

1 CHAPTER XIV 14
2 FINANCIAL ASSURANCE REQUIREMENTS

3
4 **Section 1. In General.**

5
6 (a) Authority: ~~The authority for the rules and regulations~~ This rule is promulgated in
7 ~~this chapter is the~~ pursuant to the Wyoming Environmental Quality Act, Wyoming Statutes
8 (W.S.) 35-11-101 through 35-11-2004, specifically W.S. 35-11-306, and W.S. 35-11-307.

9
10 (b) Applicability. (i) This chapter governs all ~~new and modified~~ commercial oil
11 field waste disposal facilities that are required to demonstrate financial assurance under W.S. 35-
12 11-306. ~~The following are required to demonstrate financial assurance in compliance with this~~
13 ~~chapter prior to receiving a permit pursuant to W.S. 35-11-301: and all new and existing~~
14 commercial waste treatment, storage and disposal facilities used for the management of more
15 than ten (10) tons of dried wastewater treatment sludges or the equivalent per operating day, that
16 are required to demonstrate financial assurance under W.S. 35-11-307. This chapter does not
17 apply to publicly owned facilities or facilities that receive non-domestic sludges.

18
19 (A) ~~Facilities for which a valid construction permit was not issued~~
20 ~~prior to the effective date of W.S. 35-11-306, February 24, 1989.~~

21
22 (B) ~~Facilities permitted prior to February 24, 1989, that are required to~~
23 ~~obtain a permit to modify in accordance with W.S. 35-11-302(a)(iii) and Chapter III, Wyoming~~
24 ~~Water Quality Rules and Regulations.~~

25
26 (ii) ~~This chapter governs all new and existing commercial waste treatment,~~
27 ~~storage and disposal facilities used for the management of more than ten (10) tons of dried~~
28 ~~wastewater treatment sludges or the equivalent per operating day, which are required to~~
29 ~~demonstrate financial assurance under W.S. 35-11-307. This chapter does not apply to publicly~~
30 ~~owned facilities.~~

31
32 (iii) ~~Pursuant to the provisions of W.S. 35-11-109(a)ii facilities receiving non~~
33 ~~domestic sludges will not be subject to the permitting requirements of Chapter III, Wyoming~~
34 ~~Water Quality Rules and Regulations or the financial assurance requirements of this chapter.~~
35 ~~These facilities will be regulated by the Department of Environmental Quality, Solid Waste~~
36 ~~Management Program and subject to applicable permitting and financial assurance requirements~~
37 ~~of that office. These facilities shall not cause a violation of surface or groundwater standards as~~
38 ~~contained in Chapters I and VIII, Wyoming Water Quality Rules and Regulations.~~

39
40 (c) Objective: The objective of these rules and regulations is to provide financial
41 assurance for the purposes specified in W.S. 35-11-306(d), and W.S. 35-11-307(C)(c).
42

43 (d) Severability: If any section or provision of this chapter, or the application of that
 44 section or provision to any person, situation, or circumstance is adjudged invalid for any reason,
 45 the adjudication does not affect any other section or provision of these regulations or the
 46 application of the adjudicated section or provision to any other person, situation, or
 47 circumstance. The Environmental Quality Council declares that it would have adopted the valid
 48 portions and application of this chapter without the invalid part, and to this end the provisions of
 49 this chapter are declared to be severable.

50
 51 (e) Definitions: ~~For the purpose of these rules and regulations, unless the context~~
 52 ~~otherwise requires~~ The following definitions supplement those contained in W. S. 35-11-103 of
 53 the Wyoming Environmental Quality Act:

54
 55 (i) “Closed facility” means a regulated facility at which operations have been
 56 properly terminated in accord with an approved facility closure plan on file with the Water
 57 Quality Division and complying with all applicable regulations and requirements concerning its
 58 stabilization.

59
 60 (ii) “Closure” means the act of securing and stabilizing a regulated facility
 61 pursuant to the requirements of these regulations.

