the agent is not reasonably available, another person authorized by law other than this act to make health-care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict shall be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under W.S. 35-5-209. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

35-5-221. Cooperation between coroner and procurement organization.

(a) A coroner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research or education.

(b) If a coroner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the coroner and a post-mortem examination is going to be performed, unless the coroner denies recovery in accordance with W.S. 35-5-222, the coroner or designee shall conduct a post-mortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

(c) A part may not be removed from the body of a decedent under the jurisdiction of a coroner for transplantation, therapy, research or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the coroner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a coroner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner.

35-5-222. Facilitation of anatomical gift from decedent whose body is under jurisdiction of coroner.

(a) Upon request of a procurement organization, a coroner shall release to the procurement organization the name, contact information and available medical and social history of a decedent whose body is under the jurisdiction of the coroner. If the decedent's body or part is medically suitable for transplantation, therapy, research or education, the coroner shall release post-mortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the coroner only if relevant to transplantation or therapy.

(b) The coroner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results and other information that any person possesses about a donor or prospective donor whose body is under

the jurisdiction of the coroner which the coroner determines may be relevant to the investigation.

(c) A person who has any information requested by a coroner pursuant to subsection (b) of this section shall provide that information as expeditiously as possible to allow the coroner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research or education.

(d) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the coroner and a post-mortem examination is not required, or the coroner determines that a post-mortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the coroner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research or education.

(e) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner has been or might be made, but the coroner initially believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death, the coroner shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the coroner may deny the recovery.

(f) The coroner and procurement organization shall enter into an agreement establishing protocols and procedures governing relations between them when the coroner believes that the recovery of a part for anatomical gift from a decedent whose body is under the jurisdiction of the coroner could interfere with the post-mortem investigation into the decedent's cause or manner of death or the documentation or preservation of evidence. Decisions regarding the recovery of a part from the decedent shall be made in accordance with the agreement.

(g) If the coroner or designee denies recovery under subsection (f) of this section, the coroner or designee shall:

(i) Explain in a record the specific reasons for not allowing recovery of the part;

(ii) Include the specific reasons in the records of the coroner; and

(iii) Provide a record with the specific reasons to the procurement organization.

(h) If the coroner or designee allows recovery of a part under subsection (d), (e) or (f) of this section, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the coroner with a record describing the condition of the part, a biopsy, a photograph and any other information and observations that would assist in the post-mortem examination.

(j) If a coroner or designee is required to be present at a removal procedure under subsection (f) of this section, upon request the procurement organization requesting the recovery of the part shall reimburse the coroner or designee for the additional costs incurred in complying with subsection (f) of this section.

35-5-223. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

35-5-224. Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

35-5-225. Promotion of anatomical gifts.

Any money received from donations by owners of vehicles under W.S. 31-2-233(b) or 31-3-101(h) shall be deposited into a separate anatomical awareness account to be used by the department of health and its advisory council to promote general public awareness and education for the procurement of organ and tissue donations for anatomical gifts pursuant to this act.

ARTICLE 3 - NONDISCRIMINATION IN ACCESS TO ANATOMICAL GIFTS AND ORGAN TRANSPLANTATION

35-5-301. Definitions.

(a) As used in this article:

(i) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation or transfusion;

(ii) "Auxiliary aid or service" means an aid or service that is used to provide information to an individual with a cognitive, developmental, intellectual, neurological or physical disability and is available in a format or manner that allows the individual to better understand the information. An auxiliary aid or service includes any of the following:

(A) Qualified interpreters or other effective methods of making aurally delivered materials available to persons with hearing impairments;

(B) Qualified readers, taped texts, texts in accessible electronic format or other effective methods of making visually delivered materials available to persons with visual impairments;

(C) Supported decision making services, including:

(I) The use of a support individual to communicate information to the individual with a disability, ascertain the wishes of the individual or assist the individual in making decisions;

(II) The disclosure of information to a legal guardian, authorized representative or another individual designated by the individual with a disability for decision making purposes, as long as the disclosure is consistent with state and federal law, including the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., and any regulations promulgated by the United States department of health and human services to implement the act;

(III) If an individual has a court appointed guardian or other individual responsible for making medical decisions on behalf of the individual, any measures used to ensure that the individual is included in decisions involving the individual's health care and that medical decisions are in accordance with the individual's own expressed interests;

(IV) Any other aid or service that is used to provide information in a format that is easily understandable and accessible to individuals with cognitive, neurological, developmental or intellectual disabilities, including assistive communication technology.

(iii) "Covered entity" means:

(A) Any licensed provider of health care services, including licensed health care practitioners, hospitals, nursing facilities, laboratories, intermediate care facilities, psychiatric residential treatment facilities, institutions for individuals with intellectual or developmental disabilities and prison health centers;

(B) Any entity responsible for matching anatomical gift donors to potential recipients.

(iv) "Disability" has the meaning stated in the Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Amendments Act of 2008, at 42 U.S.C. § 12102;

(v) "Organ transplant" means the transplantation or transfusion of a part of a human body into the body of another for the purpose of treating or curing a medical condition;

(vi) "Qualified recipient" means an individual who has a disability and meets the essential eligibility requirements for the receipt of an anatomical gift with or without any of the following:

(A) Individuals or entities available to support and assist the individual with an anatomical gift or transplantation;

(B) Auxiliary aids or services;

(C) Reasonable modifications to the policies, practices or procedures of a covered entity, including modifications to allow for either or both of the following:

(I) Communication with one (1) or more individuals or entities available to support or assist with the recipient's care and medication after surgery or transplantation;

(II) Consideration of support networks available to the individual, including family, friends and home and community based services, including home and community based services funded through Medicaid, Medicare, another health plan in which the individual is enrolled or any program or source of funding available to the individual, when determining whether the individual is able to comply with post-transplant medical requirements.

35-5-302. Discrimination prohibited.

(a) A covered entity shall not, solely on the basis of an individual's disability:

(i) Consider the individual ineligible to receive an anatomical gift or organ transplant;

(ii) Deny medical services or other services related to organ transplantation, including diagnostic services, evaluation, surgery, counseling or post-operative treatment and services;

(iii) Refuse to refer the individual to a transplant center or other related specialist for the purpose of being evaluated for or receiving an organ transplant;

(iv) Refuse to place a qualified recipient on an organ transplant waiting list;

(v) Place a qualified recipient on an organ transplant waiting list at a lower priority position than the position at which the individual would have been placed if the individual did not have a disability;

(vi) Refuse insurance coverage for any procedure associated with being evaluated for or receiving an anatomical gift or organ transplant, including post-transplantation and post-transfusion care.

(b) A covered entity may take an individual's disability into account when making treatment or coverage recommendations or decisions, solely to the extent that the disability has been found by a physician or surgeon, following an individualized evaluation of the individual, to be medically significant to the provision of the anatomical gift.

(c) If an individual has the necessary support system to assist the individual in complying with post-transplant medical requirements, a covered entity may not consider the individual's inability to independently comply with post-transplant medical requirements to be medically significant for the purposes of subsection (b) of this section.

(d) A covered entity shall make reasonable modifications to its policies, practices or procedures to allow individuals with disabilities access to transplantation related services, including diagnostic services, surgery, coverage, post-operative treatment and counseling, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of those services.

(e) A covered entity shall take steps necessary to ensure that an individual with a disability is not denied medical services or other services related to organ transplantation, including diagnostic services, surgery, post-operative treatment or counseling, due to the absence of auxiliary aids or services, unless the covered entity demonstrates that taking the steps would fundamentally alter the nature of the medical services or other services related to organ transplantation or would result in an undue burden for the covered entity.

(f) Nothing in this section shall require a covered entity to make a referral or recommendation for or perform a medically inappropriate organ transplant.

(g) A covered entity shall otherwise comply with the requirements of titles II and III of the Americans with Disabilities Act, as amended.

(h) The provisions of this article shall apply to all stages of the organ transplant process.

35-5-303. Enforcement.

(a) Whenever it appears that a covered entity has violated or is violating any of the provisions of this article, the affected individual may commence a civil action for injunctive and other relief against the covered entity for purposes of enforcing compliance with this article. The action may be brought in the district court for the county where the affected individual resides or resided or was denied the organ transplant or referral.

(b) In an action brought under this article, the court shall give priority on its docket and expedited review, and may grant injunctive or other relief, including:

(i) Requiring auxiliary aids or services to be made available for a qualified recipient;

(ii) Requiring the modification of a policy, practice or procedure of a covered entity; or

(iii) Requiring facilities be made readily accessible to and usable by a qualified recipient.

(c) Nothing in this article is intended to limit or replace available remedies under the Americans With Disabilities Act, as amended, or any other applicable law.

CHAPTER 6 - ABORTIONS

ARTICLE 1 - IN GENERAL

35-6-101. Repealed by Laws 2023, ch. 184, § 5.

35-6-102. Repealed by Laws 2023, ch. 184, § 5.

35-6-103. Repealed by Laws 2023, ch. 184, § 5.

35-6-104. Repealed by Laws 2023, ch. 184, § 5.

35-6-105. Renumbered as 35-6-129 by Laws 2023, ch. 184, § 4.

35-6-106. Renumbered as 35-6-130 by Laws 2023, ch. 184, § 4.

35-6-107. Renumbered as 35-6-131 by Laws 2023, ch. 184, § 4.

35-6-108. Renumbered as 35-6-132 by Laws 2023, ch. 184, § 3.

35-6-109. Renumbered as 35-6-133 by Laws 2023, ch. 184, § 4.

35-6-110. Repealed by Laws 2023, ch. 184, § 5.

35-6-111. Repealed by Laws 2023, ch. 184, § 5.

35-6-112. Repealed by Laws 2023, ch. 184, § 5.

35-6-113. Renumbered as 35-6-134 by Laws 2023, ch. 184, § 3.

35-6-114. Renumbered as 35-6-135 by Laws 2023, ch. 184, § 3.

35-6-115. Renumbered as 35-6-136 by Laws 2023, ch. 184, § 4.

35-6-116. Renumbered as 35-6-137 by Laws 2023, ch. 184, § 4.

35-6-117. Renumbered as 35-6-138 by Laws 2023, ch. 184, § 3.

35-6-118. Repealed by Laws 2023, ch. 184, § 5.

35-6-119. Repealed by Laws 2023, ch. 184, § 5.

35-6-120. Short title.

This act shall be known and may be cited as the "Life is a Human Right Act."

35-6-121. Findings and purposes.

(a) The legislature finds that:

(i) As a consequence of an unborn baby being a member of the species homo sapiens from conception, the unborn baby is a member of the human race under article 1, section 2 of the Wyoming constitution;

(ii) The legislature acknowledges that all members of the human race are created equal and are endowed by their creator with certain unalienable rights, the foremost of which is the right to life;

(iii) This act promotes and furthers article 1, section 6 of the Wyoming constitution, which guarantees that no person may be deprived of life or liberty without due process of law;

(iv) Regarding article 1, section 38 of the Wyoming constitution, abortion as defined in this act is not health care. Instead of being health care, abortion is the intentional termination of the life of an unborn baby. It is within the authority of the state of Wyoming to determine reasonable and necessary restrictions upon abortion, including its prohibition. In accordance with Article 1, Section 38(c) of the Wyoming constitution, the legislature determines that the health and general welfare of the people requires the prohibition of abortion as defined in this act;

(v) The legislature, in the exercise of its constitutional duties and powers, has a fundamental duty to provide equal protection for all human lives, including unborn babies from conception;

(vi) Wyoming's "legitimate interests include respect for and preservation of prenatal life at all stages of development; the protection of maternal health and safety; the elimination of particularly gruesome or barbaric medical procedures; the preservation of the integrity of the medical profession; the mitigation of fetal pain; and the prevention of discrimination on the basis of race, sex, or disability." Dobbs v. Jackson Women's Health Org., 142 S. Ct. 2228, 2284 (2022) (internal citations omitted).

35-6-122. Definitions.

(a) As used in this act:

(i) "Abortion" means the act of using or prescribing any instrument, medicine, drug or any other substance, device or means with the intent to terminate the clinically diagnosable pregnancy of a woman, including the elimination of one (1) or more unborn babies in a multifetal pregnancy, with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn baby. "Abortion" shall not include any use, prescription or means specified in this paragraph if the use, prescription or means are done with the intent to:

(A) Save the life or preserve the health of the unborn baby;

(B) Remove a dead unborn baby caused by spontaneous abortion or intrauterine fetal demise;

(C) Treat a woman for an ectopic pregnancy; or

(D) Treat a woman for cancer or another disease that requires medical treatment which treatment may be fatal or harmful to the unborn baby.

(ii) "Pregnant" means the human female reproductive condition of having a living unborn baby or human being within a human female's body throughout the entire embryonic and fetal stages of the unborn human being from fertilization, when a fertilized egg has implanted in the wall of the uterus, to full gestation and childbirth;

(iii) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved;

(iv) "Unborn baby" or "unborn human being" means an individual living member of the species homo sapiens throughout the entire embryonic and fetal stages from fertilization to full gestation and childbirth;

(v) "Ectopic pregnancy" means a pregnancy that occurs when a fertilized egg implants and grows outside the main cavity of the uterus;

(vi) "Lethal fetal anomaly" means a fetal condition diagnosed before birth and if the pregnancy results in a live birth there is a substantial likelihood of death of the child within hours of the child's birth;

(vii) "Molar pregnancy" means the development of a tumor or cysts that may or may not include placental tissue from trophoblastic cells after fertilization of an egg that results in spontaneous abortion or intrauterine fetal demise;

(viii) "This act" means W.S. 35-6-120 through 35-6-138.

35-6-123. Abortion prohibited.

(a) Except as provided in W.S. 35-6-124, no person shall knowingly:

(i) Administer to, prescribe for or sell to any pregnant woman any medicine, drug or other substance with the specific intent of causing or abetting an abortion; or

(ii) Use or employ any instrument, device, means or procedure upon a pregnant woman with the specific intent of causing or abetting an abortion.

35-6-124. Exceptions to abortion prohibition; applicability.

(a) It shall not be a violation of W.S. 35-6-123 for a licensed physician to:

(i) Perform a pre-viability separation procedure necessary in the physician's reasonable medical judgment to prevent the death of the pregnant woman, a substantial risk of death for the pregnant woman because of a physical condition or the serious and permanent impairment of a life-sustaining organ of a pregnant woman, provided that no separation procedure shall be deemed necessary under this paragraph unless the physician makes all reasonable medical efforts under the circumstances to preserve both the life of the pregnant woman and the life of the unborn baby in a manner consistent with reasonable medical judgment;

(ii) Provide medical treatment to a pregnant woman that results in the accidental or unintentional injury to, or the death of, an unborn baby;

(iii) Perform an abortion on a woman when the pregnancy is the result of incest as defined by W.S. 6-4-402 or sexual assault as defined by W.S. 6-2-301. Prior to the performance of any abortion under this paragraph the woman, or the woman's parent or guardian if the woman is a minor or subject to a guardianship, shall report the act of incest or sexual assault to a law enforcement agency and a copy of the report shall be provided to the physician; or

(iv) Perform an abortion on a woman when in the physician's reasonable medical judgment, there is a substantial likelihood that the unborn baby has a lethal fetal anomaly or the pregnancy is determined to be a molar pregnancy.

(b) Nothing in this act shall be construed to prohibit the use, sale, prescription or administration of a contraceptive measure, drug, chemical or device if the contraceptive measure,

drug, chemical or device is used, sold, prescribed or administered in accordance with manufacturer instructions and is not used, sold, prescribed or administered with the specific intent to cause or induce an abortion.

35-6-125. Penalties and remedies.

(a) Any person who violates W.S. 35-6-123 is guilty of a felony punishable by a fine not to exceed twenty thousand dollars ($20,000.00), imprisonment for not more than five (5) years, or both.

(b) Nothing in this act shall be construed to subject a pregnant woman upon whom any abortion is performed or attempted to any criminal penalty under this act.

35-6-126. Professional sanctions; civil penalties.

(a) In addition to any other penalties available under law, a physician or any other professionally licensed person who intentionally, knowingly or recklessly violates W.S. 35-6-123 commits an act of unprofessional conduct, and the physician's or person's license to practice in Wyoming shall be immediately revoked by the state board of medicine after due process in accordance with the rules and procedures of the state board of medicine. Any person may file a complaint against a physician or other licensed person under this section, or the state board of medicine may on its own accord initiate a complaint against a physician or other licensed person. The state board of medicine may assess or impose the costs of any investigation, fines not to exceed five thousand dollars ($5,000.00) and any other disciplinary actions authorized by law that the board deems appropriate.

(b) No civil penalty shall be assessed against a pregnant woman upon whom an abortion is performed or attempted for a violation of this act.

35-6-127. Civil remedies.

(a) In addition to any remedies available under law, failure to comply with this act shall provide the basis for a civil action as provided by this section.

(b) Any pregnant woman upon whom an abortion has been performed, induced or coerced in violation of this act may maintain an action against the person or persons who violated

this act for actual and punitive damages. In addition to all other damages and separate and distinct from all damages, a plaintiff prevailing in an action under this section shall be entitled to statutory damages of ten thousand dollars ($10,000.00) for each violation of this act from each defendant for each violation.

(c) A separate and distinct cause of action for injunctive relief against any person who has violated this act to enjoin further violations of this act may be maintained by any of the following:

(i) The woman upon whom an abortion was performed or induced in violation of this act;

(ii) The parent or guardian of the pregnant woman if the woman had not attained eighteen (18) years of age at the time of the abortion or if the woman died as a result of the abortion;

(iii) A district attorney with proper jurisdiction;

(iv) The attorney general.

(d) If judgment is rendered in favor of the plaintiff in a civil action authorized by this section, the plaintiff shall be entitled to receive reasonable costs and attorney fees from the defendant.

35-6-128. Construction; severability.

It is the intent of the legislature that each provision of this act shall operate with equal force and shall be severable and that, in the event that any provision of this act shall be held invalid or unenforceable by a court of competent jurisdiction, the invalid or unenforceable provision shall be deemed severable, and the remaining provisions of this act shall be deemed fully enforceable.

35-6-129. Private institutions not required to perform abortions; no liability for refusal to perform abortion.

No private hospital, clinic, institution or other private facility in this state is required to admit any patient for the purpose of performing an abortion nor to allow the performance of an abortion therein. The private hospital, clinic, institution or any other private facility shall inform any

prospective patient seeking an abortion of its policy not to participate in abortion procedures. No cause of action shall arise against any private hospital, clinic, institution or any other private facility for refusing to perform or allow an abortion.

35-6-130. Persons not required to perform abortion; no civil liability for refusal; sanctions or discrimination for refusal forbidden.

No person shall, in any way, be required to perform or participate in any abortion or in any act or thing which accomplishes or performs or assists in accomplishing or performing a human miscarriage, euthanasia or any other death of a human fetus or human embryo. The refusal of any person to do so is not a basis for civil liability to any person. No hospital, governing board or any other person, firm, association or group shall terminate the employment of, alter the position of, prevent or impair the practice or occupation of, or impose any other sanction or otherwise discriminate against any person who refuses to perform or participate in any abortion or in any act or thing which accomplishes, performs or assists in accomplishing or performing a human miscarriage, euthanasia or any other death of a human fetus or embryo.

35-6-131. Forms for reporting abortions.

(a) The state office of vital records services shall establish an abortion reporting form which shall be used after May 27, 1977 for the reporting of every abortion performed or prescribed in this state. The form shall include the following items in addition to the information necessary to complete the form subject to subsection (b) of this section:

(i) The age of the pregnant woman;

(ii) The type of procedure performed or prescribed;

(iii) Complications, if any;

(iv) A summary of the pregnant woman's obstetrical history regarding previous pregnancies, abortions and live births;

(v) The length and weight of the aborted fetus or embryo, when measurable or the gestational age of the aborted fetus or embryo in completed weeks at the time of abortion;

(vi) Type of facility where the abortion is performed (i.e., hospital, clinic, physician's office, or other).

(b) In addition to the requirements provided in subsection (a) of this section, the form shall not contain the name or the address of the pregnant woman or any other common identifiers including a social security number, driver's license number or any other information or identifier that would tend to disclose the identity of the pregnant woman or any other participant other than the reporting physician.

(c) The form shall be completed by the attending physician and submitted to the state health officer as defined in W.S. 9-2-103(e) within twenty (20) days after the abortion is performed. A physician who fails to submit a form under this section within one hundred ten (110) days after an abortion is performed shall be reported to the board of medicine by the state health officer. The board of medicine shall investigate the matter and may take disciplinary action under W.S. 33-26-402(a)(x).

(d) Termination of a pregnancy by natural miscarriage or as a treatment consequence of a natural miscarriage shall not be reported as an abortion pursuant to this section, provided that the miscarriage was not induced with the intent of terminating the pregnancy. An alleged miscarriage that was induced with the intent of terminating a pregnancy shall be reported as an abortion pursuant to this section.

35-6-132. Compilations of abortions; matter of record; exception.

(a) The state office of vital records services shall prepare and keep on file for seven (7) years compilations of the information submitted on the abortion reporting forms. The compilations shall be available as provided in this section. The state health officer, in order to maintain and keep such compilations current, shall file with the reports any new or amended information. The information submitted under W.S. 35-6-131 and compiled under this section, except the report required under subsection (c) of this section, shall not be stored in any computer.

(b) An abortion reporting form received under W.S. 35-6-131 shall be maintained in strict confidence by the state office of vital records services, shall not be a public record and

shall not be made available except to the attorney general or a district attorney with appropriate jurisdiction pursuant to a criminal investigation or to the state board of medicine pursuant to an investigation. The attorney general or a district attorney receiving an abortion form pursuant to this subsection shall keep the form and information from the form confidential except as may be required by law for a criminal prosecution. The state board of medicine receiving an abortion form pursuant to this subsection shall keep the form and information from the form confidential except as may be required by law to determine or enforce an action regarding licensure.

(c) Not later than June 30 of each year the office of vital records services shall issue a public report providing summary statistics for the previous calendar year compiled from all of the abortion reporting forms from that year submitted in accordance with this section for each of the items listed in W.S. 35-6-131. The report shall also include the statistics for all previous calendar years during which this subsection was in effect, adjusted to reflect any additional information from late or corrected reports. The office shall ensure that no information included in the public reports could reasonably lead to the identification of any woman upon whom an abortion was performed, induced or attempted. The report shall be transmitted to the United States centers for disease control and prevention for the national abortion surveillance report.

35-6-133. Rules and regulations for disposal of bodies and parts thereof.

The state department of health may prescribe rules and regulations for the disposal of the bodies, tissues, organs and parts thereof of an unborn child, human fetus or human embryo which has been aborted.

35-6-134. Penalty for violating W.S. 35-6-130.

Any person, firm, corporation, group or association who violates W.S. 35-6-130 is guilty of an offense punishable by a fine of not more than ten thousand dollars ($10,000.00).

35-6-135. Right to damages for discriminatory employment practices for refusal to perform abortion.

Any person or persons injured by any action prohibited in W.S. 35-6-130 may by civil action obtain injunctive relief or damages.

35-6-136. Penalty for giving away an aborted child for experimentation; exemptions.

(a) Except as provided in subsection (b) of this section, whoever sells, transfers, distributes or gives away any aborted child or any tissue or cells from an aborted child for any form of experimentation is guilty of a felony punishable by a fine of not less than ten thousand dollars ($10,000.00) and by imprisonment in the penitentiary for not less than one (1) year nor more than fourteen (14) years. Any person consenting, aiding or abetting such sale, transfer, distribution or other unlawful disposition of an aborted child or any tissue or cells from an aborted child is guilty of a felony punishable by a fine of not less than ten thousand dollars ($10,000.00) and by imprisonment in the penitentiary for not less than one (1) year nor more than fourteen (14) years or both, and shall also be subject to prosecution for violation of any other criminal statute.

(b) Subsection (a) of this section shall not be construed to apply to:

(i) Any legal organ or tissue donations made by a parent;

(ii) A child or any tissues or cells from a miscarriage or produced by any medical procedure following a miscarriage, or any other medical condition which is not an abortion;

(iii) The use or transfer of tissue or cells from an aborted child, embryo or fetus for medical examination and testing to:

(A) Identify, confirm or deny any medical condition which lead to or influenced the decision to terminate the pregnancy;

(B) Obtain information relating to future medical treatment or counseling of parents, siblings or other blood relatives of the aborted child, embryo or fetus; or

(C) Comply with hospital quality control regulations.

35-6-137. Advertising drug or nostrum for procuring abortion or miscarriage.

Whoever prints or publishes any advertisement of any drug or nostrum with intent to obtain utilization of such drug or nostrum for procuring abortion or miscarriage; or sells or gives away, or keeps for sale or gratuitous distribution, any newspaper, circular, pamphlet, or book containing such advertisement, or any account or description, of such drug or nostrum with intent to obtain utilization of such drugs or nostrum to procure abortion or miscarriage, shall be fined not more than one hundred dollars ($100.00), to which may be added imprisonment in the county jail for not more than six (6) months.

35-6-138. Use of appropriated funds for abortion prohibited.

(a) Repealed by Laws 2023, Ch. 184, § 6.

(b) No funds appropriated by the legislature of the state of Wyoming shall be used to pay for abortions.

35-6-139. Chemical abortions prohibited; exceptions; penalty.

(a) Notwithstanding any other provision of law, it shall be unlawful to prescribe, dispense, distribute, sell or use any drug for the purpose of procuring or performing an abortion on any person.

(b) The prohibition in subsection (a) shall not apply to:

(i) The sale, use, prescription or administration of any contraceptive agent administered before conception or before pregnancy can be confirmed through conventional medical testing;

(ii) The treatment of a natural miscarriage according to currently accepted medical guidelines;

(iii) Treatment necessary to preserve the woman from an imminent peril that substantially endangers her life or health, according to appropriate medical judgment, or the pregnancy is the result of incest as defined by W.S. 6-4-402 or sexual assault as defined by W.S. 6-2-301. As used in this paragraph, "imminent peril" means only a physical condition and shall not include any psychological or emotional conditions. No medical treatment shall form the basis for an exception under this paragraph if it is based on a claim or diagnosis that the

pregnant woman will engage in conduct which she intends to result in her death or other self-harm.

(c) Except as otherwise provided in this section, any physician or other person who violates subsection (a) of this section is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine not to exceed nine thousand dollars ($9,000.00), or both.

(d) A woman upon whom a chemical abortion is performed or attempted shall not be criminally prosecuted pursuant to subsection (c) of this section.

ARTICLE 2 - REGULATION OF SURGICAL ABORTIONS

35-6-201. Definitions.

(a) As used in this article:

(i) "Abortion" means the act of using or prescribing any instrument, medicine, drug or any other substance, device or means with the intent to terminate the clinically diagnosable pregnancy of a woman, including the elimination of one (1) or more unborn babies in a multifetal pregnancy, with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn baby. "Abortion" shall not include any use, prescription or means specified in this paragraph if the use, prescription or means are done with the intent to:

(A) Save the life or preserve the health of the unborn baby;

(B) Remove a dead unborn baby caused by spontaneous abortion or intrauterine fetal demise;

(C) Treat a woman for an ectopic pregnancy; or

(D) Treat a woman for cancer or another disease that requires medical treatment which treatment may be fatal or harmful to the unborn baby.

(ii) "Ectopic pregnancy" means the state of carrying an unborn child outside of the uterine cavity;

(iii) "Hospital" means those institutions licensed by the Wyoming department of health as hospitals;

(iv) "Intrauterine fetal demise" means the death of an unborn child inside the uterine cavity after twenty (20) weeks of pregnancy;

(v) "Miscarriage" means the spontaneous loss of the unborn child;

(vi) "Physician" means any person licensed to practice medicine in this state;

(vii) "Pregnancy" or "pregnant" means the human female reproductive condition of having a living unborn baby or human being within a human female's body throughout the entire embryonic and fetal stages of the unborn human being from fertilization to full gestation and childbirth;

(viii) "Reasonable medical judgment" means a medical judgment that would be made or a medical action that would be undertaken by a reasonably prudent, qualified physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved;

(ix) "Surgical abortion" means an induced abortion performed or attempted through use of a machine, medical device, surgical instrument or surgical tool, or any combination thereof, to terminate the clinically diagnosable pregnancy of a woman with knowledge and the intent that the termination by those means will cause, with reasonable likelihood, the death of the unborn child;

(x) "Surgical abortion facility" means any facility that provides a surgical abortion to a woman.

35-6-202. Surgical abortion facilities; licensure requirement; prohibitions; penalties.

(a) Each surgical abortion facility other than a hospital in Wyoming shall be licensed as an ambulatory surgical center in accordance with W.S. 35-2-901 through 35-2-914 and the rules of the department of health. Each surgical abortion facility performing surgical abortions shall have a separate license.

(b) No surgical abortion facility shall provide surgical abortions to any pregnant woman without first being licensed as an ambulatory surgical center.

(c) Each surgical abortion facility shall comply with all rules of the department of health concerning the operation and regulation of ambulatory surgical centers. No license issued to a surgical abortion facility shall be transferable or assignable to any other person or facility.

(d) Each licensed physician performing at least one (1) surgical abortion at a surgical abortion facility shall:

(i) Report each surgical abortion to the department of health and attest in the report that the physician is licensed and in good standing with the state board of medicine;

(ii) Submit documentation in a form and frequency required by the department of health that demonstrates that the licensed physician has admitting privileges at a hospital located not more than ten (10) miles from the abortion facility where the licensed physician is performing or will perform surgical abortions.

(e) Any person who violates this section shall be guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000.00). Each calendar day in which a violation of this section occurs or continues is a separate offense.

35-6-203. Abortion facilities; surgical abortions; requirements; rulemaking.

(a) Any surgical abortion performed at a surgical abortion facility in the state shall only be performed by a physician licensed in the state of Wyoming.

(b) Any person who performs a surgical abortion in the state in violation of subsection (a) of this section is guilty of a felony punishable by imprisonment for not less than one (1) year nor more than fourteen (14) years.

(c) No person shall perform a surgical abortion at a surgical abortion facility in Wyoming who is not a licensed physician with admitting privileges at a hospital located not more than ten (10) miles from the abortion facility where the surgical abortion is performed.

(d) Any person who violates subsection (c) of this section shall be guilty of a misdemeanor punishable by a fine of one thousand dollars ($1,000.00). For purposes of this subsection,

each surgical abortion shall constitute a separate offense of subsection (c) of this section.

(e) The department of health shall promulgate rules necessary to regulate surgical abortion facilities as ambulatory surgical centers under W.S. 35-2-901 through 35-2-914. Rules promulgated under this subsection shall:

(i) Not be less stringent than those rules applicable to ambulatory surgical centers;

(ii) Provide for the physical inspection of surgical abortion facilities by the department of health every three (3) years.

35-6-204. Applicability; effect.

If any provision of this article conflicts with the Life is a Human Right Act or W.S. 35-6-139, the provisions of the Life is a Human Right Act and W.S. 35-6-139 shall control over this article to the extent that the Life is a Human Right Act and W.S. 35-6-139 are in effect.

ARTICLE 3 - REGULATION OF ABORTIONS

35-6-301. Chemical abortions; ultrasound requirement; definitions; penalties.

(a) As used in this article:

(i) "Abortion" means the act of using or prescribing any instrument, medicine, drug or any other substance, device or means with the intent to terminate the pregnancy of a woman, including the elimination of one (1) or more unborn babies in a multifetal pregnancy, with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn baby. "Abortion" shall not include any use, prescription or means specified in this paragraph if the use, prescription or means are done with the intent to:

(A) Save the life or preserve the health of the unborn baby;

(B) Remove a dead unborn baby caused by spontaneous abortion or intrauterine fetal demise;

(C) Treat a woman for an ectopic pregnancy; or

(D) Treat a woman for cancer or another disease that requires medical treatment which treatment may be fatal or harmful to the unborn baby.

(ii) "Chemical abortion" means the use of any medication, drug, substance or combination thereof that is prescribed or administered for the purpose of terminating a pregnancy once the pregnancy can be confirmed through conventional medical testing;

(iii) "Health care provider" means a person licensed, certified or authorized in a health care profession under title 33 of the Wyoming statutes;

(iv) "Pregnancy" or "pregnant" means the human female reproductive condition of having a living unborn baby or human being within a human female's body throughout the entire embryonic and fetal stages of the unborn baby or human being from fertilization, when a fertilized egg has implanted in the wall of the uterus, to full gestation and childbirth.

(b) Not less than forty-eight (48) hours before a pregnant woman procures the drugs or substances for a chemical abortion or before a health care provider dispenses the drugs or substances necessary for a chemical abortion, whichever is earlier, the pregnant woman shall receive an ultrasound in order to provide the pregnant woman the opportunity to view the active ultrasound of the unborn baby and view the fetal heart motion or hear the heartbeat of the unborn baby if the heartbeat is audible.

(c) The ultrasound required under subsection (b) of this section shall be of a quality consistent with standard medical practice in the community.

(d) Upon providing an ultrasound under this section, the provider of the ultrasound shall provide the pregnant woman with a document that specifies:

(i) The date, time and place of the ultrasound;

(ii) The health care provider who ordered or requested the ultrasound;

(iii) The health care provider who performed the ultrasound;

(iv) Confirmation of intrauterine pregnancy and the gestational age of the unborn baby.

(e) Before a health care provider dispenses the drugs or substances necessary for a chemical abortion to a pregnant woman, the health care provider shall verify that the ultrasound required by this section occurred.

(f) Except as otherwise provided in this subsection, any person who violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine not to exceed nine thousand dollars ($9,000.00), or both. Nothing in this section shall be construed to subject a pregnant woman to any criminal penalty under this subsection.

35-6-302. Ultrasound requirement; conflict of laws; applicability.

If any provision of this article conflicts with the Life is a Human Right Act or W.S. 35-6-139, the provisions of the Life is a Human Right Act and W.S. 35-6-139 shall control over this article to the extent that the Life is a Human Right Act and W.S. 35-6-139 are enforceable.

ARTICLE 4 - PROTECTION OF UNBORN CHILDREN WITH HEARTBEATS

35-6-401. Definitions.

(a) As used in this article:

(i) "Detectable fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac that is detectable using standard medical equipment;

(ii) "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate termination of her pregnancy to avert the woman's death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function of the woman;

(iii) "Termination of pregnancy" means the use of any instrument, medicine, drug or other substance or device with the intent to terminate the pregnancy of a woman known to be pregnant, with an intention other than to increase the

probability of a live birth, to preserve the life or health of the child after live birth or to remove a dead unborn child.

35-6-402. Determination of detectable fetal heartbeat required.

(a) Except in the case of a medical emergency, no person shall perform, induce, attempt to perform or attempt to induce a termination of a pregnancy unless the person has first made a determination of whether the unborn child has a detectable fetal heartbeat.

(b) The determination of whether an unborn child has a detectable fetal heartbeat shall be made using standard medical practices and techniques, including ultrasound measurement if necessary.

35-6-403. Prohibition of terminations of unborn children with detectable fetal heartbeats.

(a) Except as provided in subsection (b) of this section, no person shall perform, induce, attempt to perform or attempt to induce a termination of pregnancy if:

(i) The unborn child has a detectable fetal heartbeat; or

(ii) The person fails or has failed to make the determination of whether the unborn child has a detectable fetal heartbeat under W.S. 35-6-402.

(b) The restriction in subsection (a) of this section shall not apply if, in reasonable medical judgment, a medical emergency exists. If a medical emergency exists, a licensed physician may terminate the pregnancy, provided that the termination of the pregnancy shall be in the manner that provides the best opportunity for the unborn child to survive, unless that manner would pose a greater risk of death or substantial and irreversible physical impairment to the pregnant woman.

35-6-404. Penalties; sanctions.

(a) Any person who intentionally or knowingly violates this article shall be guilty of a felony punishable by imprisonment for not more than five (5) years, a fine of not more than ten thousand dollars ($10,000.00), or both.

(b) A violation of this article constitutes unprofessional conduct and shall result in the mandatory revocation of the person's professional license by the appropriate licensing board in this state.

ARTICLE 5 - ABORTION REGULATIONS AND RESTRICTIONS

35-6-501. Definitions.

(a) As used in this article, unless the context otherwise requires:

(i) "Abortion" means an act, procedure, device or prescription administered to or prescribed for a pregnant woman by any person with knowledge of the pregnancy, including the pregnant woman herself, with the intent of producing the premature expulsion, removal or termination of a human embryo or fetus, except that in cases in which the viability of the embryo or fetus is threatened by continuation of the pregnancy, early delivery after viability by commonly accepted obstetrical practices shall not be construed as an abortion;

(ii) "Accepted medical procedures" means procedures of the type and performed in a manner and in a facility that is equipped with surgical, anesthetic, resuscitation and laboratory equipment sufficient to meet the standards of medical care that physicians engaged in the same or similar lines of work in the community would ordinarily exercise and devote to the benefit of their patients;

(iii) "Conception" means the fecundation of the ovum by the spermatozoa;

(iv) "Hospital" means those institutions licensed by the state department of health as hospitals;

(v) "Minor" means a pregnant woman under the age of eighteen (18), but does not include any woman who:

(A) Is legally married;

(B) Has received a declaration of emancipation under W.S. 14-1-203;

(C) Is in active military service; or

(D) Has lived apart from her parents or guardian, has been financially independent and has managed her own affairs for at least six (6) months prior to a proposed abortion.

(vi) "Parents" means both parents of a minor if they are both living, or one (1) parent of the minor if only one (1) parent of the minor is living or if the second parent does not have custody of the minor or cannot be located through a reasonably diligent effort;

(vii) "Physician" means any person licensed to practice medicine in this state;

(viii) "Pregnant" means that condition of a woman who has a human embryo or fetus within her as the result of conception;

(ix) "Viability" means that state of human development when the embryo or fetus is able to live by natural or life-supportive systems outside the womb of the mother, according to appropriate medical judgment;

(x) "Woman" means any female person.

(b) The singular, where used in this article, includes the plural, the plural includes the singular and the masculine gender includes the feminine or neuter genders, when consistent with the intent of this article and when necessary to effectuate its purpose.

35-6-502. No abortion after viability; exception.

An abortion shall not be performed after the embryo or fetus has reached viability, except when necessary to preserve the woman from an imminent peril that substantially endangers her life or health, according to appropriate medical judgment.

35-6-503. Viability not affected by abortion.

A physician who performs an abortion procedure employed pursuant to W.S. 35-6-502 shall not intentionally terminate the viability of the unborn infant prior to, during or following the procedure.

35-6-504. Means of treatment for viable abortion.

The commonly accepted means of care that would be rendered to any other infant born alive shall be employed in the treatment of any viable infant who survives an abortion or attempted abortion. Any physician performing an abortion shall take medically appropriate and reasonable steps to preserve the life and health of an infant born alive.

35-6-505. Penalty for violation of W.S. 35-6-502, 35-6-503 or 35-6-504.

Any physician or other person who violates any provision of W.S. 35-6-502, 35-6-503 or 35-6-504 is guilty of a felony punishable by imprisonment in the penitentiary for not more than fourteen (14) years.

35-6-506. Penalty for a person other than a physician to perform abortion.

Any person other than a licensed physician who performs an abortion is guilty of a felony punishable by imprisonment in the penitentiary for not less than one (1) year and not more than fourteen (14) years.

35-6-507. Procedure governing abortion performed upon minor.

(a) An abortion shall not be performed upon a minor unless at least one (1) of the minor's parents or her guardian are notified in writing at least forty-eight (48) hours before the abortion, and the attending physician has obtained the written consent of the minor and at least one (1) parent or guardian of the minor, unless:

(i) The minor, in a closed hearing, is granted the right to self-consent to an abortion by court order pursuant to subparagraph (b)(v)(B) of this section and the attending physician receives a certified copy of the court order and the written consent of the minor; or

(ii) The abortion is authorized by court order pursuant to subparagraph (b)(v)(C) of this section and the attending physician receives a certified copy of the court order.

(b) A juvenile court of competent jurisdiction may grant the right of a minor to self-consent to an abortion or may

authorize an abortion upon a minor, in accordance with the following procedure:

(i) The minor shall apply to the juvenile court for assistance, either in person or through an adult of the minor's choice. The court shall assist the minor in preparing the petition and notices required under this section;

(ii) Notwithstanding W.S. 14-6-212, the minor or an adult of the minor's choice shall file a petition with the court, signed by the minor and setting forth:

(A) The initials of the minor and the minor's date of birth;

(B) The names and addresses, if known, of the minor's parents, guardian, custodian or, if the minor's parents are deceased and a guardian or custodian has not been appointed, any other person standing in loco parentis of the minor;

(C) That the minor has been informed by her treating physician of the risks and consequences of an abortion;

(D) That the minor is mature and wishes to have an abortion; and

(E) Facts indicating why an abortion is in the best interest of the minor.

(iii) The court may appoint a guardian ad litem of the minor and may appoint legal counsel for the minor;

(iv) Not later than five (5) days after the petition is filed under paragraph (ii) of this subsection, a hearing on the merits of the petition shall be held on the record. Any appointed counsel shall be appointed and notified by the court at least forty-eight (48) hours before the time set for the hearing. At the hearing, the court shall hear evidence relating to:

(A) The maturity and understanding of the minor;

(B) The nature of the abortion, risks and consequences of the abortion and alternatives to the abortion; and

(C) Whether an abortion is in the best interest of the minor.

(v) In its order, which shall be issued not later than twenty-four (24) hours from the conclusion of the hearing, the court shall enter findings of fact and conclusions of law, order the record of the hearing sealed and shall:

(A) Deny the petition, setting forth the grounds on which the petition is denied;

(B) Grant the minor the right to self-consent to the abortion, based upon a finding by clear and convincing evidence that the minor is sufficiently mature and adequately informed to make her own decision, in consultation with her physician, independently of the wishes of her parent or guardian; or

(C) Authorize the abortion based upon a finding by clear and convincing evidence that the abortion is in the best interest of the minor.

(vi) Any order entered under paragraph (v) of this subsection may be appealed to the supreme court in accordance with the Wyoming Rules of Appellate Procedure. Notwithstanding W.S. 14-6-233, the supreme court shall, by rule, provide for expedited appellate review of appeals under this paragraph.

(c) This section shall not apply in an emergency medical situation when, to a reasonable degree of medical probability, the attending physician determines that an abortion is necessary to preserve the minor from an imminent peril that substantially endangers her life, and so certifies in the minor's medical record.

(d) The written notifications required under this section shall be delivered:

(i) Personally by the minor, attending physician or an agent; or

(ii) By certified mail addressed to the parent at the usual place of abode of the parent with return receipt requested and restricted delivery to the addressee.

(e) No parent, guardian or spouse shall require a minor to submit to an abortion against her wishes.

(f) Any physician or other person who knowingly performs an abortion on a minor in violation of this section is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000.00), imprisonment for not more than one (1) year, or both.

35-6-508. Information provided to patient; exceptions.

(a) Except in a case of medical emergency, the physician performing the abortion on the patient, the referring physician or a person designated by either physician shall inform the patient of the opportunity to view an active ultrasound of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible. The active ultrasound image and auscultation of the fetal heart tone shall be of a quality consistent with standard medical practice in the community.

(b) This section shall not apply to a procedure performed with the intent to:

(i) Save the life of the patient;

(ii) Ameliorate a serious risk of causing the patient substantial and irreversible impairment of a major bodily function;

(iii) Preserve the health of the unborn child;

(iv) Remove a dead unborn child; or

(v) Remove an ectopic pregnancy.

35-6-509. Applicability; intent.

(a) It is the intent of the legislature that, subject to W.S. 35-6-510:

(i) The abortion regulations that existed in Wyoming before the United States supreme court's decision in Dobbs v. Jackson Women's Health Organization, 597 U.S. 2015 (2022) be in effect;

(ii) In light of the Wyoming supreme court's decision in State v. Johnson, 2026 WY 1, the abortion regulations that existed before the enactment of the Life is a Human Right Act be in effect so that abortion in Wyoming is regulated as it was

before the United States Supreme Court's decision in Dobbs and the enactment of the Life is a Human Right Act and any subsequent enacted law regulating abortion in the state.

35-6-510. Whether article is effective.

(a) This article shall be effective only if a court has enjoined the enforcement or applicability of W.S. 35-6-401 through 35-6-404 or has held that W.S. 35-6-401 through 35-6-404 violates the Wyoming constitution or the United States constitution.

(b) The attorney general shall review the decisions of any court that challenges W.S. 35-6-401 through 35-6-404 to determine whether W.S. 35-6-401 through 35-6-404 are enforceable. If the attorney general determines that W.S. 35-6-401 through 35-6-404 are not enforceable or cannot take effect, the attorney general shall, within thirty (30) days of the date of the decision, report that fact to the governor, the joint judiciary interim committee and the governor, who may certify the effectiveness of this article to the secretary of state.

(c) After receiving certification from the governor that this article is effective, the secretary of state shall report that fact to the management council of the legislature, the joint judiciary interim committee and the Wyoming state board of medicine and shall immediately publish the effective date of this article on the website of the secretary of state, which effective date shall be five (5) days after the secretary of state receives certification under subsection (b) of this section.

(d) To the extent that W.S. 35-6-401 through 35-6-404 are enjoined but later determined to be legal, constitutional or enforceable after this article has taken effect, the provisions of W.S. 35-6-401 through 35-6-404 shall control and take precedence over this article.

CHAPTER 7 - FOOD AND DRUGS

ARTICLE 1 - IN GENERAL

35-7-101. Repealed by Laws 1987, ch. 173, § 4.

35-7-102. Repealed by Laws 1987, ch. 173, § 4.

35-7-103. Repealed by Laws 1987, ch. 173, § 4.

35-7-104. Repealed by Laws 1987, ch. 173, § 4.

35-7-105. Repealed by Laws 1987, ch. 173, § 4.

35-7-106. Repealed by Laws 1987, ch. 173, § 4.

35-7-107. Repealed by Laws 1987, ch. 173, § 4.

35-7-108. Repealed by Laws 1987, ch. 173, § 4.

35-7-109. Short title.

This act may be cited as the "Wyoming Food, Drug and Cosmetic Safety Act".

35-7-110. Definitions.

(a) As used in this act:

(i) "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing the purchase of food, drugs, devices or cosmetics;

(ii) "Color" includes black, white and intermediate grays;

(iii) "Color additive" means a material, other than a material exempt under the federal act, which:

(A) Is a dye, pigment or other substance from a vegetable, animal, mineral or other source; or

(B) When added or applied to a food, drug or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto.

(iv) "Consumer commodity" means any food, drug, device or cosmetic as those terms are defined by this act or by the federal act;

(v) "Cosmetic" means articles other than soap which are:

(A) Intended to be rubbed, poured, sprinkled or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance; and

(B) Intended for use as a component of any articles under subparagraph (A) of this paragraph.

(vi) "Counterfeit drug" means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint or device, or any likeness therefor, of a drug manufacturer, processor, packer or distributor other than the person who in fact manufactured, processed, packed or distributed the drug and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, the other drug manufacturer, processor, packer or distributor;

(vii) "Department" means the department of agriculture;

(viii) "Device" means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

(A) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or

(B) To affect the structure or any function of the body of man or other animals.

(ix) "Director" means the director of the Wyoming department of agriculture or his duly authorized representative;

(x) "Drug" means:

(A) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary or any supplement to any of them; and

(B) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and

(C) Articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

(D) Articles intended for use as a component of any article specified in subparagraph (A), (B) or (C) of this paragraph but does not include devices or their components, parts or accessories.

(xi) "Establishment" means and includes any place or any area of any establishment in which foods, drugs, devices and cosmetics are displayed for sale, manufactured, processed, packed, held or stored. "Establishment" does not include a home kitchen where food is prepared and stored for family consumption, or any other place equipped for the preparation, consumption and storage of food on the premise by employees or nonpaying guests;

(xii) "Federal act" means the Federal Food, Drug, and Cosmetic Act, as amended, (Title 21 U.S.C. § 301 et seq.) and regulations promulgated under the act;

(xiii) "Food" means:

(A) Articles used for food or drink for humans including meat and ice intended for human consumption;

(B) Chewing gum;

(C) Beverages subject to the Federal Alcohol Administration Act, as amended, (Title 27 U.S.C. § 201 et seq.);

(D) Articles used for components of any article under subparagraphs (A), (B) and (C) of this paragraph.

(xiv) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food within the meaning of the federal act;

(xv) An "imitation food" is any food which is in physical characteristics such as taste, flavor, color, texture or appearance which resembles or purports to be or is represented as a food for which a definition and standard of identity has been prescribed and does not conform to such standard;

(xvi) "Immediate container" does not include package liners;

(xvii) "Label" means a display of written, printed or graphic matter upon the immediate container of any article. A requirement made by or under this act that any word, statement or other information appear on the label shall not be considered to be complied with unless the word, statement or other information also appears on the outside container or wrapper, if there is any, of the retail package of the article, or is easily legible through the outside container or wrapper;

(xviii) "Labeling" means all labels and other written, printed or graphic matter upon an article or any of its containers or wrappers, or accompanying the article;

(xix) "Local board of health" means a county or city board of health established pursuant to W.S. 35-1-301 et seq.;

(xx) "Local health department" means a health department established by a county, municipality or district pursuant to W.S. 35-1-301 et seq.;

(xxi) "New drug" means any drug considered to be a new drug under the federal act;

(xxii) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary or any supplement to any of them;

(xxiii) "Package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers as interpreted by the federal act;

(xxiv) "Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one (1) or more other substances is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 through 136y) which is used in the production, storage or transportation of raw agricultural commodities;

(xxv) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown or

examined under normal and customary conditions of display for retail sale;

(xxvi) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing;

(xxvii) "Regulatory authority" means the authority which issued the license or promulgated the rule or regulation being enforced including the department of agriculture or local health department;

(xxviii) "Farmers market" means a common facility or area where several vendors may gather on a regular, recurring basis to sell a variety of fresh fruits and vegetables, locally grown farm products and other items directly to consumers;

(xxix) "Function" means any official ceremony or organized social occasion;

(xxx) "Not potentially hazardous food" means any food which does not require time or temperature control for safety to limit pathogenic microorganism growth or toxin formation. The natural pH or the final pH of acidified food must be 4.6 or less;

(xxxi) "Commercial food establishment" means and includes any place or any area of any establishment that is a wholesale or retail business where foods, drugs, devices and cosmetics are displayed for sale, manufactured, processed, packed, held or stored. "Commercial food establishment" shall not include:

(A) Any farmers market;

(B) Any producer or informed consumer engaged in transactions pursuant to W.S. 11-49-103; or

(C) Any retail space selling homemade food that is separate from a commercial food establishment in accordance with rules and regulations adopted by the department pursuant to W.S. 11-49-103(d).

(xxxii) "This act" means W.S. 35-7-109 through 35-7-126.

35-7-111. Prohibited acts.

(a) No person shall:

(i) Violate this act or any rules promulgated under it;

(ii) Introduce or deliver for introduction into commerce of any food, drug, device or cosmetic that is adulterated or misbranded;

(iii) Adulterate or misbrand any food, drug, device or cosmetic in commerce;

(iv) Knowingly receive in commerce of any food, drug, device or cosmetic that is adulterated or misbranded;

(v) Refuse to permit entry, inspection or access to records as authorized by this act;

(vi) Manufacture any food, drug, device or cosmetic that is adulterated or misbranded;

(vii) Give a false guaranty or undertaking under this act except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device or cosmetic;

(viii) Forge, counterfeit or without proper authority use any mark, stamp, tag, label or other identification device authorized or required by regulations promulgated under this act;

(ix) Make, sell or possess any punch, die, plate, stone, or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drugs a counterfeit drug;

(x) Alter, mutilate, destroy, obliterate or remove any part of the labeling of, or the doing of any other act with respect to a food, drug, device or cosmetic, if done while the article is held for sale (whether or not the first sale) after shipment in commerce and which results in the article being adulterated or misbranded;

(xi) Repealed By Laws 2000, Ch. 37, § 4.

(xii) Use in labeling, advertising or other sales promotion of any reference to any report or analysis furnished by the director in compliance with this act;

(xiii) Include the term "meat" or any synonymous term for meat or a specific animal species in labeling, advertising or other sales promotion unless the product:

(A) Is consistent with the definition of meat in W.S. 35-7-119(e)(vi)(A); and

(B) Is derived from harvested livestock, poultry, wildlife or exotic livestock as those terms are defined in W.S. 11-26-101(a), 11-32-101(a)(iv), 23-1-101(a)(xiii) and 23-1-102(a)(xvi).

(b) No person shall remove or dispose of a detained or embargoed article in violation of W.S. 35-7-114.

(c) In determining whether labeling or an advertisement is misleading under this act, the following shall be considered:

(i) Representations made or suggested by statement, word, design, device, sound or in any combination thereof;

(ii) The extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or facts material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement or under conditions of use as are customary or usual.

35-7-112. Cease operations order; injunction proceedings.

(a) If the director or the director of the department of health pursuant to W.S. 35-7-123(b)(vi) has probable cause to believe that an imminent hazard to the public health exists from a violation of this act, he may order any person to immediately cease the practice believed to be a violation and shall provide the person an opportunity for a hearing pursuant to the Wyoming Administrative Procedure Act within ten (10) days after issuing the order.

(b) In addition to any other remedies, the director may apply to the district court for injunctive relief from any person who violates W.S. 35-7-111.

35-7-113. Penalties and guaranty.

(a) Any person who knowingly and intentionally violates W.S. 35-7-111 is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both. Upon a subsequent conviction under W.S. 35-7-111, the person may be punished by imprisonment for not more than one (1) year, a fine of not more than one thousand five hundred dollars ($1,500.00), or both.

(b) No person may be convicted under W.S. 35-7-111 if he established a guaranty or undertaking signed by, and containing the name and address of, the person from whom he received the article in good faith, to the effect that the article is not adulterated or misbranded within the meaning of this act and if he furnishes on request of the director the name and address of the person from whom he purchased or received the article in good faith and copies of all documents pertaining to the delivery of the article to him.

(c) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor or seller of the article to which a false advertisement relates, may be punished under W.S. 35-7-111 for the dissemination of the false advertisement.

35-7-114. Embargo.

(a) If the director has probable cause to believe that any food, drug, device, cosmetic or consumer commodity is adulterated or so misbranded as to be dangerous or fraudulent, within the meaning of this act, he shall affix a tag or other appropriate marking to the article giving notice that the article is or is suspected of being adulterated or misbranded and has been embargoed. The director shall release all other articles.

(b) If the director finds an article embargoed under subsection (a) of this section to be adulterated or misbranded, the director may immediately petition the district court for the county in which the article is embargoed to condemn the

article, otherwise the tag or other marking shall be removed by the director or his agent.

(c) If the court finds that an embargoed article is adulterated or misbranded, the article, after entry of the decree, shall be destroyed at the owner's expense, under the supervision of the director or his agent. All court costs and fees, transportation costs, and storage and other proper expenses, shall be taxed against the owner of the article or his agent unless the adulteration or misbranding can be corrected by proper labeling or processing of the article. If so, the court, after entry of the decree and after costs, fees and expenses have been paid and a good and sufficient bond, conditioned that the article shall be correctly labeled or processed, has been executed, may by order direct delivery of the article to the owner for labeling or processing under the supervision of the director. The expense of supervision shall be paid by the owner. The article shall be returned to the owner and the bond shall be discharged on the representation to the court by the director that the article is no longer in violation of this act and that the expenses of supervision have been paid. Nothing in this section prevents the director from authorizing the owner of an adulterated or misbranded article from destroying it as the director prescribes.

35-7-115. Food; definitions and standards.

(a) Definitions and standards of identity, quality and fill of container under the federal act or its regulations are the definitions and standards of identity, quality and fill of container in this state. However, when the action will promote honesty and fair dealing in the interest of consumers, the director may promulgate regulations establishing definitions and standards of identity, quality and fill of container for foods where no federal regulations exist. In addition, the director may promulgate amendments to any federal or state regulations which set definitions and standards of identity, and may promulgate amendments to any federal or state regulations which set standards of quality and fill of container for foods.

(b) Temporary permits now or hereafter granted for interstate shipment of experimental packs of food under the federal act are automatically effective in this state.

35-7-116. Food, drugs and cosmetics; adulteration and misbranding.

A food, cosmetic or a drug or device is adulterated if it is adulterated under the federal act. A food, cosmetic or a drug or device is misbranded if it is misbranded under the federal act.

35-7-117. Food; tolerances for added poisonous ingredients.

Any added poisonous or deleterious substance, any food additive, any pesticide chemical in or on a raw agricultural commodity or any color additive, is unsafe with respect to any particular use or intended use if it is deemed unsafe under section 406 of the federal act.

35-7-118. New drugs.

(a) No person shall sell, offer for sale, hold for sale or give away any new drug unless an application with respect thereto has been approved and the approval has not been withdrawn under section 505 of the federal act.

(b) This section does not apply to a drug intended solely for investigational use by physicians pursuant to W.S. 35-7-1802(a)(i)(C).

35-7-119. Fair packaging and labeling provisions.

(a) All labels of consumer commodities, as defined by this act, shall conform with the requirements for the declaration of net quantity of contents of section 4 of the Fair Packaging and Labeling Act (15 U.S.C. § 1451, et seq.) and the regulations promulgated pursuant thereto as of the effective date of this act. Consumer commodities exempted from the requirements of section 4 of the Fair Packaging and Labeling Act are also exempt from this subsection.

(b) The label of any package of a consumer commodity which bears a representation as to the number of servings of the commodity contained in the package shall bear a statement of the net quantity (in terms of weight, measure or numerical count) of each serving.

(c) No person shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a) of this section, but nothing in this section prohibits

supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents. Supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure or count that tends to exaggerate the amount of the commodity contained in the package.

(d) If the director determines that regulations containing prohibitions or requirements other than those prescribed by subsection (a) of this section are necessary to prevent the deception of consumer or to facilitate value comparisons as to any consumer commodity, the director shall promulgate rules and regulations with respect to that commodity.

(e) The department shall promulgate rules with respect to labeling. Every retailer and every wholesaler who sells or offers for sale in this state through an establishment or otherwise any:

(i) Meat that is the product of any country foreign to the United States, shall clearly label the meat as "imported," naming the country of its origin;

(ii) Cell cultured or plant based products not consistent with the definition of meat in subparagraph (vi)(A) of this subsection and not derived from harvested livestock, poultry, wildlife or exotic livestock as those terms are defined in W.S. 11-26-101(a), 11-32-101(a)(iv), 23-1-101(a)(xiii) and 23-1-102(a)(xvi), shall clearly label cell cultured products as "containing cell cultured product" and clearly label plant based products as "vegetarian", "veggie", "vegan", "plant based" or other similar term indicating that the product is plant based;

(iii) Only beef that is derived from cattle born, raised, slaughtered and processed in the United States may clearly be labeled as a product of the United States of America;

(iv) Only beef that is derived from cattle born and raised in the state of Wyoming may clearly be labeled as a product of Wyoming;

(v) Beef that is of undeterminable origin or that has not been born, raised, slaughtered and processed in the United States of America shall not be labeled as a product of the United States of America;

(vi) As used in this subsection:

(A) "Meat" means the edible part of the muscle of animals, which is skeletal or which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without the accompanying or overlying fat, and the portions of bone, skin, sinew, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing, but shall not include the muscle found in the lips, snout or ears, nor any edible part of the muscle which has been manufactured, cured, smoked, cooked or processed;

(B) "Retailer" means a person regularly engaged in the business of selling meat at retail to the public, and selling only to the user or consumer and not for resale;

(C) "Wholesaler" means a person regularly engaged in the business of selling meat at wholesale to retailers for subsequent sale at retail to the public;

(D) "Beef" means any meat from cattle, including veal.

(f) Subsections (a) and (c) of this section shall not apply to the preparation, service, use, consumption or storage of foods at a traditional event or activity pursuant to W.S. 35-7-1703. The definitions in W.S. 35-7-1702 shall apply to this subsection.

35-7-120. Regulations.

(a) The director may promulgate regulations necessary for the efficient enforcement of this act.

(b) The director may promulgate regulations necessary to ensure that appropriate sanitary conditions and water quality standards are met by any person engaged in the distribution of bulk quantities of water for sale for human consumption.

35-7-121. Inspections; examinations.

(a) For purposes of enforcement of this act, the director or a local health department official may, upon presenting appropriate credentials to the owner, operator or agent in charge:

(i) Enter at reasonable time any factory, warehouse or establishment in which food, drugs, devices or cosmetics are manufactured, processed or packed or held for introduction into commerce or after introduction or to enter any vehicle being used to transport or hold the food, drugs, devices or cosmetics in commerce; and

(ii) Inspect at any reasonable times and within reasonable limits and in a reasonable manner any factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers and labeling therein, and to obtain samples necessary to the enforcement of this act, except that paragraph (i) of this subsection and this paragraph do not permit the director to inspect any establishment solely because it holds prepackaged food, drugs or cosmetics for retail sale by that establishment. The frequency of inspections shall be based on the relative food safety risk that the factory, warehouse, establishment or vehicle presents to the public, with no such facility receiving less than one (1) inspection per year;

(iii) Have access to and to copy all records of carriers in commerce showing the movement in commerce of any food, drugs, devices or cosmetics, or holding thereof during or after movement, and the quantity, shipper and consignee thereof.

(b) Upon completion of any inspection under this section but before leaving the premises, the director shall give to the owner, operator or agent in charge a report in writing setting forth any conditions or practices observed by him which in his judgment indicate that any food, drug, device or cosmetic in the establishment:

(i) Consists in whole or in part of any filthy, putrid or decomposed substance; or

(ii) Have been prepared, packed or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health. A copy of the report shall be sent promptly to the director.

(c) If the director obtains any sample during an inspection under this section, he shall give to the owner, operator or agent in charge a receipt describing the samples obtained before leaving the premises.

(d) If the director obtains a sample of any food during an inspection under this section and an analysis is made of the sample, a copy of the results of the analysis shall be furnished promptly to the owner, operator or agent in charge.

(e) Repealed By Laws 2000, Ch. 37, § 4.

(f) Any person conducting an inspection of an establishment for the department or any local health department shall demonstrate their qualifications by being a Wyoming or nationally registered environmental health specialist or sanitarian, a registered food safety specialist or hold an in-training status and be working toward registration, be standardized by the federal food and drug administration or meet qualifications set forth by the director. Only a registered environmental health specialist or a registered food safety specialist shall be authorized to recommend the summary suspension of an establishment license by a regulatory authority pursuant to W.S. 35-7-125.

(g) Any inspector hired by a regulatory authority prior to July 1, 2000, shall have two (2) years from July 1, 2000 to meet the qualifications set forth in subsection (f) of this section. Any inspector hired by a regulatory authority after July 1, 2000, shall have one (1) year to meet the qualifications set forth in subsection (f) of this section.

(h) Subsection (a) of this section shall not apply to food prepared for, served, consumed, stored or sold at a traditional event or activity pursuant to W.S. 35-7-1703. The definitions in W.S. 35-7-1702 shall apply to this subsection.

35-7-122. Publicity.

(a) The director may cause to be published from time to time reports summarizing all judgments, decrees and court orders which have been rendered under this act, including the nature of the charge and the disposition thereof.

(b) The director may also cause to be disseminated any information regarding food, drugs, devices and cosmetics as the director deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section prohibits the director from collecting, reporting and illustrating the results of his investigations, except that the director shall not disclose any information acquired under this act such as customer lists, manufacturing volumes and

information concerning any method or process which as a trade secret is entitled to protection.

35-7-123. Establishment of food safety system.

(a) The director of the department of agriculture shall establish and maintain a food safety program located within the department. The director shall carry out the provisions of the food safety program and shall be assisted by the director of the department of health. A local department of health, if established according to law, may establish and maintain its own local food safety program so long as the program meets the requirements of this act. The director of the department of agriculture or his designee shall:

(i) Gather food safety information and disseminate the information to the public, food industry and to local departments of health with a food safety program;

(ii) On a voluntary basis, provide food safety training for the food industry in this state, work with other state, local and federal agencies to coordinate food safety educational efforts;

(iii) Regulate the safety of foods and work together with the department of health to promulgate rules and regulations necessary to carry out the provisions of this act, except that the director of the department of agriculture shall not promulgate any rules which impose standards or requirements related to meat processing which are more stringent than federal law, rules or regulations. In any area which does not have a local food safety program established pursuant to law, the department shall issue licenses, conduct inspections, hold hearings to enforce any legal provision or rule promulgated under this act;

(iv) Maintain a statewide database of food licenses and inspection results;

(v) Work with federal, state and local agencies to coordinate food safety efforts and activities, and coordinate with all other agencies to maintain consistency in inspection and enforcement activities;

(vi) Establish food safety priorities for this state based on risk and information provided by the department of health;

(vii) Provide laboratory support for the analysis of routine food and water samples used to support inspection activities and to monitor safety;

(viii) Report each year to the department of health on how the food safety activities have addressed the epidemiological data provided by the department of health;

(ix) Assist the department of health, or any local jurisdiction, when requested to investigate possible food borne and water related illness;

(x) Establish and maintain a meat inspection program for this state. However, nothing in this act shall be construed to grant authority in the director of the department of agriculture or his designee for the inspection or regulation of live animal production or the processing and storage of meat by a producer of live animals for nonprofit consumption.

(b) The director of the department of health or his designee shall:

(i) Carry out the surveillance of food borne illness with assistance from the department of agriculture and report each year to the department of agriculture and local jurisdictions on the leading causes of food borne illness;

(ii) Participate with the department of agriculture in a joint food safety rulemaking process;

(iii) Ensure the department of health is the lead agency for the investigation of possible food borne illness and outbreaks and to request assistance from the department of agriculture and local jurisdictions as determined to be necessary by the department of health;

(iv) Provide laboratory support for and conduct analysis of samples connected with disease outbreak investigations;

(v) Provide support for local food safety programs as authorized by the legislature;

(vi) Take appropriate action against any person holding a food license for the purpose of protecting the public health and preventing the transmission of infectious disease;

(vii) Provide consultation and advice on food borne illness to local jurisdictions and to the department of agriculture as requested.

(c) Duties of a local board of health shall include:

(i) Issuing licenses, conducting inspections, holding hearings and taking enforcement actions as necessary to carry out the provisions of the food safety program;

(ii) Promulgating rules containing provisions for inspections which may differ from state food safety regulations promulgated under this act so long as direct food safety and disease transmission requirements including cooking temperatures, hot and cold holding temperatures, reheating times and temperatures, cooling times and temperatures, and such other requirements as determined by the department of agriculture, do not differ;

(iii) Coordinating activities with the department of agriculture in order to provide for statewide consistency;

(iv) Providing the department of agriculture with a quarterly report providing information on any food licenses issued and the results of any food inspections;

(v) Reporting to the department of health any food borne outbreak of illness and assist the department of health in any outbreak investigations, if requested.

(d) A local jurisdiction may provide laboratory support for food safety and drinking water inspection and accompanying monitoring activities.

35-7-124. License required; exemptions; electronic transmittals.

(a) Any person processing, distributing, storing or preparing any food for sale shall obtain a license from the department of agriculture or a local health department. The license is not transferable, shall be renewed on an annual basis and shall be prominently displayed in the establishment. No food establishment shall serve, hold for sale or sell food to the public without a valid license. An agricultural producer shall be exempt from the licensure requirement in this section for

processing, distributing, storing or sale of any raw agricultural commodity he produces.

(b) Written application for a new license shall be made on a form approved by the department of agriculture and provided by the department of agriculture or the local health department and shall be signed by the applicant. License requirements and fees for temporary food events operated by nonprofit organizations shall be waived. Licenses shall expire one (1) year after the date of issuance unless suspended or revoked. Licenses may be renewed each year upon application to the department or local health department. The director shall establish license categories and fees by rule and no fee shall exceed one hundred dollars ($100.00), except that the following fees shall be as specified:

(i) Food license $200.00;

(ii) Food license annual renewal . . . $100.00;

(iii) Temporary food establishment license . . . . . $50.00.

(c) Fifty percent (50%) of the fees collected pursuant to paragraphs (b)(i) through (iii) of this section shall be credited to the general fund. The remainder of any fees collected under this section shall be distributed as follows:

(i) In any county, city or district without a local health department established pursuant to W.S. 35-1-301 et seq., the department of agriculture shall receive ninety percent (90%) of the amount of the fee collected and the department of health shall receive ten percent (10%). The revenues shall be deposited into a special account and shall be used to defer the cost associated with the food safety program;

(ii) In any county, city or district with a local health department established pursuant to W.S. 35-1-301 et seq., the local health department shall receive eighty-five percent (85%) of the amount of the fee collected, the department of agriculture shall receive ten percent (10%) and the department of health shall receive five percent (5%). The revenues shall be deposited into a special account and shall be used to defer the cost associated with the food safety program.

(d) Before approving an application, the department of agriculture or the local health department shall determine that

the establishment is in compliance with this act and any regulations promulgated hereunder.

(e) The provisions of subsection (a) of this section shall not apply to food operators or kitchens in private homes that prepare food that is not potentially hazardous and prepared for sale or use at farmers' markets, roadside stands, private homes and at functions including, but not limited to those operated by not for profit charitable or religious organizations.

(f) The director may allow the permitting, registration, licensing, testing, inspection and reporting requirements of this chapter to be conducted electronically as provided by the Uniform Electronic Transaction Act, W.S. 40-21-101 through 40-21-119 and any applicable federal electronic requirements.

(g) Subsection (a) of this section shall not apply to food prepared for, served, consumed, stored or sold at a traditional event or activity pursuant to W.S. 35-7-1703. The definitions in W.S. 35-7-1702 shall apply to this subsection.

(h) The provisions of subsection (a) of this section shall not apply to a producer selling food directly to the informed end consumer at a farmers market or through ranch, farm or home based sales pursuant to W.S. 11-49-103. The definitions in W.S. 11-49-102 shall apply to this subsection.

(j) The provisions of subsection (a) of this section shall not apply to homemade beverages provided at an event held pursuant to W.S. 12-10-102.

35-7-125. Summary suspension of a license.

(a) A regulatory authority may summarily suspend a license to operate a food establishment if it determines through consultation with a health officer, inspection, examination of food, employees, records or other authorized means that an imminent health hazard exists including, but not limited to, fire, flood, extended interruption of electrical or water service, or sewage backup.

(b) The regulatory authority may summarily suspend a person's license by providing written notice of the summary suspension to the license holder or person in charge, without prior warning, notice of a hearing or a hearing.

(c) The regulatory authority shall conduct an inspection of the establishment or food processing plant for which the license was summarily suspended within forty-eight (48) hours after receiving notice from the license holder stating that the conditions cited in the summary suspension order no longer exist.

(d) A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and the elimination of the conditions has been confirmed by the regulatory authority through inspection or other means as appropriate. A suspended license shall be reinstated immediately if the regulatory authority determines that the imminent health hazard no longer exists. A notice of reinstatement shall be provided to the license holder or person in charge of the establishment.

(e) Temporary food events where no admission fee is charged and where no fee is charged for food shall not be subject to the license suspension provisions of this section.

35-7-126. License revocation.

(a) The regulatory authority may initiate revocation proceedings for an establishment license:

(i) Repealed By Laws 2003, Ch. 38, § 2.

(ii) Repealed By Laws 2003, Ch. 38, § 2.

(iii) Repealed By Laws 2003, Ch. 38, § 2.

(iv) For failure to correct conditions for which a summary suspension was issued;

(v) For failure to correct critical violations from routine inspections;

(vi) For multiple critical violations on multiple occasions;

(vii) For a refusal to grant access pursuant to W.S. 35-7-121.

(b) The regulatory authority shall issue notice of a hearing to the license holder. The notice and the hearing shall

be governed by the provisions of the Wyoming Administrative Procedure Act, W.S. 16-3-101 et seq.

(c) Upon completion of the hearing and consideration of the record, the regulatory authority shall issue an order which shall include findings of fact and conclusions of law.

(d) The decision of the regulatory authority may be appealed to the district court pursuant to the Wyoming Administrative Procedure Act, W.S. 16-3-101 et seq.

35-7-127. Repealed by Laws 2022, ch. 55, § 2.

ARTICLE 2 - STATE CHEMIST

35-7-201. Under direction of department of agriculture; appointment; duties generally; salary and expenses; fee for analysis.

(a) The office of state chemist heretofore created by the legislature is hereby transferred with all present and existing appropriations and all property under its control to the state department of agriculture of Wyoming, and shall hereafter be under the direction and supervision of said department. The state chemist shall be appointed by the state board of agriculture with the approval of the Wyoming personnel division and his salary shall be determined and fixed by the Wyoming personnel division to be paid by the state of Wyoming out of any money not otherwise appropriated, the same to be paid by the state auditor in the manner provided for the payment of other accounts against the state, and he shall receive no other salary.

(b) It shall be the duty of the state chemist to make or cause to be made, analysis of such foods, drugs, drinks, gasoline, illuminating oils or other materials relative to the enforcement of this article, as shall be submitted to him or shall be deemed advisable for such analysis, and make a full and complete written report of the same, and when so requested, it shall be his duty to testify in court. He shall receive his necessary traveling expenses as paid to other state employees as allowed by law, to be paid by the state of Wyoming when employed in performing the duties of his office.

(c) Any person, firm, corporation or association, with the exception of cities, counties and state regulatory agencies, who shall submit any article or commodity for analysis or

examination shall remit such fee as may be established for the purpose of making this service available to the general public at a reasonable cost, but which fee shall be comparable to that charged for the same service by commercial laboratories operating within the state. Accounting shall be made of all fees so received by the state chemist and shall be paid into the general fund.

(d) The state chemist may allow the testing, inspection and reporting requirements of this article to be conducted electronically as provided by the Uniform Electronic Transaction Act, W.S. 40-21-101 through 40-21-119 and any applicable federal electronic requirements.

35-7-202. Employment of assistant and second assistant chemists; salaries; location of office; duties generally.

The state chemist by and with the approval of the state board of agriculture is hereby authorized to employ an assistant to the state chemist and a second assistant to the state chemist who shall receive salaries to be determined and fixed by the Wyoming personnel division; the salaries to be paid by the state of Wyoming out of any moneys not otherwise appropriated, the same to be paid by the state auditor in the manner provided for the payment of such accounts against the state. The assistant chemists shall keep their offices at the University of Wyoming and the board of trustees of said university shall furnish the necessary room for the carrying out of the provisions of this article. The assistant chemists shall perform such duties as they may be required to perform by the state chemist.

35-7-203. Expenses.

The necessary traveling expenses and expenses for the purchase of apparatus, chemicals, etc., shall be paid from any appropriation made by the legislature as a contingent fund for the state chemist; provided, that the expense shall be limited to the appropriation made.

35-7-204. Seal; report.

The state chemist shall keep a seal with which to attest official acts and documents. He shall, as required by W.S. 9-2-1014, report to the governor, on or before the first day of October of each year, including itemized statements of all persons employed by him together with such statistics and other

matter as he may regard of value to the administration or public at large.

ARTICLE 3 - ADULTERATING OR MISBRANDING

Division 1. Generally

35-7-301. Repealed by Laws 1987, ch. 173, § 4.

35-7-302. Repealed by Laws 1987, ch. 173, § 4.

35-7-303. Repealed by Laws 1987, ch. 173, § 4.

35-7-304. Repealed by Laws 1987, ch. 173, § 4.

35-7-305. Repealed by Laws 1987, ch. 173, § 4.

35-7-306. Repealed by Laws 1987, ch. 173, § 4.

35-7-307. Repealed by Laws 1987, ch. 173, § 4.

35-7-308. Repealed by Laws 1987, ch. 173, § 4.

35-7-309. Repealed by Laws 1987, ch. 173, § 4.

35-7-310. Repealed by Laws 1987, ch. 173, § 4.

35-7-311. Repealed by Laws 1987, ch. 173, § 4.

35-7-312. Repealed by Laws 1987, ch. 173, § 4.

Division 2. Cosmetics

35-7-330. Division 2. Cosmetics Repealed by Laws 1987, ch. 173, § 4.

35-7-331. Repealed by Laws 1987, ch. 173, § 4.

35-7-332. Repealed by Laws 1987, ch. 173, § 4.

35-7-333. Repealed by Laws 1987, ch. 173, § 4.

35-7-334. Repealed by Laws 1987, ch. 173, § 4.

35-7-335. Repealed by Laws 1987, ch. 173, § 4.

35-7-336. Repealed by Laws 1987, ch. 173, § 4.

Division 3. Environmental Pesticide Control

35-7-350. Short title.

This act shall be known and may be cited as the "Wyoming Environmental Pesticide Control Act of 1973".

35-7-351. Enforcing agency.

This act shall be administered by the department of agriculture of the state of Wyoming, hereinafter referred to as the "department".

35-7-352. Declaration of purpose.

The legislature hereby finds that pesticides and devices are valuable to our state's agricultural production and to the protection of man and the environment from insects, rodents, weeds, and other forms of life which may be pests, and it is essential to the public health and welfare that they be regulated closely to prevent adverse effects on human life and the environment. The purpose of this act is to regulate, in the public interest, the labeling, distribution, storage, transportation, disposal, use and application of pesticides to control pests. New pesticides are continually being discovered or synthesized which are valuable for the control of pests, and for use as defoliants, desiccants, plant regulators, and related purposes. The dissemination of accurate scientific information as to the proper use or nonuse, of any pesticide, is vital to the public health and welfare and the environment both immediate and future. Therefore, it is deemed necessary to provide for registration of pesticides and devices.

35-7-353. Board of certification.

A board of certification is established consisting of the director of the department of agriculture, and a member of the Wyoming weed and pest council and a University of Wyoming weed or pest specialist to be appointed by the governor. The governor may remove any member he appoints as provided in W.S. 9-1-202.

35-7-354. Definitions.

(a) "Applicator" or "operator" means:

(i) "Certified applicator" means any individual who is certified by the director as being competent with respect to the use and handling of pesticides, or of the use and handling of the pesticide or class of pesticides covered by the individual's certification;

(ii) "Commercial applicator" means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (a)(iii) of this subsection;

(iii) "Private applicator" means any certified applicator who uses or supervises the use of any restricted use pesticide which is restricted to use by certified applicators and only for purposes of producing any agricultural commodity on property owned by him or his employer or under his control or (is applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(b) "Board of agriculture" means that body established by law under W.S. 11-2-102.

(c) "Device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man, or bacteria, virus, or other microorganism on or in living man or other living animals) but does not include equipment used for the application of pesticides when sold separately therefrom.

(d) "Pesticide" means:

(i) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests;

(ii) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant;

(iii) Any substance or mixture of substances intended to be used as a spray adjuvant; and

(iv) Any other pesticide product or substance whether general use, restricted use, registered, suspended or cancelled,

which by the label or portions thereof clearly show it is used or has been used as a pesticide.

(e) "Restricted use pesticide" means any pesticide product, the label of which states "restricted use" as required for registration by the environmental protection agency under the federal Insecticide, Fungicide and Rodenticide Act of 1972, as amended.

(f) "Dealer" or "distributor" means any person who imports, consigns, distributes, offers to sell or sells, barters or otherwise supplies pesticides in this state. A dealer or distributor may also be a registrant.

(g) "Director" means the director of the department of agriculture or his authorized agent.

(h) "Label" means a display of written, printed or graphic matter upon or affixed to the immediate container of any pesticide, or a reference within such display to other information.

(j) "Official sample" means any sample of a pesticide, degradate or residue taken by and designated as official by the director.

35-7-355. Director to administer and enforce provisions; board of certification to adopt regulations.

The director of the department of agriculture shall administer and enforce the provisions of this act and regulations issued thereunder. The board of certification may issue regulations after a public hearing following due notice to all interested persons in conformance with the provisions of the Wyoming Administrative Procedure Act to carry out the provisions of this act. Regulations may prescribe methods to be used in the application of pesticides, may prescribe standards for the classification and certification of applicators of pesticides, and may require certification, licensing, payment of reasonable fees for licensing or certification, submission of information, and passing of examinations by applicators of pesticides. Where the board of certification finds that regulations are necessary to carry out the purpose and intent of this act, the regulations may relate to the time, place, manner, methods, materials, and amounts and concentrations, in connection with the application of the pesticide, and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall

encompass all reasonable factors which the board deems necessary. The department may issue licenses. Notwithstanding the provisions of W.S. 35-7-354(e), the board of agriculture, by regulation, following a hearing and pursuant to the Wyoming Administrative Procedure Act, may declare a specific pesticide or pesticide use a "restricted use pesticide", but only following a recommendation of the board of certification, and a finding of fact, in a public hearing conducted by the board of certification, that unreasonable adverse effects on the environment, including man, pollinating insects, animals, crops, wildlife and lands, other than pests, may reasonably occur. The director of the department of agriculture may allow the registration, licensing, testing, inspection and reporting requirements of this article to be conducted electronically as provided by the Uniform Electronic Transaction Act, W.S. 40-21-101 through 40-21-119 and any applicable federal electronic requirements.

35-7-356. Registration.

(a) Every pesticide or device which is distributed within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the department of agriculture by its manufacturer or formulator subject to the provisions of this act. The registration shall be renewed annually prior to December 31 of each year but not if a pesticide or device is shipped from one plant or warehouse to another plant or warehouse as a constituent part to make a pesticide or device which is registered under the provisions of this act, if the pesticide or device is not sold and if the container thereof is plainly and conspicuously marked "For Experimental Use Only", together with the manufacturer's name and address, or if a written permit has been obtained from the department to sell the specific pesticide or device for experimental purposes subject to restrictions and conditions set forth in the permit.

(b) The applicant for registration shall file a statement with the department which shall include:

(i) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(ii) The name of the pesticide or device;

(iii) Other necessary information required for completion of the department's application for registration form;

(iv) The use classification as provided in the Federal Insecticide, Fungicide, and Rodenticide Act when required by regulations under this act.

(c) The director may require a full description of the tests made and the results thereof upon which the claims are based on any pesticide or device on which restrictions are being considered. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide or device was registered or last registered. The director may prescribe other necessary information by regulation.

(d) Every registrant of a pesticide or device shall pay an annual registration fee of one hundred forty dollars ($140.00) for each product registered. All registrations shall expire on December 31 of each year, following the date of the registration, and may thereupon be renewed for successive periods of twelve (12) months upon payment of the proper fee. One hundred twenty-five dollars ($125.00) of the fee collected pursuant to this subsection shall be deposited in the special natural resource account in the department of agriculture which is hereby created. Funds in the special natural resource account are continuously appropriated to the department and shall only be used to provide funding for the pesticide registration fee program. Fifteen dollars ($15.00) of the fee collected pursuant to this subsection shall be deposited in the pesticide education account in the department of agriculture which is hereby created. Funds in the pesticide education account are continuously appropriated to the department and shall only be used to provide funding for the pesticide applicator certification program provided by the University of Wyoming.

(e) Any registration approved by the director and in effect on December 31 for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until such time as the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provisions of W.S. 35-7-358. Forms for registration shall be mailed to registrants at least thirty (30) days prior to the due date.

(f) If it appears to the director that the composition of the pesticide or device is such as to warrant the proposed claims for it and if the pesticide and its labeling and other material required to be submitted comply with the requirements of this act he shall register the pesticide.

35-7-357. Experimental use permits.

(a) Any person may apply to the director of the department of agriculture for an experimental use permit for a pesticide. The director may issue an experimental use permit if he determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide under this act. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

(b) Use of a pesticide under an experimental use permit shall be under the supervision of the director, and shall be subject to such terms and conditions and be for such period of time as the director may prescribe in the permit.

(c) The director may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

35-7-358. Refusal to register; cancellation; suspension; legal recourse.

(a) If it does not appear to the director of the department of agriculture that the pesticide or device is such as to warrant the proposed claims for it or if the pesticide or device and its labeling and other material required to be submitted do not comply with the provisions of this act or regulations adopted thereunder, he shall notify the applicant of the manner in which the pesticide or device, labeling, or other material required to be submitted fails to comply with the provisions of this act so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of notice, the applicant does not make the required changes the director may refuse to register the pesticide or device. The applicant may request a hearing as provided for in the Wyoming Administrative Procedure Act.

(b) The director, when he determines that the pesticide or device or labeling does not comply with the provisions of the

act or the regulations adopted thereunder, may cancel the registration of a pesticide or device after a hearing in accordance with the provisions of the Wyoming Administrative Procedure Act.

(c) The director, when he determines that there is an imminent hazard, may suspend on his own motion, the registration of a pesticide in conformance with the provisions of the Wyoming Administrative Procedure Act.

(d) Any person who will be adversely affected by an order under this section may obtain judicial review in accord with the Wyoming Administrative Procedure Act.

35-7-359. Classification of licenses.

(a) Licenses shall include but are not limited to:

(i) Commercial applicator license;

(ii) Private applicator license.

(b) A commercial applicator shall notify the department of any change of address or change of employment within thirty (30) days of that change.

(c) The director may refuse an application for a reciprocal license for just cause including, but not limited to:

(i) An incomplete or falsified application;

(ii) A prior violation related to pesticides in this state or another state.

(d) The director may immediately suspend a reciprocal license upon discovery of any violation under subsection (c) of this section. The director may reinstate a license suspended under this subsection following a hearing pursuant to the Wyoming Administrative Procedure Act.

35-7-360. Liability for damage; service of process.

(a) Repealed by Laws 1979, ch. 91, § 3.

(b) Repealed by Laws 1979, ch. 91, § 3.

(c) Nothing in this act shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of this act.

(d) Before the director shall issue a pesticide applicator's license to a nonresident to apply pesticides in this state, each nonresident pesticide applicator shall appoint the director as his attorney to receive services of legal process issued against the pesticide applicator in this state. The appointment, effect of appointment, and procedures for service of process shall be as provided by W.S. 26-3-121 and 26-3-122.

35-7-361. Inspection of equipment.

The director may provide for inspection of any equipment used for application of pesticides and may require repairs or other changes before its further use for pesticide application. A list of requirements that equipment shall meet may be adopted by regulation.

35-7-362. Reciprocal agreement.

The director may issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed, or certified, in another state substantially in accordance with the provisions of this act but financial security as provided for in W.S. 35-7-360 or proof of liability insurance shall be submitted by nonresident commercial applicators. The department shall, by rule and regulation, establish criteria for reciprocity including, but not limited to, formal agreements with other states, residency, categories and examination. The director is authorized to adopt additional rules and regulations necessary to implement this section.

35-7-363. Exemptions.

(a) The provision of W.S. 35-7-355 relating to licenses and requirements for their issuance shall not apply to any private applicator applying pesticides for himself or with ground equipment or manually for his neighbors, except as to specific regulations as to the use of restricted pesticides and certification qualifications for private applicators, if:

(i) He operates farm property or operates and maintains pesticide application equipment primarily for his own use;

(ii) He is not engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and he does not publicly hold himself out as a pesticide applicator.

(b) The word "device" shall not be construed to mean fly swatter, butterfly net, or any mechanical contrivance used to trap or kill insects or rodents.

35-7-364. Discarding and storing of pesticides and pesticide containers.

No person shall discard, transport, or store any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway in a way harmful to any wildlife therein. The board of certification may promulgate rules and regulations governing the discarding and storing of such pesticides or pesticide containers.

35-7-365. Subpoenas.

The director may issue subpoenas to compel the attendance of witnesses or production of books, documents, and records in the state in any hearing affecting the authority or privilege granted by a license, registration, or permit issued under the provisions of this act.

35-7-366. Penalties.

(a) Any person violating any provision of W.S. 35-7-350 through 35-7-375 or regulation thereunder is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned in the county jail for not more than one (1) year, or both, for the first offense, and upon conviction for a subsequent offense shall be fined not more than one thousand dollars ($1,000.00) or imprisoned in the county jail for not more than one (1) year, or both. Any offense committed more than three (3) years after a previous conviction shall be considered a first offense.

(b) The director may bring an action to enjoin the violation or threatened violation of any provision or any

regulation made pursuant to W.S. 35-7-350 through 35-7-375 in a court of competent jurisdiction of the county in which the violation occurs or is about to occur. The action may be initiated by the attorney general or the district attorney for the county in which the violation has or is about to occur.

(c) No state court shall allow the recovery of damages from administrative action taken if the court finds that there was probable cause for such action.

(d) If the department incurs fees or other expenses to remediate a violation by an applicator, the department may seek restitution from the applicator or the applicator's employer through a court of competent jurisdiction.

35-7-367. Enforcement.

(a) The sampling and examination of pesticides or devices shall be made under the direction of the director for the purpose of determining whether they comply with the requirements of this act. The director is authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to pesticides or devices. If it appears from such examination that a pesticide or device fails to comply with the provisions of this act or regulations adopted thereunder, and the director contemplates instituting criminal proceedings against any person, the director shall cause appropriate notice to be given to such person. Any person so notified shall be given an opportunity within a reasonable time to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter in the opinion of the director, it appears that the provisions of the act or regulations adopted thereunder have been violated by such person, the director shall refer a copy of the results of the analysis or the examination of such pesticide or device to the district attorney for the county in which the violation occurred.

(b) Nothing in this act shall be construed as requiring the director to report minor violations of this act for prosecution or for the institution of condemnation proceedings when he believes that the public interest will be served best by a suitable notice of warning in writing.

(c) For the purpose of carrying out the provisions of this act the director may enter upon any public or private premises at reasonable times, in order:

(i) To have access for the purpose of inspecting any equipment subject to this act and such premises on which the equipment is kept or stored;

(ii) To inspect lands actually or reported to be exposed to pesticides;

(iii) To inspect storage or disposal areas;

(iv) To inspect or investigate complaints of injury to humans or land;

(v) To sample pesticides being applied or to be applied.

(d) If the director is denied access to any land where access was sought for the purposes set forth in this act, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such lands for the stated purposes. The court shall with probable cause upon such application issue the search warrant for the purposes requested.

(e) The director may bring an action to enjoin the violation or threatened violation of any provision of this act or any rule made pursuant to this act in the district court of the county in which such violation occurs or is about to occur.

35-7-368. Cooperation.

The director is authorized to cooperate with and enter into agreements with any other agency of this state, the United States, and any other state or agency thereof for the purpose of carrying out the provisions of this act and securing uniformity of regulation.

35-7-369. Disposition of funds.

All moneys received by the department under the provisions of this act shall be deposited into the treasury of the state to the credit of the general fund, excluding those funds collected pursuant to W.S. 35-7-356(d).

35-7-370. Severability.

If any provision of this act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this act and applicability thereof to other persons and circumstances shall not be affected thereby.

35-7-371. Prior liability.

The enactment of this act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this act becomes effective.

35-7-372. Jurisdiction; repeals.

Jurisdiction in all matters pertaining to the registration, distribution, transportation and disposal of pesticides and devices is by this act vested exclusively in the director and board of certification and all acts and parts of acts inconsistent with this act are hereby expressly repealed.

35-7-373. Registration of aircraft.

(a) Any person engaged in the activity or business of applying pesticides utilizing any type of aircraft shall register each aircraft annually with the Wyoming department of agriculture, on a printed form provided by the department. The registration shall include the following:

(i) Manufacturer, model and type of aircraft;

(ii) Identification number assigned to the aircraft;

(iii) Owner of the aircraft; and

(iv) User of the aircraft if different from the owner.

(b) The fee authorized by W.S. 11-1-104 shall be charged to each person registering aircraft. Aircraft shall be registered on or before April 1 of each year.

35-7-374. Prohibited acts.

(a) It is unlawful for any person to:

(i) Detach, alter, deface or destroy, in whole or in part, any labeling prior to proper disposal of the pesticide containers;

(ii) Refuse to keep any records as required by the director by regulation or to refuse to allow the inspection of such records by the director during normal working hours;

(iii) Make available for use, or to use, any restricted pesticide classified for restricted use for some or all purposes, except by or under the direct supervision of a certified applicator;

(iv) Use any pesticide in a manner inconsistent with its labeling which means to use any pesticide in a manner not permitted by the labeling, or not authorized by the director under a special local need registration, an experimental use permit or an emergency exemption, provided that this paragraph does not include:

(A) Applying a pesticide at any dosage, concentration or frequency less than that specified on the labeling;

(B) Applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling;

(C) Employing any method of application not prohibited by the labeling; or

(D) Mixing a pesticide or pesticides with a fertilizer when the mixture is not prohibited by the labeling.

(v) To falsify any records required by the director by regulation;

(vi) To falsify any application, examination or affidavit for certification or license;

(vii) Other than certified applicators or persons working under their direct supervision to use restricted use pesticides;

(viii) To use restricted use pesticides inconsistent with the applicator category of certification.

(b) If the director finds that the violation occurred despite the exercise of due care or did not cause significant harm to another person, to health or to the environment, he shall issue a warning in lieu of prosecution.

(c) Except as otherwise provided by the Wyoming Environmental Pesticide Control Act of 1973, no political subdivision of this state shall adopt or enforce any ordinance, resolution, rule or regulation regarding pesticides storage, sale, distribution, notification of use, or use that is more stringent than the Wyoming Environmental Pesticide Control Act of 1973 or rules promulgated thereunder.

35-7-375. Required notification of pesticide application on or within school buildings.

(a) Any commercial applicator licensed under W.S. 35-7-359 or any other person shall provide notification required by this section of the application of any pesticide as defined under W.S. 35-7-354(d) which is applied on or within any building or other real property used by a school district primarily for the education of students, including any property used by the district for student activities or playgrounds. Notice under this subsection shall be provided to the district not less than seventy-two (72) hours prior to application and the district shall further notify students, teachers and staff. All notices distributed under this subsection shall be marked with a distribution date and include information indicating date of application, location of application or treatment area, pest to be controlled, name and type of pesticide to be applied and a contact for additional information. All notices distributed under this subsection shall be retained by the school or school district for two (2) years.

(b) In addition to notice required under subsection (a) of this section, the licensed commercial applicator or other school employee applying pesticides shall post signs on the school building or property stating the date of application, the location of the application or treatment area, the name and type of the pesticide to be applied and a contact for additional information. Upon request, the licensed commercial applicator or other school employee shall provide information on how to obtain additional information on the pesticide. Not less than twelve (12) hours before application of pesticides within school buildings, signs shall be posted at main entrances to school buildings and at the entrances to the specific application area within buildings. If pesticide application is made outdoors to

any area adjacent to a school building or on property used by the district for student activities or playgrounds, signs shall be posted immediately adjacent to the treated area and at the entrance to the district property. The signs shall remain posted for seventy-two (72) hours.

(c) Anti-microbial pesticides defined under W.S. 35-7-354(d), such as disinfectants and sanitizers used by school employees for cleaning purposes and insect or rodent bait stations of the type available for home use are exempted from the notification and posting requirements specified in subsections (a) and (b) of this section.

35-7-376. Direct supervision.

(a) As used in this section, unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available within a reasonable time and distance, even though the certified applicator is not physically present at the time and place the pesticide is applied.

(b) All pesticide applications made for hire shall be under the direct supervision of a certified commercial applicator. All applications of restricted use pesticide shall be made under the direct supervision of a certified applicator. Availability of the certified applicator shall be directly related to the potential hazard of the situation. The certified applicator shall be:

(i) Available by immediate contact through telephone or radio; or

(ii) Physically present on-site when use of the pesticide poses a potentially serious hazard to people or the environment.

(c) As used in this section:

(i) Reasonable time by the supervising applicator to on-site is deemed to be not more than one (1) hour response time;

(ii) Reasonable distance by the supervising applicator to on-site is deemed to be not more than fifty (50) air miles.

ARTICLE 4 - SANITARY REGULATIONS GENERALLY

35-7-401. Repealed by Laws 1987, ch. 173, § 4.

35-7-402. Repealed by Laws 1987, ch. 173, § 4.

35-7-403. Repealed by Laws 1987, ch. 173, § 4.

35-7-404. Repealed by Laws 1987, ch. 173, § 4.

35-7-405. Repealed by Laws 1987, ch. 173, § 4.

35-7-406. Repealed by Laws 1987, ch. 173, § 4.

35-7-407. Repealed by Laws 1987, ch. 173, § 4.

35-7-408. Repealed by Laws 1987, ch. 173, § 4.

35-7-409. Repealed by Laws 1987, ch. 173, § 4.

35-7-410. Repealed by Laws 1987, ch. 173, § 4.

35-7-411. Repealed by Laws 1987, ch. 173, § 4.

35-7-412. Repealed by Laws 1987, ch. 173, § 4.

35-7-413. Repealed by Laws 1987, ch. 173, § 4.

35-7-414. Repealed by Laws 1987, ch. 173, § 4.

35-7-415. Repealed by Laws 1987, ch. 173, § 4.

ARTICLE 5 - MILK AND MILK PRODUCTS

35-7-501. Repealed by Laws 1991, ch. 173, § 2.

35-7-502. Repealed by Laws 1991, ch. 173, § 2.

35-7-503. Repealed by Laws 1991, ch. 173, § 2.

35-7-504. Repealed by Laws 1991, ch. 173, § 2.

35-7-505. Repealed by Laws 1991, ch. 173, § 2.

35-7-506. Repealed by Laws 1991, ch. 173, § 2.

35-7-507. Repealed by Laws 1991, ch. 173, § 2.

35-7-508. Repealed by Laws 1991, ch. 173, § 2.

35-7-509. Repealed by Laws 1991, ch. 173, § 2.

35-7-510. Repealed by Laws 1982, ch. 11, § 2.

35-7-511. Repealed by Laws 1991, ch. 173, § 2.

35-7-512. Repealed by Laws 1982, ch. 11, § 2.

35-7-513. Repealed by Laws 1991, ch. 173, § 2.

35-7-514. Repealed by Laws 1991, ch. 173, § 2.

35-7-515. Repealed by Laws 1991, ch. 173, § 2.

35-7-516. Repealed by Laws 1991, ch. 173, § 2.

35-7-517. Repealed by Laws 1991, ch. 173, § 2.

35-7-518. Repealed by Laws 1991, ch. 173, § 2.

35-7-519. Repealed by Laws 1991, ch. 173, § 2.

35-7-520. Repealed by Laws 1991, ch. 173, § 2.

35-7-521. Repealed by Laws 1991, ch. 173, § 2.

35-7-522. Repealed by Laws 1991, ch. 173, § 2.

35-7-523. Repealed by Laws 1991, ch. 173, § 2.

35-7-524. Repealed by Laws 1991, ch. 173, § 2.

35-7-525. Repealed by Laws 1991, ch. 173, § 2.

35-7-526. Repealed by Laws 1991, ch. 173, § 2.

35-7-527. Repealed By Laws 2000, Ch. 37, § 4.

35-7-528. Repealed By Laws 2000, Ch. 37, § 4.

35-7-529. Repealed By Laws 2000, Ch. 37, § 4.

35-7-530. Repealed By Laws 2000, Ch. 37, § 4.

35-7-531. Repealed By Laws 2000, Ch. 37, § 4.

35-7-532. Repealed By Laws 2000, Ch. 37, § 4.

35-7-533. Repealed By Laws 2000, Ch. 37, § 4.

ARTICLE 6 - IMITATION BUTTER AND CHEESE;

Division 1. Generally

35-7-601. Repealed by Laws 1987, ch. 173, § 4.

35-7-602. Repealed by Laws 1987, ch. 173, § 4.

35-7-603. Repealed by Laws 1987, ch. 173, § 4.

35-7-604. Repealed by Laws 1987, ch. 173, § 4.

35-7-605. Repealed by Laws 1987, ch. 173, § 4.

35-7-606. Repealed by Laws 1987, ch. 173, § 4.

35-7-607. Repealed by Laws 1987, ch. 173, § 4.

35-7-608. Repealed by Laws 1987, ch. 173, § 4.

35-7-609. Repealed by Laws 1987, ch. 173, § 4.

Division 2. Oleomargarine

35-7-620. Repealed by Laws 1987, ch. 173, § 4.

35-7-621. Repealed by Laws 1987, ch. 173, § 4.

35-7-622. Repealed by Laws 1987, ch. 173, § 4.

35-7-623. Repealed by Laws 1987, ch. 173, § 4.

ARTICLE 7 - WHOLESOME MEAT

35-7-701. Repealed By Laws 2000, Ch. 37, § 4.

35-7-702. Repealed By Laws 2000, Ch. 37, § 4.

35-7-703. Repealed By Laws 2000, Ch. 37, § 4.

35-7-704. Repealed By Laws 2000, Ch. 37, § 4.

35-7-705. Repealed By Laws 2000, Ch. 37, § 4.

35-7-706. Repealed By Laws 2000, Ch. 37, § 4.

35-7-707. Repealed By Laws 2000, Ch. 37, § 4.

35-7-708. Repealed By Laws 2000, Ch. 37, § 4.

35-7-709. Repealed By Laws 2000, Ch. 37, § 4.

35-7-710. Repealed By Laws 2000, Ch. 37, § 4.

35-7-711. Repealed By Laws 2000, Ch. 37, § 4.

ARTICLE 8 - SALE AND LABELING OF EGGS

35-7-801. Repealed By Laws 2000, Ch. 37, § 4.

35-7-802. Repealed By Laws 2000, Ch. 37, § 4.

35-7-803. Repealed By Laws 2000, Ch. 37, § 4.

35-7-804. Repealed By Laws 2000, Ch. 37, § 4.

35-7-805. Repealed By Laws 2000, Ch. 37, § 4.

35-7-806. Repealed By Laws 2000, Ch. 37, § 4.

35-7-807. Repealed By Laws 2000, Ch. 37, § 4.

35-7-808. Repealed By Laws 2000, Ch. 37, § 4.

ARTICLE 9 - ENRICHMENT OF FLOUR AND BREAD

35-7-901. Repealed By Laws 2000, Ch. 37, § 4.

35-7-902. Repealed By Laws 2000, Ch. 37, § 4.

35-7-903. Repealed By Laws 2000, Ch. 37, § 4.

35-7-904. Repealed By Laws 2000, Ch. 37, § 4.

35-7-905. Repealed By Laws 2000, Ch. 37, § 4.

35-7-906. Repealed By Laws 2000, Ch. 37, § 4.

ARTICLE 10 - CONTROLLED SUBSTANCES

Article I.

35-7-1001. Short title.

This act shall be known and may be cited as the "Wyoming Controlled Substances Act of 1971".

35-7-1002. Definitions.

(a) As used in this act:

(i) "Administer" means directly applying a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(A) A practitioner (or by his authorized agent); or

(B) The patient or research subject at the direction of the practitioner.

(ii) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman;

(iii) Repealed By Laws 2011, Ch. 45, § 2.

(iv) "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V of article III;

(v) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(vi) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(vii) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(viii) "Dispenser" means a practitioner who dispenses, or his authorized agent;

(ix) "Distribute" means to deliver other than by administering or dispensing a controlled substance;

(x) "Distributor" means a person who distributes;

(xi) "Drug" means:

(A) Substances recognized as drugs in official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(B) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(C) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(D) Substances intended for use as a component of any article specified in subparagraph (A), (B), or (C) of this paragraph. It does not include devices or their components, parts or accessories.

(xii) "Immediate precursor" means a substance which the commissioner has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture;

(xiii) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extractions and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging or labeling of a controlled substance:

(A) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(B) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(xiv) "Marihuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seed thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(xv) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (A) of this paragraph, but not including the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(xvi) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under W.S. 35-7-1011, the dextrorotatory isomer of 3-methoxy-n-methylmorphinian and its salts (dextro-methorphan). It does include its racemic and levorotatory forms;

(xvii) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds;

(xviii) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(xix) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

(xx) "Practitioner" means:

(A) A physician, dentist, veterinarian, podiatrist, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state;

(B) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

(xxi) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;

(xxii) "State" means the state of Wyoming;

(xxiii) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

(xxiv) "Law enforcement officer" means any sheriff, undersheriff or sheriff's deputy of any county of this state, any duly authorized municipal policeman of any city or town of this state, any member of the Wyoming highway patrol, any police officer of the University of Wyoming or any Wyoming community college who is a peace officer, any superintendent, assistant superintendent, district manager, park ranger or reserve park ranger of a state park, state recreation area, state archeological site or state historic site who has qualified pursuant to W.S. 9-1-701 through 9-1-707, when acting within the boundaries of the state park, state recreation area, state archeological site or state historic site or when enforcing felony statutes following observation or discovery of the commission of a felony which was observed or discovered during the performance of their official duties, or any special agent employed by the commissioner under this act;

(xxv) "Board" means the Wyoming state board of pharmacy;

(xxvi) "Commissioner" means the commissioner of drugs and substances control;

(xxvii) "Drug paraphernalia" means all equipment, products and materials of any kind when used, advertised for use, intended for use or designed for use for manufacturing, converting, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act and includes:

(A) Isomerization devices when used, advertised for use, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

(B) Quinine hydrochloride, mannitol and mannite when used, advertised for use, intended for use or designed for use in diluting controlled substances;

(C) Separation gins and sifters when used or advertised for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana;

(D) Objects when used, advertised for use, intended for use or designed for use in injecting controlled substances into the human body;

(E) The following objects when used, advertised for use, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil or any other controlled substance into the human body:

(I) Metal, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(II) Carburetion tubes;

(III) Carburetion masks;

(IV) Chamber pipes;

(V) Carburetor pipes;

(VI) Electric pipes;

(VII) Air-driven pipes;

(VIII) Chillums;

(IX) Bongs;

(X) Ice pipes or chillers.

(xxviii) "This act" means W.S. 35-7-1001 through 35-7-1064.

35-7-1003. Attorney general designated commissioner of drugs and substances control.

The attorney general of the state of Wyoming is hereby designated commissioner of drugs and substances control.

35-7-1004. Personnel to administer provisions.

The attorney general by and with the consent of the governor may employ such personnel as necessary to administer this act. Such personnel shall serve at the pleasure of the attorney general at such compensation as may be approved by the Wyoming personnel division. Said personnel shall be assigned such duties as may be necessary to assist the commissioner in the performance of his responsibilities under this act for the efficient operation of the work of the office.

35-7-1005. Advisory board on drugs and substances control.

There is hereby established an advisory board on drugs and substances control for the purpose of assisting and advising the commissioner of drugs and substances control in carrying out the functions of his office. The members of the advisory board shall receive no compensation for their services except travel expenses and per diem in the same manner and amount as employees of the state of Wyoming. The advisory board consists of the director of the department of health or his designee, and the executive director and senior inspector of the Wyoming state board of pharmacy. In addition to any other duties imposed upon the advisory board by this or any other act, it is the duty of the board to advise the commissioner of drugs and substances control as to which substances shall be declared controlled drugs and substances subjected to the controls provided by law.

Article II.

35-7-1006. Cooperation by state departments, officers, agencies and employees.

It shall be the duty of all departments, officers, agencies, and employees of the state of Wyoming to cooperate with the commissioner of drugs and substances control in carrying out his functions under this or any other act.

35-7-1007. Cooperative arrangements; plant eradication programs; research.

(a) The commissioner of drugs and substances control may, in addition to other powers and duties vested in him by this or any other act:

(i) Cooperate with federal and other state agencies in discharging his responsibilities concerning traffic in drugs and substances;

(ii) Arrange for the exchange of information between governmental officials concerning the use and abuse of drugs and substances;

(iii) Coordinate and cooperate in training programs on drugs and substances law-enforcement at the local and state level;

(iv) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled drugs and substances may be extracted;

(v) Coordinate and regulate educational programs designed to prevent and deter misuse and abuse of controlled drugs and substances;

(vi) Encourage research into the misuse and abuse of controlled drugs and substances; in connection therewith and in furtherance of his other duties he is authorized to:

(A) Establish methods to assess accurately the effects of controlled drugs and substances and to identify and characterize controlled drugs and substances with potential for abuse;

(B) Make studies and undertake programs of research to:

(I) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act;

(II) Determine patterns of misuse and abuse of controlled drugs and substances and the social effects thereof; and

(III) Improve methods of preventing, predicting, understanding, and dealing with the misuse and abuse of controlled drugs and substances.

(C) Enter into contracts with public agencies, institutions of higher education and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled drugs and substances.

(vii) Enter into contracts for educational and research activities without performance bonds;

(viii) Authorize persons engaged in research on the use and effects of drugs and substances to withhold names and other identifying characteristics of persons who are the subjects of such research, such persons who obtain this authorization may not be compelled in any state, civil, criminal, administrative, legislative or other proceeding to identify the subjects of research for which such authorization was obtained;

(ix) Authorize the possession and distribution of controlled drugs and substances by persons engaged in research, persons who obtain such authorization shall be exempt from state prosecution for possession and distribution of drugs and substances to the extent authorized by the commissioner.

35-7-1008. Federal funds and grants; authority of commissioner of drugs and substances control.

(a) Except as otherwise provided by law, the commissioner of drugs and substances control is hereby designated as the agency of the state of Wyoming to accept the provisions of and funds and grants made by or under any act of the congress of the United States providing funds for programs relating to drugs and dangerous substances, and as the agency to administer or supervise the administration of any state plan established or funds received by the state by virtue of any federal statute relating to aid to the states for the purpose of drugs and dangerous substances control; provided, that each acceptance of such federal funds shall be restricted in its effect to the specific situation involved under such acceptance.

(b) The commissioner of drugs and substances control may:

(i) Enter into an agreement with the proper federal agency to procure for the state the benefits of the federal statutes;

(ii) Establish a state plan, if required by the federal statute, to qualify the state for the benefits of the federal statute;

(iii) Provide for reports to be made to the federal agency as may be required;

(iv) Provide for reports to be made to the commissioner of drugs and substances control from local agencies receiving federal funds;

(v) Make surveys and studies in cooperation with other agencies to determine the needs of the state with respect to the application of federal funds;

(vi) Establish standards to which agencies must conform in receiving federal funds;

(vii) Take such other action as may be necessary to secure the benefits of the federal statutes to the state of Wyoming.

35-7-1009. Federal funds and grants; authority of state treasurer.

Whenever the state of Wyoming shall be entitled to receive any moneys or funds from the United States of America, or from any other source or authority, to be expended for the purposes of this act, the state treasurer is hereby authorized to receive and receipt for such moneys or funds, and to make such application and use of the same as may be required by law.

35-7-1010. Board of pharmacy designated agency to administer registration.

The Wyoming state board of pharmacy in addition to any other duties imposed upon it by law is hereby designated as the agency to administer the registration of the manufacture, distribution and dispensing of controlled substances as hereinafter provided in this act. The board shall register certified animal euthanasia technicians as provided by W.S. 33-30-223(b), for the limited purposes of purchasing, possessing and administering drugs labeled by the manufacturer for the purpose of euthanizing animals, excluding Schedule I drugs as defined in W.S. 35-7-1013 and 35-7-1014, and performing the duties and powers of a certified animal euthanasia technician.

Article III.

35-7-1011. Control of substances.

(a) The commissioner shall administer this act and with the advice of the advisory board established in W.S. 35-7-1005 may add substances to or delete or reschedule all substances

enumerated in the schedules in W.S. 35-7-1014, 35-7-1016, 35-7-1018, 35-7-1020 and 35-7-1022 pursuant to the procedures of the Wyoming Administrative Procedure Act. In making a determination regarding a substance, the commissioner shall consider the following:

(i) The actual or relative potential for abuse;

(ii) The scientific evidence of its pharmacological effect, if known;

(iii) The state of current scientific knowledge regarding the substance;

(iv) The history and current pattern of abuse;

(v) The scope, duration, and significance of abuse;

(vi) The risk to the public health;

(vii) The potential of the substance to produce psychic or physiological dependence liability;

(viii) Whether the substance is an immediate precursor of a substance already controlled under this article; and

(ix) Its other uses, both medical and commercial.

(b) After considering factors enumerated in subsection (a) of this section, the commissioner shall make findings with respect thereto and issue a rule controlling the substance if he finds the substance has a potential for abuse.

(c) If the commissioner designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law the commissioner shall control the substance under this act in the same manner as federal law within thirty (30) days after receiving notice of the change but not later than thirty (30) days after the first publication of the change in the Federal Register. Under this subsection, the commissioner shall control the substance in the same manner as federal law through the

promulgation of an emergency rule, followed by promulgation of a permanent rule under the Wyoming Administrative Procedure Act. If the commissioner objects to the designation, rescheduling or deletion of a substance, the commissioner shall within the same period required to control the substance publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the commissioner shall publish his decision which shall be final unless altered by statute. Upon publication of an objection to designation, rescheduling or deletion under this act by the commissioner, control under this act is stayed until the commissioner publishes his final decision. Any final decision that ultimately controls the substance under this act in the same manner as federal law shall be finalized through the promulgation of an emergency rule, followed by promulgation of a permanent rule under the Wyoming Administrative Procedure Act.

