TITLE 30 - MINES AND MINERALS

CHAPTER 1 - GENERAL PROVISIONS

30-1-101. Recording mining claims required; requisites of certificate.

(a) A discoverer of any mineral lead, lode, ledge or vein shall, within ninety (90) days from the date of discovery, cause the claim to be recorded in the office of the county clerk of the county within which the claim may exist, by a location certificate which shall contain the following facts:

(i) The name of the lode claim;

(ii) The name or names of the locator or locators;

(iii) The date of location;

(iv) The length of the claim and the general course of the vein as far as it is known;

(v) The amount of surface ground claimed;

(vi) A description of the claim by such designation of natural or fixed object, or if upon ground surveyed by the United States system of land survey, by reference to section or quarter section corners, as shall identify the claim beyond question.

30-1-102. Imperfect certificates void.

Any certificate of the location of a lode claim which shall not fully contain all the requirements named in W.S. 30-1-101, together with such other description as shall identify the lode or claim with reasonable certainty, shall be void.

30-1-103. Prerequisites to filing location certificates.

(a) Before the filing of a location certificate in the office of the county clerk, the discoverer of any lode, vein or fissure shall designate the location thereof as follows:

(i) Repealed by Laws 1981, ch. 91, 2.

(ii) By posting at the point of discovery, on the surface, a plain sign or notice, containing the name of the lode or claim, the name of the discoverer and locator, and the date of such discovery;

(iii) By marking the surface boundaries of the claim, which shall be marked by six (6) substantial monuments of stone or posts, hewed or marked on the side or sides, which face is toward the claim, and sunk in the ground, one (1) at each corner, and one (1) at the center of each side line, and when thus marking the boundaries of a claim, if any one (1) or more of such posts or monuments of stone shall fall, by necessity, upon precipitous ground, when the proper placing of it is impracticable or dangerous to life or limb, it shall be lawful to place any such post or monument of stone at the nearest point properly marked to designate its right place; provided, that no right to such lode or claim or its possession or enjoyment, shall be given to any person or persons, unless such person or persons shall discover in said claim mineral bearing rock in place.

30-1-104. Additional location certificate to be filed upon change of surface boundaries or addition of new territory.

Whenever it shall be apprehended by the locator, or his assigns, of any mining claims or property heretofore or hereafter located, that his or their original location certificate was defective, erroneous, or that the requirements of the law had not been complied with before the filing thereof, or shall be desirous of changing the surface boundaries of his or their original claim or location, or of taking in any part of an overlapping claim or location which has been abandoned, such locator or locators, or his or their assigns, may file an additional location certificate in compliance with and subject to the provisions of this act; provided, however, that such relocation shall not infringe upon the rights of others existing at the time of such relocation, and that no such relocation, or other record thereof, shall preclude the claimant or claimants from proving any such title or titles as he or they may have held under any previous location.

30-1-105. Location certificates shall describe but 1 claim.

No location certificate shall contain more than one (1) claim or location, whether the location be made by one (1) or more locators, and any location certificate that contains upon its face more than one (1) location claim shall be absolutely void, except as to the first location named and described therein, and in case more than one (1) claim or location is described together so that the first one (1) cannot be distinguished from the others, the certificate of location shall be void as an entirety.

30-1-106. Repealed by Laws 1981, ch. 91, 2.

30-1-107. Repealed by Laws 1981, ch. 91, 2.

30-1-108. Locators' rights of possession and enjoyment; "mineral boundaries" defined.

The locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode or ledge, situated on the public domain, their heirs and assigns, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes and ledges throughout their entire depth, the top or apex of which lies inside of surface lines extended downward vertically although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize a locator or possessor of a vein or lode which extends in it downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

30-1-109. Relocation of abandoned claims.

Any abandoned lode, vein or strata claim may be relocated and the relocation shall be perfected by fixing new boundaries in the same manner as provided for the location of a new claim. The relocator shall erect new or adopt the old boundaries, renewing the posts or monuments of stone if removed or destroyed and fix a new location stake. The location certificate of an abandoned claim may state that the whole or any part of the new location is located as an abandoned claim.

30-1-110. Location certificate for placer claims.

(a) Hereafter the discoverer of any placer claim shall, within ninety (90) days after the date of discovery, cause such claim to be recorded in the office of the county clerk of the county within which such claim may exist, by filing therein a location certificate, which shall contain the following:

(i) The name of the claim, designating it as a placer claim;

(ii) The name or names of the locator or locators thereof;

(iii) The date of location;

(iv) The number of feet or acres thus claimed;

(v) A description of the claim by such designation of natural or fixed objects as shall identify the claim beyond question.

(b) Before filing such location certificate, the discoverer shall locate his claim:

(i) By securely fixing upon such claim a notice in plain painted, printed or written letters, containing the name of the claim, the name of the locator or locators, the date of the discovery, and the number of feet or acres claimed;

(ii) By designating the surface boundaries by substantial posts or stone monuments at each corner of the claim.

30-1-111. Assessment work for placer claims; character and kind.

For every placer claim, assessment work, as hereinafter provided, shall be done during each and every year after the first day of September following the date of location. Such assessment work shall consist in manual labor, permanent improvements made on the claim in buildings, roads or ditches made for the benefit of working such claims, or after any manner, so long as the work done accrues to the improvement of the claim, or shows good faith and intention on the part of the owner or owners and their intention to hold possession of said claim.

30-1-112. Assessment work for placer claims; amount of work required; suspension by act of congress.

On all placer claims heretofore or hereafter located in this state not less than one hundred dollars ($100.00) worth of assessment work shall be performed during each year from the first day of July after the date of location provided that whenever annual assessment work required by United States laws be suspended by act of congress such assessment work required by this section shall be suspended for the year or years stated in the act of congress.

30-1-113. Assessment work for placer claims; upon contiguous claims.

When two (2) or more placer mining claims lie contiguous and are owned by the same person, persons, company or corporation, the yearly expenditure of labor and improvements required on each of such claims may be made upon any one (1) of such contiguous claims if the owner or owners shall thus prefer.

30-1-114. Assessment work for placer claims; effect of failure to perform.

Upon failure of the owners to do or have done the assessment work required within the time above stated, such claim or claims upon which such work has not been completed, shall thereafter be open to relocation on or after the first day of July of any year after such labor or improvements should have been done, in the same manner and on the same terms as if no location thereof had ever been made; provided, that the original locators, their heirs, assigns or legal representatives have not resumed work upon such claim or claims after failure, and before any subsequent location has been made.

30-1-115. Assessment work; rental fee; affidavit required upon completion or payment.

Upon completion of the required assessment work or payment of the annual claim rental fee as required by federal law for any mining claim, the owner or owners or agent of such owner or owners shall cause to be made by some person cognizant of the facts, an affidavit setting forth that the required amount of work was done or rental fee paid, which affidavit shall within sixty (60) days of the completion of the work or payment of the fee, be filed for record, and shall thereafter be recorded in the office of the county clerk of the county in which the said claim is located.

30-1-116. Patents to placer claims.

When any person, persons or association, they and their grantors, have held and worked their placer claims in conformance with the laws of this state and the regulations of the mining district in which such claim exists, if such be organized, for five (5) successive years after the first day of September succeeding the date of location, then such person, persons or association, they and their grantors, shall be entitled to proceed to obtain a patent for their claims from the United States without performing further work; but where such person, persons or association, they or their grantors, desire to obtain a United States patent before the expiration of five (5) years from the date hereinbefore mentioned, they shall be required to expend at least five hundred dollars' ($500.00) worth of work upon a placer claim.

30-1-117. Use of water.

Whenever any person, persons or corporation, shall be engaged in mining or milling in this state, and in the prosecution of such business shall hoist or bring water from mines or natural water courses, such person, persons or corporation shall have the right to use such water in such manner, and direct it into such natural course or gulch as their business interests may require; provided, that such diversion shall not infringe on vested rights. The provisions of this section shall not be construed to apply to new or undeveloped mines, but to those only which shall have been open and require drainage or other direction

of water.

30-1-118. Mining claims subject to right-of-way; construction of ditch or flume.

All mining claims or property now located, or which may hereafter be located within this state, shall be subject to the right-of-way of any ditch or flume for mining purposes, or of any tramway, pack-trail or wagon road, whether now in use, or which may hereafter be laid out across any such location, claim or property; provided, always, that such right-of-way shall not be exercised against any mining location, claim or property duly made and recorded as herein required, and not abandoned prior to the establishment of any such ditch, flume, tramway, pack-trail or wagon road, without the consent of the owner or owners, except in condemnation, as in the case of land taken for public highways. Consent to the location of the easement above enumerated over any mineral claim, location or property, shall be in writing; and provided, further, that any such ditch or flume shall be so constructed that water therefrom shall not injure vested rights by flooding or otherwise.

30-1-119. Protection of surface proprietors.

Where a mining right exists in any case and is separate from the ownership or right of occupancy to the surface, such owner or rightful occupant of the said surface may demand satisfactory security from the miner or miners, and if such security is refused, such owner or occupant of the surface may enjoin the miner or miners from working such mine until such security is given. The order for such injunction shall fix the amount of the bond therefor.

30-1-120. Repealed by Laws 1982, ch. 75, 5; 1983, ch. 171,. 3.

30-1-121. Repealed by Laws 1982, ch. 75, 5; 1983, ch. 171,. 3.

30-1-122. Defrauding, cheating or swindling by "salting".

Any person or persons who shall defraud, cheat, swindle or deceive any party or parties in relation to any mine or mining property by "salting," or by placing or causing to be placed in any lode, placer or other mine, any genuine metals or material representing genuine minerals, which are designed to cheat and deceive others, for the purpose of gain, whereby others shall be deceived and injured by such, shall be guilty of a felony, and upon conviction thereof shall be fined in a penal sum of not less than fifty dollars ($50.00), or imprisoned in the penitentiary for not more than three (3) years, or both, in the discretion of the court.

30-1-123. Protection of livestock from mining shafts.

Every person, persons, company or corporation, who have already sunk mining shafts, pits, holes, inclines, upon any mining claim, or upon any mineral property, ground or premises, or who may hereafter sink such openings aforesaid, shall forthwith secure such shafts and openings against the injury or destruction of livestock running at large upon the public domain, by securely covering such shafts and other openings as aforesaid, in a manner to render them safe against the possibility of livestock falling into them or in any manner becoming injured or destroyed thereby; or by forthwith making a strong, secure and ample fence around such shafts and other openings aforesaid. Any person, persons, corporation or company who shall fail or refuse to fully comply with the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof shall be subject to imprisonment in a county jail for not more than ninety (90) days or fine of not more than one hundred dollars ($100.00) or both such imprisonment and fine in the discretion of the court imposing sentence. Any person, persons, corporation or company who shall fail or refuse to fully comply with the provisions of this section shall also be liable to the owner thereof for any damages sustained by injury or loss of livestock thereby.

30-1-124. Length of lode claim.

The length of any lode mining claim located within Wyoming, shall not exceed fifteen hundred (1,500) feet measured horizontally along such lode or vein. Nor can the regulations of any mining district limit a location to less than this length.

30-1-125. Width of lode claim.

The width of any lode claim located within Wyoming shall not exceed three hundred (300) feet on each side of the discovery shaft, the discovery shaft being always equally distant from the side lines of the claims. Nor can any mining district limit the location to a width of less than one hundred fifty (150) feet on either side of the discovery shaft.

30-1-126. W.S. 30-1-101 through 30-1-126 not applicable to coal mines.

Nothing in this act shall apply to the working of coal mines.

30-1-127. Charge for assays at university.

Hereafter the charge for making assays or tests for silver, gold, copper and lead at the University of Wyoming shall be in accordance with a fee schedule established by the university for charges to any resident of the state.

30-1-128. Construction or operation of railroads or roads by mining companies.

Any corporation or association of persons organized under this article or under the laws of any other state and doing business in this state, now or hereafter engaged in mining gold or silver bearing quartz rock, coal, lead, iron, copper or other materials, may construct or operate a railroad, tramway road or wagon road from their said mine or mines, to any point or points desired by them, and shall have the exclusive right-of-way to the line of their road over the unoccupied public domain for the space of not exceeding one hundred (100) feet on either side thereof, and also, the exclusive possession at the termini of their said road, and at such intermediate points as may be required, for depots, buildings, turntables, water tanks, machine shops and other necessary appurtenances of a railroad, and said corporation or association of persons may file a survey or diagram of such line of road with the lands claimed by them on either side thereof, and also the land claimed at the termini aforesaid, with the secretary of state, and it shall not be lawful for any person or persons to construct any road or erect any buildings or otherwise interfere with the possession of the land so indicated in the survey or diagram as filed aforesaid, and a certified copy of said survey under the seal of the state shall be received in evidence in all courts of law or equity within the state.

30-1-129. Eminent domain for underground right-of-way easements; right of condemnation generally.

Every owner or operator of any mining claims or properties having a common corner who find it necessary for the practical or economical development thereof has the right to condemn and to take, hold and appropriate a right-of-way easement across the corner and under or through the lands of another for underground passages or tunnels, including mine access and ventilation entries. The right-of-way easement shall in no instance exceed two hundred fifty (250) feet in width and any mineral removed from under the lands of another shall be accounted for by the person exercising the rights herein granted to the owner thereof at the gross value thereof on the surface.

30-1-130. Eminent domain for underground right-of-way easements; duty to show good faith and necessity.

In order to exercise the right of eminent domain herein granted the person claiming the benefit of such right shall be required to show that the proceeding is in good faith and that the right-of-way easement is necessary to continue the practical and economical development of a commercially feasible mining operation then being conducted.

30-1-131. Provisions for indemnity in certain contracts; invalidity.

(a) All agreements, covenants or promises contained in, collateral to or affecting any agreement pertaining to any well for oil, gas or water, or mine for any mineral, which purport to indemnify the indemnitee against loss or liability for damages for:

(i) Death or bodily injury to persons;

(ii) Injury to property; or

(iii) Any other loss, damage, or expense arising under either (i) or (ii) from:

(A) The sole or concurrent negligence of the indemnitee or the agents or employees of the indemnitee or any independent contractor who is directly responsible to such indemnitee; or

(B) From any accident which occurs in operations carried on at the direction or under the supervision of the indemnitee or an employee or representative of the indemnitee or in accordance with methods and means specified by the indemnitee or employees or representatives of the indemnitee, are against public policy and are void and unenforceable to the extent that such contract of indemnity by its terms purports to relieve the indemnitee from loss or liability for his own negligence. This provision shall not affect the validity of any insurance contract or any benefit conferred by the Worker's Compensation Law of this state.

30-1-132. Provisions for indemnity in certain contracts; definition.

The term "agreement pertaining to any well for oil, gas, or water, or mine for any mineral" as used in W.S. 30-1-131, means any agreement or understanding, written or oral, concerning any operations related to drilling, deepening, reworking, repairing, improving, testing, treating, perforating, acidizing, logging, conditioning, altering, plugging, or otherwise rendering services in or in connection with any well drilled for the purpose of producing or disposing of oil, gas or other minerals, or water, and designing, excavating, constructing, improving, or otherwise rendering services in or in connection with any mine shaft, drift, or other structure intended for use in the exploration for or production of any mineral, or an agreement to perform any portion of any such work or services or any act collateral thereto, including the furnishing or rental of equipment, incidental transportation, and other goods and services furnished in connection with any such service or operation.

30-1-133. Provisions for indemnity in certain contracts; exemption.

Provided that nothing in this act shall be construed to deprive an owner of the surface estate of the right to secure an indemnity from any lessee, operator, contractor or other person conducting operations for the exploration or production of minerals on such owner's land.

CHAPTER 2 - MINING OPERATIONS

ARTICLE 1 - IN GENERAL

30-2-101. Definitions.

(a) As used in this act:

(i) "Approved" means any device or practice approved by the inspector;

(ii) "Council" means the state mining council which is within the department of workforce services;

(iii) "Coal mine" means any mine from which coal is produced for sale, exchange or use;

(iv) "Cross entry" means an entry from which room entries are turned;

(v) "Gassy mine" means a mine:

(A) In which methane has been ignited;

(B) In which methane has been found by means of a permissible flame safety lamp or by air analysis in an amount of twenty-five one hundredths of a percent (0.25%) or more; or

(C) Which is contiguous to a gassy mine.

(vi) "Inspector" means the state inspector of mines;

(vii) "Interested persons" means authorized members of the mine safety committee, state and federal inspectors, and, to the extent required by law, any other person;

(viii) "Mine" means underground or surface mines, including coal mines;

(ix) "Mine foreman" means the person whom the operator places in charge of the workings of a mine or a portion of a mine and of persons employed therein. He is the official responsible for the health and safety of the employees;

(x) "Mining operations" include the following whether in process or development, construction or operation:

(A) Mines;

(B) Ore mills;

(C) Ore processing plants;

(D) Sampling works;

(E) Smelters;

(F) Metallurgical plants;

(G) Cement manufacturing plants and cement works;

(H) Rock quarries;

(J) Clay pits and mines;

(K) Sand and gravel pits;

(M) Tunnels and tunneling;

(N) Excavations or removal of earth for commercial or industrial purposes;

(O) All other processes or operations in which mineral materials in solid form are extracted or processed within Wyoming, but excluding mining operations and processes relating to highway and railroad construction and maintenance, other than tunneling, performed directly under the control and supervision of the state department of transportation or a railroad company. The exclusion does not apply to commercial suppliers.

(xi) "Nongassy mine" means any mine not classed as a gassy mine;

(xii) "Operator" means an individual, firm, partnership, or corporation operating a mine or any part thereof;

(xiii) "Permissible" means any equipment, device, or explosive that meets the requirements of the MSHA;

(xiv) Repealed by Laws 2003, Ch. 5, 2.

(xv) "This act" means W.S. 30-2-101 through 30-3-509;

(xvi) "MSHA" means the federal mine safety and health administration, department of labor;

(xvii) "Qualified person" means a person qualified by means of the proper certification issued by the council or by means of training and practical demonstration of ability to the inspector or MSHA;

(xviii) "Mine site contractor" means a person who has entered into a contract with a mine owner or operator to perform functions traditionally performed by mine personnel.

30-2-102. Minimum standards.

This act and the rules and regulations adopted under it constitute the body of standards for mining operations in this state. The laws, rules and regulations are intended to constitute minimum standards recognized as necessary for the protection of the public interest and the safety of employees and the general public.

30-2-103. General penalty.

Any person who willfully and knowingly violates any provision of this act or rules and regulations adopted under it for which another penalty has not been specifically provided is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars ($750.00) or by imprisonment of not more than six (6) months, or both.

30-2-104. Restrictions upon visitation.

(a) No person shall enter or remain in any mine, excavation, pit, quarry, mill, or processing plant unless authorized by the owner or operator or by law.

(b) No person other than the owner and operator, his employees and agents, and inspectors shall enter, be permitted to enter or remain in any mine, excavation, pit, quarry, mill, or processing plant unless accompanied by the owner, operator or other authorized person.

30-2-105. Alcohol or controlled substances and intoxication by either prohibited.

No alcohol or a controlled substance as defined in W.S. 35-7-1014 through 35-7-1022 except a controlled substance in schedule V not requiring a prescription or as prescribed by W.S. 35-7-1030 shall be taken into or permitted within any mine, excavation, pit or quarry, or mill or processing plant. No person believed to be under the influence of alcohol or a controlled substance as defined in W.S. 35-7-1014 through 35-7-1022 except a controlled substance in schedule V not requiring a prescription or as prescribed by W.S. 35-7-1030 shall be allowed to enter or remain in or around any mine, excavation, pit, quarry, or mill or processing plant.

30-2-106. Action for damages; injury to person or property; loss of life; exception.

For any injury to person or property occasioned by a violation of or a willful failure to comply with this act, a right of action against the party at fault shall accrue to the party injured for the direct damages sustained thereby. In any case of loss of life, by reason of such a violation or willful failure, a right of action against the party at fault shall accrue to the administrator of the estate of the deceased person for like recovery of damages for the injuries sustained. Nothing in this section shall be construed to prevent the recovery of any lawful damages against the person or company operating a mine if the company is found at fault or to have contributed to any accident by their carelessness. The state shall not be liable for damages under this section.

30-2-107. Prohibited acts generally.

(a) No person shall intentionally:

(i) Injure any shaft, lamp, instrument, air course or brattice;

(ii) Obstruct or throw open airways;

(iii) Carry any pipe, cigar or cigarette, match or fire-producing material or appliance into places worked by safety lamps;

(iv) Handle or disturb any part of the mine machinery;

(v) Open and fail to close a door;

(vi) Enter any place of a mine against caution;

(vii) Disobey any order given in implementing this act;

(viii) Commit any act endangering the lives or the health of persons or the security of a mine or machinery.

30-2-108. Bathhouses; when required; specifications; requirements as to use; penalty for failure to provide.

(a) A mine owner or operator employing twenty (20) or more miners at any one (1) mine shall provide and maintain in a clean and sanitary condition a bathhouse for the use of the employees if sixty percent (60%) of the employees request it in writing.

(b) The bathhouse shall:

(i) Be convenient to the mine entrance;

(ii) Be equipped with:

(A) Sufficient individual lockers, or baskets or hangers;

(B) Benches or seats;

(C) Proper lights, heat, hot and cold water, and shower baths.

(iii) Be maintained in good order;

(iv) Have sufficient floor space to accommodate the persons using it;

(v) Have concrete, tile or cement flooring in the washroom or bathroom;

(vi) Be constructed of noncombustible material;

(vii) Have steel lockers not less than twelve (12) inches by twelve (12) inches by forty-eight (48) inches in height, or individual hangers of not less than three (3) hooks with a basket of suitable size, attached to a proper chain or wire rope, placed so wearing apparel, when hung thereon, will not be less than seven (7) feet above the floor of the building, and capable of being locked in that position. Lockers, or baskets or hangers shall be sufficient in number to accommodate the employees using the bathhouse;

(viii) Have one (1) shower bath with adequate floor space for every fifteen (15) employees using the bathhouse.

(c) Employees shall:

(i) Furnish their own towels, soap and lock for their lockers, or baskets or hangers;

(ii) Exercise control over, and be responsible for, property they leave in their lockers, or baskets or hangers.

(d) A mine owner or operator violating this section is guilty of a misdemeanor punishable by a fine of not less than fifty dollars ($50.00), nor more than one hundred dollars ($100.00). Each day there is a violation of this section constitutes a separate offense.

ARTICLE 2 - INSPECTOR OF MINES

30-2-201. Appointment and qualifications of inspector and deputy inspectors; terms of office; removal; bond coverage; to devote full time to duties.

