

**STATE
ENVIRONMENTAL LAWS AFFECTING
WYOMING AGRICULTURE**

*(See NASDA's website for Federal Environmental
Laws Affecting U.S. Agriculture)*

A Project of the

**National Association of State Departments
of Agriculture Research Foundation**

through the

**National Center for Agricultural Law
Research and Information**



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The Project Participants

National Association of State Departments of Agriculture Research Foundation

The National Association of State Departments of Agriculture (NASDA) is a nonprofit, nonpartisan association of public officials comprised of the Commissioners, Secretaries, and Directors of the fifty State Departments of Agriculture in the fifty states and the territories of Puerto Rico, Guam, American Samoa, and the Virgin Islands. NASDA's mission is to represent the State Departments of Agriculture in the development, implementation, and communication of sound public policy and programs which support and promote the American agricultural industry while protecting consumers and the environment. The NASDA Research Foundation is a 501(c)(3) nonprofit, tax-exempt corporation for educational and scientific purposes.

National Center for Agricultural Law Research and Information

The National Center for Agricultural Law Research and Information (NCALRI) was created in 1987 under Public Law 100-202, 101 Stat. 1329-30 to address the complex legal issues that affect American agriculture. The NCALRI focuses its efforts on research, writing, publishing, development of library services, and the dissemination of information to the public. The NCALRI is located at the University of Arkansas School of Law in Fayetteville, Arkansas.

Natural Resources Conservation Service

The Natural Resources Conservation Service (NRCS), formerly known as the Soil Conservation Service (SCS), is a federal agency within the U.S. Department of Agriculture (USDA). NRCS conservationists work with private landowners and operators to help them protect their natural resources.

U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) is a federal agency with primary responsibility for implementation of most federal laws designed to protect, enhance, and conserve the nation's natural resources.

Disclaimer

This guide is designed for use by farmers, ranchers, landowners, and their consultants in understanding the effect environmental laws have on agricultural operations. It is not a substitute for individual legal advice. Agricultural producers should always confer with their own attorneys, consultants, or advisors as well as federal, state, and local authorities responsible for the applicable environmental laws.

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Although every effort has been made to ensure the accuracy of the information contained in this book, environmental statutes, regulations, and ordinances are constantly changing. In addition, the overwhelming complexity and extent of environmental law make it impossible for a single book to describe in complete detail and depth all of the environmental laws and regulations impacting agricultural operations. The following material is simply a basic primer on environmental law for agricultural producers. For these reasons, the utilization of these materials by any person constitutes an agreement to hold harmless the authors, the National Center for Agricultural Law Research and Information, the University of Arkansas, the United States Department of Agriculture, the National Association of State Departments of Agriculture Research Foundation, the Natural Resources Conservation Service, and the United States Environmental Protection Agency for any liability, claims, damages, or expenses that may be incurred by any person or organization as a result of reference to, or reliance on, the information contained in this book.

The background research and final documents were completed in July 2003.

Anyone with comments concerning the guide should contact the NASDA Research Foundation at 1156 15th Street, NW, Suite 1020, Washington, D.C. 20005, or phone (202) 296-9680.

Quick Reference Guide

Producer Note: The following chart is intended as a quick reference guide to permits which may be necessary for a particular operation. If a permit is necessary, refer to the page numbers listed referencing this document for further information and contact the agencies listed in the final column information on applications and procedures for securing a permit for an operation. A list of agencies and contact information is also provided in Appendix A.

Regulatory Area	Type of Activity	Permit Required	Agency
Water Quality <i>pp. 7-21</i>	Livestock and aquaculture operations, depending on size	National Pollutant Discharge Elimination System (NPDES) permit, construction permit	U.S. Environmental Protection Agency (U.S. EPA) and Water Quality Division (WQD) within Wyoming Department of Environmental Quality (WDEQ)
	Wetlands dredge and fill activity or dam or bridge building activities	Section 404 Clean Water Act (CWA) permit	U.S. Army Corps of Engineers with U.S. EPA and WQD within WDEQ
	Construct or modification of facilities with potential to discharge into navigable waters of the state	Permit to construct (PTC) also required if the facility under construction or modification may exceed established water pollution standards	WQD within WDEQ
	Water well construction and use	No permit or drilling license required, but construction standards must be followed	Board of Control Wyoming State Engineer's Office (SEO), WQD within WDEQ
	Underground storage tanks	Installers must have certification	WQD within WDEQ

Regulatory Area	Type of Activity	Permit Required	Agency
Groundwater <i>pp.21-26</i>	Groundwater protection	No permit for a non-point source, but Best Management Practices (BMPs) must be followed. For a point source, a permit is needed to construct if threat of groundwater pollution exists.	Board of Control within SEO
Air Quality <i>pp. 26-32</i>	Construct or modification of facilities with potential to release air emissions	Permit to construct (PTC) is required on the facility under construction or modification.	Air Quality Division (AQD) within WDEQ
	General agricultural operations including odor, dust, or flies	No permit required, but may be subject to nuisance suits	U.S. EPA or AQD within WDEQ
	Open burning	Burning permit usually required	AQD within WDEQ
Solid Waste and Hazardous Waste <i>pp. 32-40</i>	Storage, treatment, and disposal of solid waste	Permit usually required	Solid and Hazardous Waste Division (SHD) within WDEQ
	Storage, treatment, and disposal of hazardous waste	Permit required for disposal, treatment, or storage activities	SHD within WDEQ
	Generation of hazardous waste	No permit required but generators must comply with SHWD rules	SHWD within WDEQ
	Used oil generation and burning	No permit required but used oil generators and burners must comply with SHWD rules	No permit required but used oil generator and burners must comply with SHWD rules.
Pesticides and Chemigation <i>pp. 40-45</i>	Application and use of pesticides	No permit required, but a license may be required	U.S. EPA and WDA
	Use of pesticides around farmworkers	No permit required, but training and notification is required	WDA

Regulatory Area	Type of Activity	Permit Required	Agency
	Record keeping	No permit required, but all requirements must be met	WDA
Wildlife Protection <i>pp. 45-57</i>	Taking of wildlife	Permit required if endangered or threatened species may be affected	U.S. Fish and Wildlife Service and Wyoming Game and Fish Department (GFD)

STATE ENVIRONMENTAL LAWS AFFECTING WYOMING AGRICULTURE

Producer Note: The information on environmental regulation provided in this guidebook is presented for the purpose of educating agricultural producers on the breadth and scope of environmental laws which may impact their daily production activities. Environmental regulation is a complex area with both federal, state, and often local government involvement. Rapid changes in industrialization, computer-based technology, and market dynamics also affect agricultural producers in a number of ways and present many challenges. Staying informed is the producer's most useful tool for meeting these challenges.

INTRODUCTION

A. Wyoming Environmental Policy

It is the stated policy of Wyoming that pollution¹ of its air, water, and land:

- Imperils public health and welfare;
- Creates public or private nuisances that may be harmful to wildlife, fish, and aquatic life; and
- Impairs domestic, agricultural, industrial, recreational, and other beneficial uses.

B. Wyoming Environmental Quality Act

Wyoming's policy is set forth in the Wyoming Environmental Quality Act (WEQA).² The WEQA enables the state:

¹ The term "pollution" means contamination or other alteration of the physical, chemical, or biological properties of any waters of the state including change in temperature, taste, color, turbidity, or odor of the waters or any discharge of any acid or toxic material or chemical or chemical compound whether it be liquid, gaseous, solid, radioactive, or other substance including wastes into any waters of the state which creates a nuisance or renders any waters harmful, detrimental, or injurious to public health, safety, or welfare to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses or to livestock, wildlife, or aquatic life or which degrades the water for its intended use or adversely affects the environment. This term does not mean water, gas, or other material which is injected into a well to facilitate production of oil, gas, or water derived in association with oil or gas production and disposed in a well if the well used either to facilitate production or for disposal purposes is approved by authority of the state and if the state determines that such injection or disposal well will not result in the degradation of ground or surface or water resources; *see* WYO. STAT. ANN. § 35-11-103(c)(i) (LexisNexis 2001).

² WYO. STAT. ANN. §§ 35-11-101 *et seq.* (LexisNexis 2001).

- To prevent, reduce, and eliminate pollution;
- To preserve and enhance the air and water in order to reclaim the land;
- To plan the development, use, reclamation, preservation, and enhancement of the air, land, and water resources of the state; and
- To preserve and exercise the primary responsibilities and rights of the state of Wyoming;
 - To retain the state's control over its air, land, and water; and
 - To secure cooperation between agencies of the state, agencies of other states, interstate agencies, and the federal government in carrying out these objectives.³

1. Wyoming Department of Environmental Quality

The primary state agency charged with the responsibility of implementing and administering the WEQA is the Wyoming Department of Environmental Quality (WDEQ). The WDEQ has six (6) divisions. These divisions include the water quality division, air quality division, land quality division, and solid and hazardous waste division along with the abandoned mine division and the industrial siting division. This guidebook takes the reader through various sections of environmental information and discusses the environment in a format similar to the organizational divisions of the WDEQ. The guidebook begins the discussion of Wyoming's environmental laws on water quality, but first, there a few more organizational aspects of the WEQA to point out.

2. Wyoming Environmental Quality Council

The WEQA establishes that a single environmental council will promulgate all rules, regulations, and standards to be implemented by each of the six divisions under the WEQA. This council is called the Wyoming Environmental Quality Council (WEQC). The WEQC consists of seven (7) members appointed by the governor with the advice and consent of the senate. At all times, the WEQC must have at least one member representing Wyoming's agriculture and one member representing Wyoming's mineral industry.⁴ The WEQC not only functions to promulgate rules, regulations, and standards for the administration of the WEQA, but it acts as the hearing examiner for the WDEQ hearing all cases and issues arising under four (4) of WDEQ's six (6) divisions including water quality, air quality, land quality, and solid and

³ WYO. STAT. ANN. § 35-11-102 (LexisNexis 2001).

⁴ WYO. STAT. ANN. § 35-11-111 (LexisNexis 2001).

hazardous waste management. Abandoned mines land and industrial siting divisions are excluded from hearing before the WEQC. The WEQC makes all permit, license, certification, or variance decisions only if there is a contested case. Additionally, the WEQA gives the WEQC the power to affirm, modify, or deny the issuance of orders to cease and desist any activity in violation of environmental laws, rules, regulations, standards, or orders related to the WEQA.⁵

3. *Wyoming Environmental Advisory Boards*

Besides the WEQC, the WEQA establishes advisory boards within the WDEQ. Under the WEQA, three (3) advisory boards exist within the WDEQ to advise the three “quality” divisions, the Water Quality Division WQD, the Air Quality Division (AQD), the Land Quality Division (LQD) and the Solid & Hazardous Waste Division (SHWD). Each advisory board consists of five (5) members.⁶ Each advisory board has at least one member that is a representative of agriculture and one member that is a representative of industry. Advisory boards make recommendations to the WEQC on: (The following pertains to the WQ Advisory Board. A similar list exists for the AQ and SHW Advisory Boards.)

- Comprehensive plans and programs for the prevention, control, and abatement of water, air, and land pollution;
- Protection of public water supplies;
- Management of solid and hazardous waste;
- Adoption of rules, regulations, and standards to implement the WEQA;
- Reviews and reports on the performance of the respective division; and
- Coordination of policies and activities of the division in order to achieve maximum efficiency and effectiveness in its objectives.

After receiving public comment and after consultation with the respective division’s environmental quality advisory board, the administrator of each WDEQ division makes recommendations to the WEQC regarding rules, regulations, standards, and permit systems to fulfill the purposes of the WEQA including the establishment of:

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

⁵ WYO. STAT. ANN. § 35-11-112 (LexisNexis 2001).

⁶ WYO. STAT. ANN. § 35-11-113 (LexisNexis 2001).

state; (By state statute, however, although the standards are established by the WEQC, the WDEQ is charged with the responsibility of establishing the schedule of water quality standards for the various waters of the state.);

- Effluent standards and limitations specifying the maximum amounts or concentrations of pollution and wastes which may be discharged into the waters of the state;
- Standards for the issuance of permits for construction, installation, modification or operation of any public water supply and sewerage system, subdivision water supply, treatment works, disposal system, or other facility capable of causing or contributing to pollution;
- Standards for the definition of technical competency and the certification of operating personnel for community water systems and nontransient noncommunity water systems, sewerage systems, treatment works, and disposal systems and for determining that the operation shall be under the supervision of certified personnel;
- Standards for the issuance of permits as authorized pursuant to section 402(b) of the CWA based on:
 - The character and degree of injury to or interference with the health and well being of the people, animals, wildlife, aquatic life and plant life affected;
 - The social and economic value of the source of pollution;
 - The priority of location in the area involved;
 - The technical practicability and economic reasonableness of reducing or eliminating the source of pollution; and
 - The effect upon the environment.
- The parameters of a reasonable time determination that may be necessary for owners and operators of pollution sources to comply with rules, regulations, standards or permits;

- The determination of the required amounts of financial assurance necessary for plugging, abandonment, post-closure monitoring, and corrective actions for any underground injection facility for hazardous wastes;⁷
- Standards for housing facilities or confined animal feeding operations (CAFOs) for swine including;
 - Financial assurance for accidents and closure requirements for facilities which contain treatment works;
 - Waste and manure management plans to prevent pollution of waters of the state; to minimize odors for public health concerns, pathogens, and vectors capable of transporting infectious diseases; and to specify land application requirements;
 - Setback requirements which will restrict the location and operation of structures housing swine and lagoons near occupied dwellings, schools, municipalities, domestic-use water wells, and perennial streams; and
 - Procedures for public comment and notice of intent to issue a permit; and
- Standards for the determination of capacity development of community water systems and noncommunity water systems in compliance with the federal Safe Drinking Water Act (SDWA).⁸

After receiving public comment to develop rules, regulations, and standards for WDEQ's division applications, the WEQC in consultation with the advisory board, the county commissioners, and the state engineer's office makes recommendations to the WDEQ regarding the schedule for the use of credible data in designating beneficial uses of surface water consistent with the CWA including consideration of soils, geology, hydrology, geomorphology, climate, stream succession, and human influence on the environment⁹ and in determining water body's attainment of designated uses.¹⁰

⁷ Underground injection facilities for hazardous wastes as defined in 40 C.F.R. Part 146, Subpart G.

⁸ 42 U.S.C. § 300g-9 (2001).

⁹ The exception to the use of credible data may be in instances of ephemeral or intermittent water bodies where chemical or biological sampling is not practical or feasible.

¹⁰ WYO. STAT. ANN. § 35-11-302 (LexisNexis 2001).

4. *Wyoming Environmental Permits*

All permits issued under the WEQA are issued by the Director of WDEQ and not the respective divisions although administrators of divisions may issue licenses. A permit to construct (PTC) is required before construction or modification of any industrial facility capable of causing or increasing water or air pollution in excess of established standards.¹¹ An applicant that does not qualify for a permit may petition for a hearing before the WEQC to contest the decision of the Director or Administrator. The WEQC provides public notice of the hearing.¹² The WDEC may issue a single permit for a facility or an activity regulated by more than one article of the WEQA.¹³

5. *Wyoming Environmental Variances*

Any person¹⁴ who owns or is in control of any real or personal property, plant, building, structure, process, or equipment may apply to the appropriate division for a variance from any rule, regulation, standard, or permit promulgated under the WEQA. Upon request for a variance, public notice is provided by newspaper publication in a newspaper of general circulation in the county at least one per week for four weeks prior to a public hearing scheduled to address the variance request.¹⁵

If a variance is granted that is premised upon the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the pollution, the variance may continue in effect only until the necessary means for prevention, abatement, or control becomes known and available. Alternatively, the variance may be subject to substitute or alternate measures that the director may prescribe. A variance that is granted because of the extent or cost may be phased in over a reasonable period of time. A timetable for action must accompany the variance. The variance must provide for compliance actions in an expeditious manner, and strict adherence to the timetable must be maintained. Variances are determined on a case by case basis.