62
 63 (iii) “Collateral” means the actual or constructive deposit, as appropriate, with
 64 ~~the department~~ Department of one (1) or more of the following kinds of property to support a
 65 self-bond:

66
 67 (A) A perfected, first-lien security interest in real property located
 68 within the State of Wyoming, in favor of the Wyoming Department of Environmental Quality
 69 ~~which that~~ meets the ~~requirements~~ requirements of this chapter.

70
 71 (B) Securities backed by the full faith and credit of the United States
 72 government or state government securities acceptable to the ~~department~~ Department. These
 73 securities must be endorsed to the order of, and placed in the possession of, the ~~department~~
 74 Department.

75
 76 (C) Personal property located within the state, owned by the operator,
 77 ~~which that~~ in market value exceeds \$1 million per property unit.

78
 79 (iv) “Comparative balance sheet” means item amounts from a number of the
 80 operator’s successive yearly balance sheets arranged side by side in a single statement.

81
 82 (v) “Comparative income statement” means an operator’s income statement
 83 amounts for a number of successive yearly periods arranged side by side in a single statement.
 84

85 (vi) “Corrective action” means all actions necessary to eliminate the public
86 health threat or environmental threat from a release to the environment of pollutants from an
87 operating or closed regulated facility and to restore the environmental conditions as required.
88

89 (vii) “Cost-effective” means the selection of alternative responses taking into
90 account total short-term and long-term costs of those responses including the costs of operation
91 and maintenance for the entire activity, the presence of naturally occurring hazardous or toxic
92 substances and current or potential uses of the natural resources impacted, as determined by the
93 ~~department~~ Department.
94

95 (viii) “Current assets” means cash and assets that are reasonably expected to be
96 realized in cash or sold or consumed within one (1) year or within the normal identified
97 operating cycle of the business.
98

99 (ix) “Current liabilities” means debts or other obligations that must be paid or
100 liquidated within one (1) year or within the normal identified operating cycle of the business.
101 This shall also include dividends payable on preferred stock within one (1) quarter if declared, or
102 one (1) year if a pattern of declaring dividends each quarter is apparent from the business’ past
103 practices.
104

105 (x) “Fixed assets” means plants and equipment.
106

107 (xi) “Liabilities” means obligations to transfer assets or provide services to
108 other entities in the future as a result of past transactions.
109

110 (xii) “Monitoring” means all procedures and techniques used to systematically
111 collect, analyze and inspect data on ~~operation at~~ operational parameters of the facility or on the
112 quality of the air, ground water, surface water, and soil.
113

114 (xiii) “Net worth” means total assets minus total liabilities and is equivalent to
115 owners’ equity.
116

117 (xiv) “Operator” means that person responsible for the proper design, operation,
118 and maintenance, closure, and post-closure care of a regulated facility. The “operator” means the
119 permit holder. For commercial oil field waste disposal facilities and commercial wastewater
120 sludge treatment, storage and disposal facilities permitted by the Water Quality Division, the
121 permit holder must also be the owner of the facility in accordance with Wyoming Water Quality
122 Rules and Regulations, Chapter 3, Section 10(b) ; ~~Chapter III, Wyoming Water Quality Rules~~
123 ~~and Regulations~~.
124

125 (xv) “Parent corporation” means a United States corporation ~~which~~ that owns
126 or controls the applicant.
127

128 (xvi) “Regulated facility” includes commercial sludge facilities and commercial
129 oil field waste disposal facilities as specified in Section 1(b) of this chapter.

130
131 (xvii) “Release” includes, but is not limited to, any spilling, leaking, pumping,
132 pouring, emptying, emitting, discharging, dumping, addition, escaping, leaching, or unauthorized
133 disposal of any oil or hazardous substance ~~which~~ that enters, or threatens to enter, ~~waters~~ Waters
134 of the ~~state~~ State.