(a) There is created the office of the inspector of mines within the department of workforce services. The inspector of mines shall be appointed by the governor by and with the advice and consent of the senate but is subject to the Wyoming Government Reorganization Act of 1989. His term of office is two (2) years. His office shall be located in the city of Rock Springs, Sweetwater county, Wyoming. Appointment, term and the filling of vacancies shall be under W.S. 28-12-101 through 28-12-103. His salary shall be determined under W.S. 9-3-101. He may be discharged at any time during his term by the governor as provided in W.S. 9-1-202. The inspector shall:

(i) Be a qualified elector of the state and at least thirty-five (35) years of age;

(ii) Possess the degree of a graduate engineer from an accredited school, or the equivalent thereof;

(iii) Have not less than fifteen (15) years mining experience;

(iv) Have experience in underground mining operations, and knowledge of the various problems involving the health and safety of employees in both underground and surface mining, and in the upgrading, processing, milling and beneficiation of the various minerals mined or produced within this state;

(v) Be thoroughly familiar with:

(A) Ventilation methods in mining;

(B) The nature, chemistry, detection and control of noxious, poisonous or explosive gases or emanations;

(C) The dangers incident to blasting and the prevention thereof;

(D) The application and use of electricity in mining operations;

(E) The methods of fire and explosion prevention and control and extinguishment of mine fires;

(F) The health and safety problems involved in small and large scale surface mining operations and related earth-removal or excavation;

(G) The methods of rescue and recovery work following mine disasters; and

(H) State mining laws and mining operations.

(vi) Not be an employee, owner or part owner of any mine or mining company in this state;

(vii) Possess a mine foreman's certificate.

(b) Repealed by Laws 1989, ch. 139, 4.

(c) Subject to the Wyoming Government Reorganization Act of 1989, additional deputy inspectors of mines may be employed, one (1) of which shall be qualified for coal. A deputy inspector of mines for the inspection of mines other than coal mines shall have the same qualifications as the inspector of mines except he shall have had not less than ten (10) years rather than fifteen (15) years of mining experience. A deputy inspector for coal mines shall have the same qualifications as the inspector of mines and also have at least ten (10) years experience in underground mines in this state as part of the total mining experience required.

(d) The inspector of mines and all deputy inspectors shall obtain faithful performance and fidelity bond coverage under W.S. 9-1-102.

(e) The inspector of mines and all deputy inspectors shall devote full time to the duties of their office.

30-2-202. Duties of inspector; duties of deputy inspectors.

(a) The inspector shall:

(i) At reasonable times, day or night, without impeding or obstructing work, enter, inspect and examine any mining operation in development, construction or operation, including the workings and the machinery and may request the assistance of other state agencies;

(ii) Collect state mining statistics and report to the governor annually no later than March 31 for the preceding calendar year. The report shall include the statistics and may include recommendations concerning further mining legislation. The statistics in the report shall include for each mine:

(A) A record of all mining accidents preventing victims from returning to work the day following the injury;

(B) Corrective measures taken to prevent the reoccurrence of fatal accidents;

(C) Tons produced;

(D) Number of man hours worked.

(iii) Maintain a properly indexed, permanent record of all inspections made and reports filed under this act;

(iv) Ensure maps or diagrams of all underground mines in the state are accurately made and filed in his office. Maps, diagrams and any plans filed shall be preserved as a permanent and confidential record. If an adjoining operator can show need for safety reasons, he shall be given access to individual maps, diagrams and plans;

(v) Supervise the deputy inspectors and have full authority over their official activities;

(vi) Enforce all laws, rules and regulations pertaining to the safety of mine operations in this state;

(vii) Revoke, in writing, any order issued by a deputy inspector clearing a mine or portion thereof of persons, after he makes a personal examination of the mine affected and determines it to be in a safe condition to operate;

(viii) To the extent possible, collect, organize and make available studies, information and dates concerning mineral deposits, geological formations and mining and milling operations in this state;

(ix) Exercise supervision necessary for enforcement of this act over and inspection of all mining exploration mines, mining operations, upgrading, processing, milling and beneficiation plants within the state including the inspection of drill holes to ensure the holes have been properly abandoned.

(b) Every deputy inspector shall perform inspections and other activities as the inspector directs or as provided by law.

30-2-203. Arbitrary action prohibited; information confidential; exception; interest in mining operations prohibited; discharge for violation of section; additional penalty.

Neither the inspector nor any deputy inspector shall, in any of his functions, act arbitrarily or without just cause. Information obtained in the course of inspections is confidential except where disclosure may be required in enforcement of this act. Grossly negligent release of confidential information acquired in the course of duty, willful discrimination between operators, or knowingly applying to his own material gain knowledge acquired in the course of duty by the inspector or any deputy inspector, is justification for discharge and, in addition, is a misdemeanor punishable upon conviction by a fine not to exceed five hundred dollars ($500.00) or by imprisonment for a period of not more than six (6) months, or both.

30-2-204. Police powers generally.

The inspector and deputy inspectors shall have and exercise throughout the state all of the powers of peace officers with respect to the enforcement of this act.

30-2-205. Rules and regulations; uniform code of signals; penalty for false signals.

(a) The inspector shall under W.S. 16-3-101 through 16-3-115 promulgate rules and regulations to implement this act. Rules and regulations shall be promulgated under this act for all types of mines and mining or for specific types of mines or mining as required to implement this act and to comply with applicable federal law. The rules and regulations shall be no more stringent than federal rules and regulations and shall provide the flexibility necessary in application to specific instances and implement the basic purpose of giving all mining operations and coal mines the greatest freedom consistent with the public interest and the safety of employees and the general public. The inspector shall adopt applicable rules and regulations to the extent necessary to implement the provisions of chapter 3 of this title for which there are no applicable federal rules and regulations. The inspector shall submit all rules and regulations to the council for final approval. The rules implementing the provisions of chapter 3 of this title shall:

(i) To the extent not in conflict with an express provision of chapter 3 of this title, provide for consistency and equivalency but not more stringent than rules and regulations adopted by the MSHA under Title 30 of the code of Federal Regulations, Parts 56, 57, 75 and 77, as may be amended, including provisions incorporated by reference in those rules and regulations; and

(ii) Authorize variances to safety rules upon petition by the affected operator and a determination by the inspector that:

(A) An alternative method of achieving the result of the standard exists that will at all times guarantee no less than the same measure of protection afforded by the standard;

(B) Application of the standard will result in a diminution to safety of the miners; or

(C) Failure to grant the variance would be inconsistent with action taken on the same petition by the MSHA.

(b) The inspector of mines shall by rule or regulation:

(i) Adopt and enforce a uniform code of signals;

(ii) Determine at which mining operations the code of signals shall be effective;

(iii) Prescribe the manner by which the code of signals shall be displayed or distributed.

(c) Any person giving or causing to be given false signals, or riding upon any cage, skip or bucket upon signals that designate to the engineer that no employees are aboard, is guilty of a misdemeanor punishable by a fine of not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00).

30-2-206. "Interested person" defined; filing of requests prerequisite to notice and information.

A person is an interested person entitled to notice under this act of any action of the inspector including any action regarding rules or regulations if he files with the inspector a request for notice containing his name, address and the name of the person authorized to receive the notice. The request shall be

considered filed five (5) days following the date the request is received in the office of the inspector.

30-2-207. Access to mining operations, etc.; penalty for refusal of access or obstruction; enforcement by injunction; misrepresentation of facts or information to inspector; obstruction of inspector or deputy.

(a) The inspector or his deputy has access to all mining operations for the purpose of enforcement of this act and all rules and regulations adopted under it. Refusal of access to an authorized person after request is a misdemeanor. Access may be granted by injunction by petition to the court and order to show cause made returnable within ten (10) days or as soon thereafter as the matter may be heard by the court.

(b) Any person in charge of a mine who willfully misrepresents facts or information to the inspector regarding the mine, or who makes any misrepresentation tending to show safety when the reverse is true, is guilty of a misdemeanor.

(c) Any person who willfully obstructs the inspector or his deputy in the execution of his duties under this act is guilty of a misdemeanor.

30-2-208. Inspections; when held; duties of inspector or deputy; authority to clear unsafe mine or portion thereof.

(a) The inspector or his deputy shall inspect each operating mine in the state:

(i) At least once every six (6) months;

(ii) If any danger to employees exists;

(iii) If requested by employees or their representatives.

(b) The inspection shall take place while the mine is in operation, and the inspector or his deputy shall inspect:

(i) The surface plant;

(ii) Every working place in the mine;

(iii) All active haulageways, travelways, highwalls and airways in their entirety;

(iv) Entrances to abandoned workings;

(v) Accessible old workings;

(vi) Escapeways and other places where people work or travel, or where dangerous conditions may exist;

(vii) Electric equipment and installation;

(viii) First-aid equipment;

(ix) Ventilation facilities;

(x) Communication installations;

(xi) Roof and rib conditions;

(xii) Blasting practices.

(c) The inspector or his deputy shall:

(i) Measure the volume of air at the intake and return of the main ventilating current and of each split, and the amount passing through the last open crosscut in each pair or set of entries, and designate where the superintendent or mine foreman shall measure the currents of air as required by this act;

(ii) In mines operating more than one (1) shift in a twenty-four (24) hour period, devote sufficient time on the second and third shift to determine conditions and practices related to the health and safety of the employees;

(iii) Make tests for gas and oxygen deficiency in each place which he is required to inspect in the mine;

(iv) Classify qualifying mines as gassy mines.

(d) If the inspector or his deputy finds imminent or serious danger to the life or health of the employees in a mine, he may clear the mine or any portion thereof of all persons and refuse further entry to any persons, except those necessary to remove the danger and those permitted to participate in investigations under this act, until he determines by actual inspection that the mine or portion thereof involved is in safe operating condition.

30-2-209. Inspections; reports; posting and distribution; interim reports.

(a) The person inspecting the mine shall make an accurate report covering each inspection showing:

(i) The date of inspection;

(ii) The condition in which the mine is found;

(iii) The extent to which safety laws relating to mines are violated;

(iv) The progress made in the improvement of the health and safety of the employees;

(v) The number and cause of injuries and death resulting from accidents in and around the mine;

(vi) If any violations of the mine safety laws, rules or regulations are found, the specific section or sections violated, with recommendations for correcting them, and the action taken to eliminate them.

(b) Within seven (7) days after the completion of the inspection, reports shall be posted and distributed as follows:

(i) Two (2) copies to the operator, superintendent or foreman;

(ii) One (1) copy to a designated representative of the employees' organization, if any, of the mine inspected;

(iii) One (1) copy posted on a bulletin board at a prominent place on the premises where it can be conveniently read by the employees and to remain posted until the report of the succeeding examination is posted;

(iv) One (1) copy to the inspector.

(c) If imminent or serious hazards are found, the person making the inspection shall immediately make an interim report in person or by electronic means.

30-2-210. Notice of violation; correction of condition constituting violation required; penalty upon failure to comply; continuing violations; authority to close operations; right of appeal.

(a) If the inspector or his deputy finds a violation of this act or rules or regulations adopted under it relating to mine operating methods and conditions, he shall notify in writing the person in charge of the mining operation of the condition or method constituting the violation and the provision being violated. The condition or method shall be corrected in five (5) days or other time prescribed by the inspector or his deputy as is reasonable in view of the nature of the condition or method. Allowing a correction period does not prevent the condition or method constituting a violation of this act or a rule or regulation adopted under it. Any person failing to correct a condition or method in the period allowed is guilty of a misdemeanor. Each day during which the condition or method continues uncorrected after notice of correction has been given constitutes a separate violation.

(b) If the condition or method is not corrected within a reasonable time, or if the condition or method constitutes a real, present and substantial danger to the lives or safety of persons, the inspector or his deputy may summarily order the cessation of all activity and close the operation or part thereof as the inspector determines constitutes the danger. The order shall be in writing, specifying the nature of the condition, the basis of the action ordered, the date, time and place of the closing of the operation, and the person to whom the order was delivered. The operator may obtain a review of the order by the inspector or by the district court for the county in which the principal part of the operation is located. Review shall be afforded at the earliest possible date within ten (10) days after the filing of the petition or as soon as the court is available. The matter shall be given precedence on the calendar of the court and the proceedings shall be by petition and order to show cause, returnable within ten (10) days. If any action by the inspector or his deputy is found to have been without justification and to have been taken without reasonable basis, the inspector or his deputy shall be liable on his bond for damages resulting therefrom, including reasonable attorney's fees incurred by the operator in the action.

30-2-211. Accident investigation; rescue; reports; generally.

(a) The inspector or his deputy shall proceed immediately to the scene of any mine accident causing loss of life or serious personal injury, any mine fire or any mine explosion, investigate, make recommendations, assist as he deems necessary for the present or future safety of the employees, make a complete report and post and distribute the report under W.S. 30-2-209(b).

(b) The inspector or his deputy at the direction of the inspector in consultation with an authorized representative of the mine safety and health administration shall take charge of any necessary mine rescue and recovery work and supervise the reopening of mines that have been sealed or abandoned on account of fire or other cause.

30-2-212. Accident investigation; fatal accidents; procedure; coroner's inquest; notification of inquest.

(a) The inspector, or his deputy when authorized, shall investigate all fatal accidents occurring in connection with mining operations. In his investigation he may compel the attendance of witnesses and administer oaths as if he were a coroner.

(b) The inspector, or his deputy when authorized, may order the coroner of the county in which the accident occurred to hold an inquest into the accident. In choosing a jury for the inquest, the coroner shall empanel at least one (1) experienced miner. It is unlawful for the coroner to release the body of any person killed in a mining accident without notice from the inspector that an inquest is not necessary.

(c) No inquest shall be held into the death of any person killed in connection with mining operations unless the inspector has been first notified that the inquest will take place and been given a chance to participate. In an inquest the inspector may call, examine and cross-examine witnesses, and he may testify as he deems necessary to thoroughly inform the inquest of the causes of death.

30-2-213. Judicial review of decision of inspector; procedure; payment of costs assessed against inspector; appeal.

(a) Any person aggrieved or adversely affected in fact by a decision of the inspector is entitled to judicial review of the decision in the district court for the county in which the property affected is located, or if no real property is involved, in which the person aggrieved or adversely affected in fact resides or has its principal place of business. The procedure to be followed before the district court shall be in accordance with rules adopted by the Wyoming supreme court except any costs assessed against the inspector shall be paid by the county in which the affected property, if any, is located or in which the person aggrieved or adversely affected in fact resides or has its principal place of business. The district court, in its discretion, may appoint three (3) practical, competent and disinterested persons, who shall, under instructions of the court, forthwith examine the mine and make report under oath of the facts as they exist or may have been, together with their opinion thereon. The report shall become absolute, unless exceptions are filed within ten (10) days after notice of the filing of the report to the person aggrieved or adversely affected in fact and the inspector. If exceptions are filed, the court shall hear and determine the exceptions. The decision

shall be final and conclusive, subject only to appeal to the supreme court.

(b) Judicial review shall be in accordance with W.S. 16-3-114(c). An interested party may obtain review of any final judgment of the district court under this section by appeal to the supreme court. The appeal shall be taken as in other civil cases.

ARTICLE 3 - STATE MINING COUNCIL

30-2-301. Board of mines renamed mining council; created; composition; qualifications, appointment and term of members; removal; officers; rules; quorum; vacancies; compensation.

(a) There is created a state board of mines which is renamed the state mining council within the department of workforce services which shall consist of eleven (11) members. Ten (10) members shall be appointed equally from among the management and hourly employees of the mining industry, including surface and underground coal mining, and shall serve for a term of four (4) years and until their successors are appointed and qualified except for the inspector who is a member of the council and entitled to vote in case of a tie. Each member of the council, except the inspector, shall be a qualified elector of the state and shall have at least five (5) years experience in the mining industry immediately preceding his appointment. The members shall be appointed by the governor by and with the advice and consent of the senate and from among the management and employees of the mining industry. The tenure of the members of the council shall be so arranged that the terms of not more than five (5) of the members shall expire in any one (1) year period. The governor may remove any council member as provided in W.S. 9-1-202. The council shall have among its appointed members:

(i) An underground coal or gassy mine management official;

(ii) A practical underground coal or gassy mine member; and

(iii) A mining engineer.

(b) The officers of the council are a president and a vice-president, elected by the council from among its members, and a secretary who need not be a member of the council. The council has the power and duty to formulate and adopt rules consistent with the provisions of law to govern its own operation and functions. A majority of the combined council represents a quorum necessary to transact council business.

(c) Appointments, terms and the filling of vacancies shall be in accordance with W.S. 28-12-101 through 28-12-103.

(d) Members of the council 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 council meetings or official committee meetings. An official committee shall be any committee of two (2) or more council members created by a majority vote of a quorum of the council.

30-2-302. State mining council to act in conjunction with inspector.

The council shall act in conjunction with the inspector to improve safety, health, training, examinations and certification of miners in mining operations and mines, in the production and the processing of minerals, and in all installations, equipment and operations constituting a part of mining operations and mines.

30-2-303. Regular and special meetings of mining council; record of proceedings.

Regular meetings of the council shall be quarterly at a place within this state determined by the council. Special meetings may be called at any time by the governor, by the president of the council or by the inspector of mines and shall be called upon the request of any three (3) council members. Full and complete minutes and records of all council meetings, proceedings and actions shall be kept and preserved.

30-2-304. Repealed by Laws 1993, ch. 88, 2.

30-2-305. Repealed by Laws 1993, ch. 88, 2.

30-2-306. State mining council; examinations for certificates; duty as to examinations generally; meetings; notice of meetings.

The state mining council shall examine applicants for certification as mine foreman and mine examiner, and shall issue certificates of competency to qualified applicants who pass the examination. The council shall meet at least annually in May at Rock Springs to examine applicants for certificates and may meet at other times and places. The council shall decide the day and place of all meetings. At least fifteen (15) days notice of the place and date of every meeting of the council held for the purpose of examining applicants shall be given by publication in a newspaper published in the area where the examination is to be held, and by posting copies of the published notice at all mines in the vicinity of said place. A meeting held pursuant to this section may be held in conjunction with regular council meetings required by W.S. 30-2-303.

30-2-307. State mining council; nature of examination generally; grading; record to be kept; public inspection of record; fees for examination and certificate; replacement.

(a) The state mining council shall ascertain the experience, knowledge and understanding of each applicant for the position for which he desires a certificate. The council shall examine applicants for mine examiner and mine foreman both orally and in writing. To obtain a certificate the applicant shall obtain a total weighted average grade of seventy-five percent (75%). A complete record shall be made of each examination, including all questions and answers, both oral and written. The record shall be filed with the inspector and maintained permanently as a public record.

(b) Each applicant shall pay an examination fee which shall be set annually by the council and shall be based upon anticipated testing expenditures. The council upon satisfactory proof of loss or destruction of a certificate shall issue a duplicate upon receipt of five dollars ($5.00). All fees collected by the council shall be deposited with the state treasurer and credited to a separate account and shall be used for the administration of the mine foreman and mine examiner certification examinations.

30-2-308. Mine foremen; when required; duties; mines to be supervised by certified personnel.

Each underground mine with one (1) or more persons present underground shall be supervised by a certified mine foreman who shall ensure compliance with mining laws regarding his duties and the health and safety of mine employees. A certified mine foreman shall remain underground when persons are present underground unless authorized by a variance issued by the council. The mine foreman shall not permit any person to work in an unsafe place unless it be for the purpose of making it safe. Work for the purpose of making a place safe shall be under the direct supervision of a certified mine foreman. The mine foreman shall provide data and information regarding the operation of the mine required by the inspector.

30-2-309. Mine foreman and mine examiner certificates; qualifications; certificate required; reciprocity; council duties.

(a) No person shall act as mine foreman or safety engineer at any underground mine unless he holds a mine foreman certificate for the type of mineral being mined. To obtain a mine foreman certificate for a particular mineral an applicant shall pass the required examination for the particular mineral. An applicant for the mine foreman examination shall:

(i) Be at least twenty-three (23) years of age;

(ii) Except as otherwise provided, provide verifiable documentation that he has at least three (3) years practical experience in the mining of the mineral in which he desires to hold a mine foreman certificate. Practical experience shall be determined from practical work of a "hands-on" nature, directly related to the hazards involved in the type of mine for which the certificate is sought. Underground coal mine experience shall qualify for gassy metal or nonmetal mine experience. The council may grant one (1) year's experience credit for not less than five (5) years' experience in an underground gassy metal or nonmetal mine for underground coal mine experience. Surface mine experience in a different mineral

may be considered by the council when qualifying an applicant to take the examination for surface foreman certification. The council may grant one (1) year experience credit for not less than ten (10) years experience in another type of mine or in an industry similar in nature to mining;

(iii) Complete and timely file an examination application;

(iv) When the applicant seeks to receive practical experience credit for holding a mining engineering degree, provide verifiable documentation of the degree; and

(v) Hold a valid mine examiner's certificate.

(b) No person shall act as a mine examiner in any underground mine unless he holds a mine examiner certificate for the type of mineral being mined. To obtain a mine examiner certificate for a particular mineral an applicant shall pass the required examination for the particular mineral. An applicant for the mine examiner examination shall:

(i) Provide verifiable documentation that he has at least two (2) years practical experience in the type of mineral mined in which he desires to hold a mine examiner certificate. Practical experience shall be determined from practical work of a "hands-on" nature, directly related to the hazards involved in the type of mine for which the certificate is sought. Underground coal mine experience shall qualify for gassy metal or nonmetal mine experience. Gassy metal or nonmetal mine experience shall not qualify for underground coal mine experience;

(ii) Complete and timely file an examination application;

(iii) Be at least twenty-three (23) years of age; and

(iv) When the applicant seeks to receive practical experience credit for holding an engineering degree, provide verifiable documentation of the degree.

(c) A mining engineering degree from an accredited college or university shall be considered the equivalent of one (1) year practical experience for mine foreman certificate and one (1) year for mine examiner certificate. An approved degree from an accredited college or university which degree is related to mining may be considered the equivalent of one (1) year practical experience for mine foreman certificate and one (1) year for mine examiner certificate. In no case shall practical experience credit for a degree, mining experience credit or a combination thereof exceed one (1) year for a mine foreman certificate or one (1) year for a mine examiner certificate. For purposes of this section a degree shall be limited to a baccalaureate, master's or doctorate degree.

(d) Any person holding a certificate of competency from a proper examining board of any state with which Wyoming has a reciprocal agreement may perform the duties in Wyoming for which his certificate certifies that he is competent, without examination by the state mining council. Before assuming any duties in a mine, the person shall present his certificate to the council through the inspector and secure approval of the certificate by the council. The person is subject to examination by the council at the request of the inspector. The person's authority to act in Wyoming as mine foreman, mine examiner or safety engineer may be cancelled in the same manner as certificates issued by the council. No person shall employ any mine foreman, mine examiner or safety engineer in an underground mine who does not possess the certificate of competency required.

(e) The state mining council shall include in its rules for implementation of this article, the following:

(i) Procedures for review and approval of a study manual prepared by industry to provide guidance to those taking the examinations;

(ii) Procedures for preparing the examinations by the council or a committee of council members appointed for this purpose, provided that final approval of the examination shall be made by the council;

(iii) Procedures for grading examinations;

(iv) Procedures for reviewing the examination results by an applicant with a designated committee of the council and provisions for appeal by an applicant of any adverse decision of the council;

(v) Each examination shall include questions to ascertain the applicant's general knowledge of mining practices in the type of mine and mineral involved, including but not limited to ventilation, health and safety, rescue and recovery work involved following mine disasters, detection and control of gasses, fire and explosion prevention and control, use of blasting procedures, electricity and mine equipment and knowledge of the applicable state mining laws. The examination shall also properly identify the importance of any single question which if not answered correctly would cause failure of the entire examination;

(vi) Criteria for granting experience credit for purposes of this section.

(f) Repealed By Laws 2003, Ch. 5, 2.

30-2-310. Temporary permit; when permitted; expiration; subsequent examination required.