¹¹ WYO. STAT. ANN. § 35-11-801 (LexisNexis 2001).

¹² WYO. STAT. ANN. § 35-11-802 (LexisNexis 2001).

¹³ WYO. STAT. ANN. § 35-11-803 (LexisNexis 2001).

¹⁴ The term "person" means an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or any other political subdivision of the state, or any interstate body or any other legal entity; *see* WYO. STAT. ANN. § 35-11-103(a)(vi) (LexisNexis 2001).

¹⁵ WYO. STAT. ANN. § 35-11-601 (LexisNexis 2001).

6. *Wyoming Environmental Complaints*

Upon receipt of written complaint or good cause to believe that violations of the WEQA have occurred or are being committed, the administrator of the appropriate division must effect a prompt investigation of the matter.¹⁶ Notice is provided to the alleged violator of an impending investigation. The investigation is limited in focus to the matter at hand. If after investigation, it appears that a violation exists, the administrator of the appropriate division may by conference, conciliation, and persuasion promptly endeavor to eliminate the source or cause of the violation. In case of failure to correct or remedy an alleged violation, a written notice, a notice and order, or a cease and desist order is sent to the violator. Unless the alleged violator requests in writing to have a hearing before the WEQC, to stay the order, or to stay the cease and desist order, the violation becomes the WDEQ's enforceable action.

At any hearing before the WEQC, a person may be designated as an authorized referee to receive evidence, administer oaths, examine witnesses, and issue subpoenas for witness testimony and the production of evidence although any final determination is made solely by the Council.

I. **WATER QUALITY**

Producer Note: In order for agricultural producers to maintain compliance with water quality legislation, they must be aware of not only federal water quality standards, NPDES permit requirements, wetland permits, and oil spill liability issues but also state water quality standards, state permit requirements, state and local nonpoint source pollution programs, state environmental liability issues but also whether there are any waters requiring special protection in their area. The states take active roles in ensuring that agricultural producers comply with environmental requirements.

A. **Wyoming Water Quality Laws and Regulations**

1. *Wyoming Surface Water Quality*

All water including collections of still water, man-made water bodies, and waters associated with wetlands¹⁷ within the state are considered surface waters of the state.¹⁸ The state of Wyoming considers water one of Wyoming's most important natural resources and its

¹⁶ WYO. STAT. ANN. § 35-11-701 (LexisNexis 2001).

¹⁷ The term "wetlands" means those areas in Wyoming having all three (3) essential characteristics: (1) hydrophytic vegetation; (2) hydric soils; and (3) wetland hydrology; *see* WYO. STAT. ANN. § 35-11-103(c)(x) (LexisNexis 2001).

¹⁸ WYO. STAT. ANN. § 35-11-309 (LexisNexis 2001).

protection, development, and management of water resources as essential for the long-term public health, safety, general welfare, and economic security of its citizens.

Most states including Wyoming have enacted clean water legislation. While these state statutes usually contain provisions similar to those found in parallel federal legislation, there may be significant differences. In fact, state statutes may impose requirements that are even more restrictive than federal law. In all cases regarding water quality issues, however, the federal Clean Water Act (CWA)¹⁹ requirements must be followed and enforced along with any state enacted statutes and state agency regulations.

2. Wyoming NPDES Permit Program

Discharges of waste from point sources²⁰ into navigable waters are regulated through a permit system known as the National Pollutant Discharge Elimination System (NPDES). Under the CWA, it is illegal to discharge pollutants from point sources into navigable waters without a permit, or to discharge pollutants in violation of the terms of any permit that is issued. Notwithstanding this fundamental element of the CWA, the CWA provides that the United States Environmental Protection Agency (U.S. EPA) has authority to either issue the NPDES permits to approved applicants or delegate the NPDES permit program to an individual state if the U.S. EPA approves that state's NPDES program. In Wyoming, the U.S. EPA has delegated the implementation of the NPDES permit program to the state's WDEQ. Thus, the Water Quality Division within the WDEQ administers the NPDES permit program.

¹⁹ 33 U.S.C. §§ 1251 *et seq.* (2001).

²⁰ The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged; *see* WYO. STAT. ANN. § 35-11-103(a)(xi) (LexisNexis 2001).

In Wyoming, except when authorized by a proper permit, it is unlawful to

- Cause, threaten, or allow the discharge²¹ of any pollution or wastes²² into the waters of the state;²³
- Alter the physical, chemical, radiological, biological or bacteriological properties of any waters of the state;
- Construct, install, modify or operate any sewerage system, treatment works, disposal system or other facility, excluding uranium mill tailing facilities, capable of causing or contributing to pollution;²⁴
- Increase the quantity or strength of any discharge; or
- Construct, install, modify or operate any public water supply²⁵ or construct any subdivision water supply.²⁶

Water quality standards, established by the WDEC, are for the following stated purposes:

- To maintain and improve the quality of state waters;
- To protect the public's health and welfare;
- To protect the present and planned beneficial uses of such waters including its use for:

²¹ The term "discharge" means any addition of any pollution or wastes to any waters of the state; *see* WYO. STAT. ANN. § 35-11-103(c)(vii) (LexisNexis 2001).

²² The term "wastes" means sewage, industrial waste and all other liquid, gaseous, solid, radioactive, or other substances which may pollute any waters of the state; *see* WYO. STAT. ANN. § 35-11-103(c)(ii) (LexisNexis 2001).

²³ The term "waters of the state" means all surface and groundwater, including waters associated with wetlands, within Wyoming; *see* WYO. STAT. ANN. § 35-11-103(c)(v) (LexisNexis 2001).

²⁴ Except that no permit to operate shall be required for any publicly owned or controlled sewerage system, treatment works or disposal system.

²⁵ The term "public water supply" means a system that provides water for human consumption to the public through pipes or constructed conveyances if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals; *see* WYO. STAT. ANN. § 35-11-103(c)(vii) (LexisNexis 2001).

²⁶ Except that no permit to operate shall be required for any publicly owned or controlled public water supply and a permit under this section is not required for residential subdivision water supplies consisting of individual wells serving individual residential lots of a subdivision.

- Public water supplies;
- Industrial and agricultural needs;
- Propagation of fish, aquatic life, and wildlife; and
- Recreational purposes.

Water quality standards are stated both numerically and narratively. The standards are used to establish effluent limitations for discharges in NPDES permits that address point source pollution and in guidelines called best management practices (BMPs) that address nonpoint sources. In general, the water quality policy in Wyoming is an antidegradation policy. Attainability analysis may be used to modify designated beneficial uses of waters. Discharge permits may include terms such as mixing zones and turbidity to specify discharge conditions. The Wyoming Continuing Planning Process (WCPP) and BMPs are additional tools used to reduce water pollution in Wyoming.²⁷

The Water Quality Division (WQD) has authority to conduct on-site compliance inspections of all facilities and works during or following the completion of any construction, installation, or modification for which a NPDES permit has issued. A field office located within each geographic district of the state provides for the efficient enforcement of this responsibility.²⁸

Upon the request of a municipality or county, the WQD may delegate, by written agreement, some of its procedural administration and enforcement responsibilities for small waste water systems if the WQD maintains oversight and review.²⁹

3. Wyoming Underground Storage Tanks

The Water Pollution from Underground Storage Tanks Corrective Action Act (WUSTA) establishes WDEQ with primacy for the administration and implementation of the underground storage tank (UST) program in Wyoming. The purpose of the WUSTA is to provide funding for corrective actions at contaminated sites caused by USTs and aboveground storage tanks (ASTs) and to establish compliance requirements. Considering that Wyoming is a large rural state and that potential financial peril could occur to fuel-type businesses located on contaminated sites, the Wyoming legislature established as state policy that it is in the best interest of Wyoming's

²⁷ WDEQ: Water Quality Rules and Regulations, chpt. 1, WYOMING SURFACE WATER QUALITY STANDARDS; *see* WYO. STAT. ANN. §§ 35-11-101 to 1507 (LexisNexis 2001).

²⁸ WYO. STAT. ANN. § 35-11-303 (LexisNexis 2001).

²⁹ WYO. STAT. ANN. § 35-11-304 (LexisNexis 2001).

citizens for the state to take responsibility for corrective actions at contaminated sites so that fuel continues to be readily available throughout Wyoming.³⁰

The term “underground storage tank” means any one (1) or any combination of underground storage tanks including underground connected pipes used to contain accumulation of regulated substances when the volume, including the volume of the underground connected pipes, is ten percent (10%) or more beneath the surface of the ground but excluding:

- Farm or residential tanks of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial or agricultural purposes;
- Heating oil storage tanks when the oil is consumptively used on the same premises;
- Septic tanks;
- Pipeline facility such as for natural gas, etc.;
- Surface impoundments, pits, ponds, or lagoons;
- Flow-through process tanks;
- Liquid traps or associated gathering lines directly related to oil or gas production;
- Storage tanks that are in an underground area but are situated above the surface of the floor;
- USTs having one hundred ten (110) gallons or less capacity;
- USTs containing de minimus concentrations of regulated substances; and
- Emergency or overflow USTs.³¹

The term “aboveground storage tank” means any one (1) or a combination of containers, vessels, and enclosures including structures and connected appurtenances constructed of nonearthen materials including but not limited to concrete, steel, or plastic which provides structural support when the volume including the connected pipes is more than ninety percent (90%) above the surface of the ground and used by a dealer to dispense gasoline or diesel fuels.³²

³⁰ WYO. STAT. ANN. § 35-11-1414 (LexisNexis 2001).

³¹ WYO. STAT. ANN. § 35-11-1415(ix) (LexisNexis 2001).

³² WYO. STAT. ANN. § 35-11-1415(xi) (LexisNexis 2001).

The WEQC, in conjunction with the administrators of the various divisions and their respective advisory boards, has authority to promulgate rules and regulations necessary for the WDEQ to administer the WUSTA.³³ These rules and regulations include UST standards for abandonment, closure, use compatibility, facility upgrades, construction, design, installation, record maintenance, release detection, spill and overflow, inspection procedures, and compliance deadlines. Under the WUSTA, the WDEQ also promulgates rules and regulations that address the standards for ASTs plus financial assurance for both USTs and ASTs, installation or modification inspections, procedures for reporting spills and releases, corrective actions following releases, tank repair, upgrade record keeping, changes in tank ownership or control, notice requirements for tank installations or modifications, and standards for restoration of the environment.³⁴

a. Registration

On or before July 1 of each year, USTs and ASTs are required to be registered with the WDEQ. The WDEQ provides registration forms which must be completed and submitted under an oath or affirmation of their accuracy. The required data includes:

- Name, address, and telephone number of the tank owner;
- Name, address and telephone number of the tank operator;
- Description of the location of the facility where the tank is maintained or operated and the location of the tank at that facility;
- Type and age of each tank at the facility;
- Type of substance stored or contained in the tank;
- Size of each tank;
- Whether the tank is currently in use, and if not, the most recent date of use of the tank if known;

³³ WYO. STAT. ANN. § 35-11-1416 (LexisNexis 2001).

³⁴ WYO. STAT. ANN. § 35-11-1416 (LexisNexis 2001).

- Date of the most recent testing of the tank and a copy of the test results if not previously submitted; and
- Whether the owner or operator of the tank has liability insurance, and if so, include a copy of the insurance certificate, the amount of the policy coverage, and the period of time covered; if no insurance exists, then, whether there are other types of financial assurance available to cover any corrective action costs and any third party damages.³⁵

Upon any transfer of ownership of an UST or a AST or upon any new operator taking control or responsibility, a notice of the transfer must be reported to the WDEQ by either the new or the former owner. Notice of a transfer or a change must be submitted on the WDEQ form. The information required is very similar to that listed above for annual registration. Installations or substantial modifications to USTs and ASTs require thirty (30) days notice prior to beginning the activity. Following the notice and completion of the described activity, an inspection of the activity must be performed before use or operation may proceed. No tank may be operated until it is determined that the UST or AST meets applicable standards. An inspection by the WDEQ or a qualified state or local government inspector or a private inspector must take place within ten (10) days of its beginning use. A fee of two hundred fifty dollars (\$250.00) is charged for administration and inspection.³⁶

Releases from USTs or ASTs, whether known or suspected, must be reported to the WDEQ.³⁷ Upon receipt of a request by an authorized agent of the state, the owner or operator must:

- Provide such information as to allow the determine of whether the owner or operator maintains compliance with all statutes, rules, and regulations;
- Provide access to any site or premises where any tank is located or where any relevant records are kept;
- Provide copies of any relevant records;
- Allow access to obtain samples of any regulated substances stored;

³⁵ WYO. STAT. ANN. § 35-11-1419 (LexisNexis 2001).

³⁶ WYO. STAT. ANN. § 35-11-1420 (LexisNexis 2001).

³⁷ WYO. STAT. ANN. § 35-11-1421 (LexisNexis 2001).

- Allow access to inspect or conduct monitoring or testing of the tank system; and
- Allow access for assessments and corrective actions.³⁸

The WDEQ must provide one (1) working day's notice prior to an inspection unless an emergency exists. The owner or operator of the UST or AST are allowed to accompany any inspector during the inspection, and the inspector must not unreasonably interfere with operations, business, or work of any person at the inspection site.³⁹ During an inspection duplicate test samples are usually taken, one being provided to the owner or operator, unless the privilege is waived by the owner or operator. Duplicate copies of any pertinent analytical WDEQ sampling reports are also provided to the owner or operator as soon as practicable.⁴⁰

Since 1990, Wyoming statutes provide that the attorney general must release any owners and operators of storage tanks who are required to take corrective actions but are eligible for recoverable costs for the required corrective actions. In carrying out any corrective action, the WDEQ has the right to construct and maintain any structure, monitor well, recovery system, or any other reasonable and necessary item associated with the corrective action.⁴¹

The WDEQ has an affirmative duty to report any and all confirmed releases that require a plan for soil and groundwater remediation that might affect the public. Furthermore, upon request, the WDEQ must provide or make available information concerning the nature of the release and any corrective actions planned or taken that may be of interest to the public.⁴² As specified in the WUSTA, any person having an interest or that may be adversely affected may intervene as a matter of right in any civil action for remedies⁴³

b. Corrective Action Account

There exists within the Wyoming state treasury an earmarked revenue fund called the Corrective Action Account. This account provides financial assurance coverage required by federal law. The account is used by the WDEQ to take corrective action in response to contaminated sites caused by releases. Priority of corrective actions is established by the WDEQ and based on public health, safety, and welfare along with environmental concerns unless an

³⁸ WYO. STAT. ANN. § 35-111422(a) (LexisNexis 2001).

³⁹ WYO. STAT. ANN. § 35-11-1422(c) (LexisNexis 2001).

⁴⁰ WYO. STAT. ANN. § 35-11-1422(b) (LexisNexis 2001).

⁴¹ WYO. STAT. ANN. §§ 35-11-1422(d), (e) (LexisNexis 2001).

⁴² WYO. STAT. ANN. § 35-11-1423(a) (LexisNexis 2001).