(e) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco.

(f) The commissioner shall exclude any nonnarcotic substance from a schedule if such substance may under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et seq., and W.S. 33-24-131 of the Wyoming Pharmacy Act, be lawfully sold over the counter without a prescription.

35-7-1012. Name by which controlled substance listed in schedule.

The controlled substances listed or to be listed in the schedules in W.S. 35-7-1014, 35-7-1016, 35-7-1018, 35-7-1020 and 35-7-1022 are included by whatever official, common, usual, chemical, or trade name designated.

35-7-1013. Findings requiring inclusion of substance in Schedule I.

(a) The commissioner shall place a substance in Schedule I if he finds that the substance:

(i) Has high potential for abuse; and

(ii) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

35-7-1014. Substances included in Schedule I.

(a) The controlled substances listed in this section are included in Schedule I. Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section.

(b) Opiates.-Unless specifically excepted or unless listed in another schedule, any of the following opiates, including the isomers, esters, ethers, salts and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(i) Acetylmethadol;

(ii) Repealed By Laws 1997, ch. 151, § 2.

(iii) Allylprodine;

(iv) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

(v) Alphameprodine;

(vi) Alphamethadol;

(vii) Alpha-methylfentanyl (N-[1-(alpha-methylbeta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(viii) Benzethidine;

(ix) Betacetylmethadol;

(x) Betameprodine;

(xi) Betamethadol;

(xii) Betaprodine;

(xiii) Clonitazene;

(xiv) Dextromoramide;

(xv) Diampromide;

(xvi) Diethylthiambutene;

(xvii) Difenoxin;

(xviii) Dimenoxadol;

(xix) Dimepheptanol;

(xx) Dimethylthiambutene;

(xxi) Dioxaphetyl butyrate;

(xxii) Dipipanone;

(xxiii) Ethylmethylthiambutene;

(xxiv) Etonitazene;

(xxv) Etoxeridine;

(xxvi) Furethidine;

(xxvii) Hydroxypethidine;

(xxviii) Ketobemidone;

(xxix) Levomoramide;

(xxx) Levophenacylmorphan;

(xxxi) Morpheridine;

(xxxii) Noracymethadol;

(xxxiii) Norlevorphanol;

(xxxiv) Normethadone;

(xxxv) Norpipanone;

(xxxvi) Phenadoxone;

(xxxvii) Phenampromide;

(xxxviii) Phenomorphan;

(xxxix) Phenoperidine;

(xl) Piritramide;

(xli) Proheptazine;

(xlii) Properidine;

(xliii) Propiram;

(xliv) Racemoramide;

(xlv) Tilidine;

(xlvi) Trimeperidine;

(xlvii) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(xlviii) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(xlix) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(l) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);

(li) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

(lii) 3-Methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(liii) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(liv) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);

(lv) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(lvi) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide).

(c) Opium derivatives.-Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(i) Acetorphine;

(ii) Acetyldihydrocodeine;

(iii) Benzylmorphine;

(iv) Codeine methylbromide;

(v) Codeine-N-Oxide;

(vi) Cyprenorphine;

(vii) Desomorphine;

(viii) Dihydromorphine;

(ix) Drotebanol;

(x) Etorphine (except hydrochloride salt);

(xi) Heroin;

(xii) Hydromorphinol;

(xiii) Methyldesorphine;

(xiv) Methyldihydromorphine;

(xv) Morphine methylbromide;

(xvi) Morphine methylsulfonate;

(xvii) Morphine-N-Oxide;

(xviii) Myrophine;

(xix) Nicocodeine;

(xx) Nicomorphine;

(xxi) Normorphine;

(xxii) Pholcodine;

(xxiii) Thebacon.

(d) Hallucinogenic substances.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(i) 4-bromo-2, 5-dimethoxyamphetamine; some trade or other names: 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2, 5-DMA;

(ii) 2, 5-dimethoxyamphetamine; some trade or other names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA;

(iii) 4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxy-amphetamine; PMA;

(iv) 5-methoxy-3,4-methylenedioxy amphetamine;

(v) 4-methyl-2, 5-dimethoxyamphetamine; some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP";

(vi) 3,4-methylenedioxy amphetamine;

(vii) 3,4,5-trimethoxy amphetamine;

(viii) Bufotenine; some trade and other names: 3-(beta-dimethy-laminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine;

(ix) Diethyltryptamine; some trade and other names: N,N-diethyltryptamine; DET;

(x) Dimethyltryptamine; some trade or other names: DMT;

(xi) Ibogaine; some trade and other names: 7-ethyl-6,6 beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; tabernanthe iboga;

(xii) Lysergic acid diethylamide;

(xiii) Marihuana;

(xiv) Mescaline;

(xv) Parahexyl; some trade or other names; 3-hexyl-1-hydroxy 7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,d] pyran; synhexyl;

(xvi) Peyote; meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts;

(xvii) N-ethyl-3-piperidyl benzilate;

(xviii) N-methyl-3-piperidyl benzilate;

(xix) Psilocybin;

(xx) Psilocyn;

(xxi) Tetrahydrocannabinols; naturally occurring or synthetic equivalents of the substances contained in the plant or in the resinous extractives of Cannabis, sp. and/or naturally occurring or synthetic substances, derivatives and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol and their optical isomers; delta 6 cis or trans tetrahydrocannabinol and their optical isomers; delta 8 cis or trans tetrahydrocannabinol and their optical isomers; delta to the 3, 4 cis or trans tetrahydrocannabinol and its optical isomers. Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered;

(xxii) Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1 phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(xxiii) Pyrrolidine analog of phencyclidine; some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(xxiv) Thiophene analog of phencyclidine; some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP;

(xxv) Alpha-ethyltryptamine; some trade or other names: etryptamine; Monase; A-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; --ET; and AET;

(xxvi) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, nexus;

(xxvii) 2,5-Dimethoxy-4-ethylamphetamine; some trade or other names: DOET;

(xxviii) 3,4-Methylenedioxymethamphetamine (MDMA);

(xxix) 3,4-Methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

(xxx) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

(xxxi) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy;

(xxxii) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7), its optical isomers, salts and salts of isomers;

(xxxiii) Alpha-methyltryptamine; (other name: AMT);

(xxxiv) 5-methoxy-N,N-diisopropyltryptamine; (other name: 5-MeO-DIPT), its isomers, salts and salts of isomers;

(xxxv) Salvinorin A;

(xxxvi) 3,4-Methylenedioxymethcathinone (other names: Methylone);

(xxxvii) 3,4-Methylenedioxypyrovalerone (MDPV);

(xxxviii) 4-Methylmethcathinone (other names Mephedrone);

(xxxix) 3-Methoxymethcathinone;

(xl) 3-Fluoromethcathinone;

(xli) 4-Fluoromethcathinone;

(xlii) Synthetic cannabinoids as follows:

(A) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; some trade or other names: HU-210;

(B) Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; some trade or other names: HU-211;

(C) Any compound structurally derived from 3-(1-napthoyl)indole, 1H-indol-3-yl-(1-naphthyl)methane, 3-(1-napthoyl)pyrrole, 3-(phenylacetyl)indole, 3-(benzoyl)indole or naphthylideneindene by substitution at the nitrogen atom of the indole ring, pyrrole ring or 3-position of the indene ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring, pyrrole ring or indene ring to any extent, and whether or not substituted in the naphthyl or phenyl ring to any extent;

(D) Repealed By Laws 2012, Ch. 29, § 2.

(E) Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent;

(F) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone; some trade or other names: WIN 55,212-2;

(G) [(1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone]; other names: XLR-11;

(H) [(1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone]; other names: UR-144;

(J) 1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid; other names: PB-22;

(K) 1-(5-fluoropentyl)-8-quinolinyl ester-1H-indole-3-carboxylic acid; other names: 5F-PB-22;

(M) 1-pentyl-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indazole-3-carboxamide; other names: AKB48;

(N) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)1H-indazole-3-carboxamide; other names: 5F-AKB48;

(O) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide; other names: AB-FUBINACA;

(P) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide; other names: ADB-PINACA;

(Q) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide; other names: AB-PINACA;

(R) N-(1-amino-3,3-dimethyl-1-oxobutan-2yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide; other names: 5F-ADB-PINACA;

(S) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide; other names: 5F-AB-PINACA;

(T) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide; other names: AB-CHMINACA;

(U) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone; other names: THJ-2201;

(W) 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester; other names: BB-22.

(xliii) 2-(2,5-dimethoxy-4-ethylphenyl)ethanamine; other names: 2C-E;

(xliv) 2-(2,5-dimethoxy-4-methylphenyl)ethanamine; other names: 2C-D;

(xlv) 2-(4-chloro-2,5-dimethoxyphenyl)ethanamine; other names: 2C-C;

(xlvi) 2-(4-iodo-2,5-dimethoxyphenyl)ethanamine; other names: 2C-I;

(xlvii) 2-[4-(ethylthio)-2,5-dimethoxyphenyl]ethanamine; other names: 2C-T-2;

(xlviii) 2-[4-(isopropylthio)-2,5-dimethoxyphenyl]ethanamine; other names: 2C-T-4;

(xlix) 2-(2,5-dimethoxyphenyl)ethanamine; other names: 2C-H;

(l) 2-(2,5-dimethoxy-4-nitro-phenyl)ethanamine; other names: 2C-N;

(li) 2-(2,5-dimethoxy-4-(n)-propylphenyl)ethanamine; other names: 2C-P;

(lii) 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine; other names: 25B-NBOMe;

(liii) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine; other names: 25C-NBOMe or 2C-C-NBOMe;

(liv) 4-iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine; other names: 25I-NBOMe;

(lv) 3,4-methylenedioxy-N-ethylcathinone; (other names: ethylone).

(e) Depressants.-Unless specifically excepted or unless listed in another schedule, any material compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers

whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(i) Mecloqualone;

(ii) Methaqualone;

(iii) Gamma-hydroxybutyric (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate).

(f) Stimulants.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its optical, positional, and geometric isomers, salts and salts of isomers:

(i) Fenethylline;

(ii) N-ethylamphetamine;

(iii) Aminorex; some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(iv) Cathinone; some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

(v) Methcathinone; some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432), its salts, optical isomers and salts of optical isomers;

(vi) (()Cis-4-methylaminorex (((()cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(vii) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine);

(viii) N-Benzylpiperazine; (some other names: BZP, 1-benzylpiperazine), its optical isomers, salts and salts of isomers;

(ix) 4-methyl-N-ethylcathinone; other names: 4-MEC; 2-(ethylamino)-1-(4-methylphenyl)propan-1-one;

(x) 4-methyl-alpha-pyrrolidinopropiophenone; other names: 4-MePPP; MePPP; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)-propan-1-one;

(xi) Alpha-pyrrolidinopentiophenone; other names: alpha-PVP; alpha-pyrrolidinovalerophenone; 1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one;

(xii) Butylone; other names: bk-MBDB; 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one;

(xiii) Pentedrone; other names: alpha-methylaminovalerophenone; 2-(methylamino)-1-phenylpentan-1-one;

(xiv) Pentylone; other names: bk-MBDP; 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one;

(xv) Naphyrone; other names: naphthylpyrovalerone; 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one;

(xvi) Alpha-pyrrolidinobutiophenone; other names: alpha-PBP; 1-phenyl-2-(pyrrolidin-1-yl)butan-1-one.

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(i) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;

(ii) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

35-7-1015. Findings requiring inclusion of substance in Schedule II.

(a) The commissioner shall place a substance in Schedule II if he finds that:

(i) The substance has high potential for abuse;

(ii) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(iii) Abuse of the substance may lead to severe psychic or physical dependence.

35-7-1016. Substances included in Schedule II.

(a) The controlled substances listed in this section are included in Schedule II. Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section.

(b) Substances, vegetable origin or chemical synthesis.-Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis or by combination of extraction and chemical synthesis:

(i) Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone and their respective salts, but including the following:

(A) Raw opium;

(B) Opium extracts;

(C) Opium fluid;

(D) Powdered opium;

(E) Granulated opium;

(F) Tincture of opium;

(G) Codeine;

(H) Ethylmorphine;

(J) Etorphine hydrochloride;

(K) Hydrocodone;

(M) Hydromorphone;

(N) Metopon;

(O) Morphine;

(P) Oxycodone;

(Q) Oxymorphone;

(R) Thebaine;

(S) Dihydroetorphine;

(T) Oripavine.

(ii) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b)(i) of this section, but not including the isoquinoline alkaloids of opium;

(iii) Opium poppy and poppy straw;

(iv) Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(v) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

(c) Opiates.-Unless specifically excepted or unless in another schedule, any of the following opiates including their isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of these isomers, esters, ethers

and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(i) Alphaprodine;

(ii) Anileridine;

(iii) Benzitramide;

(iv) Bulk dextropropoxyphene (nondosage forms);

(v) Dihydrocodeine;

(vi) Diphenoxylate;

(vii) Fentanyl;

(viii) Isomethadone;

(ix) Levomethorphan;

(x) Levorphanol;

(xi) Metazocine;

(xii) Methadone;

(xiii) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(xiv) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane carboxylic acid;

(xv) Pethidine (meperidine);

(xvi) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(xvii) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(xviii) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(xix) Phenazocine;

(xx) Piminodine;

(xxi) Racemethorphan;

(xxii) Racemorphan;

(xxiii) Sufentanil;

(xxiv) Alfentanil;

(xxv) Repealed By Laws 2011, Ch. 45, § 2.

(xxvi) Carfentanil;

(xxvii) Levo-alphacetylmethadol; some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM;

(xxviii) Remifentanil;

(xxix) Tapentadol.

(d) Stimulants.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(i) Amphetamine, its salts, optical isomers and salts of its optical isomers;

(ii) Methamphetamine, its salts, isomers and salts of its isomers;

(iii) Phenmetrazine and its salts;

(iv) Methylphenidate;

(v) Lisdexamfetamine, its salts, isomers and salts of isomers.

(e) Depressants.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) Amobarbital;

(ii) Pentobarbital;

(iii) Phencyclidine;

(iv) Secobarbital;

(v) Glutethimide.

(f) Immediate precursors.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances:

(i) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone; some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(ii) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine;

(B) 1-piperidinocyclohexanecarbonitrile (PCC).

(g) Hallucinogenic substances:

(i) Repealed By Laws 2001, Ch. 88, § 2.

(ii) Nabilone; another name for nabilone: (()-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

35-7-1017. Findings requiring inclusion of substance in Schedule III.

(a) The commissioner shall place a substance in Schedule III if he finds that:

(i) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(ii) The substance has currently accepted medical use in treatment in the United States; and

(iii) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(b) The commissioner shall place a substance in Schedule III if he finds that the substance is an anabolic steroid used for the purpose of increasing weight, muscle mass, or improving performance in any form of exercise, sport or game, exclusive of veterinary pharmaceuticals.

35-7-1018. Substances included in Schedule III.

(a) The controlled substances listed in this section are included in Schedule III. Schedule III shall consist of the drugs and other substances by whatever official name, common or usual name, chemical name or brand name designated, listed in this section.

(b) Stimulants.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(i) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures or preparations were listed on August 25, 1971, as excepted in the Federal Register as excepted compounds under section 21 C.F.R. part 1308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(ii) Benzphetamine;

(iii) Chlorphentermine;

(iv) Clortermine;

(v) Phendimetrazine.

(c) Depressants.-Unless specifically excepted or listed in another schedule, any material, compound, mixture or preparation

which contains any quantity of the following substances having a depressant effect on the central nervous system:

(i) Any compound, mixture or preparation containing any of the following or any salt thereof, and one (1) or more other active medicinal ingredient not listed in any schedule:

(A) Amobarbital;

(B) Secobarbital;

(C) Pentobarbital.

(ii) Any suppository dosage form containing any of the following or any salt thereof, and approved by the food and drug administration for marketing only as a suppository:

(A) Amobarbital;

(B) Secobarbital;

(C) Pentobarbital.

(iii) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;

(iv) Chorhexadol;

(v) Repealed By Laws 1997, ch. 151, § 2.

(vi) Lysergic acid;

(vii) Lysergic acid amide;

(viii) Methyprylon;

(ix) Sulfondiethylmethane;

(x) Sulfonethylmethane;

(xi) Sulfonmethane;

(xii) Tiletamine and zolazepam or any salt thereof; some trade or other names for a tiletamine-zolazepam combination product: telazol; some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone; some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-

trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon;

(xiii) Ketamine, its salts, isomers and salts of isomers (some other names for ketamine include (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone);

(xiv) Any drug product containing gamma hydoxybutyric acid, its salts, isomers and salts of isomers, for which an application is approved under section 505 of the federal Food, Drug and Cosmetic Act.

(d) Nalorphine.

(e) Narcotic drugs.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in paragraphs (i) through (viii) of this subsection:

(i) Not more than one and eight-tenths (1.8) grams of codeine per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(ii) Not more than one and eight-tenths (1.8) grams of codeine per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(iii) Not more than three hundred (300) milligrams of dihydrocodeinone (hydrocodone) per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(iv) Not more than three hundred (300) milligrams of dihydrocodeinone (hydrocodone) per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(v) Not more than one and eight-tenths (1.8) grams of dihydrocodeine per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or

more active, nonnarcotic ingredients in recognized therapeutic amounts;

(vi) Not more than three hundred (300) milligrams of ethylmorphine, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(vii) Not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(viii) Not more than fifty (50) milligrams of morphine per one hundred (100) milliliters or per one hundred (100) grams, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) The commissioner may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(g) Anabolic steroids. – For purposes of this subsection, "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids and dehydroepiandrosterone) and unless specifically excepted or unless listed in another schedule, includes any of the following or any ether, ester, salt or derivative of the following that acts in the same manner on the human body:

(i) 3[beta],17-dihydro-5a-androstane;

(ii) 3[alpha],17[beta]-dihydroxy-5a-androstane;

(iii) 5[alpha]-androstan-3,17-dione;

(iv) 1-androstenediol (3[beta],17[beta]-dihydroxy-5[alpha]-androst-1-ene);

(v) 1-androstenediol (3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1-ene);

(vi) 4-androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene);

(vii) 5-androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene);

(viii) 1-androstenedione ([5[alpha]]-androst-1-en-3,17-dione);

(ix) 4-androstenedione (androst-4-en-3,17-dione);

(x) 5-androstenedione (androst-5-en-3,17-dione);

(xi) Bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(xii) Boldenone (17[beta]-hydroxyandrost-1,4,-diene-3-one);

(xiii) Calusterone (7[beta],17[alpha]-dimethyl-17[beta],hydroxyandrost-4-en-3-one);

(xiv) Clostebol (4chloro-17[beta]-hydroxyandrost-4-en-3-one);

(xv) Dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy-17[alpha]-methyl-androst-1,4dien-3-one);

(xvi) [Delta]1-dihydrotestosterone (also known as "1-testosterone") (17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);

(xvii) 4-dihydrotestosterone (17[beta]-hydroxy-androstan-3-one);

(xviii) Drostanolone (17[beta]-hydroxy-2[alpha]-methyl-5[alpha]-androstan-3-one);

(xix) Ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene);

(xx) Fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],17[beta]-dihydroxyandrost-4-en-3-one);

(xxi) Formebolone (2-formyl-17[alpha]-methyl-11[alpha],17[beta]-dihydroxyandrost-1,4-dien-3-one);

(xxii) Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furazan);

(xxiii) 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one);

(xxiv) 4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one);

(xxv) 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-estr-4-en-3-one);

(xxvi) Mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5-androstan-3-one);

(xxvii) Mesterolone (1[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);

(xxviii) Methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one);

(xxix) Methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene);

(xxx) Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);

(xxxi) 17[alpha]-methyl-3[beta],17[beta]-dihydroxy-5a-androstane);

(xxxii) 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5a-androstane);

(xxxiii) 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene);

(xxxiv) 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);

(xxxv) Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one);

(xxxvi) Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9-11-trien-3-one);

(xxxvii) Methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one);

(xxxviii) Mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one);

(xxxix) 17[alpha]-methyl-[Delta]1-dihydrotestosterone (17b[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one) (also known as "17-[alpha]-methyl-1-tesosterone");

(xl) Nandrolone (17[beta]-hydroxyestr-4-en-3-one);

(xli) 19-nor-4-androstenediol (3[beta], 17[beta]-dihydroxyestr-4-ene);

(xlii) 19-nor-4-androstenediol (3[alpha], 17[beta]-dihydroxyestr-4-ene);

(xliii) 19-nor-5-androstenediol (3[beta], 17[beta]-dihydroxyestr-5-ene);

(xliv) 19-nor-5-androstenediol (3[alpha], 17[beta]-dihydroxyestr-5-ene);

(xlv) 19-nor-4-androstenedione (estr-4-en-3,17-dione);

(xlvi) 19-nor-5-androstenedione (estr-5-en-3,17-dione);

(xlvii) Norbolethone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one);

(xlviii) Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);

(xlix) Norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one);

(l) Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one);

(li) Oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-[5[alpha]]-androstan-3-one);

(lii) Oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one);

(liii) Oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);

(liv) Stanozolol (17[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androst-2-eno[3,2-c]-pyrazole);

(lv) Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one);

(lvi) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(lvii) Testosterone (17[beta]-hydroxyandrost-4-en-3-one);

(lviii) Tetrahydrogestrinone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one);

(lix) Trenbolone (17[beta]-hydroestr-4,9,11-trien-3-one);

(lx) Boldione (androsta-1,4-diene-3,17-dione);

(lxi) Desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst- 2-en-17[beta]-ol)(also known as madol);

(lxii) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene- 3,17-dione);

(lxiii) Any salt, ester or ether of a drug or substance described or listed in this subsection, except the term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States secretary of health and humans services for such administration. If any person prescribes, dispenses or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this subsection.

(h) Hallucinogenic substances:

(i) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product; some other names for dronobinol include (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(j) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs and their salts, as set forth below:

(i) Buprenorphine.

35-7-1019. Findings requiring inclusion of substance in Schedule IV.

(a) The commissioner shall place a substance in Schedule IV if he finds that:

(i) The substance has a low potential for abuse relative to substances in Schedule III;

(ii) The substance has currently accepted medical use in treatment in the United States; and

(iii) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

35-7-1020. Substances included in Schedule IV.

(a) The controlled substances listed in this section are included in Schedule IV. Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section.

(b) Narcotic drugs.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in paragraphs (i) and (ii) of this subsection:

(i) Not more than one (1) milligram of difenoxin and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit;

(ii) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxy-butane).

(c) Depressants.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(i) Alprazolam;

(ii) Barbital;

(iii) Bromazepam;

(iv) Camazepam;

(v) Chloral betaine;

(vi) Chloral hydrate;

(vii) Chlordiazepoxide;

(viii) Clobazam;

(ix) Clonazepam;

(x) Clorazepate;

(xi) Clotiazepam;

(xii) Cloxazolam;

(xiii) Delorazepam;

(xiv) Diazepam;

(xv) Estazolam;

(xvi) Ethchlorvynol;

(xvii) Ethinamate;

(xviii) Ethyl Loflazepate;

(xix) Fludiazepam;

(xx) Flunitrazepam;

(xxi) Flurazepam;

(xxii) Halazepam;

(xxiii) Haloxazolam;

(xxiv) Ketazolam;

(xxv) Loprazolam;

(xxvi) Lorazepam;

(xxvii) Lormetazepam;

(xxviii) Mebutamate;

(xxix) Medazepam;

(xxx) Meprobamate;

(xxxi) Methohexital;

(xxxii) Methylphenobarbital (mephobarbital);

(xxxiii) Nimetazepam;

(xxxiv) Nitrazepam;

(xxxv) Nordiazepam;

(xxxvi) Oxazepam;

(xxxvii) Oxazolam;

(xxxviii) Paraldehyde;

(xxxix) Petrichloral;

(xl) Phenobarbital;

(xli) Pinazepam;

(xlii) Prazepam;

(xliii) Temazepam;

(xliv) Tetrazepam;

(xlv) Triazolam;

(xlvi) Midazolam;

(xlvii) Quazepam;

(xlviii) Zolpidem;

(xlix) Zaleplon;

(l) Dichloralphenazone;

(li) Zopiclone;

(lii) Fospropofol.

(d) Fenfluramine.-Any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts, isomers whether optical, position or geometric, and salts of isomers when the existence of these salts, isomers and salts of isomers is possible:

(i) Fenfluramine.

(e) Stimulants.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(i) Diethylpropion;

(ii) Mazindol;

(iii) Pemoline (including organometallic complexes and chelates thereof);

(iv) Phentermine;

(v) Pipradrol;

(vi) SPA ((-)-1-dimethylamino-1, 2-diphenylethane);

(vii) Cathine ((+)-norpseudoephedrine);

(viii) Fencamfamin;

(ix) Fenproporex;

(x) Mefenorex;

(xi) Sibutramine;

(xii) Modafinil.

(f) Other substances.-Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(i) Pentazocine;

(ii) Butorphanol (including its optical isomers);

(iii) Carisoprodol;

(iv) Tramadol.

(g) The commissioner may except by rule any compound, mixture or preparation containing any depressant substance listed in subsection (c) of this section from the application of all or any part of this act if the compound, mixture or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substance which have a depressant effect on the central nervous system.

35-7-1021. Findings requiring inclusion of substance in Schedule V.

(a) The commissioner shall place a substance in Schedule V if he finds that:

(i) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(ii) The substance has currently accepted medical use in treatment in the United States; and

(iii) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

35-7-1022. Substances included in Schedule V.

(a) The controlled substances listed in this section are included in Schedule V. Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated in this section.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients.-Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in paragraphs (i) through (vi) of this subsection which also contains one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(i) Not more than two hundred (200) milligrams of codeine per one hundred (100) milliliters or per one hundred (100) grams;

(ii) Not more than one hundred (100) milligrams of dihydrocodeine per one hundred (100) milliliters or per one hundred (100) grams;

(iii) Not more than one hundred (100) milligrams of ethylmorphine per one hundred (100) milliliters or per one hundred (100) grams;

(iv) Not more than two and five-tenths (2.5) milligrams of diphenoxylate and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit;

(v) Not more than one hundred (100) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams;

(vi) Not more than five-tenths (0.5) milligram of difenoxin and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit.

(c) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:

(i) Repealed by Laws 2007, Ch. 40, § 2.

(d) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(i) Pyrovalerone.

(e) Repealed By Laws 2011, Ch. 45, § 2.

(f) Depressants.-Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(i) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

(ii) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

Article IV.

35-7-1023. Board of pharmacy to administer registration requirements; rules; fees.

The Wyoming state board of pharmacy shall have the responsibility for administering the registration requirements of this article, and may promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

35-7-1024. Registration requirements.

(a) Every person who manufactures, distributes or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state, must obtain every two (2) years, on or before July 1, a registration issued by the board in accordance with its rules. Any registrant who fails to renew his registration by July 1 of each renewal year shall be charged a late fee. If the failure to renew continues past September 30 of the renewal year, the registration shall be cancelled and the United States drug enforcement administration notified for cancellation of the registrant's federal registration.

(b) Persons registered by the board under this act to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

(c) The following persons need not register and may lawfully possess controlled substances under this act:

(i) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his legitimate business or employment;

(ii) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(iii) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(d) The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The board may inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by the board.

35-7-1025. Registration of manufacturers and distributors; controlled substance prescription tracking program enrollment.

(a) The board shall register an applicant to manufacture or distribute controlled substances included in W.S. 35-7-1014, 35-7-1016, 35-7-1018, 35-7-1020 and 35-7-1022 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(i) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(ii) Compliance with applicable state and local law;

(iii) Any convictions of the applicant under any federal and state laws relating to any controlled substance;

(iv) Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

(v) Furnishing by the applicant of false or fraudulent material in any application filed under this act;

(vi) Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(vii) Any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) of this section does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners shall be registered to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The

board need not require separate registration under this article for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the registrant is already registered under this article in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the board evidence of that federal registration. The board shall enroll any practitioner registered under this subsection in the controlled substance prescription tracking program maintained by the board under W.S. 35-7-1060 if the practitioner is authorized to dispense any controlled substances in Schedules II through V. The board may promulgate rules and regulations for purposes of enrolling those practitioners in the tracking program.

(d) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this act.

35-7-1026. Suspension or revocation of registration.

(a) A registration under W.S. 35-7-1025 to manufacture, distribute or dispense a controlled substance may be suspended or revoked by the board upon a finding that the registrant:

(i) Has furnished false or fraudulent material information in any application filed under this act;

(ii) Has been convicted of a felony or misdemeanor involving moral turpitude under any state or federal law relating to any controlled substance;

(iii) Has had his federal registration suspended or revoked to manufacture, distribute or dispense controlled substances;

(iv) Has willfully violated any of the provisions of this act, or any rules and regulations relating to controlled substances;

(v) Has failed to provide adequate security for the storage of controlled substances to the extent that repeated diversions have occurred; or

(vi) Has voluntarily surrendered his license to practice, or has had his license revoked or suspended, or the

renewal thereof has been denied or lapsed for cause by his professional licensing board.

(b) The board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The board shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

(e) In the case of a revocation or suspension sought by the board's staff under paragraph (a)(ii), (iii) or (vi) of this section, a copy of an order or other appropriate documents from a court or administrative agency, certified by the clerk, judge, secretary or executive director thereof, evidencing a revocation, suspension, voluntary suspension or conviction of a felony, shall be conclusive evidence of the conviction, revocation or suspension of the federal registration, or the loss of the license to practice.

(f) The board, by regulation, may adopt procedures under which the denial, suspension, revocation or denial of renewal of a registration may be resolved by mutual agreement between the registrant or applicant and the board's staff, subject to prior approval by the board.

35-7-1027. Order to show cause before denial, suspension, revocation or refusal to renew registration; emergency suspension.

(a) Before denying, suspending, or revoking a registration, or refusing a renewal of registration, the board shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked or suspended, or why the renewal should not be refused. The order

to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the board at a time and place not less than thirty (30) days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty (30) days before the expiration of the registration. These proceedings shall be conducted in accordance with the Wyoming Administrative Procedure Act without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) The board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under W.S. 35-7-1026, or where renewal of registration is refused, if it finds there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction.

35-7-1028. Records and inventories required of registrants.

Persons registered to manufacture, distribute, or dispense controlled substances under this act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules the board issues.

35-7-1029. Order forms required for distribution of substances in Schedules I and II.

Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

35-7-1030. Prescriptions required in certain instances.

(a) Repealed by Laws 2019, ch. 153, § 1.

(b) In emergency situations, as defined by rule of the board, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the

pharmacy. Prescriptions shall be retained in conformity with the requirements of W.S. 35-7-1028. No prescription for a Schedule II substance may be refilled.

(c) Repealed by Laws 2019, ch. 153, § 1.

(d) No controlled substances included in any schedule may be distributed or dispensed for other than an acceptable medical indication.

(e) No practitioner shall prescribe nor shall any person dispense any opioid or combination of opioids for acute pain to an opioid naive patient for more than a seven (7) day supply in a seven (7) day period. The board shall by rule establish reasonable exceptions to this section, in consultation with other professional licensing boards that license practitioners, including exceptions for chronic pain, cancer treatment, palliative care and other clinically appropriate exceptions. As used in this subsection:

(i) "Opioid" means an opiumlike compound that binds to one (1) or more of the major opioid receptors in the body;

(ii) "Opioid naive patient" means a patient who has not had an active opioid prescription in the preceding forty-five (45) day period.

(f) On and after January 1, 2021, except when dispensed directly by a practitioner other than a pharmacy to an ultimate user, no controlled substance included in any schedule shall be dispensed without the electronic prescription of a practitioner. The prescription for a controlled substance included in Schedule III or IV shall not be filled or refilled more than six (6) months after the date of the prescription or be refilled more than five (5) times unless renewed by the practitioner. The board may by rule and regulation provide exemptions from the requirements of this subsection including exemptions for emergencies and technical failures.

Article V.

35-7-1031. Unlawful manufacture or delivery; counterfeit substance; unlawful possession.

(a) Except as authorized by this act, it is unlawful for any person to manufacture, deliver, or possess with intent to

manufacture or deliver, a controlled substance. Any person who violates this subsection with respect to:

(i) Methamphetamine or a controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than twenty (20) years, or fined not more than twenty-five thousand dollars ($25,000.00), or both;

(ii) Any other controlled substance classified in Schedule I, II or III, is guilty of a crime and upon conviction may be imprisoned for not more than ten (10) years, fined not more than ten thousand dollars ($10,000.00), or both;

(iii) A substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than two (2) years, fined not more than two thousand five hundred dollars ($2,500.00), or both;

(iv) A substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one (1) year, fined not more than one thousand dollars ($1,000.00), or both.

(b) Except as authorized by this act, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance. Any person who violates this subsection with respect to:

(i) A counterfeit substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than twenty (20) years, fined not more than twenty-five thousand dollars ($25,000.00), or both;

(ii) Any other counterfeit substance classified in Schedule I, II or III, is guilty of a crime and upon conviction may be imprisoned for not more than ten (10) years, fined not more than ten thousand dollars ($10,000.00), or both;

(iii) A counterfeit substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than two (2) years, fined not more than two thousand five hundred dollars ($2,500.00), or both;

(iv) A counterfeit substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned

for not more than one (1) year, fined not more than one thousand dollars ($1,000.00), or both.

(c) Except as provided in W.S. 35-7-1064, it is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this act. With the exception of any drug that has received final approval from the United States food and drug administration, including dronabinol as listed in W.S. 35-7-1018(h), and notwithstanding any other provision of this act, no practitioner shall dispense or prescribe marihuana, tetrahydrocannabinol, or synthetic equivalents of marihuana or tetrahydrocannabinol. No prescription or practitioner's order for marihuana, tetrahydrocannabinol, or synthetic equivalents of marihuana or tetrahydrocannabinol shall be valid, unless the prescription is for a drug that has received final approval from the United States food and drug administration, including dronabinol. Any person who violates this subsection:

(i) And has in his possession a controlled substance in the amount set forth in this paragraph is guilty of a misdemeanor punishable by imprisonment for not more than twelve (12) months, a fine of not more than one thousand dollars ($1,000.00), or both. Any person convicted for a third or subsequent offense under this paragraph, including convictions for violations of similar laws in other jurisdictions, shall be imprisoned for a term not more than five (5) years, fined not more than five thousand dollars ($5,000.00), or both. For purposes of this paragraph, the amounts of a controlled substance are as follows:

(A) For a controlled substance in plant form, no more than three (3) ounces;

(B) For a controlled substance in liquid form, no more than three-tenths (3/10) of a gram;

(C) For a controlled substance in powder or crystalline form, no more than three (3) grams;

(D) For a controlled substance in pill or capsule form, no more than three (3) grams;

(E) For a controlled substance in the form of cocaine-based "crack" cocaine, no more than five-tenths (5/10) of a gram;

(F) For a controlled substance known as LSD (Lysergic acid diethylamide), no more than three-tenths (3/10) of a gram.

(ii) And has in his possession methamphetamine or a controlled substance classified in Schedule I or II which is a narcotic drug in an amount greater than those set forth in paragraph (c)(i) of this section, is guilty of a felony punishable by imprisonment for not more than seven (7) years, a fine of not more than fifteen thousand dollars ($15,000.00), or both;

(iii) And has in his possession any other controlled substance classified in Schedule I, II or III in an amount greater than set forth in paragraph (c)(i) of this section, is guilty of a felony punishable by imprisonment for not more than five (5) years, a fine of not more than ten thousand dollars ($10,000.00), or both;

(iv) And has in his possession a controlled substance classified in Schedule IV in an amount greater than set forth in paragraph (c)(i) of this section, is guilty of a felony punishable by imprisonment for not more than two (2) years, a fine of not more than two thousand five hundred dollars ($2,500.00), or both;

(v) And has in his possession a controlled substance classified in Schedule V, is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars ($1,000.00), or both.

(d) For purposes of determining the weights to be given the controlled substances under this section, the weights designated in this section shall include the weight of the controlled substance and the weight of any carrier element, cutting agent, diluting agent or any other substance excluding packaging material.

35-7-1032. Certain unlawful acts particularly applicable to registrants.

(a) It is unlawful for any person:

(i) Who is subject to Article IV to distribute or dispense a controlled substance in violation of W.S. 35-7-1030;

(ii) Who is a registrant, to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(iii) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this act;

(iv) To refuse an entry into any premises for any inspection authorized by this act; or

(v) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this act for the purpose of using these substances, or which is used for keeping or selling them in violation of this act.

(b) Any person who violates this section is punishable by a civil fine of not more than ten thousand dollars ($10,000.00); provided, that if the violation is prosecuted by a complaint, information or indictment which alleges that the violation was committed knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally such person is punishable by imprisonment for not more than one (1) year or a fine of not more than ten thousand dollars ($10,000.00), or both such fine and imprisonment.

35-7-1033. Unlawful acts; distribution; registration; possession; records; counterfeiting; punishment.

(a) It is unlawful for any person knowingly or intentionally:

(i) To distribute as a registrant a controlled substance classified in Schedule I or II, except pursuant to an order form as required by W.S. 35-7-1029;

(ii) To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(iii) To acquire or obtain possession of, to procure or attempt to procure the administration of, or to obtain a prescription for, any controlled substance by misrepresentation, fraud, forgery, deception or subterfuge. The conduct prohibited by this paragraph includes but is not limited to:

(A) Failing to disclose to a practitioner that the person has received the same or similar controlled substance or prescription for a controlled substance from another source within the prior thirty (30) days;

(B) Alteration or forgery of a prescription or written order for a controlled substance; and

(C) The use of a false name or address.

(iv) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act; or

(v) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(b) Except for a violation of subparagraph (a)(iii)(B) of this section and except as otherwise provided:

(i) A person who is convicted upon a plea of guilty or no contest or found guilty of violating paragraph (a)(iii) of this section is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both, and the person may be ordered to receive a substance use disorder assessment conducted by a substance use disorder provider certified by the department of health pursuant to W.S. 9-2-2701(c) before sentencing;

(ii) A person convicted upon a plea of guilty or no contest or found guilty of a second offense of violating paragraph (a)(iii) of this section is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars ($1,000.00), or both,

and the person shall be ordered to receive a substance use disorder assessment conducted by a substance use disorder provider certified by the department of health pursuant to W.S. 9-2-2701(c) before sentencing;

(iii) A person convicted upon a plea of guilty or no contest or found guilty of a third or subsequent offense of violating paragraph (a)(iii) of this section is guilty of a felony punishable by imprisonment for not more than ten (10) years, a fine of not more than ten thousand dollars ($10,000.00), or both;

(iv) In the event a substance use disorder assessment ordered pursuant to this section is provided by an entity with whom the department of health contracts for treatment services, the costs of the assessment shall be paid by the offender subject to the payment policies adopted pursuant to W.S. 35-1-620; provided however, if the assessment is ordered as a result of a felony conviction under this section, the assessment shall be conducted and costs assessed pursuant to W.S. 7-13-1301, et seq.;

(v) Notwithstanding any other provision of law, the term of probation imposed by a court for a violation of paragraph (a)(iii) of this section for a first or second conviction may exceed the maximum term of imprisonment established for the applicable offense under paragraph (i) or (ii) of this subsection provided the term of probation, together with any extension thereof, shall in no case exceed two (2) years.

(c) Except as otherwise provided, any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than five (5) years, or fined not more than ten thousand dollars ($10,000.00), or both.

(d) A person convicted upon a plea of guilty or no contest or found guilty of violating subparagraph (a)(iii)(B) of this section is guilty of a felony punishable by imprisonment for not more than ten (10) years, a fine of not more than ten thousand dollars ($10,000.00), or both.

35-7-1034. Penalties are additional.

Any penalty imposed for violation of this act is in addition to, and not in lieu of, any civil administrative penalty or sanction otherwise authorized by law.

35-7-1035. Conviction or acquittal under federal law or law of another state.

If a violation of this act is a violation of a federal law or a law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

35-7-1036. Distribution to person under 18; drug free school zones.

(a) Any person eighteen (18) years of age or over who violates W.S. 35-7-1031(a) by distributing methamphetamine or a controlled substance listed in Schedules I or II which is a narcotic drug to a person under eighteen (18) years of age who is at least three (3) years his junior is punishable by the fine authorized by W.S. 35-7-1031(a)(i), by a term of imprisonment of up to twice that authorized by W.S. 35-7-1031(a)(i), or both. Except as provided in subsection (c) of this section, any person eighteen (18) years of age or over who violates W.S. 35-7-1031(a) by distributing any other controlled substance listed in Schedules I, II, III, to a person under eighteen (18) years of age who is at least three (3) years his junior is punishable by the fine authorized by W.S. 35-7-1031(a)(ii), by a term of imprisonment up to twice that authorized by W.S. 35-7-1031(a)(ii), or both. Any person eighteen (18) years of age or over who violates W.S. 35-7-1031(a) by distributing any controlled substance listed in Schedule IV to a person under eighteen (18) years of age who is at least three (3) years his junior is punishable by the fine authorized by W.S. 35-7-1031(a)(iii), by a term of imprisonment up to twice that authorized by W.S. 35-7-1031(a)(iii), or both. Any person eighteen (18) years of age or over who violates W.S. 35-7-1031(a) by distributing any controlled substance listed in Schedule V to a person under eighteen (18) years of age who is at least three (3) years his junior is punishable by the fine authorized by W.S. 35-7-1031(a)(iv), by a term of imprisonment up to twice that authorized by W.S. 35-7-1031(a)(iv), or both.

(b) Any person who is convicted of any of the following listed offenses with regard to a controlled substance listed in Schedules I through IV shall have the penalties specified in this subsection imposed as part of the sentence and in addition to any other penalties authorized by law, if that offense was committed within any school bus as defined in W.S. 31-7-102(a)(xl) or within the boundaries of or within five

hundred (500) feet of the boundaries of real property used by a school district primarily for the education of any student in any grade from kindergarten through twelfth grade:

(i) If an adult:

(A) For manufacture, delivery or possession with intent to manufacture or deliver in violation of W.S. 35-7-1031(a) or subsection (a) of this section:

(I) Imprisonment for a minimum of two (2) years; and

(II) An additional fine of one thousand dollars ($1,000.00).

(B) For possession in violation of W.S. 35-7-1031(c) an additional fine of five hundred dollars ($500.00).

(ii) If a minor and if not sentenced to a term of imprisonment which is unsuspended:

(A) For manufacture, delivery or possession with intent to manufacture or deliver in violation of W.S. 35-7-1031(a):

(I) Successful completion of a drug education or rehabilitation program specified by the court;

(II) Not less than twenty-five (25) nor more than two hundred (200) hours of community service specified by the court; and

(III) Submission to monthly drug testing for one (1) year.

(B) For possession in violation of W.S. 35-7-1031(c):

(I) Successful completion of a drug education or rehabilitation program specified by the court;

(II) Not less than twenty-five (25) nor more than one hundred (100) hours of community service specified by the court; and

(III) Submission to monthly drug testing for six (6) months.

(c) Any person who is at least eighteen (18) years of age who violates W.S. 35-7-1031(a) by distributing fentanyl to a person under eighteen (18) years of age is guilty of a felony punishable by the fine authorized by W.S. 35-7-1031(a)(ii), by a term of imprisonment up to twice that authorized by W.S. 35-7-1031(a)(ii), or both. As used in this subsection, "fentanyl" includes fentanyl and any isomer, ester, ether, salt and salt of isomers, esters and ethers of fentanyl, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation of fentanyl.

35-7-1037. Probation and discharge of first offenders.

Whenever any person who has not previously been convicted of any offense under this act or under any statute of the United States or of any state relating to narcotic drugs, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under W.S. 35-7-1031(c) or 35-7-1033(a)(iii)(B), or pleads guilty to or is found guilty of using or being under the influence of a controlled substance under W.S. 35-7-1039, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. Any term of probation imposed under this section for a felony offense shall not exceed the maximum term of probation authorized under W.S. 7-13-302(b). Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under W.S. 35-7-1038. There may be only one (1) discharge and dismissal under this section with respect to any person. This section shall not be construed to provide an exclusive procedure. Any other procedure provided by law relating to suspension of trial or probation, may be followed, in the discretion of the trial court.

35-7-1038. Second or subsequent offenses; mandatory minimum penalty for certain subsequent offenses.

(a) Unless otherwise provided under W.S. 35-7-1031(c), any person convicted of a second or subsequent offense under this act may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both. The judge may suspend part or all of the discretionary portion of an imprisonment sentence or fine under this subsection and place the defendant on probation pending successful completion, at the defendant's own expense, of a chemical addiction evaluation or treatment program prescribed by the judge.

(b) For purposes of subsection (a) of this section, an offense is a second or subsequent offense if, prior to his conviction of the offense, the offender has at any time been convicted under this act or under any statute of the United States or of any state relating to narcotic drugs, marijuana, depressant, stimulant or hallucinogenic drugs.

(c) This section shall not apply to offenses under W.S. 35-7-1031(c).

35-7-1039. Person using or under influence of controlled substance.

Except as provided in W.S. 35-7-1064, any person who knowingly or intentionally uses or is under the influence of a controlled substance listed in Schedules I, II or III except when administered or prescribed by or under the direction of a licensed practitioner, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not to exceed six (6) months or a fine not to exceed seven hundred fifty dollars ($750.00), or by both.

35-7-1040. Planting, cultivating or processing marihuana, peyote or opium poppy.

Any person who knowingly or intentionally plants, cultivates, harvests, dries, or processes any marihuana, peyote, or opium poppy except as otherwise provided by law shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed six (6) months in the county jail or by a fine not to exceed one thousand dollars ($1,000.00), or both.

35-7-1041. Distribution of liquid, substance or material in lieu of controlled substance.

Any person who in any manner offers to unlawfully sell, furnish, transport, administer, or give any controlled substance to any person, or offers, arranges, or negotiates to have any controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, arranges, or negotiates to have sold, delivered, transported, furnished, administered or given to any person any other liquid, substance, or material in lieu of any controlled substance shall be punished by imprisonment for not more than (1) year, or fined not more than one thousand dollars ($1,000.00) or by both such fine and imprisonment.

35-7-1042. Attempts and conspiracies.

Any person who attempts or conspires to commit any offense under this article within the state of Wyoming or who conspires to commit an act beyond the state of Wyoming which if done in this state would be an offense punishable under this article, shall be punished by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense the commission of which was the object of the attempt or conspiracy.

35-7-1043. Immunity from prosecution.

All duly authorized peace officers including any special agents or other personnel appointed by the commissioner, and probation and parole agents as defined in W.S. 7-13-401, while investigating violations of this act in performance of their official duties, shall be immune from prosecution under this act. Any person working under the immediate direction, supervision or instruction of a duly authorized peace officer, special agent or other person appointed by the commissioner, may be granted immunity from prosecution under this act by the commissioner. In addition to the foregoing persons, such immunity may also be granted to any person whose testimony is necessary to secure a conviction under this act with the consent of district judge in the district wherein prosecution is to take place. Any person granted immunity under this section shall not be excused from testifying or producing evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to penalty or forfeiture. Any person who except for the provisions of this act, would have been privileged to withhold the testimony given or the evidence produced by him shall not be prosecuted, subjected to any penalty, forfeiture, for or on account of any transaction, matter or thing concerning which, by reason of said immunity, he

gave testimony and produced evidence; and no such testimony given or evidence produced shall be received against him in any criminal proceeding. Provided, no person given immunity under this section shall be exempt from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.

35-7-1044. Peyote delivered, possessed or used for religious sacramental purposes.

Nothing in this act shall be construed to prohibit the delivery, possession or use of peyote in natural form, when delivered, possessed or used for bona fide religious sacramental purposes by members of the Native American Church of Wyoming.

Article VI.

35-7-1045. Duties and powers of law enforcement officers; search warrants.

(a) Notwithstanding the powers conferred upon the attorney general by this act all law enforcement officers within this state shall have the responsibility for the enforcement of this act.

(b) Any special agent designated by the attorney general and any law enforcement officer engaged in the enforcement of this act may:

(i) Carry firearms in the performance of his official duties;

(ii) Serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state;

(iii) Make arrests without warrant for any offense under this act committed in his presence, or if he has probable cause to believe that the person to be arrested has committed, or is committing a violation of this act;

(iv) Make seizures of property pursuant to this act; and

(v) Perform such other law enforcement duties as the commissioner may designate.

(c) All prosecutions originating under this act shall be the duty and obligation of the district attorney for the county in which the offense occurred.

(d) A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the judge or district court commissioner issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

(e) Any officer authorized to execute a search warrant relating to offenses involving controlled substances the penalty for which is imprisonment for more than one (1) year may, without notice of his authority and purpose, break open an outer or inner door or window of a building, or any part of the building, or anything therein, only if a district judge or district court commissioner issuing the warrant: (i) is satisfied that there is probable cause to believe that (A) the property sought may and, if such notice is given, will be easily and quickly destroyed or disposed of, or (B) the giving of such notice will immediately endanger the life or safety of the executing officer or another person; and (ii) has included in the warrant a direction that the officer executing it shall not be required to give such notice. Any officer acting under such warrant, shall, as soon as practicable after entering the premises, identify himself and give the reason and authority for his entrance upon the premises.

35-7-1046. Administrative inspection warrants.

(a) Issuance and execution of administrative inspection warrants for controlled premises as defined in this section shall be as follows:

(i) Any district court judge or district court commissioner upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this act or rules hereunder, and seizures of property appropriate to such inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this act, as it relates to the regulation of the legitimate traffic in controlled substances, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant;

(ii) A warrant shall issue only upon an affidavit of a designated officer or employee of the board or of the commissioner having knowledge of the facts alleged, sworn to before the district judge or district court commissioner establishing the grounds for issuing the warrant. If the district judge or district court commissioner is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

(A) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(B) Be directed to a person authorized by W.S. 35-7-1045 to execute it;

(C) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(D) Identify the item or types of property to be seized, if any;

(E) Direct that it be served during normal business hours and designate the judge to whom it shall be returned.

(iii) A warrant issued pursuant to this section must be executed and returned within ten (10) days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

(iv) The judge or district court commissioner who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the district court for the judicial district in which the inspection was made.

(b) The board may make administrative inspections of controlled premises in accordance with the following provisions:

(i) For purposes of this section only, "controlled premises" means:

(A) Places where persons registered or exempted from registration requirements under this act are required to keep records; and

(B) Places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this act other than an ultimate user are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(ii) When authorized by an administrative inspection warrant issued pursuant to subsection (a) of this section an officer or employee designated by the board or commissioner, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection;

(iii) When authorized by an administrative inspection warrant, an officer or employee designated by the board or commissioner may:

(A) Inspect and copy records required by this act to be kept;

(B) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found therein, and except as provided in paragraph (b)(v) of this section, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this act; and

(C) Inventory any stock of any controlled substance therein and obtain samples thereof.

(iv) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with the Wyoming Administrative Procedure Act and the rules promulgated thereunder, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(A) If the owner, operator, or agent in charge of the controlled premises consents;

(B) In situations presenting imminent danger to health or safety where a warrant is not constitutionally required;

(C) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(D) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking and a warrant is not constitutionally required; or

(E) In all other situations in which a warrant is not constitutionally required.

(v) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data, unless the owner, operator, or agent in charge of the controlled premises consents in writing.

35-7-1047. Injunctions against violations.

(a) The district courts of this state have jurisdiction to restrain or enjoin violations of this act.

(b) The defendant may demand trial by jury for an alleged violation of an injunction or restraining order under this section.

35-7-1048. Cooperation with federal and other state agencies.

(a) The state board of pharmacy and the commissioner shall cooperate with federal and other state agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, they may:

(i) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(ii) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(iii) Cooperate with the bureau by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement purposes. Unless otherwise provided by law, they shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under privileged communication acts; and

(iv) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(b) Results, information, and evidence received from the bureau relating to the regulatory functions of this act, including results of inspections conducted by it may be relied and acted upon by the board or commissioner in the exercise of the regulatory functions under this act.

35-7-1049. Forfeitures and seizures generally; property subject to forfeiture.

(a) The following are subject to forfeiture:

(i) All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this act;

(ii) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substances in violation of this act;

(iii) All property which is used as a container for property described in paragraph (i) or (ii) of this subsection;

(iv) All books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used, or intended for use, in violation of this act;

(v) All conveyances including aircraft, vehicles or vessels, knowingly used or intended for use to transport or in any manner to knowingly facilitate the transportation for the sale or receipt of property described in paragraph (i) or (ii) of this subsection may be seized by the commissioner and forfeited to the state pursuant to subsection (e) of this section:

(A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or corporate officer is a consenting party or privy to a violation of this act;

(B) No conveyance is subject to forfeiture under this section by reason of any act committed without the knowledge or consent of the owner;

(C) A conveyance is not subject to forfeiture for a violation of W.S. 35-7-1031(c);

(D) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act.

(vi) All "drug paraphernalia" as defined by W.S. 35-7-1002(a)(xxvii);

(vii) All buildings knowingly used or intended for use to store, manufacture or distribute property described under paragraph (i) or (ii) of this subsection if the owner has knowledge of or gives consent to the act of violation. A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if he did not have knowledge of or give consent to the act;

(viii) Any property or other thing of pecuniary value furnished in exchange for a controlled substance in violation of

this act including any proceeds, assets or other property of any kind traceable to the exchange and any money, securities or other negotiable instruments used to facilitate a violation of this act. Property used or furnished without the consent or knowledge of the owner is not forfeitable under this section to the extent of his interest.

(b) Property subject to forfeiture under this act may be seized by any law enforcement officer of the state upon process issued by any district court or district court commissioner having jurisdiction over the property. Seizure without process may be made if:

(i) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(ii) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal, injunction or forfeiture proceeding based upon this act;

(iii) The board or commissioner has probable cause to believe that the property was used or is intended to be used in violation of this act. Prior to property being seized by any law enforcement officer of the state pursuant to this paragraph, the following procedures shall be followed:

(A) The law enforcement officer shall communicate with the commissioner regarding the facts and circumstances involving the property to be seized. Based upon the information provided, the commissioner shall determine whether probable cause exists that the property identified by the law enforcement officer was used or was intended to be used in a violation of this act;

(B) If the commissioner determines there is probable cause to seize the property, he shall direct the officer to seize the property. At the time of the seizure, the person or persons from whom the property was seized shall be given written notice that the seized property is subject to forfeiture. The notice shall include an advisement that:

(I) The person has the right to attend the hearing required by subsection (c) of this section, but shall not have the right to present evidence or cross examine any witness;

(II) The person will be given at least fifteen (15) days' notice of the time, date and location of the hearing; and

(III) The purpose of the hearing is for a court to determine whether there was probable cause to believe that the property was used or was intended to be used in violation of this act.

(C) If the commissioner determines there is no probable cause to seize the identified property, he shall not authorize the seizure of any property based upon that event or occurrence and the officer shall not seize any property.

(c) Within thirty (30) days of the seizure, a probable cause hearing shall be held in circuit court, in the county where the property was seized to determine whether probable cause existed to seize the property pursuant to paragraph (b)(iii) of this section. One (1) or more of the law enforcement officers who made the seizure shall testify under oath regarding the facts and circumstances which established probable cause to seize the property. The hearing shall be recorded by sound, sound-and-visual or stenographic means. If the court determines, based upon the evidence presented, that at the time of the seizure:

(i) Probable cause did not exist to seize the property, the court shall order the property to be immediately returned to its lawful owner or one (1) of the persons from whom it was seized; or

(ii) Probable cause existed to seize the property, the court shall order that the commissioner may file an action for the forfeiture of the property.

(d) In the event of seizure pursuant to subsection (b) of this section, no action for the forfeiture of property pursuant to this section shall be instituted unless it is brought within one hundred twenty (120) days from the date of seizure or within thirty (30) days following the completion of any criminal prosecution relating to the seizure, whichever is later. All forfeiture proceedings or actions shall be brought by the commissioner.

(e) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the commissioner subject only to the orders and decrees of

the court having jurisdiction over the proceedings. When property is seized under this act, the commissioner shall place the property under seal or otherwise assure the property is maintained under conditions reasonably necessary to preserve the property's value or may sell the property and hold the proceeds thereof if the property is perishable or threatens to decline speedily in value until the forfeiture proceedings have become final as to all parties and all rights of appeal have been exhausted. In order to preserve the property, if cash, the commissioner may deposit funds into a demand deposit account at an institution located within the state of Wyoming.

(f) Before a forfeiture action may be filed and no later than thirty (30) days from the date of entry of an order finding probable cause pursuant to subsection (c) of this section, the commissioner shall serve a notice of seizure and intended forfeiture upon any third party, ascertained after reasonably diligent inquiry, known to have an interest in the property. The notice shall describe the date and location of the seizure, the property seized and the statutory basis for the forfeiture. The notice shall be served in accordance with the Wyoming Rules of Civil Procedure except that service by publication shall not be required. The notice requirements of this subsection shall not apply to the party or parties from whom the property was directly seized.

(g) A court shall not issue any forfeiture order unless the notice under subsection (f) of this section has been accomplished to the satisfaction of the court.

(h) After the commissioner is authorized by the court or by this section to file a forfeiture action, the Wyoming Rules of Civil Procedure shall govern the action unless in conflict with subsections (j) through (n) of this section.

(j) The complaint to seek forfeiture of property under this section shall describe with reasonable particularity:

(i) The approximate value of the property;

(ii) The facts giving rise to the seizure or custody;

(iii) The name and position of the person making the seizure or taking the property into custody;

(iv) The name and address of the owners of the property or those persons who were in possession of the property at the time of the seizure; and

(v) The manner in which all parties reasonably known to have an interest in the property seized were served in accordance with subsection (f) of this section.

(k) In the action for the forfeiture of property, the burden of proof shall be on the commissioner to establish by clear and convincing evidence the extent to which, if any, the property is subject to forfeiture.

(m) Subsequent to the commissioner carrying his burden of proof pursuant to subsection (k) of this section, an interest in property belonging to a third party shall not be forfeited to the extent the third party establishes he has a perfected lien in the property, proves by a preponderance of evidence that he has a perfected priority interest in the property or that he is an innocent owner. For purposes of this subsection:

(i) With respect to a property interest in existence at the time the violation of this act took place, "innocent owner" means a person who held an interest in the property and neither had knowledge of nor consented to the violation;

(ii) With respect to a property interest acquired after the violation of this act has taken place, "innocent owner" means a person who, at the time that person acquired the interest in the property:

(A) Was a bona fide purchaser or seller for value of goods or services or a holder of a bona fide security interest; and

(B) Did not know and was reasonably without cause to believe the property was subject to forfeiture.

(n) The right to trial by jury applies to forfeiture proceedings under this section.

(o) A person's interest in property is not subject to forfeiture to the extent that the forfeiture is grossly disproportionate to the gravity of the offense giving rise to the forfeiture. The commissioner shall have the burden of demonstrating by a preponderance of the evidence that a

forfeiture is not grossly disproportionate. Proportionality shall be decided by the court as follows:

(i) In determining whether a forfeiture is grossly disproportionate, the court shall consider:

(A) The extent to which the property was used or intended to be used in executing the underlying offense;

(B) The value of the property, including both its fair market and subjective value;

(C) The actions of the person involved in the activity giving rise to the forfeiture proceedings;

(D) The severity of the criminal sanctions associated with the actions of the person;

(E) Whether the property constitutes the person's lawful livelihood or means of earning a living;

(F) Whether the offense or attempted offense has severe collateral consequences; and

(G) Any other factors the court deems necessary and relevant.

(ii) If the court finds the forfeiture is grossly disproportionate to the offense, it shall reduce or eliminate the forfeiture as it finds appropriate.

(p) In any forfeiture proceeding under this section, the court shall award a prevailing property owner reasonable:

(i) Attorney fees and costs; and

(ii) Damages.

(q) The proceedings and judgment of forfeiture shall be in rem and shall be against the property itself.

(r) When property is forfeited under this act, the commissioner may:

(i) Retain it for official use; in which case it shall become the property of the state of Wyoming;

(ii) Sell any such property which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;

(iii) Require the board to take custody of the property and remove it for disposition in accordance with law;

(iv) Repealed by Laws 1983, ch. 160, § 2.

(v) Transfer ownership and control of the property to any municipality or political subdivision of the state for its official use; or

(vi) Authorize any law enforcement officer to apply to the district court with jurisdiction for an order providing for destruction of the contraband controlled substances or paraphernalia if no longer necessary for evidentiary purposes, provided, however, that a district court order shall not be necessary for the division of criminal investigation to destroy quantities of contraband controlled substances after the division has tested random samples. The division of criminal investigation shall adopt rules necessary to operate a program to destroy bulk quantities of contraband controlled substances, which shall include:

(A) The photographing and videotaping of the entire bulk amount of seized contraband controlled substances to maintain its evidentiary value and to create exhibits for use in legal proceedings;

(B) The extraction of ten (10) random samples from the entire bulk amount of seized contraband controlled substances for laboratory analysis;

(C) A weighing on properly calibrated scales of both the bulk amount of seized contraband controlled substances and the representative samples;

(D) The additional retention of:

(I) Five (5) ounces of organic material if the controlled substance is marihuana or a substance of similar organic composition;

(II) Five (5) grams of a controlled substance in powdered or crystalline form;

(III) Five-tenths (0.5) of a gram of a controlled substance in liquid form;

(IV) An amount sufficient for testing by experts shall be made available from the additionally retained sample for the purpose of defending criminal charges arising from the possession, use or sale of the controlled substance.

(E) After the testing and retention of samples specified in this paragraph, the commissioner or his designee may order the destruction of the bulk amount of the seized contraband controlled substance in excess of the representative sample and the additional retained samples of the seized contraband controlled substance;

(F) Once the representative samples and the additional retained samples of the contraband controlled substance are no longer necessary for evidentiary purposes, any law enforcement officer, upon authorization from the commissioner, may apply to the district court with jurisdiction for an order providing for the destruction of the remaining contraband controlled substance.

(s) Any controlled substance listed in Schedules I through V that is possessed, transferred, sold or offered for sale in violation of this act is contraband and shall be seized and summarily forfeited to the state. Any controlled substance listed in Schedules I through V which is seized or comes into possession of the state and the owner is unknown, is contraband and shall be summarily forfeited to the state.

(t) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

(u) The failure, upon demand by the commissioner, or his authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(w) Any law enforcement agency of this state may accept, receive, dispose of and expend the property or proceeds from any property forfeited to the federal government or any state and allocated to the agency by the United States attorney general pursuant to 21 U.S.C. 881(e) or any law of another state. The property or proceeds shall be in addition to funds appropriated to the law enforcement agency by the state legislature or any unit of local government. The property or proceeds may be credited to any lawfully created fund or account designated to receive proceeds of forfeitures.

(y) Any law enforcement agency of this state which receives property or proceeds pursuant to subsection (w) of this section shall report to the attorney general on forms to be prescribed by the attorney general:

(i) The receipt of property or proceeds within thirty (30) days from the receipt; and

(ii) The disposition or expenditure of any property or proceeds within ninety (90) days from the disposition or expenditure.

(z) The attorney general shall submit an annual report to the joint appropriations interim committee and the joint judiciary interim committee not later than August 1 concerning recipients and the amount of property and proceeds accepted, received, disposed of or expended during the prior calendar year under this section by law enforcement agencies, other than property subject to summary forfeiture.

(aa) No law enforcement agency of this state shall accept property or proceeds pursuant to subsection (w) of this section if the tender of the property or proceeds is conditioned upon the state law enforcement agency's adoption of federal law enforcement practices and procedure.

(bb) A law enforcement officer may not request, require or in any manner induce any person to execute a document purporting to waive, for purpose of forfeiture under this section, the person's interest in or rights to property seized, and provided:

(i) Any document obtained by a law enforcement officer purporting to waive a person's interest in or right to property seized under this section is null and void; and

(ii) Nothing in this subsection prohibits the commissioner, after a hearing and a finding of probable cause as required by subsection (c) of this section, from requesting a person to waive the person's interest in or rights to property.

35-7-1050. Burden of proof; liability of officers.

(a) It is not necessary for the state to negate any exemption or exception in this act in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this act. The burden of proof of any exemption or exception is upon the person claiming it.

(b) In the absence of proof that a person is the authorized holder of an appropriate registration or order form issued under this act, he is presumed not to be the holder of the registration or form. The burden of proof is upon him to rebut the presumption.

(c) No liability is imposed by this act upon any authorized state, county, or municipal officer engaged in the lawful performance of his duties.

35-7-1051. Review of decisions of board or commissioner.

All final administrative determinations, findings and conclusions of the board or commissioner under this act are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of such decision in accordance with the Administrative Procedure Act. Findings of fact by the board or commissioner, if supported by substantial evidence, are conclusive.

35-7-1052. Educational programs; research.

(a) The commissioner may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs he may:

(i) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(ii) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(iii) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(iv) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(v) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and,

(vi) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(b) The commissioner may encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this act, he may:

(i) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(ii) Make studies and undertake programs of research to:

(A) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this act;

(B) Determine patterns of misuse and abuse of controlled substances and the social effects thereof; and,

(C) Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances.

(iii) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse of controlled substances.

(c) The commissioner may enter into contracts for educational and research activities without performance bonds.

(d) The commissioner shall authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(e) The commissioner may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

Article VII.

35-7-1053. Miscellaneous provisions.

(a) Prosecution for any violation of law occurring prior to the effective date of this act is not affected or abated by this act. If the offense being prosecuted is similar to one set out in Article V of this act, the penalties under Article V apply if they are less than those under prior law.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this act are not affected by this act.

(c) All administrative proceedings pending under prior laws which are superseded by this act shall be continued and brought to a final determination in accord with the laws and rules in effect prior to the effective date of the act. Any substance controlled under prior law which is not listed within Schedules I through V is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(d) The board shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to the effective date of this act and who are registered or licensed by the state.

(e) This act applies to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following its effective date.

35-7-1054. Existing orders and rules.

Any orders and rules promulgated under any law affected by this act and in effect on the effective date of this act and not in conflict with it continue in effect until modified, superseded, or repealed.

35-7-1055. Construction.

This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states which enact similar legislation.

Article VIII.

35-7-1056. Delivery of, or possession with intent to deliver, drug paraphernalia.

It is unlawful for any person to deliver, or possess with intent to deliver, drug paraphernalia. Any person who violates this section is guilty of a crime and, upon conviction, may be imprisoned for not more than six (6) months, fined not more than seven hundred fifty dollars ($750.00), or both.

35-7-1057. Delivery of drug paraphernalia to a minor.

Any adult who violates W.S. 35-7-1056 by delivering drug paraphernalia to a minor is guilty of a crime and, upon conviction, may be imprisoned for not more than five (5) years, fined not more than two thousand five hundred dollars ($2,500.00), or both.

Article IX.

35-7-1058. Definitions.

(a) As used in this section and W.S. 35-7-1059:

(i) "Booby trap" means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of a person making contact with the device. "Booby trap" includes guns, ammunition or explosive devices attached to trip

wires or other triggering mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wire with hooks attached and devices for the production of toxic fumes or gases;

(ii) "Clandestine laboratory operation" means:

(A) Purchasing or procuring chemicals, supplies, equipment or a laboratory location for the illegal manufacture of controlled substances;

(B) Transporting or arranging for the transportation of chemicals, supplies or equipment for the illegal manufacture of controlled substances;

(C) Setting up equipment or supplies in preparation for the illegal manufacture of controlled substances; or

(D) Distributing or disposing of chemicals, equipment, supplies or products used in or produced by the illegal manufacture of controlled substances.

(iii) "Disposal" means abandoning, discharging, depositing, injecting, dumping, spilling, leaking or placing any hazardous or dangerous material into or on any property, land or water so that the material may enter the environment, be emitted into the air or discharged into any waters, including groundwater;

(iv) "Equipment" or "laboratory equipment" means all products, components or materials of any kind when used, intended for use or designed for use in the manufacture, preparation, production, compounding, conversion or processing of a controlled substance in violation of this section or W.S. 35-7-1059. "Equipment" or "laboratory equipment" includes:

(A) Glass reaction vessel;

(B) Separatory funnel;

(C) Glass condensor;

(D) Analytical balance; or

(E) Heating mantle.

(v) "Hazardous or dangerous material" means any substance which because of its quantity, concentration, physical characteristics or chemical characteristics may cause or significantly contribute to an increase in mortality, an increase in serious illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise improperly managed;

(vi) "List I controlled substance precursor" means, including a chemical reagent, any salt, isomer or salt of an isomer of:

(A) Anthranilic acid;

(B) Barbituric acid;

(C) Benzaldehyde;

(D) Benzyl chloride;

(E) Benzyl cyanide;

(F) D-lysergic acid;

(G) Diethyl malonate;

(H) Ephedrine;

(J) Ergonovine;

(K) Ergotamine;

(M) Ethyl malonate;

(N) Ethylamine;

(O) Hydriotic acid;

(P) Insosafrole;

(Q) Malonic acid;

(R) Methylamine;

(S) 3,4-methylenedioxyphenyl-2-propanone;

(T) Morpholine;

(U) N-acetylanthranilic acid;

(W) N-ethylephedrine;

(Y) N-ethylpseudoephedrine;

(Z) N-methylephedrine;

(AA) N-methylpseudoephedrine;

(BB) Norpseudoephedrine;

(CC) Nitroethane;

(DD) Phenyl-2-propanone;

(EE) Phenylacetic acid;

(FF) Phenylpropanolamine;

(GG) Piperidine;

(HH) Piperonal;

(JJ) Propionic anhydride;

(KK) Pseudoephedrine;

(MM) Pyrrolidine;

(NN) Safrole.

(vii) "List II controlled substance precursor" means, including a chemical reagent, any salt, isomer or salt of an isomer of:

(A) Acetic anhydride;

(B) Acetone;

(C) 2-butanone;

(D) Ethyl ether;

(E) Hydrochloric acid;

(F) Iodine;

(G) Potassium permanganate;

(H) Toluene.

(viii) Repealed by Laws 2019, ch. 186, § 2.

35-7-1059. Unlawful clandestine laboratory operations; methamphetamine precursors; presumptively illegal amount; methamphetamine precursor sales limitations; registration requirements; reports; penalties.

(a) It is unlawful for any person to knowingly or intentionally:

(i) Possess a List I or II controlled substance precursor with the intent to engage in a clandestine laboratory operation;

(ii) Possess laboratory equipment or supplies with the intent to engage in a clandestine laboratory operation;

(iii) Sell, distribute or otherwise supply a List I or II controlled substance precursor, laboratory equipment or laboratory supplies knowing it will be used for a clandestine laboratory operation;

(iv) Conspire with or aid another to engage in a clandestine laboratory operation.

(b) A person who violates subsection (a) of this section is guilty of a felony punishable by imprisonment for not more than twenty (20) years, a fine of not more than twenty-five thousand dollars ($25,000.00), or both.

(c) A person who violates subsection (a) of this section is guilty of a felony punishable by imprisonment for not more than twenty-five (25) years, a fine of not more than fifty thousand dollars ($50,000.00), or both if the judge or jury also finds any one (1) of the following conditions occurred in conjunction with that violation:

(i) Illegal possession, transportation or disposal of hazardous or dangerous material or while transporting or causing to be transported materials in furtherance of a clandestine

laboratory operation, there was created a substantial risk to human health or safety or a danger to the environment;

(ii) The intended laboratory operation was to take place or did take place within five hundred (500) feet of a residence, business, church or school; or

(iii) Any phase of the clandestine laboratory operation was conducted in the presence of a person less than eighteen (18) years of age.

(d) A person who violates subsection (a) of this section is guilty of a felony punishable by imprisonment for not more than forty (40) years, a fine of not more than one hundred thousand dollars ($100,000.00), or both if the judge or jury also finds any one (1) of the following conditions occurred in conjunction with that violation:

(i) Use of a firearm;

(ii) Use of a booby trap.

(e) Except as provided in this subsection, no person shall possess a drug product containing more than fifteen (15) grams of ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers. This subsection shall not apply to the following persons who are lawfully possessing drug products in the course of legitimate business:

(i) A retail distributor or wholesaler of drug products registered with the board;

(ii) A wholesale drug distributor licensed by the board;

(iii) A drug manufacturer licensed by the board;

(iv) A pharmacist licensed by the board;

(v) A licensed health care professional possessing the drug products in the course of practicing his profession;

(vi) A person in possession of more than fifteen (15) grams of methamphetamine precursor drugs in the person's home or residence under circumstances consistent with typical medicinal or household use as indicated by, but not limited to, storage

location and possession of products in a variety of strengths, brands, types, purposes and expiration dates.

(f) A person who knowingly or intentionally violates subsection (e) of this section is guilty of a felony punishable by imprisonment for not more than fifteen (15) years, a fine of twenty-five thousand dollars ($25,000.00), or both.

(g) The retail sale of methamphetamine precursor drugs shall be limited as follows:

(i) No person shall obtain more than a total of three and six-tenths (3.6) grams per calendar day, regardless of the number of transactions, of one (1) or more methamphetamine precursor drugs, calculated in terms of the active equivalent of ephedrine base, pseudoephedrine base or phenylpropanolamine base;

(ii) Sales in blister packs, each blister containing not more than two (2) dosage units or, when the use of blister packs is not technically feasible, sales in unit dose packets or pouches;

(iii) No person shall obtain more than nine (9) grams of ephedrine base, pseudoephedrine base or phenylpropanolamine base, of which no more than seven and one-half (7.5) grams can be imported by private or commercial carrier or the United States postal service, during any thirty (30) day period.

(h) No person shall sell in a single retail transaction more than two (2) packages of a product containing methamphetamine precursor drugs. The seller shall maintain a written or electronic list of such sales in a logbook that identifies the products by name, the quantity sold, the names and addresses of purchasers, and the date and time of the sales except that such requirement does not apply to any purchase by an individual of a single sales package if that package contains not more than sixty (60) milligrams of pseudoephedrine. The seller shall maintain each entry in the logbook for not fewer than two (2) years after the date on which the entry is made. The regulated seller who in good faith releases logbook information to federal, state or local law enforcement authorities is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.

(j) A retail distributor of products containing methamphetamine precursors shall sell them in one (1) of the following ways:

(i) Product packages are displayed behind a store counter, in an area not accessible to customers;

(ii) Product packages are displayed in a locked case so that a customer must ask a store employee for assistance in purchasing the product;

(iii) Product packages are displayed within thirty (30) feet of and in the direct line of sight of a cash register or store counter staffed by a store employee and the store employs a reliable alarm system to prevent the theft of multiple product packages;

(iv) Product packages are displayed in a location that is under constant video surveillance and:

(A) Persons examining or removing packages are within the camera's view;

(B) The video camera records recognizable images at least once every ten (10) seconds;

(C) Surveillance images are preserved for at least one hundred sixty-eight (168) hours and are available to law enforcement authorities immediately upon request;

(D) The retail distributor posts a sign in a prominent manner stating that the area is under constant video surveillance;

(E) The retail distributor reports to local law enforcement any theft or suspected thefts.

(k) A person who intentionally or knowingly violates subsection (g), (h) or (j) of this section is guilty of a misdemeanor punishable by a fine of one hundred dollars ($100.00) for a first offense, five hundred dollars ($500.00) for a second offense within two (2) years and one thousand dollars ($1,000.00) and up to six (6) months imprisonment, or both, for a third offense within three (3) years.

(m) A resident or nonresident retailer, manufacturer or wholesaler who distributes ephedrine, pseudoephedrine or

phenylpropanolamine, or their salts, isomers or salts of isomers in Wyoming shall:

(i) Register with the board by submitting an application on a form prescribed by the board and pay a registration fee of twenty-five dollars ($25.00). Where the retailer, manufacturer or wholesaler distributions are conducted at more than one (1) location, each location shall be separately registered. Except as provided in subsection (n) of this section, those facilities registered with the board under W.S. 35-7-1024 on July 1, 2005, shall not be required to register under this section;

(ii) Notify the board of the occurrence of any of the following:

(A) The permanent closing of the retailer, manufacturer or wholesaler outlet;

(B) A change in ownership, name, management or location.

(iii) Be subject to inspection by the board. Inspections shall be conducted during normal business hours and shall be limited to the following:

(A) For retail distribution, inspection of the method of display and sale of any drug products covered by this section;

(B) For manufacturer or wholesaler distribution, inspection of the purchase and sale records of any drug products covered by this section.

(iv) Display the registration issued by the board in a conspicuous location in the place of business;

(v) Repealed By Laws 2011, Ch. 45, § 2.

(n) A registration issued under this section shall be renewed annually, on or before September 30, by submitting a renewal application supplied by the board and paying the renewal fee of twenty-five dollars ($25.00). Renewal applications postmarked after September 30 shall be subject to a late fee of fifty dollars ($50.00) which shall be in addition to the renewal fee.

(o) The board may revoke, suspend or assess an administrative penalty for violations of subsection (m) of this section not to exceed one hundred dollars ($100.00) for a first offense, five hundred dollars ($500.00) for a second offense within two (2) years and one thousand dollars ($1,000.00) for a third offense within three (3) years. Any administrative penalty assessed shall be paid to the board who shall remit the monies to the county treasurer to the credit of the public school fund of the county in which the violation occurred.

(p) For purposes of this section, "methamphetamine precursor drug" means any product that contains ephedrine, pseudoephedrine or phenylpropanolamine or liquid products with ephedrine or pseudoephedrine as the sole active ingredient and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act as a nonprescription drug.

Article X.

35-7-1060. Controlled substance prescription tracking program.

(a) In addition to other duties and responsibilities as provided by this act, the board shall maintain a computerized program to track prescriptions for controlled substances for the purposes of assisting patients, practitioners and pharmacists to avoid inappropriate use of controlled substances and of assisting with the identification of illegal activity related to the dispensing of controlled substances. The tracking program and any data created thereby shall be administered by the board, and the board may charge reasonable fees to help defray the costs of operating the program. Any fee shall be included with and in addition to other registration fees established by the board as authorized in W.S. 35-7-1023. The board shall promulgate rules to administer the tracking program under this section. Rules adopted under this subsection may specify requirements and procedures for practitioners, pharmacists and any other person authorized or required to use the tracking program.

(b) Except as otherwise provided in this subsection, when a practitioner, other than a veterinarian, prescribes a schedule II, III, IV or V controlled substance, the practitioner or his delegate shall search the prescription tracking program for prior prescriptions issued to the patient before first issuing the prescription and as needed thereafter based on current best

practice guidelines for the practitioner's licensed profession, except for prescribed opioids for which the practitioner or his delegate shall repeat the search every three (3) months thereafter for as long as the prescribed opioids remain a part of the patient's treatment. A practitioner who prescribes a schedule V controlled substance shall only be required to search the program as otherwise provided in this subsection if the substance is an opioid. A dispenser, other than a veterinarian, shall electronically file with the board information regarding any prescription for a schedule II, III, IV or V controlled substance dispensed by the dispenser no later than the close of business on the business day immediately following the day the controlled substance was dispensed. The board may grant a reasonable time extension to a dispenser or practitioner who is unable to electronically file or search information as required under this subsection. The board may require the filing of other prescriptions and may specify the manner in which the prescriptions are filed. The board may, by rule and regulation, provide exemptions from the requirements of this subsection including but not limited to exemptions for prescriptions dispensed in certain inpatient health care settings, for settings where the risk for diversion or misuse of medication is found by the board to be minimal and exemptions for emergencies and other situations as determined by the board in consultation with other professional licensing boards that license practitioners who are affected by the requirements of this subsection.

(c) The tracking program shall not be used to infringe on the legal use of a controlled substance. Information obtained through the controlled substance prescription tracking program is confidential and may not be released and is not admissible in any judicial or administrative proceeding, except as follows:

(i) The board may release information to practitioners and practitioner appointed delegates and to pharmacists and pharmacist appointed delegates when the release of the information may be of assistance in preventing or avoiding inappropriate use of controlled substances. The board shall release information to practitioners and practitioner appointed delegates and to pharmacists and pharmacist appointed delegates when the release of the information is necessary to comply with the requirements of subsection (b) of this section;

(ii) The board shall report any information that it reasonably suspects may relate to fraudulent or illegal activity

to the appropriate law enforcement agency and the relevant occupational licensing board;

(iii) The board may release information to the patient to whom the information pertains or his agent or, if the patient is a minor, to his parents or guardian;

(iv) The board may release information to a third party if the patient has signed a consent specifically for the release of his controlled substance prescription information to the specific third party;

(v) The board may release information that does not identify individual patients, practitioners, pharmacists or pharmacies, for educational, research or public information purposes;

(vi) Subject to the rules of evidence, information obtained from the program is admissible in a criminal proceeding or an administrative proceeding involving professional licensing;

(vii) The board may establish data sharing agreements for purposes of this section and may release information to participating states when the release of the information may be of assistance in preventing or avoiding inappropriate use of controlled substances.

(d) Unless there is shown malice, gross negligence, recklessness or willful and wanton conduct in disclosing information collected under this act, the board, any other state agency and any other person or entity in proper possession of information as provided by this section shall not be subject to any civil or criminal liability or action for legal or equitable relief.

(e) The board may apply for and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

(f) The board may conduct a survey or audit of a practitioner's usage of the state computerized program to track prescriptions in relation to the practitioner's prescribing patterns. If the board finds low or inappropriate usage of the program the board shall report its findings to the practitioner's professional licensing board.

35-7-1061. Repealed by Laws 2015, ch. 135, § 2.

35-7-1062. Repealed by Laws 2015, ch. 135, § 2.

35-7-1063. Exceptions to provisions.

(a) The provisions and penalties of this chapter shall not apply to:

(i) The possession or use of hemp or hemp products for any purpose or application;

(ii) Persons in possession of any controlled substances for purposes of disposal in accordance with 21 C.F.R. part 1317.30 and 21 C.F.R. part 1317.35;

(iii) Hemp production, processing or testing in accordance with the provisions of W.S. 11-51-101 through 11-51-107 and 14-3-310.

(b) As used in this section:

(i) "Hemp" or "hemp product" means all parts, seeds and varieties of the plant cannabis sativa l. or a product made from that plant with no synthetic substances and with a THC concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis;

(ii) "Synthetic substance" means as defined by W.S. 11-51-101(a)(viii);

(iii) "THC" means as defined by W.S. 11-51-101(a)(vii).

35-7-1064. Drug overdose; limited immunity from prosecution.

(a) A person who, in good faith, seeks medical assistance for himself or another person is immune from criminal prosecution for an offense listed in subsection (c) of this section if:

(i) The person reasonably believes he or another person is experiencing a drug overdose event;

(ii) The person provides a description of the actual location of the drug overdose event;

(iii) The person remains at the scene of the drug overdose event until a responding law enforcement officer or emergency medical service provider arrives or the person remains at the medical care facility where the person experiencing the drug overdose event is located until a responding law enforcement officer arrives;

(iv) The person cooperates with a responding law enforcement officer, emergency medical service provider or medical care provider, including by providing information about the person experiencing the drug overdose event and the type of substance that may have caused the drug overdose event; and

(v) The offense listed in subsection (c) of this section arises from the same course of events as the drug overdose event.

(b) The immunity from prosecution under subsection (a) of this section shall extend to the person experiencing the drug overdose event if all the conditions specified in subsection (a) of this section are satisfied.

(c) The immunity from prosecution under subsection (a) of this section shall apply to the following offenses:

(i) Possession of a controlled substance under W.S. 35-7-1031(c);

(ii) Use of a controlled substance under W.S. 35-7-1039.

(d) A person experiencing a drug overdose event shall only be eligible to receive immunity from prosecution under this section not more than two (2) times in a twelve (12) month period. The limitations under this subsection shall not apply to the person who seeks medical assistance for himself or another person in accordance with subsection (a) of this section. A person experiencing a drug overdose event shall be eligible to receive immunity for a second time in a twelve (12) month period under this subsection only upon the person completing, after the second qualifying drug overdose event, a drug treatment program approved by the applicable district attorney. The district attorney shall approve a drug treatment program consistent with the results of a substance abuse assessment administered at the expense of the person who experienced the drug overdose event.

(e) As used in this section:

(i) "Drug overdose event" means a condition, including extreme physical illness, a decreased level of consciousness or respiratory depression that a reasonable person would believe requires medical assistance to address and correct resulting from the consumption or use of a controlled substance or another substance combined with a controlled substance;

(ii) "Good faith" does not include seeking medical assistance or immunity under this section as a result of using a controlled substance during the course of a law enforcement agency's execution of a search warrant, arrest warrant or other lawful search or arrest.

(f) Nothing in this section shall be interpreted to:

(i) Prohibit the criminal prosecution of a person for an offense other than the offenses specified in subsection (c) of this section;

(ii) Limit the authority of a law enforcement officer to obtain or use evidence obtained from a report, recording or other statement provided by a person seeking medical assistance for himself or another person under this section to investigate and prosecute an offense other than the offenses listed in subsection (c) of this section.

ARTICLE 11 - WYOMING NARCOTICS AND DRUG ABUSE BOARD

35-7-1101. Established; composition; compensation of members.

There is hereby established the "Wyoming narcotics and drug abuse board". The board shall be composed of the attorney general of Wyoming or his designee, the director of the department of health or his designee and the members of the board of pharmacy. The members shall not receive any compensation in the performance of their duties, but they shall receive per diem, travel expense and mileage expense in the same manner and amount as employees of the state.

ARTICLE 12 - INEDIBLE MEAT RENDERING AND PROCESSING

35-7-1201. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1202. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1203. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1204. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1205. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1206. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1207. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1208. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1209. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1210. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1211. Repealed By Laws 2000, Ch. 37, § 4.

ARTICLE 13 - DONATIONS OF FOOD

35-7-1301. Donation of food; exemption from civil liability.

(a) No person who donates food to a nonprofit organization for use or distribution in providing assistance shall be liable for damages in any civil action resulting from the nature, age, condition or packaging of the donated food except that the exemption does not apply to the willful, wanton or reckless acts of donors which result in injury to recipients of the donated food. For the purposes of this section, "nonprofit organization" includes any corporation organized under W.S. 17-19-101 through 17-19-1807 and does not include organizations which sell or offer to sell donated food.

(b) Any nonprofit organization, which serves or provides food to persons for their consumption as described in subsection (a) of this section, is liable for any injury resulting from the ingesting of the donated food received, accepted, gathered or removed by that organization, only if that injury is caused by a willful, wanton or reckless act of the organization.

(c) Any nonprofit organization that receives any donated food pursuant to subsection (a) of this section shall not sell or offer to sell the donated food.

(d) Nothing in this section is intended to restrict the authority of any appropriate agency to regulate or ban the use of donated food for human consumption.

35-7-1302. Donation of game animals.

(a) Any game animal, including any big game animal, elk, deer, mountain sheep, wild goat, antelope, moose or bear, lawfully taken by a licensed hunter may be donated to a nonprofit organization under the provisions of W.S. 35-7-1301 to feed individuals in need.

(b) Any donated big game meat shall be subject to the following:

(i) Come from an animal in apparent good health prior to slaughter;

(ii) Come from an animal with intact intestines;

(iii) Be field-dressed immediately after slaughter and be handled in a manner in keeping with generally accepted wild game handling procedures;

(iv) Be processed as soon as possible after slaughter by a custom meat processor or custom game processor;

(v) Be clearly marked as "not for sale";

(vi) Be clearly marked as "donated game meat" in letters not less than three-eights (3/8) of an inch in height;

(vii) Shall not come from any road-kill animal and any road-kill animal shall not be eligible for donation under this section.

(c) Any organization receiving donated game meat shall be advised by the donor or meat processor that the meat should be thoroughly cooked prior to human consumption. Prior to serving any donated game meat, the nonprofit organization shall prominently post a sign indicating the meat is donated game meat, the type of meat processing used, and that the meat has not been inspected.

(d) Any game animal in the possession of the Wyoming game and fish department may be donated if the provisions of this section are followed.

(e) No donated game meat shall be bought, sold or offered for sale or barter by any person.

(f) The department of agriculture shall have authority to examine, sample, seize or condemn any donated game meat if the department has reason to believe the meat is unwholesome under the Wyoming Food, Drug and Cosmetic Safety Act, W.S. 35-7-109 et seq.

ARTICLE 14 - FOOD ESTABLISHMENT LICENSING

35-7-1401. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1402. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1403. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1404. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1405. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1406. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1407. Repealed By Laws 2000, Ch. 37, § 4.

35-7-1408. Repealed By Laws 2000, Ch. 37, § 4.

ARTICLE 15 - TOBACCO IMPORTATION

35-7-1501. Federal requirements; placement of labels; penalty.

(a) No person shall import into this state any package of cigarettes that violates any federal requirement for the placement of labels, warnings, or other information, including health hazards, required to be placed on the container or individual package.

(b) No person shall sell or offer to sell a package of cigarettes or affix the stamp or imprint required by W.S. 39-18-101 et seq. on a package of cigarettes unless that package of cigarettes complies with all federal tax laws, federal trademark and copyright laws, and federal laws regarding the placement of labels, warnings or any other information upon a package of cigarettes.

(c) No person shall sell or offer to sell a package of cigarettes or affix the stamp or imprint required by W.S. 39-18-101 et seq. on a package of cigarettes if the package is marked as manufactured for use outside of the United States or if any label or language has been altered from the manufacturer's original packaging and labeling to conceal the fact that the package was manufactured for use outside of the United States.

(d) No person shall affix a stamp, label or decal on a package of cigarettes to conceal the fact that the package was manufactured for use outside of the United States.

(e) No person shall sell or offer to sell a package of cigarettes on which a stamp, label or decal was affixed to conceal the fact that the package was manufactured for use outside of the United States.

(f) The violation of any provision of this section is a misdemeanor punishable as provided by W.S. 6-10-104.

(g) Any package of cigarettes found at any place in this state that is marked for use outside of the United States is declared to be contraband goods and may be seized without a warrant by the department of revenue, by its agents or employees, or by any peace officer in this state when directed or requested by the department to do so. Nothing in this section shall be construed to require the department to confiscate packages of cigarettes that are so marked when it has reason to believe that the owner possesses the cigarettes for personal use and not for resale.

(h) Any cigarettes seized by virtue of the provisions of subsection (g) of this section shall be confiscated, and the department shall destroy the confiscated goods.

35-7-1502. Federal requirements; affixing labels; penalty.

(a) No person shall import into this state any tobacco product that violates any federal requirement for the placement of labels, warnings, or other information, including health hazards, required to be placed on the container or individual package.

(b) No person shall sell or offer to sell any tobacco product unless the package or container of the tobacco product complies with all federal tax laws, federal trademark and

copyright laws, and federal laws regarding the placement of labels, warnings, or any other information upon a package or container of tobacco products.

(c) No person shall sell or offer to sell any tobacco product if the package or container is marked as manufactured for use outside of the United States or if any label or language has been altered from the manufacturer's original packaging and labeling to conceal the fact that the package or container of tobacco products was manufactured for use outside of the United States.

(d) No person shall affix a stamp, label, or decal on a package or container of tobacco products to conceal the fact that the package or container of tobacco products was manufactured for use outside of the United States.

(e) No person shall sell or offer to sell any tobacco product on which a stamp, label, or decal was affixed to conceal the fact that the package or container of tobacco products was manufactured for use outside of the United States.

(f) The violation of any provision of this section is a misdemeanor punishable as provided by W.S. 6-10-104.

(g) Any package or container of tobacco products found at any place in this state that is marked for use outside of the United States is declared to be contraband goods and may be seized without a warrant by the department of revenue, its agents or employees, or by any peace officer in this state when directed or requested by the department to do so. Nothing in this section shall be construed to require the department to confiscate packages or containers of tobacco products that are so marked when it has reason to believe that the owner possesses the tobacco products for personal use and not for resale.

(h) Any tobacco products seized by virtue of the provisions of subsection (g) of this section shall be confiscated, and the department shall destroy the confiscated goods.

ARTICLE 16 - DRUG DONATION PROGRAM

35-7-1601. Short title.

This act shall be known and may be cited as the "Drug Donation Program Act".

35-7-1602. Definitions.

(a) For purposes of this act:

(i) "Prescription drug" means a pharmaceutical drug which is required by any applicable federal or state law to be dispensed only pursuant to a health care provider's prescription;

(ii) "Health care facility" means as defined in W.S. 35-2-901(a)(x) and that is additionally authorized to maintain an inventory of pharmaceutical drugs for dispensing to the facility's patients or residents;

(iii) "Department" means the department of health.

35-7-1603. Drug donation, redispensing and disposal program established; minimum requirements.

(a) The department shall establish pursuant to its rules and regulations a voluntary drug donation and disposal program as provided in this section.

(b) The drug donation and redispensing program shall have the following features:

(i) Any person or entity, including but not limited to a drug manufacturer, physician or health care facility, may donate drugs to the drug donation program;

(ii) Drugs may be donated at a donation site maintained by the department, a take back event approved by the United States drug enforcement agency or at a physician's office, a pharmacy or a health care facility that elects to participate in the program and meets criteria established by the department;

(iii) Drugs shall be redispensed under the drug donation program only if they are in their original, unopened, sealed packaging or, if the outside packaging is opened, the contents are single unit doses that are individually contained in unopened, tamper evident packaging;

(iv) A drug shall not be redispensed within two (2) months of its expiration date or if the drug appears to be adulterated or misbranded in any way;

(v) Drugs in the donation program may be dispensed under the Medical Assistance and Services Act;

(vi) Drugs shall be delivered either to the department's central collection facility, a take back event approved by the United States drug enforcement agency or one (1) of its regional collection facilities;

(vii) Drugs available for redispensing shall be inventoried and posted on a list of drugs available for redispensing on the department's internet website;

(viii) The department shall provide access to computer systems and technical assistance to aid individuals in applying for government and private prescription drug programs and discounts.

(c) To the extent authorized by applicable federal law, the drug drop off and disposal program shall have the following features:

(i) Drop off locations shall be located with donation sites as provided in paragraph (b)(ii) of this section or local law enforcement agencies approved by the United States drug enforcement agency to the extent necessary under federal law;

(ii) Procedures shall be maintained for the documentation of all collected unused medication;

(iii) Procedures shall be maintained for the environmentally safe disposal of unused medications;

(iv) The department shall provide for public education of potential participating consumers about the availability of the drug disposal program and proper and effective disposal of unused medications;

(v) The department shall cooperate with law enforcement agencies to the extent required for the collection under law enforcement supervision or the secure collection, storage, transport and destruction of controlled substances.

35-7-1604. Program participants.

(a) A physician, pharmacy or health care facility that accepts donated drugs under the drug donation program shall

comply with all applicable provisions of state and federal law relating to the storage, distribution and dispensing of such drugs and shall inspect all donated drugs prior to dispensing to determine if they appear to be adulterated or misbranded in any way.

(b) Donated drugs may be distributed to another participating physician, pharmacy or health care facility for dispensing.

(c) Donated drugs shall only be dispensed to a patient pursuant to prescription as required by law.

(d) A physician, pharmacy or health care facility may charge a handling fee for distributing or dispensing drugs under the drug donation program, as established by department rules and regulations, but shall not otherwise resell or charge for donated drugs.

35-7-1605. Participant immunity.

(a) In the absence of bad faith, any person who participates in donating, accepting, distributing or dispensing drugs under this act and in accordance with federal law shall be immune from civil or criminal liability or professional disciplinary action of any kind for any related injury, death or loss. No person, in the absence of bad faith, shall be liable for the bad faith of another relating to the provisions of this act.

(b) The immunity provided by this section shall not decrease or increase the civil or criminal liability of a drug manufacturer, distributor or dispenser that would have existed but for the donation.

35-7-1606. Rules and regulations; agency cooperation.

(a) The department, in cooperation with the Wyoming board of pharmacy, shall promulgate rules and regulations implementing the drug donation program established by this act. Initial rules shall be promulgated within ninety (90) days after the effective date of this act and shall include:

(i) Eligibility criteria and other standards and procedures for participating physicians and health care facilities;

(ii) Necessary forms for administration of the drug donation program, including forms for persons donating, accepting, distributing or dispensing drugs under the program;

(iii) Maximum handling fees;

(iv) Categories of drugs that the program will and will not accept.

ARTICLE 17 - WYOMING TRADITIONAL FOOD ACT

35-7-1701. Short title.

This article is known and may be cited as the "Wyoming Traditional Food Act."

35-7-1702. Definitions.

(a) As used in this article:

(i) "Traditional event or activity" means an occasion where potentially hazardous and not potentially hazardous foods have traditionally been, and are presently, stored and prepared in a private home or a place other than an establishment, which is equipped for the storage and preparation of food for consumption or use in conducting traditional activities, including but not limited to the preparation of food:

(A) For family and nonpaying guests;

(B) For weddings, funerals, potluck dinners, charitable dinners and charitable cook-offs or functions as defined in W.S. 35-7-110(a)(xxix);

(C) For the sales of donated foods which are prepared for consumption and the sales are sponsored by a nonprofit entity as a fundraiser to support its purposes;

(D) For outdoor activities such as picnics, barbeques, roundups, camping or outdoor work conducted by employees or volunteers;

(E) By utilizing kitchen equipment provided by employers as a convenience for the storage and preparation of foods for consumption on the premises by employees and nonpaying guests.

35-7-1703. Wyoming Traditional Food Act; purpose.

Notwithstanding any other provisions of law, there shall be no licensure, permitting, certification, inspection, packaging or labeling required by any state governmental agency or any agency of any political subdivision of the state which pertains to the preparation, serving, use, consumption or storage of foods at a traditional event or activity. Nothing in this article shall preclude an agency from providing assistance, consultation or inspection, when requested by the traditional event or activity organizer.

ARTICLE 18 - RIGHT TO TRY ACT

35-7-1801. Short title.

This article is known and may be cited as the "Right To Try Act."

35-7-1802. Definitions.

(a) As used in this article:

(i) "Eligible patient" means a person who has:

(A) A terminal illness;

(B) Considered all other treatment options currently approved by the United States food and drug administration;

(C) Received a recommendation from a physician for an investigational drug, biological product or device;

(D) Given written, informed consent for the use of the investigational drug, biological product or device or, if the patient is a minor or lacks the mental capacity to provide informed consent, a parent or legal guardian has given written informed consent on the patient's behalf; and

(E) Documentation from a physician that the person meets the requirements of this paragraph.

(ii) "Investigational drug, biological product or device" means a drug, biological product or device that has successfully completed phase one of a clinical trial but has not yet been approved for general use by the United States Food and

Drug Administration and remains under investigation in a clinical trial;

(iii) "Terminal illness" means a disease that, without life-sustaining procedures, will soon result in death or a state of permanent unconsciousness from which recovery is unlikely.

35-7-1803. Availability of investigational drugs, biological products or devices; insurance coverage.

(a) A manufacturer of an investigational drug, biological product or device may make the drug, product or device available to eligible patients in accordance with the provisions of this section. Nothing in this section shall be construed to require a manufacturer to make available any drug, product or device.

(b) A health care insurer may, but is not required to, provide coverage for the cost of an investigational drug, biological product or device.

(c) Nothing in this section expands the coverage provided in W.S. 26-20-301.

35-7-1804. Action against physician license prohibited.

Notwithstanding any other provision of law, the Wyoming state board of medicine shall not revoke, fail to renew, suspend or take any other action against a physician's license issued pursuant to W.S. 33-26-101 et seq., based solely on the physician's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product or device, as long as the recommendations are consistent with medical standards of care.

35-7-1805. Access to investigational drugs, biological products and devices.

An official, employee or agent of this state shall not block or attempt to block an eligible patient's access to an investigational drug, biological product or device. Counseling, advice or a recommendation consistent with medical standards of care from a licensed health care provider is not a violation of this section.

35-7-1806. No cause of action created.

This article does not create a private cause of action against a manufacturer of an investigational drug, biological product or device, or against any other person or entity involved in the care of an eligible patient using the investigational drug, biological product or device, so long as the manufacturer or other person or entity is complying in good faith with the terms of this article.

ARTICLE 19 - SUPERVISED MEDICAL USE OF HEMP EXTRACTS

35-7-1901. Repealed by Laws 2019, ch. 173, § 3.

35-7-1902. Repealed by Laws 2019, ch. 173, § 3.

35-7-1903. Repealed by Laws 2019, ch. 173, § 3.

ARTICLE 20 - VAPOR PRODUCT SAFETY

35-7-2001. Definitions.

(a) As used in this article:

(i) "Child resistant packaging" means packaging that meets the standards set forth in 16 C.F.R. 1700.15(b), as amended as of July 1, 2015, when tested in accordance with the method described in 16 C.F.R. 1700.20, as amended as of July 1, 2015;

(ii) "Liquid nicotine container" means a bottle or other container of a liquid or other substance containing nicotine where the liquid or substance is sold, marketed or intended for use in a vapor product. A liquid nicotine container shall not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed or intended for use in a vapor product provided that the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer;

(iii) "Vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device, including any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used

with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device. "Vapor product" does not include any product regulated as a drug or device by the United States food and drug administration under subchapter V of the Food, Drug and Cosmetic Act.

35-7-2002. Child resistant packaging required.

(a) Any liquid nicotine container sold to consumers in this state shall be sold in child resistant packaging.

(b) Any person who sells a liquid nicotine container in violation of subsection (a) of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than seven hundred fifty dollars ($750.00) for the first violation and by a fine of not more than one thousand five hundred dollars ($1,500.00) for each subsequent violation.

(c) This article shall be enforced by the consumer health services division of the department of agriculture. The division's inspection or enforcement duties under this subsection may be performed by a county or local department of health with which the division has a memorandum of understanding for inspections.

ARTICLE 21 - INDUSTRIAL HEMP

35-7-2101. Repealed by Laws 2019, ch. 173, § 3.

35-7-2102. Repealed by Laws 2019, ch. 173, § 3.

35-7-2103. Repealed by Laws 2019, ch. 173, § 3.

35-7-2104. Repealed by Laws 2019, ch. 173, § 3.

35-7-2105. Repealed by Laws 2019, ch. 173, § 3.

35-7-2106. Repealed by Laws 2019, ch. 173, § 3.

35-7-2107. Repealed by Laws 2019, ch. 173, § 3.

35-7-2108. Repealed by Laws 2019, ch. 173, § 3.

35-7-2109. Repealed by Laws 2019, ch. 173, § 3.

ARTICLE 22 - KRATOM PRODUCT REGULATION

35-7-2201. Definitions.

(a) As used in this act:

(i) "Adulterated" means the addition of a controlled substance, a synthesized alkaloid or semi-synthesized alkaloid into a kratom product;

(ii) "Alkaloid fraction" means a portion of a plant or plant extract that contains primarily alkaloid compounds;

(iii) "Controlled substance" means as defined by W.S. 35-7-1002(a)(iv);

(iv) "Kratom leaf" means the leaf of the mitragyna speciosa plant in fresh, dehydrated or dried form;

(v) "Kratom leaf extract" means the material extracted from a kratom leaf through the application of a solvent consisting of water, ethanol, food-grade carbon dioxide or another solvent allowed by federal or state law to be used in the manufacturing of a food ingredient;

(vi) "Kratom product" means a food or dietary supplement that consists of or contains any part of the kratom leaf, kratom leaf extract or any kratom alkaloid, kratom constituent or kratom metabolite. "Kratom product" shall not include any synthesized alkaloid or semi-synthesized alkaloid;

(vii) "Retailer" means a business of any kind at a specific location that sells kratom products to a user or consumer;

(viii) "Semi-synthesized alkaloid" means an alkaloid or alkaloid derivative contained in kratom leaf extract that has been exposed to chemicals or processes that would confer a structural change in the alkaloids, including but not limited to oxidation, reduction and ring opening and closing, resulting in material that has been chemically altered;

(ix) "Synthesized alkaloid" means an alkaloid or alkaloid derivative of the kratom leaf that has been created by chemical synthesis or biosynthetic means, including fermentation, recombinant techniques, yeast-derived techniques and enzymatic techniques. "Synthesized alkaloid" shall not include an alkaloid or alkaloid derivative of the kratom leaf

that has been created by traditional food preparation techniques, including but not limited to heating or extracting;

(x) "This act" means W.S. 35-7-2201 through 35-7-2203.

35-7-2202. Kratom product regulation; penalties.

(a) A person is guilty of a violation of this act if the person:

(i) Knowingly prepares, distributes, delivers, advertises, sells or offers for sale a kratom product:

(A) That is adulterated;

(B) To a person less than twenty-one (21) years of age;

(C) That contains a level of 7-hydromitragynine in the alkaloid fraction that is greater than two percent (2%) of the alkaloid composition of the kratom product;

(D) That is a confection, mimics a candy product or is manufactured, packaged, labeled or distributed in a way that is appealing to children, including in the distinct shape of a human, animal or fruit; or

(E) That is combustible or intended for vaporization.

(ii) Knowingly prepares, distributes, delivers, advertises, sells or offers for sale a kratom product that does not have a label that clearly and conspicuously states on each retail package:

(A) The name and address for the place of business of the manufacturer or distributor of the kratom product;

(B) The full list of ingredients of the kratom product;

(C) Disclosure and advice:

(I) Against use by persons who are less than twenty-one (21) years of age, pregnant or breastfeeding;

(II) To consult a health care provider prior to use;

(III) That the use of kratom products may be habit forming;

(IV) That kratom products may interact with certain medications, drugs and controlled substances.

(D) The following statements:

(I) "These statements have not been evaluated by the United States food and drug administration. This product is not intended to diagnose, treat, cure or prevent any disease."; and

(II) "Keep out of reach of children."

(E) Directions for use that include:

(I) A recommended amount of the kratom product per serving;

(II) The number of recommended servings per package;

(III) A recommended number of servings of the kratom product that can be safely consumed in a twenty-four (24) hour period; and

(IV) Quantitative declarations of the amounts of mitragynine and 7-hydroxymitragynine per serving of the kratom product.

(iii) Displays or stores kratom products in a retail location in a manner that would permit the products to be accessed by persons less than twenty-one (21) years of age; or

(iv) Manufactures, packages, distributes or labels a kratom product or delivers a kratom product to a person less than twenty-one (21) years of age that:

(A) Contains synthesized alkaloids or semi-synthesized alkaloids; or

(B) Has a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent (2%) of the alkaloid composition of the product.

(b) A violation of this act is a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars ($1,000.00), or both.

(c) The state chemist shall, pursuant to W.S. 35-7-201 and when requested by law enforcement or the department of health, analyze kratom products to determine whether the requirements of paragraphs (a)(i) and (iv) of this section are being followed.

(d) Any retailer violating this act for a third or subsequent time within a two (2) year period may be subject to an injunction. The department of health or the district attorney of the county in which the offense occurred may petition the district court for an injunction to prohibit the sale of kratom products in the establishment where the violation occurred. If a court finds that the retailer in the action has violated the provisions of this act for a third or subsequent time within a two (2) year period and may continue to violate this act, it may grant an injunction prohibiting the retailer from selling kratom products in the establishment where the violation occurred for a period of not more than one hundred eighty (180) days. For the purposes of this subsection, multiple violations occurring before the petition for the injunction is filed shall be deemed part of the violation for which the injunction is sought. If the person against whom the injunction is sought operates multiple, geographically separate establishments, the injunction shall apply only to the establishment where the violation occurred. The injunction shall prohibit all sales of kratom products in the establishment where the violation occurred, regardless of any change in ownership or management of the establishment that is not a bona fide, arms length transaction while the injunction is in effect.

(e) It is an affirmative defense to a prosecution under this act that, in the case of a sale, the retailer who sold the kratom product was presented with, and reasonably relied upon, an identification card which identified the person buying or receiving the kratom product as being over twenty-one (21) years of age.

(f) Notwithstanding the provisions of this act, no fine for a violation of subsection (a) of this section shall be

imposed for a first offense in any twenty-four (24) month period if a retailer can show it has:

(i) Adopted and enforced a written policy against selling kratom products to persons under the age of twenty-one (21) years;

(ii) Informed its employees of the applicable laws regarding the sale of kratom products to persons under the age of twenty-one (21) years;

(iii) Required employees to verify the age of kratom product customers by way of photographic identification or by means of electronic transaction scan device; and

(iv) Established and imposed disciplinary sanctions for noncompliance.

35-7-2203. Compliance inspections.

(a) The department of health, working with local law enforcement agencies and other local persons and organizations at the discretion of the department, shall be the lead agency to ensure compliance with this act.

(b) The department of health shall develop strategies to coordinate and support local law enforcement efforts to enforce all state statutes relating to the prohibition of the sale of kratom products to persons under twenty-one (21) years of age.

(c) The department of health shall have discretion to:

(i) Work with each local law enforcement agency within the state; and

(ii) Coordinate local enforcement efforts that appropriately reflect the needs of the community.

(d) To coordinate the enforcement of state statutes relating to the prohibition of the sale of kratom products to persons under twenty-one (21) years of age and to comply with applicable federal law, the department of health shall have authority to contract with or provide grants to local law enforcement agencies or other local persons or entities having the appropriate level of enforcement authority on the local level to conduct random, unannounced inspections at retail locations where kratom products are sold. The local law

enforcement agencies or other local persons or entities authorized to conduct inspections shall be permitted to use minors and persons under twenty-one (21) years of age subject to the following:

(i) Prior to the inspection, the local law enforcement agency or other authorized person shall obtain the written consent of the person being used in the inspection or if using a minor, the written consent of the minor's parents or guardian shall be obtained prior to the minor participating in an inspection. The written consent required under this paragraph shall include a notification that testimony in a subsequent court proceeding may be required;

(ii) Any person under twenty-one (21) years of age participating in an inspection shall, if questioned, state his true age and that he is less than twenty-one (21) years of age;

(iii) The appearance of a person under twenty-one (21) years of age shall not be altered to make the person appear to be twenty-one (21) years of age or older;

(iv) Neither a minor nor the minor's parents or guardians shall be coerced into participating in such inspections;

(v) The person conducting the inspection shall photograph the participant immediately before the inspection and any photographs taken of the participant shall be retained by the person conducting the inspection.

(e) The person conducting an inspection under this section shall:

(i) Remain within sight or sound of the participant attempting to make the purchase;

(ii) After an inspection is complete, immediately inform in writing a representative or agent of the business establishment that an inspection has been performed and the results of the inspection;

(iii) Within two (2) days, prepare a report of the inspection containing:

(A) The name of the person who supervised the inspection;

(B) The age and date of birth of the participant who assisted in the inspection;

(C) The name and position of the person from whom the participant attempted to purchase kratom products;

(D) The name and address of the establishment inspected;

(E) The date and time of the inspection; and

(F) The results of the inspection, including whether the inspection resulted in the sale or distribution of, or offering for sale, kratom products to a person under twenty-one (21) years of age.

(iv) Immediately upon completion of the report required under this subsection, provide a copy of the report to a representative or agent of the business establishment that was inspected;

(v) Request a law enforcement officer to issue a citation for any illegal acts relating to providing kratom products to persons under twenty-one (21) years of age during the inspection.

CHAPTER 8 - CEMETERIES AND BURIALS

ARTICLE 1 - IN GENERAL

35-8-101. Survey and platting of cemetery grounds.

Any person, firm, corporation or municipality desiring to maintain a cemetery or to sell lots or parcels of land for cemetery or burial purposes shall cause such land, or such portion thereof as may, from time to time be or become necessary for that purpose, to be surveyed into lots, blocks, streets, avenues and walks, and platted; and the lots and blocks shall be regularly numbered or designated and marked on such plat. The plat of the ground so surveyed and platted, and the dedication of the streets, avenues and walks as set forth therein, shall be duly executed and acknowledged by the person, firm, corporation or municipality owning such property in accord with the requirements for the conveyances of real property and shall be filed and recorded in the office of the county clerk of the county in which the land so platted is situated; and when so

platted, filed and recorded the streets, avenues and walks as therein dedicated to the public, shall be the property of the county in which such cemetery is situated for the use and benefit of the owners of lots and blocks therein.

35-8-102. Conveyance of cemetery lots.

Cemetery lots or blocks may be conveyed by certificates signed by the owner thereof, with the corporate or municipal seal attached and attested by the secretary or clerk in appropriate cases, specifying that the person to whom the same is issued is the owner of the lot or block, described therein by number or other symbol, for the purpose of interment, and such certificate shall vest in the person designated therein, his heirs or assigns, a right in fee simple to such lot or block for the sole purpose of interment, under the regulations of the owner thereof, and such certificate shall be entitled to be recorded in the office of the county clerk in the proper county, without further acknowledgment, and such description of lots shall be deemed and recognized as a sufficient description thereof.

35-8-103. Use of income derived from sale of lots; perpetual care fund; funds to be as a trust; not liable to attachment or garnishment.