(a) The inspector, upon consent of the state mining council, may issue to an applicant a temporary permit to operate as a mine foreman or mine examiner without a certificate if the applicant meets the requirements of W.S. 30-2-309 other than the examination requirement. The temporary permit shall expire on the date of the next examination given by the council after issuance of the temporary permit. A person issued a temporary permit under this section for a particular type of mineral shall not be issued an additional temporary permit for the same type of mineral if he failed:

(i) The certification examination for that type of mineral; or

(ii) To take the certification examination for that type of mineral.

30-2-311. Revocation of certificate after notice and hearing; suspension; reexamination; revocation of certificate of inspector or deputy; filing of certificate.

(a) Any certificate issued by the council or temporary permit issued by the inspector may be suspended or revoked by the council for violation of this act or rules and regulations promulgated under this act, intoxication while in duty status, mental disabilities or neglect of duty. Except as otherwise provided, the council may revoke or suspend a certificate or temporary permit only after a hearing in accordance with the Wyoming Administrative Procedure Act. The council may suspend any certificate or temporary permit pending further investigation and hearing, for actions that pose a serious threat to the health and safety of miners. The council shall establish by rule a time limit after the alleged date of an incident as provided in this subsection within which a complaint shall be filed. All complaints shall be verified and filed in accordance with the rules and regulations promulgated by the council. The council or designated members of the council may, after reviewing the complaint and conducting any investigation deemed necessary, determine that the grounds alleged do not warrant suspension or revocation and dismiss the complaint without hearing. No person whose certificate has been revoked under this section for less than ninety (90) days shall be examined by the council. No person whose certificate has been revoked under this section shall be reissued a certificate unless the council finds the incapacity, if any, on which the revocation was based has ceased to exist.

(b) When the council revokes the mine foreman certificate of the inspector or a deputy inspector, the governor shall forthwith remove such person from office.

(c) The holder of a mine foreman or mine examiner certificate shall present it to the official of the mine where he is employed, who shall file it in the mine office. The certificate shall be made available for inspection by interested persons.

30-2-312. Optional certifications of surface mine foremen and mine examiners; surface mine operators not required to employ.

(a) The state mining council may certify a mine foreman, safety engineer or mine examiner desiring to work in a surface mine upon request by an applicant for the certificate. Certificates shall be issued under W.S. 30-2-307 and 30-2-309(a) through (d). Applicants and certificate holders are subject to W.S. 30-2-310 and 30-2-311.

(b) No owner or operator of a surface mine is required to employ a certified mine foreman, safety engineer or mine examiner.

ARTICLE 4 - DUTIES OF OPERATORS

30-2-401. Safety rules; posting; responsibility for observance.

All owners, operators and mine site contractors shall post in a conspicuous place and make available to all employees the rules and duties of safety governing their employment. Employees are responsible for the observance of all the rules and safety practices in all phases of their work.

30-2-402. Annual report to inspector; contents.

The owner, operator or mine site contractor of any mining operation shall report annually to the inspector before January 31 of each year. The report shall contain the names of the owners, operators and mine site contractors, the post office address, the name of the claim to be operated, the number of persons employed, classified as to occupation, the name of the county mining district, and the tonnage produced during the previous calendar year, upon forms furnished by the inspector.

30-2-403. Record of accidents to be kept; inspection of record; reports filed with inspector; report of serious accidents.

(a) The owner, operator or mine site contractor shall keep a record of all accidents occurring in connection with mining operations. The record shall be open to the inspector or his deputies at all times.

(b) In all compensable injuries, the owner, operator or mine site contractor shall send to the inspector a copy of the report of injury form filed in worker's compensation cases.

(c) A mine owner, operator or mine site contractor shall immediately notify the inspector's office in person or by conversing with an individual of that office by telephone of any of the following occurrences:

(i) An accident that has caused a fatality or serious injury;

(ii) Any explosion of gas or dust underground;

(iii) Any fire occurring underground or in any structure immediately adjacent to or attached to any mine opening;

(iv) A cave-in or roof or rib fall which:

(A) Impairs ventilation;

(B) Impedes passage to and from work; or

(C) Has the potential to cause a serious injury.

(v) Damage to hoisting equipment, shafts or slopes which cause delay of normal operations.

30-2-404. Notification of change in ownership, etc., of mining property.

The inspector shall be informed promptly of any change in the name, ownership or operator of any operating mining property.

30-2-405. Notice as to commencement of operations.

(a) Repealed By Laws 2005, ch. 106, 2.

(b) The owner or operator of a mine shall notify the inspector whenever a new mine is opened, or whenever an existing mine is either closed or reopened. The notice shall be given immediately before the happening of the event, and shall specify the date upon which the event will occur.

30-2-406. Barrier pillars required; penalty for failure to leave.

(a) The operator of every mine which has another coal or mineral property contiguous or immediately adjacent to it shall leave barrier pillars at least fifty (50) feet in width along the boundary line of the contiguous coal or mineral property. Owners of adjacent properties are not prohibited from extracting the coal or mineral along the boundary line if they enter into a written agreement providing the pillars may be pulled.

(b) Any person violating subsection (a) of this section is guilty of a misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000.00), or by imprisonment of not more than six (6) months, or both.

30-2-407. Abandonment or closing down of mine; procedures to be followed.

(a) No owner or operator shall abandon or indefinitely close down any underground mine until the inspector performs a final inspection.

(b) Upon abandonment or closing down of an underground mine, the owner or operator shall effectively close or fence off all surface openings through which persons or animals could fall or enter.

(c) Upon abandonment or closing down of a strip or open-pit mine, mining or prospecting pit or excavation, appropriate action shall be taken where necessary to safeguard against injury to persons or animals.

(d) Within thirty (30) days after abandonment or closing down of any underground mine, the owner or operator shall file with the inspector a map showing all pertinent data as of the date of closing or abandonment in the form prescribed by the inspector. The map and all data shown thereon shall be confidential and not open for public inspection until (2) consecutive years have elapsed without resumption of mining activity, unless release has been authorized in writing by the owner or unless release is necessary for safety reasons shown by an adjoining operator or other person.

30-2-408. Maps of mines to be made; contents; semiannual revision; maintenance and filing.

(a) The owner or operator of each mine shall make an accurate map or plan of the mine and mine workings on a scale not exceeding two hundred (200) feet to the inch or as otherwise approved by the inspector. The map or plan shall:

(i) Exhibit all openings or excavations, shafts, tunnels, slopes, planes, gangways, entries, cross headings, rooms and installations related to safety;

(ii) Show the direction of air currents in the mine;

(iii) Accurately delineate the boundary line between the mine and adjoining mines;

(iv) Be prepared with reference to and show the boundaries of the legal subdivision in which the mine is located;

(v) Be accurately brought up to date every six (6) months.

(b) The owner or operator shall:

(i) Maintain a copy of each map or plan for use at the mine by the inspector, his deputy or any miner employed at the mine;

(ii) File a copy of each map or plan with the inspector;

(iii) Maintain a copy of the current map or plan on bulletin boards near mine entrances and at all principal working stations.

30-2-409. Survey and platting of underground workings by county surveyor; fees; notice to mine owner; hindering surveyor prohibited; penalty.

(a) The county surveyor shall, upon the written request of an adjoining landowner, enter and make a complete, true and accurate survey and plat of the underground workings of any mine in the county to ascertain the location of the workings with respect to the boundary line of the property of the adjoining landowner. The county surveyor shall make an official plat and report of the survey to the adjoining landowner. The county surveyor shall receive from the adjoining landowner the same fees allowed by law for county surveying. If the county surveyor is interested in either of the adjoining properties or is not qualified to make the survey, he shall call a competent engineer who is not interested in the properties to make the survey and plat. The county surveyor may take any necessary action to aid him in making the survey and plat. The county surveyor shall give the mine owner or operator ten (10) days written notice of the date the survey will begin.

(b) The owner, operator or any person in charge of any mine shall not hinder, delay or prevent the county surveyor, or engineer substituted for him from entering the mine, from making the survey and plat, or from performing his duties under subsection (a) of this section. Any person violating this subsection is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment for not more than six (6) months, or both.

ARTICLE 5 - SHOT-FIRERS

30-2-501. Blasting to be done by certified shot-firers or certified trona utility shot-firers; qualifications and examinations; issuance of certificate; revocation of certificate; requirements when work being done.

(a) All blasting or shot-firing in mines, including charging and tamping of holes shall be done by or under the direct supervision of certified shot-firers. Shot-firers shall pass an oral and written examination prepared and administered by the inspector or his deputies testing knowledge of blasting and shot-firing operations and safety procedures. To take the shot-firer exam the applicant shall have at least two (2) years practical, hands-on experience in the type of operation for which he is applying. The state mine inspector shall give one (1) year experience credit for two (2) years mine engineering experience related to shot-design and shot-planning. An applicant may receive a maximum of one (1) year experience credit for mine engineering experience. Each applicant must provide verifiable documentation of his practicable experience or mining degree and experience.

(b) The inspector or his deputies shall certify shot-firers and shall issue certificates to qualified persons. A shot-firer's certificate may be revoked by the inspector or his deputies after notice and hearing under W.S. 16-3-101 through 16-3-115, if the holder has violated laws governing firing of any shots or blasts, or has endangered life or property by his actions as a shot-firer.

(c) No miner shall return to any place where shots or blasts have been fired, until given permission by the shot-firers or other mine officials authorized by law. When shot-firers are engaged in the work of firing shots, the shot-firing cable must be disconnected from battery, and cable leads must be short circuited at battery and before connection is made to detonating cap at face. All employees other than the one (1) connecting cable to cap at face are forbidden to handle battery while the work of firing shots is being carried on. The cable connecting battery to detonating cap or caps shall be not less than one hundred fifty (150) feet in length.

(d) Blasting other than the extraction of an in-situ trona mineral for production purposes, including charging and tamping of holes, shall be done by or under the direct supervision of certified trona utility shot-firers or certified shot-firers.

(e) Each trona utility shot-firer applicant shall:

(i) Be at least twenty-three (23) years of age;

(ii) Have at least two (2) years mining or blasting experience before taking the trona utility shot-firer examination;

(iii) Complete and file an examination application with the state mine inspector;

(iv) Pass an oral and written examination prepared and administered by the inspector or his deputies testing knowledge of blasting and shot-firing operations and safety procedures;

(v) Provide verifiable documentation that he has completed the training required by paragraph (ii) of this subsection and any requirement included in the trona utility blasting training plan as approved by the state mine inspector.

(f) Each mine operator shall submit for approval by the Wyoming state mine inspector, a trona utility blasting training plan outlining training requirements, safe blasting procedures and methods. The training plan shall include a record of a practical, "hands-on" demonstration of competency. The plan shall require that no single round shall exceed one hundred fifty (150) pounds of explosives.

30-2-502. Shots missed or not fired; report; search to recover undetonated explosive.

(a) The shot-firer or trona utility shot-firer shall immediately after the completion of his work, report in writing to the proper official, any shots missed or not fired, their location and the reason therefor.

(b) A misfired shot shall be handled under the direct supervision of the mine foreman or a certified person designated by him.

(c) A search by the mine foreman or certified person designated by him of the working place, and, if necessary, the material, shall be made after blasting a misfired hole to recover undetonated explosive.

30-2-503. Prohibited acts.

(a) No person shall alter or change any drill hole after it has been approved by the shot-firer or the trona utility shot-firer.

(b) No shot-firer or trona utility shot-firer, whether voluntarily or by command or request of any person, shall fire any unlawful shot, or any shot which is not a workmanlike, proper and practical shot.

(c) No person shall order, command or induce any shot-firer or trona utility shot-firer to fire any unlawful shot, or any shot which is not a workmanlike, proper and practical shot.

(d) No person shall drill or shoot a dead hole. A "dead hole" is a hole where the width of the shot at the point measured at right angles to the line of hole is so great that the heel is not of sufficient strength to at least balance the resistance at the point. The "heel" means that part of the shot which lies outside of the collar.

ARTICLE 6 - EXPLOSIVES AND FLAMMABLES

30-2-601. Sale of explosives; date of manufacture to be marked; sale within 12 months of manufacture.

All nitroglycerine, powder or other high explosive sold in this state shall be properly marked with the date of manufacture on each stick of powder. No nitroglycerine, powder or other high explosives shall be sold after twelve (12) months from date of manufacture.

30-2-602. Storage of flammable materials; smoking restricted; fire doors.

(a) Surface storage of oils, grease and other flammable materials shall be in a storage area located at a safe distance from the powder magazine. Flammable materials shall be removed from the storage area for use only in quantities necessary to meet the requirements of a day. Structures in the storage area shall be of fire-resistive material and well ventilated. Tight metal receptacles shall be provided for oily waste.

(b) Smoking in or about surface structures shall be restricted to places where it will not cause fire or an explosion.

(c) Unless existing structures located within one hundred (100) feet of any mine opening are of reasonably fireproof construction, fire doors shall be erected at effective points in mine openings to prevent smoke or fire from outside sources endangering men working underground. These doors shall be tested at least monthly and kept in effective operation.

30-2-603. Flammable liquids; flame safety and electric lamps.

(a) Naphtha or other flammable liquids in lamp houses shall be kept in approved containers or other safe dispensers approved by the inspector.

(b) Flame safety lamps shall be permissible and maintained in permissible condition. All flame safety lamps shall be checked by the persons using them and by a qualified lamp attendant, or by a mine examiner, immediately before entering the mine.

(c) When not in service, flame safety lamps and electric lamps shall be under the charge of a responsible company employee.

30-2-604. Requirements as to surface magazines; storage of explosives; explosion-proof illumination; use of nonmetallic tools.

(a) Separate surface magazines shall be provided for the storage of explosives and detonators.

(b) Surface magazines for storing and distributing high explosives shall be:

(i) Reasonably bulletproof and constructed of incombustible material or covered with fire-resistive material. The roofs of magazines so located that it is impossible to fire bullets directly through the roof from the ground, need not be bulletproof, but where it is possible to fire bullets directly through them, roofs shall be made bullet-resistant by material construction, or by a ceiling that forms a tray containing not less than a four (4) inch thickness of sand, or by other methods;

(ii) Provided with doors constructed of three-eighths (3/8) inch steel plate lined with a two (2) inch thickness of wood, or the equivalent;

(iii) Provided with floors made of wood or other nonsparking material and have no metal or gravel exposed inside the magazine;

(iv) Provided with suitable warning signs so located that a bullet passing directly through the face of a sign will not strike the magazine;

(v) Provided with properly screened ventilators. Equipped with no openings except for entrance and ventilation;

(vi) Kept locked securely when unattended.

(c) High explosives may also be stored in box-type distributing magazines which shall be constructed and used in accordance with rules established by the inspector.

(d) Main storage magazines shall be not less than one thousand (1,000) feet from any mine opening unless effectively barricaded.

(e) The supply kept in distributing magazines shall be limited to approximately one (1) day's requirements. Supplies of explosives and detonators may be distributed from the same magazine, if separated by at least a four (4) inch substantially fastened hardwood partition or the equivalent.

(f) The area surrounding magazines for not less than twenty-five (25) feet in all directions shall be kept free of rubbish, dry grass, or other materials of a combustible nature.

(g) If the explosives magazine is illuminated electrically, the lamps shall be of explosion-proof type, installed and wired so as to prevent minimum fire and contact hazards.

(h) Only nonmetallic tools shall be used for opening containers. Extraneous materials shall not be stored in an explosives or detonator magazine.

(j) Smoking, carrying smoker's articles, or open flame shall be prohibited in or near any magazine.

(k) Blasting agents shall be used and stored in accordance with rules established by the inspector.

(m) Contents stored in magazines pursuant to this section shall be inventoried once a month or after each use.

30-2-605. Requirements as to underground magazines; use of nonmetallic tools.

(a) Underground magazines shall be of substantial construction and placed in a crosscut or idle room neck at least twenty-five (25) feet from roadways or trolley wires and in a reasonably dry and well-rock-dusted place. The explosives and detonators shall be kept in separate boxes or magazines, but may be kept in the same box if separated by at least a four (4) inch substantially fastened hardwood partition or the equivalent. Not more than a forty-eight (48) hour supply of explosives, including any surplus remaining

from the previous day, shall be stored underground in boxes or magazines. The inspector may approve variances in writing to the forty-eight (48) hour supply limit if the safety of miners is not adversely affected.

(b) Explosives and detonators kept near the working faces shall be stored in separate, closed containers of substantial, nonconductive material located not less than fifteen (15) feet from rail or power lines, except if kept in a niche in the rib, the distance shall be at least five (5) feet, and in a location out of line of blast where they will not likely be subjected to shock.

(c) Explosives and detonators shall be kept in their containers until removed for use at the working faces.

(d) Only nonmetallic tools shall be used for opening explosives containers underground.

(e) Underground explosives magazines and storage boxes shall be kept securely locked when unattended.

(f) Underground explosives magazines and storage boxes shall be provided with signs indicating their contents.

(g) Contents stored in magazines and storage boxes pursuant to this section shall be inventoried at least once a month and after each use.

30-2-606. Requirements as to explosives carried underground.

(a) Permissible explosives or detonators carried underground shall be in individual containers constructed of substantial nonconductive material, maintained in good condition and kept closed.

(b) When explosives or detonators are transported underground by locomotive, rope, or shuttle car, they shall be in special covered cars or in special containers.

(c) The bodies and covers of special cars and the containers shall be constructed of nonconductive material.

(d) If the explosives and detonators are hauled in the same explosives car or in the same special container, they shall be separated by at least a four (4) inch substantially fastened hardwood partition or the equivalent.

(e) Explosives and detonators shall not be carried on the same man-trip with workmen.

(f) Where quantities of explosives and detonators are transported in special cars or in special containers in cars, they shall be hauled on a special trip, and shall not be hauled into or out of a mine within five (5) minutes preceding or following a man-trip or any other trip.

(g) Explosives or detonators shall not be transported on flight or shaking conveyors, scrapers, mechanical loading machines, locomotives, cutting machines or drill trucks.

30-2-607. Only permissible explosives or blasting devices to be used; requirements as to use.

(a) Only permissible explosives or permissible blasting devices shall be used in all underground coal mines for the blasting of coal or other blasting operations, except as otherwise provided by law.

(b) The use of permissible explosives shall comply with the following:

(i) Fired only with electric detonators of proper strength;

(ii) Fired with permissible blasting units unless blasting is done from the surface;

(iii) Boreholes in coal shall not be drilled beyond the back of the cut, nor into the solid rib, roof or floor;

(iv) Boreholes shall be cleaned and checked to see that they are placed properly and are of correct depth, in relation to the cut, before being charged;

(v) To prevent blow-throughs, all portions of the boreholes where the height of the coal permits, shall have a burden in all directions of at least eighteen (18) inches before being fired;

(vi) Boreholes shall be stemmed to the collar with incombustible material;

(vii) In gassy mines examinations for gas shall be made immediately before and as soon as practicable

after blasting.

(c) Charges exceeding one and one-half (1 1/2) pounds, but not exceeding three (3) pounds, shall be used only if boreholes are six (6) feet or more in depth, and explosives are charged in a continuous train, with no cartridges deliberately deformed or crushed, with all cartridges in contact with each other, and with the end cartridges touching the back of the hole and the stemming respectively, and Class A or Class B permissible explosives are used, provided that the three (3) pound limit shall not apply to solid rock work such as solid rock tunnels, shafts, etc.

(d) Boreholes shall not be charged while any other work is being done at the face. A shot shall be fired before any other work is done, except work necessary to safeguard the employees.

(e) Only wooden tamping bars shall be used when charging holes.

(f) Leg wires of electric detonators shall be kept shunted or the ends twisted together until ready to connect to the firing cable.

(g) Shots shall not be fired from the power or signal circuit.

(h) Roof and faces of working places shall be tested immediately before and after blasting.

(j) Ample warning shall be given before shots are fired, and care shall be taken to ascertain that all persons are in the clear. Men shall be removed from adjoining working places when there is danger of a shot blowing through.

(k) Mixed charges shall not be charged or fired in any borehole.

(m) Adobe (mudcap) or other open, unconfined shots shall not be fired in any mine.

(n) Blasting cables shall be well insulated, staggered as to length or kept well separated when attached to the detonator leg wires, and kept clear of power wires and other possible sources of stray currents.

(o) Power wires in face regions shall be deenergized during charging and blasting operations.

(p) Where misfires occur with electric detonators, a waiting period of at least five (5) minutes shall elapse before anyone returns to the shot. After such failure, the blasting cable shall be disconnected from the source of power and the battery end short-circuited before electric connections are examined.

(q) Explosives shall be removed by firing a separate charge at least two (2) feet away from, and parallel to, the misfired charge or by washing the stemming and the charge from the borehole with water, or by inserting and firing a new primer after the stemming has been washed out.

CHAPTER 3 - MINING SAFETY

ARTICLE 1 - GENERAL PROVISIONS

30-3-101. Applicability of W.S. 30-3-101 through 30-3-509.

(a) W.S. 30-3-101 through 30-3-509 apply to all mines and mining operations except where:

(i) A statute refers to a specific type of mine or mining operation; or

(ii) By the nature of the mine or mining operation, a statute can have no application.

30-3-102. Reasonable safety regulations and precautions; enumeration of general safety rules; hazards to be posted; care of tools.

(a) Reasonable safety regulations and precautions shall be observed in all phases of all mining activities to provide a safe place for persons to work and to avoid injury and accident.

(b) No apparatus, piece of equipment, machinery or tool shall be used when not in good repair or working condition or for any purpose for which it is not intended or suited.

(c) No work shall be permitted in any unsafe place unless it is for the purpose of making the place safe, and then only by experienced persons under the supervision of a qualified person.

(d) Special precautions shall be observed in operations where gas has been found to exist in dangerous

quantity.

(e) Appropriate signs shall be posted where dangerous or temporary hazards exist.

(f) Good housekeeping shall be practiced in and around all mining activities, including cleanliness, orderly and safe storage of materials, and the removal of possible sources of injury such as stumbling hazards, protruding nails, broken glass, discarded equipment, supplies, containers, parts and other similar objects or materials.

(g) Tools, except when in actual use, shall be kept in racks, boxes, kits, or where they will create no hazard.

30-3-103. Protective gear and clothing to be worn; clothing and devices to meet safety standards.

(a) Repealed by Laws 1995, ch. 31, 2.

(b) Repealed by Laws 1995, ch. 31, 2.

(c) Repealed by Laws 1995, ch. 31, 2.

(d) Repealed by Laws 1995, ch. 31, 2.

(e) Repealed by Laws 1995, ch. 31, 2.

(f) Repealed by Laws 1995, ch. 31, 2.

(g) Repealed by Laws 1995, ch. 31, 2.

(h) All persons shall wear clothing and use protective devices required to meet recognized approved safety standards as specified by rule of the inspector. The rules shall include requirements for type and fit of clothing, footwear, eye protection and respiratory protection.

30-3-104. Working alone prohibited; exception.

No person shall be required to work alone in any hazardous place where his life might be endangered, unless he can communicate with others, can be heard or can be seen.

30-3-105. Bulletin boards to be maintained for posting rules and regulations.

Bulletin boards shall be maintained at central locations in all mining operations and notices pertaining to safety rules and regulations and operations shall be posted on them. It shall be the responsibility of each employee to take notice, and be advised.

30-3-106. Permissible methane detector required; permissible methods of testing for methane; examination of underground mine by mine examiners; procedure; written record.

