

1
2 CHAPTER 9
3 DIRECTOR REVIEW OF ACTIONS INVOLVING SURFACE COAL MINING
4 OPERATIONS AND ALL HEARINGS BEFORE THE DEPARTMENT

5 Section 1. **Scope.**

6
7 This Chapter shall apply to any hearings, informal conferences, or review before the
8 Department, the Director, an Administrator, or any combination thereof. This Chapter does not
9 apply to rulemaking hearings, contested case hearings, or other hearings before the Council.

10
11 Section 2. **Requests for Informal Conferences Involving Surface Coal Mining**
12 **Operations.**

13
14 (a) Unless otherwise specified in the Wyoming Environmental Quality Act, and in
15 accordance with W.S. 35-11-406, a request for an informal conference shall be in writing and, at
16 a minimum, contain:

17
18 (i) The name(s) and contact information of the person requesting the
19 informal conference;

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21 (ii) A brief statement identifying the purpose of the request;

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23 (iii) A brief statement of the issues to be discussed or details supporting the
24 written objection to the application for the surface coal mining operation;

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26 (iv) A brief statement on whether the person desires the informal conference
27 to be held in the locality of the proposed mining operation; and

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29 (v) A brief statement on whether the person desires access to the proposed
30 permit area.

31
32 (b) The Director shall inform the applicant and the person requesting the informal
33 conference, in writing, whether the request is granted or denied.

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35 (c) If requested, the Director may arrange with the applicant to grant parties to the
36 informal conference access to the permit area for the purpose of gathering information relevant to
37 the informal conference.

38
39 (d) The informal conference shall be held in accordance with W.S. 35-11-406(k) in
40 the locality of the proposed mining operation or in Cheyenne, at the option of the requesting
41 person.

42
43 (e) The procedure for the informal conference shall be informal. The Director may
44 accept oral or written statements and any other relevant information from any party to the
45 informal conference. An electronic or stenographic record shall be made of the informal
46 conference, unless waived by all parties. The record shall be maintained and shall be accessible to
47 the parties until final release of the performance bond.
48

49 (f) If all parties requesting the informal conference withdraw their request before the
50 conference is held, the informal conference may be cancelled.

51
52 **Section 3. Requests for Informal Disposition Conferences and Conferences to**
53 **Review Notices for Abatement and Cessation Orders Involving Surface Coal Mining**
54 **Operations.**

55
56 (a) Unless otherwise specified in the Wyoming Environmental Quality Act, and in
57 accordance with W.S. 35-11-437, a request for the Director or his authorized representative to
58 review and affirm, modify, vacate, or terminate a notice for abatement or cessation order shall be
59 in writing and, at a minimum, contain:

60
61 (i) The name(s) and contact information of the person requesting the
62 affirmation, modification, vacation, or termination of the notice for abatement or cessation order;

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64 (ii) If applicable, the permit number;

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66 (iii) A copy of the notice for abatement or cessation order; and

67
68 (iv) A brief statement identifying whether the person is requesting
69 affirmation, modification, vacation, or termination of the notice or order, the facts on which that
70 request is based, the reasoning for the request, and reference to any applicable statutes, rules, or
71 orders supporting the request.

72
73 (b) Unless otherwise specified in the Wyoming Environmental Quality Act, and in
74 accordance with W.S. 35-11-902, a request for an informal disposition conference shall be in
75 writing and, at a minimum, contain:

76
77 (i) The name(s) and contact information of the person requesting the
78 informal disposition conference;

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80 (ii) If applicable, the permit number;

81
82 (iii) A copy of the notice for abatement or cessation order;

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84 (iv) A copy of the notice of assessment of the penalty;

85
86 (v) A brief statement identifying whether the dispute is over the amount of
87 the penalty or the occurrence of the violation; and

88
89 (vi) A brief statement describing why the violation or the amount of the
90 penalty is unwarranted.

91
92 (c) A request for a conference to review a notice for abatement or cessation order
93 shall be filed within thirty (30) days. A request for an informal disposition conference shall be
94 filed within the time period provided under W.S. 35-11-902(d).