135
136 (xviii) “Self-bond” means an indemnity agreement in a sum certain executed by
137 the permittee and/or the parent company or federal agency guarantor and made payable to the
138 ~~state~~ State, with or without separate surety.

139
140 (xix) “Tangible net worth” means net worth minus intangibles such as goodwill,
141 patents or royalties.

142 **Section 2. Requirements to Demonstrate Financial Assurance.**

143
144 (a) ~~Financial Assurance Requirement for All New and Modified Commercial Oil~~
145 ~~Field Waste Disposal Facilities:~~ Financial assurance will be required for all new and ~~modified~~
146 existing commercial oil field waste disposal facilities as specified by Section 1(b) of this chapter
147 no later than ninety (90) days after promulgation of this chapter. ~~prior to the issuance of a permit.~~
148 ~~Applications for modification of existing facilities may be approved requiring only the~~
149 ~~modification to meet minimum design stan- dards if the existing facility is not in violation of~~
150 ~~applicable regulations as outlined in Section 7(e), Chapter III, Wyoming Water Quality Rules~~
151 ~~and Regulations.~~

152
153
154 (b) Financial assurance requirement for all new and existing commercial sludge
155 facilities: Financial assurance will be required of all new commercial facilities as specified by
156 Section ~~1~~1(b) of this chapter prior to the issuance of a construction permit. Compliance with these
157 financial assurance rules and regulations will be required of all existing facilities no later than
158 ninety (90) days after promulgation of this chapter.

159 **Section 3. Coverage.**

160
161 (a) General Purpose and Scope: Permits for regulated facilities require closure, post-
162 closure, and corrective action financial assurance plans as prescribed in this chapter for the
163 purpose of assuring that operators of these facilities are financially responsible for protection of
164 public health and the environment. This chapter contains general requirements governing
165 closure, post-closure, care and corrective action for violations of a permit, standard, rule or
166 requirement. These requirements may be supplemented by site-specific closure, post-closure
167 care, and corrective action permit conditions. Together with the factors used to produce cost
168 estimates, these maintenance requirements form the basis of the financial assurance standards
169 included in this chapter.
170

171 (b) Closure and Post-Closure Requirements:

172
173 (i) Notification:

174
175 (A) An operator intending to close a regulated facility shall notify the
176 ~~department~~ Department of the intention to do so at least 180 days prior to the anticipated date for
177 initiation of closure. Simultaneous notice shall be made by the operator to the governing body of
178 each locality and adjacent property owners by certified or registered mail.

179
180 (B) The operator shall post one (1) sign notifying all persons of the
181 closing and prohibition against further receipt of waste materials. Further, suitable barriers shall
182 be installed at former accesses to prevent new waste from being deposited.

183
184 (ii) Closure and Post-Closure Standards:

185
186 (A) Closure and post-closure maintenance shall occur in accord with
187 approved plans. A closure plan and a post-closure plan shall be submitted with the permit
188 application. The operator shall submit a revised closure plan and post-closure plan to the
189 ~~department~~ Department for review and approval as necessary to describe any plan changes.

190
191 (B) The operator shall close the facility in a manner that minimizes the
192 need for post-closure maintenance and controls, minimizes or eliminates, to the extent necessary
193 to protect human health and the environment, the post-closure escape of leachate, surface runoff
194 or waste decom- position products to the ground water, surface water or the atmosphere. The
195 post-closure monitoring period shall continue for a minimum of five (5) years after the date of
196 completing closure of the regulated facility. The minimum ~~postclosure~~ post-closure monitoring
197 period shall be extended if the ~~department~~ Department determines it is needed to protect human
198 health and the environment.

199
200 (iii) Inspection:

201
202 (A) The ~~department~~ Department shall inspect all closed regulated
203 facilities to determine if the closure is complete and adequate in accordance with the approved
204 plan after being notified by the operator that closure has been completed. The ~~department~~
205 Department shall provide written inspection results to the operator of a closed facility after the
206 inspection. If the closure is not satisfactory, the ~~department~~ Department shall specify necessary
207 construction or such other steps as may be appropriate to bring unsatisfactory sites into
208 compliance with closure requirements.