⁴³ WYO. STAT. ANN. § 35-11-1423(b) (LexisNexis 2001).

emergency threat to public health, safety, and welfare or the environment exists or costs of cleanup may be significantly reduced. In these type emergencies, the site priority may be moved up on the priority list for immediate corrective action.⁴⁴ The fund may also be used for the state Water Pollution Control Revolving Loan Account.

c. Eligibility for Corrective Action Monies

For a site to be eligible for monies from the corrective action fund, the owner or operator must have paid the required annual tank fee when it was assessed, conduct a minimum site assessment prescribed by WDEQ rules and regulations, and take action to prevent continuing contamination in the event that contamination is discovered by the site assessment. The corrective action account may not be used by owners and operators of USTs and ASTs as proof of financial assurance if the sites are determined by WDEQ to be ineligible sites.⁴⁵

If the owner or operator of a contaminated site refuses to comply with eligibility requirements to enroll in the corrective action program, the WDEQ has authority to cause an action to be filed by the attorney general against the owner or operator to recover reasonable and necessary expenses⁴⁶ incurred by the WDEQ in taking corrective action if the owner or operator:

- Failed to take corrective actions or meet eligibility requirements for that site as described above; and
- Had tank insurance at the time of release.

A contaminated site where tanks are lawfully removed or abandoned may be eligible for corrective action funds by the payment of a two hundred dollar (\$200.00)⁴⁷ annual fee per site for ten years and the site assessment as referenced above is conducted.⁴⁸ The term “corrective action” means the environment must be restored to a condition and quality consistent with standards established in WDEQ rules and regulations.⁴⁹

⁴⁴ WYO. STAT. ANN. §§ 35-11-1424(a), (b), (c) (LexisNexis 2001).

⁴⁵ WYO. STAT. ANN. § 35-11-1424(d) (LexisNexis 2001).

⁴⁶ Expenses may include investigative costs, administrative costs, and reasonable attorney fees; however, recovery may not exceed the limits or coverage of the tank insurance policy; *see* WYO. STAT. ANN. §§ 35-11-1424(e), (f), (g) (LexisNexis 2001).

⁴⁷ Tanks with a capacity of five thousand (5,000) gallons or less are required to pay only fifty dollars (\$50.00) per tank; *see* WYO. STAT. ANN. § 35-11-1425 (LexisNexis 2001).

⁴⁸ WYO. STAT. ANN. § 35-11-1424(e) (LexisNexis 2001).

⁴⁹ WYO. STAT. ANN. § 35-11-1426 (LexisNexis 2001).

d. No Owner or Operator Sites

After completing a search using due diligence, if it is determined that no owner or operator can be identified or found, the site is placed on the priority list in the appropriate rank with other sites and may be remedied with federal UST corrective action funds. .

e. Civil Actions for Damage and Injury

The WDEQ directs the payment of monies from the financial responsibility account to satisfy judgments entered against an owner or operator for third party property damage or personal injury. The WDEQ must provide notice to the attorney general by certified mail return receipt requested with a copy of the initial complaint filed against the owner or operator in order that the attorney general may obtain jurisdiction in order to maintain the suit. Furthermore, the attorney general must be notified in writing, by certified mail return receipt requested, of any judgment, compromise, settlement, or release entered into by an owner or operator. It follows that by application by the owner or operator, the WDEQ then directs the payment of the monies up to one million dollars (\$1,000,000.00) from the financial responsibility account against the damages and injuries on terms negotiated by the attorney general and approved by the WEQC.⁵⁰ The owner or operator, however, remains liable for any judgment up to thirty thousand dollars (\$30,000.00).

4. Wyoming Wetlands

Wetlands are important for a number of reasons:

- They provide the habitat base for the production and maintenance of waterfowl;
- They are sometimes critical to the survival of endangered plants and animals;
- They serve to moderate water flow and have value as natural flood control mechanisms;
- They can aid in water purification by trapping, filtering and storing sediment and other pollutants and by recycling nutrients;
- They can serve as groundwater recharge and discharge areas;
- They also function as nursery areas for numerous aquatic animal species and are habitat for a wide variety of plant and animal species; and

⁵⁰ WYO. STAT. ANN. §§ 35-11-1428(a), (b) (LexisNexis 2001).

- They provide vital habitat for resident wildlife;
- They can provide scientific, aesthetic and recreational benefits and, therefore, deserve to be effectively managed, protected and preserved.

The legislature recognizes that although there are significant differences between naturally occurring wetlands and man-made wetlands that the man-made wetlands are equally as important as naturally occurring wetlands. Because the origin of these wetlands are different, management flexibility is required. Furthermore, protection of landowners' property rights and water rights must be protected. It is the state's policy that water management and development and wetland preservation activities be balanced to protect and accommodate private property, industry, water, and wetland interests and objectives.

Wetlands can have an impact on industry practices. The state of Wyoming provides that agriculture, energy development, mining, highway construction, and timbering are important industries that have concerns that must be accommodated even in the protection of wetlands.

Wyoming prohibits the draining of wetlands five (5) acres and larger without first notifying the WDEQ and allowing the WDEQ time to make a determination whether or not any such draining will not flood or adversely affect downstream lands. Violators of these provisions are precluded from participating in the mitigation credit banking system for compensatory mitigation.⁵¹

Together with the Wyoming Department of Agriculture (WDA), the state engineer, the Game and Fish Department (GFD), the Department of Transportation, and the Water Development Commission, the WDEQ adopts evaluation guidelines for wetland ecological functions and values used in the mitigation credit banking system for compensatory mitigation of wetlands such as:

- Criteria for earning mitigation credits;
- Limitations for applying mitigation credits;
- Criteria for the use, banking, and sale of banked credits;
- Procedures for the approval of transferring or selling mitigation bank credits; and
- Requirements for any WDEQ records involving wetland ecological function and value losses plus credit and debit accounts for each wetland mitigation. Wetlands are also considered water of the state and are provided water quality protection.⁵²

⁵¹ WYO. STAT. ANN. § 35-11-310 (LexisNexis 2001).

⁵² WYO. STAT. ANN. § 35-11-311 (LexisNexis 2001).

5. *Wyoming Enforcement and Penalties*

If necessary, the WDEQ has authority, after concurrence by the governor, to issue a stop order if it finds that a condition of air, water, or land pollution creates an emergency requiring immediate action to protect human health or safety or animal health or safety. If the WDEQ has evidence that a pollution source presents an immediate and substantial danger, a civil action may be brought by the attorney general for immediate injunctive relief to halt the activity causing the danger.⁵³

Any person who violates or authorizes, orders, or carries out a violation of the WEQA or any associated rule, regulation, standard, permit, license, or variance is subject to a penalty up to ten thousand dollars (\$10,000.00) for each day of violation, a temporary or permanent injunction, or both. Penalties and injunctive relief may be obtained through any court of competent jurisdiction in civil actions, but the filing of a civil action with the court does not prevent the WDEQ from negotiating a stipulated settlement involving the payment of a penalty, implementation of compliance schedules, or other settlement conditions in lieu of litigation.⁵⁴ A willful or knowing violation escalates the penalty to twenty-five thousand dollars (\$25,000.00) per day of violation, up to one (1) year of imprisonment, or both. Subsequent willful and knowing violations escalate the penalty to fifty thousand dollars (\$50,000.00) per day of violation, imprisonment up to two (2) years, or both. Multiple violations may be assessed at the maximum amount specified for each day and each separate violation. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required by the WEQA or who tampers with or knowingly causes any required monitoring device or method to be inaccurate is subject to a fine up to ten thousand dollars (\$10,000.00) for each day of violation, one (1) year in prison, or both.⁵⁵

If a violation of the WEQA causes death of fish, aquatic life, or game or bird life, an additional penalty is imposed for the reasonable value of the fish, aquatic life, game or bird life destroyed. However, the additional penalty does not limit or impair the right of any person to seek damages or other relief involving the injury to persons or property or the right to maintain any other proceeding or action.⁵⁶ Any person having an interest or that may be adversely due to or affected by the noncompliance of the WEQA may commence a separate civil action to compel compliance including against any governmental unit, the state of Wyoming, and the WDEQ but it requires a sixty (60) day written notice to the WDEQ and the alleged violator unless the alleged violation involves an imminent threat to the health, safety, or a legal interest of the

⁵³ WYO. STAT. ANN. § 35-11-115 (LexisNexis 2001).

⁵⁴ WYO. STAT. ANN. § 35-11-901 (LexisNexis 2001).

⁵⁵ WYO. STAT. ANN. § 35-11-901 (LexisNexis 2001).

⁵⁶ WYO. STAT. ANN. § 35-11-903 (LexisNexis 2001).

plaintiff. A person may also choose to intervene in an civil action commenced by the attorney general. Likewise, the state of Wyoming or the WDEQ may intervene in any action filed pursuant to WEQA violations. The court upon issuing a final order in any action may award costs of litigation including attorney fees and expert witness fees to any party when the court determines it is appropriate.⁵⁷ Under the Wyoming Administrative Procedure Act (WAPA), any aggrieved party, any person who has been denied a variance or permit, or any person who filed a complaint and a hearing was denied may obtain judicial review of the decision by filing a petition for review within thirty (30) days after entry of the order or other final action.^{58, 59}

6. Wyoming Environmental Tax Benefit

Facilities, installations, machinery, or equipment attached or unattached to real property that is designed, installed, and utilized primarily for the elimination, control, or prevention of water, air, or land pollution or other beneficial purposes reasonably calculated to be necessary for and devoted to the elimination, control, or prevention of water, air, and land pollution is exempt from ad valorem taxation but any portion of any facilities which has value as a specific source of marketable byproducts is not to be excluded from taxation.⁶⁰

7. Wyoming Environmental Audit Privilege

An environmental audit is a voluntary, internal, and comprehensive evaluation of facilities or activities regulated by the WEQA designed to identify and prevent noncompliance and to improve compliance with the WEQA. An environmental audit may be performed by the owner, operator, owner's or operator's employee, or by an independent contractor. The environmental audit privilege refers to the confidentiality of communications associated with the audit. In other words, the audit may not be used as evidence in any civil or administrative proceeding except when:

- Privilege is waived;
- Privilege is asserted for fraudulent purpose;
- Evidence is not subject to the privilege;

⁵⁷ WYO. STAT. ANN. § 35-11-904 (LexisNexis 2001).

⁵⁸ WYO. STAT. ANN. §§ 16-3-101 to 115 (LexisNexis 2001).

⁵⁹ WYO. STAT. ANN. § 35-11-1001 (LexisNexis 2001).

⁶⁰ WYO. STAT. ANN. § 35-11-1103 (LexisNexis 2001).

- Efforts or attempts to bring facilities or activities into compliance was not pursued with reasonable diligence or as promptly as circumstances allowed; or
- The audit demonstrates a substantial threat to the public health, environment, damage to real property, or tangible personal property other than the facility property.⁶¹

The party asserting the privilege always bears the burden of proof the privilege exists. The privilege does not apply to any data or records that are required to be collected or drafted nor does it apply to information gained by observation, sampling, or monitoring by any regulatory agency. Documents prepared prior to the audit are excluded from the privilege as are documents prepared independent of the environmental audit.

If an owner or operator of a facility regulated under the WEQA voluntarily reports a violation disclosed by the environmental audit within sixty (60) days of the completion of the audit, the WDEQ does not seek civil penalties or injunctive relief unless:

- The facility is already under investigation;
- Noncompliance is not pursued as promptly as required;
- The violation involves gross negligence or recklessness;
- A federal penalty is imposed and becomes a mitigating factor; or
- The violation is in conformity with a pattern of continuous or repeated violations of environmental laws, rules, regulations, permit conditions, and settlement agreements.⁶²

8. *Wyoming Surface Water Classifications*

There are four major classes of surface water in Wyoming. The waters are classified by the WEQC. The WEQC must consider water quality, its aesthetic value as well as scenic, recreational, ecological, agricultural, botanical, zoological, municipal, industrial, historical, geological, cultural, and archaeological value, the fish and wildlife it serves, the presence of developable water, and any other values of present or future benefit to the people.

⁶¹ WYO. STAT. ANN. § 35-11-1105 (LexisNexis 2001).

⁶² WYO. STAT. ANN. § 35-11-1201 (LexisNexis 2001).

The four classes of water are hierarchically related. In other words, each class encompasses protection for its specific uses plus all the uses contained in each lower class. The four classes are as follows:

- Class 1 waters are called outstanding waters; these waters are those surface waters in which no further water quality degradation by point source discharges other than from dams is allowed; the water quality and the physical and biological integrity in existence when the water was classified must be maintained and protected; nonpoint sources must be controlled through implementation of guidelines called best management practices (BMPs);
- Class 2 waters are called fishable and drinkable waters; these waters are waters other than Class 1 waters that support fish and drinking water supplies or where those uses are attainable; Class 2 has four (4) subcategories;
- Class 3 waters are waters that support aquatic life other than fish but also includes waters other than Class 1 waters that are intermittent, ephemeral, or isolated waters and because of natural habitat conditions do not support nor have the potential to support fish populations or spawning, certain perennial waters which lack the natural water quality to support fish such as geothermal areas, and waters that have designated uses that include aquatic life other than fish and recreation, wildlife, industry, agriculture, and scenic value waters; Class 3 waters include waters that have wetland characteristics; there are three subcategories of Class 3 waters; and
- Class 4 waters are waters that are used for agriculture, industry, recreation, and wildlife waters; Class 4 includes waters other than Class 1 waters where it has been determined that aquatic life uses are not attainable; there are three subcategories of class 4 waters; designated uses include primary contact recreation, wildlife, industry, agriculture, and scenic value.⁶³

Specific classifications of streams in Wyoming are also contained in the document entitled “Wyoming Surface Water Classification List” that is published by the WQD of the WDEQ.⁶⁴

⁶³ WATER QUAL. DIV., WDEQ, WYOMING SURFACE WATER CLASSIFICATION LIST: SURFACE WATER STANDARDS (2001).

⁶⁴ WATER QUAL. DIV., WDEQ, WYOMING SURFACE WATER CLASSIFICATION LIST: SURFACE WATER STANDARDS (2001).

II. GROUNDWATER

A. WYOMING GROUNDWATER LAWS AND REGULATIONS

1. *Wyoming Groundwater*

Groundwater is that water which is located below the earth's surface or the bed of a stream, lake, reservoir, or other body of surface water.⁶⁵ As much as eighty percent (80%) of Wyoming's population obtain their drinking water from a groundwater source. Because Wyoming receives little precipitation and is considered semi-arid state, few surface waters exist as water resources for development. Protecting groundwater resources through planning, decision-making, and public education is an important role for all its citizens. In general, groundwater contamination stems from the misuse and improper disposal of liquid and solid wastes. Groundwater pollution means the impairment of the natural quality including impairment by salts, minerals, industrial wastes, domestic wastes or sewage.⁶⁶ Groundwater protection is considerably less expensive than the cost of treating contaminated water. Because contamination may be introduced in so many different ways, potential contaminants include nonpoint sources such as agricultural pesticides, fertilizers, and feedlot runoff as well as point sources such as leaking underground storage tanks (USTs), mines, solid and hazardous waste sites, confined animal feeding operation (CAFO) spills, automotive service garage floor drains, and shallow septic systems.

Groundwater sensitivity refers to the ease with which a contaminant placed on or near the soil surface reaches the shallowest water-bearing layer. Assessing groundwater vulnerability involves sensitivity modeling by tracking potential contaminant sources.

Efforts to protect groundwater include limiting the availability of NPDES, i.e., point source, permits for new construction to only those sources that meet the established groundwater standards. Wyoming's subdivision law requires the developer to provide adequate and safe water and sewer systems.⁶⁷ The WDEQ reviews all such permits.

Under the authority of the Safe Drinking Water Act (SDWA),⁶⁸ the U.S. EPA sets standards for approximately ninety (90) contaminants in drinking water. In order to provide continued safe drinking water to its citizens, Wyoming administers several programs including the underground injection control (UIC) program encompassing both the state and the federal

⁶⁵ WYO. STAT. ANN. § 41-3-901(a)(ii) (LexisNexis 2001).

⁶⁶ WYO. STAT. ANN. § 41-3-901(a)(vii) (LexisNexis 2001).