The proceeds arising from the sale of lots in any cemetery by any person, firm, corporation or municipality, and all other income and revenue thereof, shall be exclusively applied, appropriated or used in improving, preserving and embellishing such cemetery, and its appurtenances, and to paying the necessary operating expenses thereof, and shall not be applied or appropriated to any purpose of profit to the person, firm, corporation or municipality owning or maintaining same; provided, that any mutual cemetery corporation or municipality may use such income and revenue for purchasing or acquiring additional adjacent grounds for cemetery purposes only; provided, however, any cemetery organized by any individual, group of individuals, corporation or association, except municipal corporations and duly organized cemetery districts shall establish a perpetual care fund in an amount equal to at least ninety cents ($.90) for each square foot of cemetery lot sold after the effective date of this act. In support of, and for the protection of such perpetual care fund, there shall be established a trust fund in such amount and under such terms and conditions, including bonded protection of a permanent and enduring nature, as the insurance commissioner of the state of Wyoming may prescribe to carry out the objectives and

contractual commitments and trust of such individual, corporation or association. In the case of the operation of a mausoleum for the sale of vaults or crypts therein the perpetual care fund shall be twenty percent (20%) of the purchase price. Such fund shall be operated as a perpetual trust according to requirements approved by the insurance department, and shall be used for the benefit of the grave sales and cemetery lots for which deposits shall have been made. The insurance commissioner shall specify securities approved for the investment of the funds which shall include investment of funds with a duly licensed Wyoming bank, trust company, or federal building and loan association, and may require an audit of all of the books and accounts of the cemetery as the need may arise. The cemetery organization shall file a copy of a purchase contract or installment contract for lot or lots, if any there be, with the insurance commissioner when said contract is entered into and shall forthwith notify the insurance commissioner of the final payment or default, if any be made, of such contract or contracts. Any and all funds received and invested as stipulated in this act, and the income therefrom, shall be as a trust and shall not be liable to attachment, garnishment, or other processes, nor shall be seized, taken or appropriated or applied by any legal or equitable processes or operation of law to pay any debt or liability of the person, partnership, association, company or corporation organizing or thereafter operating such cemetery.

35-8-104. Exemption from taxation.

All property of any person, firm, corporation or municipality so platted and dedicated for cemetery purposes, shall be exempt from taxation, assessment, lien, attachment, and from levy and sale upon execution, except for the purchase price thereof.

35-8-105. Prohibited acts; penalty for violation.

Any person, firm, or the managing officer or officers of any corporation or municipality that sells, contracts for sale, or in any other manner disposes of any lot, block or parcel of land for interment or burial of deceased persons therein, either for money or other thing of value, without having complied with all of the provisions of this act, and any person, firm, or the managing officer or officers of any corporation or municipality that uses any of the proceeds, income, revenue or profits from the sale of any lot, block or parcel of land for the interment or burial of deceased persons therein, for his private gain or benefit, excepting only those operating reserve or endowment

fund cemeteries as provided in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof such person or firm or the managing officer or officers of such corporation or municipality shall be fined any sum not to exceed one hundred dollars ($100.00), or be imprisoned in the county jail for not to exceed three (3) months, or both.

ARTICLE 2 - MUNICIPAL CEMETERIES

35-8-201. Power of cities and towns with respect to cemeteries.

In addition to the powers conferred upon them by law, each incorporated city or town in the state of Wyoming shall have power and authority to purchase, hold, and pay for lands, not exceeding eighty (80) acres in one (1) body, outside of the limits of any incorporated city or town, for the purpose of the burial of the dead; to have and exercise such police jurisdiction over the same, and over any cemetery lying near said city or town and used by the inhabitants thereof, as may be necessary for the proper control and regulation of the same; to survey, plat, map, grade, fence, ornament, and otherwise improve all burial and cemetery grounds and the avenues or streets leading thereto, owned by the city or town; to construct walks, rear and protect ornamental trees therein, and provide for paying the cost thereof; to convey cemetery lots owned by such city or town, and to issue deeds of conveyance therefor in such form and with such conditions therein as may be prescribed by the mayor and council of such city or town, which deeds of conveyance shall be signed by the mayor and attested by the city clerk of such city or town; to limit the number of cemetery lots which shall be owned by the same person at the same time; and to prescribe rules for enclosing and adorning cemetery lots, and the erection of monuments and tombstones thereon.

35-8-202. Purchase of grounds outside corporate limits.

For the purpose of carrying out any of the powers conferred by this act, any such city or town may go beyond its corporate limits and purchase, or otherwise acquire, real property.

35-8-203. Bond issue; purposes for which issue authorized; denominations, form, interest and issuance.

An incorporated city or town in the state of Wyoming is authorized, for the purpose of providing funds for purchasing and improving lands for cemetery purposes, to borrow money and

to issue negotiable coupon bonds of the city or town in an amount not exceeding at one (1) time two percent (2%) of the assessed value of the city or town. The bonds shall be of the denominations as the city or town council shall determine, which bonds shall be numbered consecutively from one (1) upward, payable in thirty (30) years from date of issue, and redeemable at the pleasure of the city or town after ten (10) years, and shall bear interest at a rate determined by the city or town council. The bonds when issued shall be signed by the mayor and countersigned by the clerk and the treasurer of the city or town but the bonds shall not be sold for less than their par value.

35-8-204. Bond issue; submission of issue to voters.

No bonds shall be issued for the purpose provided by this article until the proposition to issue the same shall have been submitted to a vote of the qualified electors of the city or town, and by them approved. The proposition shall be submitted at an election called, conducted, canvassed and returned in the manner provided for bond elections by the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112. The proposition so submitted to a vote of the qualified electors shall specify the amount of the bonds proposed to be issued, the rate of interest, and the purpose for which it is proposed to issue the same. It shall be the duty of the city clerk of the city or town to cause ballots to be prepared, either separately from other ballots in case of a special election, or upon other ballots in case of a primary or general election, with the words "for cemetery bonds" and "against cemetery bonds", leaving a place opposite each proposition in which the voter shall mark his vote for or against the bonds. If, upon a canvass of the votes upon such proposition, a majority of the votes be for the issue of the bonds, then the mayor and city council are authorized to issue same as provided in this act.

35-8-205. Bond issue; cemetery bond tax.

There shall be annually levied and collected on all taxable property, real, personal, and mixed, within such city or town, a sufficient tax to pay the interest on said bonds as the same may become due, and to redeem such bonds as provided in this article, which tax shall be levied and collected in the same manner as other city or town taxes; said taxes to be known as the "cemetery bond tax", and shall be used for the payment of interest, principal, and the redemption of the bonds so issued, and for no other purpose. And all moneys collected by such cities or towns from purchasers of cemetery lots, save such

amount as shall be required for the maintenance and improvement of such cemeteries, shall become part of the cemetery bond fund, and shall be used only for the payment of the principal and interest of the bonds in this act authorized to be issued.

35-8-206. Bond issue; bond register.

The city or town treasurer shall keep a book in which shall be registered all such bonds, showing the number of the bond, the date of issue, to whom issued, the amount, the date of redemption, and payment of interest; which book shall be open to all persons to examine the same during business hours.

35-8-207. Bond issue; redemption of bonds.

Any city or town, issuing bonds for the purpose provided in this act, shall each year after the tenth year after the issue of said bonds, redeem at least one-twentieth of the said bonds in the order of their issue.

35-8-208. Bond issue; duty of treasurer upon payment.

It shall be the duty of the city or town treasurer, as rapidly as any coupons of said bonds are paid, to cause the word "paid" to be cut in the same, and as rapidly as said bonds are paid to cause the word "paid" to be cut in the body of the same.

35-8-209. Bond issue; custodian of moneys collected.

The city or town treasurer shall be custodian of all moneys arising from the sale of bonds issued in pursuance of the authority given by this chapter, and he shall give additional bond, or bonds, for the safekeeping and distributing of all such funds, as may be provided by the city or town council.

35-8-210. Ordinances, rules and regulations.

Any such city or town is hereby authorized and empowered to enact all ordinances necessary to the complete exercise of all the powers in this act granted, and to carry out the same, and is authorized to make all ordinances, rules, and regulations for the protection, maintenance, and improvement of such cemeteries, and of all property connected therewith, and all streets, avenues, and roads leading to such cemeteries.

35-8-211. Application.

This act shall apply to all cities and towns in the state of Wyoming whether incorporated by special charter or under general laws, and the taxes herein provided for, shall be in addition to all other taxes provided or authorized by law.

35-8-212. Authority to declare abandoned unoccupied lots; procedure; resale.

Any city, town or special cemetery district may declare abandoned the ownership of any unoccupied lots or parcels of land in municipally owned cemeteries, created under and by virtue of W.S. 35-8-201 through 35-8-211, inclusive, or any special cemetery district whenever there has been no contact with or knowledge of the owners, heirs, or assigns, as the case may be, of such lots or parcels for more than twenty-five (25) years. Prior to declaring such abandonment, notice shall be served by registered mail at the last known address of such owner, heirs, or assigns. In the event that the address cannot be ascertained, notice shall be given by one (1) publication in the official newspaper of the municipality or special cemetery district in which the cemetery is located. Said notice shall allow thirty (30) days for the owner, heirs, or assigns to advise the city or town or special cemetery district of his identity and address; and if he does so, the city or town or special cemetery district shall not declare the abandonment. Upon the failure of the owner, heirs, or assigns to so communicate with the city or town, it may by resolution declare such lots or parcels abandoned. Thereafter, it may resell such lots or parcels, but shall place in trust an amount of money equivalent to the original selling price of such lots or parcels for payment to the owner, heirs, or assigns. Said trust fund shall be placed in legal investments, and the interest received therefrom shall annually be deposited to the city's or town's general fund or the general fund of the special cemetery district. Money received from the resale of such lots and parcels and deposited in said trust fund may be withdrawn by the cities or towns or the special cemetery district and placed in their general fund if not claimed by the owner, heirs, or assigns within twenty-five (25) years after being so deposited. So long as such lots or parcels remain unsold, the owners, heirs, or assigns may reclaim them by identifying themselves and establishing their right to such lots or parcels.

ARTICLE 3 - SPECIAL CEMETERY DISTRICTS

35-8-301. Procedure for proposing establishment of special cemetery district.

(a) Repealed by Laws 1998, ch. 115, § 5.

(b) Repealed by Laws 1998, ch. 115, § 5.

(c) Repealed by Laws 1998, ch. 115, § 5.

(d) Repealed by Laws 1998, ch. 115, § 5.

(e) A special cemetery district may be established under the procedures for petitioning, hearing and election of special districts as set forth in the Special District Elections Act of 1994.

35-8-302. Repealed by Laws 1998, ch. 115, § 5.

35-8-303. Body corporate; name and style; powers generally; rules and regulations of trustees.

Each district established is hereby declared to be a body corporate by the name and style of the .... cemetery district and the name therefor shall be entered upon the commissioners' records and shall be selected by the board of county commissioners of the county in which the greater area of land within the district is located. In the name so selected, the district may hold property and be a party to contracts, shall have power to sue and be sued, shall be empowered through its governing board to acquire real and personal property and equipment for cemetery purposes by gift, devise, bequest or purchase and to enter into contracts for the acquisition by purchase or lease of real and personal property and equipment; to convey, lease and otherwise dispose of its property for cemetery purposes and as a cemetery district, to establish sinking funds for said purposes; to issue bonds for the purchase of real property and improvements and equipment for the same, for cemetery purposes in the manner hereinafter provided, and the trustees thereof shall have power to make such rules and regulations as are necessary for the proper operation of the district and shall file them with the county clerk for each county in which the district is located.

35-8-304. Election of trustees in newly established districts; terms.

An election of six (6) trustees shall be held therein at the same time as the election for formation of the district. Trustees shall serve without compensation to govern the affairs

of the district. There shall be elected three (3) members to serve until the next succeeding district election, and three (3) members to serve until the second succeeding district election and until their successors are elected and qualified.

35-8-305. Procedure for election of trustees in previously existing districts.

In all such districts existing as of January 1, 1999, the terms of directors shall be allowed to expire and a vacancy shall be declared and filled pursuant to W.S. 22-29-201 and 22-29-202 until the next regular scheduled subsequent director election as provided under W.S. 22-29-112. At that election three (3) trustees shall be elected for four (4) year terms and three (3) for two (2) year terms.

35-8-306. Repealed by Laws 1998, ch. 115, § 5.

35-8-307. Repealed by Laws 1994, ch. 99, § 3.

35-8-308. Repealed by Laws 1998, ch. 115, § 5.

35-8-309. Repealed by Laws 1998, ch. 115, § 5.

35-8-310. Repealed by Laws 1998, ch. 115, § 5.

35-8-311. Repealed by Laws 1998, ch. 115, § 5.

35-8-312. Repealed by Laws 1998, ch. 115, § 5.

35-8-313. Repealed by Laws 1998, ch. 115, § 5.

35-8-314. Administration of finances; assessment and levy of taxes.

(a) The assessor shall at the time of making the annual assessment of his district also assess the property of each special cemetery district in his county and return to the county assessor at the time of returning the assessment schedules, separate schedules listing the property of each such district assessed by him. The separate schedules shall be compiled by the county assessor, footed and returned to the board of county commissioners as provided for other assessment schedules.

(b) The board of county commissioners, at the time of making the levy for county purposes shall levy a tax for that year upon the taxable property in such district in its county

for its proportionate share based on assessed valuation of the estimated amount of funds needed by each such district, but in no case shall the tax for such district exceed in any one (1) year the amount of three (3) mills on each dollar of assessed valuation of such property. The taxes and assessments of all special cemetery districts shall be collected by the county collector at the same time and in the same manner as state and county taxes are collected, provided, however, said assessment and tax levied under provisions of this act shall not be construed as being a part of the general county mill levy.

35-8-315. Tax exemption.

The property of such cemetery districts shall be exempt from taxation.

35-8-316. Bond issue; question of issuance to be submitted to electors; amount and interest.

The board of trustees of any cemetery district may, whenever a majority thereof so decide, request the board of county commissioners to submit to the electors of the district the question whether the board of trustees shall be authorized to issue the coupon bonds of the district in a certain amount, not to exceed two percent (2%) of the assessed value of the taxable property in the district, and bearing a certain rate of interest, payable and redeemable at a certain time, not exceeding twenty-five (25) years for the purchase of real property, for the construction or purchase of improvements and for equipment for cemetery purposes.

35-8-317. Bond issue; conduct of election.

The election authorized under W.S. 35-8-316 shall be called, conducted and the results thereof canvassed and certified in all respects as near as practicable in the same manner as is provided for bond elections by the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112.

35-8-318. Bond issue; issuance; form; advertising for bidders; sale.

If the proposal to issue said bonds shall be approved, the board of trustees may issue such bonds in such form as the board may direct and shall give notice by publication in some newspaper published in the counties in which said district is located and in some newspaper of general circulation in the capital of this

state of its intention to issue and negotiate such bonds, and to invite bidders therefor; provided that in no case shall such bonds be sold for less than their full or par value and the accrued interest thereon at the time of their delivery. And the said trustees are authorized to reject any bids, and to sell said bonds at private sale, if they deem it for the best interests of the district.

35-8-319. Bond issue; preparation and execution; certification; to be registered by county treasurer.

After ascertaining the best terms upon and the lowest interest at which said bonds can be negotiated, the board shall secure the proper engraving and printing and consecutive numbering thereof, and said bonds shall thereupon be otherwise properly prepared and executed. They must bear the signature of the president of the board of trustees and be countersigned by the secretary of the board and bear the district seal and be countersigned by the county treasurer of the county in which the funds of the district are kept, and the coupons attached to the bonds must be signed by said president, secretary and county treasurer; and the secretary of the board shall endorse a certificate upon every such bond, that the same is within the lawful debt limit of such district and is issued according to law and he shall sign such certificate in his official character. When so executed, they shall be registered by the county treasurer where said district's funds are kept in a book provided for that purpose, which must show the number and amount of each bond and the person to whom the same is issued.

35-8-320. Bond issue; payment guaranteed.

The full faith and credit of each cemetery district is solemnly pledged for the payment of the interest and the redemption of the principal of all bonds which are issued by such district.

35-8-321. Bond issue; payment of principal and interest.

The county treasurer where said district's funds are kept may pay out of any moneys belonging to said district tax fund, the interest and the principal upon any bonds issued by such district, when the same becomes due, upon the presentation at his office of the proper coupon or bond, which must show the amount due, and each coupon must also show the number of the bond to which it belonged, and all bonds and coupons so paid, must be reported to the district trustees at their first regular meeting thereafter.

35-8-322. Bond issue; validity.

All cemetery districts heretofore formed and organized under the provisions of chapter 58 of the Session Laws of Wyoming, 1949, or under the provisions of chapter 141, Session Laws of Wyoming, 1951, are hereby declared to be duly organized and existing cemetery districts; and all bonds heretofore issued and sold for the purpose of providing for the purchase of real property and improvements and equipment for cemetery purposes, by any cemetery district established under the provisions of chapter 58, Session Laws of Wyoming, 1949, or under the provisions of chapter 141, of the Session Laws of Wyoming, 1951, where the purchase money for such bonds has been actually received and retained or used for the purpose for which such bonds were sold, are hereby declared to be the valid and legally binding obligations of such district and all proceedings under which such bonds were issued are approved, ratified and declared valid.

35-8-323. Districts charged with maintaining existing public cemeteries.

All districts organized under the provisions of this act are charged with the duty of maintaining existing public cemeteries owned and maintained by incorporated cities or towns, or otherwise, within the boundaries of the district; and such maintenance shall be as nearly uniform as possible.

35-8-324. Cemeteries in cities and towns in conflict with special cemetery district.

No incorporated city or town which is or may be included within the boundaries of a special cemetery district organized under the laws of the state of Wyoming, shall purchase, establish, operate, maintain, improve or support a cemetery or cemetery grounds for a period of more than one (1) year after the formation of such cemetery district or for a period of more than two (2) months after the effective date of this act, whichever shall be later.

ARTICLE 4 - VAULTS, CRYPTS AND MAUSOLEUMS

35-8-401. Definitions.

(a) As used in this act:

(i) "Columbarium" means any building, structure or any part of a building or structure which is used for the interment of cremated human remains;

(ii) "Community vault, crypt, columbarium, mausoleum or structure" means one constructed for the purpose of containing the bodies or remains of more than six (6) dead human beings;

(iii) "State department of health" means the state department of health created by W.S. 9-2-101;

(iv) "State insurance commissioner" means the insurance commissioner of Wyoming appointed under W.S. 26-2-102;

(v) "This act" means W.S. 35-8-401 through 35-8-407.

35-8-402. Regulations and specifications generally; application to certain columbariums.

(a) No person, firm, partnership, association, company or corporation shall construct any community vault, crypt, columbarium or mausoleum, wholly or partially above the surface of the ground, to be used to contain the body or remains of any dead human being unless the same shall be located within the confines of an established cemetery containing not less than five (5) acres, which cemetery shall have been in existence and operation for a period of at least five (5) years immediately preceding the time of the erection thereof, nor until plans and specifications therefor shall be approved by the state board of health [department of health]. Such plans and specifications shall set forth the sections, halls, rooms, corridors, elevators or other subdivisions thereof, with their descriptive names and numbers, and shall provide:

(i) That such structure be so arranged that any vault, cell, niche or crypt may be readily examined at any time by any person authorized by law to do so;

(ii) That suitable provision be made for permanently sealing each crypt or cell after the placing of any body therein, and in such manner that no fluid may escape therefrom;

(iii) That the foundation shall extend below the frost line and shall be of reinforced construction;

(iv) That the exterior walls and roof shall be constructed of granite, marble, slate, sandstone, limestone, concrete block masonry or any other material of similar properties that achieves structural integrity and designed to be structurally sound and to withstand exterior weathering;

(v) That exterior doors shall be constructed of granite, marble, slate, sandstone or limestone, bronze or aluminum alloys or any other material or alloy of similar properties;

(vi) That interiors shall be constructed of granite, marble, slate, sandstone, limestone, concrete or any other material of similar properties that achieves structural integrity;

(vii) That the structure shall contain adequate provision for drainage and ventilation;

(viii) That the structure shall be so constructed as to insure its beauty, durability and permanence, as well as the safety, convenience, comfort and health of the community in which it is located, as dictated and determined at the time by modern mausoleum construction and engineering science.

(b) The person making application shall file a certificate of such approval, signed by the state health officer, with a copy of such plans and specifications, in the office of the county clerk of the county wherein such structure is to be erected, and such clerk shall retain the same on file. No crypt, room or niche in any community mausoleum, columbarium or structure shall be sold or offered for sale until such structure shall be entirely completed.

(c) This act shall not apply to any columbarium owned by or for a church if it is less than one-half (1/2) acre in size and is located immediately contiguous to or is part of the church facility and is perpetually cared for. If the church relocates, it shall relocate all urns and remains placed within the columbarium. Any violation of this subsection is subject to the penalty imposed under W.S. 35-8-407.

35-8-403. Supervision of inspector required in erecting structure; compliance with requirements for perpetual care and maintenance.

Such structure shall be erected under the supervision of an inspector to be appointed by the state department of health, which shall determine the amount of his compensation, and the compensation shall be paid by the person, partnership, firm, association, company or corporation erecting the same. No community vault, crypt, niche, mausoleum, columbarium or structure, and no addition or alteration thereof, shall be used for the purpose of interring therein a body or the remains of a deceased human being until the person, partnership, association, company, firm or corporation operating such structure shall have obtained from the department of health a certificate, signed by the state health officer, certifying that the plans and specifications filed pursuant to the provisions of W.S. 35-8-401 and 35-8-402 have been complied with, and from the state insurance commissioner a certificate certifying that the requirements for a perpetual care and maintenance fund set forth in W.S. 35-8-404 have been complied with, which certificates shall be filed in the office of the county clerk of the county wherein the community vault, crypt, niche, mausoleum, columbarium or structure is located.

35-8-404. Perpetual care and maintenance trust fund.

(a) Before any cell, vault, crypt, room or niche in any community mausoleum or columbarium shall be sold, the person, firm, partnership, association, company or corporation operating the same shall first deposit the sum of ten thousand dollars ($10,000.00) in an institution acceptable to the insurance commissioner, which sum shall be designated as a perpetual care and maintenance trust fund and the income therefrom shall be used for the preservation and upkeep of the mausoleum or columbarium. The insurance commissioner shall regularly audit the fund and shall be empowered to formulate and establish regulations governing the fund and its trustee, which regulations shall be designed to insure the permanence and security of the fund. In the event that sales of cells, vaults, crypts, rooms or niches exceed the sum of fifty thousand dollars ($50,000.00) the person, firm, partnership, association, company or corporation operating the mausoleum or columbarium shall deposit the following percentages of all sales exceeding that amount in the perpetual care trust fund, which additional sums shall be subject to the same regulations as the original deposit:

(i) Twenty percent (20%) of the proceeds received from the sale of each cell, vault, crypt, room or niche; provided, however, that the deposit from the sale of a crypt

shall not be less than the sum of one hundred dollars ($100.00) regardless of the sale price thereof;

(ii) Twenty percent (20%) of each payment or installment received from the sale of every cell, vault, crypt, room or niche in the event that a sale is made on a payment or installment plan; provided, however, that the total amount deposited from the sale of any crypt on the payment or installment plan shall not be less than the sum of one hundred dollars ($100.00) regardless of the sale price or the amount of the payment or installment.

(b) In the event that any person, firm, partnership, association, company or corporation operating a community mausoleum, columbarium or structure shall fail to continue the active management thereof, the trustee of the perpetual care and maintenance fund established therefor shall continue to administer the fund subject to audit and regulation by the insurance commissioner and disburse the income for the care and maintenance of the mausoleum or columbarium; provided, however, that the district judge may, upon application made by the county attorney of the county in which the mausoleum or columbarium is located, and good cause shown, order the appointment of a successor trustee and/or disbursement of the principal or interest of the fund.

35-8-405. Removal of body from vault constituting menace to public health; reinterment; cost; construction contrary to W.S. 35-8-401 through 35-8-407 deemed nuisance; enjoining.

When any mausoleum, vault, crypt or structure containing one (1) or more deceased human bodies, shall, in the opinion of the state department of health, become a menace to public health, and the owner or owners shall fail to remedy or remove the same to the satisfaction of the department, the judge of any district court of the state of Wyoming may, upon application by the county attorney of the county in which it is located, order the person, firm, partnership, association, company or corporation owning the structure to remove the deceased body or bodies for interment in some suitable cemetery at the expense of the person, firm, partnership, association, company or corporation owning the mausoleum, vault or crypt. If no person, firm, partnership, association, company or corporation can be found in the county where the mausoleum, vault or crypt is located, the removal and interment shall be at the expense of the cemetery, city, town or county within which the mausoleum, vault or crypt is located, or of the cemetery association in charge of any such

cemetery, provided, however, that if there is a perpetual care and maintenance fund in existence for the care of the mausoleum, vault, crypt or structure, the expense incident thereto may be defrayed from the principal of the fund by order of the district judge. Any columbarium or mausoleum maintained or constructed contrary to the provisions of this act shall be deemed a public nuisance, and may be enjoined in an action brought by any taxpayer of this state in the district court.

35-8-406. Rules and regulations.

The state department of health and the insurance commissioner are hereby empowered and directed to make such rules and regulations as shall in their judgment be necessary for the carrying out of the provisions of this act, which regulations shall have the force and effect of law.

35-8-407. Penalty.

Any person, officer, manager or agent of any firm, partnership, association, company or corporation who violates any provisions of this act shall be fined not more than seven hundred fifty dollars ($750.00), imprisoned not more than six (6) months, or both.

CHAPTER 9 - FIRE PROTECTION

ARTICLE 1 - DEPARTMENT OF FIRE PREVENTION

Division 1. Generally

35-9-101. Department created.

The department of fire prevention and electrical safety is created.

35-9-102. Definitions.

(a) As used in W.S. 35-9-101 through 35-9-130:

(i) "Apprentice electrician" means a person who has insufficient qualifications to be a journeyman electrician and is hired by a licensed electrical contractor to assist a licensed journeyman or master electrician. An apprentice electrician must be registered with the department of fire prevention and electrical safety and must be enrolled in a bona fide program of training approved by the bureau of

apprenticeship and training, United States department of labor, or present evidence directly to the department that he is enrolled in an apprentice training program which provides training equivalent to a program approved by the bureau of apprenticeship and training, United States department of labor;

(ii) "Apprentice technician" means a person who has insufficient qualifications to be a low voltage or a limited technician and is hired by a licensed electrical contractor, low voltage contractor, or limited contractor to assist a licensed low voltage or limited technician. An apprentice technician must be registered with the department of fire prevention and electrical safety and must be enrolled in a training program as approved by the department;

(iii) "Board" means the electrical board;

(iv) "Council" means the council on fire prevention and electrical safety in buildings;

(v) "Department" means the department of fire prevention and electrical safety;

(vi) "Electrical contractor" means a person licensed by the department to contract with another to plan, lay out and supervise the installation of electric equipment. "Electrical contractor" excludes a person who only plans or designs electrical installations;

(vii) "Full-time paid fire fighters" means an individual regularly employed for devoting his entire time of employment to the care, operation and requirements of a regularly constituted fire department;

(viii) "Installation of electric equipment" includes installing, altering and repairing the wiring of apparatus equipment and conductors subject to the National Electrical Code;

(ix) "Journeyman electrician" means a person licensed by the department who has four (4) years experience in the electrical wiring industry and technical knowledge to install and supervise the installation of electrical equipment for any purpose in accordance with the National Electrical Code and city, county and state ordinances and regulations;

(x) "Limited electrical contractor" means a person, licensed by the department to contract with another to plan, lay out and supervise the installation of electrical equipment associated with the type of limited electrical contractor license held. "Limited electrical contractor" excludes a person who only plans or designs electrical installations;

(xi) "Limited technician" means a person licensed by the department who has met the minimum experience requirements as prescribed by board rules and regulations in the portion of the electrical wiring industry covered by his limited license. The limited technician shall have technical knowledge to install and supervise the installation of electrical equipment associated with the type of limited electrical license held in accordance with the National Electrical Code and city, county and state ordinances and regulations;

(xii) "Low voltage electrical contractor" means a person licensed by the department to contract with another to plan, lay out and supervise the installation of electrical equipment associated with the type of limited electrical contractor license held. "Low voltage electrical contractor" excludes a person who only plans or designs electrical installations;

(xiii) "Low voltage technician" means a person licensed by the department who has met the minimum experience requirements as prescribed by board rules and regulations in the portion of the electrical wiring industry covered by his low voltage license. The low voltage technician shall have technical knowledge to install and supervise the installation of electrical equipment associated with the type of low voltage electrical license held in accordance with the National Electrical Code and city, county and state ordinances and regulations;

(xiv) "Master electrician" means a person licensed by the department who has eight (8) years experience in the electrical wiring industry and technical knowledge to plan, lay out and supervise the installation of electric equipment in accordance with the National Electrical Code and city, county and state ordinances and regulations;

(xv) "Master electrician of record" means a Wyoming licensed master electrician who is actively employed by a licensed electrical contractor in a full-time capacity, and who assumes responsibility to ensure that the National Electrical

Code, W.S. 35-9-120 through 35-9-130 and applicable rules of the department of fire prevention and electrical safety are adhered to on all electrical work undertaken by the electrical contractor in the state of Wyoming, and who is not the master electrician of record for, or employed by, any other electrical contractor;

(xvi) "Owner" means the person holding legal title to a building or real property;

(xvii) "Public building" means a building intended for access by the general public;

(xviii) "Remodeling" includes repairing, altering or adding to a building or its electrical system;

(xix) "Technician of record" means a Wyoming licensed low voltage or limited technician who is actively employed by a licensed low voltage or limited electrical contractor in a full-time capacity, and who assumes responsibility to ensure that the National Electrical Code, W.S. 35-9-120 through 35-9-130 and applicable rules of the department of fire prevention and electrical safety are adhered to on all low voltage or limited electrical work undertaken by the low voltage or limited electrical contractor in the state of Wyoming, and who is not the technician of record for, or employed by, any other low voltage or limited electrical contractor.

35-9-103. Divisions created; council and board created.

(a) There are created within the department:

(i) The division of fire prevention;

(ii) The division of electrical safety;

(iii) The council on fire prevention and electrical safety in buildings;

(iv) The electrical board.

(b) The council consists of five (5) members appointed by the governor for six (6) year terms which commence on April 1 following appointment. One (1) member shall be appointed to represent each of the following: counties or municipalities, fire fighters, the electrical board, an association of architects or an association of general contractors and the

general public. Vacancies shall be filled for the unexpired term. When new appointments are made, the council shall select a chairman, a vice chairman and a secretary. A quorum consists of three (3) members. The council shall meet at least twice each year.

(c) The board consists of five (5) members appointed by the governor for six (6) year terms. At least one (1) member and no more than two (2) members shall be journeymen electricians, at least one (1) and no more than two (2) shall be master electricians, and at least one (1) and no more than two (2) shall be electrical contractors. No two (2) members shall be employed by the same entity and serve on the board. Any member who becomes employed by the same entity as another member during his term of office shall be ineligible to continue as a member of the board. Vacancies shall be filled for the unexpired term. When new appointments are made, the board shall select a chairman, a vice chairman and a secretary. A quorum consists of three (3) members. The board shall meet at least twice each year.

(d) The members of the council and board shall receive compensation, per diem and travel expenses in the same manner and amount as the state legislature while going to, attending or returning from meetings. The governor may remove any council or board member as provided in W.S. 9-1-202.

35-9-104. State fire marshal; qualifications.

(a) After consultation with the council, the governor shall appoint a state fire marshal who shall be the director of the department and shall have theoretical knowledge and practical and managerial skill and experience which fits him for the position, as determined by the governor.

(b) Repealed by Laws 1987, ch. 185, § 2.

35-9-105. Division administrators; qualifications.

(a) After consultation with the council and the governor, the state fire marshal shall appoint:

(i) The chief deputy fire marshal, who is the administrator of the fire prevention division. His qualifications shall be the same as the state fire marshal;

(ii) The chief electrical inspector who is the administrator of the electrical safety division. He shall be a master electrician and an electrical inspector certified by the International Code Council or the International Association of Electrical Inspectors.

(b) The chief deputy fire marshal and the chief electrical inspector shall devote full time to the duties of the office and shall be directly responsible to the state fire marshal.

Division 2. Fire Prevention and Electrical Safety

35-9-106. Powers and duties of council.

(a) The council shall adopt rules and regulations to:

(i) Establish minimum fire standards not exceeding the standards prescribed by the International Fire Code, the International Building Code, the International Mechanical Code, the International Existing Building Code and the International Fuel Gas Code for:

(A) All new building construction or remodeling under W.S. 35-9-108(a);

(B) The prevention of fire and the protection of life and property from fire and panic in all existing buildings;

(C) The safeguarding of life and property from hazards of fire and explosion arising from storage, handling and use of hazardous substances, materials and devices.

(ii) Repealed by Laws 2003, Ch. 49, § 3.

(iii) Repealed By Laws 2010, Ch. 84, § 3.

(iv) Implement this section.

(b) The council shall have access to records of the divisions and may require written or oral information from any officer or employee of the department when conducting investigations pursuant to W.S. 35-9-108(p) and 35-9-117.

(c) Except as provided under W.S. 35-9-121(d), 35-9-121.1(d)(ii) and 35-9-124(a)(ii), the council shall hear appeals to determine the suitability of alternate materials and

type of construction and to interpret and grant variances from rules and regulations of the council.

(d) The standards for liquefied petroleum gas installations shall be the current edition of NFPA 58 Liquefied Petroleum Gas Code and ANSI Z223.1/NFPA 54 National Fuel Gas Code. To the extent the standards for liquefied petroleum gas conflict with the standards prescribed by the International Fuel Gas Code, the NFPA 58 Liquefied Petroleum Gas Code and ANSI Z223.1/NFPA 54 National Fuel Gas Code control.

(e) Repealed By Laws 2010, Ch. 84, § 3.

35-9-107. Duties and powers of state fire marshal.

(a) The state fire marshal shall:

(i) Establish administrative policy for the department;

(ii) Adopt regulations in consultation with the board and council to implement this article, excluding the provisions of W.S. 35-9-106 and 35-9-124;

(iii) Implement fire safety programs designed to minimize fire hazards and disasters and loss of life and property from these causes. These programs shall include:

(A) Establishment and enforcement of fire safety and safety practices throughout the state;

(B) Preventive inspection and corrective activities;

(C) Coordination of fire safety programs with volunteer and paid fire companies and other state agencies and political subdivisions;

(D) Critical analysis and evaluation of fire loss statistics to determine problems and solutions;

(E) Coordination, development and implementation of training programs designed to assist fire fighters in all phases of fire prevention and suppression activities except the wild land and forestry division fire control programs implemented by the state forester; and

(F) Acceptance testing on fire alarm systems, fire sprinkler systems and kitchen hood and duct suppression systems.

(iv) Inspect each state owned building not under the authority of a local governmental entity pursuant to W.S. 35-9-121(b) and require conformance to the minimum standards of fire prevention, fire protection and public safety;

(v) Inspect facilities or installations upon request by the owner. The department may charge reasonable fees not exceeding the cost of the inspection;

(vi) Upon request, assist the chief of a fire company or department, a fire marshal, a local building inspector, other state agencies or political subdivisions of the state or county fire wardens in fire prevention matters;

(vii) Keep a record of all fires which occur in the state, including the origin, facts, statistics and circumstances of the fire determined by investigation under this act. The record, except for testimony given in the examination, shall be open for public inspection at all times;

(viii) Upon request, assist a municipality, county or other local governmental entity in exercising authority granted to that entity under W.S. 35-9-121.

(b) The state fire marshal may:

(i) Subject to W.S. 35-9-121(b) and 35-9-121.1(d), enforce state laws not otherwise enforceable by another state agency concerning:

(A) The prevention of fire;

(B) The storage, sale and use of an explosive, combustible or other dangerous article in solid, liquid or gas form;

(C) Repealed By Laws 2003, Ch. 49, § 3.

(D) The suppression of arson and investigation of fire and explosions.

(ii) Subject to W.S. 35-9-121(b), inspect public, business or industrial buildings and require conformance to

standards of prevention and safety and of uses of premises as promulgated by the International Fire Code, the International Building Code, the International Mechanical Code and the International Fuel Gas Code;

(iii) Deputize a member of a fire department who is approved by the chief of his department, or a local building inspector approved by the local governmental entity, provided that the person is qualified to inspect, investigate and carry out orders for the state fire marshal under the rules adopted by the department;

(iv) Employ personnel and contract with appropriate personnel as necessary for the efficient performance of assigned duties.

(c) The state fire marshal shall not interfere with the hookup of a utility to a new or remodeled building either during construction or after construction is completed, unless the state fire marshal determines that the hookup of a utility poses immediate danger to life or property.

35-9-108. Plan review; procedure; fees.

(a) Except as provided under subsections (h) and (q) of this section and W.S. 35-9-118, prior to beginning any new construction, the remodeling of existing buildings or the installation of aboveground flammable or combustible fuel storage tanks, the owner or the owner's designated representative shall submit plans to the state fire marshal for review of the proposed project for compliance with applicable fire and electrical safety standards for:

(i) Buildings or structures owned or leased by the state or local governmental entities;

(ii) Public buildings over five thousand (5,000) square feet of total floor area including basement;

(iii) Multistory public buildings;

(iv) Buildings intended for use as child care centers housing more than ten (10) children;

(v) Public bars, public lounges, restaurants, night clubs, lodge halls, theaters, churches or public meeting places regardless of size;

(vi) Public and private aboveground fuel dispensing facilities.

(b) If the state fire marshal does not notify the sender in writing of violations of the fire or electrical safety standards within twenty-one (21) working days of receiving the plans, they are approved as submitted. If code deficiencies are discovered through inspection by the fire marshal during the construction or remodeling of buildings, the plan and plan review shall be amended to bring the building into compliance with applicable codes.

(c) Plans which are disapproved may be corrected and resubmitted. The state fire marshal shall review only the corrections made in response to the violations cited in the initial review. If the state fire marshal does not notify the sender in writing of violations of the fire and electrical safety standards within ten (10) working days of receiving the corrected plans, they are approved as resubmitted.

(d) The department shall collect fees for plan reviews and other inspections except as provided in subsections (q) and (r) of this section, in the amount provided in the 1997 Uniform Building Code and adjusted for inflation as adopted by rule or regulation by the department. Fees collected under this subsection shall be deposited into the general fund.

(e) For publicly owned buildings, the department may charge fees not in excess of fees authorized under W.S. 35-9-108(d) to any entity for which it performs any plan inspection or review.

(f) Repealed By Laws 2003, Ch. 49, § 3.

(g) Repealed By Laws 2003, Ch. 49, § 3.

(h) Nothing in this section shall apply to municipalities or counties which have received enforcement authority for fire safety standards under W.S. 35-9-121.

(j) Except as provided under subsections (h) and (q) of this section and W.S. 35-9-118, no new construction or remodeling of buildings or installation of aboveground flammable or combustible fuel storage tanks shall begin until the state fire marshal has approved the plans for compliance with applicable fire and electrical safety standards.

(k) If new construction or remodeling of buildings or installation of aboveground flammable or combustible fuel storage tanks is commenced without approved plans, the state fire marshal may order the construction, remodeling or installation to cease until plans are approved, subject to the requirements of subsection (m) of this section.

(m) Orders issued by the state fire marshal pursuant to this section shall be served upon the owner in the manner provided for service of process by the Wyoming Rules of Civil Procedure. The order shall require that the person served immediately cease certain activities until he has complied with the applicable statutory requirements. The order shall be in full force and effect from the time of service until the person complies with the statutory requirement as described in the order, or the order is revoked by the council. If the person fails to cease certain activities as required within forty-eight (48) hours of service, the person is guilty of a misdemeanor.

(n) Except as provided under subsections (h) and (q) of this section and W.S. 35-9-118, after new construction or remodeling of buildings is completed, the state fire marshal shall inspect the building and determine conformance with the plan review or amended plan review. If he finds conformance, the state fire marshal shall issue a certificate of occupancy for a newly constructed building and a letter of compliance for a remodeled building. No newly constructed or remodeled building shall be used or occupied until the state fire marshal has issued a certificate of occupancy or letter of compliance. If a newly constructed or remodeled building is used or occupied prior to the issuance of a certificate of occupancy or letter of compliance, the state fire marshal shall order the use and occupancy of the building to cease until a certificate of occupancy or letter of compliance is issued, subject to the requirements of subsection (m) of this section.

(o) Except as provided under subsections (h) and (q) of this section and W.S. 35-9-118, after the installation of aboveground flammable or combustible fuel storage tanks is completed, the state fire marshal shall inspect the premises and determine conformance with the plan review. If he finds conformance, the state fire marshal shall issue a letter of compliance. No premises with aboveground flammable or combustible fuel storage tanks installed shall be used until the state fire marshal has issued a letter of compliance. If a premise with aboveground flammable or combustible fuel storage

tanks installed is used prior to issuance of a letter of compliance, the state fire marshal shall order the use of the premises to cease until a letter of compliance is issued, subject to the requirements of subsection (m) of this section.

(p) Any owner aggrieved by an order of the state fire marshal may appeal to the council within forty-eight (48) hours. The complaint shall be investigated immediately by direction of the council. Unless the order is revoked by the council, it shall remain in force and the owner shall comply.

(q) A plan review is:

(i) Not required for remodeling that is exempt from permitting under the International Code;

(ii) Required for remodeling that costs less than forty thousand dollars ($40,000.00) and affects a built-in fire protection system for the building, provided a fee of no more than fifty dollars ($50.00) per hour shall be paid to the department for the review;

(iii) Required for remodeling that costs forty thousand dollars ($40,000.00) or more, provided the department shall collect a fee pursuant to subsection (d) of this section;

(iv) Not required to be submitted to the state fire marshal if the plan review is submitted to a local governmental entity which has been granted sole plan review authority pursuant to W.S. 35-9-121(b).

(r) There shall be no inspection fees for school buildings.

(s) Plan reviews may be submitted in phases so that work may begin on the first phase of a project upon approval of the plans for that phase. Subsequent work may begin on each successive phase as plans are approved for each successive phase. Plans for fire alarm systems and fire sprinkler systems shall be submitted as successive phase plans after the initial plans are approved.

(t) Subsections (a) through (s) shall not apply to remodeling that is exempt under subsection (q).

35-9-109. Investigation of fires; notification to fire marshal; powers of fire marshal.

(a) The county fire warden or chief of the fire department of a city, town, county or fire district shall investigate the cause, origin and circumstances of each fire occurring in the city, town, county or district that was reported or subject to emergency response, by which property has been destroyed or damaged.

(b) The officer investigating a fire shall notify the state fire marshal and within one (1) week of the fire shall furnish him a written statement of all facts relating to its cause and origin, and other information required by forms provided by the state fire marshal.

(c) The state fire marshal may investigate the origin or circumstances of any fire or explosion or any attempt to cause a fire or explosion.

(d) In performing the duties imposed by this act, the state fire marshal may:

(i) Enter and examine any building or premises where any fires or attempt to cause fires occurred;

(ii) Enter any building adjacent to that in which a fire or attempt to cause a fire occurred; and

(iii) Take full control and custody of the buildings and premises until his examination and investigations are completed.

35-9-110. Investigation of fires; testimony; subpoena; arrest.

(a) The state fire marshal may take testimony under oath and cause the testimony to be reduced to writing.

(b) When the examination discloses that a fire or explosion was of incendiary origin, the state fire marshal may arrest the supposed incendiary or cause him to be arrested and charged with the crime. The state fire marshal shall transmit a copy of the testimony to the district attorney for the county where the fire, explosion or attempt occurred.

(c) The state fire marshal may:

(i) Subpoena witnesses and compel their attendance before him;

(ii) Cause to be produced papers he requires in the examination; and

(iii) Administer oaths and affirmations to persons appearing as witnesses before him.

35-9-111. Certain structures declared nuisance; repair or demolition; procedure.

(a) A building or structure is a public nuisance if it is especially liable to fire and endangers people, buildings or property in the vicinity. If the state fire marshal, county fire warden, or the chief of a fire department or district finds that a building or structure is especially liable to fire and endangers people, buildings or property in the vicinity, the officer shall order the structure to be repaired, torn down or demolished, all materials removed and all dangerous conditions remedied.

(b) The order shall be in writing, state the grounds and be filed in the office of the clerk of the district court of the county in which the building or structure is situated. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the owner and any occupants of the building or structure with a written notice that the order has been filed and will be put in force unless the owner or occupant files his objections or answer with the clerk of the district court within the time specified in W.S. 35-9-112. A copy of the order shall be posted in a conspicuous place upon the building or structure.

35-9-112. Certain structures declared nuisance; answer to notice or order.

Within twenty (20) days of service of an order under W.S. 35-9-111(b) the owner or occupant may file with the clerk of the district court and serve upon the council an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the court shall affirm the order of condemnation and fix a time in which the order shall be enforced. If an answer is filed and served, the court shall hear and determine the issues raised as provided in W.S. 35-9-113.

35-9-113. Certain structures declared nuisance; hearing.

Upon application of the state fire marshal, county fire warden or the chief of a fire department or district, the court shall order a hearing within twenty (20) days from the date of the filing of the answer. If the court sustains the order, the court shall fix a time within which the order shall be enforced. Otherwise the court shall annul or set aside the order of condemnation.

35-9-114. Certain structures declared nuisance; appeal.

An appeal from the judgment of the district court may be taken by the owner or occupant in accordance with the Wyoming Rules of Appellate Procedure.

35-9-115. Certain structures declared nuisance; sale of materials; expenses constitute lien; disposition of proceeds.

If the owner or occupant fails to comply with an order of condemnation within the time fixed by the court, the state fire marshal, county fire warden or the chief of a fire department or district shall alter, repair or demolish the building or structure in accordance with the order. If a building or structure is demolished in accordance with the order, the state fire marshal, county fire warden or the chief of a fire department or district may dispose of the salvaged materials at public auction upon five (5) days posted notice. He shall keep an accurate account of the expenses incurred in carrying out the order. He shall report his action and present a statement of the expenses incurred by him and the amount received from any salvage sale to the court for approval and allowance. The court shall examine, correct if necessary and allow the expense account. The amount allowed constitutes a lien against the real estate on which the building or structure is or was situated and if the amount is not paid by the owner or occupant within six (6) months after the amount has been examined and approved by the court, the real estate shall be sold under court order by the county sheriff in the manner provided by law for the sale of real estate upon execution. The proceeds of the sale shall be paid into the state treasury. If the amount received as salvage or on sale exceeds the expense incurred by the state fire marshal, county fire warden or the chief of the fire department or district, the court shall direct the payment of the surplus to the previous owner for his use and benefit.

35-9-116. Removal of combustible material; remedy of flammable conditions.

If the state fire marshal, county fire warden or the chief of a fire department or district finds combustible materials or flammable conditions or fire hazards in a building or on premises subject to an inspection and the materials or conditions are dangerous to the safety of the buildings, premises or public, the officer shall order the materials to be removed or conditions remedied. The order shall be in writing and shall be served upon the owner, lessee, agent or occupant. A person who is served and fails to comply within twenty-four (24) hours after service, unless the order prescribes a longer time, is guilty of a misdemeanor. The material may be removed or the condition corrected at the expense of any person served. The state fire marshal, county fire warden or the chief of a fire department or district may maintain actions for the recovery of the expenses. In the event of a hazard of immediate life threatening severity, the state fire marshal, county fire warden or the chief of a fire department or district may order evacuation of a building or area and may implement emergency measures to protect life and property and to remove the hazard.

35-9-117. Removal of combustible material; appeal to council.

An owner or occupant aggrieved by an order of an officer under W.S. 35-9-116 may appeal to the council within forty-eight (48) hours. The cause of the complaint shall be investigated immediately by direction of the council. Unless the order is revoked by the council, it shall remain in force and the owner or occupant shall comply.

35-9-118. Exceptions.

(a) W.S. 35-9-106 through 35-9-117 do not apply to:

(i) Farms or ranches of forty (40) acres or more on deeded land;

(ii) County memorial hospitals, state-owned health care institutions, hospital districts, private hospitals and other health care facilities, except as permitted pursuant to W.S. 35-9-121.1;

(iii) Mines or their appurtenant facilities, oil field operations, petroleum refineries and liquefied petroleum gas facilities;

(iv) Railway shops, railway buildings (except those used for public assembly, cafeterias, dormitories, etc.), rolling stock and locomotive equipment;

(v) Automotive equipment employed by a railway, gas, electric or communication utility in the exercise of its function as a public utility.

(b) Nothing in this section prohibits the state fire marshal from assisting, upon request, another state agency, or an owner or operator of property listed in subsection (a) of this section or a municipality, county or other local governmental entity in exercising authority granted to that entity under W.S. 35-9-121.

35-9-119. Duties of chief electrical inspector.

(a) The chief electrical inspector shall:

(i) Enforce the minimum requirements for electrical installations except in localities which have received enforcement authority for electrical safety standards under W.S. 35-9-121(a);

(ii) Aid cities, towns, counties and inspectors in understanding the National Electrical Code;

(iii) Distribute copies of the National Electrical Code at cost;

(iv) Interpret the National Electrical Code; and

(v) Supervise deputy electrical inspectors.

(b) The chief electrical inspector may investigate electrocution incidents that occur in the state pursuant to W.S. 35-9-131.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the chief electrical inspector, the chief electrical inspector shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order.

35-9-120. Minimum requirements for electrical installations; permits; inspections; fees.

(a) The installation of electric equipment in or on buildings, mobile homes and premises shall be made subject to the applicable minimum requirements of the National Electrical Code. To the extent that any provision in the International Fire Code, the International Building Code, the International Mechanical Code, the International Existing Building Code and the International Fuel Gas Code conflicts with the standards prescribed by the National Electrical Code, the National Electrical Code shall control.

(b) Subject to W.S. 35-9-121(b), the chief electrical inspector and his deputies:

(i) Have the right of ingress or egress to all buildings or other structures owned or leased by the state or local governmental entities during reasonable working hours to make electrical inspections;

(ii) May inspect any building or structure:

(A) With a search warrant issued by a district court after a finding of probable cause that there is a violation of state law regarding electrical installations; or

(B) At any time during construction and within thirty (30) days after completion of the installation for which an electrical wiring permit was issued or an electrical plan review was performed.

(iii) Shall inspect any building or structure within five (5) business days of the request of the owner or the general or electrical contractor installing the electrical equipment.

(c) For any requested electrical inspection conducted or electrical wiring permit issued by the chief electrical inspector or his deputy, a fee established by the department by rule shall be paid by the person or contractor making the request. The electrical wiring permit fee shall be waived for anyone requesting and paying for an electrical inspection. The fees established by the department shall not exceed the following:

(i) Electrical inspection fees for requested inspections:

(A) Each residential unit $20.00

plus $.50 per ampere rating of the electrical service;

(B) Mobile home services $20.00

plus $.50 per ampere rating of mobile home;

(C) Temporary services ..$40.00 each;

(D) Remodels of residential units $20.00

plus 2% of the value of any electrical installation included in the remodel;

(E) All other electrical installations

$20.00

plus $.50 per ampere rating of the electrical service;

(F) Reinspections $50.00

plus $.20 per ampere rating of the electrical service.

(ii) Electrical wiring permit fees. $50.00

(d) Inspection fees pursuant to paragraph (c)(i) of this section shall be charged for requested inspections made on installations that are not under new construction or remodeling.

(e) No person shall install electrical equipment in new construction or remodeling, if the remodeling requires a public utility to connect or disconnect and restore electrical power, of a building, mobile home or premises without obtaining an electrical wiring permit. No public utility shall energize an electrical service for an electrical installation which requires an electrical wiring permit until the person responsible for the electrical installation has obtained an electrical wiring permit. A utility may energize an electrical service in an emergency situation without proof that an electrical wiring permit has been obtained, however the utility shall notify the department of the action as soon as possible, but in no case later than five (5) days following the date that the electrical

service was energized. Electrical wiring permits shall be issued by the chief electrical inspector upon request. Each permit shall explain procedures and costs for permits and requested inspections conducted by the chief electrical inspector or his deputy electrical inspectors. This subsection does not apply to municipalities and counties granted local enforcement authority for electrical safety standards under W.S. 35-9-121(a) and to exempt installations under W.S. 35-9-123(a)(ii) through (v).

(f) Ninety-five percent (95%) of the fees collected pursuant to subsection (c) of this section shall be deposited in a separate account for the purpose of providing additional state electrical inspectors. Five percent (5%) of the fees collected pursuant to subsection (c) of this section shall be deposited in the general fund.

35-9-121. Local enforcement.

(a) The state fire marshal shall delegate complete authority to municipalities and counties which apply to enforce and interpret local or state fire, building, existing building standards or electrical safety standards which meet the requirements of this section. The state fire marshal shall notify the governing body of the municipality or county of the minimum standards and requirements of this act and W.S. 16-6-501 and 16-6-502 and transfer jurisdiction and authority by letter. Except as provided in W.S. 35-9-119(a)(i) and subsection (b) of this section, nothing in this section affects the authority of the state fire marshal or chief electrical inspector regarding state owned or leased buildings. Local enforcement authority under this subsection shall be subject to the following requirements and certification of inspectors:

(i) Before a municipality or county without local enforcement authority is initially granted local enforcement authority for fire, building, existing building standards or electrical standards the state fire marshal shall determine that the local governing body has adopted minimum standards by ordinance or resolution that are equivalent to or more stringent than those applicable standards adopted by the department;

(ii) If a municipality or county that has been granted local enforcement authority under this subsection fails to adopt, within six (6) months following the adoption of new standards by the department, or maintain standards by ordinance or resolution that at least meet the statewide standards, enforcement authority shall immediately revert to the

department. It shall be the responsibility of the municipality or county to notify the department of the repeal of minimum standards in their jurisdiction;

(iii) If code enforcement authority for fire and building codes is requested, certification of a fire inspector or building inspector by the International Code Council or the International Conference of Building Officials is required for any inspector employed or contracted after July 1, 2010 to enforce those codes for the municipality or county;

(iv) If code enforcement authority for the electrical code is requested:

(A) Certification of an electrical inspector by the International Code Council or the International Association of Electrical Inspectors; and

(B) Licensing of an electrical inspector by the state as a journeyman or master electrician is required.

(v) If a municipality or county that has been granted local enforcement authority under this subsection fails to maintain employment of an inspector holding any certification required by this subsection, enforcement authority shall revert to the department one hundred twenty (120) days after the last day the properly certified inspector has left the employment of the municipality or county. It shall be the responsibility of the municipality or county to notify the department upon the termination of employment of any certified inspector required by this subsection.

(b) Notwithstanding the provisions of subsection (a) of this section a local governmental entity is authorized to assume sole plan review authority, and, in accordance with W.S. 35-9-107(a)(iv), that entity has sole construction inspection authority on the approved plans and sole authority for periodic fire and life safety inspections on state owned or leased buildings. For the purpose of this section, school buildings shall be construed to be state buildings. If local code provisions are more stringent than adopted state codes, the local code prevails. The authority granted to local governmental entities under this subsection is subject to certification of local inspectors as follows:

(i) If sole plan review authority is requested, certification of a plan reviewer by the international conference of building officials or the International Code Council;

(ii) If code enforcement authority for fire and building codes is requested, certification of a fire inspector or building inspector by the International Code Council or the International Conference of Building Officials;

(iii) If code enforcement authority for the electrical code is requested:

(A) Certification of an electrical inspector by the International Code Council or the International Association of Electrical Inspectors; and

(B) Licensing of an electrical inspector by the state as a master electrician.

(c) If a municipality or county has assumed enforcement authority for only one (1) or two (2) of the fire, building and electrical standards, the municipality or county shall deliver notice of any project plans submitted to the municipality or county for approval to the department. The notice of the project shall be delivered within ten (10) days of receiving plans from the applicant.

(d) A municipality or county which has enforcement authority under this section shall create its own appeals boards to determine the suitability of alternate materials and types of construction and to interpret and grant variances from adopted codes or standards. The boards shall be appointed and removed by the governing body of the municipality or county, but the person making the decision upon which the appeal is based shall not be a member of the appeal board.

(e) A decision rendered by the local municipal or county appeals board pursuant to subsection (d) of this section may be appealed to the council on fire prevention and electrical safety in buildings for a final decision. A decision of the council may be appealed to the appropriate district court.

(f) Any appeal to a local board under subsection (d) of this section or the council under subsection (e) of this section shall be heard within thirty (30) days of the request for appeal.

(g) Nothing in this section prohibits the state fire marshal from assisting, upon request, a municipality, county or other local governmental entity in exercising authority granted to that entity under this section.

35-9-121.1. Health care facilities; jurisdiction; delegation; rules.

(a) The department of health has jurisdiction over all aspects of construction and remodeling, except electrical installation, of any state licensed health care facility as defined in W.S. 35-2-901.

(b) The fire safety code requirements for the construction and remodeling of any state licensed health care facility shall meet the minimum requirements established in the National Fire Protection Association 101 Life Safety Code or any other code required to meet federal fire and life safety certification. If any code requirements for federal certification conflict with the code of any other state or local governmental entity, the code required for federal certification shall prevail.

(c) The department of health shall promulgate rules and regulations for all aspects of construction and remodeling of health care facilities except electrical installation. For aspects of construction and remodeling included in codes adopted by the council pursuant to W.S. 35-9-106, the rules and regulations shall be based on and not exceed the standards of these codes except where federal certification requirements dictate otherwise.

(d) Upon written request from any county or municipality, the department of health shall delegate plan review and inspection responsibilities to the county or municipality that has personnel who are certified pursuant to the applicable code. The department of health shall transfer jurisdiction and authority by letter. The department of health shall notify the governing body of the municipality or county of the minimum standards and requirements under this section and W.S. 16-6-501 and 16-6-502. The following shall apply:

(i) Any municipality or county may issue a certificate of occupancy for a health care facility. The certificate shall reference any code applied to the construction or remodeling of the facility;

(ii) A municipality or county which has enforcement authority under this subsection shall create its own appeals board to determine the suitability of alternate materials and types of construction.

(e) After construction or remodeling of any health care facility, the department of health shall have jurisdiction over the fire and life safety inspections required for federal certification.

Division 3. Electrical Licensing

35-9-122. Chief electrical inspector responsible for licensing.

The chief electrical inspector is responsible for licensing electrical contractors, master electricians, journeyman electricians, low voltage electrical contractors, limited electrical contractors, low voltage technicians and limited technicians and shall pass on the fitness and qualifications of applicants for licenses. Every applicant for a license under this chapter shall provide his social security number to the chief electrical inspector.

35-9-123. Electrical installations to be performed by licensed electricians; exceptions.

(a) Licensed electrical contractors employing licensed master or journeymen electricians, or registered apprentice electricians supervised by a licensed master or journeyman electrician shall install all electrical equipment. This requirement is waived for the following, however the waiver does not exempt the following persons from meeting all other code requirements under this act:

(i) Property owned or leased by a person when the person, his partner or a major stockholder of a family corporation is installing the equipment and the property is not for immediate resale;

(ii) Oil or gas field operations, including those operations involving exploration, testing, drilling, production or transporting via pipeline of oil or gas, railroads, petroleum refineries, fertilizer manufacturing facilities, foundries, mines and their appurtenant facilities;

(iii) Liquefied petroleum, gas, electric or communication facilities exercising their function as public utilities;

(iv) Cable-TV, satellite-TV and telecommunications, including data and related services of cable-TV, satellite-TV and telecommunications providers including its contractors and subcontractors provided such contractors and subcontractors are limited to the installation of low voltage cable, A.M. or F.M. radio stations, television stations, phone services, internet services, data services and related services;

(v) Farms or ranches of forty (40) acres or more on deeded land;

(vi) Buildings constructed by a school or community college district as part of an industrial arts curriculum, under the direct supervision of a qualified industrial arts instructor. The school or community college district shall have the installations inspected by the state electrical inspector's office or the local enforcement authority, whichever has jurisdiction, to ensure compliance with W.S. 35-9-120;

(vii) Licensed low voltage electrical contractors employing licensed low voltage technicians or registered low voltage apprentice technicians who may install electrical equipment which falls under the scope of their low voltage license or registration. No low voltage contractor may work on electrical systems which exceed ninety (90) volts unless allowed pursuant to this subsection. The chief electrical inspector may issue a low voltage electrical contractor's license to contractors not qualified for an electrical contractor's license but qualified for their low voltage area of expertise for the installation, repair or remodel of:

(A) All electrical systems under ninety (90) volts;

(B) Alarm systems under ninety (90) volts;

(C) Communication systems under ninety (90) volts or current limited communication systems of higher voltage;

(D) Sound systems under ninety (90) volts;

(E) Television systems under ninety (90) volts;

(F) Control systems under ninety (90) volts;

(G) Lawn sprinkler systems under ninety (90) volts.

(viii) Licensed limited electrical contractors employing licensed limited technicians or registered limited apprentice technicians who may install electrical equipment which falls under the scope of their limited license or registration. The electrical work shall only include the electrical system on the load side of the disconnect which supplies power to the electrical equipment that they are licensed to work on. The chief electrical inspector may issue a limited electrical contractor's license to a contractor not qualified for an electrical contractor's license but qualified in his limited area of expertise for the:

(A) Installation, repair or remodel of heating, ventilating and air conditioning systems limited to wiring on the load side of the equipment disconnect;

(B) Installation, repair or remodel of elevator systems limited to wiring on the load side of the equipment disconnect;

(C) Installation, repair or remodel of sign systems limited to wiring on the load side of the equipment disconnect;

(D) Installation, repair or remodel of water well and irrigation systems limited to wiring on the load side of the equipment disconnect;

(E) Routine repair or maintenance of light fixtures limited to replacement of ballasts and fixture parts.

(ix) Employees of rural electric cooperatives, as defined in W.S. 37-17-101(a)(i), when performing the following work:

(A) Installation of new or upgraded service connections or attachments of secondary service wires to any utility point of attachment on all overhead connections of the cooperative's equipment to the cooperative's customer's connections and all underground connections that are in close proximity to conductors in excess of six hundred (600) volts; or

(B) Making repairs on secondary service wires or reattachments of secondary service wires to any utility point of attachment in emergency or outage situations.

(b) Exceptions shall not apply to anyone who contracts or subcontracts to or for any exempt person, partnership or corporation.

35-9-124. Powers and duties of board; appeals.

(a) The board shall:

(i) Adopt rules and regulations to implement this section and to establish minimum standards for:

(A) Training requirements for all classes of electricians;

(B) Licensing requirements for all classes of electricians; and

(C) Reciprocal licenses for any journeyman electrician, master electrician, low voltage technician or limited technician license.

(ii) Regarding the installation of electrical equipment and electrical safety standards, hear appeals to determine the suitability of alternate materials and type of construction and to interpret and grant variances from the National Electrical Code.

(b) Any applicant may appeal a decision of the chief electrical inspector to the board.

(c) The board may suspend or cancel the license of any licensee for a repeated or serious violation of this act or the rules and regulations of the board. A serious violation is any violation that poses a risk of injury or death to persons or is likely to result in property damage exceeding two thousand five hundred dollars ($2,500.00). A repeated violation is one that occurs within two (2) years of any previously documented violation.

(d) Any person whose license is suspended, cancelled or refused by the board may appeal to the appropriate district court.

(e) Repealed By Laws 2010, Ch. 84, § 3.

(f) The board may hear appeals of civil penalties imposed by the department pursuant to W.S. 35-9-130.

(g) The board may enter into and approve reciprocal license agreements with other states if such agreements conform with the conditions and minimum standards required under W.S. 35-9-126(d).

35-9-125. Electrical contractor's, low voltage electrical contractor's and limited electrical contractor's licenses.

(a) On or before July 1 of each year, an electrical contractor shall file with the chief electrical inspector a license application in writing for each of his firms. The applicant shall be or actively employ in a full-time capacity a licensed master electrician of record who assumes responsibility to ensure that the National Electrical Code, W.S. 35-9-120 through 35-9-130 and applicable rules of the department are adhered to on all electrical work undertaken by the electrical contractor in the state of Wyoming, and who is not the master electrician of record for, or employed by, any other electrical contractor. The electrical contractor shall pay the fee required by W.S. 35-9-129 for each firm operated by him. If the applicant qualifies, he shall receive a license which bears the date of issue and expires on July 1 next following the date of issue.

(b) On or before July 1 of each year, a low voltage electrical contractor shall file with the chief electrical inspector a license application in writing for each of his firms. The applicant shall be or actively employ in a full-time capacity a licensed low voltage technician of record who assumes responsibility to ensure that the National Electrical Code, W.S. 35-9-120 through 35-9-130 and applicable rules of the department are adhered to on all electrical work undertaken by the low voltage electrical contractor in the state of Wyoming, and who is not the low voltage technician of record for, or employed by, any other low voltage electrical contractor. The low voltage electrical contractor shall pay the fee required by W.S. 35-9-129 for each firm operated by him. The low voltage electrical contractor's license fee shall be waived for any low voltage electrical contractor not employing additional low voltage technicians or low voltage apprentice technicians other than himself. If the applicant qualifies, he shall receive a

license which bears the date of issue and expires on July 1 next following the date of issue.

(c) On or before July 1 of each year, a limited electrical contractor shall file with the chief electrical inspector a license application in writing for each of his firms. The applicant shall be or actively employ in a full-time capacity a licensed limited technician of record who assumes responsibility to ensure that the National Electrical Code, W.S. 35-9-120 through 35-9-130 and applicable rules of the department are adhered to on all electrical work undertaken by the limited electrical contractor in the state of Wyoming, and who is not the limited technician of record for, or employed by, any other limited electrical contractor. The limited electrical contractor shall pay the fee required by W.S. 35-9-129 for each firm operated by him. The limited electrical contractor's license fee shall be waived for any limited electrical contractor not employing additional limited technicians or limited apprentice technicians other than himself. If the applicant qualifies, he shall receive a license which bears the date of issue and expires on July 1 next following the date of issue.

(d) An electrical contractor, low voltage electrical contractor or limited electrical contractor is entitled to renew his license for the ensuing year by paying the proper fee on or before the date his license expires.

35-9-126. Licensing of master electricians, journeymen electricians, low voltage technicians, limited technicians; temporary permits; reciprocal licenses; master electrician of record for only 1 electrical contractor; technician of record for only 1 low voltage or limited electrical contractor.

(a) Applicants for master electrician, journeymen electrician, low voltage technician and limited technician licenses shall apply to the chief electrical inspector on a form furnished by the department and accompanied by the required examination fee. The form shall state the applicant's full name, his address, the extent of his experience and other information required by the department. An applicant who complies with the rules of the board, is qualified, successfully completes the examination and pays the required license fee shall be issued the proper license by the chief electrical inspector which bears the date of issue. A master license, low voltage technician license and limited technician license shall expire on July 1 in the third year following the year of issue. A journeyman

license shall expire on January 1 in the third year following the year of issue. Credit for time spent in any electrical school shall be given to master electricians, journeyman electricians, low voltage technicians or limited technicians for time spent in classes up to a total of two (2) years, or four thousand (4,000) hours, on the work experience requirements.

(b) Each master electrician, journeyman electrician, low voltage technician or limited technician licensed under this act may renew his license by paying fifty percent (50%) of the proper license fee to the state of Wyoming. Master and journeymen electricians shall provide proof of attendance at not less than sixteen (16) hours of training in the National Electric Code or in advances in the electrical industry meeting criteria established by the department on or before the date his license expires. At least eight (8) of the required sixteen (16) hours of training shall specifically cover the National Electrical Code. An electrician or technician who applies for renewal of his expired license within forty-five (45) days after its expiration and is otherwise entitled to renewal of his license shall have his license renewed by paying an additional fee of fifty dollars ($50.00).

(c) The department shall issue temporary permits to engage in the work of a journeyman electrician, low voltage technician or limited technician to a person who applies, furnishes satisfactory evidence of experience to qualify for the examination and pays the required fee. Temporary permits shall continue in effect not longer than one hundred fifty (150) days and may be revoked by the department at any time.

(d) The department may issue a reciprocal license to any applicant for a journeyman electrician, master electrician, low voltage technician or limited technician license if the applicant has obtained an out-of-state or foreign license through an examination which is equal to or exceeds the Wyoming journeyman electrician's, master electrician's, low voltage technician's or limited technician's examination.

(e) Repealed by Laws 2015, ch. 158, § 2.

(f) Repealed by Laws 2015, ch. 158, § 2.

(g) Repealed by Laws 2015, ch. 158, § 2.

35-9-127. Apprentice electricians and apprentice technicians.

(a) An electrical contractor may employ apprentice electricians to assist a licensed journeyman or master electrician. From and after March 1, 1994, apprentice electricians shall be enrolled in a bona fide program of training approved by the bureau of apprenticeship and training, United States department of labor, or present evidence directly to the department that he is enrolled in an apprentice training program which provides training equivalent to a program approved by the bureau of apprenticeship and training, United States department of labor. The department may monitor the apprenticeship programs and receive necessary progress reports. For purposes of determining whether a program provides equivalent training the department shall consider and apply the current bureau of apprenticeship and training standards. Apprentice electricians shall register with the department and update the registration yearly as required by the department. The electrical contractor shall notify the chief electrical inspector in writing of the name and address of each apprentice electrician employed, and the date of employment or termination of employment within ten (10) days of the action. A licensed journeyman or master electrician shall supervise each apprentice electrician. A licensed journeyman or master electrician shall not supervise more than two (2) apprentice electricians at the same time.

(b) A low voltage or limited electrical contractor may employ apprentice technicians to assist a licensed technician. Apprentice technicians shall be enrolled in a program of training as approved by the department. Apprentice technicians shall register with the department and update the registration yearly as required by the department. The low voltage or limited electrical contractor shall notify the chief electrical inspector in writing of the name and address of each apprentice technician employed, and the date of employment or termination of employment within ten (10) days of the action. A licensed technician shall supervise each apprentice technician. A licensed technician shall not supervise more than one (1) apprentice technician at the same time.

35-9-128. Repealed by Laws 1993, ch. 190, § 2.

35-9-129. Fees.

(a) The fees for licenses, work permits, examinations and apprentice registrations shall be determined by the department but shall not exceed:

(i) Electrical contractor's license $400.00

(ii) Low voltage electrical contractor's license $200.00

(iii) Limited electrical contractor's license $200.00

(iv) Master electrician license $200.00

(v) Journeyman electrician license $100.00

(vi) Low voltage technician's license $100.00

(vii) Limited technician's license $100.00

(viii) Temporary working permit for journeyman electrician, low voltage technician or limited technician $50.00

(ix) Examination fee $300.00

(x) Apprentice registration fee $20.00

(b) Ninety-five percent (95%) of the fees collected pursuant to subsection (a) of this section shall be deposited in a separate account for the purpose of providing additional state electrical inspectors. Five percent (5%) of the fees collected pursuant to subsection (a) of this section shall be deposited in the general fund.

35-9-130. Penalties; civil penalties; other remedies.

(a) A person who violates W.S. 35-9-101 through 35-9-130 commits a misdemeanor punishable as follows:

(i) An individual, including an officer or agent of a corporation or association who participates in or is an accessory to the violation may be punished by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than six (6) months, revocation of his license, or fine, imprisonment and revocation; and

(ii) A corporation may be punished by a fine of not more than one thousand dollars ($1,000.00), revocation of its license or both.

(b) Violators of W.S. 35-9-101 through 35-9-130 may be enjoined from continuing the violation by proceedings brought by the district or county and prosecuting attorney or by the attorney general. The department shall make recommendations to the appropriate district attorney, county and prosecuting attorney or attorney general regarding proceedings under this subsection.

(c) A person who violates W.S. 35-9-123 shall pay a civil penalty in an amount the department determines of not more than five hundred dollars ($500.00) for a first offense, or one thousand dollars ($1,000.00) for any subsequent offense within any three (3) month period. The penalty shall be collected from the violator and credited as provided by W.S. 8-1-109. Notwithstanding subsection (d) of this section, no penalty under this subsection shall be enforceable for sixty (60) days after delivery of the notice of violation or if the violation has been cured or appealed pursuant to subsection (d) of this section within sixty (60) days after issuance of the notice of violation.

(d) Before the department imposes a civil penalty, the department shall notify the person accused of a violation, in writing, stating specifically the nature of the alleged violation. Upon receipt of a notice of violation the person receiving it shall pay the assessed fine to the department within sixty (60) days or file an appeal to the electrical board. The department shall determine the amount of the civil penalty to be imposed in accordance with the limitations expressed in subsection (c) of this section. Each violation is a separate offense. If an appeal is submitted to the electrical board, the board shall hear the appeal at its next regularly scheduled meeting. At the appeal hearing, the electrical board may uphold the proposed fine, rule that the alleged violation is not substantiated, or reduce the amount of the proposed fine.

(e) A civil penalty may be recovered in an action brought thereon in the name of the state of Wyoming in any court of appropriate jurisdiction. Failure to pay the fine imposed by the department and upheld by the electrical board shall result in suspension of the electrical license until such time as the fine is paid in full.

(f) The provisions of subsections (c) through (e) of this section are in addition to and not instead of any other enforcement provisions contained in this article, except that no criminal penalty shall be applicable if a civil penalty has been imposed under this section for the same violation.

35-9-131. Investigation of electrocutions; powers of chief electrical inspector.

(a) Except in cases where a federal agency has and asserts the right to control an investigation under applicable federal law or when an entity or activity involved is regulated by the Wyoming public service commission, the chief electrical inspector, or his designee, may investigate the cause, origin and circumstances of each incident of electrocution or serious injury from electrical contact occurring in the state. In cases where more than one (1) agency has investigative authority over the incident, all agencies shall work together to fully investigate.

(b) In performing the duties imposed by this section, the chief electrical inspector, or his designee, may:

(i) Enter and examine any property, building or premises where any incident occurred;

(ii) Enter any property, building or premises adjacent to that in which an incident occurred;

(iii) Take full control and custody of the buildings and premises until his examinations and investigations are completed; and

(iv) Take testimony under oath and cause the testimony to be reduced to writing. In taking testimony and performing an investigation, the chief electrical inspector or his designee may:

(A) Subpoena witnesses and compel their attendance before him;

(B) Cause to be produced papers he requires in the examination; and

(C) Administer oaths and affirmations to persons appearing as witnesses before him.

(c) When the examination discloses that an incident involved criminal activity, the chief electrical inspector shall transmit a copy of the testimony to the district attorney for the county where the incident occurred.

(d) As used in this section, "incident" means an event in which a person is seriously injured or killed as a result of transient electrical current from an electrical device or installation.

Division 4. Tank System Requirements

35-9-141. Repealed By Laws 1999, ch. 7, § 2.

35-9-142. Repealed By Laws 1999, ch. 7, § 2.

Division 5. Wyoming Emergency Response Act

35-9-151. Short title.

This act shall be known and may be cited as the "Wyoming Emergency Response Act".

35-9-152. Definitions.

(a) As used in this act:

(i) "Emergency responders" means public, state or federal fire services, law enforcement, emergency medical services, public health, public works including certified water and wastewater operators, homeland security and other public response services or agencies that would be involved in direct actions to contain or control a hazardous material release, weapons of mass destruction incident or clandestine laboratory investigation. The term "emergency responders" does not include private on-site facilities with immediate emergency response capabilities unless formally requested to assist off the private facility site by the state or a political subdivision of the state;

(ii) "Emergency response" means a clandestine laboratory investigation or a response to any occurrence, including a weapon of mass destruction incident, which has resulted, or may result, in a release of a hazardous material;

(iii) "Hazardous material" means any substance, material, waste or mixture designated as hazardous material,

waste or substance as defined in 49 C.F.R. part 171.8, as amended as of April 1, 2004;

(iv) "Incident" means the release, or imminent threat of release, of a hazardous material, or a situation involving a potential weapon of mass destruction that requires the emergency action of responders to limit or prevent damage to life or property. "Incident" also includes the discovery of hazardous materials related to clandestine laboratory operations as defined in W.S. 35-7-1058;

(v) "Incident commander" means the person in charge of all responders at the site of an emergency response;

(vi) "Local emergency response authority" means the single point of contact designated for a political subdivision for coordinating responses to incidents;

(vii) "Political subdivision" means any county, city, town or fire protection district of the state;

(viii) "Regional emergency response team" means any group of local government emergency responders brought together and supported by the state and confirmed by the director, department of homeland security to assist an affected jurisdiction within the different regions of the state with the intent to protect life and property against the dangers of incidents and emergencies involving hazardous materials or weapons of mass destruction;

(ix) "Transporter" means an individual, firm, copartnership, corporation, company, association or joint stock association, including any trustee, receiver, assignee, or similar representative, or a government or Indian tribe, or an agency or instrumentality of any government or Indian tribe, that transports a hazardous material to further a commercial enterprise or offers a hazardous material for transportation in commerce. "Transporter" does not include the following:

(A) The United States Postal Service;

(B) Any government or Indian tribe, or an agency or instrumentality of any government or Indian tribe, that transports hazardous material for a governmental purpose.

(x) "Director, department of homeland security" means as defined in W.S. 19-13-102(a)(v);

(xi) "Unified command" means a system of command that allows all parties with jurisdictional or functional responsibility for the incident to work together to develop a common set of incident objectives and strategies, share information, maximize the utilization of available resources and enhance the efficiency of the individual response organizations;

(xii) "Weapons of mass destruction" means as defined in 18 U.S.C. 2332(a) as of April 1, 2004, or as subsequently defined by rules and regulations of the director, department of homeland security;

(xiii) "This act" means W.S. 35-9-151 through 35-9-159.

35-9-153. State emergency response commission; creation; duties.

(a) There is created a state emergency response commission that shall consist of members appointed by the governor to advise the director, department of homeland security and the department of homeland security with respect to activities under this act. The commission shall consist of not less than four (4) members representing the mining, trucking, manufacturing, energy and railroad industries, one (1) member each from the legislature, local government, local law enforcement, fire services, the Eastern Shoshone tribe, the Northern Arapaho tribe, homeland security, the media, the medical field, emergency medical services and the general public, and one (1) representative from each of the following state agencies:

(i) The department of environmental quality;

(ii) The department of health;

(iii) The department of transportation;

(iv) The department of agriculture;

(v) The department of fire prevention and electrical safety;

(vi) The University of Wyoming.

(b) The governor may remove any member as provided in W.S. 9-1-202.

(c) The commission shall appoint a chairman and other officers deemed necessary from among its members. The commission may meet as often as deemed necessary by a majority of the commission or at the request of the director, department of homeland security. Commission members who are not state employees may be reimbursed for per diem and mileage for attending commission meetings in the same manner and amount as state employees.

(d) The governor may give consideration to the geographical location of the commission members, to the extent possible, in order to have broad representation of the geographical areas of the state.

(e) The commission shall review collection and disbursement of funds and advise the director, department of homeland security on activities and responsibilities under this act.

(f) The commission shall, by rule, establish emergency planning districts in accordance with the requirements of 42 U.S.C. 11001 et seq. and in compliance with the Wyoming Administrative Procedure Act, to consist of twenty-three (23) districts corresponding to the jurisdictions of the twenty-three (23) counties of the state. The commission shall appoint members of the local emergency planning committees for each emergency planning district to include representatives required by 42 U.S.C. 11001, et seq. The commission shall annually review memberships and activities of the local emergency planning committees and report to the governor annually on those activities. The commission shall work with each board of county commissioners and city council to promote support by the board for the local emergency planning committee in the county.

(g) The commission shall perform all duties and acts prescribed by 42 U.S.C. 11001 et seq., and all other applicable law, with the assistance of the Wyoming department of homeland security and other state agencies determined to be necessary by the commission.

(h) The commission shall, by rule and regulation, establish standards for protection of the safety of responding personnel during clandestine laboratory incident responses, standards for determining a site uninhabitable under W.S. 35-9-156(d), standards for determining the extent of contamination and standards for remediation required to render

former clandestine laboratory operation sites safe for re-entry, habitation or use with respect to the following:

(i) Decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris;

(ii) Appropriate methods for the testing of buildings and interior surfaces, furnishings, soil and septic tanks for contamination;

(iii) When testing for contamination may be required; and

(iv) When a site may be declared remediated.

(j) The commission shall, by rule and regulation, establish due process standards for the protection of the property interests of real estate owners, subject to subsection (h) of this section.

35-9-154. Emergency response training, planning and reporting.

(a) After consultation with the commission and the state fire marshal, the director, department of homeland security shall:

(i) Coordinate, develop, implement and make available a comprehensive voluntary training program designed to assist emergency responders in hazardous material or weapons of mass destruction incidents;

(ii) Provide for ongoing training programs for political subdivisions, state agency employees and private industry employees involved in responding to hazardous materials or weapons of mass destruction incidents;

(iii) Assist with emergency response planning by appropriate agencies of government at the local, state and national levels.

35-9-155. Regional response teams; rulemaking.

(a) The state, political subdivisions of the state and other units of local government, may contract or coordinate to make available for use in any county, city or fire protection

district any part of a regional emergency response team of appropriately trained personnel and specialized equipment necessary to respond to an incident or emergency.

(b) Members of the regional emergency response teams shall be indemnified and defended from liability by the state self-insurance program:

(i) While engaged in response to incidents outside their normal jurisdiction and pursuant to an appropriate request for assistance; or

(ii) While traveling to or from an operation authorized by this act.

(c) The state may lend equipment and personnel and make grants from available state or federal funds for the purchase of equipment to any local government participating in the regional emergency response program.

(d) The director, department of homeland security, in consultation with the state fire marshal and subject to approval by the state emergency response commission, shall:

(i) Promulgate rules and regulations establishing:

(A) Standards for regional response teams;

(B) Hazardous material emergency response training confirmation;

(C) Local and regional hazardous materials or weapons of mass destruction incident response reporting.

(ii) Establish criteria for providing aid to regional emergency response teams.

35-9-156. Local response authority.

(a) Every political subdivision of the state shall designate a local emergency response authority for responding to and reporting of hazardous material or weapons of mass destruction incidents that occur within its jurisdiction. The designation of a local emergency response authority and copies of any accompanying agreements and other pertinent documentation created pursuant to this section shall be filed with the director, department of homeland security within seven (7) days

of the agreement being reduced to writing and signed by all appropriate persons.

(b) Every local emergency response authority shall coordinate the response to an incident occurring within its jurisdiction in a fashion consistent with standard incident command protocols. The local emergency response authority shall also coordinate the response to an incident which initially occurs within its jurisdiction but which spreads to another jurisdiction. If an incident occurs on a boundary between two (2) jurisdictions or in an area not readily ascertainable, the first local emergency response authority arriving at the scene shall coordinate the initial emergency response and shall be responsible for seeking reimbursement for the incident on behalf of all responding authorities entitled to reimbursement under W.S. 35-9-157(a).

(c) Any unusual incident involving hazardous materials or weapons of mass destruction and any incident involving a clandestine laboratory operation shall be investigated to determine if a criminal act has occurred until it is determined otherwise. To ensure preservation of evidence while mitigating the threat to life and property under this subsection, a command structure with primary command authority by the appropriate law enforcement agency shall be implemented.

(d) The incident commander shall declare an incident ended when he has determined the threat to public health and safety has ended. Until the incident commander has declared the threat to public safety has ended the incident commander shall have the authority to issue an order on behalf of the political subdivision that any portion of the building, structure or land is uninhabitable or contaminated, secure the portion of the building, structure or land that is uninhabitable or contaminated and take appropriate steps to minimize exposure to identified or suspected contamination at the site or premise. If the subject of the site or premise is commercial real estate, the incident commander shall limit the declaration of uninhabitable or contaminated to the areas affected by the clandestine laboratory operation and shall not declare the entire commercial real estate uninhabitable or contaminated unless the entire commercial property has been documented and determined uninhabitable or contaminated using the standards promulgated by the state emergency response commission under W.S. 35-9-153(h). The incident commander shall provide written notice to the commercial real estate owner, describing with specificity the extent of the commercial property deemed

uninhabitable or contaminated. Any property that is ordered uninhabitable or contaminated under this subsection shall only be transferred or sold prior to remediation if full, written disclosure is made to the prospective purchaser, attached to the earnest money receipt if any, and shall accompany the sale documents but not be a part of the deed nor shall it be recorded. The transferor or seller shall notify the incident commander of the transfer or sale within ten (10) days of the transfer or sale. Receipt of full written disclosure under this subsection constitutes a full release of liability on the part of the seller or transferor and acceptance of liability on the part of the buyer or transferee unless otherwise agreed to in writing by the transferor and transferee.

(e) The order issued under subsection (d) of this section shall be in writing, shall state the grounds for the order and shall be filed in the office of the clerk of the district court of the county in which the building or structure is situated. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the owner and any occupants of the building or structure with a written notice that the order has been filed and shall remain in force, unless the owner or occupant files his objections or answer with the clerk of the district court within the time specified in subsection (f) of this section. A copy of the order shall be posted in a conspicuous place upon the building or structure.

(f) Within twenty (20) days of service of an order issued under subsection (d) of this section, the owner or occupant may file with the clerk of the district court and serve upon the political subdivision issuing the order, an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the court shall affirm the order declaring the site uninhabitable and fix a time when the order shall be enforced. If an answer is filed and served, the court shall hear and determine the issues raised as set forth in subsection (g) of this section.

(g) The court shall hold a hearing within eleven (11) days from the date of the filing of the answer. If the court sustains the order, the court shall fix a time within which the order shall be enforced. Otherwise, the court shall annul or set aside the order declaring the property to be uninhabitable.

(h) An appeal from the judgment of the district court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure.

35-9-157. Right to claim reimbursement.

(a) The state, political subdivision of the state or other unit of local government is hereby given the right to claim reimbursement for the costs resulting from action taken to remove, contain or otherwise mitigate the effects of a hazardous materials abandonment, a hazardous materials spill or a weapons of mass destruction incident.

(b) Notwithstanding subsection (a) of this section and except with respect to a response to a clandestine laboratory operation incident, no person shall be liable under this act if the incident was caused by:

(i) An act of God; or

(ii) An act or omission of a person not defined as a transporter under this act, provided that:

(A) The potentially liable person exercised reasonable care with respect to the hazardous material involved, taking into consideration the characteristics of the hazardous material in light of all relevant facts and circumstances; and

(B) The potentially liable person took reasonable precautions against foreseeable acts or omissions of any third person and the consequences that could foreseeably result from those acts or omissions.

(c) Local emergency response authorities and regional emergency response teams shall be entitled to recover their reasonable and necessary costs incurred as a result of their response to a hazardous material or weapons of mass destruction incident. Costs subject to recovery under this act include, but are not limited to, the following:

(i) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the response;

(ii) Remuneration of employees for the time and efforts devoted to responding to a hazardous materials or weapons of mass destruction incident outside the responders' normal jurisdiction;

(iii) A reasonable fee, as established through rules and regulations of the director, department of homeland security, for the use of equipment, including rolling stock, in responding to a hazardous materials or weapons of mass destruction incident outside the responders' normal jurisdiction;

(iv) Rental or leasing of equipment used specifically for the response;

(v) At value replacement costs for equipment owned by the person claiming reimbursement that is contaminated beyond reuse or repair, if the loss occurred as a result of the response;

(vi) Decontamination of equipment contaminated during the response;

(vii) Special technical services specifically requested and required for the response;

(viii) Medical monitoring or treatment of response personnel;

(ix) Laboratory expenses for analyzing samples taken during the response; and

(x) If determined to involve criminal activity, all costs and expenses of the investigation.

(d) Nothing contained in this section shall be construed to change or impair any right of recovery or subrogation arising under any other provision of law.

35-9-158. Expense recovery and civil remedies.

(a) The decision to commence a civil action to recover expenses shall be made by the state, political subdivision of the state or other unit of local government, including local emergency response authorities and regional response teams, in consultation with the attorney general or county or municipal attorney as appropriate. With respect to a civil action to recover expenses for a clandestine laboratory operation incident, the governing body shall first make such claim against the party responsible for the clandestine laboratory operation and shall use the proceeds of any asset forfeiture directly related to the building or structure containing the clandestine

laboratory to offset expenses, including expenses for remediation of the site. Claims of expenses for remediation for a clandestine laboratory operation incident may be made against the owner of a building or structure containing a clandestine laboratory operation only as follows:

(i) The law enforcement agency acting as an emergency responder shall keep an accurate account of the expenses incurred in carrying out the remediation and shall report the actions and present a statement of the expenses incurred and the amount received from any salvage sale to the court for approval and allowance;

(ii) The court shall examine, correct, if necessary, and allow the expense account to the extent the expenses exceed those recovered from the party responsible for the clandestine laboratory operation. If the owner did not know or could not with reasonable diligence have known of the clandestine laboratory operation, the amount recoverable from the owner shall be limited to one percent (1%) of the fair market value as determined by the county assessor of that portion of the building, structure or land declared uninhabitable by the incident commander;

(iii) The amount allowed by the court constitutes a lien against the real property on which a clandestine laboratory operation incident occurred or was situated. If the amount is not paid by the owner within six (6) months after the amount has been examined and approved by the court, the real estate may be sold under court order by the county sheriff in the manner provided by law for the sale of real estate upon execution;

(iv) The proceeds of the sale shall be paid into the treasury of the governing body of the law enforcement agency acting as the emergency responder. If the amount received as salvage or upon sale exceeds the expenses allowed by the court, the court shall direct payment of the surplus to the previous owner for his use and benefit;

(v) Whenever any debt which is a lien pursuant to this subsection is paid and satisfied, the law enforcement agency acting as an emergency responder shall file notice of satisfaction of the lien statement in the office of the county clerk of any county in which the lien is filed; and

(vi) If the expenses of the law enforcement agency exceed the amount allowed by the court pursuant to paragraph

(ii) of this subsection, the law enforcement agency acting as an emergency responder may apply for reimbursement of the excess expenses from the funds as authorized by W.S. 1-40-118(g)(i)(C). If the expenses further exceed amounts available under W.S. 1-40-118(g)(i)(C), the emergency responder may apply for reimbursement from the clandestine laboratory remediation account created pursuant to W.S. 35-9-159(f).

(b) Prior to commencing a civil action for recovery of expenses pursuant to this act, the governmental entity shall afford the person alleged to owe those expenses a reasonable opportunity to engage in nonbinding mediation. Each party to mediation shall bear his own costs and expenses, including a proportionate share of the fees of the mediator.

(c) In the event that the attorney general or county or municipal attorney prevails in a civil action for reimbursement under this act, the court shall award costs of collection including reasonable attorney's fees, investigation expenses and litigation expenses.

(d) Any person who receives remuneration for the emergency response expenses pursuant to any other federal or state law shall be precluded from recovering reimbursement for those expenses under this act. Nothing in this act shall otherwise affect or modify in any way the obligations or liability of any person under any other provision of state or federal law, including common law, for damages, injury or loss resulting from the release of any hazardous material or for remedial action or the expenses of remedial action for the release.

35-9-159. Exceptions to reimbursements; exception to act; clandestine laboratory remediation fund.

(a) This act shall not apply to releases of a hazardous material where there is an immediate on-site private industry response capability to the emergency. The exemption under this subsection shall apply only if the private industry files evidence of its immediate response capability to respond to emergency releases of hazardous materials that may be present at the site of the private industry or the responsible party and incident commander have determined that the local or regional response team is no longer required and should be released. The exemption shall not apply if emergency responders responded to a release of hazardous materials at the request of the on-site private industry where the emergency occurred.

(b) Except with respect to a response to a clandestine laboratory operation incident, the state, political subdivisions of the state or other unit of local government shall not be entitled to reimbursement under this act from any responsible party for an incident involving less than the following quantities of hazardous materials:

Hazard Class/Division from 49 CFR Article 100-185	Hazard Type	Quantity subject to reimbursement
1.1, 1.2, 1.3 (Table 1 materials)	Explosive Materials	Any quantity
1.4, 1.5, 1.6 (Table 2 materials)	Explosive Materials	1001 pounds
2.1 (Table 2 material)	Flammable Gas	150 gallons
2.3 (Table 1 material)	Poison Gas	Any quantity
3 (Table 2 material)	Flammable Liquid	150 gallons
3 (Table 2 material)	Combustible Liquid	300 gallons
4.1 4.2 (Table 2 materials)	Flammable Solid or Spontaneously Combustible Material	11 pounds
4.3 (Table 1 material)	Dangerous When Wet	3 pounds

5.1	Oxidizer	1001 pounds
(Table 2 material)	(Includes inorganic Peroxides)	
5.2	Organic Peroxide	66 pounds
(Table 1 material)		
6.1	Poison (Inhalation	32 pounds
(Table 1 material)	Hazard Zone A or B)	
6.1	Poison (Other than	1001 pounds
(Table 2 material)	Inhalation Hazard Zone A or B)	
6.2	Infectious Substance	1001 pounds
(Table 2 material)		
Class 7	Radioactive Material	Any quantity
(Table 1 material)	(Yellow Label III only)	
Class 8	Corrosive Material	1001 pounds
(Table 2 material)		
Class 9	Miscellaneous	1001 pounds
(Table 2 material)	Hazardous Material	

(c) The initial response authority shall seek reimbursement on behalf of all responders entitled to reimbursement under this act from any responsible party for an incident involving hazardous materials under this act.

(d) Notwithstanding any other provision of this act, if a local law enforcement agency acting as an emergency responder does not find an immediate and substantial threat to public health when responding to a clandestine laboratory operation incident the local law enforcement agency discovering the clandestine laboratory operation shall provide written notice of

the discovery to the owner of the property. The owner of the property shall have ninety (90) days to remediate the property in accordance with standards established pursuant to W.S. 35-9-153(h). If the property is not remediated within ninety (90) days of receipt of notice pursuant to this subsection, the law enforcement agency acting as an emergency responder may take remediation action as provided in rules authorized under W.S. 35-9-153(h). If the owner is unable to complete the remediation within ninety (90) days, the owner may request an extension of time from the local law enforcement agency which shall grant the extension if it finds:

(i) The owner is making a good faith effort to remediate the property; and

(ii) The owner has a practical time schedule to complete the remediation.

(e) The owner may appeal a notice to remediate a clandestine laboratory operation or a denial of an extension under subsection (d) of this section in accordance with W.S. 16-3-114 of the Administrative Procedure Act. The law enforcement agency's authority to take remediation action shall be stayed while the appeal is pending.

(f) There is created the clandestine laboratory remediation account to be administered by the attorney general. A local law enforcement agency acting as an emergency responder may apply for reimbursement from the account for expenses incurred in responding to a clandestine laboratory operation incident as provided in W.S. 35-9-158(a)(vi).

Division 6. Survivors' Benefits

35-9-161. Repealed By Laws 2007, Ch. 91, § 3.

35-9-162. Fire training facility; oversight.

The state fire marshal is authorized to purchase on behalf of the state the state fire training academy facility in Riverton. The state fire marshal shall be responsible for all transaction costs involved in the purchase. The state fire marshal is authorized to operate the facility thereafter.

35-9-163. Enforcement of building codes; application of building codes to specific uses.

(a) Except as provided in this article for any county or municipality requesting and granted local enforcement authority pursuant to W.S. 35-9-121, no state or local official authorized to enforce the provisions of this article shall interpret or enforce any building codes or standards adopted by the state or local governmental entity in a way that is more stringent or burdensome than required by the standards or codes.

(b) Notwithstanding any other provision of law, short term rental of detached one (1) and two (2) family dwellings and townhomes shall not be regulated as a commercial use for purposes of fire, building and electrical standards and shall not be subject to regulation under the International Building Code.

ARTICLE 2 - FIRE PROTECTION DISTRICTS

35-9-201. Applicability; powers of districts generally.

This act shall apply to a fire protection district created under the provisions of this act or under the provisions of article 1, chapter 45, Wyoming Compiled Statutes, 1945, as amended. Such fire protection district is hereby authorized to provide protection from fire and other public safety emergencies for all persons and property within its boundaries, and to contract, including mutual aid agreements, to give or receive such protection to or from one (1) or more other municipal corporations, other fire protection districts, private organizations or individuals. No fire protection district is liable for damages to persons or property resulting from the operation or presence of fire fighting equipment outside the district boundaries pursuant to an agreement or contract under this section. Entry into an agreement or contract pursuant to this section does not create a new or reorganized taxing entity as provided in W.S. 39-13-104(m).

35-9-202. Election of board of directors.

(a) The election of the initial board of directors shall be held by the board of county commissioners at the same time as the election for formation of the district, or at the next general election in the case of a district created pursuant to W.S. 35-9-213. There shall be elected a board of directors consisting of either three (3) or five (5) members, the number of which is to be designated by the county commissioners pursuant to subsection (e) of this section, who are residents living within the district who shall serve without compensation.

Within ten (10) days after each election the board shall meet and select a president and a secretary-treasurer. The first elected board shall serve until the next director election as provided in W.S. 22-29-112. At the first director election of a three (3) member board, one (1) member of the board shall be elected for two (2) years, and two (2) members for four (4) years, for staggered terms. Thereafter, directors shall be elected for four (4) year terms. At the first director election of a five (5) member board, two (2) members of the board shall be elected for two (2) years and three (3) members for four (4) years. Biennial elections shall be held in accordance with the Special District Election Act of 1994.

(b) The board is authorized to:

(i) Increase the number of directors to five (5) when the assessed valuation of the property of the district exceeds three million dollars ($3,000,000.00);

(ii) Divide the district into director districts and provide for the election of a director from each director district to be chosen by all voters of the fire protection district. The board may provide for district directors to be apportioned in any combination of single member, multi-member or at-large representation; and

(iii) Fix the initial term of the additional directors so that the term of not more than three (3) directors shall expire in any one (1) year.

(c) Director districts and biennial elections shall be approved by the board of county commissioners of the county in which the district is located.

(d) Directors are subject to the conflict of interest disclosure requirements of W.S. 6-5-106 and 16-6-118.

(e) The board of county commissioners may provide for the election of an initial board of directors with five (5) members if the assessed valuation of property of the district exceeds three million dollars ($3,000,000.00) at the time the district is formed.

35-9-203. Powers and duties of board of directors generally; administration of finances; assessment and levy of taxes.

(a) The board of directors of any fire protection district is hereby authorized to enact such ordinances as may be necessary to establish and operate a fire protection district and shall file them with the county clerk for each county in which the district is located. The board of directors of fire protection districts shall administer the finances of such districts according to the provisions of the Wyoming Uniform Municipal Fiscal Procedure Act, except that an annual audit in accordance with W.S. 16-4-121 is not required. Each fire protection district shall comply with the provisions of W.S. 9-1-507(a)(iii). The assessor shall, at the time of making the annual assessment of his county, also assess the property of each fire protection district in his county and return to the county assessor at the time of returning the assessment schedules, separate schedules listing the property of each fire protection district assessed by him. The separate schedules shall be compiled by the county assessor, footed, and returned to the board of county commissioners as provided for other assessment schedules.

(b) The board of county commissioners, at the time of making the levy for county purposes shall levy a tax for the year upon the taxable property in such district in its county for its proportionate share based on assessed valuation of the estimated amounts of funds needed by each district. In no case shall the tax for each district exceed in any one (1) year the amount of three (3) mills for operation on each dollar of assessed valuation of such property. There shall be no limit on the assessment for payment of principal and interest on bonds approved by the board of and the electors of the districts as provided in W.S. 35-9-204. The taxes and assessments of all fire protection districts shall be collected by the county collector at the same time and in the same manner as state and county taxes are collected. The assessment and tax levied under the provisions of W.S. 35-9-201 through 35-9-209 shall not be construed as being a part of the general county mill levy.

(c) A fire protection district formed pursuant to this act may, as a condition for a position with the district, require applicants to submit to fingerprinting in order to obtain state and national criminal history record information.

35-9-204. Issuance of bonds; authority of board to submit questions to electors; restriction upon amount; interest; purpose.

The board of directors of a fire protection district is authorized, whenever a majority thereof so decide, to submit to the electors of the district the question whether the board shall be authorized to issue the coupon bonds of the district in a certain amount, not to exceed four percent (4%) of the assessed valuation of taxable property in the district, and bearing a certain rate of interest, payable and redeemable at a certain time, not exceeding twenty-five (25) years for the purchase of real property, for the construction or purchase of improvements, and for equipment for fire protection district purposes.

35-9-205. Issuance of bonds; conduct of election; canvass of returns.

The election authorized under W.S. 35-9-204 shall be called, conducted and the results thereof canvassed and certified in all respects as near as practicable in the same manner as provided for bond elections by the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112.

35-9-206. Issuance of bonds; notice; bids.

If the proposal to issue said bonds shall be approved, the board of directors must issue such bonds in such form as the board may direct and shall give notice by publication in some newspaper published in the counties in which said district is located and in some newspaper of general circulation in the capital of the state of its intention to issue and negotiate such bonds, and to invite bidders therefor; provided that in no case shall such bonds be sold for less than their full or par value and the accrued interest thereon at the time of their delivery. And the said trustees are authorized to reject any bids, and to sell said bonds at private sale, if they deem it for the best interests of the district.

35-9-207. Issuance of bonds; form of bonds; execution; registration.

After ascertaining the best terms upon and the lowest interest at which said bonds can be negotiated, the board shall secure the proper engraving and printing and consecutive numbering thereof, and said bonds shall thereupon be otherwise properly prepared and executed; they must bear the signature of the president of the board of directors and be countersigned by the secretary of the board and bear the district seal and be countersigned by the treasurer of the board, and the coupons

attached to the bonds must be signed by the president, secretary and treasurer; and the secretary of the board shall endorse a certificate upon every such bond, that the same is within the lawful debt limit of such district and is issued according to law and he shall sign such certificate in his official character. When so executed they shall be registered by the county treasurer where said district's funds are kept in a book provided for that purpose, which shall show the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached and any other proper description thereof for future identification.

35-9-208. Issuance of bonds; payment of principal and interest.

The county treasurer where said district's funds are kept may pay out of any monies belonging to said district tax fund, and from the tax fund of a detracted district as provided in W.S. 35-9-215(b), the interest and the principal upon any bonds issued under this chapter by such district, when the same becomes due, upon the presentation at his office of the proper coupon or bond, which must show the amount due, and each coupon must also show the number of the bond to which it belonged, and all bonds and coupons so paid must be reported to the district directors at their first regular meeting thereafter.

35-9-209. Procedure for proposing establishment of fire protection district.

(a) Repealed by Laws 1998, ch. 115, § 5.

(b) Repealed by Laws 1998, ch. 115, § 5.

(c) Repealed by Laws 1998, ch. 115, § 5.

(d) Repealed by Laws 1998, ch. 115, § 5.

(e) Repealed by Laws 1998, ch. 115, § 5.

(f) Repealed by Laws 1998, ch. 115, § 5.

(g) Repealed by Laws 1998, ch. 115, § 5.

(h) Repealed by Laws 1998, ch. 115, § 5.

(j) A fire protection district may be established under the procedures for petitioning, hearing and election of special

districts, and subsequent elections shall be held, as set forth in the Special District Elections Act of 1994.

(k) Notwithstanding subsection (j) of this section, a fire protection district may be established through division of an existing fire protection district pursuant to W.S. 35-9-213 through 35-9-215.

35-9-210. District formation initiated by resolution of county commissioners; procedures; conditions.

(a) A fire protection district comprised of lands within unincorporated areas of the county which are not within existing fire protection districts may be created under the following procedure:

(i) The board of county commissioners may, by resolution, identify lands to be included within the proposed district and submit the question of establishing the district to the electors of the proposed district at the next general election. The board shall provide notice that it will consider a resolution under this paragraph at least thirty (30) days prior to the meeting at which the resolution will be considered. Notice of the election shall be given as required by W.S. 22-29-110;

(ii) If the establishment of the district is defeated at the election, the board may refuse to provide fire and public safety protection to the area within the proposed district commencing with the succeeding fiscal year. If a majority of the voters in the proposed district voting at the election vote for the establishment of the district, the board of county commissioners shall enter that fact upon its records and the district is established. The board shall hold an election for a district board of directors under W.S. 35-9-202. Districts formed under this subsection are otherwise subject to W.S. 35-9-201 through 35-9-208.

35-9-211. Formation of county commission fire protection districts; procedures; conditions.

(a) As an alternative to the procedures provided by W.S. 35-9-210, a county commission fire protection district comprised of lands within unincorporated areas of the county which are not within existing fire protection districts and which are currently receiving fire protection or public safety services

from an existing fire department funded by the county may be created under the following procedure:

(i) The board of county commissioners may, by resolution, identify lands to be included within the proposed county commission fire protection district and submit the question of establishing the district to the electors of the proposed district at the next general election. The board shall provide notice that it will consider a resolution brought pursuant to this paragraph at least thirty (30) days prior to the meeting at which the resolution will be considered. Notice of the election to establish the district shall be given as required by W.S. 22-29-110;

(ii) If the establishment of the district is defeated at the election, the board may refuse to provide fire and public safety protection to the area within the proposed district commencing with the succeeding fiscal year. If a majority of the voters in the proposed district voting at the election vote for the establishment of the district, the board of county commissioners shall enter that fact upon its records and the district is established. Following establishment of the district:

(A) Pursuant to the assessed property valuation requirements of W.S. 35-9-202(e) the board of county commissions shall appoint either three (3) or five (5) members to the board who are residents and property owners within the district and who shall serve on the board until the next election of directors, at which time the members of the board shall be elected in accordance with W.S. 35-9-202;

(B) The board of county commissioners shall annually levy a tax on the taxable property in the district as provided by W.S. 35-9-203 and shall expend the proceeds of the tax solely for the support of the fire department or agency providing fire protection or public safety services for the property within the district or outside the district pursuant to a mutual aid agreement as provided in W.S. 35-9-201.

(b) A county commission fire protection district created under this section may, as a condition for a position with the district, require applicants to submit to fingerprinting in order to obtain state and national criminal history record information.

35-9-212. Division of fire protection district authorized.

Fire protection districts may be divided as provided in W.S. 35-9-213 through 35-9-215.

35-9-213. Petition for division; hearing and notice.

(a) Whenever a petition in writing is made to the county commissioners, signed by the owners of fifty percent (50%) or more of the privately owned lands of an area proposed to be detracted from the original fire protection district, who constitute fifty percent (50%) or more of the taxpayers within the proposed detracted area based upon the last completed assessment roll, the county commissioners shall, within twenty (20) days from the receipt of the petition, give notice of the hearing on the petition by:

(i) Mailing a copy of the notice by first-class mail to each landowner in the district at the address shown in the assessment roll;

(ii) Causing a notice thereof to be posted, at least twenty (20) days prior to the time appointed by them for the consideration of the petition, in at least three (3) public places within the proposed detracted area and also in at least three (3) public places within the remaining area; and

(iii) Publishing a notice in the newspapers of general circulation in the area of the district.

(b) The petition for detraction shall describe the boundaries of the proposed detracted area and the boundaries of the remaining area in the manner provided in W.S. 22-29-103(e).

(c) The county commissioners shall, on the day fixed for hearing the petition, or on any legally postponed day, proceed to hear the petition. Prior to the hearing the commissioners shall appoint an individual or group of individuals from the persons signing the petition to act in negotiations on behalf of the proposed detracted area.

(d) If the detracting district is within two (2) or more counties, the county commissioners for purposes of W.S. 35-9-213 and 35-9-214 are the county commissioners of the county where the majority of the detracting district property lies.

35-9-214. Decision on petition for division; protest.

(a) The petition may be granted and the original districts may thereupon be divided into separate districts if at the time of the hearing on the petition the county commissioners determine:

(i) Protests have not been signed by:

(A) The owners of twenty percent (20%) or more of the area of the privately owned lands included within the entire original district who constitute twenty percent (20%) or more of the taxpayers who are landowners within the entire original district based upon the last completed assessment roll; or

(B) The owners of twenty percent (20%) or more of the area of the privately owned lands included within the area of the proposed detracted area who constitute twenty percent (20%) or more of taxpayers who are landowners within the proposed detracted area based upon the last completed assessment roll.

(ii) The districts have in place standard operating procedures that ensure that both districts have the ability to provide fire protection to the satisfaction of the commissioners;

(iii) The boundary changes are in the best interests of the public; and

(iv) The mutual agreement negotiated pursuant to W.S. 35-9-215(a)(i) regarding the distribution of assets is acceptable to the commissioners.

(b) If the required amount of protests are presented as provided in paragraph (a)(i) of this section, the petition for division shall be disallowed.

(c) Upon allowance of a petition for division of a fire protection district, the board of county commissioners shall appoint members to the newly formed board who are residents and property owners within the newly formed district and who shall serve on the board until the initial election of directors, at which time the members of the board shall be elected in accordance with W.S. 35-9-202(a).

(d) Until a board of directors for the newly formed district shall be appointed and until the first tax assessment

is received by the newly formed district, the original fire protection district shall remain responsible for provision of fire protection services to the area encompassing the newly detracted fire protection district.

35-9-215. Distribution of assets and liabilities following division.

(a) The division of the assets of the fire protection districts shall be apportioned as follows:

(i) Through a mutual agreement signed by the president of the original fire protection district board and the person or persons appointed to represent the detracted district pursuant to W.S. 35-9-213(c);

(ii) If a mutual agreement cannot be reached as provided in paragraph (i) of this subsection and the assets are located entirely within one (1) county, the board of county commissioners of that county may impose an equitable division of the assets;

(iii) If a mutual agreement cannot be reached as provided in paragraph (i) of this subsection and the assets are located in more than one (1) county, the boards of county commissioners of the counties where the assets are located may negotiate a division of the assets, with each board having an equal vote regardless of the number of commissioners on the respective boards;

(iv) If a mutual agreement cannot be reached as provided in paragraph (i), (ii) or (iii) of this subsection, the district court of the county where a majority of the original district's electors reside shall have jurisdiction to equitably divide the district assets, with each county responsible to pay legal fees and costs in proportion to the division of assets between or among the counties.

(b) Any detracted area shall remain liable for any existing warrant and bonded indebtedness of the original district, which indebtedness shall be apportioned between the divided areas according to their respective taxable valuations.

(c) New fire protection districts created by a division of a fire protection district pursuant to W.S. 35-9-212 through 35-9-215 shall not be treated as a new or reorganized taxing entity for purposes of W.S. 39-13-104(m).

ARTICLE 3 - AREAS OF EXTREME FIRE DANGER

35-9-301. Closing area upon recommendation of county fire warden.

When, upon recommendation of the county fire warden, a board of county commissioners deems the fire danger in a given area of the county to be extreme, because of drought, the presence of an excessive amount of inflammable material or for any other sufficient reason, the board of county commissioners may close the area to any form of use by the public or may limit such use upon recommendation of the county fire warden. This closing shall include prohibition of any type of open fire for such period of time as the board of county commissioners may deem necessary and proper. The county fire warden shall notify the Wyoming state forester of any type of fire closure or the lifting of any type of fire closure under this section.

35-9-302. Access of residents to home or property; contents of order of proclamation.

Provided however, that nothing in W.S. 35-9-301 through 35-9-304 and no order of a board of county commissioners shall prohibit any person residing within the area from full and free access to his home or property, nor prevent any legitimate use thereof by the owner or authorized personnel on ordinary day to day business or lessee of such property. The order of proclamation closing or limiting the use of said area shall set forth the exact area coming under the order, the date on which the order shall become effective, and if deemed advisable, the authority from which permits for entry into said area may be obtained.

35-9-303. Rules.

The board of land commissioners shall promulgate rules as are necessary to require county fire wardens and boards of county commissioners to carry out the purposes of W.S. 35-9-301 through 35-9-304, and provide for proper notice to the public.

35-9-304. Illegal entry or use.

Any entry into or use of any area in violation of this act shall be a misdemeanor and shall be punished by a fine of not to exceed one hundred dollars ($100.00) or imprisonment in the county jail for not to exceed thirty (30) days or both the fine and imprisonment.

ARTICLE 4 - UNINCORPORATED CITIES OR TOWNS

35-9-401. Appointment of county fire warden.

County commissioners may appoint a county fire warden who shall act under the authority of this article [chapter], W.S. 35-9-101 through 35-9-701, and the local governmental authority responsible for fire suppression and fire prevention within the county.

35-9-402. Duties of fire wardens.

Fire wardens or their duly designated representative shall be responsible for management of fire suppression, fire prevention and related activities, except within any incorporated city, town or fire district, and responsible for coordinating fire suppression and fire prevention activities among all county fire agencies.

35-9-403. Repealed by Laws 1989, ch. 75, § 2.