209
210 (B) Notification by the ~~department~~ Department that the closure is
211 satisfactory does not relieve the operator of responsibility for corrective action in accordance
212 with regulations of the ~~department~~ Department to prevent or abate problems caused by the
213 regulated facility ~~which~~ that are subsequently discovered.

214 (c) Corrective Action Requirements.

215

216 (i) Notification:

217

218 (A) The ~~department~~ Department shall notify the operator of the need to
219 take corrective action to remedy a violation of a permit condition, standard, rule or requirement
220 relating to a regulated facility. The notification shall describe the nature of the violation.

221

222 (B) If deemed necessary by the ~~department~~ Department, the operator
223 will be required to close the facility and cease further receipt of waste materials.

224

225 (C) If the facility is closed, the operator shall post one (1) sign
226 notifying all persons of the closing and prohibition against further receipt of waste materials.
227 Further, suitable barriers shall be installed at former accesses to prevent new waste from being
228 deposited.

229

230 (ii) Remediation Activities: In the event of a release, the operator shall:

231

232 (A) Initiate immediate measures to:

233

234 (I) Prevent further release to the environment.

235

236 (II) Prevent further migration of the released substance into
237 surrounding soils and ~~waters~~ Waters of the ~~state~~ State.

238

239 (III) Identify, monitor and mitigate any safety hazards or health
240 risks associated with the violation.

241

242 (B) Prepare a plan to conduct an investigation of the release, the
243 release site and any surrounding area ~~which~~ that may be affected by the release. The plan shall
244 include:

245

246 (I) A comprehensive subsurface investigation to define the
247 extent and degree of contamination.

248

249 (II) A schedule for conducting the investigation.

250

251 (III) A cost estimate for a third party to perform the tasks
252 identified by the plan.

253

254 (C) Submit the investigation plan to the ~~department~~ Department within
255 thirty (30) days. The extent of contamination study should begin as soon as the plan has been
256 approved and all necessary permits obtained.

257 (D) Conduct the extent of contamination study in accordance with the
258 approved plan and submit a written report of the findings to the ~~department~~ Department.
259

260 (E) If required by the ~~department~~ Department, develop a
261 comprehensive plan for mitigation and clean-up. The remediation plan shall be submitted to the
262 ~~department~~ Department for approval. The remediation plan shall be implemented as soon as the
263 ~~department~~ Department has approved the plan and all necessary permits have been obtained. The
264 remediation plan shall contain an estimate of the costs for a third party to perform the tasks
265 identified by the plan.
266

267 (d) Financial Assurance: In order to assure that the costs associated with protecting
268 the public health and safety from the consequences of an abandonment, or a failure to properly
269 execute closure, post-closure care or required corrective action and clean-up of a regulated
270 facility are recovered from the operator of such a facility, the operator shall provide financial
271 assurance in one, or a combination of the forms described in this chapter including a ~~self bond~~
272 self-bond, a surety bond, a federally insured certificate of deposit, government-backed securities,
273 or cash. Such financial assurance shall be in the amount calculated as the cost estimate using the
274 procedures set forth in Sections 3(e)(i), 3(e)(ii) and 3(e)(iii) of this chapter. Evidence of the
275 selected forms of financial assurance shall be filed with the ~~department~~ Department as part of the
276 permit application procedures and prior to the issuance of an operating permit. The ~~department~~
277 Department may reject the proposed forms of assurance of financial responsibility if the
278 evidence submitted does not adequately assure that funds will be available as required by these
279 rules. The operator shall be notified- in writing within sixty (60) days of receipt of the evidence
280 of financial assurance of the decision to accept or reject the proposed forms of financial
281 assurance.
282

283 (e) Cost Estimates:

284 (i) Cost Estimate for Facility Closure:

285 (A) In submitting a closure plan as required by these regulations, the
286 operator of a regulated facility shall include therein an itemized written estimate of the cost of
287 closing the facility. The estimated closing cost shall be determined by the ~~department~~
288 Department on a case-by-case basis, considering information supplied by the operator.
289
290

291 (B) The estimated closing cost shall be based on the work required for
292 a third party contractor to effect proper closure at the most expensive point in the life of the
293 facility. Those factors to be considered in estimating the closure cost shall include:
294
295

296 (I) The size and topography of the site.