(a) At least two (2) permissible methane detectors in proper working condition shall be kept available at each mine for the use of authorized persons. Only permissible flame safety lamps, permissible methane detectors, or air sampling and analysis shall be used for determining the presence of methane in mine air. The number, type and other specifications for flame safety lamps, methane detectors and other air detectors required under specific circumstances shall be established by rule of the inspector.

(b) Repealed by Laws 1995, ch. 31, 2.

(c) Mine examiners shall examine all underground mines before other persons are permitted to enter. Specific areas of underground mines shall be subject to examination in accordance with rules of the inspector. The number, timing, schedule, place and conduct of all examinations shall be set by the rules. The rules shall require written verification of all required examinations.

(d) The mine examiner shall:

(i) Visit every live working place in the mine;

(ii) Test for methane;

(iii) Examine line brattices and fan tubing;

(iv) Test and inspect the roof, face and rib conditions in all places examined, including active roadways, travelways, approaches to abandoned workings and accessible falls in active sections for explosive gas and other hazards;

(v) Ascertain that air is traveling in its regular course and in the required volume in each split;

(vi) Place his initials and the date at or near the face of each place examined.

(e) Where dangerous conditions are found by the mine examiner or other official, the place shall be [posted] dangered off with an approved danger sign. Only an authorized person shall cross the sign and then only for the purpose of correcting the dangerous condition.

(f) Upon completion of his examination, the mine examiner shall report to the mine foreman or a designated certified official before other persons enter the mine.

(g) Repealed by Laws 1995, ch. 31, 2.

(h) Repealed by Laws 1995, ch. 31, 2.

(j) Repealed by Laws 1995, ch. 31, 2.

(k) Repealed by Laws 1995, ch. 31, 2.

(m) Repealed by Laws 1995, ch. 31, 2.

(n) A certified mine foreman immediately directing the activities of the area subject to the report shall read and countersign the record book of the mine examiner daily. Any dangerous conditions disclosed in the reports shall be corrected promptly.

(o) All records of daily and weekly reports shall be open for inspection by interested persons.

30-3-107. Inspections for safety hazards.

The operator of each mine, or some competent person designated by the operator, shall make inspections for safety hazards at least once, or oftener if necessary for safety, during each working shift, of all those parts of the operations which are traveled or being worked.

30-3-108. Requirements as to buildings generally; fire resistant structures required.

(a) Buildings shall be constructed and located in a manner consistent with recognized good mining practice.

(b) The inspector shall establish by rule requirements for fire resistant structures for areas in proximity to underground mine openings.

30-3-109. Check-in and check-out system.

Each mine shall have a check-in and check-out system that will identify every individual underground. An accurate record of persons in the mine consisting of a written record or a check board shall be kept on the surface in a place that will not be affected in the event of an explosion. The record shall bear a number identical to the identification check carried by the person underground.

30-3-110. Pits and quarries.

(a) Reasonable precautions shall be taken to insure the safety of all persons working in and about open excavations, pits and quarries.

(b) Overhanging banks shall not be permitted in any excavation, pit or quarry. Sides and banks shall be sloped to an angle, in view of the nature and material and the depth of the excavation, that will minimize the danger of materials sliding or falling.

30-3-111. Stairways and platforms.

(a) Stairways, elevated platforms and runways shall be equipped with handrails.

(b) Elevated platforms and stairways shall be provided with toeboards where necessary, kept clear of refuse and maintained in good repair.

30-3-112. Roofs of mines; minimum standards; supports; inspection.

(a) Minimum standards for systematic roof control suitable to the roof conditions and mining system of each mine shall be adopted and complied with. A copy of any roof control plan approved by federal authorities shall be submitted to the inspector within thirty (30) days of its approval. Additional supports shall be installed where necessary to afford adequate protection. The inspector shall establish by rule requirements for roof bolting, other supports required to protect persons from falling or loose material, training requirements for persons involved with roof, rib and face testing and extraction of permanent and temporary timber.

(b) Repealed by Laws 1995, ch. 31, 2.

(c) Repealed by Laws 1995, ch. 31, 2.

(d) Every shaft, incline, winze, adit, tunnel level or drift, and every working place in an underground mine shall be properly protected and sufficiently timbered or supported where necessary to protect persons from injury from falls of roof, ribs or face. Loose top and overhanging or loose faces and ribs shall be timbered adequately or taken down.

(e) Timbers removed or knocked out deliberately or inadvertently shall be replaced promptly unless unnecessary for adequate roof support or protection.

(f) The mine foreman and mine inspectors shall ascertain if employees understand roof, rib and face testing. Uninformed and new employees shall be instructed properly in correct methods of testing.

(g) Face workers and other employees exposed to hazards from falls of rock and coal shall, unless this testing is specifically and satisfactorily performed by others, examine and test the roof, ribs and face before starting work or before starting a machine and frequently thereafter. When dangerous conditions are found, they shall be corrected immediately by taking down loose materials or by proper and adequate support before any other work is done.

(h) At least once each day, the mine foreman shall examine roof, ribs, and face of working places and passageways, where men work or travel, for dangerous conditions. Where found, such dangerous conditions shall be corrected promptly.

(j) Repealed by Laws 1995, ch. 31, 2.

(k) Permanent timber extraction shall be done only by mechanical means. Persons engaged in this work shall not be permitted to work alone. Persons assigned to this work shall have not less than the practical mining experience under comparable conditions as required by rule of the inspector.

30-3-113. Rock dusting in coal mines.

(a) Repealed by Laws 1995, ch. 31, 2.

(b) Repealed by Laws 1995, ch. 31, 2.

(c) Repealed by Laws 1995, ch. 31, 2.

(d) The inspector shall establish by rule for underground coal mines, areas in which rock dusting is required, required levels of incombustible content and other content and size requirements for rock dusting. The inspector or his deputies may require that sufficient samples of the mine dusts are taken in order to enforce this section.

30-3-114. Construction, installation and maintenance of track.

(a) The roadbed, rails, joints, switches, frogs and other elements of the track of all haulage roads shall be constructed, installed and maintained in a manner consistent with speed and type of haulage operations being conducted to insure safe operation.

(b) Track switches, except room and entry development switches, shall be provided with properly installed throws, bridle bars and guardrails; switch throws and stands, where possible, shall be placed on the clearance side.

30-3-115. Haulage roads; clearance space; shelter holes.

(a) Repealed by Laws 1995, ch. 31, 2.

(b) Repealed by Laws 1995, ch. 31, 2.

(c) Repealed by Laws 1995, ch. 31, 2.

(d) Repealed by Laws 1995, ch. 31, 2.

(e) Ample clearance shall be provided at all points where supplies are loaded or unloaded along haulage roads or conveyors. The inspector shall establish by rule required clearances for haulage roads and conveyors. The rules shall include clearances required, requirements for suitable crossover or crossunder bridges and proper guards for travelways.

(f) Repealed by Laws 1995, ch. 31, 2.

(g) Shelter holes shall be provided along haulage entries and slopes where locomotive, rope or shuttle-car haulage is used. The inspector shall establish by rule the spacing, sizing and placement of shelter holes which may vary for different locations in the mine.

(h) Repealed by Laws 1995, ch. 31, 2.

(j) Repealed by Laws 1995, ch. 31, 2.

(k) Repealed by Laws 1995, ch. 31, 2.

(m) Repealed by Laws 1995, ch. 31, 2.

30-3-116. Abandoned workings; posting at entrances; sealing or ventilation.

(a) The entrances to abandoned workings shall be posted to warn unauthorized persons against entering the territory.

(b) Abandoned workings shall be sealed or ventilated in accordance with rules adopted by the inspector.

(c) Repealed by Laws 1995, ch. 31, 2.

30-3-117. Abandoned workings; precautions required when working place approaches.

Whenever any working place approaches within two hundred (200) feet of abandoned workings that cannot be inspected, boreholes shall be kept as required by rule of the inspector. The rules shall include spacing and other drilling requirements for the bore holes.

30-3-118. Surface outlets; rules specifying surface opening and escapeway requirements.

(a) Every underground mine shall have at least two (2) separate clearly marked outlets to the surface. The two (2) outlets to the surface need not belong to the same mine if persons can travel to and from another outlet to the mine.

(b) The inspector shall adopt rules specifying other surface opening, travelway and escapeway requirements. The rules shall provide for adequate fire protection, ventilation and equipment, designated escapeways and limitations upon the number of persons allowed in the mine or specific areas of the mine based upon available escapeways.

(c) Repealed by Laws 1995, ch. 31, 2.

(d) Repealed by Laws 1995, ch. 31, 2.

(e) Repealed by Laws 1995, ch. 31, 2.

(f) Repealed by Laws 1995, ch. 31, 2.

(g) Repealed by Laws 1995, ch. 31, 2.

(h) Repealed by Laws 1995, ch. 31, 2.

(j) Repealed by Laws 1995, ch. 31, 2.

(k) Repealed by Laws 1995, ch. 31, 2.

(m) Repealed by Laws 1995, ch. 31, 2.

ARTICLE 2 - EQUIPMENT AND MACHINERY

30-3-201. Aerial trams, belts and conveyors.

Aerial trams, belts, conveyors or other transporting equipment shall be adequate for the purpose used and shall be installed and maintained in good workmanlike manner in accordance with recognized good, safe engineering practice and with rules adopted by the inspector.

30-3-202. Bins and chutes.

(a) All bins shall be designed and constructed to hold and maintain the load required.

(b) Chutes for discharging bins shall be of approved design, and arranged to be conveniently and safely operated, with a uniform flow to lessen arching of stored material.

(c) Open top bins shall be protected by adequate guardrails and toeboards.

30-3-203. Boilers and compressed air receivers; inspections.

(a) All boilers used for generating steam shall be kept in good order. The owner or operator shall have them inspected and approved in accordance with rules adopted by the inspector.

(b) All compressed air receivers shall be built and installed according to standard specifications and shall be inspected and approved in accordance with rules adopted by the inspector.

30-3-204. Machinery; standard safety methods and devices required.

(a) All machinery shall be guarded by standard approved methods and devices which shall adequately provide protection against accidents and prevent all access to the danger zones during operation.

(b) All persons shall avail themselves of protective devices, shall observe all rules governing their maintenance and operation and shall promptly report to the operator or supervisor any unsafe condition or the lack of any protective device.

(c) No employee or person or persons shall knowingly do any willful act to injure or destroy any machinery, which will thereby endanger the safety of persons, working places or property.

30-3-205. Cutter chains; enumeration of equipment to be guarded; control of dust when drilling; repairing or oiling moving machinery prohibited.

(a) The cutter chains of mining machines shall be locked securely by mechanical means to prevent accidental movement while being trammed or when parked. The inspector shall adopt rules providing for the adequate guarding of equipment with protruding bolts, nuts, blades, flywheels, belts, chains and other mechanisms which can cause serious injury and with which persons are likely to come into contact.

(b) Drilling in rock shall be done wet or with other means of dust control approved by the inspector.

(c) Repealed by Laws 1995, ch. 31, 2.

(d) Machinery shall not be repaired or oiled while in motion.

(e) A guard or safety device removed from any machine shall be replaced before the machine is put in operation.

(f) Repealed by Laws 1995, ch. 31, 2.

30-3-206. Use of internal combustion engines prohibited; exception.

(a) The use of equipment underground powered by internal combustion engines is prohibited except for those engines conforming to standards accepted by the MSHA for underground internal combustion

engines. Equipment with engines conforming with rules adopted by the MSHA shall only be used and operated as authorized by rule of the inspector.

(b) Repealed by Laws 1995, ch. 31, 2.

(c) Repealed by Laws 1995, ch. 31, 2.

30-3-207. Locomotives generally.

(a) Locomotives shall be equipped with proper devices for rerailing of locomotives and cars.

(b) An audible warning device and headlights shall be provided on each locomotive, shuttle car and any other self-propelled mobile equipment used underground.

(c) Where hoists are used for handling men in underground slopes, in pitching beds, or on slopes between two (2) or more beds, the provisions governing hoisting or haulage mentioned heretofore shall apply.

(d) A permissible trip light shall be used on the rear of trips pulled, and on the front of trips lowered into slopes or pushed. Trip lights need not be used during gathering operations at working faces.

(e) Pushing of cars on main haulage roads and back-poling is prohibited except as authorized by rule of the inspector.

(i) Repealed by Laws 1995, ch. 31, 2.

(ii) Repealed by Laws 1995, ch. 31, 2.

(iii) Repealed by Laws 1995, ch. 31, 2.

(iv) Repealed by Laws 1995, ch. 31, 2.

(f) Repealed by Laws 1995, ch. 31, 2.

(g) Repealed by Laws 1995, ch. 31, 2.

(h) Repealed by Laws 1995, ch. 31, 2.

(j) Repealed by Laws 1995, ch. 31, 2.

(k) Repealed by Laws 1995, ch. 31, 2.

(m) Repealed by Laws 1995, ch. 31, 2.

(n) Repealed by Laws 1995, ch. 31, 2.

(o) Repealed by Laws 1995, ch. 31, 2.

(p) Repealed by Laws 1995, ch. 31, 2.

(q) Repealed by Laws 1995, ch. 31, 2.

(r) The inspector shall adopt rules establishing the authorized use of locomotives, including persons authorized to ride, materials which may be hauled, and requirements for boarding, loading, derailing, blocking, coupling and trip lighting.

30-3-208. Man-trips operated by locomotives; belt lines; illumination of stations.

(a) Man-trips operated by locomotives shall be pulled at safe speed consistent with the condition of roads and type of equipment used, and shall be so controlled that they can be stopped within the limits of visibility. The speed of man-trips on slopes shall be consistent with the condition of roads and type of equipment used and shall be limited to speeds established by rules of the inspector.

(b) Each man-trip shall be under the charge of a qualified person and shall be operated independently of any loaded trip of material.

(c) Cars on the man-trip shall not be overloaded. Sufficient cars in good mechanical condition shall be provided.

(d) No person shall ride under the trolley wire unless suitable covered man-cars are used.

(e) No material or tools shall be transported in the same car with persons on any man-trip. All persons except the motorman and trip rider shall ride inside of man-trip cars.

(f) Persons shall not load or unload from moving man-trip cars. Persons shall proceed in an orderly manner to and from man-trips.

(g) A waiting station with sufficient room and ample clearance from moving equipment shall be provided where persons are required to wait for man-trips or man-cages.

(h) Trolley and power wires shall be guarded effectively at man-trip stations where there is a possibility of any person coming in contact with energized electric wiring while loading or unloading from the man-trip.

(j) Loading and unloading stations shall be illuminated properly.

(k) A qualified person shall supervise the loading and unloading of man-trips.

30-3-209. Standards and use of hoisting equipment established by rule.

(a) The inspector shall establish by rule requirements for the operation of hoisting equipment. The rules shall include permissible materials, manning and training requirements, load limitations, guard requirements for trolley and power wires, and illumination and recordkeeping requirements.

(b) Repealed by Laws 1995, ch. 31, 2.

(c) Repealed by Laws 1995, ch. 31, 2.

(d) Repealed by Laws 1995, ch. 31, 2.

(e) Repealed by Laws 1995, ch. 31, 2.

(f) Repealed by Laws 1995, ch. 31, 2.

(g) Repealed by Laws 1995, ch. 31, 2.

(h) Repealed by Laws 1995, ch. 31, 2.

(j) Repealed by Laws 1995, ch. 31, 2.

(k) Repealed by Laws 1995, ch. 31, 2.

(m) Repealed by Laws 1995, ch. 31, 2.

30-3-210. Cages; standards and use established by rule.

(a) Cages used for hoisting persons shall be of substantial construction with:

(i) Adequate steel bonnets;

(ii) Enclosed sides;

(iii) Gates, safety chains or bars across the ends of the cage when persons are being hoisted or lowered;

(iv) Sufficient handholds or chains for all persons on the cage to maintain their balance.

(b) The floor of the cage shall be adequate to carry the load and so constructed that it will be impossible for a person's foot or body to enter any opening in the bottom of the cage.

(c) Cages used for handling persons shall be equipped with safety catches that act quickly and effectively in an emergency.

(d) Cages shall be inspected daily. Safety catches on cages shall be tested at least every two (2) months. A written record shall be kept of inspections and tests. The record may be inspected by interested persons.

(e) Repealed by Laws 1995, ch. 31, 2.

(f) Repealed by Laws 1995, ch. 31, 2.

(g) Repealed by Laws 1995, ch. 31, 2.

(h) Repealed by Laws 1995, ch. 31, 2.

(j) Repealed by Laws 1995, ch. 31, 2.

(k) Repealed by Laws 1995, ch. 31, 2.

(m) Repealed by Laws 1995, ch. 31, 2.

(n) Repealed by Laws 1995, ch. 31, 2.

(o) Repealed by Laws 1995, ch. 31, 2.

(p) Repealed by Laws 1995, ch. 31, 2.

(q) The inspector shall establish by rule standards for cages used for hoisting persons. To the extent possible, emergency hoists shall comply with these standards.

ARTICLE 3 - COMMUNICATIONS, FIRE PREVENTION AND FIRST AID

30-3-301. Telephone service or communication facilities; location; insulation; protection; additional standards by rule.

(a) Telephone service or equivalent communication facilities installed to reduce the possibility of interruption of service shall be provided in underground mines at the bottom of each main shaft or slope and in all mines from the surface to the working sections of the mine.

(b) Telephone lines, other than cables, shall be:

(i) Carried on insulators;

(ii) Installed on the opposite side from power or trolley wires;

(iii) Adequately insulated where they cross power or trolley wires.

(c) Telephone circuits shall be protected by lightning arresters.

(d) The inspector shall adopt additional rules for telephone and communication safety.

30-3-302. Fire-fighting equipment; fire prevention regulations.

(a) Each mine shall be provided with suitable fire-fighting equipment, adequate for the size of the mine, such as supplies of rock dust at doors and at other strategic places, water lines and hose, water chemical trucks and fire extinguishers to provide reasonably effective means of controlling fires. The inspector shall establish by rule additional fire protection requirements, including:

(i) Equipment required to be available at specified areas of the mine;

(ii) Required examinations for fire after blasting and other operations;

(iii) Storage requirements for materials and equipment; and

(iv) Procedures to be followed in the event of a mine explosion or fire.

(b) Repealed by Laws 1995, ch. 31, 2.

(c) Repealed by Laws 1995, ch. 31, 2.

(d) Repealed by Laws 1995, ch. 31, 2.

(e) Repealed by Laws 1995, ch. 31, 2.

(f) Repealed by Laws 1995, ch. 31, 2.

(g) Repealed by Laws 1995, ch. 31, 2.

(h) Repealed by Laws 1995, ch. 31, 2.

(j) Repealed by Laws 1995, ch. 31, 2.

(k) Repealed by Laws 1995, ch. 31, 2.

(m) Repealed by Laws 1995, ch. 31, 2.

30-3-303. Fire danger to be minimized; when open flame prohibited.

(a) All structures or installations either underground or above ground shall be constructed to minimize the danger of fire.

(b) No material shall be stored underground or above ground that creates or constitutes a fire hazard.

(c) Smoking or the use of an open flame is prohibited where it constitutes a serious hazard.

30-3-304. Use of arc, spark or open flame prohibited; exceptions; search for flame-producing devices; welding and cutting operations; nonpermissible electric lamps prohibited.

(a) All persons in underground workings of a mine are prohibited from intentionally creating any arc, spark or open flame, except those that cannot be avoided in the normal performance of work. Carrying smoking material or matches, or other flame-making devices into a mine or smoking underground is prohibited.

(b) Before entering the mine, employees shall be subject to search by the mine foreman or his certified designee for smoking materials or matches, or other flame-producing devices.

(c) In all underground mines welding and cutting with electricity or flame is restricted from places where flammable gases are present or where flammable gases may enter the air course except necessary welding and cutting in face regions. In the face regions of gassy mines, necessary welding and cutting in face regions shall be under the direct supervision of a qualified person, who shall test for gas before starting operations and frequently thereafter. Continuous monitoring devices may be used after the initial gas test has been made. In all welding and cutting operations, precautions shall be taken against starting a fire.

(d) All persons underground shall use only permissible electric lamps for portable illumination.

30-3-305. First-aid equipment and training standards established by rule.

(a) Repealed by Laws 1995, ch. 31, 2.

(b) Repealed by Laws 1995, ch. 31, 2.

(c) Repealed by Laws 1995, ch. 31, 2.

(d) Repealed by Laws 1995, ch. 31, 2.

(e) The inspector shall establish by rule standards for first-aid equipment and training, and ambulance and physician services required on the surface and throughout the mine.

ARTICLE 4 - ELECTRICAL SAFETY

30-3-401. Electric installations and equipment.

(a) The inspector shall adopt rules for electrical installation and equipment safety requirements for mines. The rules shall establish:

(i) Placement and other safety requirements for high potential power lines;

(ii) Placement, housing, cooling, encasing and other access restrictions for transformers;

(iii) Mounting requirements for pull switches, circuit breakers and other power controls and requirements for entrances, illumination and clearances for switchboards;

(iv) Standards for the installation and support of power lines and cables, including track used as a power conductor, trolley wires and feeder wires. The rules shall require that, where practicable, power be disconnected during repair work and shall include required protective clothing and equipment for persons repairing power lines and cables, and trolley wire and feeder wire;

(v) Installation requirements and load restrictions for signal wires;

(vi) Standards for the use of electrical equipment and testing standards at specific areas of the mine, including areas containing specified levels of methane or other explosive gases.

30-3-402. Repealed by Laws 1995, ch. 31, 2.

30-3-403. Repealed by Laws 1995, ch. 31, 2.

30-3-404. Repealed by Laws 1995, ch. 31, 2.

30-3-405. Repealed by Laws 1995, ch. 31, 2.

30-3-406. Repealed by Laws 1995, ch. 31, 2.

30-3-407. Repealed by Laws 1995, ch. 31, 2.

30-3-408. Repealed by Laws 1995, ch. 31, 2.

30-3-409. Repealed by Laws 1995, ch. 31, 2.

30-3-410. Repealed by Laws 1995, ch. 31, 2.

30-3-411. Repealed by Laws 1995, ch. 31, 2.

ARTICLE 5 - VENTILATION AND DUST CONTROL

30-3-501. Ventilation regulations generally; quantity of air required; record of measurements.

(a) The operator shall provide and maintain, at all times, for all persons in every working place, a good and sufficient amount of ventilation circulating an adequate quantity of fresh air sufficient to dilute and render harmless any noxious gases or powder smoke that may be present.

(b) The number of men on a split shall be no more than the ventilation system can support. Where dust or fumes in harmful quantities result from mining, milling or processing operations, some mechanical or other means which will alleviate this condition shall be used wherever and whenever practical. The operator shall furnish and encourage the use of personal protective devices for alleviating harmful effects of dust and fumes. Each person shall use the devices furnished by the operator.

(c) The quantity of air reaching the last open crosscut in any pair or set of entries shall not be less than nine thousand (9,000) cubic feet a minute. However, the quantity of air reaching the last open crosscut in any pair or set of entries in pillar sections may be less than nine thousand (9,000) cubic feet of air a minute, if at least nine thousand (9,000) cubic feet of air a minute is being delivered to the intake end of the pillar line. In any underground mine, the operator shall provide on the surface or underground a fan or other mechanical means for producing and controlling air circulation within the mine.