⁶⁷ WYO. STAT. ANN. § 18-5-306 (LexisNexis 2001).

⁶⁸ 42 U.S.C. § 300g-1 *et seq.* (2001).

program which requires permits for all Class V⁶⁹ wells as well as Classes I-IV. The WDEQ also administers a U.S. EPA-approved Resource Conservation and Recovery Act (RCRA) Program,⁷⁰ a U.S. EPA-approved Pesticide Management Program,⁷¹ and a U.S. EPA-approved Wellhead Protection Program⁷² as part of the state only Source Water Assessment Program. The Pesticide Management Program allows the continued use of some agricultural chemicals⁷³ but provides specific safeguards for the use of those chemicals. Wyoming does not regulate the licensing of water well drillers so regulation of the well construction becomes a more important tool in preventing contamination of surface contaminants and intermingling of the various aquifers caused by drilling.

The organization Farm A Syst/Home A Syst provides information to help farmers and rural residents assess pollution risks and develop management plans to meet their unique needs.

The Watershed Program established voluntary BMPs for use in protecting water from nonpoint sources. The Land Quality Division within WDEQ ensures the protection of groundwater from mining operations. The Groundwater Pollution Program assigns liability on parties that are responsible for groundwater pollution and ensures that the pollution is cleaned up.

The Board of Control within the State Engineer's Office (SEO) represents all four geographic water divisions of the state. Each water division has a three member Ground Water Advisory Committee that advises the State Engineer and Board of Control on matters relative to ground water development in their respective Water Division handles groundwater appropriations. The SEO maintains a database of approved permits that represent groundwater rights that often are used in adjudications. The Board of Control:

- Resolves conflicts between groundwater users;
- Researches water rights;
- Conducts Control Area Advisory Board meetings;

⁶⁹ Class V wells are wells that contain fluids such as air conditioning return flow, cooling water return flow, agricultural and stormwater drainage, aquifer recharge, and sand backfill that are distinguished from those identified in Classes I-IV such as industrial and municipal waste, fluids from oil and gas production, fluids from solution mining minerals, and hazardous or radioactive wastes.

⁷⁰ 42 U.S.C. § 6901 *et seq.* (2001).

⁷¹ 7 U.S.C. § 136 *et seq.* (2001).

⁷² 42 U.S.C. § 7409 *et seq.* (2001).

⁷³ Alachlor, atrazine, cyanazine, metolachlor, and simazine.

- Coordinates groundwater investigations;
- Investigates the water well construction and enforces the Water Well Construction Standards;
- Protects the state's groundwater resources;
- Investigate the occurrence of groundwater resources; and
- Monitor groundwater levels.

When any person holding a water appropriation right fails, intentionally or unintentionally, to use any portion of surface, underground, or reservoir water that was appropriated under the appropriation right for a period of five (5) successive years, the state engineer may initiate forfeiture proceedings against the person with the state board of control to determine the validity of the unused right.⁷⁴ A total absence of water available to divert during an irrigation season precludes the inclusion of that period of nonuse in the computation of the successive five (5) year period.

2. Wyoming Water Well Construction and Rights

Within thirty (30) days after the completion or abandonment of water well construction, a report regarding that construction and its works, location, and points of use is required to be submitted to the state engineer. A well is considered completed when it is possible to install a pump and pump water. The state engineer inspects the well and determines any lands irrigated or other uses, if any, beyond stock watering and domestic use for that well. The state engineer makes a report and provides proof, if any, of beneficial use to the control board for its consideration of adjudicating of groundwater rights. A groundwater appropriation attaches to the land for irrigation or for such other purposes that was acquired.⁷⁵

The control board provides public notice of adjudications.⁷⁶ Notices are mailed to other claimants in priority adjudications of streams and tributaries.⁷⁷ An appropriator whose appropriation is to be adjudicated must provide the state engineer within one (1) year with the information and documentation requested for the adjudication, and if any appropriator refuses, the well may be tagged and locked. Interference with the tag or lock is unlawful, and use of

⁷⁴ WYO. STAT. ANN. §§ 41-3-401, -402 (LexisNexis 2001).

⁷⁵ WYO. STAT. ANN. § 41-3-935 (LexisNexis 2001).

⁷⁶ WYO. STAT. ANN. § 41-4-302 (LexisNexis 2001).

⁷⁷ WYO. STAT. ANN. § 41-4-304 (LexisNexis 2001).

water from the well is complete⁷⁸ evidence of such interference. A violator that interferes with the locked or tagged well or one who drills, digs, or constructs any works for securing underground water without a permit is criminally charged with a misdemeanor and is also subject to a fine up to five hundred dollars (\$500.00).⁷⁹

An application for a permit to acquire the right to the beneficial use of public water for agricultural irrigation purposes must be submitted to the state engineer's office and furnish information regarding the total acreage to be irrigated and the acreage in each legal subdivision on the pre-printed form.⁸⁰

Whenever a well providing water for beneficial purposes interferes unreasonably with an adequate well developed solely for domestic or stock uses, a complaint may induce the state engineer to issue an order for the interferer to cease or reduce water withdrawals unless the party furnishes sufficient water to meet the domestic or stock use needs. In cases of interference between two (2) wells utilizing water for domestic or stock use, the appropriation with the earliest priority has the better or superior right.⁸¹ Appeals by any persons aggrieved by an order of the state engineer's office or the board of control may appeal in an informal manner without pleadings to the board of control within sixty (60) days of receipt of the notice of the order.⁸²

Byproduct water is water which has not been put to prior beneficial use, is a byproduct of some nonwater-related economic activity, and has been developed only as a result of the economic activity. For example, the water resulting from the operation of oil well separator systems or mining activities such as dewatering of mines.⁸³ Byproduct water may be appropriated in the same manner prescribed as for groundwater. Byproduct water is considered to be in the same class as groundwater for the purposes of administration and control.⁸⁴

It is unlawful to obstruct or injure or cause any public river or navigable⁸⁵ stream to be rendered inconvenient or dangerous to pass. It is unlawful to establish or continue any offensive

⁷⁸ Prima facie evidence.

⁷⁹ WYO. STAT. ANN. §§ 41-3-614, -935, -938 (LexisNexis 2001).

⁸⁰ WYO. STAT. ANN. §§ 41-4-502, -930 (LexisNexis 2001).

⁸¹ WYO. STAT. ANN. § 41-3-911 (LexisNexis 2001).

⁸² WYO. STAT. ANN. §§ 41-3-918, 41-4-517 (LexisNexis 2001).

⁸³ WYO. STAT. ANN. § 41-3-903 (LexisNexis 2001).

⁸⁴ WYO. STAT. ANN. § 41-3-904 (LexisNexis 2001).

⁸⁵ Declared navigable by law; *see* WYO. STAT. ANN. § 35-10-401 (LexisNexis 2001).

trade or business or to pollute or obstruct any watercourse, lake, pond, marsh, or common sewer so as to render it unwholesome or offensive. A violator of these provisions is subject to a fine up to one hundred dollars (\$100) and imprisonment up to three (3) months.⁸⁶

3. *Wyoming Water Conservancy Districts*

Pursuant to the Water Conservancy Act (WCA),⁸⁷ a county may elect five (5) to nine (9) directors to serve as board members of a water conservancy district. The district functions to conserve, develop, and stabilize supplies of water for domestic, transportation, industrial, manufacturing, irrigation, power, recreation, and other beneficial uses.⁸⁸

Water rights are secured by making an application for a water rights permit to the state engineer. Upon accurately completing the application to acquire an appropriation of the right to the beneficial use of the public water of the state of Wyoming on the prescribed form, it is the engineer's duty to date and record receipt of the application. Appropriation rights are granted for a beneficial use upon a correctly completed application if the proposed use does not impair the value of existing rights or is otherwise not detrimental to the public welfare. When there is no unappropriated water in the supply or the proposed use will conflict with the existing rights or prove detrimental to public interest use in which cases, the state engineer must deny the application for the permit.⁸⁹ Water appropriation is considered a property right, and the Wyoming courts have determined that only natural water can be appropriated. Private water cannot be appropriated, and water rights may not be obtained by prescription.

4. *Wyoming Prohibited Water Waste and Nuisances*

It is unlawful to place or put the carcass of any dead animal or the offal from any slaughterhouse, butcher shop, or processing facility or any spoiled, putrid, or decayed animal, fish, or vegetable matter of any offensive privy waste, refuse, or garbage into or upon any river, creek, bay, pond, canal, ditch, lake, stream, railroad right-of-way, roadway, alley, field, public place, or other location where it causes or threatens to cause pollution or impairment of the purity and usefulness of the waters, whether surface or subterranean, which is used as a source of public or domestic water supply or where it may become an annoyance. Such actions constitute a nuisance that is detrimental to the public health and general welfare.⁹⁰

⁸⁶ WYO. STAT. ANN. § 35-10-401 (LexisNexis 2001).

⁸⁷ WYO. STAT. ANN. §§ 41-3-701 to 779 (LexisNexis 2001).

⁸⁸ WYO. STAT. ANN. §§ 41-3-720 and 740 (LexisNexis 2001).

⁸⁹ WYO. STAT. ANN. § 41-4-503 (LexisNexis 2001).

⁹⁰ WYO. STAT. ANN. § 35-10-101 (LexisNexis 2001).

III. AIR QUALITY

A. Wyoming Air Quality Laws and Regulations

1. Wyoming Air Standards and Requirements

The administrator of the Air Quality Division(AQD) within the WDEQ has the authority after consulting with the AQD's advisory board to recommend ambient air standards or emission control requirements to the director of the WDEQ to be used in the rules and regulations necessary to prevent, abate, or control pollution of Wyoming air. The standards or emissions may be uniform for the state or they may vary as to locale to accomplish the purposes of the WEQA. The factors that the administrator considers in making the recommendations are:

- All facts and circumstances bearing upon the reasonableness of the emissions involved including:
 - Character and degree of injury to, or interference with the health and physical well being of the people, animals, wildlife, and plant life;
 - Social and economic value of the source of pollution;
 - Priority of location in the area involved;
 - Technical practicability and economic reasonableness of eliminating or reducing the pollution; and
 - Social welfare and aesthetic value.

The AQD determines the reasonable, required time for owners and operators of air contaminant sources to comply with standards or requirements and recommends, after consultation with the AQD's advisory board, regulations to prevent construction, modification, or operation of any source at any location where emissions from such source will prevent the attainment or maintenance of a state or national standard.⁹¹

2. Wyoming Regulated Sources and Prohibited Air Discharges

In Wyoming, it is unlawful to cause, threaten, or allow the discharge or emission of any air contaminant that causes pollution and violates any rules, regulations, and standards adopted by the WEQC.⁹² Wyoming has two separate permit programs; the construction / operating

⁹¹ WYO. STAT. ANN. § 35-11-202 (LexisNexis 2001).

⁹² WYO. STAT. ANN. § 35-11-201 (LexisNexis 2001).

permit program for minor sources and the Title V operating permit program for major sources. All potential new or modified sources of air emissions are required to contact AQD regarding permit requirements under the construction and / or modification permit programs. There are no de minimus levels. Additionally, major sources of emissions are subject to the Title V operating permit program which includes any stationary source or any group of stationary sources located within a contiguous area and under common control that has the potential to emit:

- One hundred (100) tons or more per year of any pollutant regulated under the Clean Air Act (CAA)⁹³ and is a major stationary source as defined in section 302 of the CAA;
- Ten (10) tons per year of any single hazardous air pollutant;
- Twenty-five (25) tons per year of any combination of hazardous air pollutants as defined by section 112 of the CAA but emissions from any oil or gas exploration or production well and emissions from any pipeline compressor or pump station must not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, or is subject to the nonattainment area provisions of title I, part D, of the CAA;
- Any source of hazardous air pollutants and any area source which the U.S. EPA environmental protection agency may designate pursuant to section 112 of the CAA;
- Any source subject to the new source performance standards promulgated by the U.S. EPA pursuant to section 111 of the CAA;
- Any "affected source" subject to the acid rain provisions of title IV of the CAA as defined in section 501 of the CAA;
- Any source subject to preconstruction review permits pursuant to the prevention of significant deterioration regulations promulgated by the U.S. EPA pursuant to the CAA; and
- Any other stationary source that the U.S. EPA may designate by regulation pursuant to authority granted under the CAA.⁹⁴

⁹³ 42 U.S.C. § 7401 *et seq.* (2001).

⁹⁴ WYO. STAT. ANN. § 35-11-203 (LexisNexis 2001).

In Wyoming, it is also unlawful for any person to:

- Violate any requirement of a Title V operating permit issued under the operating permit program or
- Operate any source required to have an operating permit without having complied with the provisions of the operating permit program.

Sources that are considered nonmajor sources under Title V of the CAA are exempt from the requirement to obtain an operating permit unless the U.S. EPA imposes a new requirement upon such sources to obtain an operating permit pursuant to title V of the CAA.⁹⁵

3. *Wyoming Air Emission Permit Applications for Major Sources*

The AQD within the WDEQ has authority to promulgate rules for permit applications, including standard application forms to be submitted for the operating permit program. The AQD rules:

- Establish specific criteria for defining a complete permit application including information which identifies a source, the applicable air pollution control requirements, and the intended operating regime and emissions levels;
- Provide for adequate, streamlined, and reasonable procedures for processing applications; and
- Provide for public notice of the application, opportunity for public comment, and public hearings on the application.⁹⁶

Air permit applications must be signed by a responsible official certifying the accuracy of the application.⁹⁷ Although, complex permit approvals or denials may take up to eighteen (18) months after receipt of the application, the failure to apply for an operating permit within twelve (12) months after becoming subject to the requirement to obtain an operating permit is unlawful.⁹⁸ To obtain an operating permit, the owner or operator of an emission source must submit a compliance plan and a completed application for the air permit. A compliance plan describes how the source will comply with all applicable state requirements and the CAA. The compliance plan must include a schedule of compliance and a schedule prescribing the

⁹⁵ WYO. STAT. ANN. § 35-11-203 (LexisNexis 2001).

⁹⁶ WYO. STAT. ANN. § 35-11-204 (LexisNexis 2001).

⁹⁷ WYO. STAT. ANN. § 35-11-204 (LexisNexis 2001).

⁹⁸ WYO. STAT. ANN. § 35-11-205 (LexisNexis 2001).

submission of progress reports to the AQD at a frequency no less than one report every six (6) months.

Except for sources required to have a permit before beginning construction or modification under the CAA, if an applicant has submitted a timely and complete application for a permit or a renewal of a permit required by the operating permit program, but final action has not been taken on the application, the source's failure to have a permit is not considered a violation unless the delay in final action was due to the failure of the applicant to timely submit the information required or requested in order to process the application. A copy of each permit application, compliance plan, and schedule of compliance, emissions, or reports along with each permit and certification issued is available to the public. If an applicant or permittee is required to submit information to the AQD or the WDEQ that is entitled to protection from disclosure under section 114(c) of the CAA or under state provisions, the information may be submitted separately from other required information. The contents of a permit, however, are not entitled to protection from disclosure.⁹⁹

Each permit issued under the operating permit program includes:

- Enforceable emission limitations and standards;
- A schedule of required compliance;
- A requirement for monitored emission reports scheduled at a frequency no less than every six (6) months;
- Any other necessary conditions to assure compliance with applicable state requirements and the CAA;¹⁰⁰ and
- The requirements for inspection, entry, monitoring, compliance certification, and reporting;¹⁰¹ however, the AQD does not require continuous monitoring for emissions of air pollutants if other methods are available and provide sufficient, reliable, and timely information.¹⁰²

The AQD may, after notice and opportunity for public hearing, issue a single general permit covering numerous similar sources. This permit requires the owner or operator to notify

⁹⁹ WYO. STAT. ANN. § 35-11-205 (LexisNexis 2001).