95

96 (d) If the Director grants a request under subsections (a) or (b) of this section, the
97 Director shall inform the requesting person. If the Director denies a request under subsections (a)
98 or (b) of this section, the denial shall be in writing.
99

100 (e) If an informal disposition conference or a conference to review a notice for
101 abatement or cessation order is held, any person has the right to attend and participate in the
102 conference. The procedure for the conference shall be informal with no pre-hearing conference,
103 discovery, or cross-examination. The Director may record the conference by audio recording or
104 court reporter and shall make any such recording available to all participants.
105

106 (f) The Director shall provide the participants:

107 (i) A written statement of any action taken or decisions rendered as a result
108 of the conference; and
109

110 (ii) A notice of any available appeal to the Council.
111
112

113 (g) The terms of subsections (d), (e), and (f) of this section shall also apply to
114 decisions made, or proceedings held, by the Director’s authorized representative.
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116 (h) At formal review proceedings before the Council that may follow an informal
117 disposition conference or conference to review a notice for abatement or cessation order, no
118 evidence as to statements made or evidence produced by one participant at the conference or
119 review shall be introduced as evidence by another participant.
120

121 **Section 4. Requests for Hearings Before the Department.**
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123 (a) Requests for hearings in accordance with Section 1 of this chapter before the
124 Department, the Director, an Administrator, or any combination thereof provided for under the
125 Wyoming Environmental Quality Act shall be in writing and contain:
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127 (i) The name(s) and contact information of the person(s) requesting the
128 hearing;
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130 (ii) A brief statement identifying the purpose of the request; and
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132 (iii) A brief statement of the issues to be discussed.
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134 (b) Within thirty (30) days of the request, the Department shall grant or deny the
135 request. If the Department grants the request, it shall schedule the hearing and notify the
136 requesting party in writing. If the Department denies the request, it shall provide the requesting
137 party a brief statement in writing of the reasons for denial.
138

139 **Section 5. General Procedures for Hearings Before the Department.**
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141 (a) The Department shall designate a presiding officer for the hearing. The presiding
142 officer shall adopt whatever procedures are reasonable and necessary for the conduct of the
143 hearing.
144

145 (b) Unless otherwise stated in statute, such hearings are non-adversarial in nature and
146 require no pleadings. Any interested persons shall be given the opportunity to appear and make
147 their views known to the Department. Oral and written statements may be presented without
148 regard to the rules of evidence.

149
150 (c) No cross-examination is permitted, but persons appearing to make statements or
151 present information may answer questions from or through the presiding officer. Questions for
152 the person appearing to make statements or present information may be submitted to the presiding
153 officer orally or in writing, and the presiding officer may direct appropriate questions to the
154 person presenting. The presiding officer may limit the questioning and length of oral statements
155 in the interest of conducting the hearing in an efficient and orderly manner.

156
157 (d) The Department may record the meeting by audio recording or court reporter and
158 shall make any such recording available to all participants.

159
160 (e) The Department shall designate a location for any hearing before the Department
161 and may provide an opportunity for interested persons to attend a hearing remotely.

162
163 (f) At the conclusion of the hearing, the Department shall issue:

164
165 (i) A written statement of any action taken or decisions rendered as a result
166 of the hearing, if applicable; and

167
168 (ii) A notice of any available appeal to the Director or to the Council.

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170 **Section 6. Hearing Notice.**

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172 (a) Unless otherwise specified in the Wyoming Environmental Quality Act, the
173 Department shall provide written notice by email or regular mail to the person requesting the
174 hearing and shall post a notice of the hearing on its website.

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176 (b) The notice shall include:

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178 (i) The name(s) of the person(s) requesting the hearing, if any;

179
180 (ii) A brief statement identifying the purpose of the hearing;

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182 (iii) A brief statement of the issues to be discussed;

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184 (iv) The date, time, and location of the hearing;

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186 (v) The method for remote attendance, if applicable; and

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188 (vi) A copy of the request for a hearing. The Department shall redact
189 personal contact information such as the requesting person’s address and phone number.

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191 **Section 7. Variance Hearings Before the Department.**

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193 (a) The Department shall hold variance hearings pursuant to W.S. 35-11-601.

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(b) Following the hearing, the relevant Administrator(s) shall consider the views of the persons who may be affected by the grant of the variance and approve or deny the variance with the Director's approval.