(d) The air current at working faces shall under any condition have a sufficient volume and velocity to dilute and carry away smoke from blasting and any flammable or harmful gases.

(e) At least once each week, the mine foreman or other certified persons designated by him, shall measure the volume of air near the main intake or main return, the amount passing through the last open crosscut of entries, and the volume of air in each split. A record of these measurements shall be kept in a book on the surface and shall be open for inspection by interested persons.

(f) The main-intake and main-return air currents in mines shall be in separate openings.

(g) All slopes or entries in coal mines shall be driven in sets of two (2) or more.

(h) In gassy mines haulage roads shall be in intake air.

(j) Battery-charging stations and transformer stations containing liquid-filled transformers shall be well ventilated by separate splits of air conducted through vents to the return air courses and returning direct to the surface.

(k) Changes in ventilation that materially affect the main air current or any split thereof shall be made when the mine is idle and with no men in the mine, other than those engaged in changing the ventilation.

(m) In gassy mines air that has passed through abandoned sections or that has been used to ventilate pillar lines shall not be reused to ventilate live workings.

(n) The inspector shall establish by rule ventilation requirements for mines and associated surface facilities. The rules may be generally applicable to all mines or promulgated for specific types of mines or mining operation and may:

(i) Establish minimum and maximum volumes of air required for specified areas of mines;

(ii) Specify the means for ventilation, including the use, installation and operation of main mine fans, booster fans, blower fans, exhausting and other fans, and associated equipment including warning and monitoring devices;

(iii) Specify the use, placement and construction of crosscuts, doors and line brattice needed to provide ventilation;

(iv) Specify personal protective devices to be used to alleviate the effects of dust and harmful gases;

(v) Specify areas of the mine and times for monitoring, and training requirements for persons monitoring ventilation and associated equipment or providing ventilation in accordance with this act or rules adopted under this act;

(vi) Establish appropriate procedures for making changes in ventilation;

(vii) Specify required actions in response to hazards due to inadequate ventilation, including the existence of specified levels of dust or gases; and

(viii) Require recordkeeping in accordance with applicable federal law.

30-3-502. Repealed by Laws 1995, ch. 31, 2.

30-3-503. Booster fans prohibited; exceptions; safeguards required when used.

(a) Booster fans are prohibited unless the inspector determines their installation is necessary for the safe operation and proper ventilation of the mine and gives permission in writing to install them. In mines where such fans are now being used their use may be continued but they, and any new installations, shall be surrounded with safeguards established by rule of the inspector and as follows:

(i) Repealed by Laws 1995, ch. 31, 2.

(ii) Repealed by Laws 1995, ch. 31, 2.

(iii) In case of booster-fan stoppage, the procedure outlined in this act with respect to stoppage of main fans shall apply to the section of the mine affected;

(iv) Inspected at least twice each shift during which the fan operates by a certified official designated by the mine foreman.

(b) The following applies to auxiliary fans with tubing used in underground mines:

(i) Repealed by Laws 1995, ch. 31, 2.

(ii) Repealed by Laws 1995, ch. 31, 2.

(iii) The fan tubing of an auxiliary fan shall be maintained in good condition. The discharge end of the tubing shall be kept within forty-five (45) feet of the face, and not more than three hundred fifty (350) feet of the tubing shall be extended from the fan unless otherwise authorized in writing by the inspector to accommodate larger mining equipment.

(iv) Repealed by Laws 1995, ch. 31, 2.

(v) Repealed by Laws 1995, ch. 31, 2.

(vi) Repealed by Laws 1995, ch. 31, 2.

30-3-504. Repealed by Laws 1995, ch. 31, 2.

30-3-505. Repealed by Laws 1995, ch. 31, 2.

30-3-506. Repealed by Laws 1995, ch. 31, 2.

30-3-507. Repealed by Laws 1995, ch. 31, 2.

30-3-508. Repealed by Laws 1995, ch. 31, 2.

30-3-509. Prevention of dust; standards established by rule.

(a) Repealed by Laws 1995, ch. 31, 2.

(b) Repealed by Laws 1995, ch. 31, 2.

(c) Repealed by Laws 1995, ch. 31, 2.

(d) Repealed by Laws 1995, ch. 31, 2.

(e) Repealed by Laws 1995, ch. 31, 2.

(f) Repealed by Laws 1995, ch. 31, 2.

(g) The inspector shall by rule establish standards for preventing dust from endangering the safe operation of the mine, including the enclosure of electric motors, switches and controls.

CHAPTER 4 - INTERSTATE MINING COMPACT

30-4-101. Authorization to join compact.

The governor of the state of Wyoming is authorized for and in the name of the state of Wyoming to join with the other states with mutual interests in the field of mining in the interstate mining compact commission.

30-4-102. Representation in the compact.

The governor shall represent the state of Wyoming in the compact commission and shall perform for the state all of the powers and duties with respect thereto. If the governor designates a person to represent the state, that person shall take the oath of office prescribed by the constitution and shall file it with the secretary of state.

CHAPTER 5 - OIL AND GAS

ARTICLE 1 - IN GENERAL

30-5-101. Definitions.

(a) As used in this act unless the context otherwise requires:

(i) The term "waste" means and includes:

(A) Physical waste, as that term is generally understood in the oil and gas industry;

(B) The inefficient, excessive or improper use, or the unnecessary dissipation of, reservoir energy;

(C) The inefficient storing of oil or gas;

(D) The locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes, or tends to cause, reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;

(E) The production of oil or gas in excess of (I) transportation or storage facilities; (II) the amount reasonably required to be produced in the proper drilling, completing, or testing of the well from which it is produced, or oil or gas otherwise usefully utilized: except gas produced from an oil well pending the time when with reasonable diligence the gas can be sold or otherwise usefully utilized on terms and conditions that are just and reasonable;

(F) Underground or aboveground waste in the production or storage of oil, gas, or condensate, however caused, and whether or not defined in other subdivisions hereof;

(G) The flaring of gas from gas wells except that necessary for the drilling, completing or testing of the well; and

(H) The drilling of any well not in conformance to a well density and spacing program fixed by the commission or other agency, state or federal, as to any field or pool during a national emergency when casing or other materials necessary to the drilling and operation of wells are rationed or in short supply.

(ii) "Commission" means the Wyoming oil and gas conservation commission herein created to carry out the provisions of this act;

(iii) The word "pool" shall mean an underground reservoir containing a common accumulation of oil or gas, or both. Each zone of a general structure, which zone is completely separated from any other zone in the structure, is covered by the word "pool" as used herein;

(iv) "Person" means and includes any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental subdivision thereof; the masculine gender, in referring to a person, includes the feminine and the neuter genders;

(v) "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces therefrom either for himself or others or for himself and others;

(vi) "Producer" means the owner of a well or wells capable of producing oil or gas or both;

(vii) The word "oil" shall mean crude petroleum oil and any other hydrocarbons, regardless of gravities, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas before or after it leaves the reservoir. The word "gas" shall mean all natural gases and all hydrocarbons not defined herein as oil;

(viii) The word "and" includes the word "or," and the use of the word "or" includes the word "and." The use of the plural includes the singular, and the use of the singular includes the plural;

(ix) "Correlative rights" shall mean the opportunity afforded the owner of each property in a pool to produce, so far as it is reasonably practicable to do so without waste, his just and equitable share of the oil or gas, or both, in the pool;

(x) The term "surety bond or other guaranty" means a surety bond, a first priority security interest in a deposit of the proceeds of a collected cashier's check, a first priority security interest in a certificate of deposit or an irrevocable letter of credit, all in an amount and including other terms, conditions and requirements determined by the commission.

30-5-102. Waste prohibited; power of commission to allocate allowable production.

(a) The waste of oil and gas or either of them in the state of Wyoming as in this act defined is hereby prohibited.

(b) Whenever in order to prevent waste the commission limits the total amount of oil and gas which may be produced in any pool in this state to an amount less than that amount which the pool could produce if no restriction was imposed, the commission shall allocate or distribute the allowable production among the several wells or producing properties in the pool on a reasonable basis, preventing or minimizing reasonably avoidable drainage from each developed area not equalized by counter-drainage, so that each property will have the opportunity to produce or to receive its just and equitable share, subject to the reasonable necessities for the prevention of waste.

30-5-103. Oil and gas conservation commission; composition; expenses; hearings; director of oil and gas conservation; legal advisors.

(a) The governor, director of the office of state lands and investments, the state geologist and two (2) additional members from the public at large who shall be appointed by the governor, by and with the consent of the state senate and shall be citizens and residents of the state of Wyoming and shall be qualified to serve the oil and gas industry of this state, shall comprise the commission. The terms of the two (2) members appointed by the governor shall be for two (2) years except that, of the initially appointed members, one (1) designated by the governor, shall serve for one (1) year. The governor may remove any member he appoints as provided by W.S. 9-1-202.

(b) Each member of the commission not otherwise in full time employment of the state, shall receive the same allowances as other state officials and employees as set forth in W.S. 9-3-102, as amended while attending and traveling to and from meetings of the commission, said fees and expenses to be paid from the funds of the Wyoming conservation commission.

(c) The governor shall serve as chairman of the Wyoming oil and gas conservation commission. The commission shall meet or hold hearings at such times and places as may be found by the commission to be necessary to carry out its duties. Three (3) members of the board shall constitute a quorum.

(d) The state oil and gas supervisor shall be ex officio the director of oil and gas conservation, and as such shall be charged with the duty of enforcing this act and all rules, regulations and orders promulgated by the commission. The director of oil and gas conservation with the concurrence of the commission shall

have the authority, and it shall be his duty, to employ all personnel necessary to carry out the provisions of this act. The director of oil and gas conservation shall be ex officio secretary of the Wyoming oil and gas conservation commission and shall keep all minutes and records of the commission.

(e) The attorney general shall be attorney for the commission; provided, that in cases of emergency, the commission may call upon the county attorney for the county of Laramie or the county attorney of the county in which the action is to be brought or defended to represent the commission until such time as the attorney general may take charge of the litigation and upon request, or with the consent of the attorney general, the commission may retain additional counsel to assist the attorney general, and for such purpose may employ any funds available under this act. Any member of the commission, or the secretary thereof, shall have power to administer oaths to any witness in any hearing, investigation, or proceeding contemplated by this act, or by any other law of this state relating to the conservation of oil and gas.

(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.

30-5-104. Oil and gas conservation commission; powers and duties; investigations; rules and regulations.

(a) The Wyoming oil and gas conservation commission, herein called "the commission," has jurisdiction and authority over all persons and property, public and private, necessary to effectuate the purposes and intent of this act, including the authority to set, assess and collect reasonable fees as provided in this subsection. The fees authorized under this subsection shall be set 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 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 the administrative activity associated with the fee;

(iii) The commission shall maintain records sufficient to support the fees charged;

(iv) Fees may be imposed only for:

(A) Applications for commission or examiner hearings and for continuances of those hearings;

(B) Applications for administrative approval;

(C) Applications for permits to drill oil and gas wells;

(D) Applications for stratigraphic tests or core holes;

(E) Injection wells subject to the environmental protection agency underground injection control program administered by the commission.

(b) The commission has authority and it is its duty to make investigations to determine whether waste exists or is imminent, or whether other facts exist, which justify or require action by it hereunder. The commission is authorized to enter orders following any investigatory hearings if properly noticed to operators, producers and processors under the provisions of the Wyoming Administrative Procedure Act and rules of the commission.

(c) The commission shall make rules, regulations, and orders, and shall take other appropriate action, to effectuate the purposes and intent of this act.

(d) The commission has authority:

(i) To require:

(A) Identification of ownership of wells, producing leases, tanks, plants and drilling structures;

(B) The making and filing of reports, well logs, and directional surveys; provided, however, that logs of exploratory or "wildcat" wells marked confidential shall be kept confidential for six (6) months after the filing thereof, unless the owner gives written permission to release such logs at an earlier date;

(C) The drilling, casing, and plugging of wells in such manner as to prevent the escape of oil or gas out of one (1) stratum into another, the intrusion of water into an oil and gas stratum, the pollution of fresh water supplies by oil, gas, or salt water, and to prevent blowouts, cavings, seepages, and fires;

(D) The furnishing of a surety bond or other guaranty, conditioned for or securing the performance of the duty to plug each dry or abandoned well or the repair of wells causing waste and compliance with the rules and orders of the commission;

(E) The operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios;

(F) Gauging or other measuring of oil and gas to determine the quantity and quality thereof;

(G) That every person who produces oil or gas in this state shall keep and maintain for a period of five (5) years within this state complete and accurate record of the quantities thereof, which records or certified copies thereof shall be available for examination by the commission or its agents at all reasonable times;

(H) The payment of reasonable fees authorized under this article.

(ii) To regulate, for conservation purposes:

(A) The drilling, producing, and plugging of wells;

(B) The shooting and chemical treatment of wells;

(C) The spacing of wells;

(D) Disposal of salt water, nonpotable water, drilling fluids and other oil-field wastes which are uniquely associated with exploration and production operations;

(E) The contamination or waste of underground water;

(F) All aspects of oil mining operations provided that nothing herein shall limit the authority of state mining inspector. "Oil mining operations" means operations associated with the production of oil or gas from reservoir access holes drilled from underground shafts or tunnels.

(iii) To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this act, to make the determination of wells required by the Natural Gas Pricing Policy Act of 1978 [Natural Gas Policy Act of 1978], Public Law 95-621 and to make any other determination of wells that be required by the United States department of energy;

(iv) When required, in order to protect correlative rights, to establish drilling units affording each owner

an opportunity to drill for and produce as a prudent operator, and so far as it is reasonably practicable to do so without waste, his just and equitable share of the oil or gas or both in the pool and to restrict or limit the production of oil or gas from any well which is allowed, after the effective date of this act, as an exception to the location requirements of or as an additional well permitted under any order of the commission establishing drilling units for a pool or part thereof or of any general well spacing rule or order adopted by the commission for conservation purposes, upon such terms and conditions as the commission may determine, upon the commission's own motion or upon application of any interested person and after notice and hearing as provided by chapter 6, Wyoming Statutes 1957, as amended, and by the commission's rules;

(v) To adopt rules and regulations to:

(A) Regulate the plugging, sealing or capping of seismic shot holes, and to require, and fix the amount of, a surety bond or other guaranty to ensure compliance with regulations governing all geophysical operations and to ensure compliance with W.S. 30-5-401 through 30-5-410. When oil and gas operations as defined in W.S. 30-5-401(a)(iv) involve seismic activities, the rules shall require a surety or other guaranty which is sufficient to protect and for the purpose of addressing the interests of the surface owners affected by the activities and which, in all events, shall be in an amount of not less than five thousand dollars ($5,000.00) for the first one thousand (1,000) acres or portion thereof per surface owner for which access is sought for seismic activities and not less than one thousand dollars ($1,000.00) for each additional one thousand (1,000) acres or portion thereof per surface owner for which access is sought for seismic activities. For the purpose of assuring compliance with this minimum bonding requirement, the commission may pool parcels of land of different surface owners where no single parcel exceeds forty (40) acres;

(B) Require an applicant to certify that all underground electrical conductors outside of its facilities, fenced enclosures or posted areas comply with the national electric code; and

(C) Require an operator to install and maintain all electrical equipment located in and around an oil and gas well to comply with the national electrical code.

(vi) To regulate, excluding discharges permitted under the national pollutant discharge elimination system, the:

(A) Location, construction, operation and reclamation of all noncommercial reserve pits and produced water retention and emergency overflow pits used solely for the storage, treatment and disposal of drilling fluids, produced waters, emergency overflow wastes or other oil field wastes associated with the maintenance and operation of oil and gas exploration and production wells on a lease, unit or communitized area in such a manner as to prevent the contamination of the waters of the state;

(B) The noncommercial underground disposal into Class two injection wells as defined under the federal Safe Drinking Water Act of salt water, nonpotable water and oil field wastes related to oil and gas production in such a manner as to prevent contamination of the waters of the state.

(vii) To use funds collected under W.S. 30-5-116(b) to plug wells and seismic holes and reclaim the surrounding area affected by them, if the commission is unable to enforce its regulations and laws requiring the owner, seismic contractor or hole plugger to plug and reclaim and if the owner, seismic contractor or hole plugger does not have an adequate surety bond or other guaranty to cover the cost of plugging and reclamation. Nothing in this paragraph shall be construed to create any liability by the state for failure to adequately plug or reclaim wells or holes. If oil field equipment appears to have been abandoned in the area of a well or hole which is plugged or reclaimed under this paragraph, the commission may, after notice and a hearing as provided in W.S. 30-5-105 and 30-5-106 and a finding that the equipment is abandoned, dispose of the equipment. The commission may dispose of the equipment by public sale or by transferring it to the contractor who performs the plugging and reclamation for the commission. The transfer or proceeds of the sale shall be used to defray the cost of plugging or reclamation. The commission shall promulgate rules to implement this paragraph;

(viii) To issue orders allowing the unitization of pore space associated with geologic sequestration sites pursuant to W.S. 35-11-314 through 35-11-317 and adopt such rules and regulations as necessary to effectuate the purposes of W.S. 35-11-314;

(ix) To issue orders pursuant to W.S. 30-5-110 allowing the unitization of oil and gas interests with consenting coal interests that are actually consumed as a direct result of well and reservoir injections to restore or enhance the microbial conversion of hydrocarbon substrates to methane gas.

(e) The commission shall not require that filings with the commission be signed or stamped by a registered professional engineer.

30-5-105. Oil and gas conservation commission; hearings; conducted by examiners; procedures.

In addition to the powers and authority, either express or implied, granted to the Wyoming oil and gas conservation commission by virtue of the statutes of the state of Wyoming, the commission is hereby authorized and empowered in prescribing its rules of order or procedure in connection with hearings or other proceedings before the commission to provide for the appointment of one (1) or more examiners to conduct a hearing or hearings with respect to any matter properly coming before the commission and to make reports and recommendations to the commission with respect thereto. Any member of the commission, or its staff or any other person designated by the commission may serve as an examiner. The commission may also provide for additional compensation to be paid to a member of the commission appointed from the public at large or any other person designated by the commission for services performed as an examiner at the same rate as the at-large members of the commission are presently compensated. The commission shall promulgate rules and regulations with regard to hearings to be conducted before examiners which shall provide for rehearing before the commission, upon the request of any interested party, of any matter heard before an examiner. The commission may enter orders based upon the reports and recommendations of its examiners. If such an order grants the request of an applicant, and no objection to the granting thereof has been filed or made before or during the hearing before the examiner, said order shall become effective immediately. If such an order denies the request of the applicant, in whole or in part, or if a timely protest to the granting of an application is filed or made, said order shall not become effective until: (a) the time prescribed by rule for the making of a request for rehearing before the commission has expired without any such request having been made or (b) all

interested parties have waived their right to request a rehearing, or (c) if timely request for rehearing is made, the commission after rehearing, shall affirm, revoke or modify such order. After an order based upon a hearing conducted by an examiner has become effective, it shall have the same force and effect as if said hearing had been conducted before the members of said commission.

30-5-106. When hearings held before commission.

Notwithstanding any provision of this act, or any rule of the commission adopted pursuant to the powers granted to it by this act, the hearing on any matter or proceeding shall be held before the commission (a) if the commission in its discretion desires to hear the matter, or (b) if the application or motion so requests, or (c) if the matter is initiated on the motion of the commission for enforcement of any rule, regulation, order, or statutory provision, or (d) if any party who may be affected by the matter or proceeding files with the commission more than three (3) days prior to the date set for the hearing on the matter or proceeding a written objection to such matter or proceeding being heard before an examiner, or (e) if the matter or proceeding is for the purpose of amending, removing or adding a statewide rule or administrative fee.

30-5-107. Hearings; W.S. 30-5-105 through 30-5-107 subordinate to Administrative Procedure Act.

This act shall be supplemental but subordinate to the Wyoming Administrative Procedure Act (Original House Bill No. 196, 38th Legislature).

30-5-108. State oil and gas supervisor; appointment; duties; authority of commission to appoint other employees; payment of traveling and living expenses.

To enable the commission to carry out its duties and powers under the laws of this state with respect to conservation of oil and gas, and to enforce the rules and regulations so prescribed, the commission shall appoint one (1) chief administrator who shall be a qualified petroleum engineer or petroleum geologist with at least ten (10) years of experience in his respective field of expertise who shall be designated and known as the "State Oil and Gas Supervisor." Such supervisor shall hold office at the pleasure of the commission and shall receive a salary, to be fixed by the commission. The state oil and gas supervisor shall be charged with such duties as are delegated by the commission, and in addition thereto he shall investigate charges and complaints of violation of the laws of this state with respect to conservation of oil and gas, and any order, rules and regulation of the commission made in connection therewith, and report concerning all such violations to the commission. The commission may at any time, when it finds that the public interest will be served thereby appoint such other employees as are found to be necessary, to assist the commission and the state oil and gas supervisor in the discharge of their respective duties. All employees or assistants authorized by this act shall be paid their necessary traveling and living expenses when traveling on official business, at such rates and within such limits as may be fixed by the commission, subject to existing law.

30-5-109. Rules and regulations governing drilling units.

(a) When required, to protect correlative rights or, to prevent or to assist in preventing any of the various types of waste of oil or gas prohibited by this act, or by any statute of this state, the commission, upon its own motion or on a proper application of an interested party, but after notice and hearing as herein provided shall have the power to establish drilling units of specified and approximately uniform size covering any pool.

(b) In establishing a drilling unit, the acreage to be embraced within each unit and the shape thereof shall be determined by the commission from the evidence introduced at the hearing but shall not be smaller than the maximum area that can be efficiently drained by one (1) well.

(c)(i) Subject to the provisions of this act, the order establishing drilling units for a pool or part thereof shall direct that no more than one (1) well shall be drilled to and produced from such pool on any unit, and that the well shall be drilled at a location authorized by the order, with such exception as may be reasonably necessary where the drilling unit is located on the edge of the pool and adjacent to a producing unit, or, for some other reason, the requirement to drill the well at the authorized location on the unit would be inequitable or unreasonable;

(ii) The state oil and gas supervisor, upon proper application therefor in accordance with the commission's rules, may grant exceptions from such authorized location for good cause shown, either (A) where written consents to the exception applied for have been given by all owners of drilling units directly or diagonally offsetting the unit for which the exception is requested and, as to lands for which drilling units have not been so established for such pool, by the owners of those lands which would comprise the directly and diagonally offsetting drilling units if the drilling unit order for the pool involved were extended to include such additional lands, in which case said supervisor may grant such exception immediately, or (B) if less than all of such owners have so consented to such exception, where the applicant shows to the satisfaction of said supervisor (by affidavit stating the time, place and manner of mailing, or such further proof as said supervisor may require) that notice of the filing of such application for exception has been mailed by registered or certified mail with return receipt to all of such owners failing to so consent and that fifteen (15) days have elapsed since the date of such mailing without any of such owners having filed with said supervisor written objections to the granting of such exception, in which case the exception may be granted upon the expiration of such fifteen (15) day period;

(iii) If any of the owners specified in paragraph (ii) of this subsection, who have not in writing consented to the exception applied for, file written objections to the requested exception with the state oil and gas supervisor during said fifteen (15) day period following the applicant's mailing of the notice of filing, or if for any other reason said supervisor fails to grant such requested exception, then no well shall be drilled on the drilling unit involved except at the location authorized by the order establishing such unit, unless and until the commission shall grant such exception after notice and hearing upon the application as required by this act. Provided that in addition to any other notice required by W.S. 30-5-111(d) as amended, or any other provision of law or the commission's rules, the commission shall cause notice of any hearing before it on an application for such exception to be mailed by registered or certified mail with return receipt to each of the owners specified in paragraph (ii) of this subsection at least ten (10) days before the date of such hearing.