297 (II) The daily or weekly volume of waste to be received at the
298 site.
299

- 300 (III) Availability of cover and fill material needed for site
 301 grading.
 302
 303 (IV) The type of waste to be received at the site.
 304
 305 (V) Disposal method and sequential disposal plan.
 306
 307 (VI) The location of the site and the character of the surrounding
 308 area.
 309
 310 (VII) Requirements for surface drainage.
 311
 312 (VIII) Operation and maintenance of the leachate collection and
 313 treatment system, and, the off-site disposal of leachate.
 314
 315 (IX) Environmental quality monitoring system.
 316
 317 (X) Structures and other improvements to be dismantled and
 318 removed. Salvage values cannot be used to offset demolition costs.
 319
 320 (XI) Site storage capacity for solid waste, incinerator residue,
 321 and compost material.
 322
 323 (XII) Off-site disposal requirements.
 324
 325 (XIII) Vector control requirements.
 326
 327 (XIV) A minimum of fifteen percent (15%) variable contingency
 328 fee to cover other closure costs as determined appropriate by the ~~department~~ Department.
 329
 330 (XV) Other site-specific factors.
 331
 332 (C) Revised closure cost estimates will be submitted to the ~~department~~
 333 Department on an annual basis. When the revised estimates are approved by the ~~department~~
 334 Department, the operator shall submit revised financial assurance for the revised closure costs.
 335
 336 (ii) Cost Estimate for Facility Post-Closure:
 337
 338 (A) In submitting a closure plan as required by these regulations, the
 339 operator of a regulated facility shall include therein a written estimate of the cost of post-closure
 340 care, monitoring, and maintenance. Unless onsite disposal of wastes or residues from the
 341 treatment or storage of wastes is planned or required, an incinerator, resource recovery facility,
 342 compost facility or storage surface impoundment will not be required to include a ~~postclosure~~

343 post-closure cost estimate in its closure plan. The estimated post-closure cost shall be determined
 344 by the ~~department~~ Department on a case-by-case basis considering information supplied by the
 345 operator. Such costs shall be based on the work required for a third party contractor.

346

347 (B) Those factors to be considered in estimating post-closure
 348 maintenance costs shall include:

349

350 (I) The size and topography of the site.

351

352 (II) The type and quantity of waste received.

353

354 (III) Disposal method and sequential disposal plan.

355

356 (IV) The potential for significant leachate production and the
 357 possibility of contaminating water supplies.

358

359 (V) Environmental quality monitoring systems.

360

361 (VI) Soil conditions.

362

363 (VII) The location of the site and the character of the surrounding
 364 area.

365

366 (VIII) A minimum of fifteen percent (15%) contingency fee to
 367 cover other post-closure costs as determined appropriate by the ~~department~~ Department.

368

369 (IX) Other site-specific factors.

370

371 (C) Estimated costs of post-closure activities shall be determined on a
 372 case-by- case basis. Revised post-closure cost estimates will be submitted to the ~~department~~
 373 Department on an annual basis. When the revised estimates are approved, the operator shall
 374 submit revised financial assurance for the revised post-closure costs.