¹⁰⁰ WYO. STAT. ANN. § 35-11-206(a) (LexisNexis 2001).

¹⁰¹ WYO. STAT. ANN. § 35-11-206 (LexisNexis 2001). Also, all reports must be signed by a responsible official certifying its accuracy; *see* 35-11-206(c) (LexisNexis 2001).

¹⁰² WYO. STAT. ANN. § 35-11-206(b) (LexisNexis 2001).

the WDEQ in advance of each change in location. A separate permit fee for operations at each location may be required.¹⁰³ Generally, air emission permits are valid for five (5) year periods and allow for operational flexibility at the permitted facility; however, permits are subject to termination, modification, revocation or reissuance for cause and revision by the AQD to incorporate applicable requirements under the CAA and Wyoming state statutes.¹⁰⁴ The AQD provides a copy of all permit applications, modifications, and renewals to the U.S. EPA for review of compliance under the CAA and to all states that might be affected by the air emissions within fifty (50) miles of the air emission source.¹⁰⁵

If a completed permit application has received no determination within eighteen (18) months or if the permit is denied, the applicant may petition for a hearing before the WEQC to contest the decision. In these situations, the director of WDEQ and the administrator or chief of the AQD act as the respondents. Any person who participated in the public comment process on a permit application and who is aggrieved by any final action taken by the WDEQ on a permit application may seek relief and obtain judicial review by filing a petition within thirty (30) days after such final action.¹⁰⁶

4. Wyoming Small Business Stationary Sources

The WDEQ acts as ombudsman for small business stationary sources. As part of its statutory responsibilities, the WDEQ implements a program for small business stationary sources to encourage the lawful cooperation and compliance with the CAA. The program also provides technical and environmental compliance assistance.¹⁰⁷ The term "small business stationary source" means a stationary source that:

- Is owned or operated by a person that employs one hundred (100) or fewer individuals;
- Is a small business concern as defined in the federal Small Business Act;¹⁰⁸
- Is not a major stationary emissions source; (See WY-27);

¹⁰³ WYO. STAT. ANN. § 35-11-206(e) (LexisNexis 2001).

¹⁰⁴ WYO. STAT. ANN. § 35-11-206(f) (LexisNexis 2001).

¹⁰⁵ WYO. STAT. ANN. § 35-11-207 (LexisNexis 2001).

¹⁰⁶ WYO. STAT. ANN. §§ 35-11-208, -1001 (LexisNexis 2001).

¹⁰⁷ WYO. STAT. ANN. § 35-11-209 (LexisNexis 2001).

¹⁰⁸ 15 U.S.C. § 631*et. seq* (2001); *also see* 42 U.S.C. § 7661f (2001).

- Does not emit fifty (50) tons or more per year of any regulated pollutant; and
- Emits less than seventy-five (75) tons per year of all regulated pollutants.

In Wyoming, state statutes establish a nine member advisory panel for the small business assistance program. The advisory panel renders advisory opinions on issues concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program, difficulties encountered, and degree and severity of enforcement. The advisory panel also reviews air quality information provided to small business stationary sources in order to assure that the information is understandable by the layperson.¹⁰⁹

5. *Wyoming Air Emission Fees*

The WDEQ is responsible for implementing an air emission permit fee system with a schedule of fees adequate to cover all reasonable direct and indirect costs of reviewing and acting upon the air emission permits and costs of developing, implementing, and administering the operating permit program including the small business technical assistance program. The fees are based upon the emissions of each regulated pollutant under the CAA up to a maximum of four thousand (4,000) tons per year. The WDEQ is responsible for providing notice of the required fee to each permitted source. The assessed fee may be appealed within twenty (20) days after written receipt of the assessment notice. However, only appeals based upon the allegation that the particular assessment is erroneous or excessive are accepted. The WDEQ may reduce a fee to take into account any limitations of financial resources of small business stationary sources.¹¹⁰

IV. SOLID WASTE AND HAZARDOUS WASTE

Producer Note: There are several laws which control the use, disposal, and cleanup of hazardous wastes. Agricultural producers who use hazardous chemicals, petroleum, or other products stored in storage tanks should be aware of requirements governing their actions.

A. *Wyoming Solid Waste Laws and Regulations*

1. *Wyoming Solid Waste Management*

In Wyoming, the director of the WDEQ in conjunction with the administrator of the Solid and Hazardous Waste Management Division (SHD) coordinates the activities of all state agencies concerned with solid waste management and disposal. The SHD provides advice,

¹⁰⁹ WYO. STAT. ANN. § 35-11-210 (LexisNexis 2001).

¹¹⁰ WYO. STAT. ANN. § 35-11-211 (LexisNexis 2001).

consultation, and technical assistance to any person or municipality regarding solid waste management technology including its collection, storage, and disposal.¹¹¹

Solid waste permits are necessary to:

- Locate, construct, operate, or close a solid waste management facility; or
- Modify the design, construction, or operation of a solid waste management facility.¹¹²

Solid waste permits are not transferred without WDEQ's prior written approval, financial assurances, and management and technical capabilities.¹¹³ Completed solid waste permit applications are reviewed by the SHD administrator. Applicants are notified in writing within sixty (60) days of submitting the application whether the application is complete or not. Once the application is verified to be complete, the applicant must publish notice in a newspaper of general circulation within the county where the applicant plans to locate the solid waste facility once a week for two (2) consecutive weeks. The notice must state the identity of the applicant and the proposed location, method, and length of operation. Specific notice to affected persons may also be required. Applicants should always check with the SHD regarding any contemporary rules or regulations.¹¹⁴

Interested persons may object to a solid waste permit application, but the objection must be submitted to the SHD within thirty (30) days after the final publication of the required notice. If substantial objections are properly filed, a public hearing is held within twenty (20) days from the final grievance date. The hearing is conducted as though it were a contested case, and any decision arising therefrom may be appealed for judicial review through the court system.¹¹⁵ Generally, a decision regarding a permit application is made within thirty (30) days after the completion of the notice period unless the application receives substantial objections; in which case, the decision is made within thirty (30) days of the final hearing. Otherwise, the permit application is issued or denied within fifteen (15) days from the findings of fact and decision of the WEQC.¹¹⁶ Permit applications for solid waste facilities that would contain solid waste that is considered low volume or low hazard solid waste are handled under an alternative procedure as

¹¹¹ WYO. STAT. ANN. § 35-11-501 (LexisNexis 2001).

¹¹² WYO. STAT. ANN. § 35-11-502(a) (LexisNexis 2001).

¹¹³ WYO. STAT. ANN. § 35-11-502(b) (LexisNexis 2001).

¹¹⁴ WYO. STAT. ANN. §§ 35-11-502(e), (g) (LexisNexis 2001).

¹¹⁵ WYO. STAT. ANN. § 35-11-502(k) (LexisNexis 2001).

¹¹⁶ WYO. STAT. ANN. § 35-11-502(m) (LexisNexis 2001).

determined by the WEQC. Applicants for these wastes are directed to check with SHD for contemporary rules and regulations.¹¹⁷ Both solid waste and hazardous waste permit applications must be signed under oath, and signatories are subject to penalty for any perjured information.¹¹⁸

Solid waste disposal facilities larger than one (1) acre are not allowed to locate within:

- One (1) mile of an incorporated city or town;
- One (1) mile of a public school or an occupied dwelling;
- One-half (½) mile of a state or federal highway unless screened from view; and
- One-half (½) mile of a water well for domestic use or livestock watering.¹¹⁹

Solid waste is not allowed to accumulate even at a permitted facility when it is in excess of a quantity that can be treated, processed, stored, transferred, or disposed within ninety (90) days unless the distance involving a transfer is greater than two hundred (200) miles; in which case, the time is increased to one hundred eighty (180) days.¹²⁰

The WDEQ in conjunction with the SHD has the authority to promulgate rules, regulations, standards, and permitting systems for solid waste management facilities to govern the management of the waste within the boundaries of the facility in order to protect human health and the environment.¹²¹ These rules set forth requirements for the applicant's management and technical capabilities as well as facility location, design, construction, operation, environmental monitoring, corrective actions, closure, and post-closure plus notice of public record and financial assurance.¹²²

¹¹⁷ WYO. STAT. ANN. § 35-11-502(n) (LexisNexis 2001).

¹¹⁸ WYO. STAT. ANN. § 35-11-506 (LexisNexis 2001).

¹¹⁹ WYO. STAT. ANN. § 35-11-502(c) (LexisNexis 2001).

¹²⁰ WYO. STAT. ANN. § 35-11-502(d) (LexisNexis 2001).

¹²¹ WYO. STAT. ANN. § 35-11-503(a) (LexisNexis 2001).

¹²² WYO. STAT. ANN. §§ 35-11-503(a)(i), (ii) (LexisNexis 2001).

2. *Wyoming Hazardous and Radioactive Wastes*

Generators of hazardous waste must:

- Keep adequate records of quantities, composition, and disposition of the hazardous waste generated;
- Adequately label any containers used for hazardous waste storage, transport, or disposal;
- Use appropriate containers for hazardous waste;
- Furnish information as required regarding the general chemical composition and hazardous properties of the hazardous waste to persons transporting, treating, storing, or disposing the waste;
- Use the national hazardous waste shipping manifest system and employ any other reasonable means to assure that the hazardous waste generated ships and arrives at the designated, authorized hazardous waste treatment, storage, or disposal facility;
- Submit reports to the WDEQ at least once every two (2) years setting out:
 - The quantities and nature of hazardous waste generated during the year;
 - The disposition of all such hazardous waste;
 - The efforts undertaken during the year to reduce the volume and hazardous characteristics of hazardous waste generated; and
 - The changes in volume and hazardous characteristics of waste actually achieved during the year reported in comparison with previous years.
- Certify on the shipping manifest that the generator has a program in place to reduce hazardous waste volume or quantity and reduce hazardous characteristics of the waste to the degree economically practicable and certify that the proposed method of treatment, storage, or disposal is a practicable method currently available to the generator that satisfies current regulatory requirements and minimizes the present and future threat to human health and the environment.¹²³

¹²³ WYO. STAT. ANN. § 35-11-516(a)(i) (LexisNexis 2001)).

Transporters of hazardous waste must:

- Keep adequate records of hazardous waste transported, its source, and delivery points;
- Transport hazardous waste only if it is properly labeled and manifested; and
- Transport hazardous waste only to the hazardous waste treatment, storage, or disposal facility which the shipper designates on the manifest form but only if that facility holds a permit issued by the U.S. EPA or the state authorizing the facility as a hazardous waste facility.¹²⁴

The Wyoming legislature authorizes the WEQC to promulgate rules and regulations beyond those in the Wyoming statutes regarding generators and transporters of hazardous waste as well as generators and transporters of fuels produced from hazardous waste as long as the rules and regulations are no more or no less stringent than corresponding U.S. EPA rules under the federal RCRA¹²⁵ for similar materials.¹²⁶

The WDEQ establishes appropriate fees for hazardous waste facility permits and subsequent annual renewal fees during the operation, closure, and post-closure period. The fee amounts are based upon facility type and size and upon the estimated cost to WDEQ to administer and enforce all state and federal laws correspondent to hazardous waste facilities.¹²⁷ The WDEQ keeps an accounting of fees generated from hazardous waste separate from other fees in order to assess the proper permit fees for such facilities. Appeals regarding erroneous or excessive fees must be made to the WEQC within forty-five (45) days of receipt of the fee assessment by the facility owner. Procedures for the appeal follow the contested case procedures of the WAPA.¹²⁸ If not appealed, fees must be paid immediately upon receipt of the written assessment. The WDEQ is authorized to take into account the financial resources of small businesses in developing the fee schedule.¹²⁹

The WDEQ has authority to issue an administrative order to a violator if necessary to pursue compliance of solid and hazardous waste statutes. Any disputes arising from such

¹²⁴ WYO. STAT. ANN. § 35-11-516(a)(ii) (LexisNexis 2001).

¹²⁵ 42 U.S.C. § 6901 *et seq.* (2001) (LexisNexis 2001).

¹²⁶ WYO. STAT. ANN. § 35-11-516(b) (LexisNexis 2001).

¹²⁷ WYO. STAT. ANN. § 35-11-517 (LexisNexis 2001).

¹²⁸ The pertinent sections of the Wyoming Administrative Procedure Act may be found at §§ 16-3-101(a), (b)(xi) (LexisNexis 2001).

¹²⁹ WYO. STAT. ANN. § 35-11-517 (LexisNexis 2001).

administrative orders are resolved by appeal to the WEQC. Persons aggrieved or adversely affected by a final decision of the WEQC is entitled to judicial review in accordance with the WAPA.¹³⁰

In Wyoming, a permit application for a radioactive waste storage facility requires a ten (10) months advance fee payment of one hundred thousand dollars (\$100,000.00) for regulatory and administrative agency support. This fee is nonrefundable.¹³¹ Annual fees for inspection and monitoring are also required and may be established in order to ensure perpetual monitoring and maintenance of the facility and to remediate any waste release.

A permit application for a high-level radioactive waste¹³² storage facility requires a fee payment of five hundred thousand dollars (\$500,000.00) to the state for investigation, review, and processing of the application.¹³³ The WDEQ must prepare a report within eighteen (18) months of the receipt of the application which examines the environmental, social, and economic impacts of such a facility to the state. Impacts include short term impacts and any other serious, reversible or irreversible impacts.¹³⁴ The report may also include preferred or alternative proposals, any conditions such as siting, construction, operation, monitoring, decontamination, or decommissioning, or any other element that is necessary to protect the public health or environment or to mitigate any social or economic impacts. The benefits agreement must address the number of jobs created; state and local taxes generated; benefits of any job training, education, communication systems, monitoring and security systems; mitigation payments to affected communities; cash or in-kind benefits offsetting any adverse effects; and duration of project benefits. The report must have a summary and address any public comments received. Such prepared reports are available to the public for review and comment.¹³⁵ Additionally, the benefits agreement as well as the siting, construction, and operation of any high-level radioactive waste storage facility requires legislative authorization.¹³⁶

When in the opinion of the governor, a person is violating or is about to violate any statutory provisions related to high-level radioactive waste storage facilities, the governor may direct the attorney general to obtain from the appropriate court an order to enjoin the person from

¹³⁰ WYO. STAT. ANN. § 35-11-518 (LexisNexis 2001).

¹³¹ WYO. STAT. ANN. § 35-11-503(b) (LexisNexis 2001).

¹³² The term "high-level radioactive waste" means the same as defined in the "Nuclear Waste Policy Act of 1982" as amended, 42 U.S.C. § 10101 *et seq.* (2001); *see* WYO. STAT. ANN. § 35-11-1501(a)(i) (LexisNexis 2001).

¹³³ WYO. STAT. ANN. § 35-11-1502 (LexisNexis 2001).

¹³⁴ WYO. STAT. ANN. § 35-11-1503 (LexisNexis 2001).

¹³⁵ WYO. STAT. ANN. § 35-11-1504 (LexisNexis 2001).

¹³⁶ WYO. STAT. ANN. §§ 35-11-1505, -1506 (LexisNexis 2001).

engaging or continuing to engage in the activity. The court may grant a permanent or temporary injunction, restraining order, or other order.¹³⁷

3. *Wyoming Commercial Wastes*

In order to conserve natural resources in accordance with the Wyoming's stated policy and purposes of the WEQA, commercial solid waste management facilities must:

- Screen wastes to ensure prohibited wastes are not disposed;
- Process wastes within the state to facilitate SHD inspections;
- Abide by minimum acceptable removal and recovery rates for useful components¹³⁸ of the solid waste; and
- Treat, store, and dispose solid wastes that remain following useful component removals in compliance with the WEQA.¹³⁹

Commercial solid waste facilities must also be approved by the local board of county commissioners following published notice and one or more public hearings. This includes construction, new or otherwise, of the solid waste facility or any acceptance or receipt of solid waste by any existing facility. The board of county commissioners may authorize a proposed facility after consideration that the facility:

- Is necessary and provides the additional capacity necessary to manage waste for industrial, socioeconomic, or municipal needs;
- Reduces the reliance on waste methods that are less suitable for the protection of the environment or public health by industries and municipalities; and
- Employs the best available technology (BAT) to protect public health, safety, and the environment as compared to other alternative methods or locations.¹⁴⁰

¹³⁷ WYO. STAT. ANN. § 35-11-1507 (LexisNexis 2001).