(d) The commission, upon application, notice, and hearing, may decrease the size of the drilling units or permit additional wells to be drilled within the established units in order to prevent or assist in preventing any of the various types of waste prohibited by this act or in order to protect correlative rights, and the commission may enlarge the area covered by the order fixing drilling units, if the commission determines that the common source of supply underlies an area not covered by the order.

(e) After an order fixing drilling units has been entered by the commission, the commencement of drilling of any well or wells into any common source of supply for the purpose of producing oil or gas therefrom, at a location other than authorized by the order, is hereby prohibited. The operation of any well drilled in violation of an order fixing drilling units is prohibited.

(f) When two (2) or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of the drilling unit, then persons owning such interests may pool their interests for the development and operation of the drilling unit. In the absence of voluntary pooling, the commission, upon the application of any interested person, may enter an order pooling all interests in the drilling unit for the development and operation thereof. Each such pooling order shall be made after notice and hearing and shall be upon terms and conditions that are just and reasonable. Operations incident to the drilling of a well upon any portion of a unit covered by a pooling order shall be deemed for all purposes to be the conduct of such operations upon each separately owned tract in the unit by the several owners thereof. That portion of the production allocated or applicable to each tract included in a unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon.

(g) Each pooling order shall provide for the drilling and operation of a well on the drilling unit, and for the payment of the cost thereof, as provided in this subsection. The commission is specifically authorized to provide that the owner or owners drilling or paying for the drilling or for the operation of a well for the benefit of all owners shall be entitled to all production from the well which would be received by the owner or owners, for whose benefit the well was drilled or operated, after payment of royalty as provided in the lease, if any, applicable to each tract or interest, and obligations payable out of production, until the owner or owners drilling or operating the well or both have been paid the amount due under the terms of the pooling order or order settling the dispute. In the event of any disputed cost, the commission shall determine the proper cost. The order shall determine the interest of each owner in the unit, and may provide that each owner who agrees with the person or persons drilling and operating the well for the payment by the owner of his share of the costs, unless he has agreed otherwise, shall be entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to the tract of the nonconsenting owner. Each owner who does not agree, shall be entitled to receive from the person or persons drilling and operating the well on the unit his share of the production applicable to his interest after the person or persons drilling and operating the well have recovered the following:

(i) One hundred percent (100%) of each such nonconsenting owner's share of the cost of any newly acquired surface equipment beyond the wellhead connections (including, but not limited to, stock tanks, separators, treaters, pumping equipment and piping), plus one hundred percent (100%) of each such nonconsenting owner's share of the cost of operation of the well commencing with first production and continuing until each such nonconsenting owner's relinquished interest shall revert to it under other provisions in this section, it being intended that each nonconsenting owner's share of such costs and equipment will be that interest which would have been chargeable to each nonconsenting owner had it initially agreed to pay its share of the costs of said well from the beginning of the operation; and

(ii) Up to three hundred percent (300%) of that portion of the costs and expenses of drilling, reworking, deepening or plugging back, testing and completing, after deducting any cash contributions received and up to two hundred percent (200%) of that portion of the cost of newly acquired equipment in the well, to and including the wellhead connections, which would have been chargeable to the nonconsenting owner if he had participated therein.

30-5-110. Agreements for waterflooding or other recovery operations, repressuring or pressure-maintenance operations, cycling or recycling operations; operation as a unit of 1 or more pools or parts thereof and pooling of interests in oil and gas therein; amendment of orders and agreements.

(a) An agreement for waterflooding or other recovery operations involving the introduction of extraneous forms of energy into any pool, repressuring or pressure-maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas in connection therewith, or for carrying any other method of unit or cooperative development or operation of one (1) or more pools or parts thereof, is authorized and may be performed, and shall not be held or construed to violate any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade, and may be submitted to the commission for approval as being in the public interest or reasonably necessary to prevent waste or to protect correlative rights. Approval of such agreement by the commission shall constitute a complete defense to any suit charging violation of any statute of this state relating to trusts, monopolies and combinations in restraint of trade on account of such agreement or on account of operations conducted pursuant thereto. The failure to submit such an agreement to the commission for approval shall not for that reason imply or constitute evidence that such agreement or operations conducted pursuant thereto are in violation of laws relating to trusts, monopolies and combinations in restraint of trade.

(b) Except when context otherwise requires, the terms used or defined in W.S. 30-5-101, shall have the same meaning when used in this section.

(c) Any interested person may file an application with the commission requesting an order providing for the operation as a unit of one (1) or more pools or parts thereof and for the pooling of the interests in the oil and gas in the proposed unit area for the purpose of conducting such unit operation. Such application shall contain:

(i) A description of the land and pool, pools or portions thereof proposed to be so operated, termed the "unit area";

(ii) The names, as disclosed by the conveyance records of the county or counties in which the proposed unit area is situated, and the status records of the district office of the bureau of land management, of (A) all persons owning or having an interest in the oil and gas in such unit area or the production therefrom including mortgages and the owners of other liens or encumbrances, (B) all owners of every tract of land not included within but which immediately adjoins the proposed unit area or a corner thereof, and (C) the addresses of all such persons and owners, if known. If the name or address of any such person or owner is unknown, the application shall so indicate;

(iii) A statement of the type of operations contemplated in order to effectuate the purposes of this section;

(iv) 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 the formula or method of allocating oil and gas produced from the proposed unit area to and among the separately owned tracts within such area, the appointment of a unit operator and the time when the plan is to become effective;

(v) A proposed operating plan providing the manner in which the unit will be supervised and managed and 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 payment of costs.

(d) Upon filing of such application, the commission shall promptly set the matter for hearing, and in addition to the notice, if any otherwise required by law or the commission's rules, shall cause notice of such hearing, specifying the time and place of hearing, and describing briefly its purpose and the land affected, to be mailed by certified mail at least fifteen (15) days prior to the hearing to all persons whose names and addresses are required to be listed in the application.

(e) If after considering the application and hearing the evidence offered in connection therewith, the commission shall enter an order setting forth the following described 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) Such unit operation is feasible, will prevent waste, will protect correlative rights, and can reasonably be expected to increase substantially the ultimate recovery of oil or gas;

(iii) The value of the estimated additional recovery of oil or gas will exceed the estimated additional costs incident to conducting unit operations;

(iv) The oil and gas allocated to each separately owned tract within the unit area under the proposed plan of unitization represents, so far as can be practically determined, each such tract's just and equitable share of the oil or gas in the unit area;

(v) Where the unit embraces less than the whole of a pool, that the portion thereof to be included within the unit area is of such size and shape as may be reasonably required for the successful and efficient conduct of the unitized method or methods of operation for which the unit is created and that the conduct

thereof will have no material adverse effect upon the remainder of such pool;

(vi) In case there are owners who have not executed an operating agreement or agreed to the proposed operating plan covering the supervision, management and allocation of payment costs, that such proposed operating plan:

(A) Makes a fair and equitable adjustment among the owners within the unit area for their respective investments in wells, tanks, pumps, machinery, materials and equipment which have contributed to the unit operations;

(B) Provides for a fair and equitable determination of the cost of unit operations, including capital investment, and establishes a fair and equitable method for allocating such costs to the separately owned tracts and for the payment of such costs by the persons owning such tracts, either directly or out of such person's respective share of unit production;

(C) If necessary, prescribes fair, reasonable and equitable terms and conditions as to time and rate of interest for carrying or otherwise financing any person who is unable to promptly meet his financial obligations in connection with the unit;

(D) Provides that each owner shall have a vote in the supervision and conduct of unit operations corresponding to the percentage of costs of unit operations chargeable against the interests of such person; and

(E) Provides for fair and equitable terms and conditions for removal of unit operator and for appointment of a successor unit operator.

(f) No order of the 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 unit production or proceeds thereof that will be credited to royalty and overriding royalty interests which are free of costs, and unless both the plan of unitization and the operating plan, if any, have been signed, or in writing approved or ratified, by those persons who will be required to pay at least eighty percent (80%) of the cost of unit operations. However, to the extent that overriding royalty interests are in excess of a total of twelve and one-half percent (12 1/2%) of the production from any tract, such excess interests shall not be considered in determining the percentage of approval or ratification by such cost-free interests. If such consent has not been obtained at the time the commission order is made, the commission shall, upon application, hold such supplemental hearings and make such findings as may be required to determine when and if such consent has been obtained. Notice of such supplemental hearing shall be given by regular mail at least fifteen (15) days prior to such hearing to each person owning interests in the oil and gas in the proposed unit area whose name and address was required by the provisions of paragraph (c)(ii) of this section to be listed in the application for such 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, such 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 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 by either cost-free or cost-bearing interests, or both, to be reduced from eighty percent (80%) to seventy-five percent (75%). The application shall contain the information required by subsection (c) of this section and any order of the commission entered pursuant to the application must comply with subsection (e) 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 (d) of this section. If the commission finds that negotiations were being conducted on the effective date of this act 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%). Such an 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.

(g) From and after the effective date of an order of the commission entered under the provisions of this section, the operation of any well producing from 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.

(h) An order entered by the commission under this section, or an agreement under subsection (a) of this section establishing a unit area under which waterflooding or other recovery operations involving the introduction of extraneous forms of energy into the pool have been conducted, may be amended in the same manner and subject to the same conditions as an original order or previous agreement: provided, (i) if the amendment affects only the rights of owners, then consent to the amendment by those persons who will be credited with unit production or proceeds thereof free of cost shall not be required; and (ii) no amendatory order shall change the percentage for the allocation of oil and gas 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 production or proceeds thereof that will be credited to royalty and overriding royalty interests which are free of costs, and of those persons who will be required to pay at least eighty percent (80%) of the cost of unit operations, nor change the percentage for the 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 production or proceeds thereof that will be credited to royalty and overriding royalty interests which are free of costs, and of those persons who will be required to pay at least eighty percent (80%) of the cost of unit operations. However, to the extent that overriding royalty interests are in excess of a total of twelve and one-half percent (12 1/2%) of the production from any tract, such excess interests shall not be considered in determining the percentage of approval or ratification by such cost-free interests. If such consent has not been obtained at the time the commission order is made, the commission shall, upon application, hold such supplemental hearings and make such findings as may be required to determine when and if such consent has been obtained. Notice of such supplemental hearing shall be given by regular mail at least fifteen (15) days prior to such hearing to each person owning interests in the oil and gas in the unit area whose name and address was required by the provisions of paragraph (c)(ii) of this section to be listed in the application for such 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, such 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 commission requesting an order applicable only to the unit area described in the application which shall provide for the percentage of approval or ratification by either cost-free or cost-bearing interests, or both, to be reduced from eighty percent (80%) to seventy-five percent (75%). The application shall contain the information required by subsection (c) of this section and any order of the commission entered pursuant to the application must comply with subsection (e) 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 (d) of this section. If the commission finds that negotiations were being conducted on the effective date of this act 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%). Such an order shall affect only the unit area described in the application and shall operate only to approve a proposed plan of unitization and a 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.

(j) Upon application by any interested person, the commission, by order may, in the same manner and subject to the same conditions as an original order, provide for the unit operation of a pool or pools, or parts thereof, that embrace a unit area established by a previous order of the commission or that embrace a unit area previously established by a previous agreement under which waterflooding or other recovery operations involving the introduction of extraneous form of energy into the pool have been conducted. Such order in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of unit production so allocated thereto shall then be allocated among the separately owned tracts included in such previously established unit area in the same proportions as those specified in the previous order or such previous agreement as the case may be.

(k) All operations, including, but not limited to, the commencement, drilling, or operation of a well upon any portion of the unit area for all purposes shall be deemed to be the conduct of such operations upon each separately owned tract in the unit area by the owner or owners thereof. The portion of the unit production allocated to a separately owned tract in a unit area shall, when produced, be deemed, for all purposes, to have been actually produced from such tract by a well drilled thereon. Operations conducted pursuant to an order of the commission providing for unit operations shall constitute a fulfillment of all the express or implied obligations of each lease or contract covering lands in the unit area to the extent that compliance with such obligations cannot be had because of the orders of the commission. Whenever the commission enters an order providing for a unit operation, any lease, other than a state or federal lease, which covers lands that are in part within the unit area embraced in any such plan of unitization and that are in part outside of such unit area shall be vertically segregated into separate leases, one (1) covering all formations underlying the lands within such unit area and the other covering all formations underlying the lands outside each unit area, such segregation to be effective as of the anniversary date of such lease next ensuing after the expiration of ninety (90) days from the effective date of unitization; provided, however, that any such segregated lease as to the outside lands shall continue in force and effect for the primary term thereof, but not for less than two (2) years from the date of such segregation and so long thereafter as operations are conducted under the provisions of the lease. If any such lease provides for a lump-sum rental and if rentals become payable under any segregated lease covering the outside land, such lump-sum rental shall be prorated between such segregated leases on an acreage basis.

(m) The portion of the unit production allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the several persons to whom, or to whose credit, the same are allocated or payable under the order providing for unit operations.

(n) No division order or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to such tract until terminated in accordance with the provisions thereof.

(o) Except to the extent that the parties affected so agree, no order providing for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal that may be acquired for the account of the owners within the unit area, shall be the property of such owners in the proportion that the expenses of unit operations are charged.

(p) Subject to the limitations set forth in this section, and to such further limitations as may be set forth in the plan of unitization and operating plan, the operator of the unit shall have a first and prior lien for costs incurred pursuant to the plan of unitization and operating plan upon each owner's oil and gas rights and his share of unitized production to secure the payment of such owner's proportionate part of the costs of developing and operating the unit area. The lien may be established and enforced in the same manner as provided by W.S. 29-3-101 through 29-3-111. For such purposes any nonconsenting owner shall be deemed to have contracted with the unit operator for his proportionate part of the cost of developing and operating the unit area. A transfer or conversion of any owner's interest or any portion thereof however accomplished after the effective date of the order creating the unit, shall not relieve the transferred interest of said operator's lien on said interest for the cost and expense of unit operations.

(q) Notwithstanding any other provisions in this section to the contrary, any person who owns an interest in oil or gas within the unit area which is not subject to an oil and gas lease or similar contract, shall, with respect to seven-eighths of the interest, be deemed to be an owner obligated to pay all costs of unit operations attributable to the interest and shall be deemed to be a royalty owner to the extent of one-eighth of the interest free from the costs.

(r) The provisions of subsections (b) through (q) of this section shall never be applicable for the purpose of:

(i) Changing the terms of unit agreements under which waterflooding or other recovery operations involving the introduction of extraneous forms of energy into a pool have been conducted prior to the effective date of this section or changing the rights of either any person who has executed or ratified a preexisting unit agreement or any person who, being qualified to become a party to a preexisting unit agreement and having received an opportunity to become a party thereto, has failed or refused to execute or ratify the agreement; or

(ii) Subjecting the interest of any person in the oil and gas in the unit area to a unit agreement which allocates unit production to such interest under a formula based solely upon the surface acreage of the separate tracts within the unit area.

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

(t) If any section, subsection, sentence or clause of this section is adjudged to be unconstitutional or invalid, such adjudication shall not affect any other portions of this section which can be given effect without the unconstitutional or invalid provision, and to this end the provisions of this section are severable.

30-5-111. Rules of practice and procedure; hearings; emergency orders; notice; public inspection.

(a) The commission shall prescribe rules and regulations governing the practice and procedure before it.

(b) No rule, regulation, or order, or amendment thereof, except as otherwise provided in this act, shall be made by the commission without a hearing upon at least ten (10) days notice. The hearing shall be held at such time and place as may be prescribed by the commission, and any interested person shall be entitled to be heard.

(c) When an emergency requiring immediate action is found by the commission to exist, it is authorized to issue an emergency order without notice or hearing, which shall be effective upon promulgation. No emergency order shall remain effective for more than fifteen (15) days.

(d) Notice of all hearings before the commission shall be given by the commission by one (1) publication in a newspaper of general circulation in Natrona county, and by one (1) publication in a newspaper of general circulation in the county where the land affected, or some part thereof, is situated. In all cases where there is an application for the entry of a pooling order, the commission, in addition to such publication notice, shall cause notice of the hearing to be mailed to all owners whose interests are sought to be pooled. In all cases where a complaint is made by the commission, or by the state oil and gas supervisor or by any party that any provision of this act, or any rule, regulation or order of the commission is being violated, notice of the hearing on such complaint shall be served on the parties charged with such violation by any officer authorized by law to serve summons in civil actions or by an agent authorized and directed by the commission or its secretary, in the same manner as is provided in the code of civil procedure for service of process in civil actions in the district courts of this state; proof of such service by an officer shall be in the form provided by law with respect to civil process and proof of such service by an agent shall be by such agent's affidavit.

(e) All notices of hearings required to be given by the commission shall issue in the name of the state, and be signed by a member of the commission or its secretary, and shall specify the style and number of the proceeding, the time and place of hearing, and shall briefly state the purpose of the proceeding.

(f) In addition to the notice herein provided the commission may, by rule, regulation or order, require such additional notice to be given in such manner and for such time as it may deem necessary and proper.

(g) All rules, regulations, and orders issued by the commission shall be in writing, shall be entered in full in books to be kept by the commission for that purpose, shall be indexed, and shall be public records open

for inspection at all times during reasonable office hours. Except for orders establishing or changing rules of practice or procedure, all orders made and published by the commission shall include and be based upon written findings of fact, which said findings of fact shall be entered and indexed as public records in the manner hereinbefore provided. A copy of any rule, regulation, or order certified by the commission or its secretary shall be received in evidence in all courts in this state with the same effect as the original.

(h) The commission may act upon its own motion, or upon the petition of any interested person. On the filing of a petition for a hearing concerning any matter within the jurisdiction of the commission, it shall promptly fix a date for a hearing thereon and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The commission shall enter its order within thirty (30) days after the hearing. Any person affected by any order of the commission shall have the right at any time to apply to the commission to repeal, amend, modify, or supplement the same.

(j) The commission shall require that an engineer testifying as an expert at a hearing before the commission be a registered professional engineer in the state of Wyoming.

30-5-112. Summoning witnesses and production of record; no abridgment of rights; failure to testify.

(a) The commission shall have the power to summon witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by it. No person shall be excused from attending and testifying, or from producing books, papers, and records before the commission or a court, or from obedience to the subpoena of the commission or a court, on the ground or for reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; provided, that nothing herein contained shall be construed as requiring any person to produce any books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before the commission or court for determination. No natural person shall be subjected to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of his objection, he may be required to testify or produce evidence, documentary or otherwise, before the commission or court, or in obedience to a subpoena; provided, that no person testifying shall be exempted from prosecution and punishment for perjury committed in so testifying.

(b) Nothing in this act, and no suit by or against the commission, and no violation charged or asserted against any person under any provisions of this act, or any rule, regulation or order issued hereunder, shall impair or abridge or delay any cause of action for damages which any person may have or assert against any other person violating any provision of this act, or any rule, regulation, or order issued thereunder. Any person so damaged by the violation may sue for and recover such damages as he otherwise may be entitled to receive. In the event the commission shall fail to bring suit to enjoin any actual or threatened violation of this act, or of any rule, regulation or order made hereunder, then any person or party in interest adversely affected and who has notified the commission in writing of such violation or threat thereof and has requested the commission to sue, may, to prevent any or further violation, bring suit for that purpose in the district court of any county in which the commission could have brought suit. If, in such suit, the court holds that injunctive relief should be granted, then the commission may be made a party and the court may in its discretion order the commission to be substituted for the person who brought the suit or the injunction issue as to the court may be deemed meet and proper in the premises.

(c) In case of failure or refusal on the part of any person to comply with a subpoena issued by the commission, or in case of the refusal of any witness to testify as to any matter regarding which he may be interrogated, any district court in the state, upon the application of the commission, may in term time or vacation issue an attachment for such person and compel him to comply with such subpoena, and to attend before the commission and produce such records, books and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

30-5-113. Time within which suit to be brought by person adversely affected; appeals; procedure.

(a) Any person adversely affected by and dissatisfied with any rule, regulation, or order made or issued hereunder, may within ninety (90) days after the entry thereof bring a civil suit or action against the commission or the state oil and gas supervisor or both in the district court of Laramie county, or in the district court of the county in which the complaining person resides, or in the U.S. district court for Wyoming, (if it otherwise has jurisdiction) and not elsewhere, to test the validity of any provision of this act, or rule, regulation, or order, and to secure an injunction and other appropriate relief, including all rights to appeal under applicable rules of civil procedure. Any case on appeal shall have precedence over any other case then pending in such court.

(b) In addition to the foregoing, any person who may feel himself aggrieved by any rule, regulation, order or decision of the commission may have an appeal as provided by law, with respect to appeals from decisions of the board of land commissioners. All proceedings on appeal, except as herein otherwise provided, shall be under the provisions of the code of civil procedure as in other civil cases.

(c) Any person shall have the right to appeal from a decree or judgment of the trial court to the supreme court in accordance with the general laws of this state relating to procedure in appeals in civil cases.

(d) No temporary restraining order or injunction of any kind against the commission or its agents, employees, or representatives, or the attorney general, shall become effective until the plaintiff shall execute a bond in such amount and upon such conditions as the court may direct, and such bond is approved by the judge of the court and filed with the clerk of the court. The bond shall be made payable to the state of Wyoming, and shall be for the use and benefit of all persons who may be injured by the acts done under the protection of the restraining order or injunction, if the rule, regulation or order is upheld. No suit on the bond may be brought after six (6) months from the date of the final determination of the suit in which the restraining order or injunction was issued.

(e) A suit or an appeal involving a test of the validity of any provision of this act, or a rule, regulation, or order shall be advanced for trial and be determined as expeditiously as feasible, and no postponement or continuance thereof shall be granted unless deemed imperative by the court. The court shall consider all the evidence, shall not be bound by any finding of fact or conclusion of law made by the commission, shall hold a trial de novo, shall pass on the credibility of witnesses and the weight to be given to their testimony, and shall determine independently all issues of fact and of law with respect to the validity and reasonableness of the provision, rule, regulation, or order complained of.

(f) No suit, action or other proceeding based upon a violation of this act or any rule, regulation or order of the commission hereunder shall be commenced or maintained unless same shall have been commenced within one (1) year from the date of the alleged violation.

30-5-114. Suits by commission for violation or threatened violation of act; restraining violation; recovery of penalties.

Whenever it appears that any person is violating or threatening to violate any provision of this act or any rule, regulation, or order of the commission, the commission shall bring suit in the name of the state against such person in the district court in the county of the residence of the defendant, or in the county of the residence of any defendant if there be more than one (1) defendant, or in the county where the violation is alleged to have occurred, or is threatened, to restrain such person from continuing such violation or from carrying out the threat of violation. In such suit the commission may seek to recover penalties for violations. Upon the filing of any such suit, summons issued to such person may be directed to the sheriff of any county in this state for service by such sheriff or a deputy. In any such suit, the court may grant injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions. Appeals may be taken from any judgment, decree or order in any such suit as provided in the code of civil procedure and all proceedings in the trial and appellate court shall have precedence over any other proceedings then pending in such courts.