35-9-404. Repealed by Laws 1989, ch. 75, § 2.

35-9-405. Repealed by Laws 1989, ch. 75, § 2.

35-9-406. Abatement of nuisances.

Said board of county commissioners, upon receiving notice as aforesaid, or upon personal knowledge, shall have power to and are hereby authorized to abate any such nuisance at the expense of the person or persons, either by causing the same to be removed, or by filling up, or boarding around such excavations, as the case may be; provided, that said commissioners shall first notify the person or persons aforesaid, to abate such nuisances.

ARTICLE 5 - FIRE ESCAPES

35-9-501. Required in private and public buildings; specifications generally; notices as to location to be posted.

Every building now or hereafter used, in whole or in part, as a public building, public or private institution, office building, lyceum, church, theater, public hall, place of assemblage or place of public resort, and every hotel, apartment house, boarding house, tenement house, factory or workshop, three (3)

or more stories in height, school and hospital building, two (2) or more stories in height, shall be provided with safe and suitable metallic, tunnel, iron or fireproof ladders or stair fire escapes with guard rail of sufficient strength, attached to the outside walls thereof and extending from or suitably near the ground to the uppermost story thereof, with platforms not less than six by three (6 x 3) feet and of such shape and size and in such proximity to the windows of each story above the first, as to render access to such ladders or stairs from each such story easy and safe to the occupants of such building, in case of fire; and it shall be the duty of every proprietor, custodian, superintendent or person or persons having charge and control of such public buildings mentioned and described herein, to post notices in every hall, and in a public and conspicuous place in such building, designating the places on each and every floor of such building where such fire escapes are located and may be found.

35-9-502. Means of exit; doors.

Every building now or hereafter used, in whole or in part, as a public building, public or private institution, office building, lyceum, church, school house, theater, picture show house, public hall, place of assemblage or place of public resort, and every hotel, apartment house, boarding house or tenement house, two (2) stories or less in height, having twelve (12) or more rooms shall be provided with at least two (2) stairways, hallways or means of exit or escape from each story in case of fire. In addition to the above mentioned and described stairways and hallways or means of exit, all doors to every public hall, lyceum, theater, picture show house, or other place of amusement, which is thrown open to and used for the profit of the owner or proprietor or owners or proprietors by public assemblies in the state of Wyoming, shall not be less than three (3) feet in width, and shall swing or open out of and not into said public hall, lyceum, theater, picture show house, or other place of amusement.

35-9-503. Factories, offices and other buildings to be equipped.

Every building now or hereafter used, in whole or in part, as a factory, mill, workshop, garage, office, bakery, laundry, store, and any other building or buildings in which people are employed at manual or other labor, shall be provided with proper and sufficient means of escape in case of fire, by two (2) or more ways of egress, and all doors leading into or to such factory,

mill, workshop, garage, office, bakery, laundry, store, and any other building or buildings in which people are employed at manual or other labor, shall not be locked, bolted or fastened during working hours as to prevent free and easy access therefrom.

35-9-504. Exits to be unobstructed; stairways to be lighted.

All such metallic, iron or fireproof ladders or stair fire escapes, stairways, hallways or means of egress, mentioned or described in this act, shall at all times be kept free from any obstruction, in good repair and ready for use; and at night, or where lights are necessary in the daytime, a red light shall be provided with the words inscribed thereon "FIRE ESCAPE". Provided, that on all hotel, theater, school and hospital buildings, two (2) or more stories in height, said stairways shall extend from each floor of said building to the ground and shall not be less than three (3) feet wide; the risers of said stairs shall not be greater than eight (8) inches, and the treads not less than ten (10) inches wide; and the platform not less than three (3) feet wide, and in all cases the full width of the stairs. All such stairs shall have proper guard rails not less than twenty-eight (28) inches high. Where tubing is used for guard rails they shall be not more than ten (10) inches apart; and where balusters are used they shall be not more than six (6) inches apart.

35-9-505. Applicability; fire and safety drills required in schools; supervision of drills.

(a) This chapter shall apply to the trustees of school districts in this state.

(b) In every public and private school in Wyoming, there shall be a fire drill at least once every month. Safety drills may be used in lieu of fire drills if approved by and coordinated with the local fire department provided fire drills are conducted at each school not less than four (4) times during any one (1) academic year and further provided the school's fire alarm is tested at each fire or safety drill. A safety drill includes any organized response to a potential threat to the health and safety of the student population. The school administration shall supervise and administer this subsection and shall determine the types of safety drills appropriate for each school. In localities where a paid fire department is maintained, a fire department member shall be requested to be in

attendance at each fire or safety drill conducted within a school for the purpose of instruction and constructive criticism.

35-9-506. Penalty.

Every person, firm or corporation, or his or its agents, officers, directors or trustees, owning or having the management or control of any such buildings or structures herein mentioned or described, who shall fail, neglect or refuse to comply with the provisions of this act not later than October first, nineteen hundred seventeen, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punishable by imprisonment in the county jail for not less than three (3), nor more than six (6) months, or by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) or by both such fine and imprisonment. Each month or fraction thereof in which any building designated in this act shall remain in violation thereof shall constitute a separate offense.

35-9-507. Applicability to cities and towns.

The provisions of W.S. 35-9-501 through 35-9-507 shall not be applicable in any incorporated city or town that has by ordinance adopted a uniform building code which provides among other things adequate and safe means of inside fire escapes, smoke towers and fireproof inclosed stairways and further fixes the types of occupancies and types of buildings subject to the said code.

ARTICLE 6 - VOLUNTEER FIREFIGHTER, EMT AND SEARCH AND RESCUE PENSION ACCOUNT

35-9-601. Repealed by Laws 2015, ch. 32, § 3.

35-9-602. Repealed by Laws 2015, ch. 32, § 3.

35-9-603. Repealed by Laws 2015, ch. 32, § 3.

35-9-604. Repealed by Laws 2015, ch. 32, § 3.

35-9-605. Repealed by Laws 2015, ch. 32, § 3.

35-9-606. Repealed by Laws 2015, ch. 32, § 3.

35-9-607. Repealed by Laws 2015, ch. 32, § 3.

35-9-608. Repealed by Laws 2015, ch. 32, § 3.

35-9-609. Repealed by Laws 2015, ch. 32, § 3.

35-9-610. Repealed by Laws 2015, ch. 32, § 3.

35-9-611. Repealed by Laws 2015, ch. 32, § 3.

35-9-612. Repealed by Laws 2015, ch. 32, § 3.

35-9-613. Repealed by Laws 2015, ch. 32, § 3.

35-9-614. Repealed by Laws 2015, ch. 32, § 3.

35-9-615. Repealed by Laws 2015, ch. 32, § 3.

35-9-616. Definitions.

(a) As used in this article:

(i) "Account" or "pension account" means the volunteer firefighter, EMT and search and rescue pension account created pursuant to W.S. 35-9-617(a);

(ii) "Board" means the volunteer firefighter, EMT and search and rescue pension account board created pursuant to W.S. 35-9-623(a);

(iii) "Children" means all natural children and adopted children of the participating member, born or conceived at the time of his death or retirement;

(iv) "Eligible retirement plan" means as defined in W.S. 9-3-402(a)(xxvii);

(v) "Participating member" means any volunteer firefighter, volunteer EMT or volunteer search and rescue person for whom payments are received by the volunteer firefighter, EMT and search and rescue pension account as prescribed in W.S. 35-9-621(e);

(vi) "Rollover contribution" means as defined in W.S. 9-3-402(a)(xxviii);

(vii) "Spouse" means the lawful spouse of a participating member who was married to the volunteer

firefighter, volunteer EMT or volunteer search and rescue person at the time of the volunteer's entry into the account, or who although married after the date of entry, is recognized as the spouse covered by the benefits of the account as a result of special action of the board;

(viii) "Volunteer emergency medical technician" or "EMT" means as defined by W.S. 33-36-102(a)(x), and a person who performs EMT services as an attendant with a state licensed ambulance service and who devotes less than his entire time of employment to, but is carried on the rolls of, a regularly constituted Wyoming ambulance service, the members of which may be partly paid and partly volunteer. Persons performing EMT services for an industrial ambulance service as defined in W.S. 33-36-102(a)(vi) or a privately owned, for profit ambulance service shall not be considered a volunteer emergency medical technician or EMT. Payment of compensation for services actually rendered by enrolled volunteers does not take them out of this classification. Any individual who volunteers assistance but is not regularly enrolled as an EMT is not a volunteer within the meaning of this chapter;

(ix) A "volunteer fire department" means any duly constituted and organized firefighting unit:

(A) Recognized by the appropriate local government with jurisdiction of the area the unit services and which provides fire protection services to the community as a whole pursuant to a contract or agreement with, or as sponsored by, a governmental entity;

(B) Operating under duly adopted bylaws;

(C) All or a portion of the members of which are volunteers;

(D) Holding monthly meetings to conduct business and training; and

(E) The membership of which is not comprised exclusively of employees of a sponsoring nongovernmental entity.

(x) "Volunteer firefighter" or "firefighter" means any individual who may or may not receive compensation for services rendered as a volunteer firefighter and who:

(A) Is carried on the regular rolls of, but devotes less than his entire time of employment to, activities of a volunteer fire department, all or a portion of the members of which are volunteer; and

(B) During the course of any one (1) year, attends not less than fifty percent (50%) of the monthly volunteer fire department meetings.

(xi) Repealed by Laws 2019, ch. 83, § 2.

(xii) "County search and rescue organization" means a search and rescue operation acting under the coordination of a county sheriff pursuant to W.S. 18-3-609(a)(iii) that:

(A) Has adopted and filed bylaws with the county clerk for the county in which the organization is located; and

(B) Holds not less than two (2) meetings per month and requires each volunteer search and rescue person to attend not less than fifty percent (50%) of the total number of meetings held each month.

(xiii) "Volunteer search and rescue person" or "search and rescue person" means any individual who:

(A) Is engaged in search and rescue operations with a county search and rescue organization;

(B) Is carried on the regular rolls of, but devotes less than the individual's entire time of employment to, activities of a county search and rescue organization; and

(C) May or may not receive compensation for services rendered as a member of a county search and rescue organization.

35-9-617. Volunteer firefighter, EMT and search and rescue pension account; merger with other pension accounts; membership.

(a) The volunteer firefighter, EMT and search and rescue pension account is created. All awards, benefits and pensions established under this article shall be paid from the account.

(b) The account established under subsection (a) of this section shall be controlled by the board and administered by the director of the Wyoming retirement system. All expenses of

administration shall be paid from the account. Disbursements from the account shall be made upon warrants drawn by the state auditor upon certification by authorized system employees or using an appropriate alternative method approved by the state auditor.

(c) The account shall be comprised of all funds and liabilities of the volunteer firemen's pension account created pursuant to W.S. 35-9-602, the volunteer emergency medical technician pension account created pursuant to W.S. 35-29-102, funds directed into the account as provided by W.S. 26-4-102(b), 35-9-619(a), 35-9-621(e) and 35-9-628 and all other funds as directed by this article and the legislature for the benefit of the account, or the volunteer firemen's pension account or volunteer emergency medical technician pension account, respectively.

(d) All members and retirees of the volunteer emergency medical technician pension account created pursuant to W.S. 35-29-101 through 35-29-112, including those members who are no longer participating or contributing members of the volunteer emergency medical technician pension account, but who have not withdrawn their funds as provided by W.S. 35-29-106(f) on or before June 30, 2015, shall become members or retirees of the pension account created pursuant to this section.

(e) All members and retirees of the volunteer firemen's pension account created pursuant to W.S. 35-9-601 through 35-9-615, including those contributing members who are no longer active but who have not withdrawn their funds as provided by W.S. 35-9-608(f) on or before June 30, 2015, shall become members or retirees of the pension account created pursuant to this section.

(f) The director of the retirement system shall determine by rule and regulation a benefit level for all members joining the pension account under subsections (d) and (e) of this section equal to or greater than the benefits the member would have received under the volunteer firemen's or volunteer emergency medical technician pension accounts, respectively.

35-9-618. Annual audit; state's liability.

(a) The director of the Wyoming retirement system shall hire an independent audit firm to perform an annual audit of the account established under W.S. 35-9-617 and shall report audit findings to the board and the governor.

(b) Nothing in this article shall be construed to:

(i) Except for obligations transferred pursuant to W.S. 35-9-617(c), acknowledge any past, present or future liability of or obligate the state of Wyoming for contribution except the employer's contributions provided for in this article, to either the volunteer firefighter, EMT and search and rescue pension system provided by this article or any other retirement system previously existing in the state of Wyoming; or

(ii) Constitute a contract or binding obligation of any kind whatsoever or, except as provided in subsection (c) of this section, to create or grant any vested right or interest in any individual, corporation or body politic.

(c) If the account is terminated, all affected members have a nonforfeitable interest in their benefits that were accrued and funded to date. The value of the accrued benefits to be credited to the account of each affected member shall be calculated as of the date of termination.

35-9-619. Authority to receive donations; investment of monies; employment of actuary; actuarial reports.

(a) In addition to contributions from the state, counties, volunteer fire departments and licensed ambulance services, the board may receive and credit to the account any gifts, donations and other contributions made by individuals, organizations and cities, towns, counties and other political subdivisions for the benefit of the account. The board may invest monies within the account not immediately necessary to pay benefits, awards or pensions under this article, in investments authorized under W.S. 9-3-408(b).

(b) The board shall employ a consulting actuary to review the account annually to determine its solvency and to make recommendations as to revisions and modifications to the pension account. The board may employ legal and other consultants as necessary. Actuarial reports are public records and available for inspection by all participating members of the account.

35-9-620. Contributions on behalf of volunteer firefighters, EMTs and search and rescue persons; collection; dual participation prohibited.

(a) The county, city, town, fire district, volunteer fire department or licensed ambulance service for whom a participating volunteer firefighter or EMT performs firefighting or EMT services shall pay to the pension account the amount required under W.S. 35-9-621(e) for those members. The county for whom a volunteer search and rescue person performs search and rescue services shall pay to the pension account the amount required under W.S. 35-9-621(e) for those members. Payments shall be collected upon terms and conditions established by the board under W.S. 35-9-621(e) and shall be forwarded by each collecting officer to the state retirement director for deposit in the account. Any entity listed in this subsection may elect to provide for a member's contribution or any portion thereof provided that any payment of a contribution is made on behalf of a member. Whether an entity makes a contribution for a member shall be at the discretion of the entity as an incentive to improve their local volunteer fire department, emergency medical services or search and rescue services.

(b) No volunteer firefighter member of the pension account shall participate as a member of the firemen's pension accounts under W.S. 15-5-201 through 15-5-209 or 15-5-401 through 15-5-422 if participation is based upon covered service for the same fire department.

35-9-621. Benefits enumerated; death of participant or spouse; amount and payment of contributions; death benefits; withdrawal from pension account.

(a) For any participating member attaining the retirement age and service requirements as specified under subsection (d) of this section, the board shall authorize a monthly payment to the member during the member's remaining lifetime of an amount equal to sixteen dollars ($16.00) per year of service for the first ten (10) years of service and nineteen dollars ($19.00) per year of service over ten (10) years of service.

(b) When any participating member or retired member dies, the board shall immediately authorize payment monthly to the member's surviving spouse during the spouse's remaining lifetime of an amount equal to sixty-six percent (66%) of the member's monthly benefit as provided in this section, if the deceased member had at least five (5) years of active participation in the pension account. If a participating member dies with less than five (5) years of active participation in the pension account, the board shall immediately authorize payment monthly to the member's spouse, during the spouse's remaining lifetime,

of an amount equal to sixty-six percent (66%) of the equivalent of the deceased member's benefit as if the member had attained five (5) years of active participation in the pension account.

(c) When any participating member or retired member and the participating member's or retired member's spouse die with children who have not attained the age of twenty-one (21) years, the board shall immediately authorize payment monthly to the lawful guardians of the children of an amount equal to a proportional share of thirty-three percent (33%) of the member's benefit as provided in this section, if the deceased member had at least five (5) years of active participation in the pension account. If a participating member or retired member and the participating member's or retired member's spouse die with children who have not attained the age of twenty-one (21) years, and the deceased member had less than five (5) years of active participation in the pension account, the board shall immediately authorize payment monthly to the lawful guardians of the children of an amount equal to a proportional share of thirty-three percent (33%) of the equivalent of the deceased member's benefit as if the member had attained five (5) years of active participation in the pension account.

(d) Members who begin to participate in the pension account prior to attaining the age of fifty-five (55) years shall be eligible for retirement at sixty (60) years of age, if the member has at least five (5) years of active participation in the pension account. Members who begin participation in the pension account after attaining the age of fifty-five (55) years shall be eligible for retirement after participating in the pension account for at least five (5) years.

(e) A volunteer firefighter or volunteer EMT is a participating member under this article for each month a contribution of eighteen dollars and seventy-five cents ($18.75) is made by or on behalf of the member. A volunteer search and rescue person is a participating member under this article for each month a contribution of thirty-seven dollars and fifty cents ($37.50) is made by or on behalf of the member. For purposes of eligibility for benefits under subsections (b) and (c) of this section, a volunteer firefighter, EMT or search and rescue person is a participating member beginning the first month following the month in which the required monthly payment and any required application for participation is actually received by the Wyoming retirement system. To continue as a participating member, subsequent monthly payments shall be received by the Wyoming retirement system not later than three

(3) months following the close of the calendar month for which the payments are applicable. With the consent of and upon any terms and conditions established by the board, payments may be accepted at an earlier or later date. The board shall maintain full and complete records of the contributions made on behalf of each participating member and on request, shall furnish any participating member a statement of the contribution amounts and the dates for which contributions were received. If contributions have varied in amount, the board may make appropriate adjustments in the benefits awarded. In making any adjustment, the board shall be guided by actuarial practice to afford substantial equity to members of the pension account. No penalty shall be imposed upon any participating member transferring employment in Wyoming if required payments are made on a timely basis.

(f) A participating member may withdraw from the pension account and upon withdrawal shall be paid an amount equal to the amount contributed into the member's account together with interest at the rate of three percent (3%) per annum compounded annually.

(g) If a member with less than five (5) years of active participation in the pension account fails to provide contributions to the account as provided in subsection (e) of this section, the member's account shall be deemed delinquent. No interest shall accrue on delinquent accounts. A member's account that remains delinquent for nine (9) months shall be closed and the associated funds shall revert into the pension account. A member whose account is closed pursuant to this subsection who subsequently reenrolls in the pension account shall be entitled to a refund equal to the amount that was reverted into the pension account upon the closing of the member's delinquent account.

(h) The board shall authorize benefit payments from the account in accordance with qualified domestic relations orders pursuant to W.S. 9-3-426.

(j) Any participating member with at least five (5) years of participation in the pension account who retires from active service as a volunteer firefighter, EMT or search and rescue person before reaching retirement age and does not withdraw from the pension account as provided in subsection (f) of this section shall be entitled to a monthly benefit payment as provided in subsection (a) of this section upon reaching the retirement age specified in subsection (d) of this section. A

member with ten (10) or more years of active participation in the pension account may choose to remove himself from active service as a volunteer firefighter, EMT or search and rescue person and continue to contribute to the pension account for an amount of time not to exceed the total number of years the member was an active participant in the pension account, as provided in subsection (e) of this section and rules promulgated by the board.

(k) The board shall adopt rules to allow service for any period of time, after commencement of participation under this article, which a participating member spends in active uniformed service of the United States as required by the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq. to count towards a member's years of active participation.

(m) Upon the death of any participating member, a death benefit shall be paid from the deceased member's account in the following manner and amount:

(i) A lump sum payment of five thousand dollars ($5,000.00) or the amount in the deceased member's account, whichever is greater, to the estate of a deceased member without a survivor eligible for a benefit under subsection (b) or (c) of this section;

(ii) If a spouse who is eligible to receive a benefit under subsection (b) of this section dies, an amount equal to five thousand dollars ($5,000.00) less the total amount of benefits received under subsection (b) of this section or the amount remaining in the deceased member's account, whichever is greater, shall be paid to the spouse's estate unless the spouse is survived by a person eligible to receive a benefit under subsection (c) of this section;

(iii) When the last person under the age of twenty-one (21) years who is eligible for the benefit provided by subsection (c) of this section dies or attains the age of twenty-one (21) years, an amount equal to five thousand dollars ($5,000.00) less the total amount of benefits received under subsections (b) and (c) of this section or the amount remaining in the deceased member's account, whichever is greater, shall be paid in equal shares to each of the children alive on that date;

(iv) For former members of the volunteer firemen's account created pursuant to W.S. 35-9-602(a) who contributed

five dollars ($5.00) per month before July 1, 1989, the appropriate benefit shall be determined by substituting two thousand five hundred dollars ($2,500.00) for five thousand dollars ($5,000.00) in paragraphs (i) through (iii) of this subsection.

(n) Cost of living increases may be recommended by the board for retirees of the pension account pursuant to W.S. 9-3-454(a).

(o) Retired recipients of the account and their survivors shall receive any benefit increases provided to members of the account.

35-9-622. Death benefits in addition to other benefits.

Death benefits received under this article shall be in addition to, and are payable after the application of, worker's compensation benefits which are payable to volunteer firefighters, volunteer EMTs or volunteer search and rescue persons under the Wyoming Worker's Compensation Act.

35-9-623. Board; established; nomination; appointment; terms and qualification of members; first members.

(a) The volunteer firefighter, EMT and search and rescue pension board is created. The board shall control the account.

(b) The board shall consist of eight (8) members who shall be appointed by the governor to staggered terms of three (3) years. The governor may remove any board member as provided in W.S. 9-1-202. Of these board members:

(i) Six (6) members shall be volunteer firefighters who have a minimum of five (5) years service as a volunteer firefighter in the state. Appointments under this paragraph shall be made from nominees recommended to the governor by the Wyoming state firemen's association;

(ii) One (1) member shall be a volunteer EMT who has a minimum of five (5) years service as a volunteer EMT in the state. Appointments under this paragraph shall be made by the governor; and

(iii) One (1) member shall be a volunteer search and rescue person who has a minimum of five (5) years service as a

volunteer search and rescue person in the state. Appointments under this paragraph shall be made by the governor.

(c) The members of the initial board shall be comprised of the volunteer firemen members of the volunteer firemen's pension board created pursuant to W.S. 35-9-610 serving on June 30, 2015 and one (1) member of the volunteer emergency medical technician pension board created pursuant to W.S. 35-29-108 serving on June 30, 2015, as selected by the governor. The volunteer firefighter members and volunteer EMT member of the initial board shall serve for the same term to which they were appointed to the volunteer firemen's pension board or volunteer emergency medical technician pension board, respectively.

35-9-624. Board; chairman; compensation of members; powers and duties.

(a) Members of the board shall serve without compensation, but actual and reasonable expenses incurred by members for attending meetings and representing the board shall be reimbursed from the account.

(b) The board may:

(i) Adjust claims made by participating members under this article and may waive or alter specific requirements relating to benefits under this article, but shall not have authority to make a general increase in benefits;

(ii) Promulgate rules and regulations governing its operation;

(iii) Investigate claim applications, conduct hearings, receive evidence and otherwise act in a quasi-judicial capacity in accordance with the Wyoming Administrative Procedure Act;

(iv) Permit the suspension of payments in certain cases deemed appropriate by the board, with a commensurate reduction in benefits paid under this article.

35-9-625. Board; hearings; appeals.

(a) The board shall provide an opportunity for hearing to any person petitioning the board for a hearing with or without counsel or witnesses. The board shall provide petitioners the power to subpoena witnesses to testify in their behalf. The

taking of evidence shall be summary, giving a full opportunity to all parties to develop the facts. The board shall provide a written transcript of all testimony received at any hearing conducted by the board to any requesting party.

(b) The decision of the board upon hearing is a final administrative decision and is subject to judicial review in accordance with the Wyoming Administrative Procedure Act.

35-9-626. Adjustment of benefits in case of impairment of funds.

If at any time the net assets of the account become actuarially impaired, the board may adjust the benefits provided, pro rata, until the impairment is removed.

35-9-627. Purchase of service credit.

Any member who has been a participating member for at least five (5) years may elect to make a one (1) time purchase of up to five (5) years of service credit as authorized and limited by section 415(c) and 415(n) of the Internal Revenue Code and as established in rules promulgated by the board. Any member electing to purchase service credit shall pay into the account a single lump sum amount equal to the actuarial equivalent of the benefits to be derived from the service credit computed on the basis of actuarial assumptions approved by the board, the individual's attained age and the benefit structure at the time of purchase. A member may purchase service credit with personal funds or, subject to rules and regulations established by the board, through rollover contributions. Unless received by the pension account in the form of a direct rollover, rollover contributions shall be paid to the pension account on or before sixty (60) days after the date the rollover contribution was received by the member.

35-9-628. Deposit of tax on fire insurance premiums into account.

(a) As provided in this subsection, the state treasurer shall deposit into the account up to one hundred percent (100%) of the gross tax levied upon fire insurance premiums paid to insurance companies for fire insurance in the state of Wyoming for the preceding calendar quarter, as computed under W.S. 26-4-102(b)(ii) and provided by W.S. 26-4-103(k). The sum specified shall be calculated by the Wyoming retirement system:

(i) Before giving effect to any premium tax credits which may otherwise be provided by law; and

(ii) To achieve one hundred seven percent (107%) funding of the account, taking into account the benefits and employee contribution specified in W.S. 35-9-621 and actuarial assumptions adopted by the Wyoming retirement board;

(iii) After the account achieves one hundred seven percent (107%) actuarial funding, the board shall recommend a funding amount of not less than sixty percent (60%) of the gross tax levied upon fire insurance premiums. A recommended funding amount under this section in an amount greater than sixty percent (60%) which results in an actuarial funding level greater than one hundred seven percent (107%) requires approval of the legislature.

ARTICLE 7 - VOLUNTEER FIRE SERVICES IMMUNITY FROM LIABILITY

35-9-701. Repealed By Laws 1997, ch. 155, § 2.

ARTICLE 8 - REDUCED CIGARETTE IGNITION

35-9-801. Short title.

This article shall be known and may be cited as the "Wyoming Reduced Cigarette Ignition Propensity Act".

35-9-802. Definitions.

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

(i) "Agent" means any person authorized by the department of revenue to purchase and affix stamps on packages of cigarettes;

(ii) "Cigarette" means:

(A) Any roll of tobacco wrapped in paper or in any substance not containing tobacco. "Cigarette" includes any roll or tube of tobacco, or product derived from tobacco, that is produced by a machine on the premises of a retail dealer or a wholesale dealer; or

(B) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of

tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette as described in subparagraph (A) of this paragraph.

(iii) "Manufacturer" means:

(A) Any entity that manufactures cigarettes or causes the manufacture of cigarettes that are intended for sale in this state including cigarettes intended to be sold in the United States through an importer;

(B) Any successor of any entity described in subparagraph (A) of this paragraph.

(iv) "Quality control" and "quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors and equipment related problems do not affect the results of testing. A quality control program shall ensure that testing repeatability remains within the required repeatability values stated in W.S. 35-9-803(a)(vi) for all test trials used to certify cigarettes in accordance with this act;

(v) "Repeatability" means the range of values within which the repeat results of test trials from a single laboratory must fall ninety-five percent (95%) of the time;

(vi) "Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or tobacco products;

(vii) "Sale" means any transfer of title or possession, exchange or barter in any manner, by any means, or by any agreement, including cash and credit sales, giving of cigarettes as samples, prizes or gifts, and the exchange of cigarettes for any consideration other than money;

(viii) "Sell" means to sell, or to offer or agree to do the same;

(ix) "Wholesale dealer" means any person other than a manufacturer who sells cigarettes or tobacco products to retail dealers or others for resale and any person who owns, operates or maintains one (1) or more cigarette or tobacco product vending machines upon premises owned or occupied by any other person;

(x) "This act" means W.S. 35-9-801 through 35-9-811.

35-9-803. Requirements for sale; test method; adoption of other state's testing method, if appropriate; performance standards; exceptions.

(a) Except as provided in this act, cigarettes may not be offered for sale or sold to persons located in this state unless the cigarettes have been tested and have met the required performance standard specified in this section, the manufacturer has filed a written certification with the department of revenue in accordance with W.S. 35-9-804 and the cigarettes have been marked in accordance with W.S. 35-9-805. The following testing requirements shall apply:

(i) Cigarette testing shall be conducted in accordance with the American society of testing and materials ("ASTM") standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes," in effect on February 1, 2010. The state fire marshal may adopt a subsequent ASTM standard upon a written finding that the subsequent method does not result in a change in the percentage of full length burns exhibited by any tested cigarette when compared to the percentage of full length burns the same cigarette would exhibit when tested in accordance with ASTM standard E2187-04 and the performance standard in this section;

(ii) Testing shall be conducted on ten (10) layers of filter paper;

(iii) No more than twenty-five percent (25%) of the cigarettes tested in a test trial in accordance with this section shall exhibit full length burns. Forty (40) replicate tests shall comprise a complete test trial for each cigarette tested;

(iv) The performance standard required by this section shall be applied only to a complete test trial;

(v) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization ("ISO"), or other comparable accreditation standard required by the state fire marshal;

(vi) Laboratories conducting testing in accordance with this section shall implement a quality control and quality

assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall not be greater than nineteen hundredths (0.19);

(vii) This section does not require additional testing if cigarettes are tested consistent with this act for any other purpose;

(viii) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required by this section shall be conducted in accordance with this section.

(b) Each cigarette listed in a certification submitted pursuant to W.S. 35-9-804 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one (1) complete band shall be located at least fifteen (15) millimeters from the lighting end of the cigarette. Cigarettes on which the bands are positioned by design shall have at least two (2) bands fully located at least fifteen (15) millimeters from the lighting end and at least ten (10) millimeters from the filter end of the tobacco column. For nonfiltered cigarettes the bands shall be at least ten (10) millimeters from the labeled end of the tobacco column.

(c) If the state fire marshal determines that a cigarette cannot be tested in accordance with paragraph (a)(i) of this section, the manufacturer shall propose a test method and performance standard. If the state fire marshal approves the proposed test method and determines that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in paragraph (a)(iii) of this section, that test method and performance standard may be used to certify the cigarette pursuant to W.S. 35-9-804.

(d) The state fire marshal shall authorize a manufacturer to employ an alternative test method and performance standard to certify a cigarette for sale in this state if the fire marshal determines that:

(i) Another state has enacted reduced cigarette ignition propensity standards that include the proposed alternative test method and performance standard;

(ii) The other state's testing method and performance standard are the same as those adopted pursuant to paragraph (a)(i) of this section;

(iii) The officials responsible for implementing the other state's requirements have approved the proposed alternative test method and performance standard for a particular cigarette as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section; and

(iv) There is no reasonable basis to reject the alternative testing method.

(e) Manufacturers shall maintain copies of reports of all tests conducted on all cigarettes offered for sale for three (3) years and shall make copies available upon written request by the department of revenue or attorney general. Any manufacturer failing to make copies of the requested reports available within sixty (60) days of receipt of the request shall be subject to a civil penalty not to exceed ten thousand dollars ($10,000.00) for each day after the sixtieth day that the manufacturer fails to make copies available.

(f) Repealed by Laws 2015, ch. 55, § 2.

(g) The requirements of subsection (a) of this section shall not prohibit:

(i) Wholesale or retail dealers from selling after the effective date of this act the dealer's inventory of cigarettes existing on the effective date of this act if the wholesale or retail dealer can establish that state tax stamps were affixed to the cigarettes prior to the effective date and the wholesale or retail dealer can establish that the inventory was purchased prior to the effective date of this act in a comparable quantity to the inventory purchase during the same period of the prior year; or

(ii) The sale of cigarettes solely for the purpose of consumer testing using only the quantity of cigarettes that is reasonably necessary for the testing. For purposes of this paragraph the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, for the purpose of evaluating consumer acceptance of the cigarettes.

35-9-804. Certification and product change.

(a) Each manufacturer shall certify in writing to the department of revenue:

(i) Each cigarette listed in the certification has been tested pursuant to W.S. 35-9-803; and

(ii) Each cigarette listed in the certification meets the performance standard set forth in W.S. 35-9-803.

(b) For each cigarette listed in the certification the following information shall be included:

(i) Brand or trade name on the packaging;

(ii) Style;

(iii) Length in millimeters;

(iv) Circumference in millimeters;

(v) Flavor such as menthol if applicable;

(vi) Filter or nonfilter;

(vii) Package description such as soft pack or box;

(viii) Marking pursuant to W.S. 35-9-805;

(ix) Contact information for the laboratory that conducted the testing, including name, address and telephone number; and

(x) The date of testing.

(c) The department of revenue shall make the certifications available to the attorney general and the state fire marshal for purposes consistent with this act.

(d) Cigarettes certified pursuant to this section shall be recertified every three (3) years.

(e) For each cigarette listed in a certification, a manufacturer shall pay a fee of two hundred fifty dollars ($250.00) payable to the department of revenue to be deposited into the general fund.

(f) If a cigarette is certified and is subsequently changed in a manner that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this act, the cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards consistent with the provisions of this act and maintains the records of that retesting as required by this act. Any altered cigarette which does not meet the performance standard set forth in this act shall not be sold in this state.

35-9-805. Cigarette packaging.

(a) Cigarettes certified by a manufacturer in accordance with W.S. 35-9-804 shall be marked to indicate compliance with the requirements of W.S. 35-9-803. The marking shall include the letters "FSC" (Fire Standard Compliant), shall not be less than eight (8) point type and shall be permanently printed, stamped, engraved or embossed on the package at or near the UPC Code.

(b) A manufacturer shall use only one (1) marking applied uniformly for all packages including packs, cartons, cases and brands marketed by the manufacturer.

(c) Manufacturers certifying cigarettes in accordance with W.S. 35-9-804 shall submit copies of the certification to all wholesale dealers and agents selling their cigarettes.

35-9-806. Penalties.

(a) A manufacturer, wholesale dealer, agent or any other person or entity who knowingly sells or offers for sale cigarettes, other than through retail sale, in violation of W.S. 35-9-803 shall be subject to a civil penalty not to exceed one hundred dollars ($100.00) for each pack of such cigarettes sold or offered for sale. In no case shall the penalty against any such person or entity exceed one hundred thousand dollars ($100,000.00) during any thirty (30) day period.

(b) A retail dealer who knowingly sells or offers for sale cigarettes in violation of any provision of this act shall be subject to a civil penalty not to exceed one hundred dollars ($100.00) for each pack of such cigarettes sold or offered for sale. In no case shall the penalty against any retail dealer exceed ten thousand dollars ($10,000.00) during any thirty (30) day period.

(c) In addition to any penalty prescribed by law any corporation, partnership, sole proprietor, limited partnership or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to W.S. 35-9-804 shall be subject to a civil penalty of not less than seventy-five thousand dollars ($75,000.00) nor more than two hundred fifty thousand dollars ($250,000.00) for each false certification.

(d) Any person violating any other provision of this act shall be subject to a civil penalty for a first offense not to exceed one thousand dollars ($1,000.00) and for each subsequent offense a penalty not to exceed five thousand dollars ($5,000.00) for each violation.

(e) Law enforcement personnel or authorized employees of the department of revenue may seize cigarettes for which no certification has been filed or that have not been marked in the manner required by this act. Cigarettes seized pursuant to this section shall be destroyed not less than thirty (30) days after the trademark holder in the cigarette brand has been given an opportunity to inspect the cigarettes.

(f) In addition to any other remedy provided by law, the attorney general may file an action in district court for a violation of this act, including petitioning for any one (1) or more of the following remedies:

(i) For preliminary or permanent injunctive relief against any manufacturer, importer, wholesale dealer, retail dealer, agent or any other individual or entity to enjoin such individual or entity from selling, offering to sell or affixing tax stamps to any cigarette that does not comply with the requirements of this act;

(ii) To recover any costs or damages suffered by the state because of a violation of this act, including enforcement costs relating to the specific violation and attorney's fees.

(g) Each violation of this act or of rules and regulations adopted under this act constitutes a separate civil violation for which the department of revenue or attorney general may obtain relief. Upon obtaining judgment for injunctive relief under this section, the department of revenue or attorney general shall provide a copy of the judgment to all wholesale dealers and agents to which the subject cigarette has been sold.

35-9-807. Inspection and enforcement.

(a) The department of revenue may inspect cigarettes to determine if the cigarettes are marked as required by W.S. 35-9-805. If the cigarettes are not marked as required, the department of revenue shall seize the cigarettes as provided in W.S. 35-9-806(e) and notify the attorney general.

(b) To enforce the provisions of this act, the attorney general, the department of revenue and other law enforcement personnel are authorized to examine books, papers, invoices and other records of any person or entity possessing, controlling or occupying any premises where cigarettes are placed, held, stored, sold or offered for sale.

35-9-808. Fee and penalties.

All certification fees paid under W.S. 35-9-804 shall be deposited in the general fund. All monies recovered as penalties under W.S. 35-9-806 shall be paid over to the state treasurer pursuant to W.S. 8-1-109.

35-9-809. Sale in other states.

Nothing in this act shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of W.S. 35-9-803 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this state.

35-9-810. Preemption of local law.

This act shall preempt any local law, ordinance or regulation conflicting with any provision of this act.

35-9-811. Construction of act.

This act shall be interpreted and construed as provided in W.S. 8-1-103(a)(vii).

CHAPTER 10 - CRIMES AND OFFENSES

ARTICLE 1 - DISPOSAL OF GARBAGE, REFUSE AND DEAD ANIMALS

35-10-101. Depositing or placing refuse matter, dead animals and garbage into rivers, ditches, railroad rights-of-way, highways or public grounds prohibited; exception.

The depositing, placing, or causing to be placed or put, the carcass of any dead animal or the offal or refuse matter from any slaughterhouse, butcher shop, meat market, packing house, fish house, hog pen, stable, or any spoiled meats, spoiled fish, or any animal or vegetable matter in a putrid or decayed condition or which is liable to become putrid, decayed or offensive, or the contents of a privy vault, or any refuse or garbage, or any offensive matter or substance whatever upon or into any river, creek, bay, pond, canal, ditch, lake, stream, railroad right-of-way, public or private roadway, highway, street, alley lot, field, meadow, public place or public ground, or in any other and different locality, building, or establishment in this state so located that the said substance shall directly or indirectly cause or threaten to cause the pollution or impairment of the purity and usefulness of the waters of any spring, reservoir, stream, irrigation ditch, lake or water supply whether surface or subterranean, which are used wholly or partly as a source of public or domestic water supply, or where the same may become a source of annoyance to any person, or within one-half mile of any inhabited dwelling, or within one-half mile of any public roadway, by any person or persons, association of persons, company or corporation, incorporated city, incorporated or unincorporated town in the state of Wyoming, or the knowingly permitting of such acts by the owner, tenant, or occupant of said places, upon, into, or on said places, or the permitting of said offensive substances or other offensive substances to remain thereon or therein, shall be unlawful and is hereby declared to constitute a nuisance detrimental to the public health and general welfare of the citizens of Wyoming, provided that no present or future operation of any existing municipal garbage disposal system or any extension of or changes therein, which involves substantially daily burning, and no present or future operation of any now existing municipal sewage disposal system or facilities or any extension of or changes therein, shall be considered as within the scope of the foregoing provisions of this act or as a violation thereof but further provided that the foregoing exception concerning any existing municipal garbage disposal system, whether or not such involves substantially daily burning, shall not be applicable to or except from the scope of this act, any such system which has been commenced since prior construction in the close vicinity thereof, of

occupied residential buildings or occupied business properties, ten [(10)] or more in number.

35-10-102. Penalty for violation of W.S. 35-10-101.

Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00) or shall be imprisoned in the county jail not to exceed six (6) months, or shall be punishable by both such fine and imprisonment.

35-10-103. Repealed by Laws 1982, ch. 75, § 5; 1983, ch. 171, § 3.

35-10-104. Failure of owner to remove or bury dead animal.

It shall be the duty of the owner, or person having charge of an animal which may die in this state, to remove the carcass to a distance of not less than half a mile from the nearest human habitation, or to bury it with not less than two (2) feet of soil over it; and every person failing to so remove or bury such carcass, for more than forty-eight (48) hours, shall upon conviction, be fined in a sum not exceeding one hundred dollars ($100.00). And should such animal be the property or in charge of some person passing through this state, then any peace officer may (without warrant) detain the owner or person in charge of such animal, or of the flock or herd from which it died, as soon as such owner or person shall have shown an intention not to so bury or remove said carcass, by removing from it, or removing such flock or herd from it a distance of half a mile or more, a reasonable time, not to exceed two (2) days, until a warrant can issue upon an information duly sworn to. And the brand upon such animal may be given in proof of the ownership of the same.

35-10-105. Repealed by Laws 1982, ch. 75, § 5; 1983, ch. 171, § 3.

35-10-106. Repealed by Laws 1982, ch. 75, § 5; 1983, ch. 171, § 3.

35-10-107. Repealed by Laws 1982, ch. 75, § 5; 1983, ch. 171, § 3.

ARTICLE 2 - FIREWORKS

35-10-201. Definitions.

(a) "Fireworks" means any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including any item which may be sold or offered for sale under 15 U.S.C. § 1261, 21 U.S.C. § 371 and 16 C.F.R., Commercial Practices, part 1507.

(b) "Governing body" means the board of county commissioners as to the area within a county but outside the corporate limits of any city or town; or means the city council or other governing body of a city or town as to the area within the corporate limits of such city or town.

(c) "Person" shall include an individual, partnership, co-partnership, firm, company, association or corporation.

(d) "Commercial motor vehicle" means any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property and the vehicle meets one (1) of the following:

(i) The vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one (10,001) pounds;

(ii) The vehicle is designed to transport more than fifteen (15) passengers including the driver; or

(iii) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the secretary of transportation under the federal Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.

35-10-202. Sale and use prohibited; exception.

Except as hereinafter provided, it is unlawful for any person to offer or expose for sale, sell, at either wholesale or retail, give away, use, discharge or detonate any fireworks in the state of Wyoming.

35-10-203. Permits for public displays required.

(a) Any governing body shall have the power to grant permits, within the area under its jurisdiction, for supervised

public displays of fireworks by individuals, municipalities, amusement parks and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits. Every such display shall be handled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person.

(b) No permit shall be transferable or assignable.

(c) Repealed By Laws 2001, Ch. 97, § 2.

35-10-204. Construction; exceptions.

(a) This act shall not be construed to prohibit:

(i) Any person from offering for sale, exposing for sale, selling, or delivering fireworks to any municipality, association, amusement park, or other organization or group holding a permit issued as herein provided, or to the directors of the Wyoming state fair or of any county fair organized under the laws of this state;

(ii) Any person from using or exploding fireworks in accordance with the provisions of any permit issued as herein provided or as part of a supervised public display at the Wyoming state fair or of any county fair organized under the laws of this state;

(iii) Any person from offering for sale, exposing for sale, or selling, any fireworks which are to be and are shipped by commercial motor vehicle directly out of the state;

(iv) Any person from offering for sale, exposing for sale, selling, using, or exploding any article, device or substance for a purpose other than display, exhibition, amusement or entertainment; or when used for mining purposes, danger signals, or other necessary uses; or

(v) Any person from offering for sale, exposing for sale, selling, using, or exploding blank cartridges for theatrical or ceremonial purposes or in organized athletic or sporting events.

35-10-205. Further regulations by municipalities.

This act shall not be construed to prohibit the imposition by municipal ordinance of further regulations or prohibitions upon the sale, use and possession of fireworks within the corporate limits of any city or town, including those items defined under 15 U.S.C. § 1261, but no such city or town shall permit or authorize the sale, use or possession of any fireworks in violation of this act.

35-10-206. Enforcement; disposal of seized fireworks.

Wyoming peace officers shall seize all stocks of fireworks held in violation of W.S. 35-10-201 through 35-10-208 and shall apply to the appropriate court for the disposition of the fireworks. Following a hearing determining the fireworks were held in violation of W.S. 35-10-201 through 35-10-208, the fireworks shall be destroyed or otherwise disposed of upon order of any circuit court or district court.

35-10-207. Penalties.

Any person violating any provision of W.S. 35-10-201 through 35-10-208 is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than seven hundred fifty dollars ($750.00), or by imprisonment not exceeding sixty (60) days, or by both such fine and imprisonment.

35-10-208. County regulation of fireworks.

(a) For the purpose of this section "fireworks" means only those items which may be sold or offered for sale under 15 U.S.C. § 1261, 21 U.S.C. § 371 and 16 C.F.R., Commercial Practices, part 1507. A board of county commissioners may, subject to subsection (b) of this section:

(i) Prohibit the sale to Wyoming residents or use of fireworks by adopting a resolution under W.S. 35-9-301;

(ii) Promulgate reasonable rules and regulations for authorizing the sale of fireworks.

(b) Notwithstanding subsection (a) of this section, the proposition to prohibit, or authorize in counties that currently prohibit, the sale or use of fireworks in a county shall be submitted to the electors of the county upon receipt by the board of county commissioners of a petition requesting the election signed by a number of the electors of the county equal to fifteen percent (15%) of the total number of votes cast at

the general election immediately preceding the date on which the petition is submitted, or by resolution of the board of county commissioners. The proposition shall be submitted at a primary or general election, if the petition or resolution is certified sixty (60) days prior to the primary or general election. If the proposition fails, no such petition shall be submitted for four (4) years following the election.

(c) Any resolution adopted by a county prohibiting the sale or use of fireworks which was in effect on February 1, 1990, is deemed to be valid unless amended or repealed by the board of county commissioners pursuant to subsection (b) of this section.

ARTICLE 3 - STORAGE OF EXPLOSIVES

35-10-301. General regulations.

It shall be unlawful for any person or company to store any gunpowder or any other explosive material at a less distance than one thousand (1,000) feet from any house or habitation, when more than fifty (50) pounds are stored at the same place; but it shall be unlawful to place or to keep any powder or other explosive material, in any house or building occupied as a residence, or any outbuilding pertaining thereto.

35-10-302. Construction of powder magazine.

Hereafter, any powder magazine that may be built, shall be so constructed as to provide and maintain the storage room thereof, entirely below the natural surface of the ground adjacent; and it shall be unlawful to store such powder or explosives in any other than such storage rooms.

35-10-303. Penalty for violation of W.S. 35-10-301; violation of W.S. 35-10-302 declared nuisance.

Anyone violating the provisions of W.S. 35-10-301 shall be on conviction, fined in any sum not exceeding one hundred dollars ($100.00) for each and every offense, and may be imprisoned not exceeding thirty (30) days, or both fined and imprisoned, in the discretion of the court having jurisdiction. Any violation of the provisions of W.S. 35-10-302 shall be a public nuisance, and shall be abated at the suit of any person, in any court of competent jurisdiction.

ARTICLE 4 - MISCELLANEOUS OFFENSES

35-10-401. Obstructing or injuring highways, streets, bridges or navigable streams generally; offensive manufactures or businesses; pollution of waters.

(a) If any person, company or corporation shall obstruct or injure or cause or procure to be obstructed or injured, any public road or highway, or common street or alley of any town or village, or any public bridge or causeway, or public river or stream, declared navigable by law, or shall continue such obstruction, so as to render the same inconvenient or dangerous to pass, or shall erect or establish any offensive trade, or manufacture or business, or continue the same after it has been erected or established, or shall in anywise pollute or obstruct any watercourse, lake, pond, marsh or common sewer, or continue such obstruction or pollution, so as to render the same unwholesome or offensive to the county, city, town or neighborhood thereabouts; every person, company or corporation so offending, shall upon conviction thereof, be fined not exceeding one hundred dollars ($100.00); and every such nuisance may, by order of the district court before whom the conviction may take place, be removed and abated by the sheriff of the proper county.

(b) Whoever, in any manner, wrongfully obstructs any public highway, or injures any bridge, culvert, or embankment, or injures any material used in the construction of any such road, shall be fined in any sum not more than one hundred dollars ($100.00), to which may be added imprisonment in the county jail not more than three (3) months.

35-10-402. Entering mines, metallurgical works or sawmills while intoxicated; taking intoxicants into related structures.

Whoever shall, while under the influence of intoxicating liquor, enter any mine, smelter, metallurgical works, machine shops or sawmills, or any of the buildings connected with the operation of the same in Wyoming where miners or workmen are employed or whoever shall carry or haul any intoxicating liquor into the same or any logging or grading camp shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding five hundred dollars ($500.00) to which may be added imprisonment in the county jail for a term not exceeding one (1) year.

35-10-403. Boats for hire required to have life preservers.

Any person who shall keep for hire boats, not equipped with life preservers for the protection of every occupant, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars ($100.00).

35-10-404. Life jackets for occupants of boats and rafts required.

Each and every person who shall operate a boat, raft or other navigable vessel shall have available for each occupant on said boat a life jacket of the coast guard approved type during the time the boat, raft or vessel is afloat upon any of the waters of the state of Wyoming.

35-10-405. Life jackets for occupants of boats and rafts; penalty.

Any person violating the provisions of the act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars ($100.00).

35-10-406. Life jackets for occupants of boats and rafts; enforcement.

Each and every city, town, county and state law enforcement officer and the game wardens of the Wyoming game and fish commission shall enforce the provisions of this act.

35-10-407. Abandoned iceboxes or refrigerators.

Whoever abandons or stores any refrigeration unit or icebox in such a place as to be easily accessible to children without first having made adequate provision to prevent entry into such refrigeration unit or icebox or without having removed all latches, catches, locking devices or the door thereof, so that escape from the interior may be had, shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined in a sum of not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100.00), or be imprisoned for not more than ninety (90) days or both.

35-10-408. Additional authority of counties, cities and towns to regulate nuisances.

(a) Nothing in this act shall be construed as to prevent any city, town or village, incorporated under the laws of this

state, or the proper corporate authority thereof, from passing or enforcing any ordinance, bylaw, regulation or rule, regulating, restraining, or prohibiting nuisances of any kind or character, or from enforcing any ordinance, bylaw, rule or regulation thereupon, already passed and in force.

(b) Nothing in this act shall be construed as to prevent any county from passing or enforcing any resolution regulating, restraining, or prohibiting nuisances which the commission determines to be a threat to health or safety pursuant to W.S. 18-2-101(a)(viii), or from enforcing any resolution already passed and in force.

35-10-409. Sale of metal beverage containers which are severable upon opening prohibited; penalty; definitions.

(a) No person shall sell or offer for sale in this state any metal beverage container so designed and constructed that a nonbiodegradable part of the container is severed when the container is opened, with the following exceptions:

(i) Metal beverage containers designed and constructed with biodegradable severed parts;

(ii) Metal beverage containers sealed by pressure sensitive adhesive strips; and

(iii) The manufacture of metal beverage containers with or without severable parts in this state for sale outside of Wyoming.

(b) Any person violating this section is guilty of a misdemeanor punishable by a fine of not more than one hundred dollars ($100.00).

(c) As used in this section, "beverage" means mineral waters, soda water, carbonated or noncarbonated soft drinks or alcoholic or malt beverages as defined in W.S. 12-1-101(a)(vii) and (x).

CHAPTER 11 - ENVIRONMENTAL QUALITY

ARTICLE 1 - GENERAL PROVISIONS

35-11-101. Short title.

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

35-11-102. Policy and purpose.

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

35-11-103. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

(xii) The singular includes the plural, the plural the singular, and the masculine and feminine or neuter, when consistent with the intent of this act and necessary to effect its purpose;

(xiii) "This act" means W.S. 35-11-101 through 35-11-403, 35-11-405, 35-11-406, 35-11-408 through 35-11-1106, 35-11-1414 through 35-11-1432, 35-11-1601 through 35-11-1613, 35-11-1701, 35-11-1801 through 35-11-1803, 35-11-2001 through 35-11-2004 and 35-11-2101.

(b) Specific definitions applying to air quality:

(i) "Air contaminant" means odorous material, dust, fumes, mist, smoke, other particulate matter, vapor, gas or any

combination of the foregoing, but shall not include steam or water vapor;

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

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

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

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

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

(c) Specific definitions applying to water quality:

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

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

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

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

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

(vi) "Waters of the state" means all surface and groundwater, including waters associated with wetlands, within Wyoming;

(vii) "Discharge" means any addition of any pollution or wastes to any waters of the state;

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

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

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

(ix) "Small wastewater system" means any sewerage system, disposal system or treatment works having simple hydrologic and engineering needs which is intended for wastes originating from a single residential unit serving no more than four (4) families or which distributes two thousand (2,000) gallons or less of domestic sewage per day;

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

(A) Hydrophytic vegetation;

(B) Hydric soils; and

(C) Wetland hydrology.

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

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

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

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

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

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

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

(xviii) "Nontransient noncommunity water system" means a public water supply which is not a community water system and which regularly provides service to at least twenty-five (25) of the same persons for more than six (6) months of the year where those persons are not full-time residents,

including, but not limited to, schools, factories and office buildings;

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

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

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

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

(d) Specific definitions applying to solid waste management:

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

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

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

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

(D) Post-use polymers and recovered feedstocks converted at an advanced recycling facility or held at an advanced recycling facility before conversion through an advanced recycling process.

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

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

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

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

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

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

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

(G) Lands and facilities subject to W.S. 35-11-402(a)(xiii) or (xv);

(H) Advanced recycling facilities.

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

(iv) "Commercial solid waste management facility" means any facility receiving a monthly average greater than five hundred (500) short tons per day of unprocessed household refuse or mixed household and industrial refuse for management or disposal, excluding lands and facilities subject to W.S. 35-11-402(a)(xiii);

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

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

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

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

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

(E) Facilities licensed by the United States nuclear regulatory commission whose sole purpose is to receive in situ leaching uranium mining byproduct materials as defined in section 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended.

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

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

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

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

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

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

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

(xiii) "Advanced recycling facility" means a manufacturing facility that receives, stores and converts post-use polymers and recovered feedstocks using advanced recycling.

(e) Specific definitions for land quality:

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

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

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

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

(v) "Underground mining" means the mining of minerals by man-made excavation underneath the surface of the earth;

(vi) "Pit" means a tract of land from which overburden has been or is being removed for the purpose of surface mining or mining from an exposed natural deposit;

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

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

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

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

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

mining and reclamation operations, except as otherwise provided in this act;

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

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

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

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

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

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

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

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

(xx) "Surface coal mining operation" means:

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

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

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

(xxii) "Complete application" under W.S. 35-11-406(e) means that the application contains all the essential and necessary elements and is acceptable for further review for substance and compliance with the provisions of this chapter;

(xxiii) "Interim mine stabilization" means a temporary cessation of mining operation within the terms of a valid permit to mine;

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

(xxv) "Imminent or continuous threat" means, with respect to the coal mine subsidence mitigation program, physical data which shows an immediate significant threat of damage from mine subsidence or insurance claim records which support progressive and continuous mine subsidence loss damage to structure;

(xxvi) "Fish and wildlife habitat" means land dedicated wholly or partially to the production, protection or management of species of fish or wildlife;

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

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

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

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

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

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

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

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

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

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

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

(vi) "Reclamation" includes groundwater restoration;

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

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

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

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

(ii) "Certificate of completion" means a certificate issued by the director stating that all remediation requirements for a site have been successfully implemented or satisfied. The certificate of completion shall incorporate any required institutional and engineering controls for future use of the site, which may include deed restrictions recorded by the site

owner. A certificate of completion may be conditioned upon the duty to perform any continuing requirements specified in a remedy agreement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) Familial relationships;

(II) Contractual, corporate or financial relationships; or

(III) The reorganization of a potentially liable business.

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

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

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

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

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

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

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

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

(A) Stands, flows or percolates; and

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

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

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

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

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

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

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

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

35-11-105. Divisions enumerated.

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

(i) Air quality division;

(ii) Water quality division;

(iii) Land quality division;

(iv) Solid and hazardous waste management division;

(v) Abandoned mine land division;

(vi) Industrial siting division.

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

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

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

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

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

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

(c) Repealed by Laws 1992, ch. 60, § 4.

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

(e) The industrial siting division is the successor to the powers, duties, functions and regulatory authority of the state

office of industrial siting administration which is abolished effective April 1, 1992.

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

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

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

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

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

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

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

(iv) Conduct, encourage, request and participate in, studies, surveys, investigations, research, experiments, training and demonstrations by contract, grant or otherwise; prepare and require permittees to prepare reports and install, use and maintain any monitoring equipment or methods reasonably necessary for compliance with the provisions of this act; and collect information and disseminate to the public such information as is deemed reasonable and necessary for the proper enforcement of this act;

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

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

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

(viii) Represent Wyoming in any matters pertaining to plans, procedures or negotiations for interstate compacts or

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

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

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

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

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

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

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

designated officers, employees or representatives are authorized to:

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

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

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

(xvi) Establish an expedited process to issue all permits or licenses required under this act that are necessary for the establishment or operation of a facility for the production of a value-added manufactured product in an industrial sovereign zone established under W.S. 9-20-202. The expedited process under this paragraph shall be prioritized ahead of all other permit applications and expedited to the extent that the process does not adversely impact primacy of permitting programs or reduce public health and environmental protections provided for in the Environmental Quality Act. The issuance of licenses or permits shall not be unreasonably delayed. In addition to an expedited process established under this paragraph, the director may, by rule, establish a pre-permitting process for any permit or license required under this act for the establishment or operation of a facility for the production of a value-added manufactured product in an industrial sovereign zone established under W.S. 9-20-201 through 9-20-203.

(b) In addition to any other powers and duties imposed by law, the director of the department may allow the permitting and reporting requirements of this act to be conducted electronically as provided by the Uniform Electronic Transaction

Act, W.S. 40-21-101 through 40-21-119 and any applicable federal electronic requirements.

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

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

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

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

(iii) To supervise studies, surveys, investigations, experiments and research projects assigned by the director and report all information gained therefrom to the director and the appropriate advisory board;

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

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

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

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

(A) Establish and maintain records;

(B) Make reports;

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

(D) Sample effluents, discharges or emissions;

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

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

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

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

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

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

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

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

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

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

(b) The terms of the members shall be for four (4) years, except that on the initial appointment, members' terms shall be as follows: three (3) shall serve for two (2) years, two (2) shall serve for three (3) years and two (2) shall serve for four (4) years, as designated by the initial appointment. If a vacancy occurs, the governor shall appoint a new member as provided in W.S. 28-12-101.

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

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

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

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

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

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

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

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

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

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

(v) Designate at the earliest date and to the extent possible those areas of the state which are very rare or uncommon and have particular historical, archaeological, wildlife, surface geological, botanical or scenic value. When areas of privately owned lands are to be considered for such designation, the council shall give notice to the record owner and hold hearing thereon, within a county in which the area, or major portion thereof, to be so designated is located, in accordance with the Wyoming Administrative Procedure Act. No new designations shall be made pursuant to this paragraph after July 1, 2011, but the council shall retain the authority to remove designations made prior to that date;

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

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

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

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

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

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

(d) The council may employ an executive officer and staff who shall serve at the pleasure of the council. The executive officer and other staff members shall perform duties as the council may assign, including preparing meeting facilities and completing administrative, secretarial and other functions. The department of administration and information shall provide suitable office space for the executive officer and other staff members and shall ensure that any employment authorized under this subsection complies with title 9, chapter 2, article 10 of the Wyoming statutes. The council may negotiate and enter into appropriate memoranda of understanding with the department of administration and information to facilitate administrative support, accounting functions and staffing needs required under this subsection.

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

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

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

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

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

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

(b) For the initial appointments to each board, the governor shall appoint one (1) member for a six (6) year term, two (2) members for four (4) year terms and two (2) members for two (2) year terms. Thereafter all appointments shall be for four (4) year terms. No officer or employee of the state, other than employees of institutions of higher education, may be appointed to a board. A vacancy occurs if any member ceases to represent the interest group or political party for which he was originally appointed, or if any member becomes unable or fails to serve for any reason. The governor shall fill vacancies by appointment for the unexpired portion of the term.

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

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

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

(b) The advisory board shall consult with and advise the administrator and director on the adoption of rules, regulations and standards to implement and carry out the provisions and

purposes of this act which relate to their divisions, and variances therefrom.

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

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

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

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

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

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

(c) Nothing in this section shall be construed to limit any power which the governor or any other officer may have to declare an emergency and act on the basis of such declaration,

if such power is conferred by statute or constitutional provision or inheres in the office.

ARTICLE 2 - AIR QUALITY

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

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

35-11-202. Establishment of standards.

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

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

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

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

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

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

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

(E) The social welfare and aesthetic value.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35-11-205. Application procedures.

(a) Any source required to have a permit under W.S. 35-11-203 shall, not later than twelve (12) months after the date on which the source becomes subject to the requirements of the operating permit program or such earlier date as the department may establish, submit to the department a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The department shall approve or disapprove a completed application, consistent with the procedures established under W.S. 35-11-204 for consideration of such applications, and shall issue or deny the permit, within eighteen (18) months after the date of receipt thereof, except that the department shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of the operating permit program, or a partial or interim program. Any such schedule shall assure that at least one-third (1/3) of the permits will be acted on by the department annually over a period of not to exceed three (3) years after the effective date. The department shall establish reasonable procedures to prioritize approval or disapproval actions in the case of applications for construction or modification under the applicable requirements of the Clean Air Act and this article.

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

(c) Except for sources required to have a permit before construction or modification under the applicable requirements of this article or the Clean Air Act, if an applicant has submitted a timely and complete application for a permit or a renewal of a permit required by the operating permit program, but final action has not been taken on the application, the source's failure to have a permit shall not be a violation of W.S. 35-11-203, unless the delay in final action was due to the failure of the applicant to timely submit information required or requested to process the application. No source required to have a permit under the operating permit program shall be in violation of W.S. 35-11-203 before the date on which the source is required to submit an application under subsection (a) of this section.

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

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

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

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

IV of the Clean Air Act, or where required elsewhere in the Clean Air Act.

(c) Every permit issued under the operating permit program shall set forth inspection, entry, monitoring, compliance certification and reporting requirements to assure compliance with the permit terms and conditions. Monitoring and reporting requirements shall conform to any applicable regulation under subsection (b) of this section. Any report required to be submitted by a permit issued to a corporation under the operating permit program shall be signed by a responsible corporate official, who shall certify its accuracy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Upon receipt of timely objection by the environmental protection agency under title V of the Clean Air Act the department shall not issue any permit under the operating permit program unless it is revised and issued in accordance with section 505(c) of the Clean Air Act. Any permit issued under the operating permit program shall be subject to revocation or revision by the department throughout the period of time that EPA may object under title V of the Clean Air Act.

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

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

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

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

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

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

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

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

(ii) Adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental

release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution;

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

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

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

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

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

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

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

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

(ii) Is a small business concern as defined in the Small Business Act;

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

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

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

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

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

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

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

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

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

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

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

(b) The panel shall:

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

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

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

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

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

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

35-11-211. Fees.

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

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

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

(ii) Implementing and enforcing permits;

(iii) Emissions and ambient monitoring;

(iv) Preparing regulations and guidance;

(v) Modeling analyses and demonstrations;

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

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

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

(ix) Information management activities.

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

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

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

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

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

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

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

(i) Application $500.00;

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

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

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

35-11-212. Effect of other provisions.

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

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

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

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

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

(c) Nothing in this section shall be construed to limit or to impede state or private participation in any on-going

voluntary initiatives to reduce emissions of greenhouse gases, including, but not limited to, the United States environmental protection agency's green lights program, the United States department of energy's climate challenge program and similar state and federal initiatives relying on voluntary participation.

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

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

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

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

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

(i) Repealed By Laws 2013, Ch. 39, § 2.

(ii) Repealed By Laws 2013, Ch. 39, § 2.

(j) Subsections (e) through (k) of this section and the authority granted in subsection (e) of this section to the department and the council to promulgate and adopt greenhouse gas regulations and all regulations adopted pursuant to subsection (e) of this section are repealed upon the occurrence of any one (1) of the following events:

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

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

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

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

(i) Repealed By Laws 2013, Ch. 39, § 2.

(ii) Repealed By Laws 2013, Ch. 39, § 2.

35-11-214. Emission trading programs.

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

ARTICLE 3 - WATER QUALITY

35-11-301. Prohibited acts.

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

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

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

(iii) Construct, install, modify or operate any sewerage system, treatment works, disposal system or other facility, excluding uranium mill tailing facilities, capable of causing or contributing to pollution, except that no permit to operate shall be required for any publicly owned or controlled sewerage system, treatment works or disposal system;

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

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

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

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

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

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

(iii) Standards for the issuance of permits for construction, installation, modification or operation of any

public water supply and sewerage system, subdivision water supply, treatment works, disposal system or other facility, capable of causing or contributing to pollution;

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

(v) Standards for the issuance of permits as authorized pursuant to section 402(b) of the Federal Water Pollution Control Act as amended in 1972, and as it may be hereafter amended;

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

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

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

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

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

(E) The effect upon the environment.

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

(viii) Financial assurance requirements for plugging, abandonment, post-closure monitoring, corrective actions and site reclamation for any class I hazardous waste or nonhazardous

waste underground injection facility or class V coalbed methane underground injection facility as described in 40 C.F.R. Part 146. Rules, regulations, standards and permit systems recommended and prescribed under this paragraph shall apply only to any permit issued, renewed or transferred after July 1, 2018, under department of environmental quality regulations for a class I hazardous waste or nonhazardous waste underground injection facility or class V coalbed methane underground injection facility;

(ix) Standards for housed facilities where swine are confined, fed and maintained for a total of forty-five (45) consecutive days or more in any twelve (12) month period and the feedlot or facility is designed to confine an equivalent of one thousand (1,000) or more animal units. If any county adopts a land use plan or zoning resolution which imposes stricter requirements than those found in subparagraph (C) of this paragraph, the county requirements shall prevail. These standards shall include:

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

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

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

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

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

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

(IV) One-quarter (1/4) mile of a water well permitted for current domestic purposes without the written consent of the owner of the well;

(V) One-quarter (1/4) of a mile of a perennial stream unless it is demonstrated to the department that potential adverse impacts to the water quality of the stream can be avoided.

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

(x) Standards for the determination of capacity development capabilities to ensure that all new or modified community water systems and new or modified nontransient noncommunity water systems commencing operation after October 1, 1999, demonstrate capacity development capabilities and by October 1, 2001, develop a strategy to assist all community and noncommunity water systems in acquiring and maintaining capacity development by adopting procedures governing capacity development in compliance with section 1420 of the Safe Drinking Water Act (42 U.S.C. § 300g-9). The department shall have the authority to require new systems in noncompliance of capacity development capabilities to take steps to correct inadequacies or cease water system operations;

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

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

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

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

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

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

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

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

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

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

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

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

(a) To the extent requested by a municipality, water and sewer district or county, the administrator of the water quality division, with the approval of the director, shall delegate to municipalities, water and sewer districts or counties which

apply the authority to enforce and administer within their boundaries the provisions of W.S. 35-11-301(a)(iii) and (v), including the authority to develop necessary rules, regulations, standards and permit systems and to review and approve construction plans, conduct inspections and issue permits. Any authority delegated under this section shall be subject to the following conditions:

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

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

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

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

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

35-11-305. Repealed by Laws 1985, ch. 141, § 1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The estimated costs of remedying or abating, in a cost effective manner, the violation or damages caused by the violation in the event of any discharge of pollution to the air, land or to waters of the state which is in violation of a permit, standard, rule or requirement established under the provisions of this act.

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

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

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

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

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

(k) If the license to do business in Wyoming of any surety upon a bond filed pursuant to this act is suspended or revoked by any state authority then the facility operator, within thirty (30) days after receiving notice thereof, shall substitute a good and sufficient corporate surety licensed to do business in the state. Upon failure of the facility operator to make substitution of surety within a reasonable period of time, not to exceed sixty (60) days, the director shall suspend the facility permit to accept oil field wastes until proper substitution has been made.

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

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

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

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

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

(p) When the director determines that the violation has been remedied or the damage abated, the director shall release that portion of the bond or financial assurance instrument being held under paragraph (d)(ii) of this section. When the director determines that closure activities have been successfully completed at any commercial oil field waste disposal facility, the director shall release that portion of the bond or financial assurance instrument being held to guarantee performance of

activities specified in subparagraphs (d)(i)(A) through (E) of this section. The remaining portion of the bond or financial assurance instrument shall be held for a period of not less than five (5) years after the date of facility closure, or so long thereafter as necessary to assure proper performance of any post-closure activities specified in subparagraph (d)(i)(F) of this section. The retained portion of the bond or other financial assurance instrument may be returned to the facility operator at an earlier date if the director determines that the facility has been adequately stabilized and that environmental monitoring or control systems have demonstrated that the facility closure is protective of public health and the environment consistent with the purposes of this act.

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

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

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

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

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

35-11-308. Short title.

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

35-11-309. Legislative policy and intent.

(a) The legislature declares that all water, including collections of still water and waters associated with wetlands within the borders of this state are property of the state. The legislature further declares that water is one of Wyoming's most important natural resources, and the protection, development and management of Wyoming's water resources is essential for the long-term public health, safety, general welfare and economic security of Wyoming and its citizens.

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

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

(d) The legislature recognizes that significant differences exist in Wyoming between naturally occurring wetlands and those wetlands that result from human activities. Because portions of Wyoming are arid or semiarid, water was diverted from streams and rivers for irrigating cropland, resulting in the creation of wetlands. These wetlands have partially compensated for wetlands losses. Additionally, road and highway construction, petroleum industry operations and

other human activities have created wetlands where none previously existed. While these man-made wetlands are equally as important as naturally occurring wetlands, having the same characteristics and providing the same values and functions, management flexibility is required to acknowledge their different origins and to protect the property rights of landowners and water right holders.

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

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

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

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

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

35-11-311. Mitigation; guidelines.

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

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

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

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

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

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

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

35-11-312. Fees.

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

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

(i) Surface water quality monitoring and analysis;

(ii) Surface water quality modeling analysis and demonstrations;

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

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

35-11-313. Carbon sequestration; permit requirements.

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

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

(c) If an oil and gas operator converts to geologic sequestration upon the cessation of oil and gas recovery operations, or injects carbon dioxide for the primary purpose of long term storage that results in an increased risk to an underground source of drinking water as compared to enhanced oil recovery operations, then regulation of the geologic sequestration facility and the geologic sequestration site shall be transferred to the department. If the oil and gas operator does not convert to geologic sequestration, the wells shall be plugged and abandoned according to the rules of the Wyoming oil and gas conservation commission. When determining whether an oil and gas recovery operation is injecting carbon dioxide for the primary purpose of long term storage that results in an increased risk to an underground source of drinking water as compared to enhanced oil recovery operations, the director shall consider the findings and recommendations of the supervisor of the Wyoming oil and gas conservation commission. The supervisor shall make his determination following a hearing of the oil and gas conservation commission examiners held under the commission's rules and regulations promulgated under Title 30, Chapter 5 of the Wyoming statutes. The supervisor shall provide the operator and director with notice of the supervisor's findings and recommendations under this subsection and an opportunity for a public hearing before the Wyoming oil and gas conservation commission. Within fifteen (15) days of receiving

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

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

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

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

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

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

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

(B) A characterization of the injection zone and aquifers above and below the injection zone which may be affected including applicable pressure and fluid chemistry data to describe the projected effects of injection activities;

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

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

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

(F) A site and facilities description, including a description of the proposed geologic sequestration facilities and documentation sufficient to demonstrate that the applicant has all legal rights, including but not limited to the right to surface use, necessary to sequester carbon dioxide and associated constituents into the proposed geologic sequestration site. The department may issue a permit authorizing:

(I) Construction of an injection well on lands for which the applicant has demonstrated all legal rights specified by this subsection;

(II) Geologic sequestration, contingent on obtaining a unitization order, if required, pursuant to W.S. 35-11-314 through 35-11-320.

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

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

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

(K) Proof of bonding or financial assurance to ensure that geologic sequestration sites and facilities will be constructed, operated and closed in accordance with the purposes

and provisions of this act and the rules and regulations promulgated pursuant to this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) Procedures, including public notice and a public hearing if requested, for the release of bonds or the termination of insurance instruments not less than ten (10)

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

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

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

(g) Repealed By Laws 2010, Ch. 52, § 3.

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

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

dioxide sequestration by the United States environmental protection agency.

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

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

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

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

35-11-314. Unitization of geologic sequestration sites; purposes; definitions.

(a) The purpose of W.S. 35-11-314 through 35-11-319 is declared by the Wyoming legislature to be the protection of corresponding rights, compliance with underground injection control class VI well and other environmental requirements, to facilitate the use and production of Wyoming energy resources and to facilitate the utilization of pore space for geologic sequestration.

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

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

(ii) "Economic benefits" means the equitable proportionate share of all financial proceeds due to the pore space owners in a unit area based upon each individual pore space owner's contribution of pore space storage capacity to a unit area;

(iii) "Unit area" means the pore space lying within the geologic formation proposed to be operated and may include the area of geologic sequestration for one (1) or more injection wells.

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

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

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

(ii) A description of the pore space proposed to be included in the unit area and the corresponding surface lands;

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

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

(B) All owners of the surface estate or pore space estate not included within but that are located not greater than one-half (1/2) mile from a boundary of the proposed unit area.

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

(v) A statement of the type of operations contemplated in order to effectuate the purposes specified in W.S. 35-11-314 to comply with underground injection control class VI well and other environmental requirements, to facilitate the use and production of Wyoming energy resources or to utilize pore space for geologic sequestration;

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

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

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

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

(x) The location of any identified and existing wells, whether previously plugged or not, that may require evaluation monitoring or corrective action as part of the proposed geologic sequestration in the unit area.

35-11-316. Unitization of geologic sequestration sites; hearings on application, order; modifications.

(a) Upon receipt of an application under W.S. 35-11-315, the Wyoming oil and gas conservation commission shall promptly

set the matter for hearing, and in addition to any notice otherwise required by law or the commission's rules, shall cause the applicant to give notice of the hearing, specifying the time and place of hearing, and describing briefly its purpose and the land and pore space affected, to be mailed by certified mail at least thirty (30) days prior to the hearing to all persons whose names and addresses are required to be listed in the application.

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

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

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

(iii) The application outlines operations that will comply with applicable underground injection control class VI well permits, draft permits or any applications for permits and any other environmental requirements. The commission may rely on a class VI well permit issued by the department to make the findings required by this paragraph;

(iv) Granting the application will facilitate the use and production of Wyoming energy resources or will utilize pore space for geologic sequestration;

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

(vi) The method for the allocation of economic benefits provided by the use of pore space within the unit area between pore space owners; and between pore space owners and the unit operator or others is fair and reasonable. For purposes of this paragraph, federal injection fees, federal lease payments and other consideration derived from federal leases shall not be considered;

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

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

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

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

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

(e) Unless otherwise provided in this section, an order entered by the Wyoming oil and gas conservation commission under this section may be amended in the same manner and subject to the same conditions as an original order or previous agreement: provided, no amendatory order shall change the assignments of pore space storage capacity between existing pore space owners in the unit area as established by the original order or previous agreement, except with the written consent of those persons who own at least eighty percent (80%) of the pore space storage capacity in the unit area, nor change any allocation of costs as established by the original order or previous agreement, except with the written consent of those persons who own at least eighty percent (80%) of the unit pore space storage capacity. If consent has not been obtained at the time the commission order is made, the commission shall, upon application, hold supplemental hearings and make findings as may be required to determine when and if such consent will be obtained. The commission shall require the applicant to give notice of a supplemental hearing by regular mail at least thirty (30) days prior to the hearing to each person owning interests in the unit area whose name and address was required by the provisions of W.S. 35-11-315(a)(iii) to be listed in the application for the unit operations. If the required percentages of consent have not been obtained within a period of six (6) months from and after the date on which the order of approval is made, the order shall be ineffective and revoked by the commission, unless, for good cause shown, the commission extends that time. Any interested person may file an application with the Wyoming oil and gas conservation commission requesting an order applicable only to the unit area described

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

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

(g) Any owner of pore space within a geologic sequestration site who has not been included within a unitization application or order authorizing a unit under this section, may petition for inclusion in the unit area. The petition shall be filed with the Wyoming oil and gas conservation commission and shall describe the petitioner's legal entitlement to the pore space, the location of the pore space, whether the pore space is included within any permitting area applicable to the unit area and the bases for inclusion in the unit area. The petition shall be accompanied by a deposit of money sufficient to pay all costs of the inclusion proceedings. The commission shall require the petitioner to provide notice of the filing of the petition to all persons specified in the application for the unit area under W.S. 35-11-315(a). The notice required under this subsection shall state the filing of the petition, the name of the petitioner, the location of the pore space, the action sought by the petitioner

and any other information required by rule of the commission. Upon receipt of the petition and the provision of notice by the petitioner, the commission shall publish notice of a hearing, which shall describe how all persons specified in an application submitted under W.S. 35-11-315(a) may appear at a specified time and place and show cause, in writing or as otherwise provided by rules of the commission, why the petition should not be granted. The commission at the time and place mentioned in the notice shall proceed to hear the petition and all objections thereto and shall thereafter grant or deny the petition. The filing of the petition shall be deemed and taken as an assent by each and all petitioners to the inclusion in the unit of the pore space mentioned in the petition or any part thereof. If the petition is granted, the petitioner shall be considered to have been a member of the unit since its inception and, upon the payment of any costs paid by unit members, shall be entitled to a proportionate share of all economic benefits received by unit members since the inception of the unit provided that no unit modification affects any permit issued under W.S. 35-11-313. The oil and gas conservation commission shall adopt rules or orders providing for the fair and equitable determination of pore space storage capacity for each successful petitioner and the means by which successful petitioners shall be paid the economic benefits to which they are entitled under this subsection, including, if necessary, a reallocation of economic benefits among unit members.

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

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

(k) No order for unitization issued under this section shall:

(i) Act so as to grant any person a right of use or access to a surface estate if that person would not otherwise have such a right;

(ii) Diminish, impair or otherwise alter the dominance of the mineral estate over the surface estate and pore space interests;

(iii) Prohibit a mineral interest owner from developing the owner's minerals above or below the unit area.

(m) Orders for unitization issued under this section may accommodate and provide for the use of horizontal or directional wells that may penetrate the pore space of separate pore space estates for geologic sequestration purposes within the unit area.

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

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

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

35-11-318. Title to sequestered and injected carbon dioxide; definitions.

35-11-318. Geologic sequestration special revenue account.

(a) Geologic sequestration special revenue account.

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

(b) An injector shall:

(b) Geologic sequestration special revenue account.

(i) Geologic sequestration special revenue account.

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

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

(ii) Geologic sequestration special revenue account.

(c) Geologic sequestration special revenue account.

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

(d) Geologic sequestration special revenue account.

35-11-319. Certificate of project completion; release; transfer of title and custody.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35-11-320. Geologic sequestration special revenue account.

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

35-11-320. Geologic sequestration special revenue account.

35-11-320. Geologic sequestration special revenue account.

(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.

35-11-320. Geologic sequestration special revenue account.

35-11-320. Geologic sequestration special revenue account.

35-11-320. Geologic sequestration special revenue account.

(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.

35-11-320. Geologic sequestration special revenue account.

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

ARTICLE 4 - LAND QUALITY

35-11-401. Compliance generally; exceptions.

(a) No mining operation or operation by which solid minerals are intended to be extracted from the earth shall be commenced after the effective date of the act, except in accordance with its requirements. It is recognized these measures are performed in the public interest and constitute an expense to the operator, and while this act applies to all mining operations, no operator shall be compelled to perform at his own expense measures required under this act with respect to operations that were completed or substantially completed prior to the effective date of this act. Nothing in this act shall provide the land quality division regulatory authority over oil mining operations as defined in W.S. 30-5-104(d)(ii)(F).

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

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

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

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

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

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

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

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

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

(iv) Archaeological excavations;

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

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

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

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

affected land if he determines that such amount is necessary to insure reclamation. The operator shall post the additional bond not later than thirty (30) days after receipt of such notification;

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

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

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

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

(G) Limited mining operations shall be subject to rules governing the use of explosives pursuant to W.S. 35-11-402(d).

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

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

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

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

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

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

(iii) Their potential for adverse environmental impact; and

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

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

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

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

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

(i) The name and address of the operator;

(ii) The location of the mining operations;

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

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

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

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

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

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

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

35-11-402. Establishment of standards.

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

(i) The highest previous use of the affected lands, the surrounding terrain and natural vegetation, surface and subsurface flowing or stationary water bodies, wildlife and aquatic habitat and resources, and acceptable uses after reclamation including the utility and capacity of the reclaimed lands to support such uses;

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

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

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

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

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

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

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

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

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

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

(x) Rules and regulations for the criteria for review and information and public notice requirements for permit revisions. A permit may be revised without public notice or hearing for revisions, including incidental boundary revisions to the area covered by the permit, if these do not propose significant alterations in the reclamation plan. Subject to applicable standards, any permit, except for surface coal mining permits, may be revised, in the permitted area, by identifying

proposed alterations to the mining or reclamation plan in the annual report or addendum thereto, or by obtaining prior approval from the director, at the operator's discretion;

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

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

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

(A) Minimum depth requirements for the burial of decommissioned wind turbine blades and towers to be buried below the surface and above any aquifers as defined in W.S. 35-11-103(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.

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

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

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

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

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

(A) Injury to persons;

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

(C) Adverse impacts on any underground mine;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Within sixty (60) days after the completion and abandonment of any hole drilled which has artesian flow at the surface, the person for whom the hole was drilled shall report the existence of the hole to the administrator, land quality division and the state engineer. The report, set forth in affidavit form, shall contain at least the location of the hole to the nearest two hundred (200) feet, the depth of the hole and estimated rate of flow, if known, and the facts of the plugging technique used.

(e) Within twelve (12) months after the completion and proper abandonment of any hole drilled any person shall file with the administrator, land quality division and the state engineer a report which shall include the location of each hole, utilizing Wyoming state plane coordinates, and the depth of each hole drilled. The reports shall be confidential for a period of five (5) years from the date of filing. The period may be extended for additional five (5) year periods upon request of

the person filing the report. When a report is no longer confidential pursuant to this subsection, the provisions of W.S. 35-11-1101 shall apply.

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

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

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

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

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

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

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

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

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

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

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

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

(e) Any valid surface coal mining permit issued pursuant to this act is entitled to a right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit if public notice has been given, any additional

revised or updated information has been provided and the operation is in compliance with applicable laws and regulations and if the renewal requested will not substantially jeopardize the operator's responsibility on existing affected land.

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

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

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

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

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

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

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

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

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

operations, the names and last known addresses of coal ownership immediately adjacent to the permit area;

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

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

(B) The name, if any, by which such lands or any part thereof are known;

(C) The approximate number of acres to be affected, including the total number of acres in the area covered by the permit application;

(D) The nearest town, village, or city.

(vii) A general description of the land which shall include as nearly as possible its vegetative cover, the annual rainfall, the general directions and average velocities of the winds, indigenous wildlife, its past and present uses, its present surface waters, and adjudicated water rights and their immediate drainage areas and uses, and, if known, the nature and depth of the overburden, topsoil, subsoil, mineral seams or other deposits and any subsurface waters known to exist above the deepest projected depth of the mining operation;

(viii) A United States Geological Survey topographic map, if available, of the permit area;

(ix) A map based upon public records showing the boundaries of the land to be affected, its surrounding immediate drainage area, the location and names, where known, of all roads, railroads, public or private rights-of-way and easements, utility lines, lakes, streams, creeks, springs, and other surface water courses, oil wells, gas wells, water wells, and the probable limits of underground mines and surface mines, whether active or inactive, on or immediately adjacent to the land to be affected. The map shall also show:

(A) The names, last known addresses and boundary lines of the present surface landowners and occupants on the adjacent land to be affected;

(B) The location, ownership, and uses of all buildings on, or on lands adjacent to, the land to be affected;

(C) An outline of all areas previously disturbed by underground mining or that will be affected by future underground mining as a guide to potential subsidence problems;

(D) Any political boundaries of special districts on or near the land to be affected.

(x) The mineral or minerals to be mined;

(xi) The estimated dates of commencement and termination of the proposed permit;

(xii) A minimum fee of two hundred dollars ($200.00) plus ten dollars ($10.00) for each acre in the requested permit, but the maximum fee for any single permit shall not exceed two thousand dollars ($2,000.00). The permit is amendable, excepting permits for surface coal mining operations, without public notice or hearing if the area sought to be included by amendment does not exceed twenty percent (20%) of the total permit acreage, is contiguous to the permit area, and if the operator includes all of the information necessary in his application to amend that is required in this section including a mining and reclamation plan acceptable to the administrator. The fee for a permit amendment shall be two hundred dollars ($200.00) plus ten dollars ($10.00) for each acre not to exceed two thousand dollars ($2,000.00);

(xiii) A certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which this permit is sought, or evidence that the applicant has satisfied other state or federal self-insurance requirements. This policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations including use of explosives and entitled to compensation under the applicable provisions of state law. This policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations;

(xiv) For surface coal mining permit applications, a schedule listing all notices of violation which resulted in

enforcement action of this act, and any law, rule or regulation of the United States, or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the three (3) year period prior to the date of application;

(xv) Such other information as the administrator deems necessary or as good faith compliance with the provisions of this act require.

(b) The application shall include a mining plan and reclamation plan dealing with the extent to which the mining operation will disturb or change the lands to be affected, the proposed future use or uses and the plan whereby the operator will reclaim the affected lands to the proposed future use or uses. The mining plan and reclamation plan shall be consistent with the objectives and purposes of this act and of the rules and regulations promulgated. The mining plan and reclamation plan shall include the following:

(i) A statement of the present and proposed use of the land after reclamation;

(ii) Plans for surface gradient to a contour suitable for proposed use after reclamation is completed and proposed method of accomplishment;

(iii) Type of vegetation and manner of proposed revegetation or other surface treatment of affected area;

(iv) Method of disposal of buildings and structures erected during the operation;

(v) One (1) or more maps as may be required by the administrator of reclamation and mining operators on an appropriate scale showing location and extent of the proposed affected lands, together with the location of any public highways, dwelling, surface drainage area, and all utility and other easements existing on the affected lands. The map shall also show the location of all proposed pits, spoil banks, haul roads, railroads, topsoil conservation areas, buildings, refuse or waste areas, shipping areas including conveyors, and shall further set forth the drainage plan on, below, above and away from the affected land including subsurface water above the mineral seam to be removed; and shall further show the location of all waste water impoundments, any settling ponds, and other

water treatment facilities, constructed drainways and natural drainways, and the surface bodies of water receiving this discharge. In lieu of an original map, a reproduction of a United States Geological Survey topographic map or aerial photograph is acceptable if the required information is platted. The map of the affected lands shall be accompanied by a typical cross section, showing the elevations of the surface, top and bottom of the mineral seam. Additional cross sections at appropriate intervals may be required by the administrator. The cross sections shall show surface elevations for a distance beyond the outlines of the affected areas as may be determined by the administrator;

(vi) An estimate of the total cost of reclaiming the affected lands as outlined in the written proposal computed in accordance with established engineering principles;

(vii) A contour map on the same scale as the reclamation map showing to the extent possible the proposed approximate contours of the affected area after completion of proposed reclamation;

(viii) The proposed method of separating topsoil, subsoil, and spoil piled, protecting and conserving them from wind and water erosion before reclamation begins by planting a quick growing cover or other acceptable methods, and the proposed method of preserving topsoil free of acid or toxic materials, as well as the manner in which topsoil shall be replaced. If topsoil is virtually nonexistent or is not capable of sustaining vegetation, then the method of removing, segregating and preserving in a like manner subsoil which is better able to support vegetation. Spoil piles are to be kept separate and apart from topsoil. All piles are to be clearly marked so as to avoid confusion. If conditions do not permit the separation, conservation and replacement of topsoil or subsoil, a full explanation of such conditions shall be given and alternate procedures proposed;

(ix) A plan for insuring that all acid forming, or toxic materials, or materials constituting a fire, health or safety hazard uncovered during or created by the mining process are promptly treated or disposed of during the mining process in a manner designed to prevent pollution of surface or subsurface water or threats to human or animal health and safety. Such method may include, but not be limited to covering, burying, impounding or otherwise containing or disposing of the acid, toxic, radioactive or otherwise dangerous material;

(x) For a surface mining operation granted a new permit after July 1, 1973, and prior to March 1, 1975, except for an operation legally operating under the 1969 Open Cut Land Reclamation Act, an instrument of consent from the surface landowner, if different from the mineral owner, to the mining plan and reclamation plan. If consent cannot be obtained as to either or both, the applicant may request a hearing before the environmental quality council. The council shall issue an order in lieu of consent if it finds:

(A) That the mining plan and the reclamation plan have been submitted to the surface owner for approval;

(B) That the mining plan and the reclamation plan is detailed so as to illustrate the full proposed surface use including proposed routes of egress and ingress;

(C) That the use does not substantially prohibit the operations of the surface owner;

(D) The proposed plan reclaims the surface to its approved future use, in segments if circumstances permit, as soon as feasibly possible.

(xi) For an application filed after March 1, 1975, an instrument of consent from the resident or agricultural landowner, if different from the owner of the mineral estate, granting the applicant permission to enter and commence surface mining operation, and also written approval of the applicant's mining plan and reclamation plan. As used in this paragraph "resident or agricultural landowner" means a natural person or persons who, or a corporation of which the majority stockholder or stockholders:

(A) Hold legal or equitable title to the land surface directly or through stockholdings, such title having been acquired prior to January 1, 1970, or having been acquired through descent, inheritance or by gift or conveyance from a member of the immediate family of such owner; and

(B) Have their principal place of residence on the land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by the surface mining operation, or receive directly a significant portion of their income from such farming or ranching operations.

(xii) For any application filed after March 1, 1975, including any lands privately owned but not covered by the provisions of paragraph (b)(xi) of this section an instrument of consent from the surface landowner, if different from the owner of the mineral estate, to the mining plan and reclamation plan. If consent cannot be obtained as to the mining plan or reclamation plan or both, the applicant may request a hearing before the environmental quality council. The council shall issue an order in lieu of consent if it finds:

(A) That the mining plan and the reclamation plan have been submitted to the surface owner for approval;

(B) That the mining plan and the reclamation plan is detailed so as to illustrate the full proposed surface use including proposed routes of egress and ingress;

(C) That the use does not substantially prohibit the operations of the surface owner;

(D) The proposed plan reclaims the surface to its approved future use, in segments if circumstances permit, as soon as feasibly possible;

(E) For surface coal mining operations, that the applicant has the legal authority to extract coal by surface mining methods.

(xiii) The procedures proposed to avoid constituting a public nuisance, endangering the public safety, human or animal life, property, wildlife and plant life in or adjacent to the permit area including a program of fencing all stockpiles, roadways, pits and refuse or waste areas to protect the surface owner's ongoing operations;

(xiv) The methods of diverting surface water around the affected lands where necessary to effectively control pollution or unnecessary erosion;

(xv) The methods of reclamation for effective control of erosion, siltation, and pollution of affected stream channels and stream banks by the mining operations;

(xvi) A statement of the source, quality and quantity of water, if any, to be used in the mining and reclamation operations;

(xvii) A blasting plan which shall outline the procedures and standards by which the operator of a surface coal mine will meet the provisions of W.S. 35-11-415(b)(xi);

(xviii) For surface coal mining operations, a plan to minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after mining operations and during reclamation. This paragraph does not alter the authority granted under any other section of this act with respect to requirements for maintaining the hydrologic balance in the minesite, or associated offsite areas, of other mining operations;

(xix) A projected timetable for accomplishment of the reclamation plan;

(xx) For surface coal mining operations, a request for approval of any alternatives which may be proposed to the provisions of the regulations promulgated by the council. For each alternative provision the applicant shall:

(A) Identify the provision in the regulations promulgated by the council for which the alternative is requested;

(B) Describe the alternative proposed and provide an explanation including the submission of data, analysis and information in order to demonstrate that the alternative is in accordance with the applicable provisions of the act and consistent with the regulations promulgated by the council. In addition, the applicant shall demonstrate that the proposed alternative is necessary because of local requirements or local environmental or agricultural conditions;

(C) Paragraph (xx) of this subsection shall not take effect until approved by the secretary of the interior as an amendment to a state program approved pursuant to section 503 of P.L. 95-87.

(xxi) A blasting plan that shall outline the procedures and standards by which the operator of a noncoal surface mine will comply with the standards specified and the rules promulgated under W.S. 35-11-402(d).

(c) The applicant may have the local conservation district assist in preparation of, provide data for, perform research, review and comment upon the reclamation. For those lands in a surface coal mining permit application which a reconnaissance inspection suggests may be prime farm lands, a soil survey shall be made or obtained according to standards established by the United States secretary of agriculture in order to confirm the exact location of these prime farm lands, if any. If the United States secretary of agriculture or his representative has determined that the state, area or exact location within the permit area does not contain prime farm lands this subsection is inapplicable.

(d) The applicant shall file a copy of his application for public inspection at the office of the administrator and in the offices of the county clerks of the counties in which the proposed permit area is located. Those parts of the application which contain confidential trade secrets whose disclosure would be harmful to the applicant are exempt from these filings.

(e) The administrator shall notify the applicant within sixty (60) days of submission of the application whether or not it is complete. If the administrator deems the application incomplete, he shall so advise and state in writing to the applicant the information required. All items not specified as incomplete at the end of the first sixty (60) day period shall be deemed complete for the purposes of this subsection.

(f) If the applicant resubmits an application or further information, the administrator shall review the application or additional information within sixty (60) days of each submission and advise the applicant in writing if the application or additional information is complete.

(g) After the application is determined complete, the applicant shall publish a notice of the filing of the application once each week for two (2) consecutive weeks in a newspaper of general circulation in the locality of the proposed mining site.

(h) The administrator shall review the application and unless the applicant requests a delay advise the applicant in writing within one hundred fifty (150) days from the date of determining the application is complete, that it is suitable for publication under subsection (j) of this section, that the application is deficient or that the application is denied. All reasons for deficiency or denial shall be stated in writing to

the applicant. All items not specified as being deficient at the end of the first one hundred fifty (150) day period shall be deemed complete for the purposes of this subsection. After this period, for noncoal permits, the administrator shall not raise any item not previously specified as being deficient unless the applicant in subsequent revisions significantly modifies the application. If the applicant submits additional information in response to any deficiency notice, the administrator shall review such additional information within thirty (30) days of submission and advise the applicant in writing if the application is suitable for publication under subsection (j) of this section, that the application is still deficient or that the application is denied.

(j) The applicant shall cause notice of the application to be published in a newspaper of general circulation in the locality of the proposed mining site once a week for four (4) consecutive weeks commencing within fifteen (15) days after being notified by the administrator. The notice shall contain information regarding the identity of the applicant, the location of the proposed operation, the proposed dates of commencement and completion of the operation, the proposed future use of the affected land, the location at which information about the application may be obtained, and the location and final date for filing objections to the application. For initial applications or additions of new lands the applicant shall also mail a copy of the notice within five (5) days after first publication to all surface owners of record of the land within the permit area, to surface owners of record of immediately adjacent lands, and to any surface owners within one-half (1/2) mile of the proposed mining site. The applicant shall mail a copy of the application mining plan map within five (5) days after first publication to the Wyoming oil and gas commission. Proof of notice and sworn statement of mailing shall be attached to and become part of the application.

(k) Repealed by Laws 2020, ch. 35, § 2.

(m) The requested permit, other than a surface coal mining permit, shall be granted if the applicant demonstrates that the application complies with the requirements of this act and all applicable federal and state laws. The director shall not deny a permit except for one (1) or more of the following reasons:

(i) The application is incomplete;

(ii) The applicant has not properly paid the required fee;

(iii) Any part of the proposed operation, reclamation program, or the proposed future use is contrary to the law or policy of this state, or the United States;

(iv) The proposed mining operation would irreparably harm, destroy, or materially impair any area that has been designated by the council a rare or uncommon area and having particular historical, archaeological, wildlife, surface geological, botanical or scenic value;

(v) If the proposed mining operation will cause pollution of any waters in violation of the laws of this state or of the federal government;

(vi) If the applicant has had any other permit or license issued hereunder revoked, or any bond posted to comply with this act forfeited;

(vii) The proposed operation constitutes a public nuisance or endangers the public health and safety;

(viii) The affected land lies within three hundred (300) feet of any existing occupied dwelling, home, public building, school, church, community or institutional building, park or cemetery, unless the landowner's consent has been obtained. The provisions of this subsection shall not apply to operations conducted under an approved permit issued by the state land commissioner in compliance with the "Open Cut Land Reclamation Act of 1969";

(ix) The operator is unable to produce the bonds required;

(x) Repealed by Laws 2020, ch. 35, § 2.

(xi) If information in the application or information obtained through the director's investigation shows that reclamation cannot be accomplished consistent with the purposes and provisions of this act;

(xii) Repealed by Laws 1980, ch. 64, § 3.

(xiii) Repealed by Laws 1980, ch. 64, § 3.

(xiv) Repealed by Laws 1980, ch. 64, § 3.

(xv) If the applicant has been and continues to be in violation of the provisions of this act;

(xvi) No permit shall be denied on the basis that the applicant has been in actual violation of the provisions of this act if the violation has been corrected or discontinued.

(n) The applicant for a surface coal mining permit has the burden of establishing that his application is in compliance with this act and all applicable state laws. No surface coal mining permit shall be approved unless the applicant affirmatively demonstrates and the administrator finds in writing:

(i) The application is accurate and complete;

(ii) The reclamation plan can accomplish reclamation as required by this act;

(iii) The proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area;

(iv) The area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to W.S. 35-11-425, within an area where mining is prohibited pursuant to section 522(e) of P.L. 95-87, or within an area under review for this designation under an administrative proceeding, unless in such an area as to which an administrative proceeding has commenced pursuant to W.S. 35-11-425, the operator making the permit application demonstrates that, prior to January 1, 1977, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit;

(v) The proposed operation would:

(A) Not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated, but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands as to which the administrator finds that if the farming that will be interrupted, discontinued or precluded is of such small acreage as to be of negligible impact on the farm's agricultural production; or

(B) Not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors. Paragraph (n)(v) of this section shall not affect those surface coal mining operations which in the year preceding August 3, 1977, produced coal in commercial quantities, and were located within or adjacent to alluvial valley floors or had obtained specific permit approval by the administrator to conduct surface coal mining operations within said alluvial valley floors. If coal deposits are precluded from being mined by this paragraph, the administrator shall certify to the secretary of the interior that the coal owner or lessee may be eligible for participation in a coal exchange program pursuant to section 510(b)(5) of P.L. 95-87.

(vi) If the area proposed to be surface coal mined contains prime farmland, the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards of this act and the regulations promulgated pursuant thereto;

(vii) The schedule provided in paragraph (a)(xiv) of this section indicates that all surface coal mining operations owned or controlled by the applicant are currently in compliance with this act and all laws referred to in paragraph (a)(xiv) of this section or that any violation has been or is in the process of being corrected to the satisfaction of the authority, department or agency which has jurisdiction over the violation.

(o) No permit shall be issued to an applicant after a finding by the director or council, after opportunity for hearing, that the applicant or operator specified in the application controls or has controlled mining operations with a demonstrated pattern of willful violations of such nature and duration with such resulting irreparable harm to the environment as to indicate reckless, knowing or intentional conduct.

(p) The following objection procedure shall apply to applications for mining permits for coal:

(i) Any interested person has the right to file written objections to the application with the director within thirty (30) days after the last publication of the notice required in subsection (j) of this section. The director shall

within five (5) business days forward any objection to the applicant and shall make objections available to the public;

(ii) If an informal conference is requested by the applicant or objector, the director shall hold the informal conference in the locality of the proposed operation within thirty (30) days after the final date for filing objections under paragraph (i) of this subsection unless a different period is stipulated to by the parties. The director shall publish notice of the time, date and location of the informal conference in a newspaper of general circulation in the locality of the proposed operation at least two (2) weeks before the date of the informal conference;

(iii) The director shall render a decision on the application within thirty (30) days after the deadline to file objections provided in paragraph (i) of this subsection if no informal conference is requested. If the director holds an informal conference, all parties to the conference shall be furnished with a copy of the final written decision of the director issuing or denying the permit within sixty (60) days of the conference. The applicant or objector may appeal the director's written decision after an informal conference to the council. If a hearing is held, the hearing shall be conducted as a contested case in accordance with the Wyoming Administrative Procedure Act and the council shall issue findings of fact and a decision on the application within sixty (60) days after the final hearing;

(iv) Notwithstanding W.S. 35-11-1001, only the applicant or an objector who participated in a hearing before the council may obtain judicial review of the council's decision.

(q) The following objection procedure shall apply for any other mining permit application:

(i) Any interested person has the right to file written objections to the administrator within thirty (30) days after the last publication of the notice required in subsection (j) of this section. The administrator shall within five (5) business days forward any objection to the applicant and shall make objections available to the public;

(ii) The administrator shall review all objections and shall forward a report and recommendations on the objections to the director. The director shall issue to the applicant and

to any objector a final written decision issuing or denying the permit within thirty (30) days after the deadline to file objections provided in paragraph (i) of this subsection;

(iii) The applicant or objector may appeal the director's written decision to the council. If a hearing is held, the council shall issue findings of fact and a decision within sixty (60) days after the final hearing;

(iv) A person who does not object as provided under this subsection has no right of appeal.

35-11-407. Water impoundments.

(a) In any plan for the creation of a permanent water impoundment the applicant must adequately demonstrate that:

(i) The size of the impoundment, contouring and revegetation, if any, are suitable for its intended purpose and use;

(ii) Final grading will provide adequate safety and access for proposed water users;

(iii) The impoundment dam construction will be so designed to insure permanent stability and to prevent safety hazards.

35-11-408. Permit transfer.

A permit holder desiring to transfer his permit shall apply to the administrator. The potential transferee shall file with the administrator a statement of qualifications to hold a permit as though he were the original applicant for the permit and shall further agree to be bound by all of the terms and conditions of the original permit. The administrator shall recommend approval or denial of the transfer to the director. No transfer of a permit will be allowed if the current permit holder is in violation of this act, unless the transferee agrees to bring the permit into compliance with the provisions of this act.

35-11-409. Permit revocation.

(a) The director shall revoke a mining permit if at any time he determines that the permit holder intentionally misstated or failed to provide any fact that would have resulted in the denial of a mining permit and which good faith compliance

with the policies, purposes, and provisions of this act would have required him to provide.

(b) Unless an emergency exists, and except as otherwise provided in this act, the revocation of a permit shall become effective upon thirty (30) days' notice to the operator. In an emergency, a special meeting of the council may cause a revocation to become effective upon receipt of notice by the permit holder.

(c) When an inspection carried out pursuant to the enforcement of this act reveals that a pattern of violations by any surface coal mine operator of any requirements of this act or any permit conditions required by this act has existed, and that these violations were caused by the unwarranted failure of the operator to comply with these requirements or permit conditions, or that these violations are willfully caused by the operator, the director shall issue an order to the operator to show cause why the permit should not be suspended or revoked. Opportunity for a public hearing before the council shall be provided. If a hearing is requested the director shall inform all interested parties of the time and place of the hearing. Upon failure of the operator to show cause why the permit should not be suspended or revoked, the council shall suspend or revoke the permit.

35-11-410. License to mine for minerals; application.

(a) A license to mine is issued for the duration of the mining operation on the permit area unless sooner revoked or suspended as provided herein. No mining operation of any kind may be commenced or conducted without a license to mine.

(b) Any operator desiring to engage in a mining operation shall make a written application to the administrator on forms furnished by the administrator for a license to mine. A license is required for each mining operation for which a separate mining permit is issued. The application shall contain or be accompanied by:

(i) The name and address of the applicant;

(ii) A copy of the mining permit for the lands which are to be affected by the proposed mining operation, and if the applicant is other than the permit holder, a copy of the instrument of permission from the permit holder granting to the applicant the rights thereto;

(iii) If the applicant for the license is other than the permit holder, a statement that the applicant has never had any permit issued by the administrator revoked, or license issued by the board revoked, or bond posted to comply with the act forfeited for intentional and substantial violation of the provisions of this act;

(iv) The location and number of acres of the area to be affected by the proposed mining operation for the first year of operation if less than the full extent of the permit area;

(v) The estimated dates of commencement and termination of the proposed mining operation;

(vi) A fee of one hundred fifty dollars ($150.00).

(c) The administrator shall promptly review the license application and if he finds the application in order and consistent with the terms of the permit and any other provisions of this act, the administrator will determine the size of the bond to be posted for the purpose of insuring reclamation of the lands affected during the first year of operation and upon receipt of said bond will promptly issue the license.

35-11-411. Annual report.

(a) An operator shall file an annual report with the administrator on or within thirty (30) days prior to the anniversary date of each permit. The report shall include:

(i) The name and address of the operator and the permit number;

(ii) A report in such detail as the administrator shall require supplemented with maps, cross sections, aerial photographs, photographs, or other material indicating:

(A) The extent to which the mining operations have been carried out;

(B) The progress of all reclamation work;

(C) The extent to which expectations and predictions made in the original or any previous reports have been fulfilled, and any deviation therefrom, including but not

limited to the quantity of overburden removed, the quantity of minerals removed, and the number of acres affected.

(iii) A revised schedule or timetable of operations and reclamation and an estimate of the number of acres to be affected during the next one (1) year period.

(b) Upon receipt of the annual report the administrator shall make such further inquiry as shall be deemed necessary. If the administrator objects to any part of the report or requires further information he shall notify the permittee as soon as possible and shall allow a reasonable opportunity to provide the required information, or take such action as shall be necessary to remove the objection.

(c) As soon as possible after the receipt of the annual report the administrator shall conduct an inspection of the site of the operation. A report of this inspection shall be made a part of the permittee's annual report and a copy shall be delivered to the operator.

(d) Within sixty (60) days after receipt of the annual report, inspection report and other required materials, if the administrator finds the annual report in order and consistent with the reclamation plan as set forth in the permit, or as amended to adjust to conditions encountered during mining and reclamation operations as provided by law, the director shall determine the size of the bond to be posted for the purpose of insuring reclamation of the lands affected during the ensuing year.

35-11-412. License revocation or suspension.

(a) The director shall revoke an operator's license:

(i) If at any time he becomes aware of the existence of any fact, reason, or condition that would have caused him to deny an application for a mining permit whether or not such condition existed at the time of the application;

(ii) If he determines that the operator intentionally misstated or failed to provide any fact that would have resulted in the denial of a license and which good faith compliance with the policies, purposes and provisions of this act would have required him to provide.

(b) The director may suspend the license if he determines the operator is in substantial violation of the terms of the license or of the provisions of this act. The suspension shall be lifted when the violations have been corrected to the director's satisfaction. No suspension shall be unreasonably prolonged.

(c) Unless an emergency exists, the revocation or suspension of a license shall become effective upon thirty (30) days notice to the applicant. In the case of an emergency, the director may cause such revocation or suspension to become effective immediately upon receipt of notice.

35-11-413. Special license to explore for minerals by dozing.

A special license to explore for minerals by dozing may be issued by the administrator for a one (1) year period without a permit.

35-11-414. Special license to explore for minerals by dozing; application; standards; fee; bond; denial; appeal.

(a) Any person desiring to engage in mineral exploration by dozing shall apply to the administrator for a special license. The application shall be in accordance with rules and regulations adopted pursuant to the standards set forth in subsection (b) of this section, by the council upon recommendation by the director after consultation with the administrator and advisory board, and shall be accompanied by a fee of two hundred fifty dollars ($250.00).

(b) The council shall establish rules and regulations pursuant to the following reclamation standards for exploration by dozing:

(i) Backfilling the topsoil disturbed by dozing to its approximate original contour;

(ii) Revegetation of the land affected by dozing, including species to be used;

(iii) Timetables for the accomplishment of the above reclamation program.

(c) After reviewing the application for special license to explore by dozing the administrator shall set the amount of the

bond necessary to insure complete reclamation and issue the special license to explore.

(d) The administrator may deny the special license to explore if he believes the application is in violation of the purpose of this act.

(e) The decision of the administrator may be appealed through the director to the council.

(f) All special licenses to explore issued by the administrator shall be reviewed by the council at their next regularly scheduled meeting.

(g) A bond posted under the terms of this section shall be released upon completion of the exploration, by dozing, the reclamation program, and an inspection by the administrator. Failure to comply with the provisions of this section will result in forfeiture of the bond.

(h) If the proposed exploration by dozing will substantially affect forty (40) or more acres in any four (4) contiguous sixteenth sections, the application shall conform to the reclamation standards and requirements governing surface mining, and the provisions of this section shall not apply.

(j) Any abandoned drill hole shall be subject to the reclamation provisions of subsection 30-96.16(e) of the statutes.

35-11-415. Duties of operator.

(a) Every operator to whom any permit or license is issued shall comply with all requirements of this act, the rules and regulations promulgated hereunder, and reclamation plans and other terms and conditions of any permit or license.

(b) The operator, pursuant to an approved surface mining permit and mining plan and reclamation plan, or any approved revisions thereto, shall:

(i) Conspicuously post and maintain at each entrance to the operation, a sign which clearly shows the name, address and telephone number of the operator, the name of his local authorized agent, and the permit number of his operation;

(ii) Conduct all surface mining and reclamation activities within the permit area in conformity with his approved plan;

(iii) Protect the removed and segregated topsoil from wind and water erosion, and from acid or toxic materials, and preserve such in a usable condition for sustaining vegetation when restored in reclamation, or if topsoil is virtually nonexistent or is not capable of sustaining vegetation, then subsoil, which is available and suitable, shall be removed, segregated, and preserved in a like manner as may be required in the approved reclamation plan;

(iv) Cover, bury, impound, contain or otherwise dispose of toxic acid forming, or radioactive material or any material determined by the administrator to be hazardous to health and safety, or which constitutes a threat of pollution to surface or subsurface water as may be required in the approved reclamation plan;

(v) Conduct contouring operations to return the land to the use set out in the reclamation plan;

(vi) Backfill or grade, and replace topsoil, or approved subsoil, which has been segregated and preserved as may be required in the approved reclamation plan;

(vii) Replace, as nearly as possible, native or superior self regenerating vegetation on land affected, as may be required in the approved reclamation plan;

(viii) Prevent, throughout the mining and reclamation operation, and for a period of five (5) years after the operation has been terminated, pollution of surface and subsurface waters on the land affected by the institution of plantings and revegetation, the construction of drainage systems and treatment facilities including settling ponds and the casing, sealing of boreholes, shafts, and wells so that no pollution is allowed to drain untreated into surface or subsurface water in accordance with state or federal water quality standards, whichever are higher, as may be required in the approved reclamation plan;

(ix) Reclaim the affected land as mining progresses in conformity with the approved reclamation plan;

(x) For surface coal mining operations, preserve throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors if these areas are classified within a permit. This paragraph does not alter the authority granted under any other section of this act with respect to requirements for preserving throughout the mining and reclamation process the essential hydrologic functions of the minesite, or associated offsite areas, of other mining operations;

(xi) For surface coal mining operations, insure that explosives are used only in accordance with existing state and federal law and the rules and regulations promulgated by the council, which shall include but are not limited to provisions to:

(A) Provide adequate advance written notice to local governments and residents who might be affected by the use of these explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident within one-half (1/2) mile of the proposed blasting site and by providing daily notice to the resident or occupiers in these areas prior to any blasting;

(B) Maintain for a period of at least three (3) years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blast;

(C) Limit the types of explosives and detonating equipment, the size, timing and frequency of blasts based upon the physical conditions of the site so as to prevent:

(I) Injury to persons;

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

(III) Adverse impacts on any underground mine;

(IV) A change in the course, channel or availability of ground or surface water outside the permit area.

(D) Require that all blasting operations be conducted by trained and competent persons as certified by the administrator;

(E) Provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half (1/2) mile of any portion of the permitted area the applicant or permittee shall conduct a preblasting survey of these structures and submit the survey to the administrator and a copy to the resident or owner making the request. The area of the survey shall be decided by the administrator and shall include provisions as the United States secretary of the interior shall promulgate.

(xii) For surface coal mining operations, replace in accordance with state law the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial or other legitimate use from an underground or surface source where the supply has been affected by contamination, diminution or interruption proximately resulting from the surface coal mine operation;

(xiii) Comply with the blasting plan required and submitted under W.S. 35-11-406(b)(xxi) for the use of explosives at noncoal surface mining operations.

35-11-416. Protection of the surface owner.

