

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

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 informal  
 19 conference;  
 20

21 (ii) A brief statement identifying the purpose of the request;  
 22

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;  
 25

26 (iv) A brief statement on whether the person desires the informal conference to  
 27 be held in the locality of the proposed mining operation; and  
 28

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, the person requesting the informal  
 33 conference, and all persons who submitted timely public comments on the underlying  
 34 application, whether the request is granted or denied.  
 35

36 (c) If requested, the Director may arrange with the applicant to grant parties to the  
 37 informal conference access to the permit area for the purpose of gathering information relevant  
 38 to the informal conference.  
 39

40 (d) The informal conference shall be held in accordance with W.S. 35-11-406(k) in  
 41 the locality of the proposed mining operation or in Cheyenne, at the option of the requesting  
 42 person.  
 43

44 (e) The procedure for the informal conference shall be informal. The Director may  
 45 accept oral or written statements and any other relevant information from any party to the  
 46 informal conference. An electronic or stenographic record shall be made of the informal

47 conference, unless waived by all parties. The record shall be maintained and shall be accessible  
48 to the parties until final release of the performance bond.

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

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

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

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

64  
65 (ii) If applicable, the permit number;

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

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

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

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

80  
81 (ii) If applicable, the permit number;

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

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

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

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

92

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

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

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

106  
107 (f) The Director shall provide the participants:

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

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

113  
114 (g) The terms of subsections (d), (e), and (f) of this section shall also apply to  
115 decisions made, or proceedings held, by the Director's authorized representative.

116  
117 (h) At formal review proceedings before the Council that may follow an informal  
118 disposition conference or conference to review a notice for abatement or cessation order, no  
119 evidence as to statements made or evidence produced by one participant at the conference or  
120 review shall be introduced as evidence by another participant.

121  
122 **Section 4. Requests for Hearings Before the Department.**

123  
124 (a) Requests for hearings in accordance with Section 1 of this Chapter before the  
125 Department, the Director, an Administrator, or any combination thereof provided for under the  
126 Wyoming Environmental Quality Act shall be in writing and contain:

127  
128 (i) The name(s) and contact information of the person(s) requesting the  
129 hearing;

130  
131 (ii) A brief statement identifying the purpose of the request; and

132  
133 (iii) A brief statement of the issues to be discussed.

134  
135 (b) Within thirty (30) days of the request, the Department shall grant or deny the  
136 request. If the Department grants the request, it shall schedule the hearing and notify the  
137 requesting party in writing. If the Department denies the request, it shall provide the requesting  
138 party a brief statement in writing of the reasons for denial.

139  
140 **Section 5. General Procedures for Hearings Before the Department.**  
141

142 (a) The Department shall designate a presiding officer for the hearing. The presiding  
143 officer shall adopt whatever procedures are reasonable and necessary for the conduct of the  
144 hearing.

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

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

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

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

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

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

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

170  
171 **Section 6. Hearing Notice.**  
172

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

176  
177 (b) The notice shall include:

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

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

182  
183 (iii) A brief statement of the issues to be discussed;  
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- 185                    (iv) The date, time, and location of the hearing;  
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187                    (v) The method for remote attendance, if applicable; and  
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189                    (vi) A copy of the request for a hearing. The Department shall redact personal  
190 contact information such as the requesting person's address and phone number.

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

- 193  
194                    (a) The Department shall hold variance hearings pursuant to W.S. 35-11-601.  
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196                    (b) Following the hearing, the relevant Administrator(s) shall consider the views of  
197 the persons who may be affected by the grant of the variance and approve or deny the variance  
198 with the Director's approval.