30-5-115. Notice of intention and permit required to drill well; fee.

A person desiring to drill a well in search of oil or gas shall notify the commission of such intent on a form prescribed by the commission, and shall pay a fee established by the commission in accordance with W.S. 30-5-104(a) for a permit for each well. Upon receipt of notification and the fee, the commission shall promptly issue such person a permit to drill, unless the drilling of the well is contrary to law, or to a rule, regulation, or order of the commission. The drilling of a well is prohibited until a permit to drill is obtained in accordance with the provisions of this act.

30-5-116. Disposition of monies; payment of expenses; charge assessed on value of oil or gas produced.

(a) Civil penalties collected under this act shall be paid to the state treasurer and credited as provided in W.S. 8-1-109. All other monies collected by the commission under the provisions of this act shall be remitted to the state treasurer for deposit in a separate account. Expenses incident to the administration of this act shall include expenses for capital construction and shall be paid out of the account. One half (1/2) of the money so collected may be expended as needed by the commission for capital construction purposes.

(b) There is assessed on the fair cash market value as provided by W.S. 39-14-203, of all oil and gas produced, sold or transported from the premises in Wyoming a charge not to exceed eight-tenths of one (1) mill ($.0008) on the dollar. The commission shall by order fix the amount of the charge in the first instance and may reduce or increase the amount as the expenses chargeable may require. The amounts fixed by the commission shall not exceed the limit prescribed above. It is the duty of the commission to

collect all assessments. All monies collected shall be remitted to the state treasurer for deposit in a separate account and used exclusively to pay the costs and expenses incurred in connection with the administration and enforcement of W.S. 30-5-101 through 30-5-119. The persons owning a working interest, royalty interest, payments out of production, or any other interest in the oil and gas or in the proceeds thereof, subject to the charge in this subsection are liable for the charge in proportion to their ownership at the time of production. The charge so assessed is payable monthly. The sum due is payable to the commission, on or before the twenty-fifth of the second month following the month in which the charge accrued by the producer on behalf of himself and all other interested persons. If there is a sale of oil or gas within this state the charge is payable by the purchaser. Any charge not paid within the time specified bears interest at the rate of one percent (1%) per month from the date of delinquency until paid. This charge together with the interest is a lien upon the oil or gas against which it is levied and assessed. The person paying the charge as provided is authorized and required to deduct from any amounts due the persons owning an interest in the oil and gas or in the proceeds at the time of production the proportionate amount of the charge before making the payment. Subsection (b) of this section shall apply to all lands in the state of Wyoming, notwithstanding the provisions of W.S. 30-5-118, however, there is exempted from the charge as levied and assessed the following:

(i) The interest of the United States of America and the interest of the state of Wyoming and the political subdivisions thereof in any oil or gas or in the proceeds thereof;

(ii) The interest of any Indian or Indian tribe in any oil or gas or in the proceeds thereof, produced from land subject to the supervision of the United States;

(iii) Oil and gas used in producing operations or for repressuring or recycling purposes.

30-5-117. Construction of act generally.

It is not the intent or purpose of this law to require, permit, or authorize the commission or supervisor to prorate or distribute the production of oil and gas among the fields of Wyoming on the basis of market demand. This act shall never be construed to require, permit or authorize the commission, the supervisor, or any court to make, enter or enforce any order, rule, regulation or judgment requiring restriction of production of any pool or of any well except to prevent waste and to protect correlative rights.

30-5-118. Applicability of act.

The state of Wyoming being a sovereign state and not disposed to jeopardize or surrender any of its sovereign rights, this act shall apply to all lands in the state of Wyoming lawfully subject to its police powers; provided, it shall apply to lands of the United States or to lands subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas by the United States on its lands shall fail to effect the intent and purposes of this act and otherwise shall apply to such lands to such extent as an officer of the United States having jurisdiction, or his duly authorized representative, shall approve any of the provisions of this act or the order or orders of the commission which affects such lands; and, furthermore, the same shall apply to any lands committed to a unit

agreement approved by the secretary of the interior or his duly authorized representative, except that the commission may, under such unit agreements, suspend the application of this act or any part of this act so long as the conservation of oil and gas and the prevention of waste as in this act provided is accomplished thereby but such suspension shall not relieve any operator from making such reports as are necessary or advised to be fully informed as to operations under such agreements and as the commission may require under this act.

30-5-119. Penalties for violation of act, orders of commission; penalties cumulative.

(a) Any person who violates any provision of this act or who after either actual or constructive notice thereof from the commission or its representative violates any rule, regulation, or order of the commission shall forfeit an amount of not more than five thousand dollars ($5,000.00) for each act of violation, and for each day that such violation continues, to be fixed and determined by the commission after notice and opportunity for hearing. Amounts collected under this subsection shall be paid to the state treasurer and credited as provided in W.S. 8-1-109. Any person who knowingly and willfully violates any provision of this act or who after notice thereof from the commission or its representatives knowingly and willfully violates any rule, regulation, or order of the commission shall be subject to a civil penalty, upon order of the district court of the county in which the defendant resides, or in which any defendant resides if there be more than one (1) defendant, or in the district court of any county in which the violation occurred, or in the district court of Laramie county, Wyoming. The civil penalty shall not exceed the sum of ten thousand dollars ($10,000.00) for each act of violation and for each day that such violation continues and shall be collected and paid to the state treasurer and credited as provided in W.S. 8-1-109.

(b) Any person who, for the purpose of evading this act or any rule, regulation, or order of the commission shall make or cause to be made any false entry in any report, record, account, or memorandum, required by this act, or by any such rule, regulation, or order, or shall omit, or cause to be omitted, from any such report, record, account, or memorandum, full, true, and correct entries as required by this act, or by any such rule, regulation, or order, or shall remove from this state or destroy, mutilate, alter, or falsify any such record, account, or memorandum, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than five thousand dollars ($5,000.00) or imprisonment for a term not exceeding six (6) months, or to both such fine and imprisonment.

(c) Any person knowingly aiding or abetting any other person in the violation of any provision of this act, or any rule, regulation, or order of the commission shall be subject to the same penalty and punishment as that prescribed by this act for the violation by such other person.

(d) The penalties provided in this section for violations as prescribed herein shall be recoverable by suit filed by the attorney general, in the name and on behalf of the state, in the district court of Laramie county, Wyoming, or the county in which the defendant resides, or in which any defendant resides if there be more than one (1) defendant, or in the district court of any county in which the violation occurred.

(e) Any person or corporation violating the provisions of this article or rules and regulations prescribed pursuant hereto or the lawful orders of the oil and gas supervisor or his assistants or representatives under said rules and regulations shall upon conviction be fined not more than five hundred dollars ($500.00) or imprisoned not more than six (6) months.

(f) The imposition or payment of any forfeiture or civil penalty as provided in this section shall not bar or affect any other penalty or remedy prescribed in this act or by general law but such forfeiture shall be in addition to any such penalty or other remedy.

(g) The commission may waive any penalty under this section for good cause.

30-5-120. Additional forfeiture or civil penalty for flaring of gas in excess of amounts permitted by order of commission.

(a) Whenever under the provisions of W.S. 30-5-119 a forfeiture or civil penalty is imposed for the flaring of gas in excess of the amounts permitted by an order of the commission there shall also be imposed an additional forfeiture or civil penalty which shall be the greater of either (i) ten percent (10%) of the amount of the forfeiture or civil penalty, or (ii) six and one-quarter percent (6 1/4%) of the value of the amount of gas so flared or vented. Value shall be determined by the average price being paid at the nearest point of connection.

(b) Out of said additional forfeiture or civil penalty there shall be paid to the department of revenue of the state of Wyoming an amount equal to the mineral severance tax which would have been payable if the gas had been saved and sold, and the remainder thereof shall be paid to the county treasurer of the county in which said gas was produced in lieu of any taxes which would have been payable to said county if the gas had been saved and sold.

30-5-121. Waste of natural gas prohibited.

The use, consumption, burning or escape into the atmosphere of natural gas taken or drawn from any natural gas well or wells, or borings from which natural gas is produced for the products where such natural gas is burned, consumed or otherwise wasted without the heat therein contained being fully and actually applied and utilized for other manufacturing purposes or domestic purposes is hereby declared to be a wasteful and extravagant use of natural gas and it shall be unlawful to allow or permit such natural gas to pollute or contaminate the atmosphere to such an extent that injury or damage is sustained by growing crops, vegetation, livestock, wildlife, or domestic fowls, or to such an extent that the human health, welfare, or safety is in anywise impaired or damaged.

30-5-122. Sale of natural gas for wasteful purposes prohibited.

No person, firm or corporation, having the possession or control of any natural gas well or wells, except as herein provided, or borings from which natural gas is produced, whether as a contractor, owner, lessee, agent or manager, shall use, sell, or otherwise dispose of natural gas, the product of any such well or wells, or borings for the purpose of manufacturing or producing carbon or other resultant products from

the burning or consumption of such natural gas, without the heat therein contained being fully and actually applied and utilized for other manufacturing purposes or domestic purposes.

30-5-123. Penalty for violation of sections 30-5-121 and 30-5-122.

Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100.00) or more than one thousand dollars ($1,000.00) for each offense and each and every day in which any person, firm or corporation shall violate any of the provisions hereof shall constitute a separate offense hereunder and subject the offender to the penalty hereby provided.

30-5-124. Purchase or taking ratably oil and gas for transportation without discrimination in favor of any owner or producer; oil.

Each person now or hereafter purchasing or taking for transportation oil from any owner or producer, shall purchase or take ratably without discrimination in favor of any owner or producer over any other owner or producer in the same pool offering to sell his oil produced therefrom to such person. If any such person purchasing or taking for transportation oil shall not have need for all such oil lawfully produced within a pool, or if for any reason it shall be unable to purchase all of such oil, then it shall purchase from each producer in a pool ratably, taking and purchasing the same quantity of oil from each well to the extent that each well is capable of producing its ratable portion; without waste, provided however, nothing herein contained shall be construed to require more than one (1) pipeline connection for each producing well. In the event that any such purchaser or person taking oil for transportation is likewise a producer or owner, he is hereby prohibited from discriminating in favor of his own production, or production in which he may be interested, and his own production shall be treated as that of any other producer or owner.

30-5-125. Purchase or taking ratably oil and gas for transportation without discrimination in favor of any owner or producer; gas.

Each person now or hereafter purchasing or taking for transportation gas produced from gas wells or from oil wells from any owner or producer shall purchase or take ratably without discrimination in favor of any owner or producer, over any other owner or producer in a pool. Such person shall not discriminate in the quantities purchased, the basis of measurement, or the gas transportation facilities afforded for gas of like quantity, quality, and pressure available from such wells. For the purpose of this act reasonable differences in quantity taken or facilities afforded shall not constitute unreasonable discrimination if such differences bear a fair relationship to differences in quality, quantity, or pressure of the gas available or to the acreage attributable to the well, market requirements, or to the relative lengths of time during which such gas will be available to the purchaser. In the event any such purchaser or person taking gas for transportation is likewise a producer or owner, he is hereby prohibited from discriminating in favor of his own production or production in which he may be interested, and his own production shall be treated as that of any other producer or owner producing from gas wells in the same pool.

30-5-126. Purchase or taking ratably oil and gas for transportation without discrimination in favor of any owner or producer; oil and gas conservation commission to administer.

In addition to the powers and authority, either expressed or implied, granted to the Wyoming oil and gas conservation commission, by virtue of the statutes of the state of Wyoming, the commission is hereby authorized and empowered to administer and enforce the provisions of this act, in the same manner and in accordance with the same procedures provided by W.S. 30-5-101 through 30-5-119, as amended for the enforcement and violations of rules, regulations and orders of the commission.

30-5-127. Payment of penalties.

Unless otherwise provided by law, all civil or administrative fines or penalties collected under this article shall be paid over to the state treasurer to be credited to the public school fund of the county in which the violation for which the fine or penalty was imposed occurred.

30-5-128. Unitization of areas to restore or enhance the microbial conversion of hydrocarbon substrates to methane gas; purposes; application; contents.

(a) Any interested person may file an application with the commission requesting an order authorizing well and reservoir injections to restore or enhance the microbial conversion of hydrocarbon substrates to methane gas. The application may be on an individual lease or drilling and spacing unit basis or, at the applicant's election, on a unit basis pursuant to W.S. 30-5-109 and 30-5-110. If the application is on a unit basis, the applicant shall provide for the operation and organization of a unit or units of the optimal size and shape necessary to prevent waste and protect correlative rights and shall provide for the pooling of interests in a specific geologic formation in the proposed unit area for the purpose of conducting the injections. The application shall contain all of the elements set forth in W.S. 30-5-110(c) through (g). The application shall demonstrate that the applicant has a legally binding commitment to plug and abandon all wells not later than sixty (60) days prior to their intersection with an active surface or conventional underground coal mine. Injections authorized by this section shall not be deemed in situ mining as defined in W.S. 35-11-103(f)(iv).

(b) Applications under this section shall contain the following with respect to the proposed operating plan:

(i) Evidence that groundwater in the proposed formation intervals will not be adversely influenced by the injections and that the operations shall at all times be in compliance with applicable groundwater quality regulations and underground injection control program requirements. An applicant shall comply with this paragraph by:

(A) Obtaining from the commission, after the commission has adopted class II rules implementing this section and after providing notice of the application to all groundwater permit holders within one-half

(1/2) mile of each injection well or the area of review, whichever is larger, a class II well permit demonstrating that the groundwater will not be degraded and will be in compliance with the federal Safe Drinking Water Act, and that for each injection zone the underground ambient water quality class of use as defined by the department of environmental quality will not be violated by the injections; or

(B) Obtaining a class V well permit from the Wyoming department of environmental quality.

(c) Upon the filing of an application under this section, the commission shall promptly set the matter for hearing. In addition to any notice required by law or commission rules, the commission shall give notice of the hearing by certified mail to all persons owning or having an interest in coal or its production in the proposed application area. The notice shall be mailed at least thirty (30) days before the hearing, shall specify the time and place of hearing and shall describe briefly the purpose of the hearing and the land affected.

(d) Following the hearing, the commission shall enter an order setting forth findings and approving the application if the commission finds that the provisions of W.S. 30-5-109 or 30-5-110 have been met.

(e) The commission, after consultation with the director of the department of environmental quality, shall adopt class II rules implementing this section.

ARTICLE 2 - INTERSTATE COMPACT ON CONSERVATION

30-5-201. Governor authorized to join in interstate compact.

The governor of the state of Wyoming is hereby authorized for and in the name of the state of Wyoming to join with the other states in the interstate compact to conserve oil and gas, which was executed in the city of Dallas, Texas, on the 16th day of February, 1935, and has been extended to the 1st day of September, 1955, with the consent of congress, and that said compact and all extensions are now on deposit with the department of state of the United States.

30-5-202. Authority of governor to execute agreements; provision for withdrawal from compact.

The governor of the state of Wyoming is further authorized and empowered, for and in the name of the state of Wyoming to execute agreements for the further extension of the expiration date of said interstate compact to conserve oil and gas, and to determine if and when it shall be to the best interest of the state of Wyoming to withdraw from said compact upon sixty (60) days notice as provided by its terms. In the event that he shall determine that the state shall withdraw from said compact, he shall have the power and authority to give necessary notice and to take any and all steps necessary and proper to effect the withdrawal of the state of Wyoming from said compact.

30-5-203. Governor designated official representative; authority to appoint assistant; authority and oath of assistant; removal.

The governor shall be the official representative of the state of Wyoming in the compact to conserve oil and gas, and shall exercise and perform for the state all of the powers and duties as such, provided he may appoint an assistant representative who shall act in his stead as the official representative of the state of Wyoming. His official representative, if not already a state official, shall take the oath of office prescribed by the constitution and file the same with the secretary of state. The governor may remove the assistant representative as provided in W.S. 9-1-202.

30-5-204. Construction of W.S. 30-5-201 through 30-5-204.

It is not the intent or purpose of this act to require, permit, or authorize the governor, commission or supervisor to prorate or distribute the production of oil and gas among the fields of Wyoming on the basis of market demand. This act shall never be construed to require, permit or authorize the governor, commission, the supervisor or any court to make, enter or enforce any order, rule, regulation or judgment requiring restriction of any production of any pool or of any well except to prevent waste and to protect correlative rights.

ARTICLE 3 - PAYMENT FOR INTERESTS IN PRODUCTION

30-5-301. Payment for production; time for payment; payor.

(a) The proceeds derived from the sale of production from any well producing oil, gas or related hydrocarbons in the state of Wyoming shall be paid to all persons legally entitled thereto, except as hereinafter provided, commencing not later than six (6) months after the first day of the month following the date of first sale and thereafter not later than sixty (60) days after the end of the calendar month within which subsequent production is sold, unless other periods or arrangements for the first and subsequent payments are provided for in a valid contract with the person or persons entitled to such proceeds. Payment shall be made directly to the person or persons entitled thereto by the lessee or operator or by any party who assumes such payment obligation under any legal arrangement.

(b) Notwithstanding subsection (a) of this section:

(i) Payments shall be remitted to the person or persons entitled to proceeds from production annually for the aggregate of up to twelve (12) months accumulation of proceeds if the total amount owed is one hundred dollars ($100.00) or less;

(ii) Notwithstanding paragraph (i) of this subsection, upon written request of the payee, payments shall be remitted to the payee within sixty (60) days following receipt of the request if the aggregation of the proceeds is twenty-five dollars ($25.00) or greater;

(iii) In no case shall payments be made under this section later than twelve (12) months following the date of cessation of production;

(iv) Payments shall be remitted to entitled persons within twelve (12) months following the date the payor is no longer responsible for the payments.

(c) The lessee or operator is exempt from the provisions of W.S. 30-5-301 through 30-5-303, and the purchaser shall assume the operator's responsibilities for making such payments if the operator and purchaser have entered into arrangements whereby the proceeds are paid by the purchaser to those legally entitled thereto.

30-5-302. Payment for production; interest on late payments.

Any delay in determining any person legally entitled to an interest in the proceeds from production shall not affect payments to all other persons entitled to payment. In instances where payment cannot be made for any reason within the time limits specified in W.S. 30-5-301(a), the lessee or operator, purchaser or other party legally responsible for payment shall deposit all proceeds credited to the eventual interest owner to an escrow account in a federally insured bank or savings and loan institution in Wyoming, using a standard escrow document form approved by the attorney general of Wyoming, which deposit shall earn interest at the highest rate being offered by that institution for the amount and term of such deposits. The escrow agent may commingle monies received into escrow from any one lessee or operator, purchaser or other party legally responsible for payment. Payment of principal and accrued interest from such accounts shall be paid by the escrow agent to all persons legally entitled thereto within thirty (30) days from the date of receipt by the escrow agent of final legal determination of entitlement thereto. If the escrow agent is unable to deliver the payment to the legally entitled person within three (3) years from the end of the month in which the escrow agent first received notice of the person legally entitled to the payment, the payment shall be considered unclaimed for purposes of W.S. 34-24-101 through 34-24-139. Applicable escrow fees shall be deducted from the payments.

30-5-303. Payment for production; penalty for violation; jurisdiction; costs and fees.

(a) Any lessee or operator, purchaser or other party legally responsible for payment who violates the provisions of this article is liable to the person or persons legally entitled to proceeds from production for the unpaid amount of such proceeds, plus interest at the rate of eighteen percent (18%) per annum on the unpaid principal balance from the due date specified in W.S. 30-5-301(a).

(b) The district court for the county in which a well producing oil, gas or related hydrocarbons is located

has jurisdiction over all proceedings brought pursuant to this article and the prevailing party in any proceedings brought pursuant to this article shall be entitled to recover all court costs and reasonable attorney's fees.

(c) Any person who fails to provide royalty information as provided in W.S. 30-5-305(b) is liable to the affected royalty, overriding royalty or other nonworking interest owner in the amount of one hundred dollars ($100.00) per month that complete reporting is not provided to the interest owner.

30-5-304. Definitions.

(a) As used in this act:

(i) "Lessee" means the person entitled under an oil and gas lease to drill and operate wells, paying the lessor a royalty and retaining the remainder, known as the working interest. The lessee pays all costs of production out of his interest, the lessor's interest being free and clear of all those costs;

(ii) "Lessor" means the mineral owner who has executed a lease and who is entitled to the payment of a royalty on production, free and clear of the costs of production;

(iii) "Operator" means a person engaged in the business of drilling and producing wells for oil and gas;

(iv) "Other nonworking interest" means any interest in an oil and gas lease or well which is not a royalty, overriding royalty or working interest;

(v) "Overriding royalty" means a share of production, free of the costs of production, carved out of the lessee's interest under an oil and gas lease;

(vi) "Costs of production" means all costs incurred for exploration, development, primary or enhanced recovery and abandonment operations including, but not limited to lease acquisition, drilling and completion, pumping or lifting, recycling, gathering, compressing, pressurizing, heater treating, dehydrating, separating, storing or transporting the oil to the storage tanks or the gas into the market pipeline. "Costs of production" does not include the reasonable and actual direct costs associated with transporting the oil from the storage tanks to market or the gas from the point of entry into the market pipeline or the processing of gas in a processing plant;

(vii) "Royalty" means the mineral owner's share of production, free of the costs of production;

(viii) "Working interest" means the interest granted under an oil and gas lease, giving the lessee the right to work on the leased property to search for, develop and produce oil and gas and the obligation to pay all costs of production;

(ix) "This act" means W.S. 30-5-301 through 30-5-305.

30-5-305. Collection; reporting and remittance of royalties.

(a) Unless otherwise expressly provided for by specific language in an executed written agreement, "royalty", "overriding royalty", "other nonworking interests" and "working interests" shall be interpreted as defined in W.S. 30-5-304. A division order may not alter or amend the terms of an oil or gas lease or other contractual agreement. A division order that alters or amends the terms of an oil and gas lease or other contractual agreement is invalid to the extent of the alteration or amendment and the terms of the oil and gas lease or other contractual agreement shall take precedence.

(b) Whenever payment is made for oil or gas production to an interest owner, all of the following information shall be included and labeled on the check stub or on an attachment to the form of payment, unless the information is otherwise provided on a regular monthly basis:

(i) The lease, property or well name or any lease, property or well identification number used to identify the lease property or well;

(ii) The month and year during which sales occurred for which payment is being made;

(iii) The total number of barrels of oil or thousands of cubic feet of gas sold;

(iv) The price per barrel of oil or the price per thousand cubic feet of gas;

(v) The total amount of state severance, ad valorem and other production taxes;

(vi) An itemized list of any other deductions or adjustments;

(vii) The net value of total sales after deductions;

(viii) The owner's interest in sales from the lease, property, or well expressed as a decimal;

(ix) The owner's share of the total value of sales prior to any deductions;

(x) The owner's share of the sales value less deductions; and

(xi) An address where additional information pertaining to the owner's interest in production may be obtained and questions answered. If information is requested by certified mail, an answer must be mailed by certified mail within thirty (30) days of receipt of the request.

ARTICLE 4 - ENTRY TO CONDUCT OIL AND GAS OPERATIONS

30-5-401. Definitions.