(a) In those instances in which the surface owner is not the owner of the mineral estate proposed to be mined by mining operations a permit shall not be issued without the execution of a bond or undertaking to the state, whichever is applicable, for the use and benefit of the surface owner or owners of the land, in an amount sufficient to secure the payment for any damages to the surface estate, to the crops and forage, or to the tangible improvements of the surface owner. This amount shall be determined by the administrator and shall be commensurate with the reasonable value of the surrounding land, and the effect of the overall operation of the landowner. This bond is in addition to the performance bond required for reclamation by this act. As damage is determined it shall be paid. Financial loss resulting from disruption of the surface owner's operation shall be considered as part of the damage. A bond for surface damage shall not be required when the agreement negotiated between the surface owner and the mineral owner or developer waives any requirement therefor. Payment of damages shall be paid annually

unless otherwise agreed to by the surface owner and the operator.

(b) An owner of real property and who holds a valid adjudicated water right and who obtains all or part of his supply of water for domestic, agricultural, industrial, recreational, or other legitimate use from a surface or an underground source other than a subterranean stream having a permanent distinct known channel may maintain an action against an operator to recover damages for pollution, diminution, or interruption of such water supply resulting from surface, in situ mining or underground mining.

35-11-417. Bonding provisions.

(a) The purpose of any bond required to be filed with the administrator by the operator shall be to assure that the operator shall faithfully perform all requirements of this act and comply with all rules and regulations of the board made in accordance with the provisions of this act.

(b) All bonds shall be signed by the operator as principal, by a good and sufficient corporate surety licensed to do business in the state, and be made payable to the state of Wyoming. At the discretion of the director, the record mineral owner of the land to be mined may also be required to join as principal. This subsection shall not apply to collateral bonds issued pursuant to subsection (g) of this section.

(c) The amount of any bond to be filed with the administrator prior to commencing any mining shall be:

(i) For an initial bond the amount equal to the estimated cost of reclaiming the affected land disturbed and restoring, as defined in W.S. 35-11-103(f)(iii), any groundwater disturbed by in situ mining during the first year of operation under each permit. The estimated cost shall be based on the operator's cost estimate submitted with the permit plus the administrator's estimate of the additional cost to the state of bringing in personnel and equipment should the operator fail or the site be abandoned. In no event shall the bond be less than ten thousand dollars ($10,000.00), except for limited mining operations authorized and bonded under W.S. 35-11-401(e) or any noncoal mine the affected land of which, excluding roads, is ten (10) acres or less, in which case the bond amount shall be set by the administrator with approval of the director to cover the

cost of reclamation, and in no event less than two hundred dollars ($200.00) per acre, for affected land;

(ii) For renewal bonds the amount equal to the estimated cost of reclaiming the land to be disturbed during that renewal period, and the estimated cost of completing reclamation of unreleased lands and groundwater disturbed during prior periods of time. The estimated cost shall be based on the operator's cost estimate, which shall include any changes in the actual or estimated cost of reclamation of unreleased affected lands, plus the administrator's estimate of the additional cost to the state of bringing in personnel and equipment should the operator fail or the site be abandoned. In no event shall the bond be less than ten thousand dollars ($10,000.00), except for limited mining operations authorized and bonded under W.S. 35-11-401(e) or any noncoal mine the affected land of which, excluding roads, is ten (10) acres or less, in which case the bond amount shall be set by the administrator with approval of the director to cover the cost of reclamation, and in no event less than two hundred dollars ($200.00) per acre, for affected land.

(d) The council may promulgate rules and regulations for a self-bonding program for mining operations under which the administrator may accept the bond of the operator itself without separate surety when the operator demonstrates to the satisfaction of the director the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond this amount. This subsection shall not become operative until the council has promulgated rules and regulations for the self-bonding program which require that the protection provided by self-bonding shall be consistent with the objectives and purposes of this act.

(e) When the reclamation plan for any affected land has been completed, the administrator may recommend to the director the release of up to seventy-five percent (75%) of the bond required for that affected land. The remaining portion of the bond shall be not less than ten thousand dollars ($10,000.00), and shall be held for a period of at least five (5) years after the date of reduction to assure proper revegetation and restoration of groundwater. The retained portion of the bond may be returned to the operator at an earlier date if a release signed by the surface owner and approved by the administrator and director is obtained.

(f) If the area of land or groundwater under permit to be disturbed is increased, then the amount of bond shall be increased to cover the added cost of reclaiming all affected lands or groundwater.

(g) The council may, consistent with the requirements of 30 CFR 800.21(c), promulgate rules and regulations that allow the administrator to accept real property posted as a collateral bond without separate surety, provided that the real property is located in this state, the bond provides a perfected first lien security interest in the real property in favor of the department and the protection provided by the bond is consistent with the objectives and purposes of this act.

(h) The council shall promulgate rules for a voluntary assigned trust program for coal, bentonite, trona and uranium permits or licenses to bond all or a portion of the full cost of reclamation as recommended by the administrator and determined by the director. This subsection shall not become operative until the governor has signed rules that the council promulgates for a voluntary assigned trust program that require that the protection provided by voluntary assigned trusts be consistent with the objectives and purposes of this act. Any rules promulgated under this subsection shall be in accordance with the following:

(i) Participation in an assigned trust program shall be voluntary on the part of an operator. An operator seeking to participate in a voluntary assigned trust as part of the operator's bonding option shall elect to create an assigned trust as required by rules promulgated by the council;

(ii) The amount necessary for an operator to fully fund the voluntary assigned trust shall be recommended by the administrator and determined by the director in accordance with the provisions of this article for each operator's permit or license;

(iii) For each payment plan for a voluntary assigned trust:

(A) The department shall provide the state treasurer with a copy of the director's annual bond letter that discloses the reclamation obligation and the estimated mine life and duration of reclamation for each individual voluntary assigned trust;

(B) Participants in the assigned trust shall provide annual payments of not less than one percent (1%) of the total annual reclamation bond obligation at any time until the assigned trust is fully funded and sufficient to cover the cost of the reclamation obligation as provided in W.S. 35-11-417(c);

(C) Participants in the assigned trust shall provide other acceptable bonding instruments authorized by this act to cover the remaining full cost of reclamation.

(iv) The funds received for a voluntary assigned trust for coal shall be invested by the state treasurer as authorized by law and in a manner to obtain the highest net return possible consistent with the preservation of one hundred percent (100%) of the corpus of the assigned trust. All earnings from investment of the corpus of the assigned trust shall be credited by the state treasurer to the balance of each voluntary assigned trust;

(v) The funds received for a voluntary assigned trust for non-coal shall be invested by the state treasurer as authorized by law and in a manner to obtain the highest net return possible less any administrative fees consistent with the preservation of the corpus of the assigned trust. All earnings from investment of the corpus of the assigned trust shall be credited by the state treasurer to the balance of each voluntary assigned trust;

(vi) The investment options of the treasurer shall include funds authorized by law. The investment fund options used shall be based on the corpus protection requirements as provided in paragraphs (iv) and (v) of this subsection. No funds shall be withdrawn by the participant from these accounts during the first year after the establishment of the participant's voluntary assigned trust;

(vii) The participant shall deposit any cash into an irrevocable assigned trust, managed by the state treasurer for the benefit of the department. The assets of each assigned trust shall be available solely to cover the department's cost of completing reclamation in the event of forfeiture. No portion of the trust assets shall be returned to the participant until trust assets are released in accordance with W.S. 35-11-423;

(viii) Any remaining amounts within an assigned trust shall be released to the participant in the manner provided for bonds in accordance with the provisions of W.S. 35-11-423 after

funds are applied to cover all costs of reclaiming the affected land. Reclamation funds from the assigned trust shall be withdrawn last, following certification of the requested bond release by the director. Bond reductions to the permit or license shall be made from any other bond instruments first until the assigned trust is fully funded;

(ix) Each assigned trust shall not be withdrawn until released by the director in accordance with this act and any rules promulgated under this act;

(x) Any rules promulgated under this act shall include:

(A) A process for withdrawal of funds that exceed the bond obligation of a participant;

(B) Provisions for each assigned trust to be assigned to a new owner resulting from a permit or license transfer.

(xi) Permits or licenses that include federal lands with a federal bonding requirement may participate in the assigned trust following approval from the appropriate federal agencies.

35-11-418. Cash or securities in lieu of bond.

(a) For coal mining operations, 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 (4).

(b) For noncoal mining operations that take place on land that is not owned or operated by the United States or a federal agency, in lieu of a bond, the operator or the operator's 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 or credit union organized to do business in the United States, or all four (4).

(c) Irrevocable letters of credit deposited under this section shall be issued by a bank that is insured by the federal

deposit insurance corporation or a credit union that is insured by the national credit union administration.

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.

35-11-502. Solid waste management facilities permits; term; renewals.

(a) No person, except when authorized under the permit system established pursuant to this act, shall:

(i) Locate, construct, operate or close a solid waste management facility; or

(ii) Modify the design, construction or operation of a solid waste management facility.

(b) No permit for a solid waste management facility shall be transferred without prior written approval of the director. A permit for a solid waste management facility may be transferred only to a person qualified to obtain and hold bonds or other financial assurances required and who meets the management and technical capability requirements under the rules and regulations promulgated pursuant to this act.

(c) After the effective date of this act no person, except upon a variance from paragraphs (i) through (iv) of this subsection granted by the director upon recommendation of the administrator after public hearing and upon written findings that the variance will not injure or threaten to injure the public health, safety or welfare, shall locate or construct a solid waste management disposal facility larger than one (1) acre within:

(i) One (1) mile of the boundaries of an incorporated city or town;

(ii) One (1) mile of a public school except with the written consent of the school district board of trustees or one (1) mile of an occupied dwelling house except with the written consent of the owner;

(iii) One-half (1/2) mile of the center line of the right-of-way of a state or federal highway unless screened from view as approved by the department; or

(iv) One-half (1/2) mile of a water well permitted or certificated for domestic or stock watering purposes except with written consent of the owner of the permit or certificate.

(d) No person shall accumulate solid waste at a permitted solid waste management facility in excess of a quantity which can be transferred, treated, processed, stored or disposed of within ninety (90) days however, if the solid waste must be transferred more than two hundred (200) miles, then one hundred eighty (180) days.

(e) The administrator shall notify the applicant within sixty (60) days of submission of the application whether or not it is complete. If the administrator deems the application incomplete, he shall so advise and state in writing to the applicant the information required. All items not specified as incomplete at the end of the first sixty (60) day period shall be deemed complete for the purposes of this subsection.

(f) If the applicant resubmits an application or further information, the administrator shall review the application or additional information within sixty (60) days of each submission and advise the applicant in writing if the application or additional information is complete.

(g) After the application is determined complete, the applicant shall give written notice of the application to the county where the applicant plans to locate the facility and to any municipalities which may be affected by the facility. The applicant shall simultaneously cause to be published once a week for two (2) consecutive weeks in a newspaper of general circulation within the county where the applicant plans to locate the facility notice of the proposed location, method and length of operation, and such other information as the council may require by rule and regulation. In addition, the council

may by rule require an applicant for a proposed permit or for amendment to an existing permit to notify other affected persons of the application and any other information required by the council.

(h) The administrator shall review the application and unless the applicant requests a delay advise the applicant in writing within ninety (90) days from the date of determining the application is complete, that a proposed permit is suitable for publication under subsection (j) of this section, that the application is deficient or that the application is denied. All reasons for deficiency or denial shall be stated in writing to the applicant. All items not specified as being deficient at the end of the first ninety (90) day period shall be deemed complete for the purposes of this subsection. If the applicant submits additional information in response to any deficiency notice, the administrator shall review such additional information within thirty (30) days of submission and advise the applicant in writing if a proposed permit is suitable for publication under subsection (j) of this section, that the application is still deficient or that the director has denied the application.

(j) The applicant shall give written notice of the proposed permit to the governing board of any county where the applicant plans to locate the facility and to any governing board of municipalities which may be affected by the facility. The applicant shall simultaneously cause notice of the proposed permit to be published in a newspaper of general circulation within the county where the applicant plans to locate the facility. The notice shall be published once a week for two (2) consecutive weeks commencing within fifteen (15) days after being notified by the administrator that the application is suitable for publication. The notice shall contain information regarding the identity of the applicant, the location of the proposed operation, the method and length of the operation, the location at which information about the application may be obtained, and the location and final date for filing objections to the application. In addition, the council may by rule require an applicant for a proposed permit or for amendment of an existing permit to notify other affected persons as authorized under subsection (g) of this section.

(k) Any interested person has the right to file written objections to the proposed permit with the director within thirty (30) days after the last publication of the notice given pursuant to subsection (j) of this section. If substantial

written objections are filed, a public hearing shall be held within twenty (20) days after the final date for filing objections unless a different period is deemed necessary by the council. The council or director shall publish notice of the time, date and location of the hearing in a newspaper of general circulation in the county where the applicant plans to locate the facility once a week for two (2) consecutive weeks immediately prior to the hearing. The hearing shall be conducted as a contested case in accordance with the Wyoming Administrative Procedure Act, and right of judicial review shall be afforded as provided in that act.

(m) The director shall render a decision on the proposed permit within thirty (30) days after completion of the notice period if no hearing is requested. If a hearing is held, the council shall issue findings of fact and a decision on the proposed permit within thirty (30) days after the final hearing. The director shall issue or deny the permit no later than fifteen (15) days from receipt of any findings of fact and decision of the environmental quality council.

(n) Notwithstanding the requirements of subsections (f) through (m) of this section, the council shall promulgate rules to establish an alternate permitting procedure for low volume or low hazard solid waste treatment, transfer, processing and storage facilities. The rules shall identify classes or categories of solid waste treatment, transfer, processing and storage facilities which may be permitted using the alternate permitting procedure. The alternate procedure may provide, as determined by the council:

(i) For a single public notice by the applicant, unless the application or permit is contested. If the application or permit is contested the provisions of the Wyoming Administrative Procedure Act regarding public notice shall control;

(ii) That public notice shall be limited to notification of interested parties within the area served by the facility or the area where the facility is located;

(iii) For a single review by the department to determine completeness and technical adequacy, which shall be completed by the department within thirty (30) days of receipt of an initial or revised application; and

(iv) For issuance of a final permit upon completion of all alternate procedure notice and review requirements, provided that any such permit shall be subject to appeal under the provisions of this act.

(o) Effective July 1, 2012, the term for a new or renewed municipal solid waste landfill permit shall be for the lifetime of the solid waste landfill, through closure, not to exceed twenty-five (25) years.

(p) Effective July 1, 2012, for any existing municipal solid waste landfill permit, the next renewal permit shall be converted to a lifetime municipal solid waste permit.

(q) If, during the operation of the municipal solid waste landfill, the life of the municipal solid waste landfill is anticipated to exceed the term specified in the permit, the operator shall:

(i) Submit a municipal solid waste landfill permit amendment which shall include updates on any necessary provisions of the permit;

(ii) No later than three (3) years prior to the expiration of the lifetime municipal solid waste landfill permit, submit permit renewal information as required by the department. The municipal solid waste landfill permit may be renewed for another lifetime period, not to exceed twenty-five (25) years.

(r) Notice and opportunity for hearing for an amended municipal solid waste landfill permit shall be as provided for a new municipal solid waste landfill permit under this section.

35-11-503. Authority to promulgate rules and regulations for solid waste management facilities and for the management of hazardous wastes.

(a) The director, upon recommendation from the administrator after consultation with the water advisory board, is authorized to recommend that the council promulgate rules, regulations, standards and permit systems for solid waste management facilities in order to protect human health and the environment. The rules, regulations, standards and permit systems shall govern the management of any waste, including liquid, solid, or semisolid waste, which is managed within the boundary of any solid waste management facility, and:

(i) Shall provide requirements as to facility location, design, construction, operation, environmental monitoring, cost effective corrective actions for active facilities, closure, notices of public record, management and technical capabilities of the applicant and post-closure care as necessary to promote the purposes of this act;

(ii) Shall provide requirements for bonding or financial assurance to assure that solid waste management facilities will be constructed, operated and closed in accordance with the purposes and provisions of this act and the rules and regulations promulgated pursuant to this act;

(iii) Within ten (10) months after the effective date of this act the council shall adopt rules and regulations to implement this act and shall provide such reasonable time as may be necessary, but in no event to exceed twenty-four (24) months after the effective date of this act, for owners and operators of solid waste management facilities to comply with the rules, regulations, standards or permits;

(iv) Shall establish categories of solid waste management facilities based on waste type, volume, facility ownership, facility operation or other facility characteristics. Standards and requirements for each category may vary as are necessary to promote the purposes of this act;

(v) Shall provide for consistency and equivalency with rules and regulations adopted by the United States environmental protection agency under authority of Subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580, as amended, for those facilities subject to such federal requirements, provided that:

(A) The director after consultation with the administrator may petition the council to promulgate rules and regulations more stringent than federal rules if adequate cause exists to determine that circumstances specific to the state compel adoption of more stringent rules to adequately protect the public health and environment of the state;

(B) The imposition of the rules under this paragraph is consistent and equivalent with the imposition of rules by the United States environmental protection agency, except that the director after consultation with the administrator may petition the council to determine for

individual permits or orders that adequate cause exists for permit conditions or orders more stringent than federal regulations;

(C) Nothing in this paragraph authorizes the promulgation of rules which are not otherwise authorized in this act.

(b) To the extent not already provided by subsection (a) of this section and W.S. 35-11-504 and notwithstanding W.S. 35-11-424, the director shall, pursuant to this section or by rule, require applicants for commercial radioactive waste management facility permits to do the following:

(i) Upon the filing of the application, pay a fee to be determined by the director, based upon the estimated cost of investigating, reviewing and processing of the application. Unused fees under this subsection shall be refunded to the applicant;

(ii) No less than ten (10) months prior to submission of an application for a commercial radioactive waste management facility permit, submit a notice of intent to file a permit application and a nonrefundable regulatory agency support fee in the amount of one hundred thousand dollars ($100,000.00);

(iii) Upon receipt of a permit and the filing of each annual report thereunder, pay an annual inspection and monitoring fee to be determined by the director, based upon the estimated costs of inspecting the facility and monitoring compliance with the permit terms. Unused funds shall be credited against the next annual inspection and monitoring fee;

(iv) Upon receipt of a permit, establish a long term remediation and monitoring trust for the benefit of the department in an amount sufficient to conduct perpetual monitoring and maintenance of the permitted facility and to remediate the release of any waste or waste constituent in violation of the approved post-closure plan. The long term remediation and monitoring trust may be initially funded by a letter of credit, cash or sufficient bond excepting self-bonds. The letter of credit, cash or bond shall be reduced by an amount equal to the per ton fee levied and paid to the trust during the prior year, provided:

(A) Facilities or portions thereof which the United States government is required by law to accept ownership

and assume responsibility for perpetual monitoring, maintenance, and remediation shall not be required to establish a long term remediation and monitoring trust;

(B) Monies actually paid into the long term remediation and monitoring trust on a per ton basis shall be a credit against funds otherwise payable pursuant to W.S. 35-12-113(g)(i); and

(C) All expenses incurred by the department to conduct perpetual monitoring and maintenance of the permitted facility shall be paid by the permittee. The department may contract for temporary professional services to monitor and maintain the permitted facility and to assist in rulemaking.

(v) Reduce, to the extent determined by the director to be technically and economically reasonable, the toxicity of any waste managed at the facility; and

(vi) Follow post-closure land uses established for the facility by the director.

(c) Unless and until the council adopts rules pursuant to subsection (a) of this section, for commercial radioactive waste management facilities or a particular classification of commercial radioactive waste management facilities, the director shall rely upon the performance criteria and standards of title 10, part 40, appendix A, and title 40, part 192, subpart D of the Code of Federal Regulations, as of January 1, 1991, as guidance for determining whether an application complies with the act. Nothing in this subsection shall be construed to limit the director's authority to impose permit requirements or conditions or the council's authority to promulgate rules, consistent with this act, which are more stringent than the federal regulations referenced.

(d) The council shall, upon recommendation from the director and the administrators of the air, water and solid and hazardous waste divisions, promulgate rules and regulations which are:

(i) Necessary for the state to obtain authorization of its hazardous waste management regulatory program to operate in lieu of the federal hazardous waste program administered under subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580, as amended, provided that the council may not adopt

rules requiring imposition of administrative penalties for hazardous waste violations; and

(ii) Subject to the limitations on stringency of paragraph (a)(v) of this section, consistent with, and equivalent to rules and regulations adopted by the United States environmental protection agency under authority of subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580, as amended.

35-11-504. Bonding for solid waste management facilities.

(a) The council, by rules and regulations, shall establish bonding or financial assurance requirements for solid waste management facilities to assure there are adequate sources of funds to provide for cost effective:

(i) Closure costs, post-closure inspection and maintenance costs, and environmental monitoring and control costs, including but not limited to costs for:

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

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

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

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

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

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

(ii) In the event of any discharge of pollution to the air, land or to waters of the state which is in violation of a permit, standard, rule or requirement established under the provisions of this act, the estimated costs of remedying or abating the violation or damages caused by the violation;

(iii) The bond established under paragraph (i) of this subsection shall be available during the operating life and throughout the post-closure care period of the solid waste management facility to abate or remedy any violation of a permit, standard, rule or requirement established under the provisions of this act.

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

(c) Rules and regulations of the council promulgated to implement the bonding or financial assurance requirements of this section shall exempt any solid waste management facility:

(i) Owned or operated by a municipality provided that the facility is a participating facility under W.S. 35-11-515(o)(iii);

(ii) Owned and operated by the person disposing of solid waste generated at the facility who annually demonstrates to the director compliance with the financial responsibility requirements of the Resource Conservation and Recovery Act, P.L. 94-580, as amended as of January 1, 1989;

(iii) Which is also subject to bonding or financial assurance requirements under article 2, 3 or 4 of this act if the director determines that the bond or financial assurances under article 2, 3 or 4 satisfy the requirements of this section;

(iv) Which is subject to bonding or financial assurance requirements under W.S. 30-5-104(d)(i)(D), 30-5-129 or 30 U.S.C. 226(g) as amended as of January 1, 1989; or

(v) Owned or operated by an electric utility disposing of solid waste generated by an electric generation facility pursuant to a permit or license issued by the

department, provided that the exemption may be revoked by the council upon petition of the director for a period of time established by the council to secure remedial action in the event of any discharge of pollution to the air, land or to waters of the state which is in violation of a permit, standard, rule or requirement established under the provisions of this act.

(d) The council shall provide rules for the establishment of a self-bonding program to be used if such a program will provide protection consistent with the objectives and purposes of article 5 of the act. In any such program, rules of the council shall provide for a timely reappraisal of pledged assets, require evidence of a suitable agent to receive service of process, assure that pledged assets are not already pledged for other projects, provide that pledged assets reside continuously in the state of Wyoming and provide for determination of the suitability of pledged assets.

(e) In lieu of a bond, the operator may deposit federally insured certificates of deposit payable to the Wyoming department of environmental quality, cash, government securities, or irrevocable letters of credit issued by a bank or a credit union organized to do business in the United States, or all four (4). Irrevocable letters of credit deposited under this subsection shall be issued by a bank that is insured by the federal deposit insurance corporation or a credit union that is insured by the national credit union administration.

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

(g) If the license to do business in Wyoming of any surety upon a bond filed pursuant to this act is suspended or revoked by any state authority then the operator, within thirty (30) days after receiving notice thereof, shall substitute a good and sufficient corporate surety licensed to do business in the state. Upon failure of the operator to make substitution of surety within a reasonable period of time, not to exceed sixty (60) days, the director shall suspend the permit of the operator to accept solid wastes until proper substitution has been made.

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

approved the request of the director to begin forfeiture proceedings.

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

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

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

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

(m) When the director determines that the violation has been remedied or the damage abated, the director shall release that portion of the bond or financial assurance instrument being held under paragraph (a)(ii) of this section. When the director determines that closure activities have been successfully completed at any solid waste management facility, the director shall release that portion of the bond or financial assurance instrument being held to guarantee performance of activities specified in subparagraphs (a)(i)(A) through (E) of this section. For solid waste management facilities other than landfills for the disposal of municipal wastes, the remaining portion of the bond or financial assurance instrument shall be held for a period of not less than five (5) years after the date of facility closure, or so long thereafter as necessary to assure proper performance of any post-closure activities specified in subparagraph (a)(i)(F) of this section. For municipal solid waste management facilities, the period shall be the minimum necessary to comply with P.L. 94-580. The retained portion of the bond or other financial assurance instrument may be returned to the operator at an earlier date if the director determines that the facility has been adequately stabilized and that environmental monitoring or control systems have demonstrated that the facility closure is protective of public health and the environment consistent with the purposes of this act.

(n) No supplemental bond or financial assurance shall be required of any facility, mine, permit or license subject to the bond or financial assurance requirements of article 2, 3 or 4 of this act, to meet the requirements of this section, for any solid waste management facility used solely for the management of wastes generated within the boundary of the permitted facility or mine operation by the facility or mine owner or operator, or from a mine mouth electric power plant or coal drier.

35-11-505. Existing regulations remain in effect.

The Wyoming solid waste management rules and regulations, promulgated by the council in 1975 and amended in 1980, shall remain in effect until amended, repealed or otherwise revised by the council.

35-11-506. Applications subject to penalty of perjury.

All applications submitted pursuant to this chapter shall be signed under oath subject to penalty of perjury by the applicant if an individual, by at least one (1) principal if the application is for a partnership or joint venture, or by at least two (2) principal officers if the application is for a corporation.

35-11-507. Repealed by Laws 1990, ch. 102, § 1.

35-11-508. Recycling and processing requirements for commercial solid waste management facilities.

(a) In recognition of the need to minimize unnecessary uses of the land for solid waste management, to allow for an effective ability for state oversight, regulation and inspection of solid wastes intended to be managed in the state and to conserve natural resources in accord with the policy and purpose of this act, commercial solid waste management facilities shall conform to the following operating practices:

(i) Solid wastes shall be screened by the facility operator in a manner approved by the director to assure to the maximum practical extent that wastes prohibited from disposal at the facility are not managed or disposed of at the facility. Management or disposal of any prohibited waste by a facility shall be cause for the council to issue a cessation order preventing continued receipt of solid wastes at the facility. The order shall remain in effect until the director approves a

revised waste screening plan submitted by the facility operator which the director deems sufficient to prevent receipt of wastes prohibited from disposal at the facility;

(ii) Solid wastes shall be processed within the state to facilitate inspections of processing by the department, and removal and recovery of useful components of the waste stream as required by this section, using processes found to be acceptable in rules and regulations promulgated by the council including but not limited to grinding, shredding, incineration or composting;

(iii) Rules and regulations of the council shall establish minimum acceptable removal and recovery rates for useful components of the solid waste stream. Such rates may be established for the facility as a whole, or may differ for different components of the solid waste stream;

(iv) Following adoption by the council of rules and regulations to implement this section, disposal of useful components of the solid waste stream shall be prohibited at any land disposal facility in the state;

(v) Residues remaining following processing, separation and reclamation of useful components of the solid waste stream shall be treated, stored or disposed in compliance with the requirements of this act.

(b) For purposes of this section useful components of the solid waste stream include but are not limited to energy, glass, ferrous and nonferrous metals, paper products and organic matter.

(c) Compliance with the requirements of this section for commercial solid waste management facilities does not limit any other requirements which may be applicable to such facilities under the act, nor any applicable local rule or ordinance.

35-11-509. Lead acid batteries; land disposal prohibited.

(a) No person shall place a used lead acid battery in mixed municipal solid waste, discard or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, to a collection or recycling facility authorized under the laws of Wyoming, or to a secondary lead smelter permitted by the environmental protection agency.

(b) No automotive battery retailer shall dispose of a used lead acid battery except by delivery to the agent of a battery wholesaler, to a battery manufacturer for delivery to a secondary lead smelter permitted by the environmental protection agency, to a collection or recycling facility authorized under the laws of Wyoming or to a secondary lead smelter permitted by the environmental protection agency.

(c) Each battery improperly disposed of shall constitute a separate violation.

(d) Each violation of this section is a misdemeanor subject to a fine not to exceed one hundred dollars ($100.00).

35-11-510. Lead acid batteries; collection for recycling.

(a) A person selling lead acid batteries at retail or offering lead acid batteries for retail sale in the state shall:

(i) Accept, at the point of transfer, in a quantity at least equal to the number of new batteries purchased per year, used lead acid batteries from customers, if offered by customers; and

(ii) Post written notice which shall be at least eight and one-half (8 1/2) inches by eleven (11) inches in size and shall contain the universal recycling symbol and the following language:

(A) It is illegal to discard a motor vehicle battery or other lead acid battery;

(B) Recycle your used batteries; and

(C) State law requires us to accept used motor vehicle batteries or other lead acid batteries for recycling in exchange for new batteries purchased.

35-11-511. Automotive battery retailers required to post notice; penalty.

The department shall produce, print and distribute the notices required by W.S. 35-11-510 to all places where lead acid batteries are offered for sale at retail. Failure to post the required notice shall subject the establishment to a fine of one hundred dollars ($100.00).

35-11-512. Lead acid battery wholesalers.

Any person selling new lead acid batteries at wholesale shall accept, at the point of transfer, in a quantity at least equal to the number of new batteries purchased per year, used lead acid batteries from customers, if offered by customers. A person accepting batteries in transfer from an automotive battery retailer shall be allowed a period not to exceed one hundred twenty (120) days to remove batteries from the retail point of collection.

35-11-513. Penalties.

Violations of W.S. 35-11-510 and 35-11-512 are misdemeanors subject to a penalty of up to seven hundred fifty dollars ($750.00).

35-11-514. Approval of commercial solid waste management, commercial incineration and disposal facilities.

(a) No construction shall commence of, nor shall any wastes be accepted or received at, any commercial solid waste management facility, or any commercial waste incineration or disposal facility subject to regulation under W.S. 35-12-102(a)(vii) unless the facility has been approved by resolution of the board of county commissioners of the county where the proposed facility is to be located. The county commissioners shall hold one (1) or more public hearings before making their decision. The county commissioners shall publish notice of each hearing in a newspaper of general circulation in the area of the proposed facility once each week for at least two (2) consecutive weeks prior to the hearing. The board of county commissioners may authorize a proposed facility upon considering that the facility:

(i) Is necessary and meets industrial, socioeconomic or municipal needs for additional capacity to manage wastes;

(ii) Reduces industry or municipal reliance on waste management methods which would be less suitable for the protection of the environment or public health than would be possible by the proposed facility; and

(iii) Employs the best available technology to protect public health, safety and the environment, and is located so as to ensure maximum protection of public health,

safety and the environment as compared to other alternative methods and locations.

(b) Nothing in this section shall be construed as exempting any commercial solid waste management facility, or any commercial waste incineration or disposal facility from any other provision of this act or the Industrial Development and Information Siting Act.

35-11-515. Account created for the guarantee of costs for closure and post-closure care for municipally owned or operated solid waste disposal facilities.

(a) There is created an expendable trust account to provide a guarantee that adequate monies will be available to close and conduct post-closure monitoring at municipal solid waste disposal facilities, in compliance with the requirements of this article and applicable federal law. Monies shall be paid into and from the account in accordance with this section. Interest earned on investments from the account shall be credited back to the account.

(b) Any municipal solid waste disposal facility shall be eligible to participate in the account but shall not be required to participate. Participating facilities shall be eligible for the guarantees provided in subsection (c) of this section. Nonparticipating facilities shall not be eligible for the guarantees provided in subsection (c) of this section. Nonparticipating facilities may either separately or together, take necessary action to comply with state or federal closure and post-closure regulations.

(c) Participating facilities are exempt from any requirement under W.S. 35-11-504(c) pertaining to financial assurance requirements for closure and post-closure care of municipal solid waste disposal facilities. The state hereby guarantees, for purposes of compliance with subtitle D of the Resource Conservation and Recovery Act, P.L. 94-580, and W.S. 35-11-504(a)(i), that the closure and post-closure care requirements of participating facilities will be satisfied by the provisions of this section.

(d) Each participating facility shall:

(i) Once every four (4) years prepare a closure and post-closure cost estimate in accord with rules of the council; or

(ii) Agree to use a standard closure and post-closure cost estimate prepared by the director.

(e) Each participating facility shall once every four (4) years calculate the remaining usable solid waste disposal capacity available at the facility, expressed in years. The procedures for calculating remaining capacity shall be prescribed by the director, after consultation with representatives of the participating facilities.

(f) Each participating facility shall pay annually into the account a premium, the sum of which at facility closure will equal no less than three percent (3%) of the sum of the closure and post-closure costs estimates specified in subsection (d) of this section.

(g) At any time following the proper certification of facility closure in compliance with rules of the council, a participating facility owner may apply to the director to receive a refund of the closure guarantee costs which have been paid into the account on behalf of the facility.

(h) At any time following the proper certification of the conclusion of the post-closure period in compliance with rules of the council, a participating facility owner may apply to the director to receive a refund of the post-closure guarantee costs which have been paid into the account on behalf of the facility.

(j) The council is authorized to adopt rules governing payment requirements, expenditures from the account, notifications by owners, disclosures of information, and any other administrative matter associated with the account. Rules of the council shall prescribe that participating facilities electing to cease participating in the account, or applying for refunds under subsection (g) or (h) of this section, shall be entitled to a refund limited to ninety percent (90%) of the actual contribution paid by the facility, less any expenditures paid from the account on behalf of the facility which have not been recovered under subsection (m) of this section.

(k) The director shall use the account to perform closure or post-closure maintenance activities at any participating facility, if the facility owner is unable to carry out those responsibilities. The director, subject to appeal to the council, shall determine the amounts of any expenditures from the account.

(m) The attorney general shall file suit to recover any funds expended under subsection (k) of this section.

(n) Nothing in this section shall relieve any owner or operator of a solid waste management facility of the requirement to comply with applicable closure or post-closure requirements of this act. No third party cause of action is created by this section. Existence of the account does not limit the liability of any owner of a municipal solid waste disposal facility for damages or costs which may occur as the result of any failure to close, or conduct post-closure maintenance, in compliance with this act.

(o) For the purpose of this section:

(i) "Account" means the account created by subsection (a) of this section;

(ii) "Municipal solid waste disposal facility" means a solid waste landfill or land disposal facility which is owned or operated by a municipality and which receives any solid wastes, including garbage, trash and sanitary waste in septic tanks, derived from households and nonhazardous industrial waste;

(iii) "Participating facility" means a municipal solid waste disposal facility which elects to participate and is participating in the account in accordance with the requirements of this section.

35-11-516. Regulation of hazardous waste generators and transporters.

(a) Each person who generates or transports hazardous waste in an amount which would otherwise subject the person to regulation under subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580, shall comply with the following requirements:

(i) Each generator shall:

(A) Keep adequate records of quantities, composition and disposition of the hazardous waste generated;

(B) Adequately label any containers used for the storage, transport or disposal of hazardous waste;

(C) Use appropriate containers for hazardous waste;

(D) Furnish information as may be required on the general chemical composition and hazardous properties of hazardous waste to persons transporting, treating, storing or disposing the waste;

(E) Use the national hazardous waste shipping manifest system, and employ any other reasonable means to assure that the hazardous waste generated is shipped to and arrives at the designated, authorized hazardous waste treatment, storage or disposal facility;

(F) Submit reports to the department at least once every two (2) years setting out:

(I) The quantities and nature of hazardous waste generated during the year;

(II) The disposition of all hazardous waste reported under this subsection;

(III) The efforts undertaken during the year to reduce the volume and hazardous characteristics of hazardous waste generated; and

(IV) The changes in volume and hazardous characteristics of waste actually achieved during the year reported in comparison with previous years.

(G) Certify, on the shipping manifest required under this subsection, that:

(I) The generator of the hazardous waste has a program in place to reduce the volume or quantity and hazardous characteristics of the waste to the degree determined by the generator to be economically practicable; and

(II) The proposed method of treatment, storage or disposal is that practicable method currently available to the generator that satisfies current regulatory requirements and which minimizes the present and future threat to human health and the environment.

(ii) Each transporter shall:

(A) Keep adequate records of hazardous waste transported, its source and delivery points;

(B) Transport hazardous waste only if it is properly labeled and manifested; and

(C) Transport hazardous waste only to the hazardous waste treatment, storage or disposal facility which the shipper designates on the manifest form, to be a facility holding a permit issued by the United States environmental protection agency, an authorized state or the department.

(b) The council shall, upon recommendation from the director, promulgate rules and regulations to implement the requirements of this section applicable to generators and transporters of hazardous waste, and to fuels produced from hazardous waste and mixtures of hazardous waste and other materials. The rules shall be no more and no less stringent than corresponding rules which have been adopted by the United States environmental protection agency to implement sections 3002 and 3003 of subtitle C of the Resource Conservation and Recovery Act.

35-11-517. Fees applicable to hazardous waste treatment, storage and disposal facility operators.

(a) The department shall implement a permit fee system and schedule of fees which are applicable to hazardous waste treatment, storage and disposal facilities.

(b) Permit fees shall be collected from applicants for permits for any facility subject to subsection (a) of this section, and annually from those existing facilities for the duration of the operating, closure and post-closure permit period. The fees for applicants for permits and the annual fees for inspection and enforcement shall be based on the facility type and size. The department shall develop a fee structure which, to the extent feasible, equitably apportions the department's estimated costs of implementing the requirements of this act applicable to the facilities, which is based on measurable goals, and which is sufficient to recover the amount reviewed by the joint appropriations interim committee and appropriated by the legislature for implementing the hazardous waste treatment, storage and disposal permitting program. The fee amount shall be sufficient to provide adequate enforcement of compliance with the hazardous waste requirements of this act,

as required in section 3006(b) of the Resource Conservation and Recovery Act, 42 U.S.C. 6926(b). The department shall prepare a biennium report for review by the joint minerals, business and economic development interim committee by October 31 of the year prior to the Wyoming legislative budget session.

(c) Fees shall cover all reasonable direct and indirect costs including the costs of:

(i) Reviewing and acting upon any permit application, including applications for major permit amendments;

(ii) Implementing and enforcing permits; and

(iii) Carrying out permit and inspection-related functions performed by the department.

(d) The fees collected by the department pursuant to this section shall be deposited in a separate account, and shall be subject to appropriation by the legislature to the department solely for permitting, conducting inspections under and enforcing the requirements of this act governing facilities subject to subsection (a) of this section.

(e) The department shall give written notice of the amount of the fee to be assessed and the basis for the assessment to the facility owner. The owner may appeal the assessment to the council within forty-five (45) days after receipt of the written notice. The appeal shall be based only upon the allegation that the particular assessment is erroneous or excessive and shall not be based upon the entire fee schedule adopted under this section. The contested case procedures of the Wyoming Administrative Procedure Act shall apply to any appeal under this subsection.

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

(g) The department in developing a fee schedule shall take into account the financial resources of small businesses as defined by the United States small business administration.

(h) Nothing in this section shall be construed to limit or modify any requirement of W.S. 35-11-503(b) with respect to fees for commercial radioactive waste management facility permits.

(j) This section shall not become effective until authorization of a state program pursuant to subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580.

35-11-518. Prior federal court orders and administrative orders.

(a) The department may become a party to, or assume the rights and duties of the federal government for, any federal court order which has been issued pursuant to subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580, prior to the effective date of the authorization of the state hazardous waste program under that subtitle. Any person subject to a prior federal court order issued pursuant to subtitle C of the Resource Conservation and Recovery Act, shall not be subject to any additional, conflicting or more restrictive remedial or corrective action order or requirement under this act with respect to the hazardous waste management unit, solid waste management unit or area of concern that is the subject of the federal court order, unless required to comply with new requirements adopted under the Resource Conservation and Recovery Act. If the department becomes a party to, or assumes the rights and duties of the federal government for, any prior federal court order, the department shall be governed by, and subject to, the dispute resolution procedures of the federal court which retains jurisdiction for the order and may, within those procedures and under the law governing the federal order, seek any remedy, change, amendment or other relief relating to the order.

(b) The department may issue an administrative order which is equivalent to any federal administrative order which has been issued pursuant to subtitle C of the Resource Conservation and Recovery Act, prior to the effective date of the authorization of the state hazardous waste program under that subtitle. The limitations regarding stringency contained in subsection (a) of this section apply to orders issued under this subsection. Following the issuance of any order under this subsection, any disputes concerning implementation of the order shall be resolved by appeal to the council as provided by this act. Any person aggrieved or adversely affected in fact by a final decision of the council is entitled to judicial review in accordance with the Wyoming Administrative Procedure Act.

35-11-519. Hazardous waste corrective action requirements.

Corrective action requirements applicable to any hazardous waste management facility shall be consistent with, and equivalent to, corrective action requirements contained in rules and regulations adopted by the United States environmental protection agency under authority of subtitle C of the Resource Conservation and Recovery Act, P.L. 94-580, as amended by the hazardous and solid waste amendments of 1984, P.L. 98-616, and as they may be hereafter amended.

35-11-520. Termination of state regulation of hazardous waste generators and transporters; procedures.

(a) The department shall report to the legislature any reduction in federal hazardous waste grant funds supplied to the state under section 3011 of the Resource Conservation and Recovery Act (42 U.S.C. 6931), which results in the need for additional state funds, exclusive of fees under W.S. 35-11-517, to administer W.S. 35-11-516 through 35-11-520.

(b) The provisions of W.S. 35-11-516 through 35-11-519 shall not be effective one hundred eighty (180) days after the adjournment of the legislative session next following the submission of a report under subsection (a) of this section, unless the legislature appropriates the additional funds required. The expiration of the state program pursuant to this subsection shall be subject to the following:

(i) The annual fee collected by the department under W.S. 35-11-517 shall be remitted to the facility owner on a prorated basis upon termination of regulation by the state under this section;

(ii) The department shall vacate any order issued to any generator or transporter to enforce any provision of W.S. 35-11-516 through 35-11-519;

(iii) The state attorney general may continue to prosecute any action based on alleged violations of W.S. 35-11-516 through 35-11-519 which was filed prior to the adjournment of the legislative session referred to in subsection (b) of this section.

35-11-521. Grants for municipal solid waste landfill monitoring.

(a) Subject to the availability of funds, the director shall provide grants toward the costs of performing activities

specified in subsection (b) of this section to local governmental entities who own or are responsible for any municipal solid waste landfill, for any project where a work plan has been submitted to the department for work performed or initiated after July 1, 2005.

(b) Grant funding under this section may be provided at existing or closed municipal solid waste landfills for the following activities:

(i) Conducting surface or subsurface geophysical studies to determine proper monitor system placement and to provide an indication of the presence or absence of groundwater beneath and adjacent to the landfill;

(ii) Preparing plans for installation of systems to monitor or detect releases of subsurface pollutants from landfills;

(iii) Installing new monitor systems or upgrading existing monitor systems to meet standards for the systems established by the department under this article; and

(iv) Collecting and analyzing samples from monitor systems installed under paragraph (iii) of this subsection, for a period of time sufficient to determine if there have been releases of subsurface pollutants from the landfill for any landfill which ceased receipt of solid wastes before September 13, 1989.

(c) Grants for eligible costs under subsection (b) of this section may be awarded:

(i) For up to fifty percent (50%) of the eligible costs; or

(ii) For up to seventy-five percent (75%) of eligible costs for applicants meeting the following criteria:

(A) Municipalities with a population of less than one thousand three hundred (1,300) or which are located within a county where the three (3) year average of the total local government share of state sales and use tax per capita is less than seventy percent (70%) of the statewide per capita average; or

(B) Counties, solid waste disposal districts, joint powers boards, and special purpose districts located within a county with a total assessed valuation of less than two and one-half percent (2.5%) of the state's total assessed valuation.

35-11-522. Grant criteria; submission and review of grant applications; recommendation from water and waste advisory board; grant awards.

(a) Following public notice and hearing before the water and waste advisory board, the department shall adopt criteria for awarding grants under W.S. 35-11-521.

(b) When funds are available, applications for grants under W.S. 35-11-521 shall be submitted in a form approved by the department. The department shall review all grant applications, determine the eligibility of projects in accordance with W.S. 35-11-521 and provide recommendations for grant funding to the water and waste advisory board.

(c) Following a public hearing, the water and waste advisory board shall provide recommendations for grant awards to the director.

(d) The director shall award grants in consideration of recommendations provided by the water and waste advisory board.

(e) Repealed By Laws 2011, Ch. 110, § 3.

35-11-523. Annual report.

(a) Effective January 1, 2012, every operator shall file an annual report with the administrator on or within thirty (30) days prior to the anniversary date of each lifetime permit. The report shall include:

(i) The facility name, the name and address of the operator and the permit number;

(ii) A report in such detail as the administrator shall require supplemented with maps, cross sections, aerial photographs, photographs or other material indicating:

(A) The extent to which the landfill operations have been carried out;

(B) The progress of all landfill work;

(C) The extent to which regulatory requirements, expectations and predictions made in the original permit or any previous annual reports have been fulfilled, and any deviation there from, including but not limited to the capacity of landfill used, the results of any environmental monitoring, any remediation required or completed and the remaining usable municipal solid waste landfill capacity.

(iii) A revised schedule or timetable of landfill operations and an estimate of the available capacity to be affected during the next one (1) year period.

(b) Upon receipt of the annual report the administrator shall make such further inquiry as deemed necessary. If the administrator objects to any part of the report or requires further information he shall notify the operator as soon as possible and shall allow a reasonable opportunity to provide the required information, or take such action as necessary to resolve the objection.

(c) Within forty-five (45) days after the receipt of the annual report the administrator shall conduct an inspection of the landfill. A report of this inspection shall be made a part of the operator's annual report and a copy shall be delivered to the operator.

(d) Within sixty (60) days after receipt of the annual report, inspection report and other required materials, if the administrator finds the annual report in order and consistent with the landfill operation plan and solid waste management plan as set forth in the permit, or as amended to adjust to conditions encountered during landfill operations as provided by law, the director shall determine if any adjustment is necessary to the size of the bond required pursuant to W.S. 35-11-504.

35-11-524. Municipal solid waste landfill assessments; priority list; monitoring.

(a) The department shall conduct an assessment of the needs for municipal solid waste landfill monitoring and the necessity for any remediation on leaking municipal solid waste landfills in Wyoming.

(b) The department shall establish a priority list for municipal solid waste landfills that need remediation. The

criteria used to establish this priority list shall be developed and reviewed with the water and waste advisory board. The criteria shall include, but not be limited to the:

(i) Type of leachate;

(ii) Volume of leachate;

(iii) Proximity of the leachate to the nearest surface or ground water;

(iv) Ability of the responsible municipality to remediate the contamination;

(v) The nature of contaminants in surface or ground water affected by the municipal solid waste landfill, including whether a contaminant is naturally occurring or manmade; and

(vi) Maximum contaminant levels.

(c) For high priority sites identified on the list established under subsection (b) of this section, the department shall work with the local managers of the high priority municipal solid waste landfills to gather data necessary for the report due under subsection (d) of this section.

(d) The department shall submit to the joint minerals, business and economic development interim committee:

(i) No later than December 31, 2012, an initial report describing an assessment of the clean-up costs at the high priority municipal solid waste landfills;

(ii) No later than June 30, 2013, and annually thereafter, a report including, but not limited to:

(A) Monitoring results;

(B) Remediation results;

(C) The assessment of the clean-up costs at municipal solid waste landfills, including high, medium and low priority landfills;

(D) Estimated high priority sites to be addressed in the coming year;

(E) Orphan landfill sites information and data as required pursuant to W.S. 35-11-525(e).

35-11-525. Orphan landfill sites.

(a) The director may expend funds contained within the account for remediation of orphan landfill sites and the performance of any other activity as defined in this article.

(b) As used in this section, "orphan landfill site" means:

(i) A landfill where the department determines:

(A) There is no viable party responsible for causing or contributing to the landfill site; and

(B) The landfill site is not the result of activities conducted on the site after September 13, 1989.

(ii) A landfill site, where the department determines that the person responsible for the landfill cannot be identified;

(iii) A landfill site where the department must take prompt action to prevent hazards to human health or the environment where a responsible party fails to act promptly.

(c) To the extent funds are available, the department may expend funds from the account to conduct orphan landfill site evaluations and testing, evaluate remedial measures, select remediation requirements and construct, install, maintain and operate systems to remedy contamination in accordance with a remediation work plan prescribed by the director for the orphan landfill site.

(d) Revenue to the account shall include any monies which may be deposited in the account for use in identification, characterization, prioritization, remediation and monitoring of orphan landfill sites. The liability of the state to fulfill the requirements of this section is limited to the amount of funds available in the account.

(e) The department shall provide a report to the joint appropriations interim committee and the joint minerals, business and economic development interim committee. The report shall be included in the report required under W.S. 35-11-524(d) and shall include:

(i) The work completed on the identification, characterization, prioritization, remediation and monitoring of orphan landfill sites within the state;

(ii) The estimated funding need for the identification, characterization, prioritization, remediation and monitoring of orphan landfill sites within the state for:

(A) The next year or the next biennium, as applicable; and

(B) The next ten (10) years.

(f) In any case under paragraph (b)(iii) of this section where the department expends funds to remediate or contain contamination resulting from a landfill, and where the department has identified a responsible party, the responsible party shall reimburse the department in an amount equal to two (2) times the expenditure from the account. The attorney general shall bring suit to recover the reimbursement amount required in this subsection where recovery is deemed possible.

(g) For purposes of this section, "account" means the account created under W.S. 35-11-515(a).

35-11-526. Performance based design and performance based evaluation in consideration and approval of engineered containment systems as part of municipal solid waste landfill permits.

(a) A person submitting an application for a permit pursuant to W.S. 35-11-502 which contains a performance based design for a municipal solid waste landfill that does not incorporate an engineered containment system utilizing a composite liner and leachate collection system, shall submit a report with the application. The report shall contain the applicant's findings as to the proposed performance based design's compliance with applicable state and federal laws and regulations. The report shall contain scientific and engineering data supporting the implementation of the proposed design.

(b) In reviewing scientific and engineering data related to a permit application and report containing a performance based design which does not incorporate an engineered containment system utilizing a composite liner and leachate

collection system, the administrator shall prepare a detailed performance evaluation based on applied scientific and engineering data that adheres to W.S. 35-11-527. The administrator shall determine in the performance evaluation whether to validate or invalidate the performance based design or an alternative performance based standard for landfill design contained in the permit application. The administrator shall base the performance based evaluation on acceptable applied scientific and engineering data and an analysis of that data using statistical procedures, including statistical power, when applicable.

(c) The applicant or other interested party may appeal the administrator's determination contained in a performance based evaluation of a permit pursuant to W.S. 35-11-502. If the council determines that the performance based evaluation does not accurately or adequately identify and evaluate all the data and criteria required under this section and W.S. 35-11-527, the council shall direct the administrator to reevaluate his determination. A decision by the council that the performance based evaluation is accurate and adequate shall be a final decision of the agency pursuant to the Wyoming Administrative Procedure Act.

35-11-527. Performance based design evaluation criteria for municipal solid waste landfill units.

(a) New municipal solid waste landfill units and lateral expansions approved by the administrator under W.S. 35-11-502 and 35-11-526 shall be constructed:

(i) In accordance with a performance based design approved by the administrator in a performance based evaluation pursuant to W.S. 35-11-526. Any performance based design approved must ensure that the concentration values for pollutants listed in the National Primary Drinking Water Regulations, 40 C.F.R. Part 141, will not be exceeded in the uppermost aquifer at the relevant point of compliance as determined under subsection (c) of this section; or

(ii) With an engineered containment system that utilizes a composite liner and a leachate collection system that is designed and constructed to maintain less than a thirty (30) centimeter depth of leachate over the liner.

(b) When approving a design that complies with paragraph (a)(i) of this section, in addition to the requirements of W.S.

35-11-526 the administrator shall consider other relevant factors, including, but not limited to:

(i) The hydrogeologic characteristics of the facility and surrounding land;

(ii) The climatic factors of the area; and

(iii) The physical and chemical characteristics and volume of the leachate.

(c) The relevant point of compliance specified by the administrator for the allowable concentration values for pollutants under paragraph (a)(i) of this section shall be no more than one hundred fifty (150) meters from the waste management unit boundary and shall be located on land owned by the owner of the municipal solid waste landfill. In determining the relevant point of compliance, the administrator shall consider at least the following factors:

(i) The hydrogeologic characteristics of the facility and surrounding land;

(ii) The physical and chemical characteristics and volume of the leachate;

(iii) The quantity, quality and direction of flow of ground water in the area;

(iv) The proximity and withdrawal rate of ground water users;

(v) The availability of alternative sources of drinking water supplies;

(vi) The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water and whether the ground water is currently used or reasonably expected to be used for drinking water;

(vii) Public health, safety and welfare effects; and

(viii) Practicable capability of the owner or operator.

35-11-528. Municipal solid waste facilities cease and transfer program created; criteria for grants and loans; loan terms; availability of other state funding sources.

(a) There is created the municipal solid waste facilities cease and transfer program. Grants and loans under the program shall be awarded by the state loan and investment board. The program shall be administered by the solid and hazardous waste division of the department of environmental quality with the input of the waste and water advisory board as provided in W.S. 35-11-528 through 35-11-531.

(b) Grants and loans shall be made from the municipal solid waste facilities cease and transfer accounts for all cease and transfer activities as provided in this section and by rule and regulation of the board. Grants and loans shall be made for:

(i) Capping of a closed landfill;

(ii) Other closure related expenses including engineering, geological and other professional services;

(iii) Construction or acquisition of appropriate solid waste transfer facilities and equipment, including acquisition of real property.

(c) Total costs of cease and transfer activities for a municipal solid waste facility shall be determined by the department in consultation with the local municipal solid waste facility operator. Grants shall be awarded in an amount determined by the state loan and investment board after consultation with the department and pursuant to the criteria contained in subsection (d) of this section. A municipal solid waste facility which is ceasing operations shall be eligible to receive loans for the costs of cease and transfer activities not funded by a grant pursuant to subsection (e) of this section.

(d) Except as provided in subsection (h) of this section, grants and loans for cease and transfer activities shall be awarded in an amount determined by the state loan and investment board not to exceed seventy-five percent (75%) of the total cost of all cease and transfer activities of the municipal solid waste facility. The state loan and investment board shall base its determination of the percentage of grants and loans awarded for cease and transfer projects under the program on an equitable distribution of available funds among eligible

municipal solid waste landfills and rules and regulations adopted pursuant to W.S. 35-11-530. To be eligible for funding under the program the following criteria shall be met:

(i) The local operator enters into a written agreement with the department to meet all regulatory obligations under the program;

(ii) The local operator implements and revises the community's solid waste management plan as necessary to comply with all regulatory obligations;

(iii) The local operator ceases disposal of all municipal solid waste streams at the closed municipal solid waste facility;

(iv) The local operator conforms to the requirements of W.S. 35-11-532;

(v) The local operator:

(A) Ceases disposal into units and facilities regulated under this article which do not have engineered containment systems or do not conform to performance based design standards; or

(B) Obtains department approval, that shall include a time period determined appropriate by the department for operation, to:

(I) Transfer and dispose municipal solid waste into permitted units and facilities regulated by the department which do not have engineered containment systems or do not conform to performance based design standards, for the purpose of closing the facility that is transferring municipal solid waste; and

(II) Increase the rate at which municipal solid waste is accepted for disposal into permitted units and facilities regulated by the department which do not have engineered containment systems or do not conform to performance based design standards, for the purpose of promoting the early closure of the receiving facility or facilities. If the department grants approval under this subparagraph the receiving facility shall not be allowed to enlarge or extend the life of its facility except in furtherance of becoming a

facility with an engineered containment system or conforming to performance based design standards.

(e) Loans may be made under the program at zero interest rate, up to an annual interest rate equal to the average prime interest rate as determined in accordance with this subsection. Loans provided under the program shall be adequately collateralized as determined by the state loan and investment board. Principal and interest payments shall be deposited in the general fund. The state loan and investment board shall establish interest rates to be charged for loans under the program, but the interest rate shall not exceed an annual interest rate equal to the average prime interest rate as determined by the state treasurer. To determine the average prime interest rate, the state treasurer shall average the prime interest rate for at least seventy-five percent (75%) of the thirty (30) largest banks in the United States. The interest rate shall be adjusted on January 1 of each year. Interest rates shall be established in recognition of the repayment abilities and needs of the local municipal solid waste facility operator eligible for loans under the program. The state loan and investment board shall establish loan amortization schedules, terms and conditions for each loan approved based on an applicant's need, financial condition of the landfill operator or the entity responsible for solid waste funding, the projected life of the transfer facility and the ability of that entity to repay the loan in a timely manner.

(f) Participation in the program shall not restrict funding for a municipal solid waste facility from any other program created or supported by the state.

(g) Funds under the program shall not be expended on:

(i) Salaries or benefits for employees of the municipal solid waste facility;

(ii) Long-term monitoring at a closed municipal solid waste facility or a closed cell of a still operating municipal solid waste facility;

(iii) Operational costs of municipal solid waste facilities.

(h) Upon a showing that a local operator has exhausted all reasonably available funding sources, the director may recommend to the state loan and investment board funding in the form of

grants and loans for up to one hundred percent (100%) of the total cost of cease and transfer activities of the municipal solid waste facility. In addition to the requirements contained in subsection (d) of this section, the state loan and investment board shall base its determination of a grant or loan award under this subsection on whether the local operator:

(i) Has any additional funding sources reasonably available to allocate to project costs;

(ii) Is charging sufficient gate or use fees to fully fund the operational costs of transfer facilities constructed under the program.

35-11-529. Municipal solid waste facilities cease and transfer accounts created; authorized expenditures from the accounts.

(a) There is created the municipal solid waste cease and transfer grant account. Monies from the account shall be awarded for grants to fund approved activities pursuant to W.S. 35-11-528. Interest earned by this account shall be deposited in the general fund. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), funds deposited in this account shall not revert without further action of the legislature.

(b) There is created the municipal solid waste cease and transfer loan account. Monies from the account shall be awarded for loans to fund approved activities pursuant to W.S. 35-11-528. Interest earned by this account shall be deposited in the general fund. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), funds deposited in this account shall not revert without further action of the legislature.

35-11-530. Rules and regulations.

(a) The state loan and investment board in consultation with the department of environmental quality shall promulgate rules and regulations necessary to administer the municipal solid waste facility cease and transfer program. Those rules shall include:

(i) Criteria for eligibility under the program based on W.S. 35-11-528(d);

(ii) Specific cease and transfer activities which are eligible for funding under the program;

(iii) Application form and procedure under the program;

(iv) Criteria for grant and loan prioritization based on:

(A) Funding availability;

(B) Cost efficiencies achieved by allocation of resources;

(C) Opportunities for increased cost sharing between cease and transfer actions at multiple leaking municipal solid waste facilities;

(D) Timeliness of cease and transfer actions in reducing risk to public health, safety and welfare or the environment;

(E) Remaining life of the existing municipal solid waste facility;

(F) Whether the proposed actions are a cost-effective alternative in accordance with the integrated solid waste management plan approved for the municipal solid waste facility;

(G) Whether the proposed action is reasonable and appropriate for the current and projected volumes of all solid waste for the area served by the facility;

(H) Whether the proposal contains recycling and other forms of waste diversion as a component of the proposed facilities and management practices; and

(J) The likelihood that the cease and transfer actions will reduce or eliminate the threat posed to public health, safety and welfare or the environment by continuing releases.

35-11-531. General permit for cease and closure for small landfills; rulemaking authority.

(a) The department shall develop a general permit in accordance with W.S. 35-11-801(d) for closing municipal solid waste landfills with a total surface area of less than thirty

(30) acres, and shall provide assistance to municipalities in the general permitting process. The general permit shall comply with federal requirements for municipal solid waste landfill closure and post-closure.

(b) The department shall provide assistance for permitting municipal solid waste transfer facility activities at closing municipal solid waste landfills with a total surface area of less than thirty (30) acres.

(c) The department shall promulgate rules and regulations necessary to achieve the purposes of this section.

(d) Repealed by Laws 2019, ch. 186, § 2.

35-11-532. Municipal solid waste facility operator financial responsibility; penalties.

(a) Municipal solid waste facility operators shall ensure continued revenue or funding streams sufficient to provide for all foreseeable costs of the facility, including but not limited to the full costs of:

(i) Operations;

(ii) Monitoring;

(iii) Recycling, composting and other diversion activities;

(iv) Closure; and

(v) Post-closure activities.

(b) On or before January 1, 2014 and at least once every four (4) years thereafter, municipal solid waste facility operators shall submit to the department written documentation demonstrating compliance with subsection (a) of this section.

(c) Municipal solid waste facility operators shall employ accounting principles pursuant to the Uniform Municipal Fiscal Procedures Act, W.S. 16-4-101 through 16-4-125, which recognize liabilities associated with:

(i) Closure and post-closure costs; and

(ii) The long-term cost of waste disposal compared to recycling, composting or other diversion activities.

(d) Compliance with this section shall be a prerequisite for eligibility for any state grant and loan program available to a municipal solid waste facility and state funding for solid waste landfill monitoring and remediation.

35-11-533. Municipal solid waste landfill remediation program created; purpose.

(a) There is created the municipal solid waste landfill remediation program. The program shall be administered by the solid and hazardous waste division of the department of environmental quality with the input of the waste and water advisory board as provided in W.S. 35-11-533 through 35-11-537.

(b) The legislature recognizes the threat to the public health, safety, welfare and the environment caused by pollution to soil and water from leaking municipal solid waste landfills. The purpose of this program is to take state primacy of the municipal solid waste landfill remediation program and to provide funding to take remediation actions at eligible leaking municipal solid waste landfills.

35-11-534. Program criteria; requirements for local operator.

(a) The department shall contract with entities, including contractors and local operators, to provide monitoring and remediation activities, including but not limited to groundwater remediation and monitoring, methane mitigation and monitoring and landfill capping, at eligible leaking municipal solid waste landfills. The department shall oversee and fund up to seventy-five percent (75%) of the cost of the investigation of contamination, the design and installation of monitoring and remediation systems and the operation and maintenance of monitoring and remediation systems for up to ten (10) years. The department may operate and maintain a system for a longer period of time in consideration of site specific circumstances. The period of time during which the department shall have responsibility for the monitoring and remediation activities at a leaking municipal solid waste landfill shall be communicated to the local operator prior to installation of the monitoring and remediation systems.

(b) The department shall contract for monitoring and remediation activities under the program at leaking municipal solid waste landfills based upon the priority list of landfills developed pursuant to W.S. 35-11-524 and other factors as provided in W.S. 35-11-536(a)(iv). The department shall update the priority list of leaking landfills requiring monitoring and remediation activities periodically as conditions warrant and may consider all relevant factors when developing and updating the priority list.

(c) To be eligible for enrollment under the program, the local operators of a leaking municipal solid waste landfill shall:

(i) Enter into a written agreement with the department to meet all regulatory obligations under the program;

(ii) Implement and revise the community's solid waste management plan as necessary to comply with all regulatory obligations;

(iii) Cease disposal of all waste streams at a leaking closed facility or the leaking portion of an operating facility which is undergoing remediation activities pursuant to department rules and regulations and the written agreement between the department and the local operator;

(iv) Cease disposal into units and facilities regulated under this article which do not have engineered containment systems or do not conform to performance based design standards;

(v) Agree to provide funding from any available funding source for at least twenty-five percent (25%) of the total costs of monitoring and remediation under the program;

(vi) Control the source of releases of pollution so as to reduce or eliminate further releases from the leaking municipal solid waste landfill;

(vii) Ensure continued revenue or funding streams sufficient to provide for all foreseeable costs of solid waste facilities under the control of the local operator or political subdivision, including but not limited to the full costs of:

(A) Operations;

(B) Monitoring;

(C) Recycling, composting and other diversion activities;

(D) Closure; and

(E) Post-closure activities.

(viii) Employ accounting principles in managing all solid waste facilities under the control of the local operator or political subdivision, pursuant to the Uniform Municipal Fiscal Procedures Act, W.S. 16-4-101 through 16-4-125, which recognize liabilities associated with:

(A) Closure and post-closure costs; and

(B) The long-term cost of waste disposal compared to recycling, composting or other diversion activities.

(d) In carrying out monitoring and remediation activities under the program the department has the right to construct and maintain any structure, monitor well, recovery system or any other reasonable and necessary item associated with taking remediation and monitoring actions.

(e) The department shall notify the affected public of all confirmed releases requiring a plan for remediation, and upon request, provide or make available to the interested public information concerning the nature of the release and the remediation actions planned or taken.

(f) The department shall delegate and authorize a local operator to conduct or oversee monitoring and remediation under the program pursuant to a written agreement between the department and the local operator acknowledging that the local operator shall adhere to all regulatory requirements of the program in conducting monitoring and remediation activities. The department shall approve the local operator's monitoring and remediation plan prior to authorizing the local operator to conduct or oversee the monitoring and remediation program. The department shall take all actions necessary to ensure that a local operator granted authority to conduct or oversee monitoring and remediation activities under this subsection complies with all regulatory requirements of the program.

35-11-535. Municipal solid waste landfill remediation account; authorized expenditures from the account.

(a) There is created the municipal solid waste landfill remediation account. The department shall use monies from the municipal solid waste landfill remediation account as appropriated by the legislature for the administration of the program. Interest earned by this account shall be deposited in the general fund. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), funds deposited in this account shall not revert without further action of the legislature.

(b) For a leaking municipal solid waste landfill to be eligible for use of monies in the account, the owner or operator of the site shall comply with all requirements of the program and regulations of the council adopted pursuant to W.S. 35-11-536.

(c) In addition to expenditures from the account authorized by W.S. 35-11-534(a), the department shall issue a credit in an amount not to exceed the local operator's twenty-five percent (25%) share required by W.S. 35-11-534(c)(v) of the total cost of eligible remediation and monitoring activities provided in W.S. 35-11-534(a), for past remediation and monitoring expenses incurred by the local operator as specified in this subsection. The department shall issue credits under this subsection for costs incurred by a local operator for remediation and monitoring activities from the account if:

(i) A work plan for the remediation and monitoring activities was submitted to and approved by the department;

(ii) The remediation and monitoring activities were initiated after July 1, 2006;

(iii) The local operator of a municipal solid waste landfill provides the department with an accurate accounting of the costs of remediation and monitoring activities conducted at the municipal solid waste landfill after July 1, 2006 and the department determines that those remediation and monitoring activities would be eligible for funding if they had been performed under the program;

(iv) The local operator conducts additional remediation and monitoring activities at the leaking municipal

solid waste landfill which are eligible for funding under W.S. 35-11-534(a) on or after July 1, 2013; and

(v) A credit issued under this subsection shall not exceed an amount equal to seventy-five percent (75%) of the cost incurred by the local operator for eligible remediation and monitoring activities after July 1, 2006.

(d) Repealed by Laws 2015, ch. 47, § 2.

35-11-536. Rules and regulations.

(a) The council shall promulgate rules and regulations necessary to administer the program after recommendation from the director of the department, the administrator of the solid and hazardous waste division and the water and waste advisory board. The rules shall include but shall not be limited to rules and regulations which:

(i) Provide for landfill monitoring and remediation system design, construction, installation and monitoring standards which shall be no less stringent than federal requirements;

(ii) Specify the requirements for delegating installation or modification inspection authority including but not limited to requirements for contractors and local operators;

(iii) Establish a procedure or procedures for reporting any release from a municipal solid waste landfill;

(iv) Include provisions under which priorities for remediation actions shall be established in addition to the priority list created pursuant to W.S. 35-11-524. Those priorities shall be established considering, but not limited to, the following factors:

(A) Funding availability;

(B) Cost efficiencies achieved by allocation of resources;

(C) Opportunities for increased cost sharing between monitoring and remediation actions at multiple leaking municipal solid waste landfills;

(D) Timeliness of remediation in reducing risk to public health, safety and welfare or the environment;

(E) The likelihood that the remedy will reduce or eliminate the threat posed to public health, safety and welfare or the environment by continuing releases; and

(F) Whether the facility has completed closure and transfer actions at the leaking municipal solid waste facility. Priority shall be given to solid waste facilities which have completed closure and transfer actions.

(v) Require records for compliance with repairs and upgrades to be maintained for the operational life of the landfill remediation and monitoring system;

(vi) Create requirements for participation in the program and for the return of the facility to local control pursuant to W.S. 35-11-534(a); and

(vii) Specify standards for restoration of the environment.

35-11-537. Restoration standard.

Any owner or operator, the department or other person taking a corrective action shall restore the environment to a condition and quality consistent with standards established in rules and regulations.

ARTICLE 6 - VARIANCES

35-11-601. Applications; authority to grant; hearing; limitations; renewals; judicial review; emergencies.

(a) Any person who owns or is in control of any real or personal property, any plant, building, structure, process or equipment may apply to the administrator of the appropriate division for a variance from any rule, regulation, standard or permit promulgated under this act. A variance may be granted upon notice and hearing. The administrator shall give public notice of the request for a variance in the county in which such real or personal property, plant, building, structure, process or equipment is in existence for which the variance is sought. The notice shall designate who has applied for the variance and the nature of the variance requested and the time and place of hearing and shall be published in a newspaper of general

circulation in said county once a week for four (4) consecutive weeks prior to the date of the hearing. The cost of publication shall be paid by the person applying for the variance. The administrator of the division shall promptly investigate the request, consider the views of the persons who may be affected by the grant of the variance, and all facts bearing on the request, and make a decision with the approval of the director within sixty (60) days from the date the hearing for a variance is held.

(b) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution, or mining operation involved, it shall continue in effect only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the director may prescribe.

(c) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the director is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(d) A variance may be granted by the council from standards established by the council for sulfur oxide emissions, if the council determines that the state of the technology for removal of sulfur oxides from the stack gasses is insufficiently advanced to achieve the objective level without causing undue economic hardship on the owner of the facility or the consumer of the product produced by the facility or if the council determines that the developing technology offers promise that superior equipment might, in the near future, be available which would render presently available equipment obsolete and that the best interests of the state would be served by the issuance of the variance. In considering such a variance, the council must consider the health and well being of the citizens in the vicinity of the facility and the effect upon livestock and agricultural production in the area. In no event shall the variance permit emissions less stringent than existing federal standards covering the emission of sulfur oxides. Each application for a variance will be issued on a case by case

basis considering the state of the technology at the time of each application.

(e) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in subsections (b), (c) and (d) of this section, it shall be for not more than one (1) year.

(f) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint by an aggrieved party is made to the director on account of the variance, no renewal thereof shall be granted, unless following public hearing on the complaint on due notice, the council finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the variance.

(g) Any variance or renewal thereof granted by the director pursuant to this section shall become final unless within thirty (30) days after date of notice as provided in subsection (a) of this section an aggrieved party as defined by this act in writing may request a hearing before the council. Upon the filing of such a request for a hearing, the variance shall be stayed pending the council's final determination thereon.

(h) If, after a hearing held pursuant to this section, the council finds that a variance is required, it shall affirm or modify the order previously issued by the director or issue an appropriate order for variance as it deems necessary. If, after a hearing held pursuant to this section, the council finds that there is no need for a variance, it shall rescind the issuance of a variance.

(j) In connection with any hearing held pursuant to this section, the council has the power and upon application by any aggrieved party, it has the duty to compel the attendance of witnesses, and the production of evidence on behalf of all parties.

(k) Any aggrieved party adversely affected by a variance or renewal of same or the denial of same may obtain judicial review thereof in the manner prescribed by the Wyoming Administrative Procedure Act.

(m) Failure to comply with the conditions imposed by any variance shall be cause for modification or termination of the variance by the director.

(n) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of W.S. 35-11-115 to any person or property.

(o) Nothing in this section shall be construed to permit an application for a water variance. The application for water permits must be made solely under the provisions of W.S. 35-11-302.

(p) Nothing in this act or regulations under this act shall be construed to permit an application for a variance which would result in less stringent land use or environmental controls or regulations of surface coal mining and reclamation operations than authorized by P.L. 95-87, as that law is worded on August 3, 1977, or the federal regulations promulgated pursuant thereto.

(q) In order to encourage advances in mining and reclamation practices or to allow post-mining land use for industrial, commercial, residential or public use (including recreational facilities), the director, with approval by the secretary of the interior, may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated by the council under this act. Such departures may be authorized if:

(i) The experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards;

(ii) The mining operations approved for particular land-use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices; and

(iii) The experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

(r) The secretary of interior, acting through the office of surface mining reclamation and enforcement, shall assist the state in the development of a state program for surface coal

mining and reclamation operations which meet the requirements of this act and P.L. 95-87, and at the same time, reflect local requirements and local environmental and agricultural conditions.

ARTICLE 7 - COMPLAINTS

35-11-701. Complaint; investigations; conference; cease and desist order; hearing; referee.

(a) If the director or the administrators have cause to believe that any persons are violating any provision of this act or any rule, regulation, standard, permit, license, or variance issued pursuant hereto, or in case any written complaint is filed with the department alleging a violation, the director, through the appropriate administrator, shall cause a prompt investigation to be made.

(b) For surface coal mining operations, in the instance of a written complaint by any person which provides a reasonable basis to believe that a violation of article 4 of this act, or of any rule, regulation, standard, order, license, variance or permit issued thereunder, exists, the investigation shall include a prompt inspection. In such event the director shall notify the person when the inspection is proposed to be carried out and the person shall be allowed to accompany the inspector during the inspection, subject to reasonable control by the inspector. The operator shall have a duty to exercise reasonable care for the person's safety only if his presence is known. However, this duty shall not include the duty to inspect the premises to discover dangers which are unknown to the operator, nor giving warning or protection against conditions which are known or should be obvious to the person. The operator or his designee shall be allowed to be present for any such inspection.

(c) For other than those violations specified under subsection (b) of this section, if, as a result of the investigation, it appears that a violation exists, the administrator of the proper division may, by conference, conciliation and persuasion, endeavor promptly to eliminate the source or cause of the violation:

(i) In case of failure to correct or remedy an alleged violation, the director shall cause to be issued and served upon the person alleged to be responsible for any such violation a written notice which shall specify the provision of

this act, rule, regulation, standard, permit, license, or variance alleged to be violated and the facts alleged to constitute a violation thereof, and may require the person so complained against to cease and desist from the violation within the time the director may determine;

(ii) Any order is final unless, not later than ten (10) days after the date the notice is served, the person or persons named therein request, in writing, a hearing before the council. Upon the filing of a request the order complained of shall be stayed pending the council's final determination thereon;

(iii) If after a hearing held pursuant to this section, the council finds that a violation has occurred, it shall affirm or modify such order previously issued, or issue an appropriate order or orders for the prevention, abatement or control of the violation involved or for the taking of other corrective action. If, after a hearing on an order contained in a notice, the council finds that no violation has occurred, it shall rescind the order. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation shall cease and may prescribe timetables for action. Nothing contained in this subsection shall be construed as preventing any person from applying for a variance as provided in W.S. 35-11-601;

(iv) At any hearing before the council, it may designate a person to be a referee and may authorize the referee to receive evidence, administer oaths, examine witnesses and issue subpoenas requiring the testimony of witnesses and the production of evidence and to make reports and recommendations with respect thereto. Any final determination based on the evidence received by any referee shall be made solely by the council.

(d) Nothing in this section shall be interpreted to in any way limit or contravene any other remedy available under this act, nor shall this section be interpreted as a condition precedent to any other enforcement action under this act.

ARTICLE 8 - PERMITS

35-11-801. Issuance of permits and licenses.

(a) When the department has, by rule or regulation, required a permit to be obtained it is the duty of the director

to issue such permits upon proof by the applicant that the procedures of this act and the rules and regulations promulgated hereunder have been complied with. In granting permits, the director may impose such conditions as may be necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards. An administrator shall not issue permits and may issue a license under this act only as specifically authorized in this act.

(b) Except as otherwise provided in this act the director shall take final action on any application for permit or extension thereof within sixty (60) days after receipt of same unless public notice or hearing is required by state or federal statute.

(c) Except as provided in subsection (e) of this section, a permit to construct is required before construction or modification of any industrial facility capable of causing or increasing air or water pollution in excess of standards established by the department is commenced.

(d) General permits shall be issued solely in accordance with procedures set forth by regulation adopted by the council. Procedures for the issuances of general permits shall include public notice and an opportunity for comment. All department authorizations to use general permits under this section shall be available for public comment for thirty (30) days. Any aggrieved party may appeal the authorization as provided in this act.

(e) Except for sources required to have a permit before construction or modification under the applicable requirements of W.S. 35-11-203 and sources specified by the director, if an applicant for an air quality permit for an oil or gas exploration or production well, with its associated equipment, has submitted a timely and complete application for a permit to construct or modify within ninety (90) days of the first date of production of the oil and gas operation, the applicant's failure to have a permit shall not be a violation of this section. An applicant complies with this section if the applicant demonstrates to the administrator of the air quality division that the oil and gas exploration or production activity qualifies as a nonmajor source. The application shall contain, at a minimum, a demonstration that the applicant will apply the best available control technology to the oil and gas production and exploration activity.

(f) As used in subsection (e) of this section, "first date of production" means the date permanent production equipment is in place and product is consistently flowing to sales lines, gathering lines or storage tanks. Production occurring during well completion activities which is routed to temporary production equipment is considered to occur prior to the first date of production. If extended periods of time pass between zone completions but production from initially completed zones is consistently flowing to permanent production equipment, the first date of production is the date when production from the initial zones began consistently flowing to the permanent production equipment, even though more zones will be completed later.

35-11-802. Refusal to grant permits; applicant's rights.

If the director refuses to grant any permit under this act, the applicant may petition for a hearing before the council to contest the decision. The council shall give a public notice of such hearing. At such hearing, the director and appropriate administrator shall appear as respondent and the rules of practice and procedure adopted by the council pursuant to this act and the Wyoming Administrative Procedure Act shall apply. The burden of proof shall be upon the petitioner. The council must take final action on any such hearing within thirty (30) days from date of hearing.

35-11-803. Single permit for activities covered by more than one article.

(a) The director may grant a single permit for a facility or activity regulated under more than one (1) article of this act provided that there is compliance with all rules, standards and public participation requirements provided by the individual articles of this act.

(b) The council may adopt unified rules which encompass activities covered by more than one (1) article of this act.

ARTICLE 9 - PENALTIES

35-11-901. Violations of provisions; penalties.

(a) Any person who violates, or any director, officer or agent of a corporate permittee who willfully and knowingly authorizes, orders or carries out the violation of any provision of this act, or any rule, regulation, standard or permit adopted

hereunder or who violates any determination or order of the council pursuant to this act or any rule, regulation, standard, permit, license or variance is subject to a penalty not to exceed ten thousand dollars ($10,000.00) for each violation for each day during which violation continues, a temporary or permanent injunction, or both a penalty and an injunction subject to the following:

(i) Except that any person who violates any provision of article 2 of this chapter or any provision of the state hazardous waste program authorized pursuant to the Resource Conservation Recovery Act, Subtitle C, 42 U.S.C. § 6901 [6921] et seq., as amended, or any rule, regulation, standard or permit adopted pursuant to those provisions, or who violates any determination or order of the council pursuant to article 2 of this chapter or the state hazardous waste program is subject to a penalty not to exceed ten thousand dollars ($10,000.00) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction; and

(ii) Penalties and injunctive relief under this subsection are to be determined by a court of competent jurisdiction in a civil action, provided that nothing herein shall preclude the department from negotiating stipulated settlements involving the payment of a penalty, implementation of compliance schedules or other settlement conditions in lieu of litigation.

(b) Repealed by Laws 1995, ch. 28, § 4.

(c) Repealed by Laws 1995, ch. 28, § 4.

(d) Repealed by Laws 1995, ch. 28, § 4.

(e) Repealed by Laws 1995, ch. 28, § 4.

(f) Repealed by Laws 1995, ch. 28, § 4.

(g) Repealed by Laws 1995, ch. 28, § 4.

(h) Repealed by Laws 1995, ch. 28, § 4.

(j) Any person who willfully and knowingly violates, or any director, officer or agent of a corporate permittee who willfully and knowingly authorizes, orders or carries out the violation of any provision of this act or any rule, regulation,

standard, permit, license, or variance or limitations adopted hereunder or who willfully violates any determination or order of the council or court issued pursuant to this act or any rule, regulation, standard, permit or limitation issued under this act shall be fined not more than twenty-five thousand dollars ($25,000.00) per day of violation, or imprisoned for not more than one (1) year, or both. For a subsequent conviction for a violation of this act, the person shall be subject to a fine of not more than fifty thousand dollars ($50,000.00) per day of violation, imprisonment for not more than two (2) years, or both. For multiple violations, penalties may be assessed up to the maximum amount specified in this subsection for each day of each separate violation.

(k) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this act, shall upon conviction, be fined not more than ten thousand dollars ($10,000.00) per day for each violation or imprisoned for not more than one (1) year, or both.

(m) Repealed by Laws 1995, ch. 28, § 4.

(m) Repealed by Laws 1995, ch. 28, § 4.

(m) Repealed by Laws 1995, ch. 28, § 4.

(m) Repealed by Laws 1995, ch. 28, § 4.

(m) Repealed by Laws 1995, ch. 28, § 4.

35-11-902. Surface coal mining operations; violations of provisions; penalties.

(a) Notwithstanding W.S. 35-11-901, violations by surface coal mining operations of article 4 of this act, or of any rule, regulation, standard, order, license, variance or permit issued thereunder, shall be governed by this section.

(b) Any person who violates, or any director, officer or agent of a corporate permittee who willfully and knowingly authorizes, orders or carries out the violation of any provision of article 4 of this act for surface coal mining operations, or any rule, regulation, standard, license, variance or permit

issued thereunder, or who violates any determination or order of the council pursuant to article 4 of this act for surface coal mining operations is subject to either a penalty not to exceed ten thousand dollars ($10,000.00) for each day during which a violation continues, or, for multiple violations, a penalty not to exceed five thousand dollars ($5,000.00) for each violation for each day during which a violation continues, a temporary or permanent injunction, or both a penalty and an injunction. Penalties and injunctive relief under this subsection may be recovered in a civil action.

(c) All notices for abatement and cessation orders shall be reported to the director. The director shall:

(i) Issue a notice of assessment, if a cessation order was issued;

(ii) Make a determination as to whether a notice of assessment will be issued if a notice for abatement was issued.

(d) Upon issuance of a notice of abatement or cessation order, the director shall inform the operator of the proposed amount of the penalty within thirty (30) days. The amount shall be determined in accordance with rules and regulations promulgated by the council. The person charged with the penalty shall have fifteen (15) days to request a conference with the director for informal disposition of any dispute over either the amount of the penalty or the occurrence of the violation.

(e) If a conference is held and after the director has determined that a violation did occur and the amount of the penalty is warranted, the person charged with the penalty shall, within fifteen (15) days, either:

(i) Pay the proposed penalty in full; or

(ii) Petition the council for review of either the amount of the penalty or the fact of the violation, submitting a bond equal to the proposed amount of the penalty at the time of filing the petition. The bond shall be conditioned for the satisfaction of the penalty in full, or as modified by the council, if the director's determination as to the occurrence of the violation and the assessment of a penalty is affirmed. The petition is effective when the bond is approved by the council. If the bond is not approved, the person charged with the penalty has ten (10) days to forward the proposed amount to the council

for placement in an escrow account to make the petition effective.

(f) If a conference is not requested, the person charged with the penalty has thirty (30) days to take the action required under subsection (d) of this section.

(g) After a petition is effective, the council shall hold a hearing, which shall be conducted as a contested case proceeding under the Wyoming Administrative Procedure Act. The council shall either:

(i) Determine the occurrence of the violation and the amount of penalty which is warranted for the purpose of ordering that the penalty be paid; or

(ii) Determine that no violation occurred, or that the amount of the penalty shall be reduced. If such a determination is made, either through administrative or judicial review, the director shall within thirty (30) days remit the appropriate amount to the person, if any deposit has been made, with interest at the rate of six percent (6%), or at the prevailing United States department of treasury rate, whichever is greater. Failure to file an effective petition shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

(h) Any person aggrieved or adversely affected in fact by a final decision of the council pursuant to this section is entitled to judicial review in accordance with the Wyoming Administrative Procedure Act.

(j) Any person who willfully and knowingly violates, or any director, officer or agent of a corporate permittee who willfully and knowingly authorizes, orders or carries out the violation of any provision of article 4 of this act with respect to surface coal mining, or any rule, regulation, standard, permit, license, or variance or limitations adopted thereunder, or who willfully violates any determination or order of the council or court issued pursuant to this section, shall be fined not more than twenty-five thousand dollars ($25,000.00) per day of violation, imprisoned for not more than one (1) year, or both. For a subsequent conviction for a violation of article 4 of this act with respect to surface coal mining, the person shall be subject to a fine of not more than fifty thousand dollars ($50,000.00) per day of violation, imprisonment for not more than two (2) years, or both. For multiple violations,

penalties may be assessed up to the maximum amount specified in this subsection for each day of each separate violation.

(k) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under article 4 of this act for surface coal mining operations, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under article 4 of this act for surface coal mining operations shall, upon conviction be subject to a fine of not more than ten thousand dollars ($10,000.00), imprisonment for not more than one (1) year, or both.

(m) Any person who shall, except as permitted by law, willfully resist, prevent, impede or interfere with the director, any administrator or any of their agents in the performance of their duties in the regulation of surface coal mining operations under article 4 of this act shall be subject to a fine of not more than five thousand dollars ($5,000.00), imprisonment for not more than one (1) year, or both.

(n) Any operator of a surface coal mining operation who fails to correct a violation within the period permitted for its correction, or after a final order or decision issues requiring correction when either the department or a court has relieved the operator from the abatement requirements of the notice or order, shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750.00) for each day during which the failure or violation continues.

(o) Any person who is injured in his person or property through the violation, by any operator, of any rule, regulation, order or permit issued pursuant to article 4 of this act as it provides for the regulation of surface coal mining and reclamation in accordance with the requirements of P.L. 95-87 may bring an action for damages, including reasonable attorney and expert witness fees, only in the judicial district in which the surface coal mining operation complained of is located.

35-11-903. Violations of provisions of act causing damage to wildlife; recoveries; causes of action.

(a) Any person who violates this act, or any rule or regulation promulgated thereunder, and thereby causes the death of fish, aquatic life or game or bird life is, in addition to other penalties provided by this act, liable to pay to the

state, an additional sum for the reasonable value of the fish, aquatic life, game or bird life destroyed. Any monies so recovered shall be placed in the game and fish fund.

(b) Except as provided in W.S. 35-11-902(o), nothing in this act shall be construed to abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor.

(c) All actions pursuant to this article, except actions under W.S. 35-11-902(o), shall be brought in the county in which the violation occurred or in Laramie county by the attorney general in the name of the people of Wyoming. All actions pursuant to this article for the enforcement of any program to administer the provisions of W.S. 35-11-301(a)(iii) and (v) pursuant to the authority delegated under W.S. 35-11-304 may also be brought by the county attorney in the county in which the violation occurred.

35-11-904. Civil or criminal remedy.

(a) Except as provided in subsection (c) of this section, any person having an interest which is or may be adversely affected, may commence a civil action on his own behalf to compel compliance with this act only to the extent that such action could have been brought in federal district court under Section 520 of P.L. 95-87, as that law is worded on August 3, 1977:

(i) Against any governmental entity, for alleged violations of any provisions of this act or of any rule, regulation, order or permit issued pursuant thereto, or against any other person for alleged violations of any rule, regulation, order or permit issued pursuant to this act; or

(ii) Against the state of Wyoming, department of environmental quality, for alleged failure of the department to perform any act or duty under this act which is not discretionary with the department.

(b) Actions against the state of Wyoming, department of environmental quality, pursuant to this section shall be filed in the district court for Laramie county. Actions against any governmental entity, or any other person pursuant to this

section shall be filed in the district court for the county in which the violation is alleged to have occurred.

(c) No action pursuant to this section may be commenced:

(i) Prior to sixty (60) days after the plaintiff has given notice in writing of the violation and of his intent to commence the civil action to the department and the alleged violator, except that such action may be brought immediately after such notification if the violation complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff; or

(ii) If the department, through the attorney general, has commenced a civil action to require compliance with the provisions of this act, or any rule, regulation, order or permit issued pursuant to this act, but in any such action any person may intervene as a matter of right.

(d) The state of Wyoming, department of environmental quality, may intervene as a matter of right in any action filed pursuant to this section.

(e) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation, (including attorney and expert witness fees), to any party whenever the court determines such award is appropriate.

(f) The availability of judicial review established pursuant to W.S. 16-3-114 shall not be construed to limit the operation of rights established in this section.

(g) Nothing in this act shall in any way limit any existing civil or criminal remedy for any wrongful action arising out of a violation of any provision of this act or any rule, regulation, standard, permit, license, or variance or order adopted hereunder.

ARTICLE 10 - JUDICIAL REVIEWS

35-11-1001. Judicial review; temporary relief; conditions.

(a) Any aggrieved party under this act, any person who filed a complaint on which a hearing was denied, and any person who has been denied a variance or permit under this act, may obtain judicial review by filing a petition for review within

thirty (30) days after entry of the order or other final action complained of pursuant to the provisions of the Wyoming Administrative Procedure Act.

(b) Any person having a legal interest in the mineral rights or any person or corporation having a producing mine or having made substantial capital expenditures and commitments to mine mineral rights with respect to which the state has prohibited mining operations because the mining operations or proposed mining operations would irreparably harm, destroy or materially impair an area that has been designated to be of a unique and irreplaceable historical, archeological, scenic or natural value, may petition the district court for the district in which the mineral rights are located to determine whether the prohibition so restricts the use of the property as to constitute an unconstitutional taking without compensation. Upon a determination that a taking has occurred the value of the investment in the property or interests condemned shall be ascertained and damages shall be assessed as in other condemnation proceedings.

(c) In a proceeding to review any order or decision of the department providing for regulation of surface coal mining and reclamation operations in accordance with P.L. 95-87, the court may under conditions it prescribes grant temporary relief pending final determination of the review proceedings if:

(i) All parties to the proceedings were notified and given opportunity for hearing on the request for temporary relief;

(ii) The party requesting relief shows there is a substantial likelihood he will prevail on the final determination of the proceeding; and

(iii) The relief will not adversely affect the public health and safety or cause significant environmental harm to land, air or water resources.

35-11-1002. Publication of rules and regulations.

Any rule, regulation or standard promulgated under this act shall be published and distributed to members of the legislature and any other interested party.

ARTICLE 11 - MISCELLANEOUS PROVISIONS

35-11-1101. Records available to the public; restrictions.

(a) Any records, reports or information obtained under this act or the rules, regulations and standards promulgated hereunder are available to the public. Upon a showing satisfactory to the director by any person that his records, reports or information or particular parts thereof, other than emission and pollution data, to which the director and administrators have access under this act if made public would divulge trade secrets, the director and administrators shall consider the records, reports or information or particular portions thereof confidential in the administration of this act.

(b) Nothing herein shall be construed to prevent disclosure of any records, reports or information to federal, state or local agencies necessary for the purposes of administration of any federal, state or local air, water or land control measures or regulations or when relevant to any proceedings under this act.

(c) In any suit under this section or the Public Records Act, W.S. 16-4-201 et seq., to compel the release of information under this act, the court may assess against the state reasonable attorney fees and other litigation costs reasonably incurred in any case in which the complainant has substantially prevailed and in which the court determines the award is appropriate.

35-11-1102. Hearing unnecessary prior to issuance of emergency order.

Nothing in this act shall be construed to require a hearing prior to the issuance of an emergency order.

35-11-1103. Property exempt from ad valorem taxation.

The following property is exempt from ad valorem taxation pursuant to the provisions of this act and includes facilities, installations, machinery or equipment attached or unattached to real property and designed, installed and utilized primarily for the elimination, control or prevention of air, water or land pollution, or in the event such facility, installation, equipment or machinery shall also serve other beneficial purposes and use, such portion of the assessed valuation thereof as may be reasonably calculated to be necessary for and devoted to elimination, control or prevention of air, water and land pollution. The department of revenue shall determine the exempt

portion on all property assessed pursuant to W.S. 39-13-102(m). The county assessor shall determine the exempt portion on all property assessed pursuant to W.S. 39-13-103(b). The determination shall not include as exempt any portion of any facilities which have value as the specific source of marketable byproducts or facilities constructed for the sole purpose of capturing nonpoint source carbon dioxide.

35-11-1104. Limitation of scope of provisions.

(a) Nothing in this act:

(i) Grants to the department or any division thereof any jurisdiction or authority with respect to pollution existing solely within commercial and industrial plants, works or shops;

(ii) Affects the relations between employers and employees with respect to or arising out of any condition of pollution;

(iii) Limits or interferes with the jurisdiction, duties or authority of the state engineer, the state board of control, the director of the Wyoming game and fish department, the state mine inspector, the oil and gas supervisor or the oil and gas conservation commission, or the occupational health and safety commission.

35-11-1105. Environmental audit privilege; exceptions; burden of proof; waiver; disclosure after in camera review; application.

(a) As used in this section:

(i) "Environmental audit" means a voluntary, internal and comprehensive evaluation of one (1) or more facilities or an activity at one (1) or more facilities regulated under this act, or of management systems related to the facility or activity, that is designed to identify and prevent noncompliance and to improve compliance with this act. An environmental audit may be conducted by the owner or operator, by the owner's or operator's employees or by independent contractors. Once initiated the voluntary environmental audit shall be completed within one hundred eighty (180) days. Nothing in this section shall be construed to authorize uninterrupted voluntary environmental audits;

(ii) "Environmental audit report" means a set of documents, each labeled "Environmental Audit Report: Privileged Document," prepared as a result of an environmental audit and may include field notes and records of observations, findings, opinions, suggestions, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, charts, graphs and surveys if supporting information is generated or developed for the primary purpose and in the course of an environmental audit. An environmental audit report, when completed, shall have three (3) components:

(A) An audit report prepared by the auditor, including the scope, commencement and completion dates of the audit, the information gained in the audit, conclusions and recommendations, together with exhibits and appendices;

(B) Memoranda and documents analyzing the audit report and discussing implementation issues; and

(C) An audit implementation plan that corrects past noncompliance, improves current compliance and prevents future noncompliance.

(iii) "In camera review" means a hearing or review in a courtroom, hearing room or chambers to which the general public is not admitted. However, all parties to a civil or administrative proceeding may attend an in camera hearing and shall have a reasonable opportunity to review the documents for which the privilege is claimed and challenge the application of privilege to an environmental audit report. After such hearing or review, the content of oral and other evidence and statements of the judge, counsel and all parties shall be held in confidence by those participating in or present at the hearing or review, and any transcript of the hearing or review shall be sealed and not considered a public record until its contents are disclosed, pursuant to this section, by a court having jurisdiction over the matter.

(b) Owners and operators of facilities and persons whose activities are regulated under this act may conduct a voluntary internal environmental audit of compliance programs and management systems to assess and improve compliance with this act. An environmental audit privilege is created to protect the confidentiality of communications relating to these audits.

(c) An environmental audit report is privileged and shall not be admissible as evidence in any civil or administrative proceeding, except as follows:

(i) The owner or operator of a facility may waive this privilege in whole or in part. If an owner or operator of a facility or person conducting an activity seeks to introduce any part of an environmental audit report as evidence in any proceeding, including reporting of violations under W.S. 35-11-1106(a), the privilege is waived as to those sections of the report dealing with that media sought to be introduced into evidence;

(ii) In a civil or administrative proceeding, the court or hearing officer after in camera review consistent with the Wyoming Rules of Civil Procedure, shall require disclosure of all or part of the report if it determines:

(A) The privilege is asserted for a fraudulent purpose;

(B) The material is not subject to the privilege;

(C) The material shows evidence of noncompliance with this act or any federal environmental law or regulation and appropriate efforts to achieve compliance were not pursued as promptly as circumstances permit and completed with reasonable diligence; or

(D) The information contained in the environmental audit report demonstrates a substantial threat to the public health or environment or damage to real property or tangible personal property in areas outside of the facility property.

(iii) Repealed By Laws 1998, ch. 80, § 2.

(iv) A party asserting the privilege granted under this section has the burden of proving the privilege, including proof that appropriate efforts to achieve compliance with this act or any federal environmental law or regulation were promptly pursued and completed with reasonable diligence. A party seeking disclosure under subparagraph (c)(ii)(A) of this section has the burden of proving that the privilege is asserted for a fraudulent purpose;

(v) Repealed By Laws 1998, ch. 80, § 2.

(vi) Repealed By Laws 1998, ch. 80, § 2.

(vii) Repealed By Laws 1998, ch. 80, § 2.

(viii) The parties may at any time stipulate to entry of an order directing whether specific information contained in an environmental audit report is subject to the privilege provided under this section;

(ix) Upon making a determination under paragraph (c)(ii) of this section, the court shall compel disclosure of those portions of an environmental audit report relevant to issues in dispute in the proceeding.

(d) The privilege described in this section shall not extend to:

(i) Documents, communications, data, reports or other information required to be collected, developed, maintained, reported or otherwise made available to a regulatory agency or to any person pursuant to any regulatory requirement of this act or any other federal or state law or regulation;

(ii) Information obtained by observation, sampling or monitoring by any regulatory agency;

(iii) Information obtained from a source independent of the environmental audit;

(iv) Documents existing prior to the commencement of the environmental audit; or

(v) Documents prepared subsequent to and independent of the completion of the environmental audit.

(e) Nothing in this section shall limit, waive or abrogate the scope or nature of any statutory or common law privilege, including the work product doctrine and the attorney-client privilege.

35-11-1106. Limitation on civil penalties; voluntary reports of violations.

(a) If an owner or operator of a facility regulated under this act voluntarily reports to the department a violation

disclosed by the audit conducted under W.S. 35-11-1105 within sixty (60) days of the completion date of the audit, the department shall not seek civil penalties or injunctive relief for the violation reported unless:

(i) The facility is under investigation for any violation of this act at the time the violation is reported;

(ii) The owner or operator does not take action to eliminate the violation within the time frame specified in an order affirmed by the council or otherwise made final pursuant to W.S. 35-11-701(c)(ii);

(iii) The violation is the result of gross negligence or recklessness; or

(iv) The department has assumed primacy over a federally delegated environmental law and a waiver of penalty authority would result in a state program less stringent than the federal program or the waiver would violate any federal rule or regulation required to maintain state primacy. If a federally delegated program requires the imposition of a penalty for a violation, the voluntary disclosure of the violation shall to the extent allowed under federal law or regulation, be considered a mitigating factor in determining the penalty amount.

(b) Reporting a violation is mandatory if required by this act, any departmental rule or regulation, federal law or regulation, local ordinance or resolution, any order of the council or by any court and is therefore not voluntary under this section.

(c) Notwithstanding subsection (a) of this section, injunctive relief may be sought under W.S. 35-11-115.

(d) The elimination of administrative or civil penalties under this section does not apply if a person or entity has been found by a court to have committed serious violations that constitute a pattern of continuous or repeated violations of environmental laws, rules, regulations, permit conditions, settlement agreements or orders on consent and that were due to separate and distinct events giving rise to the violations, within the three (3) year period prior to the date of the disclosure. A pattern of continuous or repeated violations may also be demonstrated by multiple settlement agreements related to substantially the same alleged violations concerning serious

instances of noncompliance with environmental laws that occurred within the three (3) year period immediately prior to the date of the voluntary disclosure.

ARTICLE 12 - ABANDONED MINE RECLAMATION PROGRAM

35-11-1201. Abandoned mine reclamation program.

In addition to any other powers and duties imposed by law, the governor, through the director shall perform any and all acts necessary or expedient to implement and administer an abandoned mine reclamation program pursuant to section 405 of P.L. 95-87 in accordance with an approved state reclamation plan and annual approved applications for implementation of specific reclamation projects.

35-11-1202. State reclamation plan.

(a) The state reclamation plan may provide for any or all of the following activities:

(i) The acquisition, reclamation or restoration of land and water resources which were mined for coal or minerals or affected by coal or other mineral mining processes and left or abandoned in an unreclaimed or inadequately reclaimed condition prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal statutes. The effective date for the purpose of determining eligibility on federal lands managed by the forest service shall be August 28, 1974, and the effective date for determining eligibility on federal lands managed by the bureau of land management shall be November 26, 1980. Any of the activities under this paragraph shall reflect the following priorities in the order stated:

(A) The protection of public health, safety, general welfare and property from extreme danger of adverse effects of mining and processing practices;

(B) The protection of public health, safety and general welfare from adverse effects of mining and processing practices;

(C) The restoration of land and water resources and the environment previously degraded by the adverse effects of coal and mineral mining and processing practices.

(D) Repealed by Laws 1991, ch. 72, § 2.

(E) Repealed by Laws 1991, ch. 72, § 2.

(F) Repealed by Laws 1991, ch. 72, § 2.

(ii) Repealed by Laws 1991, ch. 72, § 2.

(iii) The acquisition, reclamation and transfer of land to the state or to a political subdivision thereof, or to any person after a determination by the governor that such is an integral and necessary element of an economically feasible plan for a project to construct or rehabilitate housing for persons disabled as the result of employment in the mines or work incidental thereto, persons displaced by acquisition of land pursuant to this article, persons dislocated as a result of adverse effects of coal mining practices which constitute an emergency, or persons dislocated as the result of natural disasters or catastrophic failures from any cause. However, no part of the abandoned mine reclamation funds may be used to pay the actual construction costs of housing;

(iv) Repealed by Laws 1991, ch. 72, § 2.

(v) Reclamation projects involving the protection, repair, replacement, construction or enhancement of utilities, such as those relating to water supply, roads and other facilities serving the public adversely affected by coal and mineral mining and processing practices. The construction and maintenance of public facilities in communities impacted by coal or mineral mining and processing practices is deemed to be included within the objectives established for the abandoned mine reclamation program, and shall be undertaken in accordance with the priorities stated in paragraph (i) of this subsection.

(b) The state reclamation plan shall be developed by the governor, after recommendation from the director. The director after consulting the administrator of the abandoned land mine division shall make this recommendation only after he has prepared a proposed plan and afforded, at a minimum, an opportunity for the public to inspect and comment on this proposed plan in each county having land and water resources which qualify for acquisition, reclamation or restoration under subsection (a) of this section. All comments shall be recorded and considered in the development of the plan.

(c) Notwithstanding subsection (a) of this section, the governor may request abandoned mine land funds be appropriated for the construction of specific public facilities related to the coal or mineral industries or for other activities related to the impacts of these industries.

35-11-1203. Abandoned mine reclamation account; subsidence mitigation account.

(a) Upon approval of the state reclamation plan, the state treasurer shall create an abandoned mine reclamation account for the purpose of accounting for monies received by the state from the secretary of the interior and any other monies authorized to be deposited in the account. The account shall be administered in compliance with the approved plan.

(b) Revenue to the account shall include amounts granted by the secretary of the interior under Title IV of P.L. 95-87, monies received by the state for the use or sale of lands acquired with monies from the account and such other monies which may be deposited in the account for use in carrying out the state reclamation program.

(c) There is created a coal mine subsidence mitigation account. Revenue to the account shall be ten percent (10%) of the amount granted by the secretary of the interior under title IV of P.L. 95-87 as provided by P.L. 100-34. Revenue shall be deposited in an interest bearing account and all interest shall be credited to the program. No monies from the account shall be expended prior to September 30, 1995. After September 30, 1995 the money may be expended as provided in this subsection. The legislature shall authorize expenditure by appropriation from the account as necessary to defray the administrative expenses of the program. The remaining funds in the account shall only be used to address the reclamation activities described in W.S. 35-11-1202(a)(i)(A) and (B) where mine reclamation is necessary for the protection of the public health or safety, with a priority given to pay for contractual services to mitigate and control mine subsidence that threatens structures. If authorized by the United States congress, funds from the account may be used for the repair or enhancement of structures defined in W.S. 35-11-1301(a)(iii), provided that no funds from the account may be used for any structure where construction is commenced after the effective date of this act unless an engineering assessment documenting the minimal risk of loss from mine subsidence precedes commencement of construction. The liability of the state to fulfill the requirements of this

subsection is limited to the amount of funds available in the account established in this subsection. The state has no obligations under this subsection except to the extent of federal funds deposited in the coal mine mitigation account and the interest thereon to operate the program.

35-11-1204. Right of entry.

(a) The director, administrator of the abandoned mine land division, or their designated authorized representative shall have the right to enter upon or have access to any property adversely affected by past coal mining practices to restore, reclaim, abate, control or prevent the adverse effects if the director makes a finding that:

(i) The adverse effects on land or water resources are such that, in the public interest, the action should be taken; and

(ii) The owners of the property either are not known or readily available or refuse to give permission to enter.

(b) Prior to entry, notice shall be given by mail to the owners, if known, or if not known, by posting notice upon the premises and advertising once in a newspaper of general circulation in the locality of the land.

(c) Monies expended for work on or to the premises and the benefits accruing to any premises entered upon shall be chargeable against the land and shall mitigate or offset any claim of or any action brought by any owner of any interest in the premises for any alleged damages by virtue of the entry. However, this provision is not intended to create new rights of action or eliminate existing immunities.

(d) The director, administrator of the abandoned mine land division, or their designated authorized representatives shall have the right to enter upon any property for the purpose of conducting exploratory work to determine the feasibility to restore, reclaim, abate, control or prevent the adverse effects.

(e) Any entry under this section shall be construed as an exercise of the state's police power and shall not be construed as an act of condemnation or trespass.

35-11-1205. Land acquisition and disposal.

(a) The state may acquire any land, by purchase, donation or condemnation, which is adversely affected by past coal mining practices if the director, with the concurrence of the governor, finds that acquisition of the land is necessary to successful reclamation and that:

(i) The acquired land, after restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, conservation and reclamation purposes or provide open space benefits; and

(ii) Permanent facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices; or

(iii) Acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of this article or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

(b) Title to all lands acquired pursuant to this section shall be in the name of the state. The price paid for land acquired under this section shall reflect the market value of the land as adversely affected by past coal mining practices.

(c) Where land acquired pursuant to this section is deemed to be suitable for industrial, commercial, residential or recreational development, the director, with the approval of the governor and the secretary of the interior, may sell the land for at least fair market value by public sale under a system of competitive bidding.

(d) The director, when requested after appropriate public notice, shall hold a public hearing, with appropriate notice, in the county or counties in which lands acquired pursuant to this section are located in order to afford all persons an opportunity to participate in the decision concerning the use or disposition of the lands after restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices.

35-11-1206. Liens for reclamation on private lands.

(a) Within six (6) months after the completion of projects to restore, reclaim, abate, control or prevent adverse effects of past coal or mineral mining practices on privately owned land, the director shall itemize the monies expended and may file a lien against the property with the appropriate county clerk. If the monies expended result in a significant increase in property value, a notarized appraisal by an independent appraiser shall be filed with the lien. The lien shall be the amount determined by the appraisal to be the increase in the fair market value of the land as a result of the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal or mineral mining practices. No lien shall be filed under this section against the property of any person who neither consented to, participated in, nor exercised control over the mining operation which necessitated the reclamation project.

(b) The landowner may petition the district court for the district in which the majority of the land is located within sixty (60) days of the filing of the lien to determine the increase in the fair market value of the land. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the lien.

(c) The lien provided in this section shall constitute a lien upon the land as of the date of the expenditure of the monies and shall have priority as a lien second only to the lien of real estate taxes imposed upon the land.

35-11-1207. Miscellaneous authority.

(a) The governor may promulgate any rules and regulations which may be necessary or expedient to implement and administer the provisions of this article.

(b) The director may construct and operate any plants, including major interceptors and other facilities appurtenant to the plant for the control and treatment of water pollution resulting from mine drainage.

(c) The governor may transfer funds to other appropriate state or federal agencies in order to carry out the reclamation activities authorized by this article.

35-11-1208. Mine subsidence mitigation program.

The governor may establish a coal mine subsidence mitigation program to assist property owners with mine subsidence problems that threaten life and property in this state. The program shall be operated by the director and be coordinated with the mine subsidence loss insurance program of W.S. 35-11-1301 through 35-11-1304. The program shall provide for backfilling of mine voids and stabilization of the land where evidence supports imminent or continuous threat to structures defined in W.S. 35-11-1301(a)(iii) if the threat is due to coal mine subsidence as defined in W.S. 35-11-1301(a)(ii).

35-11-1209. Contract eligibility.

(a) The abandoned mine land division shall not issue a contract to any contractor if the United States department of interior, office of surface mining applicant violator system shows the contractor has any one (1) or more of the following:

(i) Delinquent abandoned mine reclamation fee;

(ii) Federal or state failure-to-abate cessation order;

(iii) Unabated federal or state imminent harm cessation order;

(iv) Delinquent civil penalty issued under the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87;

(v) Bond forfeiture if the violation upon which the forfeiture was based has not been corrected;

(vi) Unabated violation of federal or state law, rule or regulation pertaining to air or water environmental protection incurred in connection with any surface coal mining operation;

(vii) Unresolved notice of violation.

(b) As used in this section "ownership or controlling interest" means as defined in Title 30 of the Code of Federal Regulations part 773.5, as amended.

35-11-1210. Abandoned mine land funds reserve account.

(a) There is created the abandoned mine land funds reserve account.

(b) All funds received from the federal government, from the Surface Mining Control and Reclamation Act Amendments of 2006, Section 411(h)(1), pursuant to 2007 H.R. 6111, shall be deposited into the abandoned mine land funds reserve account.

(c) All funds and all interest generated on the funds, shall remain in the abandoned mine land funds reserve account until appropriated by the legislature.

(d) The funds under subsection (b) of this section are separate from and in addition to the funds distributed to Wyoming for the abandoned mine land program under W.S. 35-11-1201 through 35-11-1209.

(e) Repealed by Laws 2024, ch. 4, § 2.

35-11-1211. Long-term abandoned mine reclamation account.

(a) There is created the long-term abandoned mine reclamation account. The state treasurer shall, upon direction from the department, deposit up to thirty percent (30%) of the amount of all funds provided to the state by the United States secretary of the interior under section 40701(c) of the Infrastructure Investment and Jobs Act, as amended by section 801 of the Consolidated Appropriations Act, 2023, into the account. The state treasurer shall invest funds in the account in accordance with law, and earnings from these investments shall be credited to the account. The liability of the state to fulfill the requirements of this section is limited to the amount of unobligated, unexpended funds in the account. The state shall have no obligations under this section except to the extent of federal funds deposited into this account and the earnings of the account. No funds in the account shall be expended for any purpose not specified in section 40701(c) of the Infrastructure Investment and Jobs Act, as amended by section 801 of the Consolidated Appropriations Act, 2023. Funds in the account shall be expended only upon legislative appropriation for the following purposes:

(i) The abatement of the causes and the treatment of the effects of acid mine drainage resulting from coal mining practices, including for the costs of building, operating, maintaining and rehabilitating acid mine drainage treatment systems;

(ii) The prevention, abatement and control of subsidence;

(iii) The prevention, abatement and control of coal mine fires.

ARTICLE 13 - MINE SUBSIDENCE LOSS INSURANCE

35-11-1301. Definitions.

(a) As used in this act:

(i) "Administrator" means the administrator of the abandoned mine land division of the department of environmental quality;

(ii) "Mine subsidence loss" means loss caused by lateral or vertical movement, including collapse which results therefrom, of structures from collapse of man-made underground mines or from collapse of underground cavities resulting from burned coal seams but excludes loss caused by underground water, soil expansion, earthquake, landslide, volcanic eruption or collapse of storm or sewer drains or underground pipelines;

(iii) "Structure" means any dwelling, building or fixture, publicly or privately owned, permanently affixed to realty but excludes land, trees, plants and crops;

(iv) "This act" means W.S. 35-11-1301 through 35-11-1304.

35-11-1302. Mine subsidence loss insurance program; established; rulemaking authority.

(a) The governor shall establish an insurance program to cover mine subsidence loss to specified structures in this state. The program shall be operated by the director of the department of environmental quality through the administrator who shall contract for all services related to advertising, sales of the coverage and claims adjustment and may contract for other services necessary to the efficient operation of the program. The program shall cover all structures insured under this act for mine subsidence damage occurring after the effective date of the coverage, consistent with the contract terms and conditions. The program shall also cover structures

which have been damaged before the effective date of this act, provided that:

(i) Damage to the structures was caused by subsidence of mine voids in the number one and seven coal seams in Rock Springs, Wyoming;

(ii) Claims made to the administrator documenting that initial subsidence damage was suffered on or about the dates of August 15, August 21, September 4 or September 10, 1985;

(iii) The property owner has made application for coverage under this act, paid the premium required by the administrator and paid an enrollment fee of one hundred dollars ($100.00);

(iv) The property owner executes and delivers instruments and papers and does whatever else is necessary to secure rights in the state to be subrogated to all the owner's right of recovery against any person, entity or organization for the damage and loss covered under this act; and

(v) Claims for damages and loss covered under this act and filed under the Wyoming Governmental Claims Act are withdrawn.