¹³⁸ Useful components include but are not limited to energy, glass, ferrous and nonferrous metals, paper products, and organic matter; *see* WYO. STAT. ANN. § 35-11-508(b)(LexisNexis 2001).

¹³⁹ WYO. STAT. ANN. § 35-11-508 (LexisNexis 2001).

¹⁴⁰ WYO. STAT. ANN. § 35-11-514(a) (LexisNexis 2001).

4. Wyoming Battery Disposal

Used lead acid batteries are prohibited from disposal in mixed municipal solid waste. The only lawful disposal of lead batteries is by delivery to an automotive battery retailer or wholesaler, a state authorized collection or recycling facility, or a secondary lead smelter permitted by the U.S. EPA.¹⁴¹ Each battery improperly disposed constitutes a separate violation, and each violation is a misdemeanor and subject to a fine up to one hundred dollars (\$100.00).¹⁴²

Automotive battery retailers must dispose used lead acid batteries by delivery to an agent of a battery wholesaler, a battery manufacturer that in turn delivers to a secondary lead smelter that is permitted by the U.S. EPA, a state authorized collection or recycling facility, or directly to a secondary lead smelter permitted by the U.S. EPA.¹⁴³

Persons selling lead acid batteries must accept used lead acid batteries in a quantity equal to or greater than the number of batteries sold at retail when the customer offers a used battery following the sale. Failure to accept used batteries following a sale-purchase subjects the seller to a misdemeanor charge and a fine up to seven hundred fifty dollars (\$750.00). Furthermore, persons selling lead acid batteries at retail must post a notice that informs customers that discarding used motor vehicle or lead acid batteries is unlawful, encourages used battery recycling, and states the acceptance of used batteries is required by state law upon the purchase of a new battery.¹⁴⁴ The WDEQ produces the required notice with the required language. Failure to post the WDEQ notice subjects the retail establishment to a one hundred dollar (\$100.00) fine.¹⁴⁵

5. Wyoming Closure and Post-Closure Trust Fund

The Wyoming legislature created a trust fund in which municipalities may voluntarily participate, i.e., contribute, in order to obtain financial assurance that adequate monies are available to conduct closure and post-closure monitoring required by state or federal law at a municipal solid waste facility. The annual fee to participate is calculated at three percent (3%) of the estimated cost of the actual closure and post-closure monitoring. At anytime, a participating municipality may request a refund if no claim has occurred. The refund, however, is limited to ninety percent (90%) of the amount paid into the trust account by the municipality

¹⁴¹ WYO. STAT. ANN. § 35-11-509(b) (LexisNexis 2001).

¹⁴² WYO. STAT. ANN. § 35-11-509(d) (LexisNexis 2001).

¹⁴³ WYO. STAT. ANN. § 35-11-509(b) (LexisNexis 2001).

¹⁴⁴ WYO. STAT. ANN. § 35-11-510 (LexisNexis 2001).

¹⁴⁵ WYO. STAT. ANN. § 35-11-511 (LexisNexis 2001).

less any expenditures paid from the account on behalf of the solid waste facility or already recovered.¹⁴⁶

6. *Wyoming Innocent Owners*

An innocent owner is not liable for investigation, monitoring, remediation, or other response action regarding contamination attributable to a release, discharge, or migration of contaminants on the owner's property.¹⁴⁷ The term "innocent owner" means a person who did not cause or contribute to the source of contamination and who is one (1) of the following:

- An owner of real property that has become contaminated as a result of a release or migration of contaminants from a source not located on or at the owner's real property;
- An owner of real property who can show with respect to the property that the owner has no liability for contamination under section 107(a) of the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)¹⁴⁸ because the owner can show a defense;
- An owner of real property who at the time of becoming the owner of the property did not know or should not have reasonably known about the presence of contamination on the property;
- A lender or fiduciary who owns or holds a security interest in land, unless the lender or fiduciary participated in the management of the site at the time that the owner or operator thereof caused a release or migration of contaminants; or
- A unit of state or local government which acquired ownership or control through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government acquires title by virtue of its function as sovereign unless the state or local government contributed to the contamination.¹⁴⁹

No owner or operator of lands or facilities subject to permitting or corrective action requirements of the hazardous waste rules and regulations may be considered an innocent owner,

¹⁴⁶ WYO. STAT. ANN. § 35-11-515 (LexisNexis 2001).

¹⁴⁷ WYO. STAT. ANN. § 35-11-1802(a) (LexisNexis 2001).

¹⁴⁸ 42 U.S.C. § 9607(a) (2001).

¹⁴⁹ WYO. STAT. ANN. § 35-11-1801(a) (LexisNexis 2001).

nor may any hazardous waste generator who may be subject to corrective action requirements of such rules and regulations be considered an innocent owner.¹⁵⁰

7. *Wyoming Waste Penalties*

The penalty for solid and hazardous waste violations of the WEQA is the same as for water, air, and land pollution violations. The first violation subjects the violator to a fine up to ten thousand dollars (\$10,000.00) for each day of violation plus a temporary or permanent injunction, or both. Willful and knowing violations increase the penalty to a fine up to twenty-five thousand dollars (\$25,000.00) per day of violation, imprisonment up to one (1) year, or both. The penalty for subsequent willful and knowing violations increase to fifty thousand dollars (\$50,000.00) per day of violation, imprisonment up to two (2) years, or both. False statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained by the WEQA are subject to a fine of ten thousand dollars (\$10,000.00), imprisonment up to one (1) year, or both.¹⁵¹

V. PESTICIDES

Producer Note: Use of pesticides and other farm chemicals is regulated by federal and state statutes, and most states have some form of licensing or certification requirements controlling those who use pesticides. In addition, most states including Wyoming have laws that address safety concerns about pesticide use by agricultural employees or around agricultural employees.

A. Wyoming Pesticide Laws and Regulations

1. *Wyoming Environmental Pesticide Control Act*

Wyoming's pesticide¹⁵² statutes are known as the Wyoming Environmental Pesticide Control Act of 1973 (WEPCA).¹⁵³ The WDA is the state agency that administers the WEPCA.¹⁵⁴

¹⁵⁰ WYO. STAT. ANN. § 35-11-1801(b) (LexisNexis 2001).

¹⁵¹ WYO. STAT. ANN. § 35-11-901 (LexisNexis 2001).

¹⁵² The term "pesticide" means: (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests; and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and (3) any substance or mixture of substances intended to be used as a spray adjuvant; see WYO. STAT. ANN. § 35-7-354(d) (LexisNexis 2001).

¹⁵³ WYO. STAT. ANN. §§ 35-7-350 to -372 (LexisNexis 2001).

¹⁵⁴ WYO. STAT. ANN. § 35-7-351 (LexisNexis 2001).

The state recognizes that pesticides and related devices¹⁵⁵ are valuable to the state's agricultural production and to the protection of man and the environment from forms of life which may be pests including some insects, rodents, weeds, and it is essential to the public health and welfare that these pests be regulated closely to prevent adverse effects on human life and the environment. The purpose of WEPCA is to regulate the labeling, distribution, storage, transportation, disposal, use, and application of pesticides to control pests in a manner that serves the public's interest. As new pesticides are continually being discovered or synthesized which are valuable for the control of pests, the dissemination of accurate scientific information and proper usage of pesticides is vital to the public health, public welfare, and the environment both immediate and future. Therefore, it is deemed necessary to require the registration of pesticides and devices.¹⁵⁶

2. Wyoming Pesticide Registration

An integral part of the regulation of pesticides is the Board of Pesticide Certification (BPC). The board consists of the director of the WDA, a member of the Wyoming Weed and Pest Council, and an University of Wyoming weed or pest specialist both appointed by the governor.¹⁵⁷ After providing proper notice and a public hearing, the BPC has authority to issue any pesticide regulations that are necessary to carry out the provisions of the WEPCA.¹⁵⁸ The WDA has authority to regulate pesticide use by the issuance of pesticide licenses. Following a recommendation of the BPC, the advisory board of agriculture has final authority over the determination of whether or not a specific pesticide has unreasonable adverse effects on the environment and must be categorized as a restricted-use pesticide.¹⁵⁹

All pesticides in Wyoming must be annually registered with the WDA prior to December 31 of each year. A manufacturer's intracompany shipments are exempted as unsold pesticides and devices if they are conspicuously marked "For Experimental Use Only" and bear other required markings and labeling such as the manufacturer's name and address or any experimental permit information that lawfully allows the product to be sold.¹⁶⁰

¹⁵⁵ The term "device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man or bacteria, virus, or other microorganism on or living in man or other living animals) but does not include equipment used for the application of pesticides when sold separately; *see* WYO. STAT. ANN. § 35-7-354(c). The term "device" does not include a fly swatter, butterfly net, or any mechanical contrivance used to trap or kill insects or rodents; *see* WYO. STAT. ANN. § 35-7-363(b (LexisNexis 2001)).

¹⁵⁶ WYO. STAT. ANN. § 35-7-352 (LexisNexis 2001).

¹⁵⁷ WYO. STAT. ANN. § 35-7-353 (LexisNexis 2001).

¹⁵⁸ WYO. STAT. ANN. § 35-7-355 (LexisNexis 2001).

¹⁵⁹ The term "restricted use pesticide" means any pesticide product, the label of which states "restricted use" as required for registration by the environmental protection agency under the FIFRA as amended; *see* WYO. STAT. ANN. § 35-7-354(e) (LexisNexis 2001).

¹⁶⁰ WYO. STAT. ANN. § 35-7-357 (LexisNexis 2001).

3. *Wyoming Pesticide Licenses and Certification*

Pesticide licenses are categorized as:

- Commercial applicator licenses; and
- Private applicator licenses.¹⁶¹

The term "commercial applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted-use for any purpose or on any property other than:

- On property owned by the applicator or the applicator's employer or under the applicator's control for purposes of producing any agricultural commodity; or
- On property of another person without compensation, other than the trading of personal services between producers of agricultural commodities, for the purpose of producing any agricultural commodity.¹⁶²

The term "private applicator" means any certified applicator who uses or supervises the use of any restricted-use pesticide which is restricted for use by certified applicators and only for purposes of producing any agricultural commodity:

- On property owned by the applicator or the applicator's employer or under the applicator's control; or
- On property of another person without compensation other than trading of personal services between producers of agricultural commodities.¹⁶³

The term "certified applicator" means any individual the WDA determines is qualified to be designated as certified in relation to their pesticide license after exhibiting their competency with respect to the knowledge, use, and handling of pesticides as indicated by the class of pesticides covered by the individual's certification.¹⁶⁴ The WDA is authorized to conduct

¹⁶¹ WYO. STAT. ANN. § 35-5-359 (LexisNexis 2001).

¹⁶² WYO. STAT. ANN. § 35-7-354(ii) (LexisNexis 2001).

¹⁶³ WYO. STAT. ANN. § 35-7-354(iii) (LexisNexis 2001).

¹⁶⁴ WYO. STAT. ANN. § 35-7-354(i) (LexisNexis 2001).

inspections of any equipment used for application of pesticides and may require repairs or other changes before further use of the equipment for pesticide application.¹⁶⁵

The WEPCA provides that liability for any damage caused by a person through the use of pesticides even if the person used a pesticide in a manner which conforms to the rules and regulations of WEPCA must be born by that person as WEPCA does not relieve any liability for any person.¹⁶⁶

a. Pesticide License Exemptions

Exemptions¹⁶⁷ from WEPCA license requirements include any private applicators applying pesticides with ground equipment or manually for their own benefit or for the benefit of their neighbors if the applicator:

- Operates farm property or operates and maintains pesticide application equipment primarily for use on the farm property; and
- Is not engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and does not publicly hold oneself out as a pesticide applicator.¹⁶⁸

b. Reciprocal Pesticide Licenses

The WDA has authority to issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed, or certified, in another state substantially in accordance with the provisions of the WEPCA, however, the financial security requirement must be observed and secured by nonresident commercial applicators.¹⁶⁹

4. Wyoming Storage and Disposal of Pesticides and Containers

In Wyoming, it is unlawful to discard, transport, or store any pesticide or pesticide containers in a manner that would cause injury to humans, vegetation, crops, livestock, wildlife,

¹⁶⁵ WYO. STAT. ANN. § 35-7-361 (LexisNexis 2001).

¹⁶⁶ WYO. STAT. ANN. § 35-5-359(c) (LexisNexis 2001).

¹⁶⁷ Except the exemption does not apply to the use of restricted-use pesticides or to certification requirements; *see* WYO. STAT. ANN. § 35-7-363 (LexisNexis 2001).

¹⁶⁸ WYO. STAT. ANN. § 35-7-363 (LexisNexis 2001).

¹⁶⁹ WYO. STAT. ANN. § 35-7-362 (LexisNexis 2001).

or beneficial insects or to pollute any waterway in a way harmful to any waterway wildlife. The BPC promulgates rules and regulations governing the discarding and storing of such pesticides or pesticide containers.¹⁷⁰

5. *Wyoming Pesticide Enforcement and Penalties*

The WDA has authority to issue subpoenas to compel the attendance of witnesses or production of books, documents, and records in Wyoming for any hearing affecting the authority or privilege granted by a license, registration, or permit issued under the WEPCA.¹⁷¹ The WDA also has authority to initiate legal actions against violators to enjoin violations or threatened violations of any provision of the WEPCA or related regulation. The WDA initiates a legal action through a court of competent jurisdiction in the county in which the violation occurs or is about to occur. The legal action may be commenced by the attorney general or the district attorney for the county in which the violation has or is about to occur.¹⁷² Damages caused by any administrative action taken may not be recovered if the state court finds that there was probable cause for the administrative action.¹⁷³

Violators of any provision of the WEPCA or related regulation are charged with a misdemeanor and upon conviction are fined up to five hundred dollars (\$500.00), imprisoned up to one (1) year, or both. Upon conviction for a subsequent offense, the penalty increases up to one thousand dollars (\$1,000.00) or one (1) year in prison or both. Any offense committed more than three (3) years after a previous conviction is considered a first offense.¹⁷⁴

The WDA is authorized, upon presentation of proper identification, to enter any distributor's premises including any vehicle of transport at all reasonable times in order to have access to pesticides or pesticide devices.¹⁷⁵ If the WDA is denied access, a search warrant may be obtained in order to gain access.¹⁷⁶ The WDA has authority to enter upon any public or private premises at reasonable times:

- To gain access for the purpose of inspecting any pesticide equipment;
- To inspect lands exposed or reported to be exposed to pesticides;

¹⁷⁰ WYO. STAT. ANN. § 35-7-364 (LexisNexis 2001).

¹⁷¹ WYO. STAT. ANN. § 35-7-365 (LexisNexis 2001).

¹⁷² WYO. STAT. ANN. § 35-7-366(b) (LexisNexis 2001).

¹⁷³ WYO. STAT. ANN. § 35-7-366(c) (LexisNexis 2001).

¹⁷⁴ WYO. STAT. ANN. § 35-7-366(a) (LexisNexis 2001).

¹⁷⁵ WYO. STAT. ANN. § 35-7-367 (LexisNexis 2001).