(a) As used in this act:

(i) "Commission" means the Wyoming oil and gas conservation commission and its authorized employees;

(ii) "Compensate" and "compensation" mean monetary payment or other consideration that may include, but is not limited to, the furnishing of materials, labor or equipment;

(iii) "Oil" and "gas" mean as defined in W.S. 30-5-101(a)(vii);

(iv) "Oil and gas operations" means the surface disturbing activities associated with drilling, producing and transporting oil and gas, including the full range of development activity from exploration through production and reclamation of the disturbed surface;

(v) "Oil and gas operator" means a person engaged in oil and gas operations, his designated agents, contractors and representatives;

(vi) "Reclamation" means the restoring of the surface directly affected by oil and gas operations, as closely as reasonably practicable, to the condition that existed prior to oil and gas operations, or as otherwise agreed to in writing by the oil and gas operator and the surface owner;

(vii) "Surety bond or other guaranty" means as defined in W.S. 30-5-101(a)(x);

(viii) "Surface owner" means any person holding any recorded interest in the legal or equitable title, or both, to the land surface on which oil and gas operations occur, as filed of record with the county clerk of the county in which the land is located. "Surface owner" does not include any person or governmental entity that owns all of the land surface and all of the underlying oil and gas estate, or any person or governmental entity that owns only an easement, right-of-way, license, mortgage, lien, mineral interest or nonpossessory interest in the land surface;

(ix) "This act" means W.S. 30-5-401 through 30-5-410.

30-5-402. Entry upon land for oil and gas operations and nonsurface disturbing activities; notice; process; surety bond or other guaranty; negotiations.

(a) Any oil and gas operator having the right to any oil or gas underlying the surface of land may locate and enter the land for all purposes reasonable and necessary to conduct oil and gas operations to remove the oil or gas underlying the surface of that land. The oil and gas operator shall have the right at all times to enter upon the land for nonsurface disturbing activities reasonable and necessary to determine the feasibility and location of oil and gas operations to extract the oil and gas thereunder. The oil and gas operator shall first comply with the provisions of this act and shall reasonably accommodate existing surface uses. The oil and gas operator may reenter and occupy so much of the surface of the land thereof as may be required for all purposes reasonable and necessary to conduct oil and gas operations on the land.

(b) An oil and gas operator may enter to conduct nonsurface disturbing activities, including inspections, staking, surveys, measurements and general evaluation of proposed routes and sites for oil and gas operations. Prior to initial entry upon the land for nonsurface disturbing activities, the oil and gas operator shall provide at least five (5) days notice to the surface owner. Prior to any subsequent entry upon the land for nonsurface disturbing activities not previously discussed, the oil and gas operator shall provide notice to the surface owner.

(c) Entry upon the land for oil and gas operations shall be conditioned on the oil and gas operator providing the required notice, attempting good faith negotiations and:

(i) Securing the written consent or waiver of the surface owner for entry onto the land for oil and gas operations;

(ii) Obtaining an executed surface use agreement providing for compensation to the surface owner for damages to the land and improvements as provided in W.S. 30-5-405(a);

(iii) Securing a waiver as provided in W.S. 30-5-408; or

(iv) In lieu of complying with paragraph (i) or (ii) of this subsection, executing a good and sufficient surety bond or other guaranty to the commission for the use and benefit of the surface owner to secure payment of damages. The amount of the initial bond or other guaranty shall be determined pursuant to W.S. 30-5-404(b).

(d) Before entering upon the land for oil or gas operations, the oil and gas operator shall give to all the surface owners a written notice of its proposed oil and gas operations on the land. This notice shall be given to the surface owners at the address shown by the records of the county where the land is located at the time notice is given.

(e) The notice of proposed oil and gas operations shall sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of oil and gas operations on the surface owner's use of the land. The notice shall be given no more than one hundred eighty (180) days nor less than thirty (30) days before commencement of any oil and gas operations on the land. The notice shall include, but is not limited to:

(i) The proposed dates on which planned operations shall commence;

(ii) To the extent reasonably known at the time, the proposed facility locations and access routes related to the proposed oil and gas operations, including locations of roads, wells, well pads, seismic locations, pits, reservoirs, power lines, pipelines, compressor pads, tank batteries and other facilities;

(iii) The name, address, telephone number and, if available, facsimile number and electronic mail address of the oil and gas operator and his designee, if any;

(iv) An offer to discuss and negotiate in good faith any proposed changes to the proposed plan of work and oil and gas operations prior to commencement of oil and gas operations;

(v) A copy of this act.

(f) After providing the notice of proposed oil and gas operations to the surface owner, the oil and gas operator and the surface owner shall attempt good faith negotiations to reach a surface use agreement for the protection of the surface resources, reclamation activities, timely completion of reclamation of the disturbed areas and payment for damages caused by the oil and gas operations. At any time in the negotiation, at the request of either party and upon mutual agreement, dispute resolution processes including mediation or arbitration may be employed or the informal procedures for resolving disputes established pursuant to W.S. 11-41-101 et seq. may be requested through the Wyoming agriculture and natural resource mediation board.

(g) The oil and gas operator shall not engage in work, location of facilities and access routes or oil and gas operations substantially and materially different from those disclosed to the surface owner in accordance with this section, without first providing additional written notice disclosing proposed changes and offering to schedule a meeting to comply with the requirements of subsection (f) of this section.

30-5-403. Application for permit drill; additional notice.

(a) Before an application for a permit to drill is approved by the commission, the oil and gas operator shall file a statement with the commission, including the surface owner's name, contact address, telephone number and any other relevant and necessary contact information known to the oil and gas operator, certifying that:

(i) Notice of proposed oil and gas operations was provided to the surface owner;

(ii) The parties attempted good faith negotiations as required under W.S. 30-5-402(f) to reach a surface use agreement;

(iii) The oil and gas operator has met the conditions of W.S. 30-5-402(c), specifying how the conditions have been met.

(b) The surface use agreement between the oil and gas operator and the surface owner shall not be filed with the oil and gas conservation commission and the terms of the agreement shall not be required as a condition of approval of an application for a permit to conduct oil and gas operations.

30-5-404. Surety bond or guaranty; approval; objections; release of surety bond or guaranty.

(a) The surety bond or other guaranty required under W.S. 30-5-402(c)(iv) shall be executed by the oil and gas operator, or a bonding company acceptable to the commission. Other forms of guaranty acceptable by the commission under article 1 of this chapter may be submitted by the oil and gas operator

in lieu of a surety bond.

(b) The surety bond or other guaranty shall be in an amount of not less than ten thousand dollars ($10,000.00) per well site on the land unless the operations involve seismic activities. If the operations involve seismic activities, the surety bond shall be as provided in W.S. 30-5-104(d)(v)(A). As used in this subsection, seismic activities do not include waves or vibrations originating outside the property in question. At the request of the oil and gas operator, after attempted consultation with the surface owner the commission may establish a blanket bond or other guaranty in an amount covering oil and gas operations on the surface owner's land as identified by an oil and gas operator in the written notice required under W.S. 30-5-402(e), provided the blanket bond shall be in an amount not less than ten thousand dollars ($10,000.00) per well site on the surface owner's land. Neither the minimum amount of the bond or other guaranty specified or referenced in this subsection nor a blanket bond or other guaranty established by the commission is intended to establish any amount for reasonable and foreseeable damages. A permit to conduct geophysical/seismic operations issued under the authority of W.S. 30-5-104 shall include a statement that it shall not constitute authorization or permission to trespass on the surface estate. The commission shall not accept a surety bond for seismic activities for land which the oil and gas operator or seismic activity operator has no right to enter. The operator shall provide evidence of the right to enter derived from one (1) or more mineral interest owners.

(c) Within seven (7) days following receipt of a surety bond or other guaranty or the establishment of a blanket bond or other guaranty specified or referenced in this section, the commission shall notify the surface owner of receipt of the surety bond or other guaranty or the establishment of a blanket bond or other guaranty based on the oil and gas operator's request and the written notice required under W.S. 30-5-402(e). The commission's notice shall also include a description of the amount and the type of the bond or guaranty received or established and provide to the surface owner a copy of the statement required under W.S. 30-5-403(a). If, at the expiration of thirty (30) days after receipt of the commission's notice by the surface owner, he makes no objection to the amount or the type of the surety bond or guaranty, the commission shall approve the surety bond or guaranty. If the surface owner objects in writing to the amount or the type of the surety bond or guaranty, the commission shall give immediate consideration to the surety bond or guaranty objected to and the accompanying papers filed by the oil and gas operator in support of the surety bond or guaranty amount and the type of surety bond or guaranty submitted or established, and the surface owner's objections, and the commission shall render a final decision as to the acceptability of the amount and type of the surety bond or guaranty and shall notify the parties of the decision. Proof of any additional surety bond or guaranty required by the commission shall be filed with the commission within thirty (30) days of the commission's final decision. Any aggrieved party may appeal the final decision of the commission to the district court in accordance with the Wyoming Administrative Procedure Act.

(d) Upon receipt or establishment of an acceptable surety bond or other guaranty by the commission as specified in subsection (b) of this section, and receipt of all required regulatory approvals to secure a drilling permit, the oil and gas operator shall be permitted entry upon the land to conduct oil and gas operations in accordance with terms of any existing contractual or legal right.

(e) Any surety bond, other guaranty or blanket bond, as applicable, for surface damages to particular lands will be released by the commission after:

(i) Compensation for damages has occurred;

(ii) Agreement for release by all parties;

(iii) Final resolution of the judicial appeal process for any action for damages and all damages have been paid; or

(iv) The oil and gas operator certifies in a sworn statement that the surface owner has failed to give the written notice required under W.S. 30-5-406(a) or has failed to bring an action for damages within the required time period.

(f) Prior to the release of any applicable bond or other guaranty, the commission shall make a reasonable effort to contact the surface owner and confirm that compensation has been received, an agreement entered into or that the surface owner has failed to give written notice required or failed to bring a timely action for damages. The commission may, in its sole discretion, release any surety bond, other guaranty or blanket bond related to particular lands if the oil and gas operator shows just cause for the release.

(g) Any surety bond or guaranty executed under this section shall be in addition to the surety bond or guaranty required under W.S. 30-5-104(d)(i)(D) for reclamation and compliance with rules and orders of the commission.

30-5-405. Surface damage and disruption payments; penalty for late payment.

(a) The oil and gas operator shall pay the surface owner as follows:

(i) A sum of money or other compensation equal to the amount of damages sustained by the surface owner for loss of production and income, loss of land value and loss of value of improvements caused by oil and gas operations;

(ii) The amount of damages and method of compensation may be determined in any manner mutually agreeable to the surface owner and the oil and gas operator. When determining damages, consideration shall be given to the period of time during which the loss occurs;

(iii) The payments contemplated by this subsection shall only cover land directly affected by oil and gas operations. Payments under this subsection are intended to compensate the surface owner for damage and disruption. No person shall sever from the land surface the right to receive surface damage payments.

(b) An oil and gas operator who fails to timely pay an installment under any annual damage agreement negotiated with a surface owner is liable for payment to the surface owner of twice the amount of the unpaid installment if the installment payment is not paid within sixty (60) days of receipt of notice of failure to pay from the surface owner.

30-5-406. Surface damage negotiations; notice of damages to oil and gas operator; right to bring action.

(a) If the oil and gas operator has commenced oil and gas operations in the absence of any agreement for compensation for all damages, a surface owner shall give written notice to the oil and gas operator and the commission of the damages sustained by the surface owner within two (2) years after the damage has been discovered, or should have been discovered through due diligence, by the surface owner.

(b) Unless both parties provide otherwise by written agreement, within sixty (60) days after the oil and gas operator receives notice of damages pursuant to subsection (a) of this section, the oil and gas operator shall make a written offer of settlement to the surface owner as compensation for damages. The surface owner seeking compensation for damages under this section may accept or reject any offer made by the oil and gas operator.

(c) If the surface owner who submits a notice as required under subsection (a) of this section receives no reply to his notice, receives a written rejection or counter offer or rejects an offer or counter offer from the oil and gas operator, the surface owner may bring an action for compensation for damages in the district court in the county where the damage was sustained.

30-5-407. Remedies cumulative.

The remedies provided by this act do not preclude any person from seeking other remedies allowed by law, nor does this act diminish rights previously granted by law or contract.

30-5-408. Waiver.

A surface owner may waive any rights afforded under this act by providing a written waiver of rights to the oil and gas operator, identifying which rights have been waived.

30-5-409. Statute of limitations for civil action.

A surface owner entitled to bring an action for damages under this act, or to seek any other remedy at law for damages caused by oil and gas operations, shall bring such action within two (2) years after the

damage has been discovered, or should have been discovered through due diligence, by the surface owner. The limitation on bringing an action under this section shall be tolled for a period of four (4) months, if a written demand for compensation for damages is timely submitted by the surface owner under W.S. 30-5-406.

30-5-410. Applicability.

This act shall not apply to a public utility regulated by the Wyoming public service commission or to a natural gas pipeline regulated by the federal energy regulatory commission.

ARTICLE 5 - GEOLOGIC SEQUESTRATION ACTIVITIES

30-5-501. Oil and gas activities at geologic sequestration sites.

Nothing in W.S. 35-11-313 shall be deemed to affect the otherwise lawful right of a surface or mineral owner to drill or bore through a geologic sequestration site as defined by W.S. 35-11-103(c)(xxi), if done in accordance with the commission rules for protecting the geologic sequestration site against the escape of carbon dioxide.

CHAPTER 6 - STATE MINER'S HOSPITAL BOARD

30-6-101. State miner's hospital board.

(a) The state miner's hospital board is created consisting of the following members:

(i) One (1) member resident of Sweetwater County appointed by a majority vote of the county commissioners. In making this appointment the county commissioners shall appoint a member of the Sweetwater County Memorial Hospital Board if a member of that board is willing and able to serve;

(ii) Seven (7) members representing miners, including at least one (1) member from Sweetwater county and at least one (1) member from Campbell county all appointed by the governor; and

(iii) One (1) member resident of Campbell County appointed by a majority vote of the county commissioners. In making this appointment the county commissioners shall appoint a member of the Campbell County Memorial Hospital Board if a member of that board is willing and able to serve.

(b) Except for initial terms pursuant to subsection (c) of this section, terms of members shall be for four (4) years. Any vacancy shall be filled by the designated appointing authority for the remainder of the unexpired term within not more than thirty (30) days following the date on which the vacancy occurred. Any voting member may serve not more than two (2) consecutive terms. However, a member may be reappointed after a two (2) year absence. Each member shall serve until his successor is appointed and has been qualified. The governor may remove any member appointed by him pursuant to W.S. 9-1-202.

(c) For the initial board, two (2) members appointed by the governor shall serve a term of four (4) years and two (2) members appointed by the governor shall serve a term of two (2) years. Two (2) members appointed from the Sweetwater County Memorial Hospital Board shall serve a term of four (4) years and two (2) members shall serve a term of two (2) years. The member appointed from the Campbell County Memorial Hospital Board shall serve a term of four (4) years.

(d) The members shall receive per diem and travel expenses in the same manner and amount as authorized under W.S. 9-3-102 and 9-3-103 for state employees when on or conducting official business.

(e) The board shall meet not less than two (2) times each year. At the initial meeting of the board, the board shall elect a chairman. The board is authorized to hire an executive director and secretary to provide administrative support to the board, the legislative oversight committee and the miner's hospital. The executive director and the secretary shall be located in Sweetwater county unless otherwise directed by the board.

30-6-102. Account created; expenditures; report.

(a) There is created the miner's hospital board account. Not later than July 1, 2001, the state treasurer shall credit to the account six hundred thousand dollars ($600,000.00) from interest accrued within the miner's hospital account within the permanent land income fund created by W.S. 9-4-310(c)(v). The amount available for appropriation annually to the miner's hospital board account shall not exceed an amount equal to five percent (5%) of the balance of both the miner's hospital account within the permanent land fund created by W.S. 9-4-310(a)(ix) and the miner's hospital income account within the permanent land income fund created by W.S. 9-4-310(c)(v). No appropriation shall be made from either the miner's hospital account within the permanent land fund created by W.S. 9-4-310(a)(ix) or the miner's hospital income account within the permanent land fund created by W.S. 9-4-310(c)(v) to another account other than the miner's hospital board account created by this subsection. The money in the account shall be used to provide for the expenses of the board and its staff, as well as to implement the recommendations of the board.

(b) The board shall:

(i) Serve disabled or incapacitated miners in this state with emphasis on pulmonary/respiratory, hearing loss, cardiac and musculoskeletal conditions of miners due to labor in the mining industry;

(ii) Develop a plan to meet the miner's health care needs in this state. In recommending plans for meeting the miner's health care needs in this state, the board shall base its initial recommendations upon the report entitled "The Health Care Needs Assessment of Wyoming Miners," dated November 13, 2000 prepared by BBC Research and Consulting specifically dealing with both the medical and geographic findings, as well as phase II of the plan identifying alternative programs to address the needs identified in the plan. The plan shall be based upon the anticipated revenue to the account created by subsection (a) of this section;

(iii) Promulgate rules and regulations to implement the provisions of this act including eligibility for services for miners, establish administrative procedures for auditing and accountability;

(iv) Have authority to contract with service providers for the purposes of this act.

(c) Each biennium the board shall recommend expenditures of any monies in the account created by subsection (a) of this section for purposes of addressing miner's health issues based upon the plan prepared by the board under subsection (b) of this section. The recommendations shall be reviewed by the joint appropriations interim committee and any recommendations from the committee shall be included in the budget for appropriation. Any recommendations shall require legislative appropriation to become effective.

(d) Not later than December 1 of each year, the board shall report to the governor and the joint appropriations interim committee on the activities of the board including any recommendations made for expenditure of monies from the account created by subsection (a) of this section to address miner's health issues in this state.

(e) Payment made by the board from the account shall be payment of last resort and the board shall reduce any benefit which would be provided under this section by all other public and private sources which are available to the miner for the disability or condition.

(f) As used in this section and W.S. 30-6-104:

(i) "Mine" means an area of land from which minerals, coal or other geological materials are extracted and processed in nonliquid form or, if in liquid form, through an in situ leach process;

(ii) "Miner" means a current resident of Wyoming who has worked in a mine in this state or a contiguous state who is or was employed at a mine or at a processing or conversion facility contiguous to the mine and dependent upon the output of that mine as feedstock. "Miner" shall include persons providing labor or services at the mine or qualifying processing or conversion facility on a continuing and regular basis whether employed by the mine owner or operator or hired on a contract basis. "Miner" shall not include

persons providing labor or services at the mine or qualifying processing or conversion facility on an occasional or incidental basis as defined by board rule;

(iii) "Mining" means coal mining, metal ore mining and nonmetallic mineral mining and quarrying. "Mining" includes coal, trona, bentonite, gypsum, sand and gravel and other stone and uranium mining;

(iv) "Domicile" means that place where a person has his true, fixed and permanent home to which whenever the person is temporarily absent the person has the intention of returning. To prove domicile in Wyoming under this act a person shall be able to establish that he:

(A) Physically resides in Wyoming;

(B) Has made his permanent home in Wyoming;

(C) Is not residing in Wyoming for a special or temporary purpose; and

(D) Has abandoned his domicile in all other states, territories or countries.

(v) "Resident" means a United States citizen or legal alien who meets the requirements specified in W.S. 30-6-104.

30-6-103. Repealed By Laws 2014, Ch. 6, 3.

30-6-104. Requirements for obtaining benefits.

(a) To obtain benefits from the account, a person shall:

(i) Be domiciled in Wyoming on the date of application for a benefit;

(ii) Make no claim of residency in any other state, territory or country for any other purpose at the time of application for a benefit or at any time during receipt of a benefit;

(iii) Maintain his domicile in Wyoming at the time of receipt of the benefit;

(iv) Provide to the board a copy of his current Wyoming driver's license, identification card issued by the Wyoming department of transportation, or other identification satisfactory to establish his identity as specified in board rule.

CHAPTER 7 - ENERGY MARKETING

ARTICLE 1 - WYOMING ENERGY COMMISSION

30-7-101. Repealed by Laws 2009, Ch. 168, 205.

CHAPTER 8 - ENHANCED OIL RECOVERY

30-8-101. Enhanced and improved oil recovery commission created; duties.

(a) The Wyoming enhanced and improved oil recovery commission is created. The commission shall consist of eight (8) members. The governor and the state geologist shall serve as ex officio members of the commission. One (1) legislative member shall be appointed by the management council of the legislature who shall serve as an ex officio member of the commission. The governor shall appoint the remaining members of whom one (1) shall be from the public at large with experience in the oil and gas industry, one (1) shall be a member of the oil and gas conservation commission, two (2) shall represent the oil and gas industry and one (1) shall be a representative of the University of Wyoming. The gubernatorial appointments shall be confirmed by the senate. Appointed members shall serve three (3) year terms. Members of the commission shall not receive any fees, salary or other compensation for services rendered but are entitled to receive per diem and mileage on the same basis and at the same rate as state employees and reimbursement for any other actual and necessary expenses incurred in the performance of commission duties. The governor may remove any appointed member as provided in W.S. 9-1-202. Except for the legislative member, initial appointments or any vacancy occurring between sessions of the legislature may be filled by the governor in accordance with W.S. 28-12-101(b). The commission shall be staffed by executive branch agencies as designated by the governor.

(b) The commission, in conjunction with the University of Wyoming and oil and gas industry research entities, shall develop:

(i) A research program at the institute for energy research and enhanced oil recovery at the University of Wyoming. The program shall focus on oil and gas recovery technological issues, including carbon dioxide separation, reservoir sweep performance and reservoir displacement efficiency;

(ii) An expanded program at the institute focusing on technology transfer, to help industry with access to and application of existing enhanced oil recovery and improved oil recovery technology. The program shall be designed to promote research and technology transfer efforts, including polymer and surfactant flooding, horizontal drilling, zone specific fracturing and three dimensional seismic infill drilling;

(iii) A research program to identify and evaluate all potential sources of carbon dioxide for the purpose of reducing emissions in the state, increasing potential source points for use of industrial carbon dioxide and decreasing the cost of carbon dioxide to industrial users;

(iv) A research program for chemical engineering research on carbon dioxide separation from power plant flue gas, including experiments, theoretical models, laboratory and prototype testing.

(c) In developing programs under subsection (b) of this section, the commission shall direct development to economically viable solutions.

(d) The commission:

(i) Shall oversee and direct development of the programs developed pursuant to subsection (b) of this section;

(ii) May seek and utilize government and private grants to further the duties of the commission and purposes of this section;

(iii) Shall facilitate the development of formal agreements between the institute and the oil and gas industry through which the industry is provided access to the institute's geologic and engineering reservoir modeling and reservoir characterization work in exchange for providing data access and testing facilities;

(iv) Shall promote and facilitate the transfer of new technologies developed at the institute throughout the oil and gas industry in this state;

(v) May establish advisory task forces to evaluate the responsiveness of programs developed under this section, the effectiveness of technology transfer and funding from nonstate sources.

(e) Repealed By Laws 2008, Ch. 44, 2.

(f) As used in this section:

(i) "Commission" means the Wyoming enhanced and improved oil recovery commission;

(ii) "Enhanced oil recovery and improved oil recovery" means all existing and potential technology to recover oil beyond traditional primary and secondary methods;

(iii) "Institute" means the institute for energy research and enhanced oil recovery at the University of Wyoming.