(b) The governor may promulgate rules and regulations necessary to establish and operate a mine subsidence loss insurance program under this act, including but not limited to:

(i) Contract terms and conditions;

(ii) Deductibles;

(iii) Coverage limits;

(iv) Claims adjustment procedures;

(v) Premium rates and enrollment fees sufficient to:

(A) Cover administrative expenses of the program including service contracts;

(B) Satisfy anticipated claims from mine subsidence loss;

(C) Establish a surplus to cover catastrophic hazard and to ensure solvency.

(vi) Designation of structures or areas for which coverage shall not be available;

(vii) Inspection of structures prior to issuing insurance coverage;

(viii) Rules or regulations necessary to enable the state to qualify for federal grants for state mine subsidence loss insurance programs.

(c) The governor may accept grants from any source to aid in establishing or operating the program under this act.

35-11-1303. Applicability of Wyoming Insurance Code; exemption.

(a) The Wyoming Insurance Code applies to transactions under this act except:

(i) The state and its officers, agencies and employees are exempt from the licensing, financial and tax requirements imposed by chapters 3, 4, 6, 7 and 8 of the Wyoming Insurance Code;

(ii) Any person who contracts with the state to transact insurance under this act is subject to the Wyoming Insurance Code as if the state were an insurer with a certificate of authority to transact the insurance in this state.

35-11-1304. Account created; premiums to be deposited; payment of expenses and claims.

There is created a mine subsidence loss insurance account. All premiums, fees, amounts recovered under the program and, where appropriate, grants shall be deposited into this account. The legislature shall authorize expenditures by appropriation from the account as necessary to defray the administrative expenses of the program but not claims for losses under policies. The remaining funds in the account shall be used and are appropriated to pay claims for losses under insurance policies under this act.

ARTICLE 14 - STORAGE TANKS

35-11-1401. Repealed by Laws 1990, ch. 98, § 3.

35-11-1402. Repealed by Laws 1990, ch. 98, § 3.

35-11-1403. Repealed by Laws 1990, ch. 98, § 3.

35-11-1404. Repealed by Laws 1990, ch. 98, § 3.

35-11-1405. Repealed by Laws 1990, ch. 98, § 3.

35-11-1406. Repealed by Laws 1990, ch. 98, § 3.

35-11-1407. Repealed by Laws 1990, ch. 98, § 3.

35-11-1408. Repealed by Laws 1990, ch. 98, § 3.

35-11-1409. Repealed by Laws 1990, ch. 98, § 3.

35-11-1410. Repealed by Laws 1990, ch. 98, § 3.

35-11-1411. Repealed by Laws 1990, ch. 98, § 3.

35-11-1412. Repealed by Laws 1990, ch. 98, § 3.

35-11-1413. Repealed by Laws 1990, ch. 98, § 3.

35-11-1414. Short title; purpose; department report.

(a) This article is known and may be cited as the "Storage Tank Act of 2007".

(b) The legislature recognizes the threat to the public health, safety, welfare and the environment caused by pollution to soil and water from underground and aboveground storage tanks. The purpose of this article is to take primacy of the underground storage tank program and to provide funding to take corrective actions at sites contaminated by underground storage tanks and aboveground storage tanks.

(c) The legislature also recognizes that owners and operators cannot take corrective action without placing their businesses' existence in financial jeopardy. The legislature finds that, because Wyoming is a large rural state, it is in the public interest to take corrective action at contaminated sites so that fuel will continue to be readily available throughout Wyoming.

(d) The department shall prepare an annual report for the legislature identifying the actions taken and monies expended pursuant to this article.

35-11-1415. Definitions.

(a) As used in this article:

(i) "Corrective action" means an action taken to investigate, minimize, eliminate or clean up a release to protect the public health, safety and welfare or the environment;

(ii) "Corrective action account" means the account established in W.S. 35-11-1424;

(iii) "Department" means the department of environmental quality through its solid and hazardous waste division;

(iv) "Environmental pollution financial responsibility account" or "financial responsibility account" means the account established in W.S. 35-11-1427;

(v) "Operator" means any person in control of, or having responsibility for, the daily operation of the tank;

(vi) "Owner" means:

(A) In the case of an underground storage tank in use or brought into use on or after November 8, 1984, any person who owns an underground storage tank while it is used for the storage, use or dispensing of regulated substances;

(B) In the case of an underground storage tank in use before November 8, 1984, but no longer in use after that date, any person who owned such a tank immediately before the discontinuation of its use;

(C) Any person who owns an aboveground storage tank meeting the definition of paragraph (xi) of this subsection;

(D) In the case of a site contaminated by an aboveground or underground storage tank regulated under this

article and where all tanks have been permanently closed, any person who owns the site.

(vii) "Regulated substance" means:

(A) Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act; and

(B) Petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

(viii) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from a tank into groundwater, surface water or subsurface soils;

(ix) "Underground storage tank" means and includes any one (1) or combination of underground storage tanks, including underground pipes connected thereto, used to contain an accumulation of regulated substances, and the volume of which, including the volume of the underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground, but does not include:

(A) A farm or residential underground storage tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial or agricultural purposes;

(B) An underground storage tank used for storing heating oil for consumptive use on the premises where stored;

(C) Septic tanks;

(D) A pipeline facility, including gathering lines, regulated under:

(I) Repealed by Laws 2017, ch. 35, § 3.

(II) Repealed by Laws 2017, ch. 35, § 3.

(III) An intrastate pipeline facility regulated under state laws, as provided in 49 U.S.C. chapter

601, which is determined by the United States secretary of transportation to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

(IV) 49 U.S.C. chapter 601.

(E) Surface impoundments, pits, ponds or lagoons;

(F) Storm water or wastewater collection systems including oil/water separators used to separate oil and water at oil production sites, gas processing plants and refineries;

(G) Flow-through process tanks;

(H) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

(J) Storage tanks situated in an underground area, if the storage tank is situated upon or above the surface of the floor;

(K) Underground storage tanks of one hundred ten (110) gallons or less of holding capacity;

(M) Underground storage tanks containing de minimus concentrations of regulated substances;

(N) Emergency spill or overflow containment underground storage tank systems that are expeditiously emptied after use;

(O) An underground storage tank system holding hazardous wastes listed or identified under Subtitle C of the federal Solid Waste Disposal Act or a mixture of such hazardous waste and other regulated substances;

(P) A wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 307(b) or 402 of the federal Clean Water Act;

(Q) Any equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(x) Repealed by Laws 2019, ch. 186, § 2.

(xi) "Aboveground storage tank" means any one (1) or a combination of containers, vessels and enclosures, including structures and appurtenances connected to them, constructed of nonearthen materials including but not limited to concrete, steel or plastic which provides structural support, the volume of which including the pipes connected thereto is more than ninety percent (90%) above the surface of the ground, which is used by a dealer to dispense gasoline or diesel fuels;

(xii) "Dealer" means a person meeting the definition of W.S. 39-17-101(a)(v) or 39-17-201(a)(vi);

(xiii) "Tank" means and includes both underground and aboveground storage tanks as defined by this act.

35-11-1416. Rules and regulations.

(a) The council shall promulgate rules and regulations necessary to administer this article after recommendation from the director of the department, the administrators of the various divisions and their respective advisory boards. The rules shall include but shall not be limited to rules and regulations which:

(i) Provide for performance, operating and installation standards for underground storage tanks which shall be no less or no more stringent than the federal standards. The rules shall include, but shall not be limited to, standards for upgrading existing facilities, abandonment, closure, compatibility, construction, design, installation, record maintenance and release detection, spill and overfill, inspection procedures and compliance deadlines. The rules shall include standards for aboveground storage tanks determined by the council to be necessary to meet the goals of this paragraph;

(ii) Require proof of financial assurance as required by federal law for underground storage tanks;

(iii) Specify the requirements for delegating installation or modification inspection authority including but not limited to requirements for inspectors;

(iv) Establish a procedure or procedures for reporting any release from a tank;

(v) Require taking corrective action in response to a reported release from a tank. These rules may include provisions under which priorities for corrective action may be established considering the state resources available to take corrective actions and the threat posed to public health, safety and welfare or the environment;

(vi) Require records for compliance with repairs and upgrades to be maintained for the operational life of the tank;

(vii) Adopt the requirements for notification to the department when there is a change of ownership or control over a tank in accordance with W.S. 35-11-1420(a);

(viii) Specify the requirements for notifying the department of installations or modifications in accordance with W.S. 35-11-1420(b);

(ix) Specify standards for restoration of the environment;

(x) Require proof of financial assurance for aboveground storage tanks if the owner of the aboveground storage tank desires to be eligible for coverage under the financial responsibility account.

35-11-1417. Noninsurance proviso.

Nothing in this article shall be construed as creating an insurance company nor in any way subjecting the accounts created to the laws of the state regulating insurance or insurance companies.

35-11-1418. Repealed By Laws 2007, Ch. 88, § 3.

35-11-1419. Tank registration; proof of insurance.

(a) After each new installation or modification of a regulated storage tank system the owner of a tank shall register the tank with the department on forms developed and furnished by the department. The registration form shall be submitted under oath or affirmation. The forms shall include but not be limited to:

(i) The name, address and telephone number of the tank owner;

(ii) The name, address and telephone number of the tank operator;

(iii) A description of the location of the facility where the tank is maintained or operated and the location of the tank at that facility;

(iv) The type and age of each tank at the facility;

(v) The type of substance stored or contained in the tank;

(vi) The size of each tank;

(vii) Whether the tank is currently in use, and if not, the most recent date of use of the tank if known;

(viii) The most recent date the tank was tested and a copy of the test results if not previously submitted;

(ix) Whether the owner of the tank has insurance or other types of financial assurance to cover at least thirty thousand dollars ($30,000.00) as specified in W.S. 35-11-1428(c)(i);

(x) Proof as required by federal law that an owner of more than one hundred (100) underground storage tanks anywhere in the United States has insurance, or other environmental pollution financial responsibility instrument, indicating at least two million dollars ($2,000,000.00) in liability protection for releases occurring from any of those regulated tanks; and

(xi) Other information as may be required by rules and regulations.

35-11-1420. Tank notification required; change of owner; installation requirements; inspections.

(a) In the event of the transfer of any tank to a different owner, notification of the transfer shall be provided to the department by the new and former owners. Such notifications shall be made on forms developed and provided by the department and shall include:

(i) The name, address and telephone number of the former and new tank owner;

(ii) The name, address and telephone number of the former and new tank operator;

(iii) A description of the location of the facility where the tank is maintained or operated and the location of the tank at that facility; and

(iv) Proof of insurance or other types of financial assurance by the new or former owner as applicable.

(b) No person shall install or substantially modify, or cause to be installed or substantially modified, any new or replacement tank without thirty (30) days prior notification to the department. Upon completion of the installation or modification the owner shall notify the department and the department shall within ten (10) days of receiving notification of completion, inspect the site or have the site inspected by a qualified state, local government or private inspector. No tank shall be operated until the department determines the installation or modification meets the applicable standards and the department has issued a written inspection letter to the tank owner stating that the facility, as constructed or modified, meets state standards, except that if the department has not inspected the tank within fifteen (15) days after receiving notice of completion, the tank may be operated without written notification of the department until the tank is inspected.

(c) The department shall collect an installation or modification fee of five hundred dollars ($500.00) for each tank or for all multiple tanks installed or modified at the same time and at the same site. The fees collected under this subsection shall be deposited in the general fund.

(d) If an owner or operator is unable to comply with subsection (b) of this section because of an emergency, he shall inform the department as soon as possible after the emergency is known. The owner or operator shall provide the information on the installation or modifications as required by this section without delay thereafter but within five (5) working days from the time the department is informed of the emergency.

35-11-1421. Reporting releases.

An owner or operator shall report a known or suspected release to the department as required by rules and regulations.

35-11-1422. Right of entry; inspection.

(a) When requested by an authorized agent of the state the owner or operator shall:

(i) Provide information to determine compliance with the statutes and rules and regulations;

(ii) Provide access to any site or premises where a tank is located or where any records relevant to the operation of a tank are kept;

(iii) Provide copies of any records relevant to the operation of a tank;

(iv) Allow the authorized agent to obtain samples of the regulated substances;

(v) Allow the authorized agent to inspect or conduct the monitoring or testing of the tank system; and

(vi) Allow the authorized agent entry on the premises to do assessments and corrective actions.

(b) A duplicate sample taken by or for the state for testing shall be provided to the tank owner if requested by the owner. A duplicate copy of the analytical report from the department pertaining to the samples taken shall be provided as soon as practicable to the tank owner.

(c) No person conducting an inspection under this section shall unreasonably interfere with the operations, business or work, of any person at the site being inspected. The tank owner or operator shall be given the opportunity to accompany any person making an inspection.

(d) In carrying out a corrective action the department has the right to construct and maintain any structure, monitor well, recovery system or any other reasonable and necessary item associated with taking corrective action.

(e) The department shall give a minimum of seven (7) working days notice prior to an investigation unless an emergency exists.

35-11-1423. Public notice; right to intervene.

(a) The department shall notify the affected public of all confirmed releases requiring a plan for soil and groundwater remediation, and upon request, provide or make available to the interested public information concerning the nature of the release and the corrective actions planned or taken.

(b) Any person having an interest that is or may be adversely affected may intervene as a matter of right in any civil action for remedies specified in this act.

35-11-1424. Corrective action account created; use of monies; cost recovery.

(a) There is created the corrective action account. This account is intended to provide for financial assurance coverage required by federal law and shall be used by the department to take corrective action in response to a release and to remediate orphan sites and solid waste landfills. The department shall use monies from the corrective action account as appropriated by the legislature for the administration of this article, W.S. 35-11-533 through 35-11-537 and 35-11-1701. Interest earned by this account shall be deposited in the general fund. Monies in the corrective action account may also be used for the state drinking water and water pollution control revolving loan accounts pursuant to W.S. 16-1-201 through 16-1-207 and 16-1-301 through 16-1-308. Except as provided in subsection (p) of this section, and contingent on availability of money in the corrective action account, the director shall distribute monies in the corrective action account to the solid waste landfill remediation account created by W.S. 35-11-535 and the orphan site remediation account created pursuant to W.S. 35-11-1701 on July 1 of each specified year in an amount up to:

(i) 2019-one million dollars ($1,000,000.00) to the solid waste landfill remediation account and one million dollars ($1,000,000.00) to the orphan site remediation account;

(ii) 2020-four million dollars ($4,000,000.00) to the solid waste landfill remediation account and one million dollars ($1,000,000.00) to the orphan site remediation account;

(iii) 2021 – five million dollars ($5,000,000.00) to the solid waste landfill remediation account and one million dollars ($1,000,000.00) to the orphan site remediation account;

(iv) 2022 – five million dollars ($5,000,000.00) to the solid waste landfill remediation account and one million dollars ($1,000,000.00) to the orphan site remediation account;

(v) 2023 – six million dollars ($6,000,000.00) to the solid waste landfill remediation account and one million dollars ($1,000,000.00) to the orphan site remediation account;

(vi) 2024 through 2028 – provided that in no event shall monies plus net accounts receivable in the corrective action account on July 1 of any year of this period be less than two million dollars ($2,000,000.00), the director shall:

(A) Determine expected expenditures from the corrective action account for the underground storage tank program for the next fiscal year and retain monies equal to that amount in the corrective action account;

(B) Deposit up to one million dollars ($1,000,000.00) from the remainder of the monies in the corrective action account into the orphan site remediation account; and

(C) Deposit the remainder of the monies from the corrective action account into the solid waste landfill remediation account.

(vii) 2029 and each year thereafter-the director shall determine expected expenditures from the corrective action account for the underground storage tank program for the next fiscal year and retain monies equal to that amount in the corrective action account, with the remainder of the monies being divided and deposited at the director's discretion into the solid waste landfill remediation account and the orphan site remediation account, but in no event shall monies plus net accounts receivable in the corrective action account on July 1 of any year be less than two million dollars ($2,000,000.00).

(b) The department shall establish priority lists of sites contaminated by tanks. The priorities shall be based on public health, safety and welfare and environmental concerns. The council after recommendation from the director of the department, the administrator of the various divisions and their respective advisory boards shall promulgate rules and regulations for defining priorities.

(c) The department shall use corrective action account monies to take corrective actions at sites contaminated by tanks. The department shall take corrective actions based on the sites' placement on the priority list. However, if an emergency threat to public health, safety and welfare or to the environment exists, or costs of cleanup may be significantly reduced, a site may be moved up on the priority list for immediate corrective action.

(d) For a site to be eligible for use of monies in the corrective action account, the owner or operator of the site shall, if required, pay the tank fee required by W.S. 35-11-1425, conduct a minimum site assessment, as defined by rule and regulation, and, if contamination is found, take action to prevent continuing contamination. The department shall notify all owners and operators on record at the department of the minimum site assessment requirements. Sites which do not meet the eligibility requirements specified in this subsection shall not be eligible for use of any monies in the corrective action account. Owners and operators of these ineligible sites shall not use the corrective action account for proof of financial assurance for the sites. Pending determination of the site's eligibility, the department may use corrective action account monies for corrective actions at a contaminated site.

(e) Sites where tanks have been removed or abandoned in accordance with any government regulations effective at the time of abandonment may become eligible for use of corrective action account monies if the person who owns the site pays a two hundred dollar ($200.00) annual fee per site and conducts a site assessment as required by subsection (d) of this section. The annual fee per site required under this subsection shall be paid for a maximum of ten (10) years and shall then lapse until corrective action is undertaken by the department. Failure to meet these requirements may subject the person who owns the site to suit for corrective action or cost recovery. The fee collected under this subsection shall be deposited in the corrective action account. The department shall notify all the owners and operators who are on record at the department who have removed or properly abandoned a tank of the provisions of this subsection.

(f) If, after due diligence, no owner or operator can be found, a contaminated site shall be placed on the priority list in appropriate rank with other sites. If an owner or operator of a site which is not in compliance and the owner or operator refuses to comply with subsection (d) of this section is

discovered, that site shall be considered as ineligible for use of corrective action account monies and shall be treated as defined in subsection (g) of this section.

(g) The department may, by an action brought by the attorney general against an owner or operator, recover reasonable and necessary expenses incurred by the department in taking a corrective action. These recoverable expenses include but are not limited to costs of investigating a release, administrative costs and reasonable attorney fees. The department's certification of expenses is prima facie evidence the expenses are reasonable and necessary. Expenses recovered under this section shall be deposited in the corrective action account unless otherwise required by state or federal law. The department may sue for recovery of expenses only if:

(i) The owner or operator has failed to take the actions required for that site in subsection (d) of this section; or

(ii) The owner or operator had tank insurance for that site at the time of the release. However no such recovery under this subsection may exceed the limits or coverage of the insurance policy in question.

(h) The state has a right of subrogation to any insurance policies in existence at the time of the release to the extent of any rights the owner may have had under that policy. This right of subrogation shall apply regardless of the owner's eligibility to use corrective action account monies under subsection (d) of this section. In implementing this section the department shall:

(i) Notify all known owners and operators, past and present, of sites where contamination from a tank is known to exist and request information relating to any insurance policies they possess or possessed at the time of release that may provide coverage for corrective action or cleanup of the contamination at the site;

(ii) Notify all insurance companies which have been identified to the department pursuant to W.S. 35-11-1419 and may have issued insurance policies that provide coverage for contamination from tanks and request copies of any such policies. In notifying insurance companies the department shall provide the insurance company with the name of all known owners, past and present, and the legal description of the site upon

which the tank is or was located. The department notification shall require each insurance company to notify the department whenever there is a change in the insurance policy, including cancellation.

(j) Nothing in this section shall be construed to authorize payments for the repair, removal or replacement of any tank or equipment.

(k) Nothing in this section shall be construed to authorize payments or commitments for payments in amounts in excess of the monies available.

(m) Within thirty (30) days after receipt of notification that the corrective action account has become incapable of paying for assured corrective actions, the owner or operator shall obtain alternate financial assurance.

(n) Any person or insurance company notified by the department under paragraph (h)(i) or (ii) of this section shall provide the requested information to the department within thirty (30) days of receipt of the notification. In addition to other remedies provided for in this act, failure of any insurance company to provide copies of the requested policies shall result in the statute of limitations provided in subsection (o) of this section being tolled for any action the department may bring in subrogation until such time as the policy is discovered.

(o) Notwithstanding any other applicable period of limitation, upon notification by any owner, operator or insurance company of any insurance coverage in existence, the department shall have five (5) years to commence any action for the recovery of proceeds under the applicable policy.

(p) The director is authorized to withhold distributions from the corrective action account to the solid waste remediation account and the orphan site remediation account as provided in subsection (a) of this section in the event of:

(i) An emergency involving a leaking underground storage tank which requires immediate corrective action which will require an expenditure of monies in excess of the monies available in the corrective action account; or

(ii) Monies in the account are less than the amount required by federal law to provide for financial assurance

coverage or adequate leaking underground storage tank remediation.

(q) The director shall submit a report to the joint minerals, business and economic development interim committee by June 15, 2019 and by June 15 of every year thereafter, describing the amount to be withheld in the corrective action account pursuant to subsections (a) and (p) of this section, and the factors used in making those determinations, and describing the distributions of monies from the corrective action account to the solid waste landfill remediation account and the orphan site remediation account.

(r) Repealed by Laws 2018, ch. 12, § 2.

35-11-1425. Tank fee; deposit into corrective action account; late fee.

(a) On or before January 1 of each year the owner of a tank shall pay a fee to the department of two hundred dollars ($200.00) per tank owned. This fee shall be deposited in the corrective action account.

(b) On April 1 of each year the department may assess a late payment fee of one hundred dollars ($100.00) per tank or contaminated site against any owner who has not paid the annual fee required pursuant to subsection (a) of this section or W.S. 35-11-1424(e). This late fee shall be paid by the owner and shall be in addition to the annual fee required pursuant to subsection (a) of this section or W.S. 35-11-1424(e) and shall be deposited in the department's corrective action account.

(c) The change from July 1 to January 1 for the due date of storage tank fees shall be revenue neutral. The department shall collect one-half (1/2) of the annual fee on July 1, 2007 and shall collect the full annual fee on January 1, 2008 and annually thereafter.

35-11-1426. Restoration standard.

Any owner or operator, department or other person taking a corrective action shall restore the environment to a condition and quality consistent with standards established in rules and regulations.

35-11-1427. Financial responsibility account.

There is created the environmental pollution financial responsibility account. This account is intended to provide for financial assurance coverage required by federal law for underground storage tanks and establish financial assurance coverage for aboveground storage tanks and shall be for the purpose of compensating third parties for damage caused by releases from one (1) or more tanks. Interest earned by the account shall be deposited in the general fund.

35-11-1428. Uses of financial responsibility account monies.

(a) As provided in this section, the department shall, on application by an owner or operator, direct the payment of monies from the financial responsibility account to satisfy judgments against the owner or operator for third party property damage or personal injury.

(b) The attorney general shall be served by certified mail return receipt requested with a copy of the complaint filed in any suit initiated against an owner or operator for third party property damage or personal injury. Service of the complaint on the attorney general is a jurisdictional requirement in order to maintain the suit. The attorney general shall be notified in writing by certified mail return receipt requested of any judgment, compromise, settlement or release entered into by an owner or operator. As provided in this section, the department shall, on application by an owner or operator, direct the payment of monies from the financial responsibility account to pay settlements for third party property damage or personal injury on terms negotiated by the attorney general and approved by the council.

(c) The monies from the financial responsibility account shall only be used to pay judgments and settlements not to exceed one million dollars ($1,000,000.00), for all the damages arising from releases from one (1) or more of the tanks on a site, provided that the owner or operator:

(i) Shall remain liable for payment of the judgment or settlement up to, but not exceeding, thirty thousand dollars ($30,000.00). The department may bring an action against the owner or operator to recover any amount paid by the department pursuant to a judgment or settlement for which the owner or operator remains liable under this paragraph;

(ii) Has not been relieved of his responsibility for the judgment or settlement by operation of law or otherwise. For purposes of this paragraph, an owner or operator shall not be deemed to have been relieved of his responsibility for the judgment or settlement by virtue of the Governmental Claims Act; and

(iii) Pays the tank fee required by W.S. 35-11-1424(e) or 35-11-1425, conducts a minimum site assessment, as defined by rule and regulation, and, if contamination is found, takes action to prevent continuing contamination.

(d) Nothing herein shall be construed to authorize the department to obligate funds from the financial responsibility account for payment of costs which may be associated with, but are not integral to, the personal injury or property damage such as the costs for modifying, removing or replacing tanks.

(e) The department shall establish a priority list for purposes of the financial responsibility account. The department shall not approve use of monies from the financial responsibility account if there are insufficient monies in the account to fund the application before the department and all other outstanding commitments.

(f) Nothing in this section shall be construed to authorize commitments to cover property or personal injury damages in excess of the balance in the financial responsibility account.

(g) Within thirty (30) days after receipt of notification that the financial responsibility account has become incapable of paying for assured third party compensation costs, the owner or operator shall obtain alternate financial assurance.

35-11-1429. Tank requirements; rulemaking authority.

(a) Cathodic protection shall be installed and operated on all internally lined underground storage tanks no later than June 30, 2008.

(b) All underground storage tank systems that dispense more than five hundred thousand (500,000) gallons per month of a regulated substance shall be replaced with double wall tanks and lines with interstitial leak monitoring no later than June 30, 2012, or thirty (30) years from the date of installation of the underground storage tank, whichever is later.

(c) Double wall underground storage tanks and lines with interstitial leak monitoring shall be installed whenever any underground storage tank is installed.

(d) Double wall underground storage tank system lines with interstitial leak monitoring shall be installed whenever any line is installed on any underground storage tank system. Except piping connected to field-constructed underground storage tank systems with a capacity exceeding fifty thousand (50,000) gallons or piping that is used for an airport hydrant system, if existing single wall underground piping connected to an underground storage tank system fails due to corrosion or fails and has been recalled by the manufacturer, the entire run of single wall piping shall be replaced with double wall piping with interstitial monitoring regardless of the length of piping requiring repair.

(e) The council may promulgate rules and regulations to administer this section after recommendation from the director.

(f) A double wall and interstitially monitored underground storage tank or underground piping installed after December 1, 2005, shall be interstitially monitored for the lifetime of the tank or piping.

(g) Except essential homeland security systems, emergency generator systems and systems used for other disaster relief efforts, if a new piping interstitial monitoring system is installed and sump sensors are used as standalone automatic leak detectors, the system shall be configured to shut off the flow of product in that piping run when a sump sensor triggers an alarm.

35-11-1430. W.S. 35-11-1430(b) repealed this section effective June 30, 2009. (Laws 2007, Ch. 172, § 1.)

35-11-1431. Tank system operators, installers and testers licensing; rulemaking authority.

(a) After recommendation from the director and consultation with the appropriate advisory boards, the council shall promulgate rules and regulations to develop standards for the licensure of all tank system operators, installers and testers. At minimum, those rules and regulations shall:

(i) Prescribe licensure requirements for any person installing, modifying or testing an underground or aboveground storage tank;

(ii) Prescribe class A and B operator licensure requirements which shall include passing a department approved exam;

(iii) Prescribe training requirements for class C operators;

(iv) Require at least one (1) person present on the job site to be licensed by the department to install or modify a tank system.

35-11-1432. Temporarily out of use tanks; rulemaking.

Except tanks within operating facilities, any underground or aboveground storage tank that has been temporarily out of use for more than twelve (12) months shall be permanently closed in accordance with department rule and regulation not later than twelve (12) months after the date on which the tank is placed in temporarily out of use status or July 1, 2018, whichever is later, unless a time extension is authorized in writing by the department.

ARTICLE 15 - RADIOACTIVE WASTE STORAGE FACILITIES

35-11-1501. Definitions.

(a) As used in this article:

(i) "High-level radioactive waste" means as defined in the "Nuclear Waste Policy Act of 1982" as amended, 42 U.S.C. § 10101 et seq.;

(ii) "High-level radioactive waste storage" means the emplacement of high-level radioactive waste or spent nuclear fuel regardless of the intent to recover that waste or fuel for subsequent use, processing or disposal;

(iii) "High-level radioactive waste storage facility" includes any facility for high-level radioactive waste storage, other than a permanent repository operated by a federal agency pursuant to the Nuclear Waste Policy Act of 1982, as amended. "High-level radioactive waste storage facility" includes an

independent spent fuel storage installation as defined in title 10 of the Code of Federal Regulations part 72 section 3;

(iv) "Spent nuclear fuel" means as defined in the Nuclear Waste Policy Act of 1982 as amended, 42 U.S.C. § 10101 et seq.

35-11-1502. Application to site a high-level radioactive waste storage facility; requirements; payment of costs.

(a) Any person undertaking the siting of any high-level radioactive waste storage facility shall do so in accordance with this article. Facilities subject to this article are exempt from the jurisdiction of the Industrial Development Information and Siting Act, W.S. 35-12-101 et seq.

(b) Any person undertaking the siting of any facility governed by this section shall submit an application documenting the following information to the director:

(i) The criteria upon which the proposed site was chosen, and information showing how the site meets the criteria of the nuclear regulatory commission and the department pursuant to W.S. 35-11-1506(c)(xvi);

(ii) The technical feasibility of the proposed waste management technology;

(iii) The environmental, social and economic impact of the facility in the area of study;

(iv) Conformance of the plan with the federal guidelines for a high-level radioactive waste storage facility.

(c) The application shall be accompanied by an initial deposit of eight hundred thousand dollars ($800,000.00) plus any excess amount collected from the feasibility agreement pursuant to W.S. 35-11-1506(c). Effective July 1, 2018, and annually thereafter, the amount of the initial deposit shall be adjusted for inflation by the department using the consumer price index or its successor index of the United States department of labor, bureau of labor statistics, for the calendar year immediately preceding the date of adjustment. The purpose of the initial deposit and additional monthly payments as billed to the applicant shall be to cover the costs to the state associated with the investigation, review and processing of the application and with the preparation and public review of the report

required in W.S. 35-11-1503 and 35-11-1504. Unused fees under this subsection shall be refunded to the applicant. The initial deposit shall be held in an interest bearing account in reserve by the department to guarantee that sufficient funds are available to pay for any outstanding costs incurred by the state in the event that the applicant is unable to complete the application process for any reason. Any costs to the state for application processing, preparation of the report required in W.S. 35-11-1503 and 35-11-1504 and for any other costs incurred by the state to fulfill any requirement of article 15 of this act, shall be billed by certified mail and reimbursed to the state by the applicant on a monthly basis at a rate established by the state for comparable other similar permitting reviews. The applicant may appeal the assessment to the department within twenty (20) days after receipt of the written notice. The appeal shall be based only upon the allegation that the particular assessment is erroneous or excessive. Failure of the applicant to pay within thirty (30) days of the date of mailing shall be cause for suspension or termination of the application process. Upon termination of the process, any unused sum remaining in said reserve account shall be returned to the applicant.

(d) Any applicant for a permit to construct and operate a high-level radioactive waste storage facility shall share pertinent information relevant to both state and nuclear regulatory commission permitting. It is the intention of this article that an applicant can supply information common to both state and federal permitting, without duplication of effort.

(e) Upon receipt of an application under subsection (b) of this section, the director shall, at the earliest possible date, apply for any funds which may be available to the state from the Interim Storage Fund or the Nuclear Waste Fund under the provisions of 42 U.S.C. § 10156 and 42 U.S.C. § 10222. The director may apply for other funds which may become available to the state under any other federal or state program for high-level radioactive waste storage facilities. Nothing in this subsection shall be construed as authorizing the siting, construction or operation of any high-level radioactive waste storage facility not otherwise authorized under this article.

35-11-1503. Preparation of the report by the department.

(a) Except as otherwise provided in this subsection, the department shall within twenty-one (21) months of receipt of an application and the application fee under W.S. 35-11-1502, prepare a report which examines the environmental, social and

economic impacts of any proposal to site a high-level radioactive waste storage facility within the state. The director may determine that more than twenty-one (21) months is required to complete the report. If the director makes this determination, the director shall extend the deadline as appropriate and notify the applicant and the legislature of the additional time required. The director may employ experts, contract with state or federal agencies, or obtain any other services through contractual or other means to prepare the report.

(b) Any report prepared under this section shall evaluate and assess all probable impacts associated with any proposal to site a high-level radioactive waste storage facility within the state, including but not limited to short term impacts and any other impacts which may be serious, reversible or irreversible. In developing the report under this section, the director may consider the guidelines and standards for preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. § 4332(2)(C). If appropriate and to the extent practicable, the department shall prepare a joint report with the nuclear regulatory commission under the National Environmental Policy Act.

(c) The report shall evaluate the environmental, social and economic impacts to the state from a range of alternative actions, including the siting of the high-level radioactive waste storage facility as proposed, the no action alternative and other alternatives.

(d) The report shall include a proposed benefits agreement, which shall be negotiated with the person who proposes to site the high-level radioactive waste storage facility.

(e) The director shall, in the preparation of the report, identify a recommended action from among the alternatives evaluated.

35-11-1504. Public review of any report for the siting of a high-level radioactive waste storage facility; submission to legislature.

(a) The department shall submit any report prepared under W.S. 35-11-1503 for public review as required under this section. The public shall be afforded an opportunity to review

the report and provide comments to the director. The director shall hold public hearings in the county or counties where the proposed storage facility will be located and throughout the state, to the extent practicable, to receive comments on the report.

(b) Following any public review of the report as provided in this section, but in no event before the United States department of energy issues a final environmental impact statement in accordance with the law along with a license application for a permanent repository for high-level radioactive waste, the director shall submit the report to the legislature. The submission by the director shall include:

(i) The report;

(ii) The director's preferred or recommended alternative;

(iii) Any conditions proposed by the director regarding siting, construction, operation, monitoring, decontamination or decommissioning, or any other element of the proposed project that the director determines to be necessary to protect the public health or environment of the state, or to mitigate local or statewide social or economic impacts;

(iv) The proposed benefits agreement, including but not limited to:

(A) The number of jobs that will be created in planning, permitting, licensing, site analysis and preparation, purchasing, construction, transportation, operation and decommissioning;

(B) Local and state taxes generated by all aspects of the project;

(C) Benefits from job training, education, communication systems, monitoring and security systems;

(D) Mitigation payments to the affected communities;

(E) Cash and other in kind benefits that will offset any adverse effects;

(F) The duration of benefits from the project of all kinds.

(v) A summary of and a discussion of the considerations given by the department to any public comments received.

35-11-1505. Benefits agreement.

No benefits agreement shall be finally effective until authorized by the legislature under W.S. 35-11-1506. The benefits agreement shall be sufficient to offset adverse environmental, public health, social or economic impacts to the state as a whole, and specifically to the local area hosting the storage facility. The benefits agreement shall be attached to and made part of any permit for the facility. Failure to adhere to the benefits agreement shall be considered grounds for enforcement up to and including permit termination. No benefits agreement as provided in this section shall limit or waive any rights afforded to the state by the Nuclear Waste Policy Act, as of March 1, 1995, including any right to disapprove any site or siting.

35-11-1506. Legislative approval of the siting of high-level radioactive waste storage facilities; conditions.

(a) Except as provided in subsection (e) of this section, no construction may commence, nor shall any high-level radioactive waste storage facility be sited within this state, unless the legislature has enacted legislation approving the siting, construction and operation of the facility in accord with this section. Any authorization of a facility under this section shall not be considered to grant to any person an exclusive right or franchise to store high-level radioactive wastes within the state.

(b) In addition to any facility which meets the requirements of subsection (e) of this section, the legislature may authorize one (1) or more facilities under subsection (a) of this section if it finds that:

(i) The siting of a high-level radioactive waste storage facility within the state is in the best interests of the people of Wyoming;

(ii) The siting of a high-level radioactive waste storage facility within the state can be accomplished without

causing irreversible adverse environmental, public health, social or economic impacts to the state as a whole, and specifically to the local area hosting the proposed storage facility;

(iii) The proposed benefits agreement is sufficient to offset any adverse environmental, public health, social or economic impacts to the state as a whole, and specifically to the local area hosting the proposed storage facility; and

(iv) Sufficient safeguards, by contractual assurances or other means, exist to provide that:

(A) The authorization to site, construct and operate any proposed storage facility shall be limited to no more than forty (40) years, provided that extensions may be granted if the legislature enacts legislation authorizing nuclear waste storage facilities to operate for more than forty (40) years;

(B) Any wastes in storage at any facility shall remain the property of the waste generator or civilian nuclear power reactor owner, until transferred to permanent storage or until the federal government takes title to the wastes under the provisions of the Nuclear Waste Policy Act, 42 U.S.C. § 10101 et seq.;

(C) Conditions substantially equivalent to the licensing conditions imposed upon monitored retrievable storage facilities under 42 U.S.C. § 10168(d) existing as of March 1, 1995 shall be effective for any high-level radioactive waste storage facility authorized under this article; and

(D) There exists either a cooperative agreement between the state and the nuclear regulatory commission, or such other legally binding agreement for specific performance between the director and the applicant, which shall provide for state regulation of the facility.

(c) With permission of the governor and the management council, an applicant for either a monitored retrievable storage facility or an independent spent fuel storage installation may enter into a preliminary but nonbinding feasibility agreement and study with the director which shall be submitted to and reviewed by the director, governor and the management council. The public shall be afforded a thirty (30) day public comment opportunity to review the feasibility agreement prior to its

submission to the governor and the management council. The purposes of this feasibility agreement and study are to allow the state to make a preliminary determination, whether, on the basis of the feasibility agreement and study, the proposed benefits substantially outweigh any adverse effects and to allow an applicant based on the state's preliminary review of any proposed benefit to determine whether or not a prudent investor, planner, builder and operator would decide to proceed with an application. Upon entering into a feasibility agreement, the applicant shall pay to the state a fee of eighty thousand dollars ($80,000.00). Effective July 1, 2018, and annually thereafter, the fee shall be adjusted for inflation by the department using the consumer price index or its successor index of the United States department of labor, bureau of labor statistics, for the calendar year immediately preceding the date of adjustment. The fee shall be used by the department for costs attendant to the preliminary agreement. Excess funds collected may be used by the department to review an application submitted under W.S. 35-11-1502. Appropriate time shall be afforded the director, the governor, the management council and the applicant to prepare and to evaluate the preliminary agreement and study, but neither the state nor the applicant shall unnecessarily delay the feasibility agreement and study. The preliminary feasibility agreement and study shall not supersede nor replace other requirements under this act. This agreement and study shall set forth the following:

(i) The source and adequacy of the financing for the facility and the applicant's ability to fulfill the terms of any contract entered into regarding the siting, construction or operation of the facility. The information required under this paragraph shall include, but is not limited to, audited financial statements covering the five (5) year period prior to the feasibility agreement, a listing of all partners if the applicant is a partnership and a listing of all persons owning or controlling five percent (5%) or more of its stock if the applicant is a corporation;

(ii) Financial strengths of prospective storage customers;

(iii) The technical experience of the applicant and his associates in permitting before the nuclear regulatory commission, and in design, construction and operation of nuclear facilities;

(iv) The preliminary design plan and technical feasibility of the planned temporary fuel rod storage facility;

(v) The best estimate of a range of costs for the permitting, planning and construction of the facility, based upon available information;

(vi) The proposed storage capacity of the planned facility, necessary to give reasonable assurance of economic feasibility, with evidence to show that the proposed storage capacity will not adversely affect the health and safety of Wyoming people or the environment;

(vii) How the applicant will proceed with the facility to assure that its construction, operation and decommissioning will neither temporarily nor permanently adversely affect the health and safety of Wyoming people;

(viii) A best estimate of a time frame required to obtain the necessary permits, including nuclear regulatory commission licensing, design and construction, and a suggested time frame for decisions by Wyoming government to meet the target timetable;

(ix) An outline of transportation plans, including rail and highway;

(x) Substantial assurances that the facility is temporary, including options for that assurance including a time frame for the movement of the temporarily stored fuel rods to a permanent repository, delivery of the stored rods to reprocessing centers or to a purchaser, domestic or foreign, buying the rods for future reprocessing;

(xi) A range of benefits the nearby communities and the state might expect in return for temporarily storing the fuel rods, and a best estimate of when the benefits might begin to be received by the nearby communities and state;

(xii) A mutual review, by the state and applicant, of a range of taxes the state might reasonably impose on the facility and the fuel rods while they are in temporary storage including the annual acceptance taxes to be levied on fuel rods, based upon the kilograms of fuel rods stored at the Wyoming facility;

(xiii) A description of security measures that would be installed in and around the facility to isolate and protect it from intruders;

(xiv) A description of an emergency response procedure in the event of an unusual occurrence;

(xv) An outline of the information program an applicant would initiate to explain its plans to the community and state;

(xvi) A description of site suitability characteristics and evidence that the applicant's proposed site for the facility meets those characteristics;

(xvii) Evidence of support from nearby Wyoming communities for exploring the project.

(d) If the legislature authorizes the siting of a facility under subsection (a) of this section, the department shall issue a permit incorporating the conditions presented to the legislature including the benefits agreement. The issuance of the permit is not appealable to the environmental quality council. The permit shall also include a provision for payment by the permittee of inspection and review costs unless such costs are included in the benefits agreement.

(e) The legislature hereby authorizes the siting of temporary high-level radioactive waste storage facilities within this state subject to the following:

(i) A facility is authorized if:

(A) It is operated on the site of and to store the high-level radioactive waste or spent nuclear fuel produced by a nuclear power generation facility operating within the state;

(B) The facility has received a license to construct and operate from the United States nuclear regulatory commission;

(C) The report required under paragraph (vi) of this subsection has been submitted; and

(D) The operator of the facility is in compliance with paragraph (vii) of this subsection.

(ii) Repealed by Laws 2022, ch. 103, § 2.

(iii) Repealed by Laws 2022, ch. 103, § 2.

(iv) Repealed by Laws 2022, ch. 103, § 2.

(v) Repealed by Laws 2022, ch. 103, § 2.

(vi) Not later than thirty (30) days before construction of a nuclear electric generation facility commences, the operator of the facility shall submit a report to the department that includes:

(A) The number of jobs that will be created in the planning, permitting, licensing, site analysis and preparation, purchasing, construction, transportation, operation and decommissioning of the facility and what number of those jobs would be filled by Wyoming residents;

(B) Local and state taxes that are estimated to be generated by all aspects of the construction, operation and decommissioning of the facility;

(C) All benefits and impacts that will accrue to the state and the local community where the facility will be located, including benefits from job training, education, communication systems, monitoring and security systems.

(vii) The operator of each facility shall send to the department copies of all publicly available reports, notifications and violations sent to or from the United States nuclear regulatory commission or the operator of the facility as soon as practicable but not later than five (5) days after the operator sends or receives the report. The operator shall also transmit all information required under this subsection to emergency management departments of the local governments where the facility is located and shall make the information available on a public website.

35-11-1507. Injunction proceedings; penalties.

(a) When, in the opinion of the governor, a person is violating or is about to violate any provision of this article, the governor shall direct the attorney general to apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity. Upon a

showing that the person has engaged, or is about to engage in the activity, the court may grant a permanent or temporary injunction, restraining order or other order.

(b) In addition to being subject to injunctive relief any person convicted of violating any provision of this article may be imprisoned for up to one (1) year, fined up to ten thousand dollars ($10,000.00), or both.

ARTICLE 16 - VOLUNTARY REMEDIATION OF CONTAMINATED SITES

35-11-1601. Applicability; nonvoluntary remediation.

(a) This article establishes the requirements and procedures necessary for voluntary remediation of eligible sites under this act, and shall not authorize unpermitted releases of contaminants to the environment of the state. Consistent with the policy and purpose of this act, this article shall provide incentive to remediate eligible sites and establish criteria for application of site-specific, risk-based remediation. All voluntary remediation requirements for eligible sites shall be performed in accordance with this article and shall be contained in a remedy agreement issued under W.S. 35-11-1607. Except as provided in subsection (d) of this section, no additional remediation requirements may be imposed by the department under this act for remediation of any site subject to a remedy agreement issued under W.S. 35-11-1607, unless the remedy agreement has been reopened or terminated under W.S. 35-11-1610. Nothing in this subsection shall prohibit the imposition of remediation requirements to address the release of a contaminant which may occur after a remedy agreement has been entered into or a no further action letter has been issued. Remediation authorized by the department under this article shall not be deemed a prohibited act under this act, or of any rules or regulations promulgated thereunder.

(b) Remediation is not voluntary under this article if it is required:

(i) By order of the department, council or by any court and entered without the consent of a person; or

(ii) By order of the department, council or by any court and entered without the consent of a person who has failed or refused to enter into, or breached the terms of, a preliminary remediation agreement, remedy agreement or reopened remedy agreement; or

(iii) By administrative or judicial order to which the United States environmental protection agency is a party, which is issued after the effective date of this act, on a site that has been determined not to be eligible under W.S. 35-11-1603.

(c) Sites that are not eligible for voluntary remediation are subject to all other applicable requirements of this act, including the provisions of W.S. 35-11-1613.

(d) Nothing herein shall relieve owners or operators of eligible sites from applicable permit requirements under this act or limit the director's ability to undertake enforcement action relating to a complaint under article 7 of this act and impose a penalty for violation of the act under article 9 of this act.

(e) Nothing in this article shall limit the director's authority to order any person to abate any condition that poses an imminent or substantial endangerment to human health or the environment, or the director's authority to issue emergency orders under W.S. 35-11-115.

35-11-1602. Eligibility for voluntary remediation program; sites eligible; sites ineligible.

(a) Eligible sites shall include sites which meet the following conditions:

(i) Sites, or portions of sites, where releases occurred before the effective date of this article and:

(A) The site, or portion of site, where the release occurred was not subject to the permit requirements of this act at the time of the release; or

(B) The site is covered by an order of the department, council or by any court and entered with the consent of the person or entity.

(ii) Sites, or portions of sites, where releases occurred on or after the effective date of this article and where the owner or operator is implementing a pollution prevention plan consistent with rules promulgated under this act;

(iii) Waste management or disposal units that have been permitted under this act and the director determines that the release from the permitted unit, if restricted or prohibited by the permit, cannot be remediated in accord with the permit requirements because of technical impracticability.

(b) Eligible sites shall not include:

(i) A site for which remediation is not voluntary under W.S. 35-11-1601(b);

(ii) A site that is listed on the National Priorities List of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675;

(iii) A commercial solid waste management facility, commercial waste incineration or disposal facility subject to W.S. 35-11-514;

(iv) Underground and aboveground storage tanks subject to article 14 of this act;

(v) Radioactive waste storage facilities subject to article 15 of this act;

(vi) Abandoned mine land sites subject to article 12 of this act; or

(vii) Any site where a release resulted from continuous or repeated violations of any law, rule, regulation or order under this act.

35-11-1603. Participation in the voluntary remediation program; application; time for determination.

To participate in the voluntary remediation program a person must submit an application to the department that identifies the owner and provides a location and description of the site. The application shall also describe the site-specific conditions which the applicant believes satisfy one (1) or more of the eligibility criteria of W.S. 35-11-1602. No later than forty-five (45) days after receipt of the application, the department shall give written notice to the applicant containing the department's determination of the site eligibility for participation in the voluntary remediation program.

35-11-1604. Public participation; notice; plan.

(a) Following any determination by the department that a site is an eligible site, or following the submission of any application to modify an existing remedy agreement, the owner or operator shall give written notice to all surface owners of record of land which is contiguous to the site, and to all known adjacent surface owners of record of land, and shall publish notice once per week for four (4) consecutive weeks in a newspaper of general circulation in the county in which the site is located. The notice published in a newspaper shall be a display advertisement. The notice to individual landowners and the notice published in a newspaper shall identify the site, provide a summary of the criterion in W.S. 35-11-1602 which makes the site eligible for participation in the voluntary remediation program under this article, describe the process for the public to request the development of a public participation plan under subsection (b) of this section, and provide a thirty (30) day period for the public to request that a public participation plan be developed.

(b) For any eligible site where there is significant public interest as determined by the director after considering the factors enumerated in paragraphs (i) through (iii) of this subsection, the person who has submitted an application for participation, or the owner of the site, shall prepare and implement a public participation plan which shall be approved by the director. In preparing the plan, the applicant or owner shall consult with and consider the public participation needs of interested parties, including but not limited to contiguous surface owners of record and all known adjacent surface owners of record of land, local government, local economic development agencies or groups, and public interest groups. In determining whether there is significant public interest, the director shall consider whether there have been responses to the notice required under subsection (a) of this section requesting the development of a public participation plan by:

(i) At least twenty-five (25) individuals;

(ii) An organization representing at least twenty-five (25) individuals; or

(iii) The governing body of a local government.

(c) Any owner or operator of an eligible site which is also subject to permitting or corrective action requirements of the hazardous waste rules and regulations promulgated under W.S.

35-11-503(d) shall prepare and implement a public participation plan which complies with those rules and regulations.

(d) At a minimum for any eligible site regardless of whether a public participation plan has been required, prior to entering into a remedy agreement, the owner shall give written notice of the proposed remedy agreement to all surface owners of record of land adjacent to the site, and publish notice once per week for four (4) consecutive weeks in a newspaper of general circulation in the county in which the site is located. The notice shall be of a form and content prescribed by the department, and shall summarize the proposed remedy agreement, provide a description of the site, provide for a thirty (30) day public comment period after the date of the last publication, and provide an opportunity for an oral hearing. An oral hearing on the proposed remedy agreement shall be held if the department finds sufficient interest. The department may enter into a remedy agreement following the public comment period or any hearing, whichever is later.

35-11-1605. Voluntary remediation standards; site-specific, risk-based standards; considerations in choice of remedy; alternate standards for soil; alternate standards for soil or water; point of compliance; contamination from source not on site; alternate remediation standards for site contaminated from source not on site; supplemental requirements.

(a) Consistent with any requirements necessary to retain state primacy in federal programs, any remedy proposed by an owner of an eligible site, or considered by the director, shall:

(i) Be protective of human health, safety and the environment. A remedy shall be considered to be protective of human health if it reduces risk to human receptors of acute and chronic toxic exposures to contaminants to levels that do not pose a significant risk to human health. A remedy shall be considered to be protective of the environment if it adequately reduces risk of significant adverse impacts to ecological receptors for which habitats have been identified on or near the site. Remedies may meet this requirement through a combination of monitored natural attenuation, removal, treatment, or engineering or institutional controls. Except as provided in subsection (d) of this section, any site where a remedy is proposed that includes engineering or institutional controls must also have been designated as a use control area in accord with W.S. 35-11-1609;

(ii) Attain standards established by the director under this subsection for air, soil, and water affected by the site, unless the director sets an alternate standard in accord with subsection (c) or (d) of this section. No standard set under this section for a contaminant shall be set at a level or concentration lower than the background level or concentration for that contaminant. A remedy must attain standards or alternate standards by the end of the remediation period set forth in the remedy agreement. A remedy shall be considered to attain standards for air, soil and water if it:

(A) Meets any applicable media standards established under federal or state law or rule or regulation; or

(B) Meets site-specific, risk-based standards developed for the eligible site. Site-specific, risk-based standards shall establish a risk reduction goal for contaminants which are known or suspected carcinogens to ensure that the excess upper bound lifetime cancer risk to any exposed individual may not exceed a probability of developing cancer of one in one million (1 in 1,000,000) to one in ten thousand (1 in 10,000). The one in one million (1 in 1,000,000) risk level shall be used as the point of departure for determining remediation goals for alternatives when individual contaminant standards are not available, or are not sufficiently protective because of the presence of multiple contaminants at a site or multiple pathways of exposures. Site-specific, risk-based standards must also require that for contaminants which are systemic toxicants, the hazard index must not exceed one (1). The director shall use residential exposure factors, giving consideration to children and the elderly, to establish site-specific, risk-based standards under this subsection for soils and air. The exposure factors to be used by the director to establish site-specific, risk-based standards under this subsection for hazardous substances in groundwater shall assume that groundwater may be used as a drinking water source, provided that no standard set under this subsection for a contaminant shall be set at a level or concentration lower than the background level or concentration for that contaminant. For nonhazardous substances, the exposure factors to be used by the director shall assume uses consistent with the class of use prior to contamination of the groundwater.

(iii) Control any sources of releases so as to reduce or eliminate, to the extent technically practicable, further releases as required to protect human health and the environment. A remedy shall be considered to control sources of

releases if it controls the release of contaminants from sources to any media in concentrations that exceed applicable standards set by the director under paragraph (a)(ii) of this section, or the soil standards under subsection (c) or (d) of this section; and

(iv) Comply with any applicable standard for management of wastes generated as a consequence of the remedy. A remedy shall be considered to comply with applicable standards for management of wastes if all wastes generated as a consequence of implementation of the remedy are treated, stored or disposed of in compliance with the requirements of this act.

(b) The director shall choose a remedy, or combination of remedies, from among those remedies which meet the requirements of subsection (a), (c) or (d) of this section, as applicable. In choosing a remedy, the director shall consider:

(i) The extent to which the remedy will be reliable and effective for the long term. For remedies that include engineering or institutional controls in accord with a use control area designation, the director shall consider the expected life cycle performance of any engineering controls, monitoring systems and institutional controls;

(ii) The extent to which the remedy results in a reduction of toxicity, mobility or volume of contaminants. The director shall consider the degree to which remedies incorporate treatment or removal of contaminants to lower long term risk to human health and the environment;

(iii) The short term effectiveness of the remedy. The director shall consider the time required for each remedy to attain standards for air, soil and water specified in paragraph (a)(ii) or subsection (c) or (d) of this section, as applicable. A remedy involving monitored natural attenuation may be considered whether or not the director has made a determination of technical impracticability under subsection (d) of this section. Monitored natural attenuation shall be deemed effective if there is evidence that natural attenuation is occurring and will be completed within a reasonable time period;

(iv) Impacts which may be caused by implementation of the remedy. The director shall consider any adverse impacts which may be caused by a remedy, and shall take into consideration the gravity of any projected impact and the cost and availability of measures to mitigate the impact;

(v) The extent and nature of contamination and practicable capabilities of remedial technologies, and whether achieving standards is technically impracticable;

(vi) Reasonably anticipated future land uses or use restrictions in a use control area designation;

(vii) Consistency of remedies with the nature and complexities of releases of contaminants; and

(viii) Cost of the remedy. The director shall consider whether a remedy presents a substantial and disproportionately high cost for implementation and completion. The director shall compare the costs of remedies considering the degree of risk reduction that is afforded by each remedy. Costs considered shall include capital, operation and maintenance, engineering and institutional control costs and monitoring costs for the anticipated life of the remedy.

(c) The director may establish alternate site-specific, risk-based standards for surface and subsurface soils to be employed at a site in lieu of the soil standards in paragraph (a)(ii) of this section, for any site that is located within a use control area designated under W.S. 35-11-1609. A remedy that employs alternate standards established by the director under this subsection shall meet the requirements of this subsection and paragraphs (a)(i), (iii) and (iv) of this section. The alternate standards for such a site shall use the carcinogenic and systemic toxicant risk reduction goals of subparagraph (a)(ii)(B) of this section, except that the exposure assumptions used to calculate the alternate standards under this subsection shall be consistent with the use restrictions contained in the use control area designation. If the director establishes alternate soil standards under this subsection, the owner or operator must evaluate technologies that can meet the alternate soil standards. Owners or operators of eligible sites that implement remedies which achieve the alternate soil standards set under this subsection may be issued a certificate of completion and covenant not to sue pursuant to W.S. 35-11-1607. The soil standards of paragraph (a)(ii) of this section must be met if the owner or operator applies to remove the use restrictions applicable to the site or to receive a no further action letter under W.S. 35-11-1608.

(d) The director may establish alternate site-specific, risk-based standards for soil or water to be employed at a site

in lieu of the soil and water standards in paragraph (a)(ii) of this section if, after evaluation of currently available technology the director determines that it is technically impracticable to meet a standard at a specific site. A remedy that employs alternate standards established by the director under this subsection shall meet the requirements of this subsection and paragraphs (a)(i), (iii) and (iv) of this section. The technical impracticability determination shall include evaluation of the cost of remedy alternatives, including but not limited to, substantial and disproportionately high costs, present worth of construction, operation and maintenance costs, continued operational costs of the remedy selected and costs of any proposed alternative remedy strategies. Whenever the director sets an alternate standard, the director shall select a remedy capable of meeting the alternate standard and which is technically practicable, controls any sources of contamination to the extent technically practicable, and controls human and environmental exposures to contaminated air, soil or water. The director may establish alternate standards for soil or water under this subsection only if the owner has or obtains rights to control human or environmental exposures to contaminated media, and consents to impose such controls as are required to protect human health and the environment. Notwithstanding the provisions of paragraph (a)(i) of this section, or W.S. 35-11-1609 such controls may be imposed by the owner without the site receiving a use control area designation under W.S. 35-11-1609. The standards of paragraph (a)(ii) of this section must be met if the owner or operator applies to remove the use restrictions applicable to the site or to receive a no further action letter under W.S. 35-11-1608.

(e) When establishing standards under paragraph (a)(ii) or subsection (c) or (d) of this section, the director shall specify one (1) or more points of compliance where standards must be achieved. In specifying a point of compliance, the director shall consider the following factors:

(i) Compliance with groundwater standards shall be monitored as close as reasonably practical to the contaminant source or site boundary or boundary of the use control area. The director shall select any groundwater point of compliance based upon the evaluation of the properties of the aquifer, the proximity of existing and reasonably anticipated points of groundwater withdrawal or discharge to the surface, the location of the contaminant plume relative to the site or use control area boundary, the toxicity of the contaminant, the presence and proximity of multiple contaminant sources, the exposure and

likelihood of actual exposure to contaminated groundwater, and the technical practicability of groundwater remediation;

(ii) For soils, standards shall be met at locations determined to ensure protection of human health and identified environmental receptors, and protection of surface water, groundwater and air resulting from any potential transfer of contaminants from soils to these other media; and

(iii) For surface water, standards shall be met at the point where any release enters any surface water of the state consistent with applicable federal and state requirements. If sediments are affected by releases to surface water, a sediment point of compliance may also be established.

(f) Remediation standards for a site that has become contaminated by a release or migration of contamination from a source not located on the site shall be appropriate for any use control area designation applicable to such site, or if desired by the owner the remediation requirements shall be adequate to restore the site to all uses for which it was suitable prior to the contamination.

(g) The department may establish supplemental requirements for owners or operators of lands or facilities subject to permitting or corrective action requirements of the hazardous waste rules and regulations promulgated under W.S. 35-11-503(d) as may be necessary to ensure that such sites are characterized and remediated in a manner which is consistent with, equivalent to, and no less stringent [than] permitting, closure, post-closure and corrective action requirements contained in rules and regulations adopted by the United States Environmental Protection Agency (EPA) under authority of subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. Election by an eligible site owner or operator who is subject to such hazardous waste permitting or corrective action requirements to participate in the voluntary remediation program under this article shall not relieve the owner or operator of the duty to comply with all requirements of the hazardous waste rules and regulations promulgated under W.S. 35-11-503(d).

35-11-1606. Preliminary remediation agreement; contents.

(a) The preliminary remediation agreement shall contain the terms and conditions agreed to by the parties, which shall include the information and procedures required for completion of an environmental assessment or site characterization that is

adequate and appropriate to support selection of a permanent or long term protective remedy for the site and adjacent property to meet the standards in W.S. 35-11-1605, and a work plan, schedule and statement of any criteria the department intends to use to evaluate work plans and reports.

(b) For any site that is determined by the director to have the potential for significant contamination, be located in an area where human exposures to contaminants are likely, or require evaluation of remedial alternatives as a condition for the state to maintain primacy in any federal program, the director shall require the site characterization plan within the preliminary remediation agreement under this section to include a description of alternative remedial actions to be evaluated and a plan for the collection of any data and site information needed to evaluate those alternative remedial actions. Not all potential remedies must be evaluated for a site. The director and the owner may enter into a single agreement containing both characterization and alternative remedial action evaluation plans, or may enter into an alternative remedial action evaluation agreement following completion of site characterization.

35-11-1607. Remedy agreement; prerequisite; contents; violation of agreement; changes to agreement; covenant not to sue; certificate of completion; recording; effect on orders or permits.

(a) Except as provided in W.S. 35-11-1605(d), before an owner and the department may enter into a remedy agreement that includes long-term restrictions on the use of the site, the owner must obtain a use control area designation for the site as set forth in W.S. 35-11-1609. The use restrictions contained in any use control area designation may be used by the director to establish any alternate soil standard as provided in W.S. 35-11-1605(c).

(b) Any remedy agreement shall contain:

(i) A remedial action plan, including the remediation standards and objectives for the site or use control area, the remediation standards and objectives for adjacent property, a description of any engineering or institutional control, a schedule for the required remediation activities, and conditions for the effective and efficient implementation of the remedy agreement. The department shall require a suitable bond or other evidence of financial assurance to assure the performance

and maintenance of engineering controls and any monitoring activities required in a remedy agreement; and

(ii) The reopeners or termination clauses set forth in W.S. 35-11-1610.

(c) The remedy and remediation standards for a site that are set forth in a remedy agreement shall be permanent, subject to the reopeners and termination clauses in W.S. 35-11-1610.

(d) Use restrictions, or other terms or conditions set forth in a remedy agreement shall run with the land and be binding upon successors in interest. If a term or condition of any remedy agreement, covenant not to sue, or certificate of completion requires the maintenance of a bond or other evidence of financial assurance, it shall be the duty of any successor in interest to maintain such bond or financial assurance.

(e) A violation of any use restriction, term or condition of a remedy agreement or certificate of completion shall be deemed a violation of this act, and the department may bring any action for such violation against the owner of the site at the time the violation occurs or against the person who violates the use restriction, term or condition of the remedy agreement or certificate of completion.

(f) No person shall change any engineering or institutional controls contained in a remedy agreement or certificate of completion without the prior written consent of the department. Before a change may be made, the department shall review the contamination at the site and any new requirements shall be incorporated into a subsequent remedy agreement or certificate of completion. Upon entry into a subsequent remedy agreement or certificate of completion or issuance of a no further action letter, the director shall modify or terminate any prior remedy agreement or certificate of completion.

(g) Consistent with the reopeners and termination clauses in W.S. 35-11-1610, the department shall, upon request, provide the owner or prospective purchaser a covenant not to sue. Any covenant not to sue shall extend to subsequent owners.

(h) If the director determines that all remediation requirements for a site have been successfully implemented or satisfied, the department shall, upon request, provide the owner or prospective purchaser a certificate of completion.

(j) A person who receives a remedy agreement or certificate of completion under this section shall record a copy in the office of the county clerk with the deed for the site and shall file the copy in the office of the county clerk no later than ten (10) business days after the date the remedy agreement or certification of completion is signed.

(k) No remedy agreement for any site subject to a prior administrative or judicial order or permit which contains remedial requirements shall be effective until the order or permit has been modified to incorporate the terms of the remedy agreement. Modifications to orders or permits under this subsection shall be made using the procedures specified in the prior order or permit. Entry into a remedy agreement under this article shall not affect the duty of the site owner or operator to comply with any prior order or permit. Following modification of the order or permit as provided in this subsection, the owner shall comply with the modified order or permit.

35-11-1608. No further action letters; findings; natural attenuation.

(a) If the department determines that no further remediation is required on a site, the department shall, upon request, provide the owner or prospective purchaser a no further action letter, subject to reopener or termination as provided in W.S. 35-11-1610. The department may only issue a no further action letter upon a finding by the department that the site does not require engineering or institutional controls or use restrictions to meet the standards specified in W.S. 35-11-1605(a)(ii).

(b) When the department has determined that monitored natural attenuation over a reasonable period of time is appropriate and that no exposure to contaminated media is reasonably expected during the period of natural attenuation, the department shall, upon request, provide the owner or prospective purchaser a no further action letter. The no further action letter may require that the current use of the property continue during the period of natural attenuation and also may require that testing be conducted to confirm that standards are met.

35-11-1609. Use control areas; when establishment required; procedure; contents of petition; notice; failure of governmental entity to act; enforcement; exception.

(a) The owner of a site who proposes long-term restrictions on the use of the site shall petition to the appropriate governmental entity or entities for the creation of a use control area to establish long-term restrictions on the use of the site.

(b) A use control area may be created or modified only upon the petition of the owner of a site, and notice and public hearing as provided in subsection (d) of this section, and shall include only the site, unless adjacent property owners consent.

(c) The petition to establish a use control area shall contain data, information and any remedy options required in a preliminary remediation agreement under W.S. 35-11-1606.

(d) Upon submission of a petition for long term use restrictions, the governmental entity to whom the use area designation petition has been submitted shall cause the owner to give written notice of the petition to all surface owners of record of land contiguous to the site, and to publish notice of the petition and a public hearing once per week for four (4) consecutive weeks in a newspaper of general circulation in the county in which the site is located. The notice shall identify the property, generally describe the petition and proposed use restrictions, direct that comments may be submitted to the governmental entity or entities to whom the petition has been submitted, and provide the date, time and place of a public hearing. The public hearing shall be held no sooner than thirty (30) days after the first publication of the notice. After the public hearing has been held, the governing board, commission or council shall vote upon the creation of the use control area in accordance with applicable rules, regulations and procedures. No use control area shall be created except upon petition of the owner and a majority vote of the appropriate board, commission or council.

(e) The governmental entity to whom the use control area petition has been submitted shall approve or deny an owner's petition for a use control area within one hundred eighty (180) days after the petition is received. The owner and a governmental entity may agree to extend the time period in which the governmental entity is to vote upon the petition. The governmental entity may, on a vote taken within one hundred eighty (180) days after the petition is received, condition its vote approving the petition upon the owner's subsequent filing of the determination by the director that a remedy can be

selected that meets the requirements of W.S. 35-11-1605 and is consistent with owner's petition.

(f) The restrictions in a use control area are enforceable by the issuing governmental entity by injunction, mandamus or abatement, in addition to any other remedies provided by law.

(g) Except as provided in subsection (e), nothing in this section shall contravene or limit the authority of any county, city or town to regulate and control the property under their jurisdiction.

(h) The department shall not have the authority to require a governmental entity to adopt any zoning regulation or restriction applicable to a site as part of a remediation or response action or a remedy agreement.

(j) If the department has issued a no further action letter under W.S. 35-11-1608, then no use control area designation shall be required.

35-11-1610. Reopening or termination of remedy agreements, covenants not to sue, certificates of completion or no further action determinations; conditions; recording.

(a) The department may reopen a remedy agreement, covenant not to sue or certificate of completion at any time if:

(i) The current owner fails substantially to comply with the terms and conditions of the remedy agreement, covenant not to sue or certificate of completion;

(ii) An imminent and substantial endangerment to human health or the environment is discovered;

(iii) Contamination is discovered that was present on the site but was not known to the owner or the department on the date of the remedy agreement or when the department issued a covenant not to sue or certificate of completion; or

(iv) The remedy fails to meet the remediation objectives that are contained in the remedy agreement or certificate of completion.

(b) The department may reopen a no further action determination at any time if:

(i) An imminent and substantial endangerment to human health or the environment is discovered; or

(ii) The department determines that the monitored natural attenuation remedy under W.S. 35-11-1608(b) is not effective in meeting the standards for a no further action letter under this section.

(c) The department may terminate a remedy agreement, covenant not to sue, certificate of completion or no further action letter if it is discovered that any of these instruments were based on fraud, material misrepresentation or failure to disclose material information, or if an owner's willful violation of any use restriction results in harmful exposures of any toxic contaminant to any user or occupant of the site.

(d) If a remedy agreement, covenant not to sue, certificate of completion or no further action letter is reopened or terminated, the department shall record a notice of such action in the office of the county clerk with the deed for the site and shall file the notice in the office of the county clerk no later than ten (10) business days after the date of the remedy agreement, covenant not to sue, certificate of completion or no further action letter is reopened or terminated.

35-11-1611. Disputes; appeal.

If a person and the department are unable after good faith efforts to resolve a dispute arising under this article pursuant to the provisions of an agreement, the person may appeal the department's decision to the council.

35-11-1612. Fees; notice; appeal.

The department shall implement a fee system and schedule of fees which are applicable to the preliminary remediation agreements, remedy agreements, certificates of completion and no further action letters authorized under this article. Fees shall cover all reasonable direct and indirect costs of the department's participation in any activity authorized by this article. The department shall give written notice of the amount of the fee assessment. The owner of the eligible site may appeal the assessment to the council within forty-five (45) days of receipt.

35-11-1613. Remediation requirements for nonvoluntary sites.

(a) The remediation requirements for sites that do not participate in the voluntary remediation program in W.S. 35-11-1601 through 35-11-1612 may include, in the discretion of the director requirements which:

(i) Return contaminated soil and water to background contaminant levels;

(ii) Return contaminated soil to contaminant levels that are safe for any potential future use of the site;

(iii) Return contaminated groundwater to contaminant levels that ensure that the class of use of groundwater prior to the release is restored, or if not technically practicable, employs the best available groundwater remediation technology. No liability release shall be provided to the owner until the owner demonstrates that groundwater standards have been met;

(iv) Remove all continuing sources of soil or water contamination; and

(v) Eliminate to the extent practical any continuing risk to any ecological receptor present at or near the site.

ARTICLE 17 - ORPHAN SITE REMEDIATION

35-11-1701. Orphan site remediation; account created.

(a) There is created an orphan site remediation account. The director may expend funds contained within the account for the purpose of remediation of orphan sites and the performance of any other activity as defined in this article.

(b) As used in this section, orphan sites means:

(i) Sites where the department determines that there is no viable party that is responsible for causing or contributing to the contamination present at the site; and

(ii) Sites where the department has issued a no further action letter, and where there is a subsequent discovery of contamination which was present at the site when the no further action letter was issued but:

(A) Was not known to the site owner or the department at the time the no further action letter was issued,

provided that a comprehensive and complete site characterization was conducted by the owner;

(B) Is not the result of activities conducted on the site after the no further action letter was issued; and

(C) Does not constitute an imminent or substantial endangerment to human health or the environment which is being addressed by the holder of the no further action letter pursuant to a reopening of the no further action letter under W.S. 35-11-1610(b).

(iii) Spill sites, where the department determines that the person responsible for the spill cannot be identified, or where the department must take prompt action to prevent hazards to human health or the environment at a site where a responsible party fails to act promptly.

(c) The department may expend funds from this account to conduct site evaluations and testing, evaluate remedial measures, select remediation requirements, and construct, install, maintain and operate systems to remedy contamination in accordance with a remediation work plan prescribed by the director for the orphan site.

(d) The department may also expend funds from this account to pay for the orphan share of any removal or remedial action taken pursuant to the Comprehensive Environmental Response, Control And Liability Act (42 U.S.C. 9601, et seq.), provided that:

(i) The department has participated in negotiations for, and concurs with, the orphan share allocation amount for the action; and

(ii) Each responsible party to an action has agreed not to seek cost recovery from less than de minimus contributors in exchange for the state assumption of the orphan share cost.

(e) Revenue to the account shall include such monies which may be deposited in the account for use in remediation of orphan sites. The liability of the state to fulfill the requirements of this section is limited to the amount of funds available in the account.

(f) The department shall project an annual funding need for the identification, characterization, prioritization and

remediation of contaminated orphan sites within the state and shall recommend a funding source adequate to meet the identified funding need.

(g) In any case under paragraph (b)(iii) of this section where the department expends funds to remediate or contain contamination resulting from a spill, and where the department has identified a responsible party, the responsible party shall reimburse the department in an amount equal to three (3) times the expenditure from the account. The attorney general shall bring suit to recover the reimbursement amount required in this subsection where recovery is deemed possible.

(h) The director may transfer funds in the account under W.S. 35-11-424(a) to the orphan site remediation account.

ARTICLE 18 - INNOCENT OWNERS

35-11-1801. Definition of innocent owner.

(a) "Innocent owner" means a person who did not cause or contribute to the source of contamination and who is one (1) of the following:

(i) An owner of real property that has become contaminated as a result of a release or migration of contaminants from a source not located on or at the real property;

(ii) An owner of real property who can show with respect to the property that the owner has no liability for contamination under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607(a), because the owner can show a defense as provided in section 107(b) of that act (42 U.S.C. 9607(b));

(iii) An owner of real property who at the time of becoming the owner of the property did not know or should not have reasonably known about the presence of contamination on the property;

(iv) A lender or fiduciary who owns or holds a security interest in land, unless the lender or fiduciary participated in the management of a site at the time that the owner or operator thereof caused a release or migration of contaminants;

(v) A unit of state or local government which acquired ownership or control through bankruptcy, tax delinquency, abandonment or other circumstances in which the government acquires title by virtue of its function as sovereign, unless the state or local government contributed to the contamination;

(vi) A bona fide prospective purchaser; or

(vii) A surface owner if the source of the contamination was a pipeline running under or across the land of the surface owner and the surface owner was not involved in the installation, operation or maintenance of the pipeline.

(b) No person who owns or operates lands or facilities subject to permitting or corrective action requirements of the hazardous waste rules and regulations promulgated under W.S. 35-11-503(d) shall be considered an innocent owner, nor shall any hazardous waste generator who may be subject to corrective action requirements of such rules and regulations be considered an innocent owner.

35-11-1802. Immunity for innocent owners.

(a) An innocent owner is not liable for investigation, monitoring, remediation or other response action regarding contamination attributable to a release, discharge or migration of contaminants on his property.

(b) To be eligible for immunity under this act, a person shall:

(i) Grant to the department or to a person designated by the department, reasonable access to the land for purposes of investigation, monitoring or remediation;

(ii) Comply with any requirements established by the department that are necessary to maintain state authorization to implement federal regulatory programs;

(iii) Not use the real property in a manner that causes exposure of the public to harmful environmental conditions; and

(iv) Comply with any engineering or institutional controls applicable to the real property.

35-11-1803. Limitations.

(a) Any person who knowingly transfers, conveys or obtains an interest in land to avoid liability for contamination, remediation or compliance with any provision of this act shall not be an innocent owner.

(b) Notwithstanding the provisions of W.S. 35-11-1802, an innocent owner who undertakes a cleanup of his property must comply with all applicable provisions of this act.

ARTICLE 19 - INTEGRATED SOLID WASTE PLANNING

35-11-1901. Purpose.

The purpose of this article is to establish a process for local governmental entities to prepare and maintain approved integrated solid waste management plans.

35-11-1902. Integrated solid waste management plans.

(a) Each local governmental entity shall prepare and maintain an integrated solid waste management plan describing management of solid waste generated within its jurisdiction or shall participate in a multi-jurisdictional integrated solid waste management plan.

(b) Integrated solid waste management plans shall be completed and submitted to the department by July 1, 2009, and shall be reviewed, revised as necessary and resubmitted to the department every ten (10) years thereafter.

(c) For the purposes of this article, the local governmental entity responsible for preparing an integrated solid waste management plan shall be the permitted operator of the solid waste disposal facility serving the planning area provided, however, that for any planning area where the permitted operator is a nongovernmental entity, the local government entity responsible for preparing a plan under this subsection shall be the county. Upon mutual written agreement, a local governmental entity may prepare an integrated solid waste management plan for another local governmental entity.

(d) The planning requirements of subsections (a) and (b) of this section shall be contingent upon the legislature making at least one million three hundred thousand dollars ($1,300,000.00) available to the department for grants to assist

local governmental entities in the preparation of integrated solid waste management plans.

35-11-1903. Recommendations for integrated solid waste management planning areas.

By July 31, 2006, the department shall assess the patterns of generation of municipal solid waste within the state and issue a report identifying those areas of the state where integrated solid waste management plans may be prepared by local governmental entities. The identification of planning areas shall be considered guidance to local governmental entities. Local governmental entities shall not be required to adhere to any planning area boundaries identified by the department.

35-11-1904. Integrated solid waste management plan content; department approval.

(a) Integrated solid waste management plans shall address a period of not less than twenty (20) years and shall contain the following information:

(i) A description of the planning area covered by the integrated waste management plan and the names of all local governmental entities participating in the plan, including a copy of each governing body's resolution adopting the plan;

(ii) An evaluation of current and projected volumes for all major waste types within the planning area, including a discussion of expected population growth and development patterns;

(iii) An evaluation of reasonable alternate solid waste management services, a description of the selected procedures, facilities and systems for solid waste collection, transfer, treatment, storage and information about how the procedures, facilities and systems are to be funded;

(iv) A discussion of how the plan shall be implemented, including public participation, public education and information strategies which may include, but are not limited to, citizen advisory committees and public meetings during the preparation, maintenance and implementation of the plan;

(v) Objectives for solid waste management within the jurisdiction, including but not limited to:

(A) Waste diversion, reduction, reuse, recycling or composting;

(B) Waste collection and transportation;

(C) Improving and maintaining waste management systems;

(D) Household hazardous waste management; and

(E) Special waste management.

(vi) An economic analysis of the total cost of alternatives and final systems selected by the participating local governmental entities to achieve the plan's objectives, including capital and operating costs; and

(vii) Elements including:

(A) Strategies to meet each identified objective;

(B) A schedule for implementation; and

(C) Any financial or other incentives offered to residents to encourage participation in local recycling programs.

(b) Each plan shall be submitted for public review prior to submission to the department. The plan submission shall include a statement describing public comments received and how the public comments were addressed. The department shall review each plan for completeness. If the department determines that the plan is not complete, the department shall provide a written statement identifying the elements of subsection (a) of this section which are not included in the plan. Upon addressing the incomplete elements, a local governmental entity may resubmit the plan for subsequent review by the department.

ARTICLE 20 - NUCLEAR REGULATORY AGREEMENT

35-11-2001. Authorization to negotiate transfer of certain nuclear regulatory functions to the state; scope of regulated material.

(a) The governor, on behalf of the state, is authorized to contact the nuclear regulatory commission to express the intent of the state of Wyoming to enter into an agreement under section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended, with the nuclear regulatory commission providing for the assumption by the state of regulatory authority over source material involved in uranium or thorium recovery or milling and byproduct material, as defined in section 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended. The governor, on behalf of the state, is also authorized to contact the nuclear regulatory commission to express the intent of the state of Wyoming to enter into an agreement under section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended, with the nuclear regulatory commission providing for the assumption by the state of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. For the purposes of this agreement, the term "mineral resources" means any host rock, ore, material or waste associated with mining or milling that contains a recoverable mineral. The nuclear regulatory commission shall maintain regulatory authority over all other source material, section 11e.(1), (3) and (4) byproduct material and special nuclear material as defined in the Atomic Energy Act of 1954, 42 U.S.C. § 2014, as amended, and the activities reserved under section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended.

(b) The department shall serve as the lead agency for the regulation of (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material and (2) the source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. The department is authorized to enforce the requirements of the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., as amended, under the agreement reached between the state and the nuclear regulatory commission as provided in subsection (a) of this section and in section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended.

(c) The governor, through the department, is authorized to negotiate all aspects of the agreement under this section between the state of Wyoming and the nuclear regulatory commission. The governor is authorized to enter into a final agreement with the nuclear regulatory commission for the regulation of (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material and (2) the source material recovered from any mineral resources

processed primarily for purposes other than obtaining the source material content.

(d) Repealed by Laws 2016, ch. 7, § 3.

(e) The categories of materials governed by this article, as agreed upon by the nuclear regulatory commission and the state, are (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material, as defined in section 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended and (2) source material as defined in section 11z. of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(z) recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. This article does not govern independent or commercial laboratory facilities that possess, use or accept source material or byproduct material. The nuclear regulatory commission shall retain regulatory authority over independent or commercial laboratory facilities.

35-11-2002. Authority of department to enforce article; rulemaking.

(a) Except as provided in this act, no person shall acquire, own, possess, transfer, offer or receive for transport or use any (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material or (2) source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content without having been granted a license therefore from the department or the nuclear regulatory commission. The department is authorized to regulate and penalize any unlicensed activities involving (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material or (2) source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

(b) The council, upon recommendation from the director, is authorized to promulgate rules and regulations necessary to effectuate the purpose of this article.

(c) To the extent it is not inconsistent with the provisions of this article, article 4 of this chapter shall apply to all licenses issued and actions taken under this article.

35-11-2003. Licensure; license requirements; enforcement actions.

(a) The director is authorized to issue licenses to implement the requirements of the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., as amended. Licenses issued under this section shall also authorize the possession and use of (1) source materials involved in uranium or thorium recovery or milling and the associated byproduct material or (2) source material recovered from any mineral resources primarily for purposes other than obtaining the source material content as provided in this article. The director is further authorized to enforce license provisions in accordance with this article. The department shall recognize existing and effective licenses issued by the nuclear regulatory commission. The department shall also recognize licenses issued by other agreement states only for (1) source material involved in uranium or thorium recovery or milling or the associated byproduct material or (2) the source material recovered from any mineral resources primarily for purposes other than obtaining the source material content.

(b) The director is authorized to use license conditions to address matters specific to particular licensees. The department may impose additional license conditions when required to protect public health and safety.

(c) The director shall grant an exemption from a license requirement, including an exemption from the requirement to obtain a license, if the exemption provides adequate protection of public health and safety and is compatible with nuclear regulatory commission requirements.

(d) The department shall inspect a licensee's operation to ensure compliance with license conditions, as determined necessary by the administrator of the land quality division to protect public health and safety. The department shall also inspect proposed facilities and proposed expansion of existing facilities to ensure that unauthorized construction is not occurring. Licensees, permittees and applicants for a license or permit shall obtain and grant the department access to inspect their facilities, source material involved in uranium or thorium recovery or milling and the associated byproduct material or the source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content at such times and frequencies as determined necessary by the department to protect public health and safety.

(e) When issuing a license for byproduct material under this article, the director shall require licensees to provide an approved financial assurance arrangement consistent with nuclear regulatory commission requirements provided in 10 C.F.R. part 40, appendix A, as amended. The arrangement shall cover the cost estimate and the payment of the charge for decommissioning, long term surveillance and control pursuant to 10 C.F.R. part 40, appendix A.

(f) The director is authorized to suspend licenses, impound (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material and (2) the source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content and conduct enforcement actions in accordance with this article, article 9 of this chapter and rules and regulations promulgated under this act. The director is authorized to suspend licenses and conduct enforcement actions in accordance with department rules and regulations and this article. In cases of an imminent threat to public health and safety, the director is authorized to issue an emergency order immediately suspending a license and any associated activity as provided in W.S. 35-11-115. The director is authorized to suspend or revoke a license for repeated or continued noncompliance with program requirements pursuant to its rules and regulations and this article. The director is also authorized to seek injunctive relief and impose civil or administrative monetary penalties as provided by law.

35-11-2004. License conditions; termination of licenses.

(a) The department shall prescribe conditions in licenses issued, renewed or amended for an activity that results in production of byproduct material to minimize or, if possible, eliminate the need for long-term maintenance and monitoring before the termination of the license.

(b) Prior to terminating any license the administrator of the land quality division shall obtain a determination from the nuclear regulatory commission that the licensee has complied with the commission's decontamination, decommissioning, disposal and reclamation standards.

(c) Prior to terminating a byproduct material license the department shall ensure the ownership of a disposal site and the

byproduct material resulting from licensed activity are transferred to:

(i) The state of Wyoming; or

(ii) The federal government if the state declines to acquire both the site and the byproduct material.

(d) Upon the transfer of a disposal site or the byproduct material resulting from licensed activity to the federal government, funds collected for decommissioning and long-term surveillance shall also be transferred to the federal government.

35-11-2005. Fees.

(a) The department shall adopt a fee structure which accounts for the full cost of the program, including positions authorized by this article and other positions assessed to implement the program developed under this article.

(b) The department may assess fees for the regulation of source material under article 4 of this chapter, including but not limited to the review and processing of mining permit applications.

ARTICLE 21 - ADVANCED NUCLEAR REACTORS

35-11-2101. Advanced nuclear reactors; requirements.

(a) Repealed by Laws 2022, ch. 103, § 2.

(b) Any person operating an advanced nuclear reactor in the state of Wyoming in accordance with this section shall not store spent nuclear fuel or high-level radioactive waste from the advanced nuclear reactor on the site of the advanced nuclear reactor without first meeting all of the requirements of the United States Nuclear Regulatory Commission.

(c) Nothing in this section shall be deemed to affect the authority of the United States Nuclear Regulatory Commission.

(d) As used in this section:

(i) "High-level radioactive waste" means as defined in W.S. 35-11-1501(a)(i);

(ii) "Public utility" means as defined in W.S. 37-1-101(a)(vi);

(iii) "Advanced nuclear reactor" means a nuclear reactor, including any necessary ancillary facilities or structures, that is an improvement over nuclear reactors placed in service before January 1, 2021 and has a license issued by the United States nuclear regulatory commission;

(A) Repealed by Laws 2022, ch. 103, § 2.

(B) Repealed by Laws 2022, ch. 103, § 2.

(C) Repealed by Laws 2022, ch. 103, § 2.

(iv) "Spent nuclear fuel" means as defined in W.S. 35-11-1501(a)(iv).

(e) The provisions of the Industrial Development Information and Siting Act, W.S. 35-12-101 through 35-12-119, shall apply only to the extent that those provisions do not interfere with, contradict or duplicate any requirements of the United States Nuclear Regulatory Commission.

(f) Not less than thirty (30) days before construction of an advanced nuclear reactor commences and if no report is required to be submitted under W.S. 35-11-1506(e)(vi), the operator of the advanced nuclear reactor shall submit a report to the department that includes:

(i) The number of jobs that will be created in the planning, licensing, site analysis, preparation, purchasing, construction, transportation, operation and decommissioning of the advanced nuclear reactor and what number of those jobs would be filled by Wyoming residents;

(ii) Local and state taxes that are estimated to be generated by all aspects of the construction, operation and decommissioning of the advanced nuclear reactor;

(iii) All benefits and impacts that will accrue to the state and local community where the advanced nuclear reactor will be located, including benefits from job training, education, communications systems, monitoring and security systems.

(g) The operator of each advanced nuclear reactor shall send to the department copies of all publicly available reports, notifications and violations sent to or from the United States nuclear regulatory commission or the operator of the advanced nuclear reactor as soon as practicable but not later than five (5) days after the operator sends or receives the report. The operator shall also transmit all information required under this subsection to emergency management departments of the local governments where the facility is located and shall make the information available on a public website.

CHAPTER 12 - INDUSTRIAL DEVELOPMENT AND SITING

35-12-101. Short title.

This chapter is the "Industrial Development Information and Siting Act".

35-12-102. Definitions.

(a) As used in this chapter:

(i) "Advisory member" means an advisory member of the council provided by W.S. 35-12-104(f);

(ii) "Applicant" means any person who applies for a permit pursuant to this chapter;

(iii) "Commence to construct" means:

(A) Any clearing of land, excavation, construction or other action that would affect the environment of the site of any facility, but does not include changes needed for temporary use of sites for less than ninety (90) days, changes required to conduct required studies and tests under this chapter, or any other state or federal act or regulation, or access roads and services associated with utilities, or routes for nonutility purposes or for uses in securing geological data but not limited to necessary borings or drillings to ascertain foundation conditions;

(B) The nuclear fracturing of underground formation, if any such activity is related to the possible future development of a facility subject to this chapter, but does not include the gathering of geological data by boring of test holes or other underground exploration, investigation or experimentation.

(iv) "Council" means the industrial siting council;

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

(vi) "Impacted area" means an area of Wyoming in which sudden or prolonged population growth may occur or may cause environmental, social or economic stresses of such nature that the total local, state and federal resources available are not sufficient to alleviate them properly and effectively as determined by the council;

(vii) "Industrial facility" or "facility" means any industrial facility with an estimated construction cost of at least ninety-six million nine hundred thousand dollars ($96,900,000.00) as of May 30, 1987. Exempt activities shall not be included in the estimated construction cost of an industrial facility. The council shall adjust this amount, up or down, each year using recognized construction cost indices as the council determines to be relevant to the actual change in construction cost applicable to the general type of construction covered under this chapter. "Facility" also includes, regardless of construction cost:

(A) Any commercial waste incineration or disposal facility capable of receiving greater than five hundred (500) short tons per day of household refuse or mixed household and industrial refuse, excluding lands and facilities subject to W.S. 35-11-402(a)(xiii);

(B) Any commercial facility which incinerates or disposes of any regulated quantity of hazardous wastes which are subject to hazardous waste shipping manifest requirements under subtitle C of the Resource Conservation and Recovery Act (42 U.S.C. §§ 6921 through 6939e);

(C) Any commercial radioactive waste management facility defined by W.S. 35-11-103(d)(v);

(D) Until July 1, 1999, any facility constructed solely for the disposal of overburden, development waste rock or refuse from mining as defined under W.S. 35-11-103, except for the following facilities:

(I) Facilities permitted or licensed under article 4 of the Wyoming Environmental Quality Act;

(II) Facilities specifically exempt from permitting requirements under article 4 of the Wyoming Environmental Quality Act;

(III) Facilities specifically identified under W.S. 35-11-103(d)(v)(A).

(E) Any commercial facility generating electricity from wind and associated collector systems that:

(I) Consists of twenty (20) or more wind turbines in all planned phases of the installation; or

(II) Expand an existing installation not previously defined as a facility to include a total number of turbines greater than or equal to the thresholds in subdivision (a)(vii)(E)(I) of this section.

(F) Any facility over which a board of county commissioners has authority to issue the permit required by W.S. 18-5-502 and which facility the board of county commissioners has referred to the council under W.S. 18-5-509;

(G) Any commercial facility generating electricity from solar power and associated solar collector systems if the facility:

(I) Has a rated power capacity of more than thirty (30) megawatts;

(II) Would result in a surface disturbance equal to or greater than one hundred (100) acres; or

(III) Is expanded to where the facility would satisfy subdivision (I) or (II) of this subparagraph.

(H) Any facility that would meet the definition of subparagraphs (E) or (G) of this paragraph but is planned for construction and siting or has its ownership or business structure organized in a way to circumvent the definition of "industrial facility" or "facility" or the requirements of this chapter while engaging in conduct that otherwise would be subject to the requirements of this article. A facility that meets the definition of this chapter shall comply with all requirements applicable to facilities defined by subparagraphs (E) and (G) of this paragraph.

(viii) "Local government" means any county, city, town or school district or any combination thereof as formed under the Wyoming Joint Powers Act;

(ix) Repealed by Laws 1992, ch. 60, § 4.

(x) "Permit" means the permit issued by the council and required for the construction or operation of any industrial facility or facilities;

(xi) "Person" includes an individual, group, firm, partnership, corporation, cooperative, association, or other entity excluding the state, federal government and local government. "Person" also includes the parent company, partnership or holding entity for a commercial facility generating electricity from wind or solar;

(xii) "Administrator" means the administrator of the division;

(xiii) "Division" means the industrial siting division of the department of environmental quality;

(xiv) "Collector system" means the electrical transmission infrastructure, including conductors, towers, substations, switchgear and other components necessary to deliver power from any commercial facility generating electricity from wind or solar up to, but not including, electric substations or similar facilities necessary to interconnect to existing or proposed transmission lines that serve load or export energy from Wyoming;

(xv) "Affected landowner" means any person holding record title to land on which any portion of a commercial facility generating electricity from wind or solar is proposed to be constructed and including any portion of any collector system located on those same lands. For purposes of this chapter, an affected landowner may be represented by any designated person;

(xvi) "Tribal government" means the tribal government of the Eastern Shoshone tribe, the tribal government of the Northern Arapaho tribe of the Wind River Indian Reservation and the cooperative tribal governing body.

35-12-103. Creation of industrial siting division.

There is created within the department of environmental quality the industrial siting division.

35-12-104. Industrial siting council created; composition; terms; removal; compensation.

(a) There is created the industrial siting council consisting of seven (7) members who are residents of Wyoming.

(b) The terms of council members shall be six (6) years, except that on the initial appointment three (3) members shall serve for six (6) years, two (2) members shall serve for four (4) years and two (2) members shall serve two (2) years as designated by the initial appointment.

(c) Members shall be appointed by the governor with the advice and consent of the senate. The governor may remove any member as provided in W.S. 9-1-202. If a vacancy occurs the governor shall appoint a new member as provided in W.S. 28-12-101. Not more than seventy-five percent (75%) of the members shall be of the same political party.

(d) The council, annually, shall elect a chairman, vice-chairman and secretary from among its members. The council shall have at least four (4) regularly scheduled meetings each year and may meet at the call of the chairman or upon request of a majority of the members at other times. For the purpose of conducting council business four (4) members constitute a quorum but no action taken is valid unless approved by at least four (4) members.

(e) Council members appointed pursuant to this section shall be reimbursed for per diem, mileage and expenses and receive salary for attending meetings and hearings of the council in the same manner and amount as members of the Wyoming legislature.

(f) The administrative head of each state agency enumerated in W.S. 35-12-110(b), or the designated representative, may attend meetings of the council and serve in an advisory capacity to facilitate and expedite the decision making process of the council. The council may request any administrative head to pursue, evaluate and submit reports relative to any study which may be required in the evaluation of an application for a permit.

(g) Appointments and terms under this chapter shall be in accordance with W.S. 28-12-101 through 28-12-103.

35-12-105. Appointment and duties of administrator; staff; rules and regulations.

(a) The director shall appoint an administrator of the division who shall serve at the director's pleasure as the executive and administrative head of the division. The administrator is responsible to and under control and supervision of the director. The director shall employ such other staff as deemed necessary by the director to carry out the functions and responsibilities of the division.

(b) The council shall promulgate rules and regulations pursuant to the Wyoming Administrative Procedure Act, implementing this chapter. The director, or the administrator if designated by the director, shall administer and enforce this chapter and any rules, regulations and orders approved or issued by the council.

(c) The director, administrator and the staff of the division are authorized to the extent possible, at the request of local governments, to provide technical assistance to local governments in the preparation of anticipated impacts related to a proposed project consistent with W.S. 39-15-111(c) and (d) and negotiation of agreements with applicants as provided for in W.S. 35-12-107.

(d) In addition to the rules and regulations adopted under subsection (b) of this section, the council shall promulgate rules and regulations prescribing decommissioning and site reclamation standards for facilities permitted under W.S. 35-12-102(a)(vii)(E), (F) and (G). Such standards shall preempt county rules or regulations concerning decommissioning and reclamation and shall be designed to assure the proper decommissioning and interim and final site reclamation of commercial facilities generating electricity from wind or solar and wind energy and solar energy facilities during construction and operation of the facility, at the end of their useful life, upon revocation of a permit authorizing their operation or upon the happening of any event which causes operations to cease. The council's regulation shall only preempt those facilities regulated under this act. In the event of any conflict between a standard applied under this subsection and a valid order of the Wyoming public service commission, the order of the public service commission shall be applied.

(e) In addition to the rules and regulations adopted under subsection (b) of this section, the council shall promulgate rules and regulations prescribing financial assurance requirements for facilities permitted by it pursuant to W.S. 35-12-102(a)(vii)(E), (F) and (G). These rules and regulations shall not apply to facilities that are public utilities and regulated by the Wyoming public service commission. These rules and regulations shall preempt county rules and regulations concerning financial assurances and shall be designed to provide adequate assurance that the permitted facilities will be properly reclaimed and decommissioned at the end of their useful life, upon revocation of a permit authorizing their operation or upon the happening of any event which causes operations to cease. The elements to consider when establishing adequate levels of financial assurance shall include credit worthiness, financial strength, credit history, credit rating and any other factors that reasonably bear upon the decision to accept a financial assurance. The financial assurance may be in any form acceptable to the council and may include a corporate guarantee, letter of credit, bond, deposit account or insurance policy.

(f) In addition to the rules and regulations adopted under subsection (b) of this section, the council shall promulgate rules and regulations requiring applicants for facilities described in W.S. 35-12-102(a)(vii)(E), (F) and (G) to provide notice to record owners of mineral rights located on or under the lands where the proposed facility will be constructed. Such notice may include notice by publication.

(g) The council may adopt such rules and regulations, including fee structures, as are appropriate to accept and consider applications referred by any board of county commissioners under W.S. 18-5-509.

35-12-106. Permit from council required before commencing construction of facility; electronic permitting; amendments; exceptions; federal requirements.

(a) No person shall commence to construct a facility, as defined in this chapter, in this state without first obtaining a permit for that facility from the council. Any facility, for which a permit is required, shall be constructed, operated and maintained in conformity with the permit and any terms, conditions and modifications contained in the permit. A permit may only be issued pursuant to this chapter or pursuant to the

provisions of W.S. 18-5-501 through 18-5-513 for facilities referred to the council.

(b) A permit may be transferred, subject to council approval, to a person who agrees to comply with the terms, conditions and modifications contained in the permit.

(c) Except as provided in subsection (d) of this section, the council may allow the amendment of a permit or application for a permit for good cause if the holder demonstrates to the council at its next meeting that the requested change is in compliance with local ordinances and applicable land use plans and will not significantly add to adverse environmental, social and economic impact in the impacted area.

(d) On an application for an amendment of a permit, the council shall hold a hearing in the same manner as a hearing is held on an application for a permit if in the council's opinion the requested change in the facility would result in a significant adverse increase in any environmental, social or economic impact of the facility or a change in the location of all or a portion of the facility unless the change in location was specifically approved by the council in the permit.

(e) The council may waive the application and permit provisions of this chapter if the applicant establishes by clear and convincing proof that an emergency exists created by the loss or damage to an existing facility which seriously threatens the health, safety and welfare of the public.

(f) The council may allow the permitting and reporting requirements of this act to be conducted electronically as provided by the Uniform Electronic Transaction Act, W.S. 40-21-101 through 40-21-119.

(g) For a permit issued for a facility meeting the definition of W.S. 35-12-102(a)(vii)(E), there shall be no vertical construction of a wind turbine within two (2) nautical miles of any active federal military missile launch or control facility, unless the owner or developer of the facility first obtains and furnishes documentation to the division of:

(i) A written determination of no adverse impact on nuclear security operations from the military installation commander or the commander's designee. The determination shall not be unreasonably withheld or denied;

(ii) A determination of no hazard from the federal aviation administration; and

(iii) Documentation from the federal military aviation and installation assurance siting clearinghouse that resolves any potential adverse impact on military operations and readiness and that commits to implement required mitigation measures.

35-12-107. Request for waiver of permit application; form.

(a) Any person proposing to construct an industrial facility may submit a written request for a waiver of the application provisions of this chapter.

(b) A request for a waiver shall be filed with the division, in a form as prescribed by council rules and regulations, and shall contain the following information:

(i) The name and address of the applicant, and if the applicant is a partnership, association or corporation, the names and addresses of the managers designated by the applicant responsible for permitting or construction of the facility;

(ii) A description of the nature and location of the facility;

(iii) Estimated time of commencement of construction and construction time;

(iv) Estimated number and job classifications by calendar quarter of employees of the applicant, or contractor or subcontractor of the applicant, during the construction phase and during the operating phase;

(v) Estimated population increases attributable to the facility;

(vi) Estimated additional revenue to local governments due to the facility;

(vii) Estimated construction cost of the facility;

(viii) A description of the methods and strategies the applicant will use to maximize the employment and utilization of the existing local or in-state contractors and

labor force during the construction and operation of the facility;

(ix) Any other information the applicant considers relevant or required by council rule or regulation;

(x) The procedures proposed to avoid constituting a public nuisance, endangering the public health and safety, human or animal life, property, wildlife or plant life, or recreational facilities which may be adversely affected by the facility;

(xi) Preliminary evaluations of or plans and proposals for alleviating social, economic or environmental impacts upon local government or any special districts which may result from the proposed facility, including voluntary company agreements with local governments;

(xii) Certification that the governing bodies of all local governments within the potentially impacted area were provided notification, a description of the proposed project and an opportunity to ask the applicant questions at least thirty (30) days prior to submission of the application;

(xiii) For facilities permitted pursuant to W.S. 35-12-102(a)(vii)(E), (F) or (G), a site reclamation and decommissioning plan, which shall be updated every five (5) years and a description of a financial assurance plan which will assure that all facilities will be properly reclaimed and decommissioned. All such plans, unless otherwise exempt, shall demonstrate compliance with any rules or regulations adopted by the council pursuant to W.S. 35-12-105(d) and (e);

(xiv) Information demonstrating the applicant's financial capability to decommission and reclaim the facility. For facilities meeting the definition of W.S. 35-12-102(a)(vii)(E) or (G) the information shall also demonstrate the applicant's financial capability to construct, maintain and operate the facility;

(xv) For proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E), (F) or (G), a list of all affected landowners with an address at which each affected landowner can be given the notices required by this act.

(c) Not more than seven (7) days following receipt of a request for a waiver, the director shall:

(i) Serve notice of the request upon the governing bodies of local governments which will be primarily affected by the proposed facility and, for proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E), (F) or (G), upon affected landowners;

(ii) Cause a summary of the request to be published in one (1) or more newspapers of general circulation within the area to be primarily affected by the proposed facility;

(iii) File a copy of the request with the county clerk of the county or counties in which the proposed facility will be constructed or which will be affected by the construction;

(iv) Serve notice of the request upon each tribal government located within the same or adjacent county to where the industrial facility will be located.

(d) Not more than fourteen (14) days following receipt of a request, the director shall:

(i) Schedule and conduct a public meeting;

(ii) Notify the applicant, tribal governments, if applicable, and local governments of the meeting and, for proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E), (F) or (G), notify affected landowners;

(iii) Cause notice of the meeting to be published in one (1) or more newspapers of general circulation within the area to be primarily affected by the proposed facility; and

(iv) Hold the meeting at a community as close as practicable to the proposed facility.

(e) At the public meeting, the applicant shall present such information as necessary to describe the proposed facility and its estimated impacts upon local units of government.

(f) Within fourteen (14) days of the public meeting, the applicant shall meet with the director and each local government affected by the proposed facility to determine the mitigation required to minimize any adverse impacts resulting from the proposed facility.

(g) Not more than fifty (50) days following receipt of a request, the director shall:

(i) Schedule and conduct a public hearing;

(ii) Notify the applicant, tribal governments, if applicable, and local governments of the hearing and, for proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E), (F) or (G), notify affected landowners;

(iii) Cause notice of the hearing to be published in one (1) or more newspapers of general circulation within the area to be primarily affected by the proposed facility; and

(iv) Hold the hearing at a community as close as practicable to the proposed facility.

(h) The applicant shall present any evidence necessary to demonstrate to the council:

(i) That the facility would not produce an unacceptable environmental, social or economic impact;

(ii) That the applicant has reached agreement with local governments affected by the facility on the mitigation required to alleviate adverse effects resulting from the facility; and

(iii) That the applicant has financial resources to decommission and reclaim the facility. For facilities meeting the definition of W.S. 35-12-102(a)(vii)(E) or (G) the evidence shall also demonstrate the applicant's financial capability to construct, maintain and operate the facility.

(j) Within ten (10) days from the date of completion of the hearing the council shall make complete findings, issue an opinion and render a decision upon the record, either granting or denying the request for a waiver. The council shall grant a request for a waiver either as proposed or as modified by the council if it finds and determines that:

(i) The facility would not produce an unacceptable environmental, social and economic impact;

(ii) The applicant has discussed the proposed facility with all local governments potentially affected by the project;

(iii) The proposed facility is in compliance with all local ordinances and land use plans; and

(iv) The applicant has financial resources to decommission and reclaim the facility. For facilities meeting the definition of W.S. 35-12-102(a)(vii)(E) or (G) the council shall also be required to find the applicant has financial resources to construct, maintain and operate the facility.

(k) No request for a waiver shall be granted if two (2) or more local governments which will be affected are not satisfied that the facility, considering the voluntary company agreements, represents an acceptable impact on the local governments.

(m) If the council decides to waive all of the application requirements of this chapter, it shall issue a permit for the facility in accordance with W.S. 35-12-113. If the council decides to waive a part of the application requirements of this chapter, it shall issue an order specifying the requirements which will not be required for an application filed pursuant to W.S. 35-12-109.

35-12-108. Quantity of water available; analysis; public comment; opinions.

(a) If an applicant applies for an industrial siting permit, pursuant to W.S. 35-12-106, or for a waiver of the application provisions, pursuant to W.S. 35-12-107, for a facility which requires the use of eight hundred (800) or more acre feet of the waters of this state annually, the applicant shall prepare and submit to the state engineer a water supply and water yield analysis with a request for a preliminary and final opinion as to the quantity of water available for the proposed facility.

(b) Within ninety (90) days after the applicant has submitted an acceptable water supply and yield analysis, the state engineer, at the applicant's expense, shall complete a comprehensive review of the water supply and water yield analysis submitted.

(c) Within five (5) days after completion of the review, the state engineer shall render a preliminary opinion as to the quantity of water available for the proposed facility. The preliminary opinion, or a reasonable summary, shall be published for three (3) consecutive weeks in a newspaper of general

circulation in the county in which the proposed facility is to be located. The expense of the publication shall be borne by the applicant.

(d) The state engineer may hold a public hearing before rendering a final opinion on the water supply and water yield analysis.

(e) In rendering a final opinion as to the quantity of water available for the proposed facility, the state engineer shall consider any comments which are submitted in writing within twenty (20) days of the last date of publication.

(f) Within thirty (30) days after the last date of publication, the state engineer shall render a final opinion. The final opinion shall:

(i) Be submitted to the industrial siting council and the public service commission;

(ii) Be binding on the industrial siting council for the purposes of issuing an industrial siting permit; and

(iii) Be reviewed by the public service commission prior to its issuance of a certificate of public convenience and necessity.

(g) The state engineer's preliminary and final opinion shall not create a presumption concerning injury or noninjury to water rights, nor shall those opinions be used as evidence in any administrative proceeding or in any judicial proceeding concerning water right determinations or administration.

35-12-109. Application for permit; form; fee; financial accounting.

(a) An application for a permit shall be filed with the division, in a form as prescribed by council rules and regulations, and shall contain the following information:

(i) The name and address of the applicant, and, if the applicant is a partnership, association or corporation, the names and addresses of the managers designated by the applicant responsible for permitting, construction or operation of the facility;

(ii) The applicant shall state that to its best knowledge and belief the application is complete when filed and includes all the information required by W.S. 35-12-109 and the rules and regulations, except for any requirements specifically waived by the council pursuant to W.S. 35-12-107;

(iii) A description of the nature and location of the facility;

(iv) Estimated time of commencement of construction and construction time;

(v) Estimated number and job classifications, by calendar quarter, of employees of the applicant, or contractor or subcontractor of the applicant, during the construction phase and during the operating life of the facility. Estimates shall include the number of employees who will be utilized but who do not currently reside within the area to be affected by the facility;

(vi) Future additions and modifications to the facility which the applicant may wish to be approved in the permit;

(vii) A statement of why the proposed location was selected;

(viii) A copy of any studies which may have been made of the environmental impact of the facility;

(ix) Inventory of estimated discharges including physical, chemical, biological and radiological characteristics;

(x) Inventory of estimated emissions and proposed methods of control;

(xi) Inventory of estimated solid wastes and proposed disposal program;

(xii) The procedures proposed to avoid constituting a public nuisance, endangering the public health and safety, human or animal life, property, wildlife or plant life, or recreational facilities which may be adversely affected by the estimated emissions or discharges;

(xiii) An evaluation of potential impacts together with any plans and proposals for alleviating social and economic

impacts upon local governments or special districts and alleviating environmental impacts which may result from the proposed facility. The evaluations, plans and proposals shall cover the following:

(A) Scenic resources;

(B) Recreational resources;

(C) Archaeological and historical resources;

(D) Land use patterns;

(E) Economic base;

(F) Housing;

(G) Transportation;

(H) Sewer and water facilities;

(J) Solid waste facilities;

(K) Police and fire facilities;

(M) Educational facilities;

(N) Health and hospital facilities;

(O) Water supply;

(P) Other relevant areas;

(Q) Agriculture;

(R) Terrestrial and aquatic wildlife;

(S) Threatened, endangered and rare species and other species of concern identified in the state wildlife action plan as prepared by the Wyoming game and fish department.

(xiv) Estimated construction cost of the facility;

(xv) What other local, state or federal permits and approvals are required;

(xvi) Compatibility of the facility with state or local land use plans, if any;

(xvii) Any other information the applicant considers relevant or required by council rule or regulation;

(xviii) A description of the methods and strategies the applicant will use to maximize employment and utilization of the existing local or in-state contractors and labor force during the construction and operation of the facility;

(xix) Certification that the governing bodies of all local governments which will be primarily affected by the proposed facility were provided notification, a description of the proposed project and an opportunity to ask the applicant questions at least thirty (30) days prior to submission of the application;

(xx) For facilities permitted pursuant to W.S. 35-12-102(a)(vii)(E), (F) or (G), a site reclamation and decommissioning plan, which shall be updated every five (5) years, and a description of a financial assurance plan which will assure that all facilities will be properly reclaimed and decommissioned. All such plans, unless otherwise exempt, shall demonstrate compliance with any rules or regulations adopted by the council pursuant to W.S. 35-12-105(d) and (e);

(xxi) Information demonstrating the applicant's financial capability to decommission and reclaim the facility. For facilities meeting the definition of W.S. 35-12-102(a)(vii)(E) or (G) the information shall also demonstrate the applicant's financial capability to construct, maintain and operate the facility;

(xxii) For proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E), (F) or (G), a list of all affected landowners with an address at which each affected landowner can be given the notices required by this act.

(b) At the time of filing an application or a written request for a waiver of the application provisions of this chapter as provided in W.S. 35-12-107, or as subsequently required by the director, an applicant shall pay a fee to be determined by the director based upon the estimated cost of investigating, reviewing, processing and serving notice of an application, holding a hearing in case of a request for waiver, inspection and compliance activities and processing application

update requests. The fee shall be credited to a separate account and shall be used by the division as required to investigate, review, process and serve notice of the application, to hold a hearing in case of a request for waiver and to pay the reasonable costs of any meeting or hearing associated with permit compliance. Unused fees shall be refunded to the applicant. The maximum fee chargeable shall not exceed one-half of one percent (0.5%) of the estimated construction cost of the facility or one hundred thousand dollars ($100,000.00), whichever is less.

(c) The director shall provide the applicant with a full financial accounting, including but not limited to all materials, labor and overhead costs relating to the expenditures of the fee at the time of the council's decision as provided in W.S. 35-12-113 or at the completion of construction, whichever occurs later.

(d) At any time after the fee required by subsection (b) of this section has been exhausted or refunded and in addition to the fee imposed under subsection (b) of this section, the applicant may be required to pay a fee, as determined by the director, for the costs of any meeting or hearing associated with permit compliance. The director shall provide the applicant with a full financial accounting for the expenditure of the fee, including but not limited to all materials, labor and overhead costs, at the conclusion of the council meeting or hearing.

35-12-110. Service of notice of application; information and recommendations; application deficiencies; procedure; jurisdiction; hearing.

(a) Not more than ten (10) days following receipt of an application for a permit, the director shall:

(i) Serve an electronic or physical copy of the application upon the governing bodies of local governments which will be primarily affected by the proposed facility together with notice of the applicable provisions of W.S. 35-12-111 and, for proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E), (F) or (G), serve a copy of the application with notice of the applicable provisions of W.S. 35-12-111 upon affected landowners;

(ii) Cause a summary of the application to be published in one (1) or more newspapers of general circulation

within the area to be primarily affected by the proposed facility;

(iii) File a copy of the application with the county clerk of the county or counties in which the proposed facility will be constructed;

(iv) Serve an electronic or physical copy of the application and notice of hearing upon each tribal government located within the same or adjacent county to where the industrial facility will be located.

(b) The division shall obtain information and recommendations from the following state agencies relative to the impact of the proposed facility as it applies to each agency's area of expertise:

(i) Wyoming department of transportation;

(ii) Public service commission;

(iii) Repealed By Laws 1998, ch. 6, § 5.

(iv) Game and fish department;

(v) Department of health;

(vi) Department of education;

(vii) Office of state engineer;

(viii) Repealed by Laws 1990, ch. 44, § 3.

(ix) Wyoming state geologist;

(x) Wyoming department of agriculture;

(xi) Department of environmental quality;

(xii) Repealed by Laws 1992, ch. 60, § 4.

(xiii) Repealed by Laws 1990, ch. 44, § 3.

(xiv) The University of Wyoming;

(xv) Department of revenue;

(xvi) The Wyoming business council;

(xvii) Department of workforce services;

(xviii) Office of state lands and investments;

(xix) Department of workforce services;

(xx) Department of state parks and cultural resources;

(xxi) Department of fire prevention and electrical safety;

(xxii) Department of family services;

(xxiii) Oil and gas conservation commission.