¹⁷⁶ WYO. STAT. ANN. § 35-7-367 (LexisNexis 2001).

- To inspect pesticide storage or disposal areas;
- To inspect or investigate complaints of injury to humans or land; or
- To sample pesticides being applied or to be applied.¹⁷⁷

VI. PROTECTION OF WILDLIFE

Producer Note: Agricultural producers have responsibilities concerning wildlife and migratory birds which may have habitat on the producer's property. Federal and state laws contain measures designed to protect or enhance wildlife and wildlife habitat.

A. Wyoming Wildlife Protection Laws and Regulations

Producer Note: Many states have laws and regulations that either enhance the protections under federal laws or address issues peculiar to wildlife found within the state. States also may address frequent problems caused by wildlife. Wyoming has laws and regulations protecting wildlife.

1. Wyoming Wildlife Policy

All wildlife in Wyoming is the property of the state. It is the policy of the state to provide an adequate and flexible system for control, propagation, management, protection, and regulation of all Wyoming wildlife. Private ownership of live animals classified as big game or trophy game animals is unlawful.¹⁷⁸

It is the policy of the state to protect natural resources and public lands, preserve wildlife, and provide for the conservation of all lands.¹⁷⁹ The state recognizes that wetlands protection and preservation are important for wildlife habitat.¹⁸⁰ The storage of water to provide water for instream flows to establish or maintain new or existing fisheries is considered a beneficial use of

¹⁷⁷ WYO. STAT. ANN. § 35-7-367 (LexisNexis 2001).

¹⁷⁸ WYO. STAT. ANN. § 23-1-103 (LexisNexis 2001).

¹⁷⁹ WYO. STAT. ANN. § 11-16-103 (LexisNexis 2001).

¹⁸⁰ WYO. STAT. ANN. § 35-11-309 (LexisNexis 2001).

water.¹⁸¹ By statute, public lands must be managed in such a manner as to permit the conservation and protection of watersheds and wildlife habitat as well as historic, scenic, fish and wildlife, recreational, and natural values.¹⁸²

2. *Wyoming Game and Fish Commission*

The Wyoming Game and Fish Commission (GFC) is comprised of eight (8) members including the governor as an ex officio member. Members are appointed by the governor with the advice and counsel from the senate and represent the different geographic districts of the state. All members must have a general knowledge of wildlife plus wildlife propagation, management, and control.¹⁸³ The business of the GFC is conducted by majority vote.¹⁸⁴ Duties of the GFC include but are not limited to:

- Acquire lands and waters on behalf of the state for:
 - Fish hatcheries, rearing ponds, game farms, and bird farms;
 - Management of game animals, protected animals and birds, furbearing animals, game birds, fish, and their restoration, propagation, or protection;
 - Public hunting, fishing, or trapping areas;
- Capture, propagate, transport, buy, sell, or exchange any species of game animal, bird, fish, fish eggs, or furbearing animal needed for propagation or stocking purposes and to exercise control over undesirable species and protected species;
- Make necessary provisions for the feeding of the game animals, birds, and fish;
- Oversee the protection, management, and propagation of public fish and fish culture;
- Promulgate regulations for hunting and fishing licenses and tags;
- Designate protected species;

¹⁸¹ WYO. STAT. ANN. § 41-3-1001 (LexisNexis 2001).

¹⁸² WYO. STAT. ANN. § 36-12-102 (LexisNexis 2001).

¹⁸³ WYO. STAT. ANN. § 23-1-201 (LexisNexis 2001).

¹⁸⁴ WYO. STAT. ANN. § 23-1-301 (LexisNexis 2001).

- Establish hunting seasons and bag limits including zones and areas and conditions in which trophy game animals may be taken;
- Authorize the collection, classification, and dissemination of wildlife statistics, data, and information to promote the policy and purposes of the state;
- Establish check stations and designate the location of check stations;
- Promulgate orders to carry out the intent of wildlife legislation;
- Create new divisions or abolish existing divisions within the GFD as necessary to effectively administer and enforce wildlife legislation;
- Regulate the importation and exhibition of exotic species, small game animals, furbearing animals, protected animals,¹⁸⁵ game birds, migratory birds, protected birds,¹⁸⁶ and fish into Wyoming;
- Promote the maintenance of wildlife habitat and attainment of wildlife management objectives; and
- In conjunction with the Department of Family Services and a court order, withhold, suspend, or otherwise restrict a GFC license.¹⁸⁷

3. Wyoming Game and Fish Department

The GFD is under the direction and supervision of the GFC. The GFD consists of such divisions as the GFC creates.¹⁸⁸ The director of the GFD is appointed and serves at the pleasure of the governor. The director with consent of the GFC appoints division chiefs and the chief game and fish warden.¹⁸⁹ Appointments of game wardens are based on competitive examination and knowledge of wildlife and the duties of game wardens.¹⁹⁰

¹⁸⁵ The term "protected animal" means black-footed ferret, fisher, lynx, otter, pika or wolverine; *see* WYO. STAT. ANN. § 23-1-101(ix) (LexisNexis 2001).

¹⁸⁶ The term "protected bird" means migratory birds as defined and protected under federal law; *see* WYO. STAT. ANN. § 23-1-101(x) (LexisNexis 2001).

¹⁸⁷ WYO. STAT. ANN. § 23-1-302 (LexisNexis 2001). No appeal under the Wyoming Administrative Procedure Act is allowed; *see* WYO. STAT. ANN. § 23-1-302(k) (LexisNexis 2001).

¹⁸⁸ WYO. STAT. ANN. § 23-1-401 (LexisNexis 2001).

¹⁸⁹ WYO. STAT. ANN. § 23-1-404 (LexisNexis 2001).

¹⁹⁰ WYO. STAT. ANN. § 23-1-405 (LexisNexis 2001).

4. Wyoming Game and Fish Funds and Trust Accounts

There exists within the Wyoming state treasury, a Game and Fish Trust account comprised solely of gifts and donations. The GFC may make expenditures from the account for any purpose for which it is authorized to expend funds but is subject to any restrictions or conditions placed on the gift by the donor.¹⁹¹ Revenues collected from licenses and fees are used to purchase access easements for public and private lands.¹⁹² A second Game and Fish Trust account consists of funds appropriated or designated by law or by gift that is inviolate. Only monies earned or generated as interest may be spent for expenditures approved by the GFC in furtherance of wildlife legislation.¹⁹³

5. Wyoming Wildlife Damage to Private Property

To seek restitution from the state, any landowner, lessee or agent whose property is damaged by any big game or trophy game animals or game birds of the state must report the damage to the nearest game warden, damage control warden, supervisor, or GFC member within fifteen (15) days after the damage is discovered by the owner of the property or the owner's representative and file a verified claim¹⁹⁴ for the damages with the GFD not later than sixty (60) days.¹⁹⁵

The GFD considers claims based upon the description of the property damaged or killed, for example:

- Livestock or bees damaged or killed by a trophy game animal;
- Damaged land; and
- Growing cultivated crops, stored crops including honey and hives, seed crops, and improvements and extraordinary damage to grass.

Claims for damages are investigated by the GFD and rejected or allowed within ninety (90) days after the claim is submitted. Claims are paid in the amount determined to be due. In the event the GFD fails to act within ninety (90) days, the claim is deemed to be approved.

¹⁹¹ WYO. STAT. ANN. § 23-1-501(d) (LexisNexis 2001).

¹⁹² WYO. STAT. ANN. § 23-1-501(e) (LexisNexis 2001).

¹⁹³ WYO. STAT. ANN. § 23-1-501(f) (LexisNexis 2001).

¹⁹⁴ The term "verified claim" means the claimant must sign and verify under oath the claim is accurate; *see* WYO. STAT. ANN. § 23-1-901(b) (LexisNexis 2001).

¹⁹⁵ WYO. STAT. ANN. § 23-1-901 (LexisNexis 2001).

However, agricultural producers should note that no claims are awarded to any landowner who has not allowed hunting on the landowner's property during authorized hunting seasons. A claimant may appeal the GFD's decision to the GFC within thirty (30) days after receipt of the GFD decision.¹⁹⁶ The GFC decision may be arbitrated if the claimant remains aggrieved and requests the arbitration within ninety (90) days after receiving notice of the GFC decision. The GFD appoints a disinterested arbitrator within fifteen (15) days after it receives the request for arbitration and the claimant appoints a disinterested arbitrator. Within twenty (20) days after their appointment, the two (2) arbitrators or the county district court appoints a third arbitrator. The three arbitrators form the board of arbitrators. The board of arbitrators provide notice to the claimant and the GFD as to the time and place for a hearing. The board of arbitrators hear, investigate, and decide the claim. A written decision is provided to each party. Either party may petition the board of arbitrators within ten (10) days of the board of arbitrators' decision for modification of their decision or petition the county district court for relief within thirty (30) days of the board of arbitrator's initial decision or within twenty (20) days following the board of arbitrator's decision of the application for modification.¹⁹⁷

Claimants should note that if the board of arbitrator's decision is no greater than the amount originally authorized by the GFC, the claimant is liable for the reasonable service and expense charges of the board of arbitrators.¹⁹⁸

6. *Wyoming Endangered Species*

The state has eleven (11) federally listed threatened and endangered species; however, the state of Wyoming does not have an endangered species act for either plants or animals. Instead, the state sets forth by statute that it abides by the federal Endangered Species Act (ESA).¹⁹⁹

7. *Wyoming Wildlife Laws*

In Wyoming, it is unlawful for any person²⁰⁰ to import into Wyoming any living antelope, bear, deer, elk, moose, mountain goat, mountain lion, bighorn sheep, wolf, or any living

¹⁹⁶ WYO. STAT. ANN. § 23-1-901 (LexisNexis 2001).

¹⁹⁷ WYO. STAT. ANN. §§ 23-1-901(d), (e) (LexisNexis 2001).

¹⁹⁸ WYO. STAT. ANN. § 23-1-901(f) (LexisNexis 2001).

¹⁹⁹ 16 U.S.C. § 1531 *et seq.* (2001).

²⁰⁰ The term "person" means an individual, partnership, corporation, company, any other type of association, and any agent or officer of any partnership, corporation, company, or other type of association; *see* WYO. STAT. ANN. § 23-1-102(viii) (LexisNexis 2001).

wildlife²⁰¹ unless it is by special permit. It is also unlawful to sell any living antelope, bear, deer, elk, moose, mountain goat, mountain lion, bighorn sheep, wolf, or falcon except as permitted by the GFC.²⁰² The Wyoming Wildlife Act (WWA)²⁰³ prohibits any person from purchasing, selling, bartering, or disposing any edible portion of any game animal, game bird, or game fish for pecuniary consideration or advantage unless the WWA specifically permits such activity.²⁰⁴ After having taken²⁰⁵ any game bird, game fish, or game animal, it is unlawful to intentionally or needlessly leave, abandon, or allow any game bird, game fish, or game animal or any edible portion of the same to go to waste.²⁰⁶

The failure of any person to properly process or dress and care for any big game animal killed by that person within forty-eight (48) hours or to take or transport the carcass to the hunting camp of that person within forty-eight (48) hours and there properly care for the carcass, when the animal carcass is reasonably accessible, is unlawful.²⁰⁷ Furthermore, unless there is an express agreement between the processing plant and a person that provides otherwise, any person leaving meat from a big game animal or game bird at a meat processing plant for more than forty-five (45) days when the meat processing plant has provided written notice of the expiration of the time to that person is considered abandonment and a violation of the WWA.²⁰⁸ In such instances, the owner of the meat processing plant is entitled to the proceeds of the sale of any such abandoned meat up to the amount of its reasonable processing or storage charges following a conviction or a reasonable time after the violation is reported to the GFD. If the GFD has been unsuccessful in selling the confiscated meat within thirty (30) days following the reported violation, the GFD has authority to dispose the meat as it deems appropriate.

²⁰¹ The term "wildlife" means all wild mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks, and wild bison designated by the Wyoming Game and Fish Commission and the Wyoming Livestock Board within Wyoming; *see* WYO. STAT. ANN. § 23-2-101(xiii) (LexisNexis 2001).

²⁰² WYO. STAT. ANN. § 23-3-301 (LexisNexis 2001).

²⁰³ WYO. STAT. ANN. §§ 23-1-101 to 23-6-208 (LexisNexis 2001).

²⁰⁴ WYO. STAT. ANN. § 23-3-302 (LexisNexis 2001). The term "big game animal" means antelope, bighorn sheep, deer, elk, moose or mountain goat; the term "small game animal" means cottontail rabbit or snowshoe hare, and fox, grey and red squirrels; the term "trophy game animal" means black bear, grizzly bear or mountain lion; the term "game bird" means grouse, partridge, pheasant, ptarmigan, quail, wild turkey and migratory game birds; the term "migratory game bird" means all migratory game birds defined and protected under federal law; the term "game fish" means bass, catfish, crappie, grayling, ling, northern pike, perch, salmon, sauger, sunfish, trout, walleye or whitefish; *see* WYO. STAT. ANN. §§ 23-1-101(i), (xi), (xii), (iv), (vi) and (v) (LexisNexis 2001).

²⁰⁵ The term "take" means hunt, pursue, catch, capture, shoot, fish, seine, trap, kill, or possess, or attempt to hunt, pursue, catch, capture, shoot, fish, seine, trap, kill, or possess; *see* WYO. STAT. ANN. § 23-1-102(vii) (LexisNexis 2001).

²⁰⁶ WYO. STAT. ANN. § 23-3-303(a) (LexisNexis 2001).

²⁰⁷ WYO. STAT. ANN. § 23-3-303(b) (LexisNexis 2001).

²⁰⁸ WYO. STAT. ANN. § 23-3-303(c) (LexisNexis 2001).

It is unlawful in Wyoming to:

- Take or wound any game animal, game bird, or game fish by use of any pit, pitfall, net, trap, deadfall, poison, or other similar device;
- Take a game animal, game bird, or game fish and use any parts thereof as bait²⁰⁹ to trap or poison any wildlife; a violation of this provision is a third degree misdemeanor;
- Deposit, place, distribute, or scatter any bait or materials in such a manner that would constitute a lure, attraction, or enticement for the purpose of taking a big game animal; or
- Knowingly take a big game animal with the advantage of any bait that has been deposited, placed, distributed, or scattered by another person over or onto the area where the hunter is taking big game animals; a violation of this provision is a fifth degree misdemeanor.²¹⁰

Wyoming has several other protective wildlife hunting laws or laws involving firearms. It is unlawful to:

- Hunt, shoot, or attempt to kill any wildlife from any public road or highway;
- Enter upon the private property of any person to hunt, fish, or trap without the permission of the owner or person in charge of the property; violation of this subsection constitutes a seventh degree misdemeanor;
- Fire any firearm from, upon, along, or across any public road or highway;
- Knowingly fire any rifle from the enclosed lands of one person onto or across the enclosed lands of another without the permission of both persons; and
- Hunt at night upon privately owned or leased lands except with written permission of the landowner or lessee.²¹¹

²⁰⁹ WYO. STAT. ANN. § 23-3-304(e) (LexisNexis 2001).

²¹⁰ This provision does not, however, apply to normal or accepted agricultural management practices or prohibit the taking of big game animals over stored and standing crops, salt, mineral, or other feed scattered solely as a result of normal and accepted agricultural practices nor does it apply to the placement, distribution, depositing or scattering of bait, as approved by the GFC for the taking of big game animals by any legally blind person or person confined to a wheelchair; *see* WYO. STAT. ANN. § 23-3-304 (LexisNexis 2001).

²¹¹ WYO. STAT. ANN. § 23-3-305 (LexisNexis 2001).