(c) The information required by subsection (b) of this section shall be provided by the agency from which it is requested not more than sixty (60) days from the date the request is made and shall include opinions as to the advisability of granting or denying the permit together with reasons therefor, and recommendations regarding appropriate conditions to include in a permit, but only as to the areas within the expertise of the agency. Each agency which has regulatory authority over the proposed facility shall provide to the council a statement defining the extent of that agency's jurisdiction to regulate impacts from the facility, including a statement of the agency's capability to address cumulative impacts of the facility in conjunction with other facilities. The statement of jurisdiction from each agency is binding on the council.

(d) On receipt of an application, the director shall conduct a review of the application to determine if it contains all the information required by W.S. 35-12-109 and the rules and regulations. If the director determines that the application is incomplete, he shall within thirty (30) days of receipt of the application notify the applicant of the specific deficiencies in the application. The applicant shall provide the additional information necessary within forty-five (45) days of a receipt of a request for additional information from the director.

(e) Upon receipt of the additional information specified in subsection (d) of this section, the director shall either notify the applicant that the application is complete or notify

the applicant of continued deficiencies. The applicant shall provide the required information within fifteen (15) days of receipt of the notice of continued deficiency. Upon receipt of the second deficiency notice, the applicant may:

(i) Provide the required information within the time allotted; or

(ii) Withdraw the application.

(iii) Repealed By Laws 2010, Ch. 47, § 2.

(f) Not more than one hundred twenty (120) days after receipt of an application for a permit, the director shall:

(i) Schedule and conduct a public hearing, provided that no hearing shall be held until the state engineer has submitted a preliminary and final opinion as to the quantity of water available for the proposed facility pursuant to W.S. 35-12-108;

(ii) Notify the applicant, tribal governments, if applicable, and local governments of the hearing and, for proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E), (F) or (G), notify affected landowners;

(iii) Cause notice of the hearing to be published in one (1) or more newspapers of general circulation within the area to be primarily affected by the proposed facility; and

(iv) Hold the hearing at a community as close as practicable to the proposed facility. The provisions of W.S. 35-12-111, 35-12-112 and 35-12-114 apply to the hearing.

(g) For proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E), (F) or (G):

(i) The division shall request information and recommendations from affected landowners relative to the impact of the proposed facility as it applies to each affected landowner's lands and interests;

(ii) Not less than twenty-five (25) days prior to any scheduled hearing on the application, the director shall provide to all affected landowners a copy of all information received from agencies providing information under subsections (b) and (c) of this section; and

(iii) Agencies providing opinions and recommendations under subsections (b) and (c) of this section shall receive comments from affected landowners and shall provide a summary of all affected landowner comments with other information submitted. If comments are received after the agency's other information is submitted, the comments shall be forwarded when received to the division.

35-12-111. Parties to permit proceeding; waiver by failure to participate.

(a) The parties to a permit proceeding include:

(i) The applicant;

(ii) Each local government entitled to receive a copy of the application under W.S. 35-12-110(a)(i);

(iii) Any person residing in a local government entitled to receive a copy of the application under W.S. 35-12-110(a)(i) including any person holding record title to lands directly affected by construction of the facility and any nonprofit organization with a Wyoming chapter, concerned in whole or in part to promote conservation or natural beauty, to protect the environment, personal health or other biological values, to preserve historical sites, to promote consumer interests, to represent commercial, agricultural and industrial groups, or to promote the orderly development of the areas in which the facility is to be located. In order to be a party the person or organization must file with the office a notice of intent to be a party not less than twenty (20) days before the date set for the hearing.

(b) Any party identified in paragraph (a)(iii) of this section waives his right to be a party if he does not participate orally at the hearing. Any party identified in paragraph (a)(ii) of this section waives its right to be a party unless the local government files a notice of intent to be a party with the office not less than twenty (20) days before the date set for the hearing.

(c) Any person may make a limited appearance in the proceeding by filing a statement in writing with the council prior to adjournment of the hearing. A statement filed by a person making a limited appearance shall become part of the record and shall be made available to the public. No person

making a limited appearance under this subsection is a party to the proceeding.

(d) No state agency other than the industrial siting division shall act as a party at the hearing. Members and employees of all other state agencies and departments may file written comments prior to adjournment of the hearing but may testify at the hearing only at the request of the council, the industrial siting division or any party.

(e) Any person described in W.S. 35-12-111(a)(ii) or (iii) who participated in the public hearing under W.S. 35-12-107 may obtain judicial review of a council decision waiving all or part of the application requirements of this chapter.

35-12-112. Record of hearing; procedure.

Any studies, investigations, reports or other documentary evidence, including those prepared by the division, which any party wishes the council to consider or which the council itself expects to utilize or rely upon, shall be made a part of the record. A complete record shall be made of the hearing and of all testimony taken. The contested case procedures of the Wyoming Administrative Procedure Act apply to the hearing under W.S. 35-12-110(f), but do not apply to the hearing under W.S. 35-12-107.

35-12-113. Decision of council; findings necessary for permit conditions imposed; service of decision on parties; waste management surcharge.

(a) Within forty-five (45) days from the date of completion of the hearing the council shall make complete findings, issue an opinion and render a decision upon the record, either granting or denying the application as filed, or granting it upon terms, conditions or modifications of the construction, operation or maintenance of the facility as the council deems appropriate. The council shall not consider the imposition of conditions which address impacts within the area of jurisdiction of any other regulatory agency in this state as described in the information provided in W.S. 35-12-110(b), unless the other regulatory agency requests that conditions be imposed. In considering the imposition of conditions requested by other agencies upon private lands, the council shall consider in the same manner and to the same extent any comments presented by an affected landowner. The council may consider direct or cumulative impacts not within the area of jurisdiction of

another regulatory agency in this state. The council shall grant a permit either as proposed or as modified by the council if it finds and determines that:

(i) The proposed facility complies with all applicable law;

(ii) The facility will not pose a threat of serious injury to the environment nor to the social and economic condition or inhabitants or expected inhabitants in the affected area;

(iii) The facility will not substantially impair the health, safety or welfare of the inhabitants; and

(iv) The applicant has financial resources to decommission and reclaim the facility. For facilities meeting the definition of W.S. 35-12-102(a)(vii)(E) the council shall also be required to find the applicant has financial resources to construct, maintain and operate the facility.

(b) No permit shall be granted if the application is incomplete.

(c) If the council determines that the location of all or part of the proposed facility should be modified, it may condition its permit upon that modification, provided that the local governments, and persons residing therein, affected by the modification, have been given reasonable notice of the modification.

(d) The council shall issue with its decision, an opinion stating in detail its reasons for the decision. If the council decides to grant a permit for the facility, it shall issue the permit embodying the terms and conditions in detail, including the time specified to commence construction, which time shall be determined by the council's decision as to the reasonable capability of the local government, most substantially affected by the proposed facility, to implement the necessary procedures to alleviate the impact. A copy of the decision shall be served upon each party.

(e) A permit may be issued conditioned upon the applicant furnishing a bond to the division in an amount determined by the director from which local governments may recover expenditures in preparation for impact to be caused by a facility if the permit holder does not complete the facility proposed. The

permit holder is not liable under the bond if the holder is prevented from completing the facility proposed by circumstances beyond his control.

(f) Within ten (10) days from the date of the council's decision, a copy of the findings and the council's decision shall be served upon the applicant, parties to the hearing and local governments to be substantially affected by the proposed facility and filed with the county clerk of the county or counties to be primarily affected by the proposed facility. Notice of the decision shall be published in one (1) or more newspapers of general circulation within the area to be affected by the proposed facility.

(g) Each approved facility enumerated under W.S. 35-12-102(a)(vii)(A) through (D) shall, on a quarterly basis, remit to the division a waste management surcharge to be deposited in the general fund. The surcharge amount is:

(i) A minimum of ten dollars ($10.00) per short ton of solid wastes, including radioactive wastes, received at the facility, less a minimum of five dollars ($5.00) for each short ton of solid wastes removed at the facility and recycled or reused and less any amount credited against the surcharge pursuant to W.S. 35-11-503(b)(iv)(B); and

(ii) A minimum of twenty-five dollars ($25.00) per short ton of hazardous wastes received at the facility, less a minimum of three dollars ($3.00) for each short ton of hazardous wastes treated at the facility to reduce toxicity and long-term hazards to the environment.

(h) For applicants subject to W.S. 35-12-105(e), a permit may be issued conditioned upon the applicant furnishing a bond or other financial assurance acceptable to the division in an amount determined by the director to cover the cost of decommissioning and reclaiming the facility.

(j) The council may deny an application if the facility that is the subject of the application will unreasonably interfere with the development of a known and currently economically developable mineral resource within the proposed facility.

35-12-114. Review of grant or denial of permit.

(a) Any party as defined in W.S. 35-12-111 aggrieved by the final decision of the council on an application for a permit may obtain judicial review by the filing of a petition in any state district court in which the major portion of the proposed facility is to be located within thirty (30) days after the issuance of a final decision. The petition for appeal by any party must include an express assumption of the cost of preparation of the complete written transcripts and record for the court. Upon receipt of a petition, the division shall deliver to the court a copy of the complete written transcript of the record of the proceeding before it and a copy of the council's decision and opinion entered therein which shall constitute the record on judicial review. At the same time the division shall deliver to the petitioner an itemized statement of the cost of preparing the complete written transcript and record for the court. The petitioner shall pay the division this cost within forty-five (45) days or forfeit the right to appeal to district court. A copy of the transcript, decision and opinion shall remain on file with the division and shall be available for public inspection.

(b) When a decision is issued after a hearing on an application for a permit, the decision is final for purposes of judicial review. The judicial review procedure shall be the same as that for contested cases under the Wyoming Administrative Procedure Act.

35-12-115. Additional requirements by other governmental agencies not permitted after issuance of permit; exceptions.

(a) Notwithstanding any other provision of law, no state, intrastate regional agency or local government may require any approval, consent, permit, certificate or other condition for the construction, operation or maintenance of a facility authorized by a permit issued pursuant to this chapter except that:

(i) The department of environmental quality shall retain authority which it has or which it may be granted to determine compliance of the proposed facility with state and federal standards and implementation plans and to enforce those standards; and

(ii) The public service commission shall retain authority which it has or may be granted relative to certificates of convenience and necessity, rates, interchange of services and safety regulations.

(b) Nothing in this chapter prevents the application of state laws for the protection of employees engaged in the construction, operation or maintenance of any facility specified in this section.

35-12-116. Revocation or suspension of permit.

(a) A permit may be revoked or suspended for:

(i) Any material false statement in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted the council's refusal to grant a permit;

(ii) Failure to comply with the terms or conditions of the permit after notice of the failure from the office and reasonable opportunity to correct the failure; or

(iii) Violation of this chapter, the regulations issued pursuant to this chapter or orders of the council or office.

35-12-117. Monitoring of facilities.

(a) Except as provided in subsection (b) of this section, the council and the division, utilizing to the fullest extent possible the staff and resources of all state agencies, boards and commissions, has continuing authority and responsibility for:

(i) Monitoring the operations of all facilities which have been granted permits under this chapter;

(ii) Assuring continuing compliance with this chapter and permits issued pursuant to this chapter; and

(iii) Discovering and preventing noncompliance with this chapter and the permits.

(b) The department of environmental quality has exclusive continuing authority and responsibility for monitoring and assuring compliance with:

(i) Laws and regulations pertaining to air, water and land quality, and solid waste management; and

(ii) Any permit conditions ordered by the council relating to matters of air, water and land quality, and solid waste management.

35-12-118. Penalties for violations; civil action by attorney general.

(a) No person shall:

(i) Commence to construct a facility after the effective date of this chapter without first obtaining a permit required under this chapter;

(ii) Construct, operate or maintain a facility, after having first obtained a permit, other than in specific compliance with the permit;

(iii) Cause any of the acts specified in this subsection to occur;

(iv) Operate or maintain an industrial facility without having first obtained the permit required under this chapter.

(b) Any person violating subsection (a) of this section is liable to a civil penalty of not more than ten thousand dollars ($10,000.00) for each violation. Each day of a continuing violation constitutes a separate offense. The penalty shall be recoverable in a civil suit brought by the attorney general on behalf of the state in the district court in and for the county of Laramie.

(c) Whoever knowingly and willfully violates subsection (a) of this section shall be fined not more than ten thousand dollars ($10,000.00) for each violation or imprisoned for not more than one (1) year, or both. Each day of a continuing violation constitutes a separate offense.

(d) In addition to any penalty provided in subsection (b) or (c) of this section, if the director determines that a person is violating this section, he shall refer the matter to the attorney general who may bring a civil action on behalf of the state in the district court in and for the county of Laramie for injunctive or other appropriate relief against the violation and to enforce this chapter or a permit issued under this chapter, and upon a proper showing a permanent or preliminary injunction or temporary restraining order shall be granted without bond.

(e) All fines collected pursuant to subsection (b) of this section shall be paid to the state treasurer and credited as provided in W.S. 8-1-109.

35-12-119. Exemptions; information required.

(a) Nonmineral processing facilities to be constructed in existing industrial parks, as designated by local governments, and industrial sovereign zones established under W.S. 9-20-202 are exempt from payment of fees and certification procedures but shall furnish the information required by W.S. 35-12-109(a)(iii), (iv) and (v) to the division if included in W.S. 35-12-102(a)(vii).

(b) State and local governmental units and agencies are exempt from the application and permit procedures of this chapter, but prior to commencing to construct any facility as provided in W.S. 35-12-102(a)(vii), those units and agencies shall furnish to the division information required by W.S. 35-12-109(a)(iii), (iv) and (v).

(c) The construction, operation and maintenance of the following activities are exempt from this chapter:

(i) Electric transmission lines with a maximum operating voltage of less than one hundred sixty thousand (160,000) volts, except:

(A) Any collector system, regardless of voltage, associated with a commercial facility generating electricity from wind and which meets the definition of an industrial facility pursuant to W.S. 35-12-102(a)(vii)(E) and (F) shall not be exempt;

(B) A commercial facility generating electricity from wind that is exempt from W.S. 35-12-102(a)(vii)(E) or (F) shall not become subject to this chapter because its collector system is greater than one hundred sixty thousand (160,000) volts.

(ii) Oil and gas drilling facilities;

(iii) All pipelines except coal slurry pipelines;

(iv) Oil and gas producing facilities;

(v) Oil and gas wellfield activities.

(d) Activities exempt under this section shall not be included as part of the application review of a facility subject to this chapter, and the council does not have jurisdiction over exempt activities. Applicants shall furnish the information required by W.S. 35-12-109(a)(iii), (iv), (v) and (viii) for exempt activities.

CHAPTER 13 - FACILITIES IN PUBLIC BUILDINGS FOR PHYSICALLY HANDICAPPED

ARTICLE 1 - IN GENERAL

35-13-101. Renumbered as 16-6-501 by Laws 1982, ch. 62, § 3.

35-13-102. Renumbered as 16-6-502 by Laws 1982, ch. 62, § 3.

35-13-103. Renumbered as 16-6-503 by Laws 1982, ch. 62, § 3.

35-13-104. Renumbered as 16-6-504 by Laws 1982, ch. 62, § 3.

35-13-105. Repealed by Laws 1982, ch. 62, § 4.

ARTICLE 2 - PROTECTION AND RIGHTS OF BLIND AND DISABLED PERSONS

35-13-201. Generally; service and assistance animals.

(a) Any blind, visually impaired, deaf, hearing impaired person or other person with a disability, subject to the conditions and limitations established by law and applicable alike to all persons:

(i) Has the same right as an able-bodied person to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities and other public places;

(ii) Shall be afforded full and equal accommodations, advantages, facilities and privileges of any place of public accommodation and any other place to which the general public is invited; and

(iii) Shall not be discriminated against in the leasing or rental of apartments and other private residential property because of his disability.

(b) Any blind, visually impaired, deaf, hearing impaired person or other person with a disability may be accompanied by a service animal in any facility of a public entity in accordance with 28 C.F.R. 35.136 and any place of public accommodation in accordance with 28 C.F.R. 36.302(c).

(c) A person shall not be discriminated against in the leasing or rental of residential property because the person has an assistance animal, which shall be permitted in leased or rented residential property in accordance with the federal Fair Housing Act. The person shall be liable for any damage done by his assistance animal to the premises or facilities of the leased or rented residential property.

(d) A public accommodation, or any agent or employee thereof, that permits a service animal or an animal believed in good faith to be a service animal in its place of public accommodation is not liable for any damage or injury caused by the animal.

35-13-202. Drivers to take precautions; liability.

The driver of a vehicle approaching a blind, partially blind, deaf or hearing impaired pedestrian carrying a cane predominantly white or chrome metallic in color or using a guide dog shall take all necessary precautions to avoid injury to the pedestrian. Any driver failing to take these precautions is liable in damages for any injury caused the pedestrian.

35-13-203. Interfering with rights; misrepresentation of a service or assistance animal; penalties.

(a) Any person denying or interfering with admittance to or enjoyment of any place or facility referenced in W.S. 35-13-201(a) through (c) or otherwise interfering with the rights of the blind, partially blind, deaf, hearing impaired person or other person with a disability is guilty of a misdemeanor and may be fined not more than seven hundred fifty dollars ($750.00).

(b) Any person who knowingly and intentionally misrepresents that an animal is a service animal or an assistance animal for the purpose of obtaining any of the rights

or privileges set forth in this article is guilty of a misdemeanor and may be fined not more than seven hundred fifty dollars ($750.00).

35-13-204. Additional provisions on use of service dogs; penalty.

(a) Any blind, partially blind, deaf, hearing impaired person or other person with a disability who is a passenger on any common carrier, airplane, motor vehicle, railroad train, motor bus, boat or any other public conveyance operating within the state may have with him a service dog.

(b) Any person violating this section is subject to a fine not to exceed seven hundred fifty dollars ($750.00).

35-13-205. Definitions.

(a) As used in this article:

(i) Repealed by Laws 2017, ch. 133, § 2.

(ii) "Person with a disability" means an individual who has a mental or physical impairment which substantially limits one (1) or more major life activities;

(iii) "Major life activities" means functions associated with the normal activities of independent daily living such as caring for one's self, performing manual tasks, walking, seeing, hearing or speaking;

(iv) "Assistance animal" means an animal that works, provides assistance or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one (1) or more identified symptoms or effects of a person's disability;

(v) "Place of public accommodation" means as defined in 28 C.F.R. 36.104;

(vi) "Public accommodation" means as defined in 28 C.F.R. 36.104;

(vii) "Public entity" means as defined in 28 C.F.R. 35.104;

(viii) "Service animal" means as defined in 28 C.F.R. 35.104 and 28 C.F.R. 36.104 and includes service miniature horses pursuant to 28 C.F.R. 35.136 and 28 C.F.R. 36.302(c). "Service animal" shall include a dog that is being trained to do work or perform tasks for the benefit of an individual with a disability.

35-13-206. Injuring or killing a service or assistance animal prohibited; penalties.

(a) Any person who knowingly, willfully and without lawful cause or justification inflicts, or permits or directs any animal under his control or ownership to inflict, serious bodily harm, permanent disability or death upon any service animal or assistance animal is guilty of a misdemeanor punishable by imprisonment for less than one (1) year, a fine of not more than five thousand dollars ($5,000.00), or both.

(b) A court shall order a defendant convicted of an offense under subsection (a) of this section to make restitution to the owner of the service animal or assistance animal for:

(i) Related veterinary or medical bills;

(ii) The cost of replacing the service animal or assistance animal or retraining an injured service animal or assistance animal; and

(iii) Any other expense reasonably incurred as a result of the offense.

CHAPTER 14 - FAMILY PLANNING AND BIRTH CONTROL

35-14-101. Repealed and Recreated as 42-5-101 and 42-5-102 by Laws 1988, ch. 34, § 2.

35-14-102. Repealed and Recreated as 42-5-101 and 42-5-102 by Laws 1988, ch. 34, § 2.

35-14-103. Repealed and Recreated as 42-5-101 and 42-5-102 by Laws 1988, ch. 34, § 2.

35-14-104. Repealed and Recreated as 42-5-101 and 42-5-102 by Laws 1988, ch. 34, § 2.

35-14-105. Repealed and Recreated as 42-5-101 and 42-5-102 by Laws 1988, ch. 34, § 2.

35-14-106. Repealed and Recreated as 42-5-101 and 42-5-102 by Laws 1988, ch. 34, § 2.

CHAPTER 15 - ASSEMBLAGE OF PEOPLE

35-15-101. Purpose of chapter.

It is the purpose of this act to regulate the assemblage of large numbers of people, in excess of those normally meeting the health, sanitary, fire, police, transportation and utility services regularly provided in the state of Wyoming in order that the health, safety and welfare of all persons in this state, residents and visitors alike, may be protected.

35-15-102. Chapter not applicable to certain political subdivisions.

The provisions of this act shall not apply to municipalities or any cities or towns in the state of Wyoming, or other political subdivisions which, at the effective date of this act, have enacted ordinances or adopted rules and regulations regulating the assemblage of large numbers of people, in excess of those normally meeting the health, sanitary, fire, police, transportation and utility services regularly provided in any such municipality, city or town or other political subdivision, in order that the health, safety and welfare of all persons therein, residents and visitors alike, may be protected.

35-15-103. Definitions.

(a) As used in this act, the following terms shall have the following meanings, except where the context clearly indicates another meaning is indicated:

(i) "Department" means the department of health or its designee;

(ii) "Person" means any individual natural human being, partnership, corporation, firm, company, association, society or group;

(iii) "Assembly" means a company of persons gathered together at any location at any single time for any purpose.

35-15-104. License required to permit, advertise, organize or sell tickets to assemblage of 5,000 or more people.

No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage, or sell or give tickets to any actual or reasonably anticipated assembly of five thousand (5,000) or more people which continues or can reasonably be expected to continue for twenty (20) or more consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the department, application for which must be made at least thirty (30) days in advance of the assembly. A license to hold an assembly issued to one (1) person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

35-15-105. Separate license required for each day and location of assemblage of 5,000 or more people.

A separate license shall be required for each day and each location in which five thousand (5,000) or more people assemble or can reasonably be anticipated to assemble and the fee for each license shall be two hundred and fifty dollars ($250.00). A licensee shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to nor permit to assemble within the boundaries of the licensed premises more than the maximum permissible number of people. The licensee shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly.

35-15-106. Exception to license requirements.

This act shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum or other similar permanently established place of assembly for assemblies which do not exceed by more than two hundred and fifty (250) people the maximum seating capacity of the structure where the assembly is held, nor shall this act apply to government-sponsored fairs or rodeos held on regularly established fairgrounds or rodeo grounds nor to assemblies required to be licensed by other laws, ordinances, and rules and regulations promulgated by the state of Wyoming, any municipality, city and town, or other political subdivision of the state of Wyoming.

35-15-107. Requirements for license.

(a) Before any person may be issued a license, the applicant shall first:

(i) Determine the maximum number of people which will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the assembly and provided that, where the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly in keeping with the health, safety and welfare of all persons so assembled;

(ii) Provide proof that the applicant will furnish, at his own expense, before the assembly commences:

(A) Potable water, meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one (1) gallon per person per day and water for bathing at the rate of at least ten (10) gallons per person per day;

(B) Separate enclosed toilets for males and females, meeting all state specifications and requirements, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one (1) toilet for every two hundred (200) females and at least one (1) toilet for every three hundred (300) males together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state rules and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet;

(C) A sanitary method of disposing of solid waste, in compliance with state laws, rules and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and five tenths (2.5) pounds of solid waste per person per day, together with a plan for holding and a plan for collecting all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task;

(D) Physicians and nurses licensed to practice in the state of Wyoming sufficient to provide the average medical care enjoyed by residents of Wyoming for the maximum

number of people to be assembled together with an enclosed, covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician, and at least one (1) emergency ambulance available for use at all times;

(E) If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five (5) foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly;

(F) A parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one (1) parking space for every four (4) persons;

(G) Telephones connected to outside lines sufficient to provide service for the maximum number of people to be assembled at the rate of at least one (1) separate line and receiver for each one thousand (1,000) persons;

(H) If the assembly is to continue overnight, camping facilities in compliance with state rules, regulations and requirements of the department shall be supplied sufficient to provide camping accommodations for the maximum number of people to be assembled;

(J) Security guards, either regularly employed or off-duty Wyoming peace officers, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one (1) security guard for every seven hundred and fifty (750) people;

(K) Fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as determined under the rules and regulations of the department, and sufficient emergency personnel to efficiently operate the required equipment;

(L) All reasonably necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly;

(M) A bond, filed with the department, either in cash or underwritten by a surety company licensed to do and transact business in the state of Wyoming at the rate of one dollar ($1.00) per person for the maximum number of people permitted to assemble, which shall indemnify and hold harmless the state of Wyoming or any of its officers, agents, servants and employees from any liability or causes of action which might arise by reason of granting of the license, and from any costs incurred in the enforcement or cleaning up of any waste material produced or damage done by reason of the assembly.

35-15-108. Application for license; how made; contents.

(a) Application for a license to hold an actual or anticipated assembly of five thousand (5,000) or more persons shall be made in writing to the department at least thirty (30) days in advance of such assembly.

(b) The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, natural human being, by all officers in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, society or group or, if there be no officers, by all members of such association, society or group.

(c) The application shall contain and disclose:

(i) The name, age, residence and mailing address of all persons required to sign the application as above provided and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding ten percent (10%) or more of the stock of said corporation;

(ii) The address and legal description of all property upon which the assembly is to be held together with the name, residence and mailing address of the record owner(s) of all such property;

(iii) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner(s) of all such property that the applicant has permission to use such property for an assembly of five thousand (5,000) or more persons;

(iv) The nature or purpose of the assembly;

(v) The total number of days and/or hours during which the assembly is to last;

(vi) The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning ordinances of the municipality if the assembly is to continue overnight;

(vii) The maximum number of tickets to be sold, if any;

(viii) The plans of the applicant to limit the maximum number of people permitted to assemble;

(ix) The plans for supplying potable water including the source, amount available and location of outlets;

(x) The plans for providing toilet and lavatory facilities including the source, number and location, type, and the means of disposing of waste deposited;

(xi) The plans for holding, collecting and disposing of solid waste material;

(xii) The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service;

(xiii) The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps;

(xiv) The plans for parking vehicles including size and location of lots, points of highway access and parking lots;

(xv) The plans for telephone service including the source, number and location of telephones;

(xvi) The plans for camping facilities, if any, including facilities available and their location;

(xvii) The plans for security including the number of guards, their deployment and their names, addresses, credentials and hours of availability;

(xviii) The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers and the number of emergency fire personnel available to operate the equipment;

(xix) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers;

(xx) The plans for food concessions and concessioners who will be allowed to operate on the grounds including the names and addresses of all concessioners and their license or permit numbers.

(d) The application shall include the bond required herein, and the license fee.

35-15-109. Application for license; processing; state agencies to make investigations, reports and recommendations on request.

The application for a license shall be processed within twenty (20) days following receipt by the department and shall be issued if all conditions are complied with. All state departments, boards, officers and agencies, including but not exclusive of the state fire marshal, the department of agriculture, the state department of transportation, the state labor department, the public service commission, the workmen's compensation department and the office of the attorney general shall do all things necessary and requisite, at the request of the department, to make and undertake investigations and to render reports and recommendations unto the department in relation to the conditions necessary for the issuance of the license.

35-15-110. Revocation of license.

The license may be revoked by the department at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with, or if any condition

previously met ceases to be complied with. Any such revocation may be made by the department without notice or hearing, if the department determines that an emergency exists and that it is not practical, in relationship to its obligation to protect the public health, morals and welfare, to permit the licensee to proceed to hold the assembly. In any such case, however, the licensee may, within a period of three (3) days from and after revocation, apply or petition the department for an administrative hearing to show cause why the revocation should not be set aside and the licensee permitted to proceed to hold the assembly. In any such case, the department shall set any such application or petition down for hearing, and said matter shall be heard in the nature of a contested case proceeding under the provisions of the Wyoming Administrative Procedure Act.

35-15-111. Assembly held in violation of chapter deemed public nuisance; injunctive relief.

The holding of an assembly in violation of any provision or condition contained in this act shall be deemed a public nuisance and may be abated as such. The attorney general shall represent the department and shall bring a civil action in the name of the state of Wyoming in the district court of the county where the violation occurred or the threat with respect to holding the assembly exists or in the United States district court for the district of Wyoming if it otherwise has jurisdiction to obtain a court restraining order or injunction against the holding of the assembly. Any suit filed by the department shall be advanced for trial and heard and determined as expeditiously as feasible by the court. If the court should grant injunctive relief and thereafter find the person in contempt of the court's order, the court may invoke the bond filed by the person with the department in payment of any fine or forfeiture imposed in a contempt proceeding.

35-15-112. Penalty.

Any person who willfully and knowingly violates any provision or condition of this act or any condition upon which he is granted a license shall, upon conviction, be fined not more than ten thousand dollars ($10,000.00) or imprisoned in the penitentiary not more than one (1) year or both. Each day that a violation shall continue following demand from the department to cease and desist shall constitute a separate offense.

35-16-101. Definitions.

(a) As used in this act unless the context otherwise requires:

(i) "Explosive materials" means explosives, blasting agents, and detonators as defined by section 181.11 of title 26, Code of Federal Regulations;

(ii) "Nonlicensee or nonpermittee" means any individual, corporation, company, association, firm, partnership, society, or joint stock company who is not required to be licensed or obtain a permit under title XI, Regulation of Explosives, of the federal Organized Crime Control Act of 1970 (Public Law 91-452).

35-16-102. Purchase of explosive materials from contiguous state permitted; transportation, shipment or receipt.

Any nonlicensee or nonpermittee who is a resident of the state of Wyoming and who uses explosive materials in the conduct of business may lawfully purchase explosive materials from a licensee of a state contiguous to the state of Wyoming and may transport, ship, or receive any such explosive materials if all requirements of section 181.26 of title 26 of the Code of Federal Regulations are met.

CHAPTER 17 - PROFESSIONAL STANDARD REVIEW ORGANIZATIONS

35-17-101. Definition.

(a) As used in this act:

(i) "Professional standard review organizations" means:

(A) Any medical, dental, optometric, nursing, osteopathic, emergency medical or pharmacy organization or a local, county, or state medical, dental, optometric, nursing, osteopathic and pharmacy society and any such society itself when such organization or society is performing any medical, dental, nursing, optometric, osteopathic, emergency medical and pharmacy review function or involving any controversy or dispute between a physician, dentist, optometrist, nurse, osteopath, emergency medical technician and pharmacist and a patient concerning the diagnosis, treatment, or care of such patient or

the fees or charges therefor, or a physician, dentist, optometrist, nurse, osteopath, emergency medical technician or pharmacist and a provider of medical, dental, optometric, nursing, osteopathic, emergency medical and pharmacy benefits concerning any medical, dental, nursing, optometric, osteopathic, emergency medical, pharmacy or other health charges or fees of such physician, dentist, optometrist, nurse, osteopath, emergency medical technician or pharmacist;

(B) A committee of a medical staff in a hospital having the responsibility of evaluation and improvement of the quality of care rendered in the hospital;

(C) A committee functioning to review, pursuant to federal or state laws, the operation of hospital or extensive care facilities; or

(D) A committee having the responsibility of evaluation and improvement of the quality of care rendered in a long-term care facility.

35-17-102. Authority to establish professional standard review organizations.

Any local, county or state medical, dental, nursing, optometric, osteopathic, emergency medical or pharmacy society in Wyoming is hereby authorized to establish a professional standard review organization as defined in W.S. 35-17-101.

35-17-103. Exemption from liability; exception.

Any professional standard review organization or a society or person rendering services as a member of a professional standard review organization functioning pursuant to this act is not liable either independently or jointly for any civil damages as a result of acts or omissions in his capacity as a member of any such organization or society. Such persons or organizations or societies are not immune from liability for intentional or malicious acts or omissions resulting in harm or any grossly negligent acts or omissions resulting in harm.

35-17-104. Exemption from liability for witnesses.

(a) Notwithstanding any other provision of law, no person providing information to any professional standard review organization shall be held, by reason of having provided such

information, to have violated any criminal law, or to be civilly liable under any law unless:

(i) The information is unrelated to the performance of the duties and functions of the professional standard review organization; or

(ii) The information is false and the person providing the information knew or had reason to know that the information was false.

35-17-105. Information of review organizations to be confidential and privileged.

All reports, findings, proceedings and data of the professional standard review organizations is confidential and privileged, and is not subject to discovery or introduction into evidence in any civil action, and no person who is in attendance at a meeting of the organization shall be permitted or required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the organization or as to any findings, recommendations, evaluations, opinions or other actions of the organization or any members thereof. However, information, documents or other records otherwise available from original sources are not to be construed as immune from discovery or use in any civil action merely because they were presented during proceedings of the organization, nor should any person who testifies before the organization or who is a member of the organization be prevented from testifying as to matters within his knowledge, but that witness cannot be asked about his testimony before the organization or opinions formed by him as a result of proceedings of the organization.

35-17-106. Election to be covered by federal immunity.

(a) The state of Wyoming elects to be immediately covered by the immunity granted by the Health Care Quality Improvement Act of 1986, P.L. 99-660, Title IV adopted by Congress in 1986, to the extent authorized, as of the effective date of this section for all health care professional review bodies as defined in the act, for the applicable division of the department of health in its duties under W.S. 33-36-101 through 33-36-115 related to emergency medical services and for:

(i) The board of dental examiners, W.S. 33-15-101 through 33-15-131;

(ii) The state board of nursing, W.S. 33-21-120 through 33-21-156;

(iii) The state board of examiners in optometry, W.S. 33-23-101 through 33-23-116;

(iv) The state board of pharmacy, W.S. 33-24-101 through 33-24-151;

(v) The state board of medicine, W.S. 33-26-201 through 33-26-203;

(vi) The board of registration in podiatry, W.S. 33-9-101 through 33-9-113;

(vii) The board of chiropractic examiners, W.S. 33-10-101 through 33-10-117; and

(viii) The Wyoming workers' compensation medical commission and any health care provider providing peer reviews or independent medical evaluations, reviews or opinions, W.S. 27-14-101 through 27-14-902.

(b) Boards named in subsection (a) of this section shall comply with the physician reporting requirements as set forth in P.L. 99-660, Title IV.

CHAPTER 18 - MOBILE HOME WARRANTIES

35-18-101. Short title.

This act shall be known and may be cited as the "Mobile Home Warranty Act of 1975".

35-18-102. Definitions.

(a) As used in this act:

(i) "Defect" means any insufficiency in the performance, construction, components or material of a mobile home that renders the home or any of its parts not fit for the ordinary use for which it was intended or for human habitation;

(ii) "Defect which constitutes an imminent safety hazard" means any defect which presents an imminent and unreasonable risk of death or severe personal injury under the

National Mobile Home Construction and Safety Standards Act of 1974 and standards and regulations promulgated pursuant thereto;

(iii) "Delivery date" means the date on which a mobile home is physically delivered to the site chosen by the mobile home owner;

(iv) "Mobile home" means a transportable structure which exceeds either eight (8) body feet in width or thirty-two (32) body feet in length, built on a chassis and designed to be used with or without a permanent foundation, when connected to required utilities, for human occupancy as a residence, or as a temporary or permanent office. The term may include one (1) or more components which can be retracted for towing and subsequently expanded for additional capacity, or two (2) or more units separately towable but designed to be joined into one (1) single unit, as well as a transportable structure designed as a single unit. For purposes of this act only, the term includes the plumbing, heating and electrical systems and all appliances, equipment, furniture and other personal property contained in or affixed to a mobile home on the delivery date;

(v) "Mobile home dealer" or "dealer" means a person who, for anything of value, sells, exchanges, buys or rents, or attempts to negotiate a sale or exchange of an interest in mobile homes, or who is engaged wholly or in part in the business of selling mobile homes, whether or not the mobile homes are owned by him, excluding:

(A) A receiver, trustee, administrator, executor, guardian or other person appointed by or acting under the judgment or order of any court;

(B) Any public officer while performing his official duty;

(C) Any employee of a person enumerated in subparagraph (A) or (B) of this paragraph;

(D) Any finance agency as defined in W.S. 34.1-2-104; and

(E) A person transferring a mobile home registered in his own name and used for his personal, family or household purposes, if the transfer is an occasional sale and is not part of the business of the transferor.

(vi) "Mobile home manufacturer" or "manufacturer" means any person in or out of this state who manufactures or assembles mobile homes for sale in this state;

(vii) "Mobile home owner" or "owner" means any person who purchases or leases a mobile home primarily for personal, family or household purposes, or for business purposes;

(viii) "Mobile home salesperson" or "salesperson" means any person who is employed by a mobile home manufacturer or dealer to sell or lease mobile homes;

(ix) "New mobile home" means a mobile home which has never been occupied, used or sold for personal or business use;

(x) "Gives notice" means as defined in W.S. 34.1-1-201(a)(xxvi);

(xi) "Notification" means as defined in W.S. 34.1-1-201(a)(xxvii);

(xii) "Person" means as defined in W.S. 34.1-1-201(a)(xxx);

(xiii) "Used mobile home" means a mobile home which has previously been occupied, used or sold for personal or business use;

(xiv) "This act" means W.S. 35-18-101 through 35-18-110.

35-18-103. Written warranty; contents.

(a) A written warranty is required for every new mobile home sold or leased by a mobile home manufacturer, dealer or salesperson in this state, and for every new mobile home sold by any person who induces a resident of this state to enter into the transaction by personal solicitation in this state or by mail or telephone solicitation directed to the particular customer in this state. The mobile home warranty from the manufacturer or dealer to the buyer shall be set forth in a separate written document entitled "mobile home warranty", shall be delivered to the buyer by the dealer or manufacturer before the time the contract of sale is signed, and shall contain, but is not limited to, the following terms:

(i) The mobile home meets federal mobile home construction and safety standards and those standards prescribed by law or administrative rule, if any, of the mobile homes council, which are in effect at the time of its manufacture;

(ii) The mobile home is free from defects if it receives reasonable care and maintenance;

(iii) The mobile home manufacturer or dealer shall take corrective action for defects for which the mobile home owner has given notice to the manufacturer or dealer not later than one (1) year after the delivery date. The mobile home manufacturer or dealer shall make the appropriate adjustments and repairs, within sixty (60) days after notification of the defect, at the site of the mobile home without charge to the mobile home owner, provided, however, that neither manufacturer nor dealer shall be liable for any defect in the mobile home which is the result of improper setup, move, materials furnished or work done by persons other than manufacturer or dealer unless the work was performed by persons under contract or connected by agency with the manufacturer or dealer;

(iv) The mobile home manufacturer or dealer shall take corrective action for any defect which constitutes an imminent safety hazard under applicable federal mobile home construction and safety standards for which the mobile home owner has given notice to the manufacturer or dealer. The mobile home manufacturer or dealer shall bring the mobile home into compliance with applicable standards and correct the defect or have the defect corrected within a reasonable period of time at the site of the mobile home without charge to the owner, but only if:

(A) The defect presents an unreasonable risk of injury or death to occupants of the affected mobile home; or

(B) The defect is related to an error in design or assembly of the mobile home by the manufacturer.

(v) If a repair, replacement, substitution or alteration is made under the warranty and it is discovered, before or after the expiration of the warranty period, that the repair, replacement, substitution or alteration has not restored the mobile home to the condition in which it was warranted except for reasonable wear and tear, such failure shall be deemed a violation of the warranty and the mobile home shall be restored to the condition in which it was warranted to be at the

time of the sale except for reasonable wear and tear, at no cost to the purchaser or his assignees, notwithstanding that the additional repair may occur after the expiration of the warranty period;

(vi) The manufacturer and dealer shall be jointly and severally liable to the buyer for the fulfillment of the terms of warranty, and the buyer may give notice to either one (1) or both of the defect. Notice to either the manufacturer or dealer shall be considered notice to both the manufacturer and dealer. The address and the phone number of where to mail or deliver written notices for both the manufacturer and dealer shall be set forth in the warranty; and

(vii) If during any period of time after notification of a defect the mobile home is unhabitable because of the defect, that period of time shall not be considered part of the one (1) year warranty period.

(b) Any transfer of a mobile home from one (1) owner or lessee to another during the effective period of the warranty does not terminate the warranty, and subsequent owners or lessees shall be entitled to the full protection of the warranty for the duration of the warranty period as if the original owner or lessee had not transferred the mobile home.

35-18-104. Implied warranty; indemnity.

Whether or not the written warranty required in W.S. 35-18-103 is delivered to the buyer, there exists an implied warranty to the same extent and in the same circumstances as the written warranty therein provided for, which is binding upon both the dealer and manufacturer. If the dealer makes the adjustments required under W.S. 35-18-103(a)(iii), (iv)(A) and (B) and (v) the manufacturer shall fully reimburse the dealer for all such adjustments except those to correct defects willfully caused by the dealer.

35-18-105. Cumulative remedies; proscription against waiver.

Remedies of a mobile home buyer or other person under the warranty provided in W.S. 35-18-103 and 35-18-104 are those otherwise provided by law. The warranty under W.S. 35-18-103 and 35-18-104 is in addition to and not in derogation of all other rights and privileges which a mobile home buyer or other person may have under any other law or instrument. The contractual

waiver of any remedies under any law and the waiver, exclusion, modification or limitation of any warranty, express or implied, including the implied warranty of merchantability and fitness for a particular purpose, is expressly prohibited, is contrary to public policy and is unenforceable and void unless permitted by this act.

35-18-106. Sale or lease of used mobile homes; inspection; responsibility for repair.

(a) In the sale or lease of any used mobile home by a mobile home dealer, the sales invoice or lease agreement shall contain the point of manufacture of the used mobile home, the name of the manufacturer and the name and address of the previous owner.

(b) No sale or lease of a used mobile home by a mobile home dealer on an "as is" or "with all faults" basis shall be effective to exclude or modify an implied warranty of merchantability or an implied warranty of fitness, unless the mobile home buyer or lessee signs a separate writing made by the dealer listing specifically all substantial defects which are to be exempt from warranty, or unless the defects would not have been discovered by a reasonable inspection by the dealer or lessor before consummation of the sale or lease.

(c) Directly above the customer's signature the following notice shall be printed all in capital letters:

"THIS IS A LIST OF DEFECTS TO BE EXEMPT FROM WARRANTY IN THIS MOBILE HOME. IF YOU SIGN THIS WRITING, YOU AGREE THAT THE DEALER IS NOT RESPONSIBLE FOR REPAIRING THESE DEFECTS."

35-18-107. Lessee's rights.

Action by a lessee to enforce his rights under this act shall not be grounds for termination of the rental agreement.

35-18-108. Injunctive relief.

The county attorney of any county or the attorney general or the mobile homes council may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery or installation of mobile homes for which written warranties are required under this act, upon an affidavit of the county attorney or attorney general, or the mobile homes council specifying instances of noncompliance with the requirements of

this act which illustrate a persistent course of conduct in violation of this act.

35-18-109. Penalties.

(a) Any person who knowingly or willfully violates any provision of this act may be fined not more than one thousand dollars ($1,000.00), and each violation shall be considered a separate offense.

(b) Any person who knowingly and willfully violates this act in a manner which threatens the health or safety of any purchaser shall be guilty of an aggravated offense and may additionally be fined not more than one thousand dollars ($1,000.00) or imprisoned not more than one (1) year, or both, and each violation is a separate offense.

(c) Any person recovering a judgment based on an act or omission by the manufacturer, dealer or salesperson, which constituted a violation of this act, shall be entitled to recover reasonable attorney's fees in addition to other recoverable costs. Such fees and costs shall be credited to any fine under subsections (a) and (b) of this section.

35-18-110. Jurisdiction and venue over nonresident manufacturers and dealers.

(a) A court of this state shall exercise jurisdiction over nonresident mobile home manufacturers and dealers on the basis of their conduct of business within this state, whether or not the importation or sale is accomplished directly or indirectly through agents, dealers, representatives or transferees.

(b) No mobile home shall be imported into this state unless the manufacturer, dealer and their agents, distributors and transferees undertake to provide the warranty required by this act for the benefit of the purchaser.

(c) Each importation of a mobile home for sale in this state by a nonresident manufacturer or dealer is an irrevocable appointment by the manufacturer or dealer or the secretary of state to be his lawful attorney upon whom may be served all legal processes in any action or proceeding against the manufacturer or dealer arising out of the importation of the mobile home into this state.

(d) The secretary of state upon whom processes and notices may be served under this section shall, upon being served with process or notice, mail a copy by registered mail to the nonresident manufacturer or dealer at the nonresident address given in the papers served. The original shall be returned with proper certificate of service attached for filing in court as proof of service. The service fee shall be two dollars and fifty cents ($2.50) for each defendant served. The secretary of state shall keep a record of all such processes and notices, which record shall show the day and hour of service.

CHAPTER 19 - DETERMINATION OF DEATH

35-19-101. Determination of death.

An individual who has sustained either irreversible cessation of circulatory and respiratory functions, or irreversible cessation of all functions of the entire brain including the brain stem, is dead. A determination of death shall be made in accordance with accepted medical standards.

35-19-102. Uniformity of construction and application.

The Uniform Determination of Death Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of the act among states enacting it.

35-19-103. Short title.

This act, W.S. 35-19-101 through 35-19-103, may be cited as the "Uniform Determination of Death Act."

CHAPTER 20 - ADULT PROTECTIVE SERVICES

35-20-101. Short title.

This act may be cited as the "Adult Protective Services Act".

35-20-102. Definitions.

(a) As used in this act:

(i) "Abandonment" means leaving a vulnerable adult without financial support or the means or ability to obtain food, clothing, shelter or health care;

(ii) "Abuse" means the intentional or reckless infliction, by the vulnerable adult's caregiver, person of trust or authority, professional, family member or other individual of:

(A) Injury;

(B) Unreasonable confinement which threatens the welfare and well being of a vulnerable adult;

(C) Cruel punishment with resulting physical or emotional harm or pain to a vulnerable adult;

(D) Photographing vulnerable adults in violation of W.S. 6-4-304(b);

(E) Sexual abuse;

(F) Intimidation; or

(G) Exploitation.

(iii) "Administrator" means the director of the department of family services or his designee;

(iv) "Caregiver" means any person or in-home service provider responsible for the care of a vulnerable adult because of:

(A) A family relationship;

(B) Voluntary assumption of responsibility for care;

(C) Court ordered responsibility or placement;

(D) Rendering services in an adult workshop or adult residential program;

(E) Rendering services in an institution or in a community-based program; or

(F) Acceptance of a legal obligation or responsibility to the vulnerable adult through a power of attorney, advance health care directive or other legal designation.

(v) "Court" means the district court in the district where the vulnerable adult resides or is found;

(vi) Repealed By Laws 2002, Sp. Sess., Ch. 86, § 3.

(vii) "Department" means the state department of family services or its designee;

(viii) "Emergency services" means those services that may be provided to assist vulnerable adults to prevent or terminate abuse, neglect, exploitation, intimidation or abandonment until the emergency has been resolved;

(ix) "Exploitation" means the reckless or intentional act taken by any person, or any use of the power of attorney, conservatorship or guardianship of a vulnerable adult, to:

(A) Obtain control through deception, harassment, intimidation or undue influence over the vulnerable adult's money, assets or property with the intention of permanently or temporarily depriving the vulnerable adult of the ownership, use, benefit or possession of his money, assets or property;

(B) In the absence of legal authority:

(I) Employ the services of a third party for the profit or advantage of the person or another person to the detriment of a vulnerable adult;

(II) Force, compel, coerce or entice a vulnerable adult to perform services for the profit or advantage of another against the will of the vulnerable adult.

(C) Intentionally misuse the principal's property and, in so doing, adversely affect the principal's ability to receive health care or pay bills for basic needs or obligations; or

(D) Abuse the fiduciary duty under a power of attorney, conservatorship or guardianship.

(x) Repealed By Laws 2002, Sp. Sess, Ch. 86, § 3.

(xi) "Neglect" means the deprivation of, or failure to provide, the minimum food, shelter, clothing, supervision, physical and mental health care, other care and prescribed

medication as necessary to maintain a vulnerable adult's life or health, or which may result in a life-threatening situation. The withholding of health care from a vulnerable adult is not neglect if:

(A) Treatment is given in good faith by spiritual means alone, through prayer, by a duly accredited practitioner in accordance with the tenets and practices of a recognized church or religious denomination;

(B) The withholding of health care is in accordance with a declaration executed pursuant to W.S. 35-22-401 through 35-22-416; or

(C) Care is provided by a hospice licensed in accordance with and pursuant to W.S. 35-2-901 through 35-2-910.

(xii) "Protective services" means those emergency services that are provided in a coordinated effort facilitated by the department within communities to assist vulnerable adults to prevent or terminate abuse, neglect, exploitation, intimidation or abandonment until the vulnerable adult no longer needs those services. These services may include social casework, case management, emergency, short term in-home services such as homemaker, personal care or chore services, day care, social services, psychiatric or health evaluations and other emergency services consistent with this act;

(xiii) Repealed By Laws 2002, Sp. Sess., Ch. 86, § 3.

(xiv) "Capacity to consent" means the ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including, provisions for health or mental health care, food, shelter, clothing, safety or financial affairs. This determination may be based on assessment or investigative findings, observation or medical or mental health evaluations;

(xv) "Injury" means any harm, including disfigurement, impairment of any bodily organ, skin bruising, laceration, bleeding, burn, fracture or dislocation of any bone, subdural hematoma, malnutrition, dehydration or pressure sores;

(xvi) "Mental disability" means a condition causing mental dysfunction resulting in an inability to manage resources, carry out the activities of daily living or protect oneself from neglect, abuse, exploitation or hazardous

situations without assistance from others. Whether or not a mental dysfunction of such degree exists is subject to an evaluation by a licensed psychologist, psychiatrist or other qualified licensed mental health professional or licensed physician, if disputed;

(xvii) "Self neglect" means when a vulnerable adult is unable, due to physical or mental disability, or refuses to perform essential self-care tasks, including providing essential food, clothing, shelter or medical care, obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety, or managing financial affairs;

(xviii) "Vulnerable adult" means any person eighteen (18) years of age or older who is unable to manage and take care of himself or his money, assets or property without assistance as a result of advanced age or physical or mental disability;

(xix) "Substantiated report" means any report of abandonment, abuse, exploitation, intimidation or neglect pursuant to this act that is determined upon investigation to establish by a preponderance of the evidence the alleged abandonment, abuse, exploitation, intimidation or neglect;

(xx) "Intimidation" means the communication by word or act to a vulnerable adult that he, his family, friends or pets will be deprived of food, shelter, clothing, supervision, prescribed medication, physical or mental health care and other medical care necessary to maintain a vulnerable adult's health, financial support or will suffer physical violence;

(xxi) "Advanced age" means a person who is sixty (60) years of age or older;

(xxii) "Sexual abuse" means sexual contact including, but not limited to, unwanted touching, all types of sexual assault or battery as defined in W.S. 6-2-302 through 6-2-304, sexual exploitation and sexual photographing;

(xxiii) "This act" means W.S. 35-20-101 through 35-20-116.

35-20-103. Reports of abuse, neglect, exploitation, intimidation or abandonment of vulnerable adult; reports maintained in central registry.

(a) Any person or agency who knows or has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, exploited, intimidated or abandoned or is committing self neglect shall report the information immediately to a law enforcement agency or the department. Anyone who in good faith makes a report pursuant to this section is immune from civil liability for making the report.

(b) The report may be made orally or in writing. The report shall provide to law enforcement or the department the following, to the extent available:

(i) The name, age and address of the vulnerable adult;

(ii) The name and address of any person responsible for the vulnerable adult's care;

(iii) The nature and extent of the vulnerable adult's condition;

(iv) The basis of the reporter's knowledge;

(v) The names and conditions of the other residents, if the vulnerable adult resides in a facility with other vulnerable adults;

(vi) An evaluation of the persons responsible for the care of the residents, if the vulnerable adult resides in a facility with other vulnerable adults;

(vii) The adequacy of the facility environment;

(viii) Any evidence of previous injuries;

(ix) Any collaborative information; and

(x) Any other relevant information.

(c) After receipt of a report that a vulnerable adult is suspected of being or has been abused, neglected, exploited, intimidated or abandoned or is committing self neglect, the department shall notify law enforcement and may request assistance from appropriate health or mental health agencies.

(d) If law enforcement receives a report that a vulnerable adult is suspected of being or has been abused, neglected,

exploited, intimidated or abandoned, or is committing self neglect, law enforcement shall notify the department concerning the potential need of the vulnerable adult for protective services.

(e) Any report or notification to the department that a vulnerable adult is, or is suspected of being, abused, neglected, exploited, intimidated or abandoned, or is committing self neglect, shall be investigated, a determination shall be made whether protective services are necessary and, whether an individual instruction exists under W.S. 35-22-401 through 35-22-416. If determined necessary, protective services shall be furnished by the department within three (3) days from the time the report or notice is received by the department. The investigation may include a visit to the facility in which the vulnerable adult resides and an interview with the vulnerable adult.

(f) Each substantiated report of abuse, neglect, exploitation, intimidation or abandonment of a vulnerable adult pursuant to this act shall be entered and maintained within the central registry of vulnerable adult protection cases under W.S. 35-20-115.

35-20-104. Department to coordinate services; rules and regulations.

(a) The department shall:

(i) Coordinate a protective services program consistent with this act, with the goal of ensuring that every vulnerable adult in need of protective services will have access to protective services;

(ii) Adopt rules, regulations and standards for services provided by the department necessary to effect the provisions and purposes of this act;

(iii) Develop and maintain statistical data which set forth referrals by type of incidence and disposition pursuant to this act but which do not contain personally identifiable information;

(iv) Provide appropriate training to all investigative agency personnel;

(v) Assign designated workers for adult protective services within the department to carry out the activities of this chapter;

(vi) Develop, facilitate and participate in local multidisciplinary community-based adult protection teams that discuss adult protection issues.

35-20-105. Protective services; no services without consent; responsibility for costs.

(a) The department may furnish protective services in response to a request for assistance from the vulnerable adult, his caregiver, conservator, guardian, guardian ad litem or agent, or a family member. The department shall not serve as a caregiver.

(b) Except under conditions provided for in W.S. 35-20-106 no vulnerable adult shall be required to accept protective services without his consent or, if he lacks the capacity to consent, the consent of his caregiver, conservator, guardian, guardian ad litem or agent, or a family member.

(c) Costs incurred to furnish protective services, including but not limited to fees for the services of a guardian ad litem, guardian or conservator, may be paid by the department unless:

(i) The vulnerable adult is eligible for protective services from another governmental agency or any other source, taking into consideration any personal assets or financial resources and services that can be provided under Medicaid or any other available indigency program for which the vulnerable adult may qualify; or

(ii) A court appoints a guardian ad litem, guardian or conservator and orders that the costs be paid from the vulnerable adult's estate.

35-20-106. Petition by department when caregiver refuses to allow services; injunction.

(a) When a vulnerable adult needs protective services and the caregiver refuses to allow the provision of those services, the department, through the attorney general or the district attorney, may petition the court for an order enjoining the

caregiver from interfering with the provision of protective services.

(b) The petition shall allege facts sufficient to show that the vulnerable adult needs protective services, that he consents or lacks the capacity to consent to receive the services and that the caregiver refuses to allow the protective services.

(c) If the court finds the allegations of the petition to be true by a preponderance of the evidence, it may:

(i) Enjoin the caregiver from interfering with the provision of protective services; and

(ii) Order the department to assist in facilitating the coordination of community resources, including service providers, churches and individuals or agencies to provide protective services to the extent those protective services are available.

35-20-107. Emergency services.

(a) If an emergency exists and the department has reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, self neglect, exploitation, intimidation or abandonment and lacks the capacity to consent to the provision of protective services, the department, through the attorney general or the district attorney, may petition the court for an order for emergency protective services.

(b) The court shall give notice to the vulnerable adult who is the subject of the petition at least twenty-four (24) hours prior to the hearing. The court may dispense with notice if it finds that immediate or reasonably foreseeable physical harm to the vulnerable adult will result from the twenty-four (24) hour delay and that reasonable attempts have been made to give notice.

(c) The allegations of the petition shall be proved by a preponderance of the evidence. If the court finds that the vulnerable adult has been or is being abused, neglected, exploited, intimidated or abandoned, or is committing self neglect, that an emergency exists and that the vulnerable adult lacks the capacity to consent to the provision of services, the court may order the department to provide protective services on an emergency basis. The court shall order only those services

necessary to remove the conditions creating the emergency and shall specifically designate the authorized services. The order for emergency protective services shall remain in effect for a period not to exceed fourteen (14) days. The order may be extended for up to an additional thirty (30) day period if the court finds that the extension is necessary to remove the emergency. The vulnerable adult, his agent, his court appointed representative or the department, through the attorney general or the district attorney, may petition the court to set aside or modify the order at any time.

(d) The vulnerable adult may be placed by the court in a hospital or other suitable facility which is appropriate under the circumstances. The person, hospital or facility in whose care the vulnerable adult is placed shall immediately notify the person responsible for the care and custody of the vulnerable adult, if known, of the placement. Notification shall not be required if the alleged perpetrator is the person responsible for the care and custody of the vulnerable adult unless the court orders the notification.

35-20-108. Records confidential; exception.

Except as provided under W.S. 35-20-116, records of the department or other agency or the court pertaining to a vulnerable adult receiving protective services under this act are not open to public inspection. Information contained in those records shall not be disclosed to the public in any manner that will identify any individual. The records may be made available for inspection only upon application to the court pursuant to W.S. 35-20-112 for good cause shown.

35-20-109. Repealed By Laws 2002, Ch. 86, § 3.

35-20-110. When access to vulnerable adult denied; injunction.

If access to the vulnerable adult is denied to law enforcement or the department seeking to investigate a report of abuse, neglect, exploitation, intimidation, abandonment or self neglect of a vulnerable adult, the investigator may seek an injunction to prevent interference with the investigation. The court may issue the injunction if it finds that the person whose duty it is to investigate the report is acting within the scope of his duty and has been unreasonably denied access to the vulnerable adult.

35-20-111. Duty to report.

(a) The duty to report imposed by W.S. 35-20-103 applies without exception to a person or agency who knows, or has sufficient knowledge which a prudent and cautious man in similar circumstances would have to believe, that a vulnerable adult has been or is being abused, neglected, exploited, intimidated or abandoned, or is committing self neglect.

(b) Any person or agency who knows or has sufficient knowledge which a prudent and cautious man in similar circumstances would have to believe that a vulnerable adult is being or has been abused, neglected, exploited, intimidated or abandoned, or is committing self neglect, and knowingly fails to report in accordance with this act is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars ($1,000.00), or both.

35-20-112. Confidentiality of records; penalties; access to information.

(a) All records concerning reports and investigations of vulnerable adult abuse, neglect, exploitation, intimidation, abandonment or self neglect are confidential except as provided by W.S. 35-20-116 and except that the record shall be available to the vulnerable adult who is the subject of the record, his legal guardian, an agent under an advance healthcare directive as provided in W.S. 35-22-403, a healthcare surrogate as provided in W.S. 35-22-406, the personal representative of a deceased vulnerable adult or a decedent's wrongful death representative appointed to bring an action for the benefit of the vulnerable adult's beneficiaries. Names of other vulnerable adults shall be redacted from the records prior to disclosure pursuant to this subsection. Records shall not be disclosed, however, to any person named as a perpetrator of abuse, neglect, exploitation, intimidation or abandonment of a vulnerable adult. Any person who intentionally violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

(b) The following records are confidential and not subject to disclosure under W.S. 16-4-201 through 16-4-205:

(i) A report of abuse, neglect, exploitation, intimidation, abandonment or self neglect under this act;

(ii) The identity of the person making the report; and

(iii) Except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under this act or in providing services as a result of an investigation.

(c) Upon application made in the manner and form prescribed by the department, the department may give access to records otherwise confidential under this section to any of the following persons or agencies for purposes directly related with the administration of this act:

(i) A local adult protective agency;

(ii) A law enforcement agency, guardian ad litem, conservator, guardian, adult protection team or attorney representing the vulnerable adult who is the subject of the report;

(iii) A physician or surgeon who is treating a vulnerable adult; and

(iv) Court personnel who are investigating reported incidents of adult abuse, neglect, exploitation, intimidation or abandonment.

(d) Motions for access to records concerning vulnerable adult abuse, neglect, exploitation, intimidation, abandonment or self neglect held by the state agency or local protective agency shall be made with the district court in the county where the vulnerable adult resides. A court may order disclosure of confidential records only if:

(i) A motion is filed with the court requesting:

(A) Release of the records; and

(B) A hearing on the request for release of the records; or

(C) All interested parties stipulate to the release.

(ii) The motion for hearing is served on the department or investigating state agency and each interested party; and

(iii) The court determines after the hearing and an in-camera review of the records that disclosure is necessary for the determination of all issues, in which case disclosure shall be limited to an in-camera inspection, or specifically limited disclosure, unless the court finds public disclosure is necessary.

(e) The department or investigating state agency may establish procedures to exchange with another state agency or governmental entity records that are necessary for the department, state agency or entity to properly execute its respective duties and responsibilities to provide services to vulnerable adults under this act or other law. An exchange of records under this subsection does not affect whether the records are subject to disclosure under W.S. 16-4-201 through 16-4-205.

(f) A physician or person in charge of an institution, school, facility or agency making a report under W.S. 35-20-111 shall receive, upon written application to the state agency, a written summary of the records concerning the subject of the report.

(g) Any person, agency or institution given access to records concerning the subject of the report under W.S. 35-20-111 shall not divulge or make public any records except as required for court proceedings.

(h) Confidential records may be disclosed only for a purpose consistent with this act and as provided by department or investigating state agency rules and regulations and applicable federal law.

35-20-113. False report; penalty.

A person commits a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars ($1,000.00), or both, if he reports information pursuant to this act and knows or has reason to know the information is false or lacks factual foundation.

35-20-114. Immunity.

(a) A person or agency filing a report under this act or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of the person's petition, report, testimony or participation, unless the person knowingly or negligently reports information that is false or lacks factual foundation. The immunity provided under this subsection applies only to those persons whose professional communications are generally confidential or subject to the Wyoming Public Records Act, W.S. 16-4-201 et seq. including:

(i) Attorneys;

(ii) Members of the clergy;

(iii) Medical practitioners;

(iv) Social workers;

(v) Mental health professionals;

(vi) Nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker, or other professional adult care, residential or institutional staff;

(vii) State, county or municipal criminal justice employees or law enforcement officers; and

(viii) Bank, savings and loan or credit union officers, trustees or employees.

(b) A person or agency, including an authorized department volunteer, medical personnel or law enforcement officer who, at the request of the department, participates in an investigation required by this act or in an action that results from that investigation is immune from civil or criminal liability for any act or omission relating to that participation if the person acted in good faith and, if applicable, within the course or scope of the person’s assigned responsibilities or duties.

35-20-115. Central registry of adult protection cases; establishment; operation; amendment, expungement or removal of records; classification and expungement of reports; statement of person accused.

(a) The department shall establish and maintain a record of all adult protection reports and a central registry of under investigation and substantiated adult protection cases under this act.

(b) Through the recording of reports, the department's recordkeeping system shall be operated to assist the department to:

(i) Immediately identify and locate prior reports of cases of abuse, neglect, exploitation, intimidation or abandonment of a vulnerable adult to assist in the diagnosis of suspicious circumstances and the assessment of the needs of the vulnerable adult and his caregiver;

(ii) Continuously monitor the current status of all pending adult protection cases;

(iii) Evaluate the effectiveness of existing laws and programs through the development and analysis of statistical and other information; and

(iv) Maintain a central registry of "under investigation" reports and "substantiated" reports of abuse or neglect of vulnerable adults for provision of information to qualifying applicants pursuant to W.S. 35-20-116. Within six (6) months of being placed in the central registry, all reports classified as "under investigation" shall be reclassified as "substantiated" or expunged from the central registry, unless the state agency is notified of an open criminal investigation or criminal prosecution. Unsubstantiated reports shall not be contained within the central registry.

(c) Upon written application of the department or any substantiated person and upon good cause shown and notice to the department, the subject of the report and all interested parties, the department may amend, expunge or remove any record from the central registry.

(d) Any person named as a perpetrator of abuse, neglect, exploitation, intimidation or abandonment of any vulnerable adult in any substantiated report maintained in the central registry shall have the right to have included in the report a statement concerning the incident giving rise to the report. Any person seeking to include a statement pursuant to this subsection shall provide the department with the statement. The department shall provide notice to any person identified as a

perpetrator of this right to submit a statement in any substantiated report maintained in the central registry.

(e) Any person convicted of, or having pled guilty or no contest to, a crime which includes the abuse, neglect, exploitation, intimidation or abandonment of any vulnerable adult shall have that conviction reported to the department by the court and the report shall be maintained in the central registry.

35-20-116. Access to central registry records pertaining to adult protection cases; child and vulnerable adult abuse and registry account.

(a) Upon appropriate application and for employee or volunteer screening purposes, the department shall provide to any employer or entity whose employees or volunteers may have unsupervised access to vulnerable adults in the course of their employment or volunteer service a record summary concerning abuse, neglect, exploitation or abandonment of a vulnerable adult involving a named individual or shall confirm that no record exists. The state agency shall provide the results of the records check to the applicant by certified mail if the records check confirms the existence of a report "under investigation" or a "substantiated" finding of abuse or neglect. Otherwise, the state agency shall provide the results of the records check to the applicant in accordance with agency rules and by United States mail. The written results shall confirm that there is a report "under investigation", a "substantiated" finding of abuse or neglect on the central registry naming the individual or confirm that no record exists. When the individual is identified on the registry as a "substantiated" perpetrator of abuse or neglect, the report to the applicant shall contain information with respect to the date of the finding, specific type of abuse or neglect, a copy of the perpetrator's voluntary statement and whether an appeal is pending. Any applicant receiving a report under this section identifying an individual as "under investigation" shall be notified by the department as to the final disposition of that investigation and whether an appeal is pending. The applicant, or an agent on behalf of the applicant, shall submit a fee in an amount determined by rule of the department and proof satisfactory to the department that the prospective or current employee or volunteer whose records are being checked consents to the release of the information to the applicant. The applicant shall use the information received only for purposes of screening prospective or current employees and volunteers who

may, through their employment or volunteer services, have unsupervised access to vulnerable adults. Applicants, their employees or other agents shall not otherwise divulge or make public any information received under this section. The department shall notify any applicant receiving information under this subsection of any subsequent reclassification of the information pursuant to W.S. 35-20-115(c). The department shall screen all prospective employees in conformity with the procedure provided under this subsection.

(b) There is created a program administration account to be known as the child and vulnerable adult abuse registry account. All fees collected under subsection (a) of this section shall be credited to this account.

(c) Any person may request a central registry screen and summary report on themselves as provided by subsection (a) of this section upon payment of the fee required by subsection (a) of this section.

35-20-117. Civil cause of action for exploitation of vulnerable adults.

(a) A vulnerable adult shall have a cause of action against any person who has exploited the vulnerable adult. The vulnerable adult may recover actual damages, punitive damages and reasonable attorney's fees for the exploitation of the vulnerable adult. The action may be brought in any court of competent jurisdiction. The action may be brought by the vulnerable adult or any of the following:

(i) The vulnerable adult's guardian, conservator or other fiduciary acting for the vulnerable adult;

(ii) The personal representative of the estate of a deceased vulnerable adult;

(iii) The vulnerable adult's agent as defined by W.S. 3-9-102(a)(i);

(iv) The vulnerable adult's spouse, parent or descendant;

(v) A person authorized to make health care decisions for the vulnerable adult;

(vi) A person who would qualify as a presumptive heir of the vulnerable adult;

(vii) A person named as a beneficiary to receive any property, benefit or contractual right on the vulnerable adult's death or as a beneficiary of a trust created by or for the vulnerable adult that has a financial interest in the vulnerable adult's estate;

(viii) The vulnerable adult's caregiver or another person that demonstrates sufficient interest in the vulnerable adult's welfare;

(ix) A person asked to accept the vulnerable adult's power of attorney;

(x) The nursing care facility where the vulnerable adult resides.

CHAPTER 21 - DOMESTIC VIOLENCE PROTECTION

35-21-101. Short title.

This act may be cited as the "Domestic Violence Protection Act".

35-21-102. Definitions.

(a) As used in this act:

(i) "Adult" means a person who is sixteen (16) years of age or older, or legally married;

(ii) "Court" means the circuit court in the county where the alleged victim of domestic abuse resides or is found, where an alleged perpetrator of the domestic abuse resides or is found or where an act of domestic abuse occurred;

(iii) "Domestic abuse" means the occurrence of one (1) or more of the following acts by a household member but does not include acts of self defense:

(A) Physically abusing, threatening to physically abuse, attempting to cause or causing physical harm or acts which unreasonably restrain the personal liberty of any household member;

(B) Placing a household member in reasonable fear of imminent physical harm; or

(C) Causing a household member to engage involuntarily in sexual activity by force, threat of force or duress.

(iv) "Household member" includes:

(A) Persons married to each other;

(B) Persons living with each other as if married;

(C) Persons formerly married to each other;

(D) Persons formerly living with each other as if married;

(E) Parents and their adult children;

(F) Other adults sharing common living quarters;

(G) Persons who are the parents of a child but who are not living with each other; and

(H) Persons who are in, or have been in, a dating relationship.

(v) "Order of protection" means a court order granted for the protection of victims of domestic abuse;

(vi) "Financial responsibility" means an obligation to pay to a provider service fees and other costs and charges associated with the provision of commercial mobile services;

(vii) "Provider" means a person or entity that provides commercial mobile services as defined in 47 U.S.C. § 332(d);

(viii) "This act" means W.S. 35-21-101 through 35-21-112.

35-21-103. Petition for order of protection; contents; prerequisites; appointment of an attorney; award of costs and fees; remote appearance at hearings.

(a) The following persons may petition the court under this act by filing a petition with the circuit court clerk for an order of protection:

(i) The victim;

(ii) If the victim consents, the district attorney on behalf of the victim; or

(iii) Any person with legal authority to act on behalf of the victim if the victim is:

(A) A minor;

(B) A vulnerable adult as defined in W.S. 35-20-102(a)(xviii);

(C) Any other adult who, because of age, disability, health or inaccessibility, cannot file the petition.

(b) The petition shall be made under oath or be accompanied by a sworn affidavit setting out specific facts showing the alleged domestic abuse.

(c) No petitioner is required to file for annulment, separation or divorce as a prerequisite to obtaining an order of protection nor is a person's right to petition for relief affected by that person's leaving the residence or household to avoid domestic abuse.

(d) No filing fee or other court costs or fees shall be assessed or charged to a petitioner seeking an order of protection under this act.

(e) The clerk of the court shall make available standard petition forms with instructions for completion to be used by a petitioner. Forms are to be prepared by the victim services division within the office of the attorney general. Upon receipt of the initial petition by the clerk of the court, the clerk shall refer the matter to the court. The court may appoint an attorney to represent the victim in the action. Nothing in this subsection shall prevent the victim from hiring an attorney or filing a petition pro se.

(f) The court shall not deny a petitioner relief requested pursuant to this act solely because of a lapse of time between

an act of domestic abuse and the filing of the petition for an order of protection.

(g) It shall not be a bar to filing a petition or receiving an order of protection under this act that:

(i) A criminal or civil order is entered in a case pending against the respondent or between the petitioner and respondent;

(ii) The petitioner has petitioned for or received orders of protection in the past or that the petitioner has withdrawn a petition or asked to have orders rescinded; or

(iii) There is evidence of some domestic abuse on the part of the petitioner.

(h) The court may require the respondent to pay costs and fees incurred in bringing an action pursuant to this act including reasonable attorney's fees whether the attorney is court appointed or retained by petitioner.

(j) For any hearing required or authorized for proceedings under this act, the petitioner or other party to the hearing may petition the court to appear at the hearing by remote means. The court may, in its discretion, grant the petition for remote appearance at the hearing, provided that the court is equipped with appropriate audio or video technology to allow the petitioner or other party to fully participate in the hearing.

35-21-104. Temporary order of protection; setting hearing.

(a) Upon the filing of a petition for order of protection, the court shall:

(i) Immediately grant an ex parte temporary order of protection if it appears from the specific facts shown by the affidavit or by the petition that there exists a danger of further domestic abuse;

(ii) Cause the temporary order of protection, together with notice of hearing, to be served on the alleged perpetrator of the domestic abuse immediately, either within or outside of this state;

(iii) Hold a hearing on the petition within seventy-two (72) hours after the granting of the temporary order of

protection or as soon thereafter as the petition may be heard by the court on the question of continuing the order; or

(iv) If an ex parte order is not granted, serve notice to appear upon the parties and hold a hearing on the petition for order of protection within seventy-two (72) hours after the filing of the petition or as soon thereafter as the petition may be heard by the court.

(b) An order of protection issued under this section shall contain a notice that willful violation of any provision of the order constitutes a crime as defined by W.S. 6-4-404, can result in immediate arrest and may result in further punishment. Orders shall also contain notice that a violation that constitutes the offense of stalking as defined by W.S. 6-2-506(b) may subject the perpetrator to enhanced penalties for felony stalking under W.S. 6-2-506(e).

35-21-105. Order of protection; contents; remedies; order not to affect title to property; conditions.

(a) Upon finding that an act of domestic abuse has occurred, the court shall enter an order of protection ordering the respondent household member to refrain from abusing the petitioner or any other household member. The order shall specifically describe the behavior that the court has ordered the respondent to do or refrain from doing. As a part of any order of protection, the court may:

(i) Grant sole possession of the residence or household to the petitioner during the period the order of protection is effective or order the respondent to provide temporary suitable alternative housing for petitioner and any children to whom the respondent owes a legal obligation of support;

(ii) Repealed by Laws 1987, ch. 196, § 2.

(iii) Order that the respondent shall not initiate contact with the petitioner;

(iv) Prohibit the respondent from abducting, removing or concealing any child in the custody of the petitioner;

(v) Restrain the respondent from transferring, concealing, encumbering or otherwise disposing of petitioner's property or the joint property of the parties;

(vi) Order other injunctive relief as the court deems necessary for the protection of the petitioner;

(vii) If, after a hearing, it finds by a preponderance of evidence that an act of domestic abuse has occurred or that there exists a danger of further domestic abuse, require the respondent to participate in counseling or other appropriate treatment for a specified period of time not to exceed the term of the order of protection and any extension of the order of protection granted under W.S. 35-21-106(b);

(viii) If the petitioner is not the account holder, grant the petitioner and order a provider to transfer to the petitioner the sole right to use and sole financial responsibility for a telephone number used by the petitioner or a minor child in the petitioner's custody and terminate in the provider's system the respondent's ability to use, and to access any data associated with, the telephone number. An order issued under this paragraph shall list the name and billing telephone number of the account holder, the name and contact information of the petitioner and each telephone number to be transferred to the petitioner. In issuing an order under this paragraph, the court shall ensure that the petitioner's contact information is not disclosed to the respondent or any account holder. The order shall be served on the provider pursuant to W.S. 35-21-106(e). A provider may, not later than five (5) business days after being served with an order under this paragraph, notify the petitioner and the court that compliance with the order is not possible or practicable because an account holder named in the order has terminated the account, differences in network technology would prevent the functionality of a device on the network or there are geographic limitations on network or service availability. In complying with an order issued under this paragraph, a provider may apply any customary requirements for establishing an account and transferring a telephone number. A provider is immune from civil liability for complying with an order issued under this paragraph;

(ix) Grant sole possession of any household pet, as defined in W.S. 6-3-1001(a)(iii), owned, possessed or kept by the petitioner, the respondent or a minor child residing in the residence or household of either the petitioner or the respondent to the petitioner during the period the order of protection is effective if the order is for the purpose of protecting the household pet;

(x) Order that the respondent shall not have contact with any household pet, as defined in W.S. 6-3-1001(a)(iii), in the custody of the petitioner and prohibit the respondent from abducting, removing, concealing or disposing of the household pet if the order is for the purpose of protecting the household pet.

(b) As part of any order of protection pursuant to subsection (a) of this section, the court shall:

(i) When the court finds it to be in the best interests of the children, award temporary custody of any children involved to the petitioner. The court shall in this instance provide for visitation with the respondent only if adequate provision can be made for the safety of the children and the petitioner. To provide for the safety of the children and the petitioner, the court may:

(A) Order an exchange of children to occur in a protected setting;

(B) Order that visitation be arranged and supervised by another person or agency, and if the other person is a family or household member, establish conditions to be followed during the visitation;

(C) Order the respondent to attend and complete to the court's satisfaction a program of intervention or other designated counseling as a condition of visitation;

(D) Order the respondent to abstain from the consumption of alcohol or controlled substances for up to twenty-four (24) hours before the visitation and during the visitation;

(E) Order the respondent to pay a fee through the court to defray the costs of supervised visitation;

(F) Prohibit overnight visitation;

(G) Require the respondent to post a bond to secure the return and safety of any children; or

(H) Impose any other condition it deems necessary for the safety of the petitioner, the children, or other family or household member.

(ii) Order the payment of child support and when appropriate, temporary support for the petitioner;

(iii) Order the payment of any medical costs incurred by the petitioner as a result of the abuse inflicted by the respondent.

(c) The order shall contain a notice that willful violation of any provision of the order constitutes a crime as defined by W.S. 6-4-404, can result in immediate arrest and may result in further punishment. Orders shall also contain notice that a violation that constitutes the offense of stalking as defined by W.S. 6-2-506(b) may subject the perpetrator to enhanced penalties for felony stalking under W.S. 6-2-506(e).

(d) No order issued under this act shall affect title to any property nor allow the petitioner to transfer, conceal, encumber or otherwise dispose of respondent's property or the joint property of the parties.

(e) Regardless of whether the court provides visitation under subsection (b) of this section, the court shall, if requested by the petitioner, order the address of the petitioner and any children of the petitioner and respondent be kept confidential.

(f) The court may refer an adult petitioner to attend counseling relating to the petitioner's status or behavior as a victim but shall not order or make as a condition of receiving protection that an adult petitioner attend such counseling.

(g) No act of the petitioner or the respondent may be construed to waive or nullify any provision of an order of protection.

(h) The court shall not make any provisions of a single order of protection mutually effective. The court may issue a separate order of protection to each party, provided:

(i) Each party has filed a separate written petition for an order of protection; and

(ii) The court makes specific findings on the record that both parties have committed acts of domestic abuse and that each party is entitled to a separate order of protection.

(j) The form of the order shall be as provided by rule adopted by the Wyoming supreme court.

35-21-106. Service of order; duration and extension of order; violation; remedies not exclusive; order effective during appeal or review.

(a) An order of protection granted under W.S. 35-21-105 shall be filed with the clerk of court and a copy shall be sent by the clerk to the county sheriff who shall, after service, notify the local law enforcement agency within the county in which the petitioner resides. The order shall be personally served upon the respondent, unless the respondent or the respondent's attorney was present in person or by remote means at the time the order was granted.

(b) Except as otherwise provided by this subsection, an order of protection granted by the court under W.S. 35-21-105 shall be effective for a fixed period of time not to exceed three (3) years, subject to the following:

(i) Either party may move to modify, terminate or extend the order. The order may be extended repetitively upon a showing of good cause for additional periods of time not to exceed three (3) years each. Any extension of an order of protection under this paragraph shall be served upon the respondent by mailing the order to the last known address of the respondent on file with the clerk of court by certified and first-class mail, and shall constitute valid notice of the extension;

(ii) If a party subject to an order of protection is sentenced and incarcerated or becomes imprisoned the running of the time remaining for the order of protection shall be tolled during the term of incarceration or imprisonment. The conditions and provisions of an order of protection shall remain in effect during any period of tolling under this paragraph. Upon release from incarceration or imprisonment the effective period of the order of protection shall be the amount of time remaining as of the first day of the term of incarceration or imprisonment or one (1) year from the date of release, whichever is greater. The filing of an action for divorce shall not supersede an order of protection granted under this act.

(c) Willful violation of an order of protection is a crime as defined by W.S. 6-4-404. An order of protection granted under this act has statewide applicability and a criminal

prosecution under this subsection may be commenced in any county in which the respondent commits an act in violation of the order of protection.

(d) The remedies provided by this act are in addition to any other civil or criminal remedy available to the petitioner.

(e) The clerk of the court shall cause that part of an order of protection directing the transfer of a telephone number to a petitioner as provided in W.S. 35-21-105(a)(viii) to be served on the affected provider pursuant to W.S. 17-28-104.

(f) An order of protection granted under this act shall remain effective during the pendency of any appeal or review of the order of protection or any decision to modify or extend the order of protection, unless a court orders a stay during the pendency of the appeal or review.

35-21-107. Emergency assistance by law enforcement officers; limited liability.

(a) A person who allegedly has been a victim of domestic abuse may request the assistance of a local law enforcement agency.

(b) A local law enforcement officer responding to the request for assistance may take whatever steps are reasonably necessary to protect the victim from further domestic abuse, including:

(i) Advising the victim of the remedies available under this act and the availability of shelter, medical care, counseling and other services;

(ii) Providing or arranging for transportation of the victim to a medical facility or place of shelter;

(iii) Accompanying the victim to the residence to remove the victim's personal clothing and effects required for immediate needs and the clothing and personal effects of any children then in the care of the victim;

(iv) Arresting the abusing household member when appropriate;

(v) Advising the victim, when appropriate, of the procedure for initiating proceedings under this act or criminal proceedings and the importance of preserving evidence.

(c) Any law enforcement officer responding to a request for assistance under this act is immune from civil liability when complying with the request, provided that the officer acts in good faith and in a reasonable manner.

35-21-108. Protection orders; priority.

(a) Any order entered in a district court in this state in a proceeding where the petitioner and respondent are parties shall supersede any inconsistent language in any other order entered under this act or in any other court proceeding in this state.

(b) Any order entered under this act shall supersede any inconsistent language in any other order other than one issued by a district court proceeding described in subsection (a) of this section.

(c) Any order allowing the conditional release of a defendant in a criminal proceeding in this state where either the petitioner or the respondent is the named defendant shall include by reference all terms and conditions of an order entered under this act where the petitioner and respondent are parties.

35-21-109. Full faith and credit for valid foreign protection orders; affirmative defense; exclusion.

(a) A valid injunction or order for protection against domestic violence is defined as one:

(i) That was issued by a court of another state, tribe or territory;

(ii) Where the issuing court had jurisdiction over the parties and the matter under the laws of the state, tribe or territory;

(iii) Where the respondent was given reasonable notice and the opportunity to be heard before the order of the foreign state, tribe or territory was issued, provided, in the case of ex parte orders, notice and opportunity to be heard was

given as soon as possible after the order was issued, consistent with due process; and

(iv) Which has not expired.

(b) There shall be a presumption in favor of validity where an order appears valid on its face. The presumption may be rebutted by a showing that the respondent was not given reasonable notice and opportunity to be heard.

(c) A valid protection order shall be accorded full faith and credit by the courts of this state and enforced as if it were issued in this state.

35-21-110. Statewide protection order registry.

(a) The Wyoming attorney general or another agency designated by the governor shall establish a statewide registry of protection orders related to domestic violence and shall maintain a complete and systematic record and index of all valid temporary and final civil and criminal court orders of protection.

(b) The data fields of the statewide registry shall include, but need not be limited to, the following information if available:

(i) The names of the petitioner and any protected parties;

(ii) The name and address of the respondent;

(iii) The date the order was entered;

(iv) The date the order expires;

(v) The relief granted which shall specifically identify the relief awarded and citations related thereto, and designate which of the violations are offenses subject to arrest;

(vi) The judicial district and contact information for court administration for the court in which the order was entered; and

(vii) The social security number, date of birth and physical description of the respondent.

(c) The clerk of the issuing court or the clerk of the court where a foreign order of protection is registered shall send a copy of the protection order to the local sheriff and chief of police who shall promptly enter the protection order into the statewide protection order registry.

(d) The statewide protection order registry shall be accessible twenty-four (24) hours a day, seven (7) days a week to provide courts, prosecutors, dispatchers, the department of corrections and law enforcement officers with data concerning valid protection orders issued within the state or filed as a foreign order for purposes of enforcement in the state.

35-21-111. Filing and registration of foreign protection orders.

(a) A petitioner who obtains a valid order of protection in another state, tribe or territory may file that order by presenting a certified copy of the foreign order to the clerk of district court in the judicial district where the petitioner believes enforcement may be necessary.

(b) Filing shall be without fee or cost.

(c) The clerk of district court shall forward a copy of the foreign protection order to the local sheriff's office and the chief of police for entry into the statewide protection order registry upon application of a petitioner seeking enforcement.

(d) The clerk of district court shall provide the petitioner with a receipt bearing proof of submission of the foreign protection order for entry into the statewide protection order registry system.

(e) Filing and registration of the foreign order in the statewide protection order registry shall not be prerequisites for enforcement of the foreign protection order in this state.

35-21-112. Confidentiality in court proceedings.

(a) Notwithstanding any other provisions of law, in any proceedings before a court of the state of Wyoming, the confidentiality of the address, city and state of residence or any other information identifying the residence of a victim of

domestic abuse shall remain confidential as provided in this section.

(b) The victim of domestic abuse may at any point during the court proceedings file a motion with the court for entry of an order providing for the confidentiality of the address, city and state of residence or any other information identifying the residence of the victim of domestic abuse and any children residing with the victim of domestic abuse during the court proceedings. The motion may be accompanied with all relevant affidavits or documents to establish that the person requesting confidentiality is a victim of domestic abuse and that the person may be subject to additional acts of domestic abuse if confidentiality is not maintained.

(c) Upon a filing of a motion pursuant to subsection (b) of this section, the court shall issue an order prohibiting the release of the address, city and state of residence and any other information identifying the residence of a person if:

(i) The person filing the motion has been granted an order of protection under this act or similar act in another state or territory of the United States and the order of protection remains in effect; or

(ii) The court finds by a preponderance of the evidence that the person is a victim of domestic abuse and that the person may be subject to additional acts of domestic abuse if confidentiality is not maintained.

(d) An order issued under this section shall only provide confidentiality in the action in which it is granted and for those additional purposes specified by law referencing an order issued pursuant to this section.

CHAPTER 22 - LIVING WILL

ARTICLE 1 - IN GENERAL

35-22-101. Repealed By Laws 2005, ch. 161, § 3.

35-22-102. Repealed By Laws 2005, ch. 161, § 3.

35-22-103. Repealed By Laws 2005, ch. 161, § 3.

35-22-104. Repealed By Laws 2005, ch. 161, § 3.

35-22-105. Repealed By Laws 2005, ch. 161, § 3.

35-22-106. Repealed By Laws 2005, ch. 161, § 3.

35-22-107. Repealed By Laws 2005, ch. 161, § 3.

35-22-108. Repealed By Laws 2005, ch. 161, § 3.

35-22-109. Repealed By Laws 2005, ch. 161, § 3.

ARTICLE 2 - CARDIOPULMONARY RESUSCITATION DIRECTIVES

35-22-201. Repealed by Laws 2015, ch. 189, § 2.

35-22-202. Repealed by Laws 2015, ch. 189, § 2.

35-22-203. Repealed by Laws 2015, ch. 189, § 2.

35-22-204. Repealed by Laws 2015, ch. 189, § 2.

35-22-205. Repealed by Laws 2015, ch. 189, § 2.

35-22-206. Repealed by Laws 2015, ch. 189, § 2.

35-22-207. Repealed by Laws 2015, ch. 189, § 2.

35-22-208. Repealed by Laws 2015, ch. 189, § 2.

ARTICLE 3 - PSYCHIATRIC ADVANCE DIRECTIVES

35-22-301. Definitions.

(a) As used in this act:

(i) "Adult" means a person eighteen (18) years of age or older;

(ii) "Agent" means any person authorized in the psychiatric advance directive to make decisions on behalf of the person who executed the directive;

(iii) "Psychiatric advance directive" means an advance medical directive pertaining to the administration or refusal of psychiatric restabilization for the care and treatment of mental illness;

(iv) "Psychiatric personnel" means any licensed physician who specializes in psychiatric care;

(v) "Psychiatric restabilization" means measures to restore mental function or to support mental health in the event of destabilization of mental health due to lack of appropriate treatment. Psychiatric restabilization measures include administration of prescribed liquid medication by mouth or injection, administration of prescribed medication orally, physical restraint, seclusion or crisis psychiatric counseling;

(vi) "This act" means W.S. 35-22-301 through 35-22-308.

35-22-302. Psychiatric advance directives; who may execute.

Any adult who has the decisional capacity to provide informed consent to or refusal of psychiatric restabilization measures or any other person who is, pursuant to the laws of this state or any other state, authorized to consent to or refuse psychiatric restabilization measures on behalf of a person who lacks the decisional capacity, may execute a psychiatric advance directive.

35-22-303. Psychiatric advance directive forms; duties of department of health.

(a) On or before January 1, 2000, the state department of health shall promulgate rules, protocols and forms for the implementation of psychiatric advance directives by psychiatric personnel. The protocols adopted shall include uniform methods for rapid identification of persons who have executed a psychiatric advance directive, methods to protect the confidentiality of persons who have executed a psychiatric advance directive and the information described in subsection (b) of this section. Nothing in this subsection shall be construed to restrict any other manner in which a person may make a psychiatric advance directive. Forms which meet the requirements of law and are consistent with patient rights shall be developed and disseminated throughout the state as recommended forms.

(b) Psychiatric advance directive protocols to be adopted by the state department of health shall, at a minimum, require the following information concerning the person who is the subject of the psychiatric advance directive:

(i) The person's name, date of birth and sex;

(ii) The person's eye and hair color;

(iii) The person's race or ethnic background;

(iv) The person's social security number;

(v) If applicable, the name of a treatment program and the sponsoring facility or institution in which the person is enrolled;

(vi) The name, address and telephone number of the person's attending physician or psychiatric personnel;

(vii) The person's signature or mark or, if applicable, the signature of a person authorized by this article to execute a psychiatric advance directive;

(viii) The date on which the psychiatric advance directive was signed;

(ix) The person's directive concerning the administration or refusal of psychiatric restabilization measures, countersigned by the person's attending physician or psychiatric personnel;

(x) The name, address and telephone number of the person designated as an agent, if applicable, to consent to or refuse psychiatric restabilization measures for the person who has executed a psychiatric advance directive and the signature of that person, indicating acceptance of this appointment.

35-22-304. Duty to comply; immunity; effect on criminal charges against another person.

(a) Emergency medical service personnel in emergency situations if they are aware of the person's psychiatric advance directive, psychiatric personnel, health care providers and health care facilities shall comply with a person's psychiatric advance directive to the extent medically indicated.

(b) Any emergency medical service personnel, psychiatric personnel, health care provider, health care facility or any other person who, reasonably and in good faith, complies with a

psychiatric advance directive shall not be subject to civil or criminal liability or regulatory sanction for such compliance.

(c) Compliance by emergency medical service personnel, psychiatric personnel, health care providers or health care facilities with a psychiatric advance directive shall not affect the criminal prosecution of any person otherwise charged with the commission of a criminal act.

(d) In the absence of a psychiatric advance directive, a person's consent to psychiatric restabilization measures shall not be presumed.

35-22-305. Effect of declaration after inpatient admission.

A psychiatric advance directive for any person who is admitted to a health care facility or mental health facility shall be implemented as directed by the psychiatric advance directive, pending further physician's orders. The psychiatric advance directive may be deviated from only with the consent of the admitted person, his agent, the district court or when adherence to the directive threatens permanent physical injury.

35-22-306. Effect of directive on life or health insurance.

Neither a psychiatric advance directive nor the failure of a person to execute one shall affect, impair or modify any contract of life or health insurance or annuity or be the basis for any delay in issuing or refusing to issue an annuity or policy of life or health insurance or any increase of a premium thereof.

35-22-307. Revocation of psychiatric advance directive.

A psychiatric advance directive may be revoked at any time by the person who is the subject of the directive unless he is mentally incompetent or at any time by any other person who is, pursuant to the laws of this state or any other state, authorized to consent to or refuse psychiatric restabilization measures on behalf of the person who is the subject of the directive.

35-22-308. Duration of psychiatric advance directive.

A psychiatric advance directive shall be valid for a period not to exceed two (2) years from the date of execution unless reaffirmed by the person who executed the directive, in which case it shall be valid for two (2) years from the date of reaffirmation.

ARTICLE 4 - WYOMING HEALTH CARE DECISIONS ACT

35-22-401. Short title.

This act may be cited as the "Wyoming Health Care Decisions Act."

35-22-402. Definitions.

(a) As used in this act:

(i) "Advance health care directive" means an individual instruction or a power of attorney for health care, or both;

(ii) "Agent" means an individual designated in a power of attorney for health care to make a health care decision for the individual granting the power;

(iii) "Artificial nutrition and hydration" means supplying food and water through a conduit, such as a tube or an intravenous line where the recipient is not required to chew or swallow voluntarily, including, but not limited to, nasogastric tubes, gastrostomies, jejunostomies and intravenous infusions. Artificial nutrition and hydration does not include assisted feeding, such as spoon or bottle feeding;

(iv) "Capacity" means an individual's ability to understand the significant benefits, risks and alternatives to proposed health care and to make and communicate a health care decision;

(v) "Community care facility" means a public or private facility responsible for the day-to-day care of persons with disabilities;

(vi) "Emancipated minor" means a minor who has become emancipated as provided in W.S. 14-1-201 through 14-1-206;

(vii) "Guardian" means a judicially appointed guardian or conservator having authority to make a health care decision for an individual;

(viii) "Health care" means any care, treatment, service or procedure to maintain, diagnose or otherwise affect an individual's physical or mental condition;

(ix) "Health care decision" means a decision made by an individual or the individual's agent, guardian, or surrogate, regarding the individual's health care, including:

(A) Selection and discharge of health care providers and institutions;

(B) Approval or disapproval of diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and

(C) Directions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care.

(x) "Health care institution" means an institution, facility or agency licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business;

(xi) "Individual instruction" means an individual's direction concerning a health care decision for the individual;

(xii) "Physician" means an individual authorized to practice medicine under the Wyoming Medical Practice Act;

(xiii) "Power of attorney for health care" means the designation of an agent to make health care decisions for the individual granting the power;

(xiv) "Primary health care provider" means any person licensed under the Wyoming statutes practicing within the scope of that license as a licensed physician, licensed physician's assistant or licensed advanced practice registered nurse and who is designated by an individual or the individual's agent, guardian or surrogate to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated provider is not reasonably available, a provider who undertakes the responsibility;

(xv) "Primary physician" means a physician designated by an individual or the individual's agent, guardian or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes the responsibility;

(xvi) "Reasonably available" means able to be contacted with a level of diligence appropriate to the seriousness and urgency of a patient's health care needs and willing and able to act in a timely manner considering the urgency of the patient's health care needs;

(xvii) "Residential care facility" means a public or private facility providing for the residential and health care needs of the elderly or persons with disabilities or chronic mental illness;

(xviii) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a territory or insular possession subject to the jurisdiction of the United States;

(xix) Repealed By Laws 2007, Ch. 61, § 2.

(xx) "Surrogate" means an adult individual or individuals who:

(A) Have capacity;

(B) Are reasonably available;

(C) Are willing to make health care decisions, including decisions to initiate, refuse to initiate, continue or discontinue the use of a life sustaining procedure on behalf of a patient who lacks capacity; and

(D) Are identified by the primary health care provider in accordance with this act as the person or persons who are to make those decisions in accordance with this act.

(xxi) "This act" means W.S. 35-22-401 through 35-22-416.

35-22-403. Advance health care directives.

(a) An adult or emancipated minor may give an individual instruction. The instruction may be oral or written. The instruction may be limited to take effect only if a specified condition arises.

(b) An adult or emancipated minor may execute a power of attorney for health care, which may authorize the agent to make any health care decision the principal could have made while having capacity. The power must be in writing and signed by the principal or by another person in the principal's presence and at the principal's expressed direction. The power remains in effect notwithstanding the principal's later incapacity and may include individual instructions. Unless related to the principal by blood, marriage or adoption, an agent may not be an owner, operator or employee of a residential or community care facility at which the principal is receiving care. The durable power of attorney must be acknowledged before a notarial officer or must be signed by at least two (2) witnesses, each of whom witnessed either the signing of the instrument by the principal or the principal's acknowledgement of the signature or of the instrument, each witness making the following declaration in substance:

I declare under penalty of perjury under the laws of Wyoming that the person who signed or acknowledged this document is known to me to be the principal, and the principal signed or acknowledged this document in my presence.

(c) None of the following shall be used as a witness for a power of attorney for health care:

(i) A treating health care provider or employee of the provider;

(ii) The attorney-in-fact nominated in the writing;

(iii) The operator of a community care facility or employee of the operator or facility;

(iv) The operator of a residential care facility or employee of the operator or facility.

(d) Unless otherwise specified in a power of attorney for health care, the authority of an agent becomes effective only upon a determination that the principal lacks capacity, and ceases to be effective upon a determination that the principal has recovered capacity.

(e) Unless otherwise specified in a written advance health care directive, a determination that an individual lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent, shall be made by the primary physician, but the treating primary health care provider may make the decision if the primary physician is unavailable.

(f) An agent shall make a health care decision in accordance with the principal's advance health care directive and other wishes to the extent known to the agent. Otherwise, the agent shall make the decision in accordance with the agent's determination of the principal's best interest. In determining the principal's best interest, the agent shall consider the principal's personal values to the extent known to the agent.

(g) A health care decision made by an agent for a principal is effective without judicial approval.

(h) A written advance health care directive may include the individual's nomination of a guardian of the person.

(j) An advance health care directive is valid for purposes of this act if it complied with the applicable law at the time of execution or communication.

35-22-404. Revocation of advance health care directive.

(a) An individual with capacity may revoke the designation of an agent only by a signed writing.

(b) An individual with capacity may revoke all or part of an advance health care directive, other than the designation of an agent, at any time and in any manner that communicates an intention to revoke. Any oral revocation shall, as soon as possible after the revocation, be documented in a writing signed and dated by the individual or a witness to the revocation.

(c) A health care provider, agent, guardian or surrogate who is informed of a revocation shall promptly communicate the fact of the revocation to the primary health care provider and to any health care institution at which the patient is receiving care.

(d) A decree of annulment, divorce, dissolution of marriage or legal separation revokes a previous designation of a

spouse as agent unless otherwise specified in the decree or in a power of attorney for health care.

(e) An advance health care directive that conflicts with an earlier advance health care directive revokes the earlier directive to the extent of the conflict.

35-22-405. Repealed By Laws 2007, Ch. 61, § 2.

35-22-406. Decisions by surrogate.

(a) If a valid advance health care directive does not exist, a surrogate may make a health care decision for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician or the primary health care provider to lack capacity and no agent or guardian has been appointed or the agent or guardian is not reasonably available.

(b) An adult or emancipated minor may designate any individual to act as surrogate by personally informing the primary health care provider. In the absence of a designation, or if the designee is not reasonably available, it is suggested that any member of the following classes of the patient's family who is reasonably available, in descending order of priority, may act as surrogate:

(i) The spouse, unless legally separated;

(ii) An adult child;

(iii) A parent;

(iv) A grandparent;

(v) An adult brother or sister;

(vi) An adult grandchild.

(c) If none of the individuals eligible to act as surrogate under subsection (b) of this section is reasonably available, an adult who has exhibited special care and concern for the patient, who is familiar with the patient's personal values, and who is reasonably available may act as surrogate.

(d) A surrogate shall communicate his assumption of authority as promptly as practicable to the members of the

patient's family specified in subsection (b) of this section who can be readily contacted.

(e) If more than one (1) member of a class assumes authority to act as surrogate, and the other members of the class do not agree on a health care decision and the primary health care provider is so informed, the primary health care provider shall comply with the decision of a majority of the members of that class who have communicated their views to the provider.

(f) A surrogate shall make a health care decision in accordance with the patient's individual instructions, if any, and other wishes to the extent known to the surrogate. Otherwise, the surrogate shall make the decision in accordance with the surrogate's determination of the patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal, philosophical, religious and ethical values to the extent known to the surrogate and reliable oral or written statements previously made by the patient, including, but not limited to, statements made to family members, friends, health care providers or religious leaders.

(g) A health care decision made by a surrogate for a patient is effective without judicial approval.

(h) The patient at any time may disqualify another, including a member of the individual's family, from acting as the individual's surrogate by a signed writing or by personally informing the primary health care provider of the disqualification.

(j) Unless related to the patient by blood, marriage or adoption, a surrogate may not be an owner, operator or employee of a residential or community care facility at which the patient is receiving care.

(k) A primary health care provider may require an individual claiming the right to act as surrogate for a patient to provide a written declaration under penalty of perjury stating facts and circumstances reasonably sufficient to establish the claimed authority.

35-22-407. Decisions by guardian.

(a) Repealed By Laws 2007, Ch. 61, § 2.

(b) Absent a court order to the contrary, a health care decision of an agent takes precedence over that of a guardian.

(c) Repealed By Laws 2007, Ch. 61, § 2.

(d) Repealed By Laws 2007, Ch. 61, § 2.

(e) A guardian's authority to make health care decisions for the ward shall be as provided in W.S. 3-2-201(a)(iii), subject to the restrictions in W.S. 3-2-202 and 35-22-407(b).

35-22-408. Obligations of health care provider.

(a) Before implementing a health care decision made for a patient who is able to comprehend, a primary health care provider shall promptly communicate to the patient the decision made and may communicate the identity of the person making the decision.

(b) A primary health care provider who knows of the existence of an advance health care directive, a revocation of an advance health care directive, or a designation or disqualification of a surrogate, shall promptly record its existence in the patient's health care record and, if it is in writing, shall request a copy and if one is furnished shall arrange for its maintenance in the health care record.

(c) The primary physician who makes or is informed of a determination that a patient lacks or has recovered capacity, or that another condition exists which affects an individual instruction or the authority of an agent, guardian or surrogate, shall promptly record the determination in the patient's health care record and communicate the determination to the patient, if possible, and to any person then authorized to make health care decisions for the patient.

(d) Except as provided in subsections (e) and (f) of this section, a health care provider or institution providing care to a patient shall:

(i) Comply with an individual instruction of the patient and with a reasonable interpretation of that instruction made by a person then authorized to make health care decisions for the patient; and

(ii) Comply with a health care decision for the patient made by a person then authorized to make health care decisions for the patient to the same extent as if the decision had been made by the patient while having capacity.

(e) A health care provider may decline to comply with an individual instruction or health care decision for reasons of conscience. A health care institution may decline to comply with an individual instruction or health care decision if the instruction or decision is contrary to a written policy of the institution which is expressly based on reasons of conscience and if the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient. The institution shall deliver the written policy upon receipt of the patient's advance directive that may conflict with the policy or upon notice from the primary health care provider that the patient's instruction or decision may be in conflict with the health care institution's policy.

(f) A health care provider or institution may decline to comply with an individual instruction or health care decision that requires medically ineffective health care or health care contrary to generally accepted health care standards applicable to the health care provider or institution.

(g) A health care provider or institution that declines to comply with an individual instruction or health care decision shall:

(i) Promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient;

(ii) Provide continuing care, including continuing life sustaining care, to the patient until a transfer can be effected; and

(iii) Unless the patient or person then authorized to make health care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health care provider or institution that is willing to comply with the instruction or decision.

(h) A health care provider or institution may not require or prohibit the execution or revocation of an advance health care directive as a condition for providing health care.

35-22-409. Health care information.

Unless otherwise specified in an advance health care directive, a person then authorized to make health care decisions for a patient has the same rights as the patient to request, receive, examine, copy and consent to the disclosure of medical or any other health care information.

35-22-410. Immunities.

(a) A health care provider or institution acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or institution is not subject to civil or criminal liability or to discipline for:

(i) Complying with a health care decision of a person apparently having authority to make a health care decision for a patient, including a decision to withhold or withdraw health care;

(ii) Declining to comply with a health care decision of a person based on a belief that the person then lacked authority;

(iii) Complying with an advance health care directive and assuming that the directive was valid when made and has not been revoked or terminated;

(iv) Providing life-sustaining treatment in an emergency situation when the existence of a health care directive is unknown; or

(v) Declining to comply with a health care decision or advance health care directive because the instruction is contrary to the conscience or good faith medical judgment of the health care provider, or the written policies of the institution.

(b) An individual acting in good faith as agent or surrogate under this act is not subject to civil liability or criminal prosecution or to discipline by a licensing board for unprofessional conduct for health care decisions made in good faith.

35-22-411. Statutory damages.

(a) A health care provider or institution that violates this act willfully or with reckless disregard of the patient's instruction or health care decision is subject to liability to the aggrieved individual for damages of five hundred dollars ($500.00) or actual damages resulting from the violation, whichever is greater, plus reasonable attorney's fees.

(b) A person who intentionally falsifies, forges, conceals, defaces or obliterates an individual's advance health care directive or a revocation of an advance health care directive without the individual's consent, or who coerces or fraudulently induces an individual to give, revoke or not to give an advance health care directive, is subject to liability to that individual for damages of two thousand five hundred dollars ($2,500.00) or actual damages resulting from the action, whichever is greater, plus reasonable attorney's fees.

35-22-412. Capacity.

(a) This act does not affect the right of an individual to make health care decisions while having capacity to do so.

(b) An individual is presumed to have capacity to make a health care decision, to give or revoke an advance health care directive, and to designate or disqualify a surrogate unless the primary physician has certified in writing that the patient lacks such capacity.

35-22-413. Effect of copy.

A copy of a written advance health care directive, revocation of an advance health care directive, or designation or disqualification of a surrogate has the same effect as the original.

35-22-414. Effect of act.

(a) This act does not create a presumption concerning the intention of an individual who has not made or who has revoked an advance health care directive.

(b) Death resulting from the withholding or withdrawal of health care in accordance with this act does not for any purpose constitute a suicide or homicide or legally impair or invalidate a policy of insurance or an annuity providing a death benefit,

notwithstanding any term of the policy or annuity to the contrary.

(c) This act does not authorize mercy killing, assisted suicide, euthanasia or the provision, withholding or withdrawal of health care, to the extent prohibited by other statutes of this state.

(d) This act does not authorize or require a health care provider or institution to provide health care contrary to generally accepted health care standards applicable to the health care provider or institution.

(e) This act does not affect other statutes of this state governing treatment for mental illness of an individual involuntarily committed to a mental health care institution pursuant to law or a psychiatric advance directive executed in accordance with W.S. 35-22-301 through 35-22-308.

(f) Any cardiopulmonary resuscitation directives developed under W.S. 35-22-201 through 35-22-208 shall remain in effect unless specifically revoked by the advance health care directive.

35-22-415. Judicial relief.

On petition of a patient, the patient's agent, guardian or surrogate, a health care provider or institution involved with the patient's care, or an individual described in W.S. 35-22-406(b) or (c) the district court may enjoin or direct a health care decision or order other equitable relief. A proceeding under this section is governed by the Wyoming Rules of Civil Procedure.

35-22-416. Uniformity of application and construction.

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject matter of this act among states enacting it.

ARTICLE 5 - PROVIDER ORDERS FOR LIFE SUSTAINING TREATMENT PROGRAM ACT

35-22-501. Short title.

This article shall be known and may be cited as the "Provider Orders for Life Sustaining Treatment Program Act."

35-22-502. POLST program.

(a) The provider orders for life sustaining treatment (POLST) program is a process of evaluation and communication between a patient, or the patient's agent, guardian or surrogate, and health care professionals in order to:

(i) Ensure that health care providers understand the desires of the patient, or the patient's agent, guardian or surrogate, regarding medical treatment as the patient nears the end of life;

(ii) Convert the patient's goals and preferences for care into a set of medical orders on a POLST form that is portable across care settings to be complied with by all health professionals; and

(iii) Provide the patient and the patient's agent, guardian or surrogate, if any, with a copy of the completed POLST form.

(b) Unless otherwise provided in this article, terms in this article shall have the same meaning as in the Wyoming Health Care Decisions Act.

35-22-503. POLST form; who may execute.

(a) Any adult who has the capacity to provide informed consent to, or refusal of, medical treatment may execute a POLST form.

(b) Any adult authorized pursuant to the laws of this state or any other state to make medical treatment decisions on behalf of a person who lacks capacity may execute a POLST form on behalf of that person.

(c) If a patient who lacks capacity has not executed a valid advance directive or a valid POLST form, a surrogate may execute a POLST form on behalf of the patient as provided in W.S. 35-22-406. If a valid advance directive or POLST form executed by the patient forbids changes by a surrogate, a surrogate shall not execute or change a POLST form on behalf of the patient.

(d) An individual acting in good faith as agent, guardian or surrogate under this act shall not be subject to civil

liability or criminal prosecution for executing a POLST form as provided in this act on behalf of a patient who lacks capacity.

(e) If medical orders on a POLST form relate to a minor and direct that life sustaining treatment be withheld from the minor, the order shall include a certification by two (2) health care providers that, in their clinical judgment, an order to withhold treatment is in the best interest of the minor.

35-22-504. POLST forms; department of health duties.

(a) The department of health shall promulgate rules implementing this act and prescribing a standardized POLST form, subject to the following:

(i) The rules shall contain protocols for the implementation of a standardized POLST form, which shall be available in electronic format on the department website for downloading by patients and providers;

(ii) The department in formulating rules and forms shall consult with health care professional licensing groups, provider advocacy groups, patient advocacy groups, medical ethicists and other appropriate stakeholders;

(iii) To the extent possible, the standardized POLST form and protocols shall be consistent with use across all health care settings, shall reflect nationally recognized standards for end-of-life care and shall include:

(A) The patient's directive concerning the administration of life sustaining treatment;

(B) The dated signature of the patient or, if applicable, the patient's agent, guardian or surrogate;

(C) The name, address and telephone number of the patient's primary health care provider;

(D) The dated signature of the primary health care provider entering medical orders on the POLST form, who certifies that the signing provider discussed the patient's care goals and preferences with the patient or the patient's agent, guardian or surrogate.

(b) The department in implementing this article shall:

(i) Recommend a uniform method of identifying persons who have executed a POLST form and providing health care providers with contact information of the person's primary health care provider;

(ii) Oversee the education of health care providers regarding the POLST program under the department's licensing authority;

(iii) Develop a process for collecting provider feedback to enable periodic redesign of the POLST form in accordance with current health care practice;

(iv) Adopt a plan to convert the cardiopulmonary resuscitation directive program under W.S. 35-22-203 to a POLST program by January 1, 2016.

35-22-505. Duty to comply with POLST form; immunity, effect on criminal charges against another person.

(a) Emergency medical service personnel, health care providers and health care facilities, absent actual notice of revocation or termination of a POLST form, shall comply with the orders on a person's POLST form. Any emergency medical service personnel, health care provider or health care facility or any other person who, in good faith and in accordance with generally accepted health care standards applicable to the health care professional or institution, complies with orders on a POLST form shall not be subject to civil liability, criminal prosecution, regulatory sanction or discipline for unprofessional conduct.

(b) Compliance by emergency medical service personnel, health care providers or health care facilities with orders on a POLST form shall not affect the criminal prosecution of any person otherwise charged with the commission of a criminal act.

(c) In the absence of a valid POLST form, other provider orders documented in a medical record or an advance health care directive available to the treating provider, an individual's consent to life sustaining treatment shall be presumed.

(d) A POLST form from another state, absent actual notice of revocation or termination, shall be presumed to be valid and shall be effective in this state.

(e) Emergency medical service personnel, health care providers and health care facilities shall comply with the orders on a POLST form without regard to whether the ordering provider is on the medical staff of the treating health care facility.

(f) If a patient whose goals and preferences for care have been entered on a valid POLST form is transferred from one (1) health care facility to another, the health care facility initiating the transfer shall communicate the existence of the POLST form to the receiving facility prior to the transfer. The POLST form shall accompany the individual to the receiving facility and shall remain in effect. The POLST form shall be reviewed by the treating health care professional and made into a medical order at the receiving facility unless the POLST form is replaced or voided as provided in this article.

(g) To the extent that the orders on a POLST form described in this section conflict with the provisions of an advance directive made under W.S. 35-22-403, the most recent of those documents signed by the patient takes precedence.

35-22-506. POLST form not a prerequisite for services.

Facilities or providers shall not require a person to complete a POLST form as a prerequisite or condition for the provision of services or treatment.

35-22-507. Presence or absence of POLST form; effect on life or health insurance.

An individual's execution of or refusal or failure to execute a POLST form shall not affect, impair or modify any contract of life or health insurance or annuity to which the individual is a party, shall not be the basis for any delay in issuing or refusing to issue an annuity or policy of life or health insurance and shall not be the basis for any increase or decrease in premium charged to the individual.

35-22-508. Revocation of POLST form.

(a) An individual's consent to all or part of a POLST form may be revoked at any time and in any manner that communicates the individual's intent to revoke. Any oral revocation shall, as soon as possible after the revocation, be documented in a writing signed and dated by the individual or a witness to the revocation.

(b) An agent, guardian or surrogate who created a POLST form for a patient may revoke all or part of the POLST form at any time in writing signed by the agent, guardian or surrogate.

(c) A health care professional, agent, guardian or surrogate who is informed of a revocation shall promptly communicate the fact of the revocation to the patient's primary care physician, the current supervising health care professional and any health care facility at which the patient is receiving care.

(d) Upon revocation, the POLST form shall be void.

35-22-509. Effect of act on euthanasia; mercy killing; construction of statute.

Nothing is this article shall be construed as condoning, authorizing or approving euthanasia or mercy killing. In addition, the legislature does not intend that this article be construed as permitting any affirmative or deliberate act to end a person's life, except to permit natural death as provided by this article.

CHAPTER 23 - MEDICATION AIDES

35-23-101. Repealed by Laws 1991, ch. 158, § 1.

35-23-102. Repealed by Laws 1991, ch. 158, § 1.

35-23-103. Repealed by Laws 1991, ch. 158, § 1.

35-23-104. Repealed by Laws 1991, ch. 158, § 1.

35-23-105. Repealed by Laws 1991, ch. 158, § 1.

35-23-106. Sunset.

W.S. 35-23-101 through 35-23-105 are repealed effective June 30, 1996.

35-23-107. State health professional training enhancement program.

(a) The department is authorized to provide education training opportunities for persons engaged in the health care professions who provide direct client care. The department may

enter into agreements with individuals entering the program and attending an accredited university or community college program in a health care related field of study. The terms of the agreement shall include:

(i) The department shall provide the person an educational assistance loan of up to six thousand dollars ($6,000.00) and up to one-half (1/2) the monthly salary the person was earning at the time of entering an educational or training program acceptable to the department, for each year the person is satisfactorily enrolled in the educational or training program;

(ii) Upon completion of the educational or training program, the person shall work for one (1) of the departments, institutions or health programs within the state for a period of two (2) years for each year of education or training during which the person received both an educational assistance loan and salary, or if the person only received the educational assistance loan the obligation would be one (1) year of state employment for each year of educational assistance;

(iii) If the person fails to complete the educational or training program or fails to return to the employ of the state, he shall be required to immediately repay the educational assistance loan and any unearned salary provided by the department for attendance in the educational or training program;

(iv) Any other provision the department deems necessary or appropriate to accomplish the purposes of the program.

(b) The department is authorized to enter into agreements with health professionals who have completed a health care educational or training program from an accredited university or community college program to provide immediate relief for health professional position vacancies in the state. The terms of the agreement shall include:

(i) The department will pay up to six thousand dollars ($6,000.00) in educational loan repayment for each year a person is employed by the department in an area where there is a shortage of health professionals;

(ii) The person shall work for a minimum of three (3) years for the department under the agreement. Voluntary failure

to complete the employment obligation will require the person to immediately repay any educational loan assistance made by the state on the person's behalf;

(iii) Any other provision the department deems necessary or appropriate to accomplish the purposes of the program.

CHAPTER 24 - HEALTH CARE COOPERATIVE ARRANGEMENTS FOR

35-24-101. State health care policy; legislative findings and declarations.

(a) It is the policy of the state to promote:

(i) The quality of health care provided to the citizens of Wyoming;

(ii) Access to appropriate health care for all citizens of the state, including citizens in historically underserved populations and underserved geographic areas;

(iii) Containment of health care costs; and

(iv) A comprehensive health care system in the state.

(b) The legislature finds that the policies specified under subsection (a) of this section will be significantly enhanced by cooperative arrangements including joint ventures and similar enterprises, and contracts among health care providers and purchasers, and certain collaborative agreements between third party payors and health care providers, that might otherwise be prohibited by federal and state antitrust laws if undertaken without governmental involvement. The legislature declares that the formation and operation of cooperative arrangements be the subject of government regulation by the state and that state regulation be substituted for the marketplace and market competition. The legislature intends by provisions of this chapter, that approval of cooperative arrangements among health care providers, purchasers and third party payors be accompanied by appropriate conditions and ongoing supervision and regulation of the operations of the cooperative arrangements, in order to protect against any abuses and to effectively except the actions of approved and regulated cooperative arrangements from state and federal antitrust liability.

35-24-102. Definitions.

(a) As used in this chapter:

(i) "Access" means the financial, temporal or geographic availability of health care to consumers;

(ii) "Aggrieved party" means any provider, purchaser or third-party payor including but not limited to any hospital, physician, allied health professional, health care provider or other person furnishing goods or services to or in competition with hospitals, insurers, hospital service corporations, medical service corporations, preferred provider organizations, health maintenance organizations or any employer or association that directly or indirectly provides health care benefits to its employees or members;

(iii) "Applicant" means a party to an agreement or business arrangement for which approval is sought under this chapter;

(iv) "Cost" means the amount paid by consumers or third party payors for health care services or products and the amount of premiums charged to consumers and employers for health insurance;

(v) "Criteria" means the costs, access and quality of health care and the maintenance of a comprehensive health care system in the state;

(vi) "Department" means the department of health;

(vii) "Director" means the director of the department;

(viii) "Exception" means a document issued by the director to parties who enter into a cooperative arrangement verifying that the director declares the purposes and objectives of the cooperative arrangement meet the standards prescribed under this chapter and reflecting that the arrangement is excepted and immune from federal and state antitrust liability;

(ix) "Health care products" means medical equipment whether fixed or movable, used by a provider in the delivery of a health care service;

(x) "Health care service" means any service provided by a health care provider licensed by the state which is generally reimbursed by medical assistance or third party coverage, but does not include retail, over-the-counter sales of nonprescription drugs and other retail sales of health-related products not generally reimbursed by medical assistance and other third party coverage;

(xi) "Provider" means any person or health care facility licensed, registered, certified, permitted or otherwise officially recognized by this state to provide health care in the ordinary course of business or practice of a profession or if a freestanding outpatient facility, a facility fee is charged for health services provided, or any combination of providers described in this paragraph which engages in payment or reimbursement functions in connection with a coordinated program for the delivery and financing of health care, including health maintenance organizations which are wholly or partially owned and operated by providers;

(xii) "Purchaser" means a person or organization that purchases health care services on behalf of an identified group of persons, regardless of whether the cost of coverage or services is paid for by the purchaser or by the persons receiving coverage or services;

(xiii) "Third party payor" means any insurer or other entity responsible for providing payment for health care services, including the worker's compensation division of the department of workforce services and any self-insured entity;

(xiv) "Trade secrets" means proprietary data including a formula, pattern, compilation, program, device, method, technique or process that:

(A) Is supplied by the affected individual or organization to the state;

(B) Is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain secrecy; and

(C) Derives independent economic value, actual or potential, from not being generally known and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use.

35-24-103. Application for exception; exception absolute defense; liability limited; out-of-state applicants; consultation with attorney general; rulemaking authority granted.

(a) Providers, purchasers or any combination thereof, or third party payors if in collaboration with a provider, wishing to engage in contracts, business or financial arrangements or other activities, practices or arrangements that might be construed to be violations of state or federal antitrust laws but which are in the best interests of the state and further the policies and goals of this chapter, may apply to the director for an exception.

(b) Except as provided under W.S. 35-24-115(e), approval of an application by the department is an absolute defense against any action under state and federal antitrust laws.

(c) The application and any information obtained by the department under W.S. 35-24-104 through 35-24-110 that is not otherwise available are not admissible in any civil or criminal proceeding brought by the director or any other person based on an antitrust claim, except:

(i) A proceeding brought under W.S. 35-24-115(e) based on an applicant's failure to substantially comply with the terms of the application; or

(ii) A proceeding based on actions taken by the applicant prior to submitting the application, where the actions are acknowledged by the applicant in the application.

(d) Providers, purchasers and third party payors not physically located in this state who are registered to do business in this state are eligible to apply for an exception for arrangements in which they transact business in this state.

(e) The department shall consult with the attorney general in carrying out duties and responsibilities under this chapter.

(f) The department shall promulgate rules and regulations necessary to carry out this chapter.

35-24-104. Application for exception; contents; notice; joint application; filing fee; confidentiality of trade secret information; extension of time limitations.

(a) An application for approval of an antitrust exception shall include to the extent applicable:

(i) A descriptive title;

(ii) A table of contents;

(iii) Exact name of each party to the application and the address of the principal business office of each party;

(iv) The name, address and telephone number of the persons authorized to receive notices and communications with respect to the application;

(v) A verified statement by a responsible officer of each party to the application attesting to the accuracy and completeness of the enclosed information;

(vi) Background information relating to the proposed arrangement, including:

(A) A description of the proposed arrangement, including a list of any services or products that are the subject of the proposed arrangement;

(B) An identification of any tangential services or products associated with the services or products that are the subject of the proposed arrangement;

(C) A description of the geographic territory involved in the proposed arrangement;

(D) If the geographic territory described under subparagraph (a)(vi)(C) of this section is different from the territory in which the applicants have engaged in the type of business at issue over the last five (5) years, a description of how and why the geographic territory differs;

(E) Identification of all products or services that a substantial share of consumers would consider substitutes for any service or product that is the subject of the proposed arrangement;

(F) Identification of any services or products of the proposed arrangement which are currently being offered, capable of being offered, utilized or capable of being utilized

by other providers or purchasers in the geographic territory described under subparagraph (a)(vi)(C) of this section;

(G) Identification of necessary action for other parties to enter the territory described under subparagraph (a)(vi)(C) of this section and compete with the applicant under current market and regulatory conditions;

(H) A description of previous dealings between the parties to the application;

(J) A detailed explanation of the projected effects including expected volume, change in price and increased revenue of the arrangement on the current business of each party;

(K) The present market share of the parties to the application and of others affected by the proposed arrangement and projected market shares after implementation of the proposed arrangement;

(M) An explanation of why the projected levels of costs, access or quality could not be achieved in the existing market without the proposed arrangement.

(vii) A detailed explanation of the effect of the transaction on quality, access, containment of health care costs and the promotion of a comprehensive health care system in the state, which shall to the extent applicable, address the factors specified under W.S. 35-24-111(c) through (g).

(b) In addition to the information required under subsection (a) of this section, the application shall contain a written description of the proposed arrangement for purposes of publication. The applicant shall also provide notice to the public and all interested persons making timely request for advanced notice of applications under this section. The notice shall be approved by the director, shall include sufficient information to advise the public of the nature of the proposed arrangement and enable the public to provide comments concerning the expected results of the arrangements and shall advise that any person may provide written comments to the director, with a copy to the applicant, within thirty (30) days of the date of publication. If the director determines that the submitted notice does not provide sufficient information, the director may after consultation with the applicant and the applicant agrees

with the amendment, amend the notice before publication or disapprove the application.

(c) For a proposed arrangement involving multiple parties, one (1) joint application shall be submitted on behalf of all parties to the arrangement.

(d) An application shall be accompanied by a filing fee to be determined by the department based upon the estimated cost of investigating, analyzing, reviewing and processing the application, including any contested case proceeding or appeal, in accordance with this chapter. The fee structure shall include a sliding scale based upon revenue generated by the parties applying for the exception during the preceding year. The annual renewal fee shall not exceed two thousand five hundred dollars ($2,500.00). Any unused portion of the fee shall be refunded to the applicant. All fees collected by the department under this subsection and W.S. 35-24-112(d) shall be deposited into a separate account and will be available to reimburse department start-up costs prior to submittal of the application. Expenditures from the account shall be for expenses incurred by the department in administering this chapter.

(e) Trade secret information including information provided as part of the application process and ongoing supervision, shall be protected from disclosure in accordance with W.S. 16-4-203(d)(v). An applicant shall designate the information provided in the application which it considers to be protected from disclosure in accordance with W.S. 16-4-203(d). The director shall deny public access to any information so designated, subject to the right of a person denied inspection to appeal to the district court in accordance with the provisions of W.S. 16-4-203(f). Any information not so designated shall be available for public inspection in accordance with the provisions of W.S. 16-4-201 through 16-4-205.

(f) Upon a showing of good cause, the director may extend any of the time limits prescribed under W.S. 35-24-106 through 35-24-110 at the request of the applicant or another person.

35-24-105. Grounds for refusal of application review.

(a) If the director determines that an application is unclear, incomplete or provides an insufficient basis on which to base a decision, the director shall return the application and provide a written description of the deficiencies in the

application to the applicant. The applicant may complete or revise and resubmit the application.

(b) The director may decline to review any application relating to arrangements already in effect before the submission of the application.

35-24-106. Notice of application; public comments; objections.

(a) The director shall publish notice of application proposals required under W.S. 35-24-104(b) and provide notice to any person who has requested to be placed on a list to receive notice of applications. The director may also notify and request comments from persons as authorized under W.S. 35-24-104(b). Copies of any request received shall be provided to the applicant in sufficient time to enable a response as authorized under subsection (b) of this section.

(b) Within twenty (20) days after notice is published, any person may mail to the director written comments with respect to the application. Comments may address what type of review procedure should be followed or specifically request that the director conduct a contested case hearing regarding the proposed arrangement. Persons submitting comments shall provide a copy of the comments to the applicant. The applicant may mail to the director written responses to any comments within ten (10) days after the deadline for mailing comments. The applicant shall also send a copy of the response to the person submitting the comment.

(c) Any aggrieved party has the right to file written objections to the application with the director within thirty (30) days after the date of publication. A person objecting shall submit a copy of the objections to the applicant.

35-24-107. Determination of review procedure; criteria; right to hearing afforded.

(a) After the conclusion of the notice and comment period prescribed under W.S. 35-24-106, the director shall subject to subsection (b) of this section, select one (1) of the three (3) review procedures specified under W.S. 35-24-108 through 35-24-110. In determining which procedure to use, the director shall consider the following criteria:

(i) The size of the proposed arrangement in terms of number of parties and amount of money involved;

(ii) The complexity of the proposed arrangement;

(iii) The novelty of the proposed arrangement;

(iv) The substance and quantity of the comments received;

(v) The presence or absence of any significant gaps in the factual record.

(b) Upon request by the applicant, timely filing of an objection or a determination by the director, a contested case hearing shall be held no later than thirty (30) days after the conclusion of the notice, objection and comment period under W.S. 35-24-106. The director may extend the thirty (30) day period for good cause. The director shall hold a public hearing as specified under W.S. 35-24-110.

35-24-108. Decision based upon written record.

(a) If a contested case hearing is not required pursuant to W.S. 35-24-107(b) and instead of a limited hearing under W.S. 35-24-109, the director may issue a decision based on the application, the comments and the applicant's responses to the comments, to the extent each is relevant. In making the decision, the director may rely upon publicly available department of health data.

(b) A decision rendered under this section shall be in writing and specify the items in the written record relied upon in reaching conclusions. The applicant shall be notified of notice taken of judicially cognizable facts as provided by W.S. 16-3-108(d).

35-24-109. Limited hearing on application; issues identified prior to hearing; procedure; evidence; decision.

(a) If a contested case hearing is not required pursuant to W.S. 35-24-107(b) and in lieu of W.S. 35-24-108, the director may prior to rendering a decision on any application, order a limited hearing. A copy of the order shall be mailed to the applicant and to all persons who have submitted comments or requested to be kept informed of the proceedings involving the application. The order shall state the date, time and location

of the limited hearing and shall identify specific issues to be addressed at the limited hearing, which may include the feasibility and desirability of one (1) or more alternatives to the proposed arrangement. The order shall require the applicant to submit written evidence in the form of affidavits and supporting documents, addressing the issues identified within twenty (20) days after the date of the order. The order shall also state that any person may arrange to receive a copy of the written evidence from the director, at the person's expense, and may provide written comments on the evidence within forty (40) days after the date of the order. Any person providing written comments pursuant to this subsection shall provide a copy of the comments to the applicant.

(b) The limited hearing shall be held before the director or a department staff member designated by the director. The director or his designee shall question the applicant concerning the evidence submitted by the applicant. The questions may address relevant issues identified in the comments submitted in response to the written evidence or identified by the department of health staff or discovered through publicly available department of health data. At the conclusion of the applicant's responses to the questions, any person who submitted comments about the applicant's written evidence may make a statement addressing the applicant's responses to the questions. The director or his designee may ask questions of any person making a statement. At the conclusion of all statements, the applicant may make a closing statement.

(c) The director's decision after a limited hearing shall to the extent each is relevant, be based upon the application, the comments, the applicant's response to the comments, the applicant's written evidence, the comments in response to the written evidence and the information presented at the limited hearing. In making the decision, the director may rely on publicly available department of health data.

35-24-110. Contested case hearing on application; procedure specified; recommendations and final decisions.

(a) If required by W.S. 35-24-107, the director shall order a contested case hearing. The director shall publish notice of the time, date and location of the hearing in a newspaper of general circulation at least a week prior to the hearing.

(b) The hearing shall be conducted in an impartial manner pursuant to the Wyoming Administrative Procedure Act, applicable provisions of the Wyoming Rules of Civil Procedure and any rules for the conduct of contested cases adopted by the director of the office of administrative hearings pursuant to W.S. 9-2-2203. The hearing shall be conducted by a hearing officer. All factual issues relevant to a decision shall be presented in the contested case. The attorney general may appear as a party. Additional aggrieved parties may appear to the extent permitted under W.S. 16-3-107. The record in the contested case includes the application, the comments, the applicant's response to the comments and any other evidence that is part of the record under the Wyoming Administrative Procedure Act.

(c) The director shall issue a final decision within thirty (30) days following receipt of recommendations of the hearing officer.

(d) All parties appearing in a contested case shall be provided a copy of the hearing officer's recommendation and the director's final decision.

35-24-111. Criteria for approving application; factors enumerated.

(a) The director shall not approve an application unless he determines the arrangement is more likely to result in a better overall promotion of the quality of health care, access to health care, a lower cost for health care and the increased availability of a comprehensive health care system in the state, than would otherwise occur under existing market conditions or conditions likely to develop without an exemption from state and federal antitrust law. If a proposed arrangement appears likely to improve certain criteria at the expense of other criteria, the director shall not approve the application unless he determines improvements outweigh the negative impacts and the proposed arrangement, taken as a whole, is likely to substantially further the purposes of this chapter.

(b) In making a determination about cost, access, quality and the promotion of a comprehensive health care system in the state, the director may to the extent applicable, require the applicant to demonstrate or provide information for purposes of considering:

(i) If the proposal includes provisions for cost containment;

(ii) Market structure, including:

(A) Actual and potential sellers and buyers or providers and purchasers;

(B) Actual and potential consumers;

(C) Geographic market area; and

(D) Entry conditions.

(iii) Current market conditions;

(iv) The historical behavior of the market;

(v) Performance of other similar arrangements;

(vi) If the proposal unnecessarily restrains competition or restrains competition in ways not reasonably related to the purposes of this chapter; and

(vii) The financial condition of the applicant.

(c) The analysis of cost by the director shall consider the individual consumer of health care and if a proposed arrangement will result in cost-efficiencies in the services provided by the applicant. Cost-efficiencies to be realized by providers, group purchasers or other participants in the health care system also are relevant and shall be considered to the extent any efficiencies are likely to directly or indirectly benefit the consumer. If an application is submitted by providers primarily paid by third party payors or persons unaffiliated with the applicant, it is sufficient for the applicant to show that cost savings are likely to be passed on to the unaffiliated third party payors or persons and the applicants shall not be required to show that third party payors with whom the applicants are not affiliated will pass on cost savings to individuals receiving coverage through the third party payors. To the extent relevant and ascertainable, cost analysis may also include the impact on overall employer premiums for health insurance. In making determinations as to costs, the director shall determine the extent to which:

(i) The cost savings likely to result to the applicant;

(ii) The extent to which cost savings are likely to be passed on to the consumer and in what form;

(iii) The extent to which overall employer premium costs for health insurance will be decreased;

(iv) The extent to which the proposed arrangement is likely to result in cost shifting by the applicant onto other payors or purchasers of other products or services;

(v) The extent to which any cost shifting by the applicant is likely to be followed by other persons in the market;

(vi) The extent to which the proposed arrangement reduces overall systemic cost shifting;

(vii) The current and anticipated supply and demand for any products or services at issue;

(viii) The representations and guarantees of the applicant and their enforceability;

(ix) Effectiveness of regulation by the director;

(x) Inferences to be drawn from market structure;

(xi) The cost of regulation, both for the state and for the applicant; and

(xii) Any other factors showing that the proposed arrangement is or is not likely to reduce costs.

(d) In making determinations as to access, the director shall determine the extent to which the:

(i) Utilization of needed health care services or products by the intended targeted population is likely to increase or decrease. When a proposed arrangement is likely to increase access in one (1) geographic area by lowering prices or otherwise expanding supply, but limits access in another geographic area by removing service capabilities from that second area, the director shall require the applicant to articulate the criteria employed to balance these effects;

(ii) Proposed arrangement is likely to make available a new and needed service or product to a certain geographic area;

(iii) Proposed arrangement is likely to otherwise make health care services or products more financially or geographically available to consumers, particularly persons in historically underserved populations including indigent persons and unserved geographic areas; and

(iv) Proposed arrangement is likely to result in a wide distribution of appropriate health care services throughout the state.

(e) If the director determines that the proposed arrangement is likely to increase access and bases that determination on a projected increase in utilization, the director shall require the applicant to demonstrate that the increased utilization does not result in overutilization.

(f) In making determinations as to quality, the director shall determine the extent to which the proposed arrangement is likely to:

(i) Decrease morbidity and mortality;

(ii) Result in faster convalescence;

(iii) Result in fewer hospital days;

(iv) Permit providers to attain needed experience or frequency of treatment likely to lead to better outcomes;

(v) Result in more effective or efficient provider credentialing and licensing;

(vi) Result in increased or more effective use of clinical practice guidelines, quality assurance measures such as continued quality improvement and other outcome measurements;

(vii) Increase patient satisfaction; and

(viii) Have any other features likely to improve or reduce the quality of health care.

(g) Notwithstanding subsection (f) of this section, in evaluating if a proposed arrangement improves or reduces the

quality of health care, the director shall preserve the confidentiality of quality management functions involving health care facilities and peer review activities involving professional standard review organizations as set forth in W.S. 35-2-910 and 35-17-101 through 35-17-106.

(h) In making determinations as to whether a proposed arrangement contributes to the promotion of a comprehensive health care system in the state, the director shall determine the extent to which the arrangement is likely to:

(i) Promote the development of and access to a wide variety of health care services and specialties in the state;

(ii) Minimize cost-shifting in which more lucrative patient populations and specialties are served at the expense of other patients and specialties, resulting in fewer services available in the state; and

(iii) Promote access to appropriate health care services in locations throughout the state.

35-24-112. Final decision; conditions for approval; findings; ongoing supervision and reporting; renewal fees.

(a) The director shall issue a written decision approving or disapproving the application.

(b) The director may condition approval on a modification of all or part of the proposed arrangement to eliminate any restriction on competition that is not reasonably related to the goals of reducing cost or improving access or quality. The director may also establish conditions for approval that are reasonably necessary to protect against abuses of private economic power and to ensure that the arrangement is appropriately supervised and regulated by the state.

(c) The decision by the director approving or disapproving an application shall include specific findings of fact concerning cost, access and quality criteria and shall identify one (1) or more of these criteria as the basis for the decision.

(d) The decision to approve an application shall require periodic submission of specific data by the applicant relating to cost, access and quality and to the extent feasible, the applicant shall identify objective standards of cost, access and quality by which the success of the arrangement will be

measured. If the director determines that the scope of a particular proposed arrangement is such that the arrangement is certain to have neither a positive or negative impact on any one (1) of the criteria, the director may not require the submission of data or establish an objective standard relating to that criteria. An applicant shall submit a renewal fee together with information required under this subsection, in an amount determined by the department subject to limitations imposed under W.S. 35-24-104(d). Revenues from fees collected shall be deposited into the account established under W.S. 35-24-104(d).

35-24-113. Judicial review.

After the director has rendered a decision under W.S. 35-24-112 and in accordance with W.S. 16-3-114, the applicant or any other aggrieved party may request judicial review of the director's decision by filing a petition for review within thirty (30) days in accordance with the Wyoming Administrative Procedure Act. A determination under W.S. 35-24-107(a) shall not be raised as an issue on appeal.

35-24-114. Ongoing supervision following application approval; procedures; solicitation of public comment on arrangement impacts.

(a) The director shall appropriately supervise, monitor and regulate approved arrangements consistent with subsection (b) of this section.

(b) The decision approving the application shall specify a time schedule for the submission of data by the applicant, which shall be at least once a year and shall identify the data required to be submitted. The director may at any time require the submission of additional data or alter the time schedule. Upon review of the data submitted, the director shall notify the applicant on compliance of the arrangement with the initial decision or subsequent orders. If the arrangement is not in compliance, the director shall identify those respects in which the arrangement does not conform to the decision.

(c) An applicant receiving notification that an arrangement is not in compliance may respond with additional data within thirty (30) days. The response may include a proposal and time schedule by which the applicant will bring the arrangement into compliance with the initial decision or subsequent orders. If the arrangement is not in compliance and the director and the applicant cannot agree to the terms of

bringing the arrangement into compliance, the matter shall be set for hearing. The hearing shall be conducted as a contested case in the manner prescribed under W.S. 35-24-110. The hearing officer shall issue a written recommendation to the director who shall issue a final decision within thirty (30) days following issuance of the recommendation. A copy of the recommendation and final decision shall be provided to all parties to the contested case hearing. A final decision by the director is subject to judicial review in accordance with W.S. 16-3-114.

(d) The director shall publish notice two (2) years after the date the initial application is approved and at two (2) year intervals thereafter, soliciting comments from the public concerning the impact the arrangement has had on cost, access and quality. The director may request additional oral or written information from the applicant or from any other source.

35-24-115. Revocation of approval; conditions; notice; public comment; hearing; revocation alternatives specified; liability of applicant.

(a) Subject to subsection (d) of this section, the director shall revoke his initial approval of an application if the arrangement:

(i) Is not in substantial compliance with the terms of the application;

(ii) Is not in substantial compliance with the conditions of approval;

(iii) Has not and is not likely to substantially achieve improvements in cost, access or quality or the promotion of a comprehensive health care system in the state as identified in the initial decision as the basis for approval of the arrangement; or

(iv) Is not promoting reductions in cost and improvements in access and quality to the extent competition would do so due to changing conditions in the marketplace. Revocation under this paragraph shall be identified in writing by the director together with reasons therefor.

(b) The director shall initiate a proceeding to revoke approval by providing written notice to the applicant describing in detail the basis for the proposed revocation. Notice of the proceeding shall be published and provided to all interested

parties in the manner and time specified under W.S. 35-24-104(b), which shall request the submission of comments to the director.

(c) A proceeding to revoke an approval shall be conducted as a contested case proceeding upon the written request of the applicant. The attorney general may appear as a party. The contested hearing shall be conducted in the manner prescribed by W.S. 35-24-110. Decisions of the director in a proceeding to revoke approval are subject to judicial review in accordance with W.S. 16-3-114.

(d) In deciding whether to revoke an approval, the director shall consider the hardship the revocation may impose on the applicant and any potential disruption of the market as a whole. The director shall also consider based upon a demonstration by the applicant, if the arrangement can be modified, restructured or regulated in a manner to remedy the problem upon which the revocation proceeding is based. Before approving an alternative to revocation that involves modifying or restructuring an arrangement, the director shall publish notice stating that any person may comment on the proposed modification or restructuring within twenty (20) days after publication of the notice. The director shall not approve any modification or restructuring until the comment period has concluded. An approved modified or restructured arrangement is subject to appropriate supervision in the manner provided under W.S. 35-24-114.

(e) An applicant that has had its approval revoked is not required to terminate the arrangement. The applicant cannot be held liable under state or federal antitrust law for acts that occurred while the approval was in effect, except to the extent the applicant failed to substantially comply with terms of its application or failed to substantially comply with terms of the approval. The applicant is subject to state and federal antitrust law after the revocation becomes effective and may be held liable for acts that occur after the revocation.

35-24-116. Application of insurance code.

Nothing in this chapter shall relieve an applicant or recipient of an exception under this chapter from applicable provisions of the Wyoming Insurance Code.

ARTICLE 1 - CHILD HEALTH INSURANCE PROGRAM

35-25-101. Uninsured child health insurance program.

There is created a child health insurance program for families with a gross monthly income at or below one hundred eighty-five percent (185%) of the federal poverty level, until July 1, 2005, and thereafter, for families with a gross monthly income at or below two hundred percent (200%) of the federal poverty level.

35-25-102. Definitions.

(a) As used in this act:

(i) "Child" means a person who has not yet reached the nineteenth anniversary of his birth;

(ii) "Department" means the department of health;

(iii) "Federal poverty level" means the federal poverty guideline updated annually in the federal register by the United States department of health and human services under the authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981;

(iv) "Private health insurance" means an individual insurance policy or contract for the purpose of paying for or reimbursing the cost of dental, hospital and medical care;

(v) "State plan" means the state plan required by 42 U.S.C. 1397aa et seq. to be submitted by the state to the United States secretary of health and human services to receive federal funding for a child health insurance program;

(vi) "This act" means W.S. 35-25-101 through 35-25-108.

35-25-103. Child health insurance program eligibility; services by department or private health insurance.

(a) Subject to approval of the state plan by the United States secretary of health and human services, and subject to available state and federal funding the department shall provide a health insurance plan for an eligible child whose monthly gross family income is not more than two hundred percent (200%) of the federal poverty level. A child who is determined eligible to receive benefits under this section shall remain

eligible for twelve (12) months as long as the child resides in the state of Wyoming and has not yet attained nineteen (19) years of age. A child's eligibility to receive benefits under this act shall be redetermined on an annual basis. A simplified application process, which includes minimum eligibility requirements, shall be provided throughout the state at various public and private establishments approved by the department of health. To be determined eligible to receive benefits under this section, a child shall not be eligible under the Wyoming Medical Assistance and Services Act, shall not have been covered under another health insurance plan for a minimum of one (1) month prior to application for coverage under this act or, upon birth, the child would not otherwise be covered by a public or private health insurance plan. Eligibility under this section shall be determined by the department of health or its designee.

(b) The child health insurance plan required by subsection (a) of this section shall be provided either through a private health insurance company licensed by the insurance commissioner to write insurance in Wyoming or by the department of health's division responsible for administering the Medicaid program. The department's division shall be used to provide the insurance plan only if it can provide the plan at a lower cost than can a qualified private insurance company or if use of the division will otherwise accrue more benefits to the state than will use of a private insurance company. If the child health insurance plan required by subsection (a) of this section is provided through the department's division, the department shall competitively procure the contract at least once every five (5) years. In awarding the contract the department shall compare the cost of operating the program through a private insurance company to a forecasted state administered alternative.

(c) A medical provider who accepts payment for services provided under this section shall not charge or attempt to collect payments in excess of a rate schedule established by the department or in excess of rates negotiated with a private health insurance company who is offering child health insurance pursuant to this act.

35-25-104. Program benefits.

(a) A child eligible for services under this act shall receive benefits developed by the department as allowed by 42 U.S.C. 1397cc et seq. and that include:

(i) Cost sharing factors, not to exceed the maximum allowable under 42 U.S.C. 1397aa et seq.;

(ii) Exclusions and limitations;

(iii) Inpatient and outpatient hospital services;

(iv) Physician services;

(v) Laboratory and x-ray services;

(vi) Well-baby and well-child care including age appropriate immunizations;

(vii) Prescription drug coverage;

(viii) Vision coverage;

(ix) Dental coverage including preventive and basic services; and

(x) Provision of all services through managed care pursuant to 42 U.S.C. 1397cc(f)(3). This paragraph shall be effective only if the child insurance program under this act is provided through a private insurance company licensed by the insurance commissioner to write insurance in Wyoming.

35-25-105. Repealed by Laws 2020, ch. 10, § 2.

35-25-106. Private health insurance plan request for proposals.

(a) If the child health insurance plan required by W.S. 35-25-103 is provided through a private health insurance company, the department shall issue a request for proposals from qualified insurers not less than once every five (5) years, in addition to the requirements set forth in W.S. 35-25-103(b). The department shall award the contract for this service to an insurer based on price, the provision of required services and other factors listed in the department's request for proposals. A contract for health insurance awarded under this section shall contain provisions with respect to exclusions from coverage for preexisting conditions that are no more restrictive than those described in 42 U.S.C. 1397bb(b)(1)(B)(ii). The contract shall include provisions for changes in terms and conditions and for rebidding in case major changes are needed. The department shall have the right to rebid the contract after two (2) years.

(b) Biennially, the department may allow a contractor providing child health insurance pursuant to subsection (a) of this section to adjust the price charged for the coverage, but if the price is increased, the department may, after public notice, rebid the contract or the department may administer the program pursuant to W.S. 35-25-103.

(c) Repealed by Laws 2020, ch. 10, § 2.

35-25-107. Program expenditures; monitoring; recommendations; required action to limit expenditures to budget available.

(a) The department shall project monthly expenditures under this act each month through the end of the biennium based upon the level of activity for the previous months and the trend in expenditures compared to previous expenditures. If the projections indicate that expenditures may exceed the federal and state funds available under this act, the department, may, by rule and regulation and subject to availability of funds, limit participation in the program under this section as follows:

(i) The department may impose a partial or total moratorium on new enrollments in the programs under this act until funds are available to meet the needs of new enrollees;

(ii) For current recipients of benefits under this act, priority for the continuation of funding shall be given to those families with the lowest incomes.

(b) In the last six (6) months of the biennium, the department shall include a projection of expenditures for the next biennium based on the spending for the current biennium unless the legislature provides for a different level of funding for the next biennium.

(c) The funding for the child health insurance program shall be deemed to be included within the division of health care financing line item within the department of health budget unless a separate line item is provided in the budget bill. General fund expenditures for the child health program shall not exceed the amount needed to match federal funds without explicit authorization enacted in the budget bill.

35-25-108. Implementation; duties; restrictions on the department of health.

(a) The department shall:

(i) Administer this act within the fiscal constraints of 42 U.S.C. 1397aa et seq. and subsequent federal enactments governing this program and the state budget as enacted by the legislature;

(ii) Develop a state plan for child health insurance to qualified recipients under this act and otherwise provide for the effective administration of this act;

(iii) Maintain records on the administration of this act and report to the federal government as required by federal law and regulation;

(iv) Adopt, amend and rescind rules and regulations on the administration of this act following notice and public hearing in accordance with the Wyoming Administrative Procedure Act;

(v) Establish indicators for measuring access, process, quality and outcomes effectiveness in improving children's health.

(b) The department shall not implement:

(i) The program under this act until a state plan has been approved by the United States secretary of health and human services or, for any modified plan, until the modified plan has been approved if the modifications require the approval of the United States secretary of health and human services; and

(ii) Any state plan that does not conform to the requirements of this act.

35-25-109. Repealed By Laws 2003, Ch. 99, § 2.

35-25-110. Repealed By Laws 2003, Ch. 99, § 2.

35-25-111. Repealed by Laws 2016, ch. 20, § 2.

ARTICLE 2 - WYOMING CANCER CONTROL ACT

35-25-201. Short title.

This act shall be known and may be cited as the "Wyoming Cancer Control Act."

35-25-202. Definitions.

(a) As used in this act:

(i) "CDC" means the federal center for disease prevention and control;

(ii) "County cancer resource coordinator program" means a program undertaken through a private organization, county hospital, hospital district hospital or city or county health department which provides local level education, outreach, patient navigation services, community planning and data collection in order to lessen the impact of cancer on Wyoming people;

(iii) "Department" means the department of health;

(iv) "Evidence based" means relying on scientifically valid evidence. Scientifically valid evidence relies on studies and experiments including systematic reviews of multiple randomized controlled trials or epidemiological studies, one (1) or more randomized controlled trials, one (1) or more epidemiological studies and the recommendations of nationally and internationally recognized groups of experts in the field;

(v) "Medicaid" means the joint federal and state program of health care financing for the poor authorized by Title XIX of the federal Social Security Act and title 42 of the Wyoming statutes;

(vi) "Statewide comprehensive cancer control steering committee" means a committee whose mission is defined by the 2006-2010 Wyoming cancer control plan and which provides advice and guidance to the Wyoming comprehensive cancer control program. The committee is a private entity whose members include government employees;

(vii) "This act" means W.S. 35-25-201 through 35-25-206.

35-25-203. Cancer control plan and program.

(a) The department shall develop a comprehensive cancer control plan. The department shall begin with the plan and recommendations in the Wyoming cancer control plan published in October 2005 by the Wyoming comprehensive cancer control consortium. The goals shall be to reduce the numbers of people affected by cancer with improved prevention and education and, for those individuals who are diagnosed with cancer, the goal shall be to provide diagnostic, therapeutic and palliative interventions that are evidence based, scientifically proven best of care. The comprehensive cancer control plan may include:

(i) Cancer prevention and education for both the public, health care professionals and institutions;

(ii) Evidence based early detection, screening, diagnosis and treatment;

(iii) Research and data collection;

(iv) Palliative care including pain management and other steps to improve the quality of life of probably terminal cancer patients;

(v) Rehabilitation of cancer victims; and

(vi) Programs to assist cancer survivors in returning to normal life.

(b) In financing and implementing the program established pursuant to subsection (a) of this section the department shall consider the use of the Medicaid program. This section does not constitute authorization to expand the services and eligibilities of the Medicaid program which requires specific legislative authorization. The department may recommend such authorization where appropriate.

(c) The department may contract with one (1) or more third parties to develop and implement the plans authorized by this section. Any contract awarded under this section shall be awarded on the basis of competitive bids and shall include specific requirements relating to outcome based evaluation.

(d) Subject to the restriction of subsection (b) of this section, the department may accept state, federal, local and nongovernmental funds for developing and implementing the plans established pursuant to this section.

(e) The department may solicit proposals for grants under this section by publication of a request for proposals. Grant recipients under this section may include local governments, private nonprofit organizations, schools and other organizations as appropriate. Any grants to organizations not political subdivisions of the state of Wyoming or under the absolute control of the state shall be subject to any restriction necessary to comply with Article 16, Section 6 of the Wyoming Constitution. Any request for proposals used during the competitive grant process shall include specific requirements relating to outcome based evaluation of the grant recipient's performance.

(f) The department shall collaborate and coordinate with public and private entities including state and local governments and the CDC to assure maximum effective use of resources, people and money. The department shall take advice, as appropriate, from the statewide comprehensive cancer control steering committee.

(g) Considering funds available and the purposes for which those funds are made available, the department shall give emphasis to the following cancer control and prevention programs:

(i) The county cancer resource coordinator program. This program shall be a pilot program in two (2) sites, one (1) urban and one (1) rural. Each program shall cover at least one (1) county and may cover several counties. The program may be expanded to additional sites if sufficient funds become available;

(ii) Public education relating to cancer prevention and awareness for all cancers;

(iii) Early detection of cancer including those cancers identified in the state cancer control plan and specifically including the Wyoming colorectal cancer early detection and prevention program;

(iv) Programs and public education which promote the reduction of risk factors to reduce cancer and other chronic diseases within the state; and

(v) Programs and public education which enhance treatment and quality of care of those impacted by cancer within the state.

(h) The department may propose cancer control as a specific line item in its biennial budget.

(j) The department shall, in accordance with the Wyoming Administrative Procedure Act, promulgate rules and regulations as appropriate to implement this act.

(k) The department shall report on its activities, program outcomes, conclusions and goals for the next two (2) years under this act to the joint labor, health and social services interim committee. The report shall be due on October 1 of every odd numbered year.

35-25-204. Wyoming colorectal cancer early detection and prevention program.

(a) Subject to the availability of appropriations, the department shall undertake a colorectal cancer screening and prevention program for those who qualify as specified in subsection (c) of this section.

(b) Initially the screening and prevention program funded under this program shall consist of colonoscopies which shall consist of both the examination of the colon and rectum and the removal and pathological examination of polyps in accordance with the normal standards of care for colonoscopies. After July 1, 2008, the department may, by rule and regulation, authorize other forms of screening to participate in the program provided these other forms of screening are evidence based and are shown by the evidence to be as effective or as cost effective as traditional colonoscopies.

(c) Starting July 1, 2007 Wyoming residents with incomes at or below two hundred and fifty percent (250%) of the federal poverty level shall be eligible to participate in this program and this shall remain the standard if the biennial budget bill does not establish a different standard and unless a different standard is established pursuant to subsection (d) of this section.

(d) Eligibility for the program set forth in this section shall be limited to individuals who are Wyoming residents and have been so for at least one (1) year immediately prior to screening. The eligibility shall be for one (1) colonoscopy every ten (10) years, counting any done before the effective date of this act or before the individual became a Wyoming

resident. However, the department on a case-by-case basis may authorize follow-up screening when medically indicated based on national evidence based guidelines. Eligibility shall be restricted to individuals who meet appropriate age requirements in accordance with national evidence based recommendations and are uninsured or underinsured. For persons who are underinsured, the program shall only pay expenses not covered by insurance. In the event that analysis shows spending in the program will exceed the budget available, the department shall institute a waiting list.

(e) The department shall provide reimbursement for an eligible person's colonoscopy at the rate paid under the Wyoming Medical Assistance and Services Act for colonoscopies, including polyp removal. The person receiving services under this subsection shall pay all other costs of the colonoscopy. When the funds appropriated for this program are expended, the department shall cease payments under this section.

(f) The department shall develop an internet based application process for determining individual eligibility. The result of a successful application may be a voucher that the individual may present to a provider the department has contracted with or may be an online statement of eligibility that the providers can access or both. The department may use city or county health departments, other public health offices, providers, advocacy groups and any other appropriate governmental or private entities to assist individuals in completing the application process.

35-25-205. Breast and cervical cancer programs.

(a) The breast and cervical cancer program within the department is authorized to obtain private and federal grant funds and to seek appropriations for:

(i) Education, outreach and breast and cervical cancer screenings for those unable to afford them;

(ii) Continuation of the existing pilot outreach program for the medically underserved population in the Big Horn Basin and expansion of that program to other areas of the state; and

(iii) Implementation of the program known as the native sisters program for outreach to members of the Eastern Shoshone and Northern Arapaho tribes, provided that any grants

or contracts entered into pursuant to this paragraph shall contain any restrictions necessary to comply with Article 16, Section 6 of the Wyoming Constitution.

35-25-206. Pain management.

(a) The department may establish an acute and chronic pain management advisory committee consisting of the following members:

(i) One (1) employee of the department appointed by the director who will serve as the chairman of the committee;

(ii) One (1) member appointed by the board of medicine;

(iii) One (1) member appointed by the board of nursing;

(iv) One (1) member appointed by the board of pharmacy; and

(v) One (1) member of the public who has experience in pain management appointed by the director.

(b) The members of the pain management advisory committee shall serve at the pleasure of the director of the department and shall meet at least two (2) times each year. The travel expenses of the members of the pain management committee as described in subsection (a) of this section shall be paid by their respective departments or boards. The department shall pay the per diem and travel expenses of the member of the public appointed pursuant to paragraph (v) of subsection (a) of this section and shall provide administrative support for the operation of the committee.

(c) The committee shall perform the following functions:

(i) Research issues associated with acute and chronic pain management including those issues assigned to the committee by the director of the department;

(ii) Offer recommendations to the director of the department, other state agencies and licensing boards of health care professionals regarding policies and programs that would manage acute and chronic pain more effectively or efficiently; and

(iii) Make recommendations regarding legislation to the director of the department.

ARTICLE 3 - DIABETES CARE PLANNING

35-25-301. Diabetes care planning; reports to the legislature.

(a) The department of health shall develop a plan to reduce the incidence of diabetes in Wyoming, improve diabetes care, and control complications associated with diabetes. The plan shall include identification of goals and benchmarks. The department shall submit the plan to the joint labor, health and social services interim committee by October 1, 2014.

(b) The department of health shall track for statistical and trending analysis the following:

(i) The prevalence of all types of diabetes in the state and the financial impact that diabetes is having on the state. Items included in this assessment shall include the number of individuals with diabetes, the number of individuals with diabetes and family members impacted by prevention and diabetes control programs implemented by the department, the financial toll or impact diabetes and its complications place on the Medicaid program and the financial toll or impact diabetes and its complications place on the Medicaid program in comparison to other chronic diseases and conditions;

(ii) An assessment of the benefits of implemented programs and activities aimed at controlling diabetes and preventing the disease;

(iii) A description of the level of coordination existing between the department, other agencies and Eastern Shoshone and Northern Arapaho tribes on activities, programmatic activities and messaging on managing, treating or preventing all forms of diabetes and its complications;

(iv) Detailed action plans for battling diabetes with a range of actionable items for consideration by the legislature. The plans shall identify proposed action steps to reduce the impact of diabetes, prediabetes and related diabetes complications. The plan shall also identify expected outcomes of the action steps proposed in the following biennium while

also establishing benchmarks for controlling and preventing relevant forms of diabetes; and

(v) The impact of gestational diabetes on the Medicaid population, including an analysis of cost implications, the number of pregnant women screened and diagnosed and patient outcome measures and recommended strategies to reduce the impact of the condition and to improve outcomes for this population;

(vi) The development of a detailed budget blueprint identifying needs, costs and resources required to implement the plan developed pursuant to this section. The blueprint shall include a budget range for all options presented in the plan for consideration by the legislature.

ARTICLE 4 - COMMUNITY EDUCATION PROGRAM

35-25-401. Female genital mutilation education program.

(a) The department of health, the attorney general's office division of victim services or the department of health and attorney general's office division of victim services together shall develop a community education program regarding female genital mutilation. The program shall include:

(i) Education, prevention and outreach materials regarding the health risks and emotional trauma inflicted by the practice of female genital mutilation;

(ii) Ways to develop and disseminate information regarding recognizing the risk factors associated with female genital mutilation;

(iii) Training materials for law enforcement, teachers and others who are mandated reporters under W.S. 14-3-205(a), encompassing:

(A) Risk factors associated with female genital mutilation;

(B) Signs that an individual may be a victim of female genital mutilation;

(C) Best practices for responses to victims of female genital mutilation; and

(D) The criminal penalties associated with the facilitation or commission of female genital mutilation.

(b) Law enforcement, teachers and others who are mandated reporters under W.S. 14-3-205(a) shall incorporate the training under this section into their professional development programs and shall provide the training to employees and volunteers. To assist state and local entities in disseminating the education program under this section, the department of health, the attorney general's office division of victim services or the department of health and attorney general's office division of victim services together shall provide necessary training programs and technical assistance as requested.

ARTICLE 5 - 988 SUICIDE AND CRISIS LIFELINE

35-25-501. Definitions.

(a) As used in this article:

(i) "988" or "988 system" means the universal telephone number for the national suicide prevention and mental health crisis hotline system within the United States, operating through the national suicide prevention lifeline or its successor, maintained by the assistant secretary for mental health and substance abuse under 42 U.S.C. § 290bb-36c;

(ii) "Administrator" means the administrator of the 988 system;

(iii) "Contact" means a communication with the 988 system including a call, text or chat;

(iv) "Crisis center" or "crisis hotline center" means a center designated by the state to respond to statewide or regional 988 contacts;

(v) "Crisis facility" means a behavioral health center as defined by W.S. 35-1-613(a)(xvi), other provider under W.S. 35-1-611 through 35-1-627 or an equivalently staffed and equipped student health service;

(vi) "Department" means the department of health;

(vii) "Mobile crisis team" means a team providing services outside of a hospital or facility setting:

(A) That includes not less than one (1) behavioral health care professional who is capable of conducting an assessment of a person having a behavioral health crisis, in accordance with the professional's permitted scope of practice under state law, and other professionals or paraprofessionals with appropriate expertise in behavioral health or mental health crisis response, including nurses, social workers, peer support specialists and others;

(B) Whose members are trained in trauma-informed care, de-escalation strategies and harm reduction;

(C) That is able to respond in a timely manner and, where appropriate, provide screening, assessment, health services, stabilization, de-escalation and referrals to health, social and other services and supports as needed;

(D) That maintains relationships with relevant community partners, including medical and behavioral health providers, primary care providers, community health centers and crisis centers; and

(E) That maintains the privacy and confidentiality of patient information consistent with federal and state requirements.

35-25-502. Crisis center designation; powers and duties of the department; rulemaking; report.

(a) Not later than July 1, 2023, the department shall designate one (1) or more crisis centers to provide crisis intervention services and crisis care coordination to persons accessing the 988 system from anywhere in Wyoming, twenty-four (24) hours per day and seven (7) days per week.

(b) A crisis center designated under this section shall:

(i) Have an agreement with the national suicide prevention lifeline or its successor for participation within the 988 system;

(ii) Meet all requirements and best practices guidelines of the national suicide prevention lifeline;

(iii) Provide data and reports and participate in evaluations and quality improvement activities as required by the administrator;

(iv) Have authority to deploy crisis services, including mobile crisis teams and coordinate access to crisis services or other local resources as appropriate, consistent with guidelines or best practices established by the national suicide prevention lifeline;

(v) Meet requirements established by the national suicide prevention lifeline for serving at-risk and specialized populations identified by the substance abuse and mental health services including those with co-occurring substance use by providing linguistically and culturally competent care including training and policies for transferring a 988 contact to an appropriate specialized center or subnetwork within the national suicide prevention lifeline network;

(vi) Provide follow-up services to persons accessing the 988 system consistent with policies and guidelines of the national suicide prevention lifeline.

(c) The department shall:

(i) Implement and provide oversight of the 988 system as provided in this article;

(ii) Promulgate rules to allow appropriate information sharing between and across crisis and emergency response systems for the purpose of real-time crisis care coordination including deployment of linked crisis services specific to the crisis response;

(iii) Coordinate active collaborations, including facilitating formal agreements and establishing appropriate information sharing procedures, between any crisis center designated under this section and appropriate community partners including mental health and substance abuse disorder treatment providers, primary care providers, community mental health centers, community behavioral health centers, mobile crisis teams, hospitals, inpatient psychiatric facilities and crisis facilities;

(iv) In consultation with the national suicide prevention lifeline, veteran's crisis line and other networks approved by the substance abuse and mental health services administration, ensure consistent public messaging about the 988 system;

(v) Provide an annual report on the usage of and services provided by the 988 system to the joint labor, health and social services interim committee and the substance abuse and mental health services administration;

(vi) Review its practices under this article not less than every four (4) years to ensure that the services provided are and remain best evidence-based practices for suicide prevention.

35-25-503. Mobile crisis teams.

(a) The department may provide onsite response services to address 988 system contact through state or locally funded mobile crisis teams. A mobile crisis team under this section shall:

(i) Be designed in partnership with community members;

(ii) To the extent practical, be staffed by personnel that reflect the demographics of the community to be served;

(iii) Collect any data required by the substance abuse and mental health services administration and consistent with any requirements of the department.

35-25-504. Payment for crisis services.

(a) The department may provide payment for the provision of crisis services of a contact to the 988 system if:

(i) The person is not insured or the service is not covered by the person's health coverage; and

(ii) The service is not covered by another entity including municipal or county programs or funding.

(b) The department may explore options for appropriate coding of and payment for crisis services through the Medicaid program.

35-25-505. Advisory body.

The governor shall create an advisory body or designate an existing advisory body to provide guidance to the department, gather feedback and make recommendations regarding the planning

and implementation of the 988 system under this article. The advisory body may include representatives of a designated crisis center, 911 call center, law enforcement, hospital emergency department, individuals or family members of individuals with lived experience with suicide prevention or behavioral health crisis service usage and behavioral health crisis service providers and may include members of the judicial branch appointed by the chief justice of the supreme court.

35-25-506. 988 system trust fund; reserve account spending policy.

(a) The 988 system trust fund account is created. The trust account shall consist of those funds designated to the account by law and all monies collected from federal grants and other appropriations, contributions, grants, gifts, bequests and donations to the trust fund account. The trust fund account is specifically empowered to accept grants, gifts, transfers, bequests and donations. Funds deposited within the trust fund account are intended to be inviolate and constitute a permanent and perpetual trust fund which shall be invested by the state treasurer as authorized by law and in a manner to obtain the highest return possible consistent with preservation of the trust account corpus.

(b) During each fiscal year beginning July 1, 2024, the earnings from the 988 system trust fund account are appropriated to the department for expenditure as provided in subsection (d) of this section in an amount equal to five percent (5%) of the previous five (5) year average market value of the 988 system trust fund account, calculated from the first day of the fiscal year. For purposes of making the calculation under this subsection, until the 988 system trust fund account has existed for five (5) years, the average market value of the trust fund shall be the average market value during the years that the trust fund has existed. The calculation required by this subsection shall constitute the spending policy for the 988 system trust fund account.

(c) Earnings from the 988 system trust fund account in excess of the spending policy amount established by subsection (b) of this section in any fiscal year shall be deposited by the state treasurer to the 988 system trust fund reserve account, which is hereby created. Except for monies appropriated to the department and monies deposited back to the 988 system trust fund pursuant to this subsection, funds deposited in the reserve account are intended to be inviolate and constitute a permanent

and perpetual trust fund which shall be invested by the state treasurer as authorized by law. Interest and other earnings on funds within the reserve account shall be credited to the reserve account. Beginning July 1, 2024 for fiscal year 2023 and each fiscal year thereafter, the state treasurer shall transfer unobligated funds from the reserve account to the 988 system trust fund account as necessary to ensure that an amount equal to the spending policy amount established in subsection (b) of this section is available to the department, pursuant to subsection (b) of this section, for expenditure during the fiscal year. As soon as possible after the end of each fiscal year, revenues in this account in excess of four hundred twenty percent (420%) of the spending policy amount in subsection (b) of this section shall be credited to the 988 system trust fund account.

(d) Funds available to the department shall be prioritized to the extent practicable to first fund those services representing the best evidence-based practices for the prevention of suicide, which may include the following:

(i) Creating and maintaining a statewide 988 system pursuant to this article and in accordance with the National Suicide Hotline Designation Act of 2020 and the federal communication commission's rules adopted July 16, 2020 and in accordance with national guidelines for crisis care;

(ii) Supporting or enhancing the 988 system including providing for state designated crisis centers as provided in W.S. 35-25-502, providing for mobile crisis teams as provided in W.S. 35-25-503 and providing payment for crisis services as provided in W.S. 35-25-504;

(iii) Taking other actions necessary related to the administration of the 988 system as provided by this article;

(iv) Providing other goods or services, including health care services, that do not infringe on fundamental individual liberties and that, according to best evidence-based practices, are likely to lead to the prevention of suicide.

35-25-507. Immunity for telecommunications providers.

(a) A telecommunications provider shall not be liable to any person for any damages caused by any act or omission relating to the origination, transmission or termination of a

contact with the 988 system unless the act or omission constitutes willful or wanton misconduct or gross negligence.

(b) As used in this section, "telecommunications provider" means any person that provides commercial landline telephone service, mobile telephone service or internet protocol enabled voice service and includes any agent or employee of the service provider.

35-25-508. Confidentiality of information.

The information obtained through the 988 system shall be considered a public record under W.S. 16-4-201(a)(v) and access to the information may be denied according to law.

35-25-509. Sunset.

This article is repealed effective July 1, 2028.

ARTICLE 6 - WYOMING ADULT HEARING AID PROGRAM

35-25-601. Wyoming adult hearing aid program.

There is created a hearing aid program for adults with hearing impairment.

35-25-602. Definitions.

(a) As used in this article:

(i) "Department" means the department of health;

(ii) "Eligible adult" means a Wyoming resident not less than eighteen (18) years of age who has been diagnosed by a physician or audiologist with a profound hearing impairment that requires hearing aids and who has a monthly modified adjusted gross family income at or below two hundred percent (200%) of the federal poverty level;

(iii) "Federal poverty level" means the federal poverty guideline updated annually in the federal register by the United States department of health and human services under the authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981;

(iv) "Hearing aid" means as defined by W.S. 33-35-102(a)(ii).

35-25-603. Program eligibility; benefits.

(a) Subject to available state funding, the department shall provide hearing aids for eligible adults. Eligibility under this section shall be determined by the department or its designee. To be determined eligible to receive hearing aids under this section, a person shall not be eligible to receive hearing aids through private insurance, Medicaid, Medicare or any other available third-party payor. Recipients shall not receive more than one (1) set of hearing aids under this article in any five (5) year period.

(b) An adult eligible for services under this article shall receive:

(i) Up to one (1) hearing aid per ear at a cost of not more than the rate paid for hearing aids under the Wyoming Medical Assistance and Services Act and including hearing aid insurance for loss or damage;

(ii) A hearing aid fitting at a cost of not more than the rate paid under the Wyoming Medical Assistance and Services Act; and

(iii) An initial set of ear molds at a cost of not more than the rate paid under the Wyoming Medical Assistance and Services Act.

ARTICLE 7 - WYOMING RURAL HEALTH TRANSFORMATION

35-25-701. Short title.

This act shall be known and may be cited as the "Wyoming Rural Health Transformation Sustainability, Accountability and Fiscal Protection Act."

35-25-702. Definitions.

(a) As used in this article:

(i) "Advisory committee" means the Wyoming rural health transformation advisory committee created in W.S. 35-25-703;

(ii) "Annual required distribution" means:

(A) Beginning July 1, 2026 and ending June 30, 2036, the greater of:

(I) The total program income, as defined in 2 C.F.R. § 200.1, earned during the previous fiscal year that is required to be expended under federal statutes, federal regulations or the terms and conditions of the Wyoming rural health transformation plan; or

(II) Four percent (4%) of the cumulative total of funds deposited into the perpetuity fund since inception, as calculated on the first day of each fiscal year.

(B) Beginning July 1, 2036 and each fiscal year thereafter, four percent (4%) of the previous five (5) year average market value of the perpetuity fund, as calculated on the first day of each fiscal year.

(iii) "Department" means the department of health;

(iv) "Perpetuity fund" means the Wyoming rural health transformation perpetuity fund created in W.S. 35-25-704;

(v) "Purpose-dedicated share" means a discrete fractional interest of the annual required distribution allocated to a specific allowable perpetuity fund expenditure authorized in W.S. 35-25-706;

(vi) "Rural health transformation funds" means federal funds awarded to the state of Wyoming under the federal rural health transformation program established by section 71401 of the federal One Big Beautiful Bill Act, P.L. 119-21;

(vii) "Wyoming rural health transformation plan" means the rural health transformation program application submitted to and approved by the federal government pursuant to section 71401 of the federal One Big Beautiful Bill Act, P.L. 119-21, and shall include any terms and conditions specified in any associated notice of award, cooperative agreement or similar federal instrument governing the receipt or use of funds, and any amendments thereto;

(viii) "Wyoming rural health transformation program" means the program established in W.S. 35-25-705.

35-25-703. Wyoming rural health transformation advisory committee; legislative liaisons.

(a) There is created the Wyoming rural health transformation advisory committee. The advisory committee shall be composed of nine (9) voting members, each of whom shall serve for a term of four (4) years. The governor shall make appointments and fill any vacancies for unexpired terms. Members are eligible for reappointment. The governor may remove any member as provided in W.S. 9-1-202.

(b) The director of the department or the director's designee and the director of the state budget department or the director's designee shall serve as ex officio members of the advisory committee, having the right to speak but not to vote.

(c) One (1) senator appointed by the president of the senate and one (1) representative appointed by the speaker of the house shall serve as nonvoting legislative liaisons to the advisory committee.

(d) The advisory committee shall select one (1) of its voting members to serve as chairman.

(e) The advisory committee shall meet not less than two (2) times per year.

(f) Voting members shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in the manner and amounts provided by law for state employees. Legislative liaisons shall be paid salary, per diem and mileage as provided in W.S. 28-5-101 when attending meetings of the advisory council.

(g) The advisory committee shall review the operations of the perpetuity fund and provide formal written recommendations to the department regarding the annual required distribution and allowable perpetuity fund expenditures. The department shall review any recommendations from the advisory committee and provide a written response.

(h) The advisory committee shall review and approve each grant, award or expenditure of rural health transformation funds in excess of five hundred thousand dollars ($500,000.00), excluding deposits into the perpetuity fund.

35-25-704. Wyoming rural health transformation perpetuity fund; investment; distributions.

(a) There is created the Wyoming rural health transformation perpetuity fund. The perpetuity fund shall consist of monies designated to the fund by law and other contributions, grants, gifts, bequests and donations made to the fund.

(b) The state treasurer, or the treasurer's designee, who shall be registered under the Investment Advisor's Act of 1940, as amended, if required to be registered by the terms of that act, as amended, shall invest the unobligated, unencumbered balance of the Wyoming rural health transformation perpetuity fund as authorized by law. Investments of the perpetuity fund shall be in accordance with subsection (c) of this section, if effective, and W.S. 9-4-715(a) and (c) through (e) and 9-4-716. All investment earnings shall be deposited to the perpetuity fund. In adopting investment policy statements for the perpetuity fund, the state loan and investment board, in consultation with the investment funds committee, shall seek to preserve the balance of the fund in a manner that strives for the highest possible risk-adjusted total net return consistent with an appropriate level of safety and liquidity to maintain a consistent annual required distribution.

(c) If this article is enacted by the legislature pursuant to the voting requirements of article 16, section 6(a)(ii)(B) of the Wyoming constitution, the state treasurer may invest the unobligated, unencumbered balance of the perpetuity fund in equities, including stocks of corporations.

(d) All monies deposited to the perpetuity fund, including investment earnings, shall be expended only for the allowable perpetuity fund expenditures authorized under the Wyoming rural health transformation program and in accordance with the terms and conditions under which the monies are received. Rural health transformation funds, and investment earnings thereon, expended in violation of the terms and conditions under which the monies are received shall be returned by the state to the federal source from which the monies originated.

(e) Each one million dollars ($1,000,000.00) of principal deposited to the perpetuity fund shall be allocated to one (1) purpose-dedicated share by the department, or fractional value thereof if a deposit is less than one million dollars ($1,000,000.00).

(f) The annual required distribution is continuously appropriated to the Wyoming rural health transformation

expenditure account, which is hereby created. The state treasurer shall annually credit the annual required distribution to the expenditure account not later than September 30 of each year. Monies in the expenditure account shall only be expended by the department for allowable perpetuity fund expenditures under W.S. 35-25-706, the Wyoming rural health transformation plan and all other requirements and limitations specified in this article. Any unexpended, unobligated funds remaining from an annual required distribution, after a reasonable period for expenditure for which the funds were continuously appropriated, as recommended by the advisory committee and determined by the department, shall revert to the Wyoming rural health transformation perpetuity fund.

(g) Subject to W.S. 35-25-706(a), the total amount of the annual required distribution expended on each allowable perpetuity fund expenditure shall reasonably reflect the total number of purpose-dedicated shares initially allocated to that expenditure, divided by the total number of all purpose-dedicated shares in the perpetuity fund.

35-25-705. Wyoming rural health transformation program.

There is established the Wyoming rural health transformation program within the department. The department shall administer the program. The program shall be implemented in accordance with the Wyoming rural health transformation plan and shall be limited to the allowable perpetuity fund expenditures authorized in W.S. 35-25-706 and the time-limited initiatives authorized in W.S. 35-25-707. The department shall promulgate rules necessary to implement this section and the program.

35-25-706. Wyoming rural health transformation program; allowable perpetuity fund expenditures.

(a) Subject to the availability of funds, the department shall expend the annual required distribution solely for the allowable perpetuity fund expenditures authorized under this section. The allocation of purpose-dedicated shares and annually required distribution expenditures shall seek to achieve the percentage targets for support, grants and awards specified in this section. Upon a written recommendation of the advisory committee, the department may materially deviate from the percentage targets specified in this section to the extent necessary to meet documented need and demonstrated demand for the support, grants and awards specified in this section.

(b) Forty and seven-tenths percent (40.7%) of the annual required distribution shall be allocated for the critical access hospital basic incentive (CAHB) program. Under this program, the department shall provide incentive payments to hospitals that elect to participate and that meet service delivery requirements, subject to all of the following:

(i) A participating hospital shall operate a staffed twenty-four (24) hour emergency department with stroke and trauma imaging capability, provide or operate ground ambulance services within its service area, provide basic labor and delivery services if annual births exceed a threshold established by the department and participate in the statewide health information exchange;

(ii) Incentive payments under this subsection may include tiered payments, one (1) time grants, medical debt relief for Wyoming residents and ongoing payments to offset fixed costs.

(c) Twenty-six and nine-tenths percent (26.9%) of the annual required distribution shall be allocated for emergency medical service regionalization. After the submission of a statewide emergency medical services response time model to the joint labor, health and social services interim committee as provided in paragraph (i) of this subsection, the department shall provide incentive payments to emergency medical service providers that elect to participate and that meet regionalization requirements established by rule of the department, subject to the following:

(i) The department shall not require or implement emergency medical service regionalization under this subsection unless it first submits to the joint labor, health and human services interim committee a statewide emergency medical service response time model demonstrating no increase in emergency response times, staffing projections including volunteer impacts, inter-county governance and authority agreements and full cost estimates of regionalization, including long-term maintenance costs;

(ii) Eligibility for incentive payments under this subsection shall be limited to joint applications submitted by two (2) or more ground ambulance providers serving a contiguous rural or frontier region;

(iii) Joint applicants shall submit a regionalization plan to the department demonstrating maximization of revenue sources, integration with public safety answering points, use of interoperable equipment and technology, reduction of administrative overhead and commitment to community emergency medical services and tele-crisis stabilization services;

(iv) Incentive payments under this subsection shall include ongoing payments to offset fixed readiness costs and grants for ambulances, interoperability equipment and implementation of regional medical dispatch.

(d) Twenty-one and six-tenths percent (21.6%) of the annual required distribution shall be allocated for workforce education individual support. The department shall administer awards to individual persons for health care workforce education and training costs, including tuition, fees and stipends, subject to the following:

(i) Awards under this subsection shall be used to pay allowable education and training costs for eligible applicants pursuing credentials in one (1) or more of the following fields:

(A) Nursing, including certified nursing assistant, licensed practical nurse, registered nurse and advanced practice registered nurse programs;

(B) Emergency medical services, including emergency department technician, emergency medical responder, emergency medical technician and paramedic programs;

(C) Clinical behavioral health professions;

(D) Physician education, including undergraduate medical education.

(ii) As a condition of receiving an award under this subsection, an applicant shall agree to provide health care services in Wyoming for a minimum of five (5) years following completion of the approved program, under terms and conditions established by the department;

(iii) An applicant who fails to satisfy the service obligation required under paragraph (ii) of this subsection shall be required to repay to the department all or a prorated portion of the award, together with any applicable interest, as determined by rule of the department.

(e) Ten and eight-tenths percent (10.8%) of the annual required distribution shall be allocated for physician post-graduate medical education (GME) individual support. The department shall administer awards to individuals for physician medical education, including residency and fellowship training costs, subject to the following:

(i) In awarding funds under this subsection, the department shall prioritize awards to applicants in programs that will increase the supply of family medicine physicians and that provide training in obstetrics or other high-demand specialties, as determined by the department;

(ii) As a condition of receiving an award under this subsection, an applicant shall agree to provide health care services for a minimum of five (5) years in one (1) or more underserved counties within the state, under terms and conditions established by rule of the department.

35-25-707. Wyoming rural health transformation program; time-limited initiatives; sunset.

(a) Subject to the availability of rural health transformation funds and subsection (b) of this section, the department is authorized to expend funds for time-limited initiatives in amounts that seek to achieve the following percentage targets:

(i) Thirty-six and four-tenths percent (36.4%) of amounts available for time-limited initiatives for integrated primary care. Expenditures under this paragraph shall be for competitive grants to expand the number and geographical reach of federally qualified health centers in the state through conversion of existing facilities and practices for the integration of primary care delivery models that coordinate primary medical care with behavioral health services, obstetric and gynecological care, dental services and preventive health services;

(ii) Fifteen and one-tenths percent (15.1%) of amounts available for time-limited initiatives for a technology adoption challenge program. Expenditures under this paragraph shall be for competitive grants for health care technology procurement. Grants under this paragraph shall be awarded only to joint applications submitted by two (2) or more health care providers and shall be limited to projects that improve care

delivery closer to patients' homes, enhance interoperability and coordination among providers and reduce administrative activity;

(iii) Nine and eight-tenths percent (9.8%) of amounts available for time-limited initiatives for exercise and diet programs. Expenditures under this paragraph shall be for competitive grants to Wyoming-based entities to promote physical activity and healthy nutrition. Projects that demonstrate measurable increases in participation in exercise, outdoor recreation or evidence-based nutrition practices shall be prioritized for the grants under this paragraph;

(iv) Eight and two-tenths percent (8.2%) of amounts available for time-limited initiatives for a statewide tele-specialist platform. Expenditures under this paragraph shall be for the procurement and operation of a centralized tele-specialty platform to deliver physician-level specialty consultations to health care providers statewide;

(v) Eight and two-tenths percent (8.2%) of amounts available for time-limited initiatives for workforce education startup costs. Expenditures under this paragraph shall be for competitive grants to support health care workforce training programs operated by educational institutions within the state. Grants under this paragraph shall be awarded to recipients that commit to establishing and maintaining a specified number of training positions for nurses, emergency medical service personnel, physicians, clinical behavioral health providers and other health care professionals;

(vi) Eight and two-tenths percent (8.2%) of amounts available for time-limited initiatives for care coordination. Expenditures under this paragraph shall be for competitive grants to hospitals, health care providers and rural health facilities to propose clinically integrated care coordination models for one (1) or more counties to improve the management of chronic disease among persons who are dually eligible for Medicare and Medicaid and who are identified as high risk. Funding awarded under this paragraph may include capped start-up costs, a per-member, per-month care coordination payment for assigned persons and performance-based payments tied to demonstrated cost savings;

(vii) Four and nine-tenths percent (4.9%) of amounts available for time-limited initiatives for centralized billing capacity. Expenditures under this paragraph shall be for centralized billing and revenue collection services for

voluntarily participating emergency medical services agencies. This centralized billing capacity initiative may be expanded to other health care providers if the initiative demonstrates effectiveness and financial sustainability;

(viii) Two percent (2.0%) of amounts available for time-limited initiatives for a nonemergency transportation coordination platform. Expenditures under this paragraph shall be for the procurement and operation of a centralized nonemergency medical transportation coordination platform to improve access to health care appointments for seniors, persons with disabilities and other eligible populations. The platform shall facilitate the scheduling, coordination and billing of nonemergency transportation;

(ix) Two and six-tenths percent (2.6%) of amounts available for time-limited initiatives for administration. Expenditures under this paragraph include any administrative costs necessary to implement the rural health transformation program, including expenses of the advisory committee;

(x) Four and six-tenths percent (4.6%) of amounts available for time-limited initiatives included in the Wyoming rural health transformation plan that are not specifically authorized in this subsection shall be redistributed for expenditure on the initiatives authorized under this subsection.

(b) Upon a written recommendation of the advisory committee, the department may materially deviate from the percentage targets specified in subsection (a) of this section to the extent necessary to meet documented need and demonstrated demand for the time-limited initiatives specified in subsection (a) of this section.

(c) The authority to administer the time-limited initiatives and any funds for the initiatives under subsection (a) of this section shall terminate upon exhaustion of all rural health transformation funds appropriated or otherwise made available for the initiatives specified in subsection (a) of this section.

35-25-708. Prohibited uses; legislative notice; reporting.

(a) In addition to any other limitations imposed by state or federal law, no expenditure of rural health transformation funds shall be made for abortions or for specified sex-trait modification procedures, as defined in 45 C.F.R. § 156.400.

(b) Each grant, award or expenditure of rural health transformation funds in excess of five hundred thousand dollars ($500,000.00) shall require written approval of the advisory committee and notice to the legislature not less than ten (10) days prior to authorization of the grant, award or expenditure. For authorized perpetuity fund expenditures, the notice shall identify the proposed recipient, amount, purpose and material terms of the grant, award or expenditure. For time-limited initiatives, legislative notice shall be satisfied by the department providing written notice to the joint appropriations committee in a manner similar to the process specified in W.S. 9-2-1005(b)(ii) and 9-2-1013(b).

(c) The state budget department, in consultation with the department, shall develop and maintain an electronic reporting portal to provide current information on expenditures and program activity of rural health transformation funds.

35-25-709. Recipient reporting; performance and accountability agreements; repayment.

(a) The department shall require each recipient of funds under the Wyoming rural health transformation program to submit reports sufficient to demonstrate compliance with applicable state and federal requirements. At a minimum, required reporting shall include detailed expenditure information, performance measures and documentation demonstrating the authorized use of funds.

(b) The department shall require each recipient hospital, clinic, emergency medical service provider or other health care-related organization receiving funds under the programs authorized in W.S. 35-25-706 to enter into a written performance and accountability agreement with the department. At a minimum, the agreement shall include requirements relating to:

(i) Operating margin targets;

(ii) Days cash on hand;

(iii) Liquidity ratio benchmarks;

(iv) The adoption of modernization and efficiency practices, including improved revenue cycle management systems;

(v) The development and implementation of a plan to reduce unprofitable, duplicative or nonessential service lines;

(vi) Participation in shared services, regional collaboration or other cost-containment arrangements where feasible; and

(vii) Submission of independent financial audits to the department for annual collection and transmittal to the joint appropriations committee.

(c) A recipient of funds under the Wyoming rural health transformation program that fails to comply with a requirement, condition or obligation imposed by statute, rule or performance and accountability agreement, or that fails to meet required performance targets, misuses funds, expends funds for purposes not authorized under state or federal law or fails or refuses to implement required operational reforms, shall repay to the department all or a prorated portion of the funds received, as determined by the department. The department may recover amounts owed under this subsection by any means authorized by law.

CHAPTER 26 - AUTOMATED EXTERNAL DEFIBRILLATORS

35-26-101. Automated external defibrillators; definitions.

(a) As used in this article:

(i) "Automated external defibrillator (AED)" means a medical device heart monitor and defibrillator that:

(A) Has received approval of its premarket notification filed pursuant to U.S. Code, title 21, section 360(k) from the U.S. Food and Drug Administration;

(B) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(C) Upon determining that defibrillation should be performed, automatically charges and delivers, or requests delivery of, an electrical impulse to an individual's heart.

35-26-102. Possession of automated external defibrillator.

(a) In order to ensure public health and safety, all persons who possess an AED shall:

(i) Obtain appropriate training in cardiopulmonary resuscitation (CPR) and in the use of an AED by the American Heart Association, American Red Cross or by another nationally recognized, or Wyoming department of health recognized, course in CPR and AED use and maintains currency through refresher training every two (2) years; and

(ii) Ensure that the AED is maintained and tested according to the manufacturer's guidelines.

(iii) Repealed by Laws 2005, ch. 89, § 2.

(b) Any person or entity in possession of an AED shall notify an agent of the emergency communications center and the local ambulance service of the existence, location and type of AED.

35-26-103. Limited liability for use of automated external defibrillator.

(a) Any person who uses or attempts to use an automated external defibrillator device on a victim of a perceived medical emergency, any prescribing physician who authorizes the purchase of the AED and any individual who provides training in cardiopulmonary resuscitation (CPR) in the use of an AED shall be immune from civil liability for any harm resulting from the use or attempted use of such device, unless the harm involved was caused by willful or criminal misconduct, gross negligence, reckless misconduct or a conscious, flagrant indifference to the safety of the victim who was harmed.

(b) Any person responsible for the site where the AED is located shall be immune from civil liability for any personal injury that results from any act or omission of acts that do not amount to willful or wanton misconduct or gross negligence if that person complies with the requirements of W.S. 35-26-102.

(c) Any clinical use of the AED shall be reported to the licensed physician.

CHAPTER 27 - PUBLIC HEALTH NURSES INFANT HOME VISITATION SERVICES

35-27-101. Definitions.

(a) As used in this act:

(i) "Department" means the Wyoming department of health;

(ii) "TANF" means the federal temporary assistance to needy families program authorized by Pub. L. 104-193;

(iii) "Program" means the public health nursing infant home visitation subprogram created by this act;

(iv) "This act" means W.S. 35-27-101 through 35-27-104.

35-27-102. Public health nursing infant home visitation subprogram created; eligibility.

(a) There is created the public health nursing infant home visitation subprogram.

(b) Pregnant women, or families with infants, are eligible for services of the program if:

(i) The delivery of the newborn or the prenatal care is paid for, or is eligible to be paid for, under the Wyoming Medical Assistance and Services Act or the woman is eligible for services under the women's, infants' and children's supplemental food program;

(ii) The mother is confined to a county jail, the Wyoming women's center or any other correctional facility in the state, or is on probation or parole as a result of a conviction of a criminal offense;

(iii) The mother has a mental illness or substance abuse problem and is an inpatient at the Wyoming state hospital, a psychiatric hospital or an inpatient treatment facility, or is referred for services by a community mental health center; or

(iv) The mother is a victim of domestic abuse.

(c) The services provided under the program shall ordinarily be available only until the infant has attained twenty-four (24) months of age, but may be extended by the public health nurse to an older age in cases of special need.

(d) The program shall:

(i) To the extent practical and needed, provide prenatal contacts and follow-up contacts with each eligible pregnant woman. If another agency or program is actually performing adequate prenatal contacts, the program created under this act shall defer to that agency or program, or develop an agreement on a county by county or region by region basis as to which program will provide the contacts to avoid duplication;

(ii) To the extent needed where there were prenatal contacts, and to the extent practical where adequate contact was not made with the eligible mother prior to delivery, as soon as practical after the mother and infant return to their home, conduct a welcome home visit for the infant in the family home. During the welcome home visit, the public health nurse may, as appropriate:

(A) Provide information in written, audio or video format on the care and nurturing of infants;

(B) Provide information on recommended immunizations;

(C) Provide available supplies and equipment useful in the caring for infants. The public health nurses may accept donations of such supplies and equipment; and

(D) Assess the infant and the infant's circumstances in accordance with departmental instructions and protocols and, as needed, plan follow-up visits and services and refer the mother to other community or governmental resources, programs and providers.

(e) The department shall:

(i) Establish home visitation subprograms within available resources and shall initially use the following implementation priorities in case of shortage of resources:

(A) First time pregnant women under the age of twenty (20) years who are eligible for assistance under the Wyoming Medical Assistance and Services Act or the women's, infants' and children's supplemental food program;

(B) Any pregnant woman or family in need of the services of the program who is referred by an attending physician;

(C) First time births to women who, regardless of age, are eligible for assistance under the Wyoming Medical Assistance and Services Act or the women's, infants' and children's supplemental food program;

(D) Premature births;

(E) Victims of domestic abuse;

(F) Pregnant women or mothers with a mental illness or substance abuse problem;

(G) Pregnant women or mothers confined to a county jail, the Wyoming women's center or any other correctional facility in the state, or on probation or parole as a result of a conviction for a criminal offense; and

(H) Subsequent pregnancies and births where the woman or family is eligible for assistance under the Wyoming Medical Assistance and Services Act or the women's, infants' and children's supplemental food program.

(ii) Modify the priority list required under paragraph (i) of this subsection as needed;

(iii) Develop or specify protocols for public health nurses to use in the program;

(iv) Provide training for the nurses conducting the visits; and

(v) Where a county or municipal health department or health district exists, contract with the governing body of that department or district:

(A) For the provision of the program's services; or

(B) To provide the public health nurses to conduct the program.

(f) The department may subcontract with providers of research based, nonnurse models for home visiting services, as

appropriate and indicated by client assessment, to secure the most effective services available for the eligible populations.

(g) The public health nurses responsible for each county shall jointly for that county develop a list of programs, resources and providers to whom referrals may be made and the types of referrals that may be made to each entity. The lists shall be reviewed at least annually with the county health officer, the manager of the department of family services field office serving the county, the preschool developmental disability program serving the county and the county or municipal human services agency or coordinator, if any.

(h) Any physician providing prenatal care or delivering a baby where the care or delivery is eligible for reimbursement under the Wyoming Medical Assistance and Services Act may, unless contraindicated, refer the expectant mother or the infant to the public health nurse serving the county for placement in the program. Physicians may refer other pregnant women, infants or families to the program as medically needed. The referrals shall begin once the program is operational within the county.

35-27-103. Program evaluation and statistical information.

(a) It shall be the goal of the program in each county to provide appropriate nursing contact to all eligible women. The department shall statistically track, in order to provide trending reports as needed, the number of known eligible births, the number receiving appropriate contacts, the number of women needing follow-up services and the number who did not receive follow-up services broken down by cause as follows:

(i) The number who refused service;

(ii) The number who did not receive follow-up services due to lack of resources;

(iii) The number who did not receive services for other reasons, which reasons may be specified to the extent useful.

(b) If the report required under subsection (a) of this section shows that appropriate contacts were not made for ninety-five percent (95%) of the eligible births, or less than seventy-five percent (75%) of the women needing follow-up services received them, the department shall provide a written

explanation of the reasons why the goals and objectives of the program under this section were not met.

(c) The department shall collect statistics to the extent practical to permit evaluation of the success of the program in achieving the reduction:

(i) In abuse of the infants;

(ii) Of subsequent out of wedlock pregnancies by the visited mothers;

(iii) In problems resulting from substance abuse;

(iv) In number of arrests among mothers under the program;

(v) In the use of tobacco products by mothers under the program;

(vi) In violent and anti-social behavior by infants under the program once they reach adolescence and young adulthood, as measured by arrests and convictions.

35-27-104. Program funding.

The department shall report to the legislature any reduction in federal temporary assistance to needy families (TANF) program funds which results in the need for additional state funds to administer W.S. 35-27-101 through 35-27-104. The provisions of W.S. 35-27-101 through 35-27-104 shall not be effective one hundred eighty (180) days after the adjournment of the legislative session next following the submission of the report, unless the legislature appropriates the additional funds required.

CHAPTER 28 - PUBLIC POOL AND SPA HEALTH AND SAFETY

35-28-101. Definitions.

(a) As used in this act:

(i) "Bathhouse" means a structure that contains dressing rooms, showers and toilet facilities for use with an adjacent public pool;

(ii) "Department" means the Wyoming department of agriculture;

(iii) "Director" means the director of the Wyoming department of agriculture or his duly authorized representative;

(iv) "Imminent health hazard" means a significant threat or danger to health when there is evidence sufficient to show that a product, practice, circumstance or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

(A) The number of potential injuries; and

(B) The nature, severity and duration of the anticipated injury.

(v) "Local health department" means a health department established by a county, municipality or district pursuant to W.S. 35-1-301 et seq.;

(vi) "Person" means municipalities, recreation boards of trustees, counties, state agencies, individuals, corporations, partnerships, enterprises or associations;

(vii) "Pool" means an artificial structure containing water used for swimming, bathing, diving, surfing, wading or a similar use and operated by an owner, lessee, operator, licensee or concessionaire regardless of whether a fee is charged for use;

(viii) "Public pool" means a pool that is open to the public or a segment of the public;

(ix) "Regulatory authority" means the authority which issued the license or adopted the rule or regulation being enforced including the department of agriculture or local health department;

(x) "Spa" means a bathing facility including, but not limited to, a hot tub or whirlpool designed for recreational or therapeutic use and not designed to be drained, cleaned and refilled for each use. Spas are designed to provide a means of agitation, which may include, but is not limited to, hydro jet circulation, hot water, cold water, mineral baths, air induction systems or any combination thereof;

(xi) "Swimming pool" means a body of water, other than a natural swimming area, maintained exclusively for swimming, recreative bathing or wading, and includes appurtenances used in connection with the swimming pool;

(xii) "Waterborne disease outbreak" means the occurrence of two (2) or more cases of a similar illness resulting from the ingestion of water from a common water source;

(xiii) "Waterborne illnesses" means illnesses caused by microorganisms, including, but not limited to, cryptosporidium, giardia, pseudomonas, E. coli 0157:H7 and shigella and spread by accidentally swallowing water that has been contaminated with fecal matter;

(xiv) "This act" means W.S. 35-28-101 through 35-28-110;

(xv) "Flow-through pool" means an artificial or partially artificial pool that depends on the natural flow of water to maintain adequate water quality.

35-28-102. Establishment of a safety program.

(a) The director shall establish and maintain a public pool and spa health and safety program. The director shall carry out provisions of the public pool and spa health and safety program and shall be assisted by the department of health. A local department of health, if established according to law, may establish and maintain its own local public pool and spa health and safety program so long as the program meets the requirements of this act and regulations adopted pursuant to this act. The director or his designee shall:

(i) Gather health and safety information related to public pools and spas and disseminate the information to the public, public pool or spa industry and local departments of health which have implemented a health and safety program;

(ii) On a voluntary basis, provide health and safety training for the pool and spa industry in this state, and work with other state, local and federal agencies to coordinate public health and safety educational efforts;

(iii) Regulate the health and safety of public pools and spas. In any area which does not have a local public health

and safety program established pursuant to law, the department shall issue licenses, conduct inspections and hold hearings to enforce any legal provision or rule adopted under this act;

(iv) Maintain a statewide database of public pool and spa license and inspection results;

(v) Work with federal, state and local agencies to coordinate public health and safety efforts and activities related to public pools and spas and coordinate with all other agencies to maintain consistency in inspection and enforcement activities;

(vi) Establish health and safety priorities related to public pools and spas for this state;

(vii) Provide laboratory support if needed for the analysis of water samples used to support inspection activities and to monitor health and safety;

(viii) Provide support for local health and safety programs related to public pool and spa programs as authorized by the legislature;

(ix) Take appropriate action against any person holding a public pool and spa license for the purpose of protecting the public health and preventing the transmission of infectious disease.

(b) The director of the department of health or his designee shall:

(i) Investigate all possible waterborne illnesses and outbreaks and request assistance from the department of agriculture and local health departments as necessary;

(ii) Provide support for local health and safety programs related to public pool and spa programs as authorized by the legislature;

(iii) Provide laboratory support for water inspection and accompanying monitoring activities for the health and safety of a public swimming pool or spa.

(c) Duties of a local health department shall include:

(i) Issuing licenses, conducting inspections, holding hearings and taking enforcement actions as necessary to carry out the provisions of the health and safety program related to public pools and spas;

(ii) Coordinating activities with the department of agriculture in order to provide for statewide consistency; and

(iii) Reporting to the department of health any waterborne outbreak of illness and assisting the department of health in any outbreak investigations if requested.

(d) A local jurisdiction may provide laboratory support for water inspection and accompanying monitoring activities for the health and safety of a public swimming pool or spa.

35-28-103. Prohibited acts.

No person shall violate this act or any regulation adopted in accordance with the provisions of this act.

35-28-104. Cease operations order; injunctive proceedings.

(a) If the director of the department of agriculture or the director of the department of health has probable cause to believe that an imminent hazard to the public exists from a violation of this act, he may order any person to immediately cease the practice believed to be a violation of this act and shall provide the person an opportunity for hearing pursuant to the Wyoming Administrative Procedure Act within ten (10) days after issuing the order.

(b) In addition to any other remedies, the director may apply to the district court for injunctive relief from any person who violates this act.

35-28-105. Penalties.

Any person who knowingly and intentionally violates any provision of this act or regulation adopted pursuant to this act is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

35-28-106. Regulations.

The director may adopt regulations necessary for the efficient enforcement of this act and to ensure that appropriate sanitary conditions, public safety and water quality standards are met by any person engaged in operating a public pool or spa.

35-28-107. Inspections, examinations.

(a) For purposes of enforcement of this act, the director may, upon presenting appropriate credentials to the owner, operator or agent in charge:

(i) Enter at a reasonable time any public pool or spa; and

(ii) Inspect at any reasonable time and within reasonable limits and in a reasonable manner any public pool or spa and all pertinent equipment, finished and unfinished materials and obtain samples necessary for the enforcement of this act. The frequency of inspections shall be based on the relative risk to public health and safety, with no such facility receiving less than one (1) inspection per year.

(b) Upon completion of any inspection under this section but before leaving the premises, the director shall give to the owner, operator or agent in charge a report in writing setting forth any conditions or practices observed by him which in his judgment indicate that any public pool or spa:

(i) Is not being maintained in whole or in part in a clean and sanitary condition, in good repair and free of safety hazards;

(ii) Through testing, contains water which does not comply with the requirements set forth in the regulations;

(iii) Is failing to meet generally accepted health practices for pool and spa operation in compliance with the laws and rules pertaining to public pools and spas;

(iv) Is failing to keep and maintain records pertaining to the operation and maintenance of the public pool or spa as required by the regulations.

35-28-108. License required; electronic transmittals.

(a) Any person operating a public pool or spa shall obtain a license from the department of agriculture or a local health

department and shall be thoroughly knowledgeable on good practices of swimming pool and spa operation and with the laws and rules pertaining to public swimming pools, spas and similar installations. The license is not transferable, shall be renewed on an annual basis and shall be prominently displayed in the facility. No public pool or spa shall operate without a valid license.

(b) Written application for a new license shall be made on a form approved by the department of agriculture and provided by the department of agriculture or the local health department and shall be signed by the applicant. An initial license fee of one hundred dollars ($100.00) shall accompany each application. All licenses shall expire June 30 of each year unless suspended, revoked or renewed. Licenses shall be renewed each year upon application to the department accompanied by a fee of fifty dollars ($50.00). Any public pool or spa which has a license on the effective date of this section shall pay a fee of fifty dollars ($50.00) for the following year and shall not be liable to pay the initial license fee of one hundred dollars ($100.00).

(c) Fees collected under this section shall be deposited in a special account within the department of agriculture's consumer health services food and license account and distributed monthly as follows:

(i) In any county, city or district without a local health department established pursuant to W.S. 35-1-301 et seq., the department of agriculture shall receive ninety percent (90%) of the fee collected and the department of health shall receive ten percent (10%). The revenues received by the department of agriculture under this paragraph shall be used to defray the cost associated with the public health and safety program related to public pools and spas;

(ii) In any county, city or district with a local health department established pursuant to W.S. 35-1-301 et seq., the local health department shall receive eighty-five percent (85%) of the amount of the fee collected, the department of agriculture shall receive ten percent (10%) and the department of health shall receive five percent (5%). The revenues received by the department of agriculture under this paragraph shall be used to defray the cost associated with the public health and safety program related to public pools and spas.

(d) Before approving an application, the department of agriculture or the local health department shall determine that

the facility is in compliance with this act and any regulations adopted pursuant to this act.

(e) The director may allow the licensing, testing, inspection and reporting requirements of this chapter to be conducted electronically as provided by the Uniform Electronic Transaction Act, W.S. 40-21-101 through 40-21-119 and any applicable federal electronic requirements.

35-28-109. Summary suspension of a license.

(a) A regulatory authority may summarily suspend a license to operate a public pool or spa if it determines through inspection, water quality testing, records or other authorized means, or after consultation with the state health officer, that an imminent health hazard exists including, but not limited to, fire, flood, extended interruption of electrical or water service, sewage backup or waterborne illness or disease.

(b) The regulatory authority may summarily suspend a license by providing written notice of the summary suspension to the license holder or the person in charge without prior warning, notice of a hearing or a hearing.

(c) The regulatory authority shall conduct an inspection of the facility for which the license was summarily suspended within forty-eight (48) hours after receiving notice from the license holder stating that the conditions cited in the summary suspension order no longer exist.

(d) A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the regulatory authority through reinspection and other means as appropriate. A suspended license shall be reinstated immediately if the regulatory authority determines that the imminent health hazard no longer exists. A notice of reinstatement shall be provided to the license holder or person in charge of the facility.

35-28-110. License revocation.

(a) A regulatory authority may initiate revocation proceedings for a license by serving a complaint signed by the director or the director of a local department of health. The application shall be accompanied by an affidavit of the director or director of the local department of health stating:

(i) The condition for the summary suspension has not been corrected;

(ii) There is a history of noncompliance with this act or the regulations adopted under this act; or

(iii) There was a refusal to grant access to the regulatory authority.

(b) If requested, the regulatory authority shall provide notice and hold a hearing on any revocation proceeding in accordance with the provisions of the Wyoming Administrative Procedure Act, W.S. 16-3-101 et seq.

(c) If, upon completion of the hearing and consideration of the record, the department of agriculture or local department of health finds that the conditions present at the facility pose an imminent health hazard, there is a history of noncompliance with this act or the regulations adopted under this act or there was a refusal to grant access to the regulatory authority, the regulatory authority shall issue an order of license revocation which shall include findings of fact and conclusions of law, and findings of actions necessary to cure the causes leading to the revocation.

(d) The decision of the regulatory authority may be appealed to the district court pursuant to the Wyoming Administrative Procedure Act, W.S. 16-3-101 et seq.

35-28-111. Exemptions.

Flow-through pools are exempt from the provisions of this act.

CHAPTER 29 - VOLUNTEER EMERGENCY MEDICAL TECHNICIAN PENSION FUND

35-29-101. Repealed by Laws 2015, ch. 32, § 3.

35-29-102. Repealed by Laws 2015, ch. 32, § 3.

35-29-103. Repealed by Laws 2015, ch. 32, § 3.

35-29-104. Repealed by Laws 2015, ch. 32, § 3.

35-29-105. Repealed by Laws 2015, ch. 32, § 3.

35-29-106. Repealed by Laws 2015, ch. 32, § 3.

35-29-107. Repealed by Laws 2015, ch. 32, § 3.

35-29-108. Repealed by Laws 2015, ch. 32, § 3.

35-29-109. Repealed by Laws 2015, ch. 32, § 3.

35-29-110. Repealed by Laws 2015, ch. 32, § 3.

35-29-111. Repealed by Laws 2015, ch. 32, § 3.

35-29-112. Repealed by Laws 2015, ch. 32, § 3.

CHAPTER 30 - WYOMING CAREGIVER ACT

35-30-101. Definitions.

(a) As used in this act:

(i) "Aftercare" means any assistance provided by a designated caregiver to a patient pursuant to this act after the patient's discharge from a hospital. Assistance under this act may include the performance of tasks necessary for the treatment of the patient's condition at the time of discharge and which do not require a licensed professional;

(ii) "Caregiver" means any person eighteen (18) years of age or older, including next of kin, duly designated as a caregiver pursuant to the provisions of this act who provides aftercare to a patient in the patient's residence;

(iii) "Discharge" means a patient's exit or release from a hospital to the patient's residence following any inpatient stay;

(iv) "Hospital" means as defined by W.S. 35-2-901(a)(xiii);

(v) "Representative of the patient" means any person who:

(A) Is a legal guardian;

(B) Holds a medical or legal power of attorney; or

(C) Is a representative named in an advance care directive in Wyoming or other similar law in another state.

(vi) "Residence" means a dwelling considered by a patient to be his home, but does not include:

(A) A hospital;

(B) A nursing care facility as defined by W.S. 35-2-901(a)(xvi); or

(C) An assisted living facility as defined by W.S. 35-2-901(a)(xxii).

(vii) "This act" means W.S. 35-30-101 through 35-30-106.

35-30-102. Designation of caregivers by hospital patients.

(a) Hospitals shall provide each patient or the representative of the patient with an opportunity to designate one (1) caregiver following the inpatient admission at the hospital and prior to the patient's discharge to the patient's residence or to another place:

(i) In the event the patient is unconscious or otherwise incapacitated upon admission to the hospital, the hospital shall provide the representative of the patient with an opportunity to designate a caregiver to care for the patient so long as the designation or lack of a designation does not interfere with, delay or otherwise affect the medical care provided to the patient;

(ii) In the event the patient or the representative of the patient declines to designate a caregiver under this act, the hospital shall document that determination in the patient's medical record and the hospital shall be deemed to be in compliance with the provisions of this act;

(iii) In the event that the patient or the representative of the patient designates an individual as a caregiver under this act, the hospital shall promptly request the written consent of the patient or the representative of the patient to release personal health information pertinent to the patient's designated caregiver pursuant to the hospital's established procedures for releasing personal health information and in compliance with applicable state and federal law;

(iv) If the patient or the representative of the patient declines to consent to the release of personal health information to the patient's designated caregiver, the hospital is not required to provide notice to the caregiver as provided in W.S. 35-30-103 and shall not release personal health information;

(v) The hospital shall record the patient's designation of a caregiver, the relationship of the caregiver to the patient and the name, telephone number and physical address of the patient's designated caregiver, if available, in the patient's medical record.

(b) A patient or representative of the patient may elect to change the designated caregiver.

(c) Designation of a caregiver by a patient or a representative of the patient pursuant to the provisions of this act shall not obligate any individual to perform any aftercare tasks for the patient.

(d) This section shall not be deemed to require a patient or a representative of the patient to designate any individual as a caregiver under this act.

35-30-103. Notification by hospital to caregiver.

If a patient has designated a caregiver, a hospital shall notify the caregiver of the patient's discharge to the patient's residence or to another place, including another hospital or medical facility, as soon as practicable. In the event the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay or otherwise affect the medical care provided to the patient or the discharge of the patient.

35-30-104. Consultation with caregiver by hospital; discharge plan.

(a) As soon as practicable after designation of a caregiver, the hospital shall attempt to consult with the designated caregiver to prepare for the patient's aftercare and shall issue a discharge plan describing a patient's aftercare needs.

(b) Before discharge, the hospital shall provide individualized explanations and in-person instruction about

tasks the caregiver will need to carry out at home after discharge.

(c) In the event the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay or otherwise affect the discharge of the patient.

35-30-105. Construction of act.

(a) Nothing in this act shall interfere with the rights of a person legally authorized to make health care decisions for a patient.

(b) Nothing in this act shall create a private right of action against a hospital, hospital employee or a duly authorized agent of a hospital, or otherwise supersede or replace rights or remedies available under any other law.

35-30-106. Impact on state or federal program funding.

No monies of the state or federal government shall be used for the payment of any caregiver pursuant to this act. No state or federal program funding shall be impacted by this act.

CHAPTER 31 - VOLUNTEER HEALTH SERVICES PROGRAM

35-31-101. Definitions.

(a) As used in this act:

(i) "Contract" means an agreement executed in compliance with this act between:

(A) A medical facility and the department that authorizes the medical facility to deliver volunteer health care services to low income persons in consideration for being deemed a medical facility of the state under the Wyoming Governmental Claims Act when performing duties under the contract; or

(B) A health care provider and the department that authorizes the health care provider to deliver volunteer health care services to low income persons in consideration for being deemed a public employee of the state under the Wyoming Governmental Claims Act when performing duties under the contract.

(ii) "Department" means the department of health;

(iii) "Health care provider" means any person licensed, certified or otherwise authorized by the law of this state to diagnose, cure, treat or prevent impairments of the normal state of the mind and body, including but not limited to physicians, physician assistants, nurses, pharmacists, optometrists, dentists, psychiatrists, psychologists and social workers;

(iv) "Low income person" means a person with an income not greater than two hundred percent (200%) of the current poverty line as specified by the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) and:

(A) The person is not a covered individual under a health insurance or health care policy, contract or plan; or

(B) The person is a covered individual under a health insurance or health care policy, contract or plan, but was denied coverage by the policy, contract or plan.

(v) "Medical facility" means:

(A) A hospital, clinic, office, nursing home, or other facility where a health care provider provides health care to patients; and

(B) Provided that neither the medical facility nor individual health care provider receives compensation from or on behalf of the patient, "medical facility" includes all individuals, regardless of whether the individual receives wages, salary or other fees or compensation from the medical facility, who:

(I) Are employed by or under contract with the medical facility to provide health care to patients; or

(II) Have been granted privileges by the medical facility to provide health care to patients.

(vi) "Patient" includes clients of health care providers or medical facilities as defined by paragraph (iii) or (v) of this subsection;

(vii) "Volunteer health care" means services intended to diagnose, cure, treat or prevent impairments of the normal state of the mind and body when the provider of those services does not charge or receive compensation for the services from, or on behalf of, the patient;

(viii) "This act" means W.S. 35-31-101 through 35-31-103.

35-31-102. Volunteer health services; application of claims act; exclusiveness of remedy; contract requirements.

(a) The department may execute contracts with health care providers and medical facilities to deliver volunteer health care services to low income persons as a deemed public employee or medical facility of the state.

(b) A health care provider who delivers volunteer health care services to a low income person pursuant to a contract that complies with the requirements of this act, and regardless of whether the low income person who is treated is later found to be ineligible, shall be considered a public employee of the state while acting within the scope of duties under the contract, but only for the purposes of the applicability of the Wyoming Governmental Claims Act, including W.S. 1-39-110. The state of Wyoming shall have the duty to defend a health care provider alleged to have been negligent or alleged to have committed medical malpractice in the provision of volunteer health care pursuant to a contract under subsection (a) of this section provided the health care provider cooperates as described in W.S. 1-41-103(e)(iv).

(c) A medical facility while providing volunteer health care services to a low income person pursuant to a contract that complies with the requirements of this act, and regardless of whether the low income person who is treated is later found to be ineligible, shall be considered a medical facility of the state, but only for purposes of the applicability of the Wyoming Governmental Claims Act, including W.S. 1-39-109(b). The state of Wyoming shall have the duty to defend a medical facility alleged to have been negligent in the provision of volunteer health care pursuant to a contract under subsection (a) of this section provided the medical facility cooperates as described in W.S. 1-41-103(e)(iv).

(d) Volunteer health care providers and medical facilities shall determine patient eligibility using patient self attestation.

(e) The department, health care provider or medical facility retains the right to terminate the contract upon written notice of its intent to terminate the contract at least five (5) business days before the contract termination date unless the department determines that immediate termination is necessary to protect the safety of patients.

(f) A contract under this section shall contain provisions binding the parties to the requirements of subsections (b) through (e) of this section.

(g) The exclusive remedy for any injury or damage suffered as the result of any negligence of the health care provider or the medical facility, while acting within the scope of a contract under this act is an action against the state of Wyoming brought under the Wyoming Governmental Claims Act. Neither the patient nor any person claiming by or through the patient shall have any claim whatsoever against the health care provider or medical facility on account of health care provided to such patient within the scope of a contract under this act.

35-31-103. Disclosure; continuing education credit; rulemaking.

(a) Before a low income person receives volunteer health care services pursuant to this act, he or his legal representative shall sign a disclosure statement that informs the low income person of the following:

(i) The health care provider shall be considered a public employee of the state under the Wyoming Governmental Claims Act while providing volunteer health care under this act and that the provider's liability will be limited by the provisions of the Wyoming Governmental Claims Act;

(ii) The medical facility shall be considered a facility of the state and any individual included in the definition of medical facility in W.S. 35-31-101(a)(v) shall be considered a public employee of the state under the Wyoming Governmental Claims Act while providing volunteer health care under this act and that the facility's liability, including the liability of any individual included in the definition of

medical facility, will be limited by the provisions of the Wyoming Governmental Claims Act;

(iii) Commencement of an action against the state of Wyoming pursuant to the Wyoming Governmental Claims Act shall be the exclusive remedy for any injury or damage suffered as the result of any negligence of the health care provider or the medical facility, as defined in W.S. 35-31-101(a)(v), while acting within the scope of a contract that exists between the department and the health care provider or medical facility. Neither patient nor any person claiming by or through the patient shall have any claim whatsoever against the health care provider or medical facility on account of health care provided to such patient within the scope of the contract;

(iv) The low income person may elect to decline treatment under the provisions of this act.

(b) Licensing boards may grant continuing education credit to health care providers for the performance of volunteer health care services to low income persons pursuant to this act.

(c) The department shall adopt rules necessary to implement this act.

CHAPTER 32 - GENETIC DATA PRIVACY

35-32-101. Definitions.

(a) As used in this chapter unless otherwise defined:

(i) "Authorized representative" means a person authorized by state or federal law to make health care decisions for an individual;

(ii) "DNA" means deoxyribonucleic acid;

(iii) "Genetic testing" means any laboratory test of an individual's complete DNA, regions of DNA, chromosomes or genes to determine the presence of genetic characteristics of an individual;

(iv) "Genetic characteristic" means a gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a disease, disorder, trait or syndrome, or to identify an individual or a blood relative;

(v) "Genetic data" means any data, regardless of its format, that concerns an individual's genetic characteristics. Genetic data includes:

(A) Raw sequence data that result from sequencing of an individual’s complete extracted or a portion of the extracted DNA;

(B) Genotypic and phenotypic information that results from analyzing the raw sequence data, including any familial inferences therefrom; and

(C) Self reported health information that an individual submits to a company regarding the individual's health conditions and that is used for scientific research or product development and analyzed in connection with the individual's raw sequence data.

(vi) "Informed consent" means the signing of a consent form or forms in writing or by electronic signature as defined in W.S. 40-21-102(a)(viii) by an individual or an individual's authorized representative which includes a description of:

(A) Any genetic testing to be performed and how the genetic testing or resulting genetic data will be used;

(B) How any genetic data will be retained or disclosed;

(C) An individual's rights under W.S. 35-32-103.

(vii) "Biological sample" means any material part of a human, discharge therefrom or derivative thereof known to contain deoxyribonucleic acid (DNA), such as tissue, blood, urine or saliva;

(viii) "Consumer" means a natural person who is a resident of the state of Wyoming;

(ix) "Deidentified data" means data that cannot be used to infer information about or otherwise be linked to an identifiable individual, and that is subject to:

(A) Administrative and technical measures to ensure that the data cannot be associated with a particular individual;

(B) Public commitment by the company to maintain and use data in deidentified form and not attempt to reidentify data; and

(C) Legally enforceable contractual obligations that prohibit any recipient of the data from attempting to reidentify the data.

(x) "Direct to consumer genetic testing company" or "company" means any person that offers consumer genetic testing products or services directly to consumers or who collects, uses or analyzes genetic data provided by a consumer;

(xi) "Express consent" means a consumer's affirmative response to a clear, meaningful and prominent notice regarding the collection, use or disclosure of the consumer's genetic data for a specific purpose.

35-32-102. Genetic testing; prohibitions; exceptions.

(a) Except as provided in subsection (b) of this section, no person conducting genetic testing shall do any of the following without the informed consent of the individual or the individual's authorized representative:

(i) Obtain an individual's genetic data;

(ii) Perform genetic testing on an individual;

(iii) Retain an individual's genetic data;

(iv) Disclose an individual's genetic data.

(b) Except as otherwise prohibited by law, an individual's genetic data may be obtained, retained, disclosed and used without informed consent for:

(i) Disclosures to the individual or the individual's authorized representative;

(ii) Law enforcement purposes otherwise authorized by law;

(iii) The state DNA database created by W.S. 7-19-402 or the comparable provisions of another jurisdiction;

(iv) The registration of sex offenders pursuant to W.S. 7-19-302;

(v) Determining paternity in accordance with a court or administrative order;

(vi) Determining the identity of a deceased individual;

(vii) Newborn screening requirements under W.S. 35-4-801;

(viii) The provision of emergency medical treatment;

(ix) Complying with an order of a court of competent jurisdiction;

(x) Anonymous research where the identity of the individual will not be released;

(xi) Services limited to storage, retrieval, handling or transmission of genetic data by a third party service provider pursuant to a contract or other obligation;

(xii) Diagnosis or treatment of the individual if performed by a clinical laboratory that has received a specimen referral from the individual's treating physician or another clinical laboratory. Nothing in this paragraph shall be deemed to waive the requirement that a treating physician obtain specific informed consent for the taking of a specimen when required.

(c) To safeguard the privacy, confidentiality, security and integrity of a consumer's genetic data, a direct to consumer genetic testing company shall:

(i) Provide clear and complete information regarding the company's policies and procedures for the collection, use or disclosure of genetic data by making available to a consumer:

(A) A high-level privacy policy overview that includes essential information about the company's collection, use or disclosure of genetic data; and

(B) A prominent, publicly available privacy notice that includes, at a minimum, information about the company's data collection, consent, use, access, disclosure, transfer, security and retention and deletion practices.

(ii) Obtain a consumer's consent for the collection, use or disclosure of the consumer's genetic data including, at a minimum:

(A) Initial express consent that describes the uses of the genetic data collected through the genetic testing product or service, and specifies who has access to test results and how the genetic data may be shared;

(B) Separate express consent for transferring or disclosing the consumer's genetic data to any person other than the company's vendors and service providers, or for using genetic data beyond the primary purpose of the genetic testing product or service and inherent contextual uses;

(C) Separate express consent for the retention of any biological sample provided by the consumer following completion of the initial testing service requested by the consumer;

(D) Informed consent in compliance with the federal policy for the protection of human research subjects, 45 C.F.R. § 46, for transfer or disclosure of the consumer's genetic data to third party persons for research purposes or research conducted under the control of the company for the purpose of publication or generalizable knowledge; and

(E) Separate express consent for marketing to a consumer based on the consumer's genetic data, or for marketing by a third party person to a consumer based on the consumer having ordered or purchased a genetic testing product or service. Marketing does not include the provision of customized content or offers on the websites or through the applications or services provided by a direct to consumer genetic testing company with a first-party relationship to the customer.

(iii) Require valid legal process for disclosing genetic data to law enforcement or any other government agency without a consumer's express written consent;

(iv) Develop, implement and maintain a comprehensive security program that protects a consumer's genetic data against unauthorized access, use or disclosure; and

(v) Provide a process for a consumer to:

(A) Access the consumer's genetic data;

(B) Delete the consumer's account and genetic data; and

(C) Request and obtain the destruction of the consumer's biological sample.

(d) Notwithstanding any other provisions in this section, a direct to consumer genetic testing company shall not disclose a consumer's genetic data to any entity offering health insurance, life insurance or long-term care insurance, or to any employer of the consumer without the consumer's written consent.

35-32-103. Genetic data; inspection; retention.

(a) An individual or the individual's authorized representative may inspect, correct and obtain genetic data about the individual.

(b) A person conducting genetic testing shall destroy an individual's genetic data upon request by the individual or the individual's authorized representative unless:

(i) The data was obtained pursuant to W.S. 35-32-102(b); or

(ii) Retention of the data is necessary for a purpose disclosed to the individual or representative in the informed consent.

(c) Genetic data about an individual obtained pursuant to W.S. 35-32-102(b) shall be used solely for the purposes obtained and shall be destroyed or returned to the individual or the individual's authorized representative upon completion of the purposes for which the data was obtained or in accordance with law.

35-32-104. Criminal penalty; private right of action.

(a) Any person violating the provisions of this chapter is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000.00) for each violation.

(b) An individual whose rights have been violated under the provisions of this chapter may bring a civil action to enjoin or restrain any violation of this chapter and may in the same action seek damages from the person violating this chapter. Prior to filing an action under this subsection the individual shall give notice in writing to the alleged violator stating fully the nature of the alleged violation. The alleged violator shall have not more than sixty (60) days from the date notice is provided to cure any violation. If, after sixty (60) days the violation has not been cured, the individual may bring a civil action. A prevailing party in an action brought under this subsection may recover all costs and expenses reasonably associated with the action, including but not limited to reasonable attorney fees.

(c) The attorney general may bring an action in the name of the state or as parens patriae on behalf of consumers to enforce this chapter. In any action brought by the attorney general to enforce this chapter, a person found to have violated this chapter shall be subject to a civil penalty of two thousand five hundred dollars ($2,500.00) for each violation, the recovery of actual damages incurred by consumers on whose behalf the action was brought and costs and reasonable attorneys' fees incurred by the office of the attorney general.

35-32-105. General provisions; limitations.

(a) The provisions of this chapter applicable to direct to consumer genetic testing companies shall not be waived.

(b) The disclosure of genetic data pursuant to this chapter shall comply with all state and federal laws for the protection of privacy and security. This chapter shall not apply to protected health information that is collected by a covered entity or business associate governed by the privacy, security and breach notification rules issued by the United States Department of Health and Human Services (Parts Regulations) 160 and 164 of Title 45 of the Code of Federal Services (Parts Regulations) established pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and the federal Health Information Technology for Economic and Clinical Health Act (P.L. 111-5).

CHAPTER 33 - BUILDING CODES

ARTICLE 1 - REFRIGERANTS

35-33-101. Regulation of refrigerants.

The use of a refrigerant designated acceptable pursuant to federal rules promulgated pursuant to 42 U.S.C. 7671k shall not be prohibited or regulated by any code, ordinance, rule or regulation of any state or local agency or any political subdivision of the state of Wyoming provided that any equipment containing a refrigerant shall otherwise be utilized and installed in accordance with all applicable laws, rules and regulations.