Wyoming prohibits the use of certain transportation equipment in conjunction with wildlife hunting activities. It is unlawful to:

- Harass, pursue, hunt, shoot, or kill any Wyoming wildlife²¹² while utilizing any flying machine, automotive vehicle, trailer, motor-propelled wheeled vehicle, or vehicle designed for travel over snow; however, the GFC may exempt handicapped hunters from any provision of this subsection.

- Take any wildlife by utilizing or with the aid of any artificial light or lighting device except that predators may be taken with the aid of an artificial light or lighting device by a:
 - Public officer authorized to control predators; or

 - Landowner, resident manager, or person with the landowner's or a resident manager's written permission when the predator is on land under the landowner's control and the taking of the predator is for the protection of his property.²¹³

A person is considered to have violated wildlife provisions if the person uses an artificial light in an area which may be inhabited by wildlife while being in possession and control of any device that may be used for taking wildlife. However, hunting raccoons on private lands while utilizing a handlight is allowed if the hunter has the written permission of the landowner or the landowner's agent and hunts on foot while accompanied by a raccoon hunting dog.²¹⁴ A violation of this section constitutes a fourth degree misdemeanor.²¹⁵ It is unlawful to take any wildlife in Wyoming while under the influence of a controlled substance as defined in the Wyoming Controlled Substances Act²¹⁶ of 1971.²¹⁷ Violation of this provision is a tenth degree misdemeanor.

²¹² Except predatory animals. The term "predatory animal" means coyote, jackrabbit, porcupine, raccoon, red fox, wolf, skunk, or stray cat; *see* WYO. STAT. ANN. § 23-3-101(viii) (LexisNexis 2001).

²¹³ WYO. STAT. ANN. § 23-3-306 (LexisNexis 2001).

²¹⁴ WYO. STAT. ANN. § 23-3-306(d) (LexisNexis 2001).

²¹⁵ WYO. STAT. ANN. § 23-3-306(e) (LexisNexis 2001).

²¹⁶ WYO. STAT. ANN. §§ 35-7-1001 to 35-7-1057 (LexisNexis 2001).

²¹⁷ WYO. STAT. ANN. § 23-3-307 (LexisNexis 2001).

Wyoming hunters and fishermen have a duty to stop and report at check stations²¹⁸ upon entering or leaving a hunting area with an established check station if the check station is on the hunter's or fisherman's route to and from the hunting or fishing area.²¹⁹ Upon request of any authorized GFD representative, game or fish licensees must produce their licenses and any game animals, game birds, fish, or furbearing animals²²⁰ in their possession for inspection. Violation of this provision is an eleventh degree misdemeanor.

VII. OTHER WYOMING STATUTES AFFECTING AGRICULTURE

Producer Note: Many other state statutes have the potential of impacting agricultural operations and their relationship to the environment. The following is a brief discussion of some of these state laws in Wyoming.

A. Wyoming Right to Farm and Ranch Act

Wyoming has a right to farm law. It is called the Wyoming Right to Farm and Ranch Act (WRFRA).²²¹ The term "farm and ranch" means the land, buildings, livestock, and machinery used in the commercial production and sale of farm and ranch products; the term "farm or ranch operation" means the science and art of production of plants, animals, and products useful to man including horticulture, floriculture, viticulture, silviculture, animal husbandry, and apiculture as well as the marketing of any correspondent products. The WRFRA provides that farm or ranch operations may not be considered a nuisance under the following conditions:

- If the operation conforms to generally accepted agricultural management practices; and
- If the operation existed before a land use change occurred in the adjacent land and the operation would not have been a nuisance before the change occurred.²²²

²¹⁸ Check stations are manned by GFD personnel in uniform including insignia and badge; *see* WYO. STAT. ANN. § 23-3-308 (LexisNexis 2001).

²¹⁹ WYO. STAT. ANN. § 23-3-308 (LexisNexis 2001).

²²⁰ The term "furbearing animal" means badger, beaver, bobcat, marten, mink, muskrat or weasel; *see* WYO. STAT. ANN. § 23-1-101(iii) (LexisNexis 2001).

²²¹ WYO. STAT. ANN. §§ 11-44-101 to 11-44-103 (LexisNexis 2001).

²²² WYO. STAT. ANN. § 11-44-103 (LexisNexis 2001).

Regarding feedlots, the term "established date of operation" means the date on which a feedlot commences operating with not more livestock than reasonably can be maintained by the existing physical facilities as of that date.

If the physical facilities of a feedlot are subsequently expanded, a different established date of operation arises for that particular expansion. The date is deemed to be separate and independent from the initial "established date of operation." The commencement of expanded operations, however, does not divest the feedlot of a previously established date of operation for previous facilities.²²³

In any nuisance action or proceeding against a feedlot brought by or on behalf of a person whose date of ownership of realty is subsequent to the established date of operation of that feedlot, the feedlot's proof of compliance with WDEQ rules in effect on the date of the operation's "established date of operation" is an absolute defense prohibiting the nuisance claim if the conditions or circumstances alleged to constitute a nuisance are subject to regulatory jurisdiction by political subdivisions or related to the activities of the WDEQ.²²⁴ As to local zoning requirements, the term "zoning requirement" means a regulation or ordinance which has been adopted by a city, county, or any special purpose district or authority which materially affects²²⁵ the operation of a feedlot.²²⁶

B. Wyoming Dead Animal Disposal

The state of Wyoming places a duty upon owners or persons who have control of an animal to properly dispose its carcass upon its death. The owner or person in control of the animal must within forty-eight (48) hours of its death or discovery of its death remove the carcass to a distance no less than half a mile from the nearest human habitation or bury and cover it with two (2) feet or more of soil. Persons failing to comply with this statute are subject to a fine up to one hundred dollars (\$100.00). And should such animal be the property or under the

²²³ WYO. STAT. ANN. § 11-39-101(iii) (LexisNexis 2001).

²²⁴ A person who operates a feedlot shall comply with applicable rules of the department in accordance with the provisions of this section. A person complies with this section as a matter of law where no rule of the department exists; (b) A rule of the department in effect on June 1, 1977 applies to a feedlot with an established date of operation prior to June 1, 1977; (c) A rule of the department applies to a feedlot with an established date of operation subsequent to the effective date of the rule; (d) A rule of the department adopted after June 1, 1977 does not apply to a feedlot holding any WDEQ permit and having an established date of operation prior to the effective date of the rule until either the expiration of the term of the permit in effect on the effective date of the rule or twenty (20) years from the established date of operation of the feedlot whichever time period is greater; *see* WYO. STAT. ANN. § 11-39-104(a) (LexisNexis 2001).

²²⁵ The term "materially affects" means prohibits or regulates with respect to the location or the emission of noise, effluent, odors, sewage, waste or similar products resulting from the operation or the location or use of buildings, machinery, vehicles, equipment or other real or personal property used in the operation of a livestock feedlot; *see* WYO. STAT. ANN. § 11-39-101(vii) (LexisNexis 2001).

²²⁶ WYO. STAT. ANN. § 35-10-104 (LexisNexis 2001).

control of some person passing through this state, then any peace officer may (without warrant) detain up to two (2) days, or until a warrant can be obtained, the owner or person in control of such animal if the owner or person in control shows an intention not to comply with this statute by not removing or burying the carcass as required. The brand upon a carcass may be used for proof of ownership.²²⁷

C. Wyoming Noxious Weeds and Pests

The Wyoming Weed and Pest Control Act of 1973 (WWPCA)²²⁸ sets forth that the term “designated noxious weeds” means the weeds, seeds, or other plant parts that appear on the designated list that are considered detrimental, destructive, injurious, or poisonous either by their direct effect or as carriers of diseases or parasites that exist within Wyoming.^{229, 230} The WWPCA does provide, however, several exceptions. Those persons exempted from the WWPCA are:

- Persons who store agricultural, vegetable, flower, or tree seeds for recleaning, but the seeds are not processed and sold or offered for sale for seed purposes within the state; and
- Persons who are resident growers of agricultural, vegetable, flower, or tree seeds and sell the seeds or offer to sell the seeds to seed merchants or grower planters.²³¹

The sale or distribution of any agricultural, vegetable, flower, or tree seeds which contain any of the following prohibited noxious weed seeds or any of the following restricted noxious

²²⁷ WYO. STAT. ANN. § 35-10-104 (LexisNexis 2001).

²²⁸ WYO. STAT. ANN. §§ 11-12-101 to 11-12-123 (LexisNexis 2001).

²²⁹ WYO. STAT. ANN. § 11-5-102(xi) (LexisNexis 2001).

²³⁰ The term “agricultural seeds” means any agronomic crop seeds or seeds from agricultural crops; the term “flower seed” means seeds of herbaceous plants grown for their blooms, ornamental foliage or other ornamental parts and commonly known and sold under the name of flower seeds in this state; the term “prohibited noxious weeds” means the weeds or seeds or plant parts at WYO. STAT. ANN. § 11-12-104 and listed on WY-56-57. (Noxious weed seed listed as prohibited in all other states shall be considered prohibited in Wyoming); the term “restricted noxious weed seeds” means any species of weed seeds for which the board by regulation has established a tolerance; the term “seed” means the propagative part of a plant normally capable of germination to produce a new plant, including ovules, tubers and bulbs; the term “tree seed” means seeds of woody plants commonly known and sold as tree and shrub seeds in this state; the term “vegetable seeds” means the seeds of those crops that are or may be grown in gardens or truck farms and are generally known and sold under the name of vegetable seeds in this state; *see* WYO. STAT. ANN. § 11-12-101 (LexisNexis 2001).

²³¹ WYO. STAT. ANN. § 11-12-102 (LexisNexis 2001).

weed seeds as designated by WDEQ rules and regulations in excess of the legal tolerance²³² is unlawful:

- Canada thistle (*Cirsium arvense*);
- Common burdock (*Arctium minus*);
- Dalmation toadflax (*Linaria dalmatica*);
- Dyers woad (*Isatis tinctoria* L);
- Field bindweed (*Convolvulus arvensis*);
- Hoary cress (*Cardaria draba*);
- Houndstongue (*Cynoglossum officinale* L).
- Leafy spurge (*Euphorbia esula*);
- Musk thistle (*Carduus nutans*);
- Ox-eye daisy (*Chrysanthemum leucanthemum*);
- Perennial pepperweed (*Lepidium latifolium*);
- Perennial sow thistle (*Sonchus arvensis*);
- Plumeless thistle (*Carduus acanthoides*);
- Quackgrass (*Agropyron repens*);
- Russian knapweed (*Centaurea repens*);

²³² In no case shall the tolerance on restricted noxious weed seed exceed forty-five (45) seeds per pound in small seeded crops and five (5) seeds per pound in small grains and seeds of similar size; *see* WYO. STAT. ANN. § 11-12-104(c) (LexisNexis 2001).

- Scotch thistle (*Onopordum acanthium*);
- Skeletonleaf bursage (*Franseria discolor*);
- Yellow toadflax (*Linaria vulgaris*);²³³

Any agricultural, vegetable, flower, or tree seeds which contain any prohibited noxious weed seeds or exceed the tolerance established on restricted noxious weed seeds are removed from sale in Wyoming and impounded by the WDA.²³⁴ Wyoming also prohibits the retail sale of any agricultural, vegetable, flower, or tree seeds which contain two percent (2%) or more of common weed seeds by weight.²³⁵ The distribution and sale of agricultural, vegetable, flower, and tree seeds in Wyoming requires a state license from the WDA and an annual renewal fee.²³⁶ Licenses expire annually on March 31.

Violators of any provision regarding prohibited or restricted weeds is guilty of a misdemeanor and are subject to a fine up to two hundred dollars (\$200.00), imprisoned up to six (6) months, or both for each offense.²³⁷

²³³ WYO. STAT. ANN. § 11-12-104 (LexisNexis 2001).

²³⁴ WYO. STAT. ANN. § 11-12-104(d) (LexisNexis 2001).

²³⁵ WYO. STAT. ANN. § 11-12-107 (LexisNexis 2001).

²³⁶ WYO. STAT. ANN. § 11-12-103 (LexisNexis 2001).

²³⁷ WYO. STAT. ANN. § 11-12-123 (LexisNexis 2001).

Appendix A - Agencies

Producer Note: State and federal agencies are available to answer questions regarding environmental matters and a producer's compliance with environmental laws and regulations. The following is a list of state agencies which should be able to answer questions or provide materials for a producer.

State Agencies:

Agriculture and Natural Resource Mediation Board

2219 Carey Avenue
Cheyenne, WY 82202
(307) 777-6569
(307) 777-6593 fax

Air Quality Advisory Board

Herschler Building, 4th Floor West
122 West 25th Street
Cheyenne, WY 82002

Board of Agriculture

2219 Carey Avenue
Cheyenne, WY 82202
(307) 777-6569
(307) 777-6593 fax

Board of Control

State Engineer's Office (SEO)

Herschler Building, 4th Floor East
Cheyenne, WY 82002
(307) 777-6163

Business Council

Agri-Business Division
214 West 14th Street or 15th?
Cheyenne, WY 82002
(307) 777-2860
(307) 777-2838 fax
<http://www.wyomingbusiness.org/>

Cooperative Extension Service

Univ. of Wyoming, College of Agriculture
P.O. Box 3354
Laramie, WY 82071-3354
(307) 776-4139
(377) 776-6403 fax

Department of Agriculture

2219 Carey Avenue
Cheyenne, WY 82002-0100
(307) 777-7321
(307) 777-6593 fax
<http://wyagric.state.wy.us/index.htm>

Department of Environmental Quality (WDEQ)

Herschler Building, 4th Floor West
122 West 25th Street
Cheyenne, WY 82002
<http://deq.state.wy.us/>

6 Divisions within WDEQ:

1. Air Quality Division
2. Water Quality Division
Cheyenne: (307) 777-7781
Lander: (307) 332-3144
Sheridan: (307) 672-6457
3. Land Quality Division
Cheyenne: (307) 777-7756
Lander: (307) 332-3047
Sheridan: (307) 672-6488

- 4. Solid and Hazardous Waste Division
Cheyenne: (307) 777-7752
Lander: (307) 332-6924
Casper: (307) 473-3750
- 5. Abandoned Mine Lands
Cheyenne: (307) 777-6145
Lander: (307) 332-5085
Casper: (307) 473-3460
Sheridan: (307) 672-6457
- 6. Industrial Siting Division

Department of Health Advisory Council

117 Hathaway Building
Cheyenne, WY 82002
(307) 777 6778
(307) 777-7327 fax

Environmental Quality Council

Herschler Bldg., Rm. 1714, One West
122 West 25th Street
Cheyenne, WY 82002
(307) 777-7170
<http://deq.state.wy.us/eqc.htm>

Game and Fish Department

5400 Bishop Boulevard
Cheyenne, WY 82006
(307) 777-4600
(307) 777-4610 fax
<http://gf.state.wy.us/>

Game and Fish Commission

5400 Bishop Boulevard
Cheyenne, WY 82006
(307) 777-4600
(307) 777-4699 fax

Ground Water Advisory Committees

State Engineer's Office
Herschler Building, 4th Floor East
Cheyenne, WY 82002
(307) 777-6160

Industrial Siting Council

Herschler Building, 3rd Floor East
Cheyenne, WY 82002
(307) 777-7344
(307) 777-5895 fax

Land Quality Advisory Council

Herschler Building, 3rd Floor West
122 West 25th Street
Cheyenne, WY 82002
(307) 777-7756
(307) 777-5864 fax

Nonpoint Source Task Force

Herschler Building, 3rd Floor East
Cheyenne, WY 82002
(307) 777-7072
(307) 777-7682 fax

Water and Waste Advisory Board

Herschler Building
Cheyenne, WY 82002
(307) 777-7072
(307) 777- ? fax

Water Development Commission

Herschler Building, 4th Floor West
122 West 25th Street
Cheyenne, WY 82002
(307) 777-7626
(307) 777-6819 fax