375

376 (iii) Cost Estimate for Corrective Action:

377

378 (A) The operator of a commercial oil field disposal system regulated
 379 under W.S. 35-11-306 or a commercial sludge facility regulated under W.S. 35-11-307 in
 380 submitting an application for a construction permit as required by Chapter ~~III~~ 3, Wyoming Water
 381 Quality Rules and Regulations shall include a written estimate of the cost of corrective actions to
 382 remediate a release from the facility. The estimated cost of corrective action and clean-up of a
 383 release shall be determined by the ~~department~~ Department on a case-by-case basis considering
 384 information submitted by the operator. Such costs shall be based on the work required for a third
 385 party contractor.

- 386 (B) The factors to be considered in estimating the cost of corrective
 387 actions and clean-up of a release shall include the following:
 388
- 389 (I) Soils, geologic and hydrogeologic conditions at the site.
 - 390
 - 391 (II) The type and quantity of waste received.
 - 392
 - 393 (III) Disposal method and sequential disposal plan.
 - 394
 - 395 (IV) The potential for significant leachate production and the
 396 possibility of contaminating groundwater.
 - 397
 - 398 (V) Environmental quality monitoring systems.
 - 399
 - 400 (VI) The location of the site and the character of the surrounding
 401 area.
 - 402 (VII) A minimum of fifteen percent (15%) contingency fee to
 403 cover other corrective action and clean-up costs as determined appropriate by the ~~department~~
 404 Department.
 - 405
 - 406 (VIII) The ability of the facility to prevent and detect a release
 407 and to facilitate clean-up activities. The criteria used to evaluate this ability shall include design,
 408 construction, operation, monitoring, and contingency plans submitted as part of the application
 409 package.
 - 410
 - 411 (IX) The class, use, value and environmental vulnerability of
 412 surface and groundwater resources ~~which~~ that may be impacted by a release.
 - 413
 - 414 (X) Other site-specific factors.
 - 415
- 416 (f) Financial Assurance for Facility Closure, Post-Closure, and Corrective Action:
 417
- 418 (i) General:
 - 419
 - 420 (A) For each regulated facility for which a permit is applied, financial
 421 assurance shall be provided for closure and post-closure activities, and for corrective action if
 422 required under Section 3(e)(iii) of this chapter.
 - 423
 - 424 (B) Determination of the financial assurance requirements for
 425 corrective action and clean-up of commercial oil field waste disposal and commercial sludge
 426 facilities will be made by the Water Quality Division when the construction permit application is
 427 evaluated.
 - 428

429 (C) All existing commercial oilfield waste disposal facilities shall
 430 provide financial assurance for closure and post-closure activities, and for corrective action
 431 within ninety (90) days after promulgation of this chapter.

432
 433 (ii) Forms of Financial Assurance: Financial assurance may be provided in
 434 one (1) or a combination of the following forms executed in the amount calculated as the
 435 estimated closure and post-closure costs in accordance with W.S. 35-11-307(a) or W.S. 35-11-
 436 306(d) of the ~~a~~Act. These forms may also be available for financial assurance for corrective
 437 actions at a regulated facility.

438
 439 (A) Self-bond;

440
 441 (B) Surety bond;

442
 443 (C) Federally insured certificates of deposit;

444
 445 (D) Government-backed securities;

446
 447 (E) Cash.

448
 449 (g) Transfer of Permits: Permits may be transferred from one operator to another only
 450 if the new operator can demonstrate compliance with the financial assurance requirements of this
 451 chapter. Construction permit ownership will be transferred in accordance with Wyoming Water
 452 Quality Rules and Regulations, Chapter 3, Section 10, Chapter III Wyoming Water Quality
 453 Rules and Regulations.

454
 455 (h) Financial assurance amounts will be recalculated on a yearly basis.

456
 457 **Section 4. Forms of Financial Assurance.**

458
 459 (a) Self-Bonding:

460
 461 (i) Initial Application to self-bond: Initial application to self-bond shall be
 462 made at the time the operator makes written application to the ~~department~~ Department to
 463 construct, operate or modify a regulated facility. The application shall be on forms furnished by
 464 the ~~department~~ Department and shall contain:

465
 466 (A) Identification of operator by:

467
 468 (I) For corporations, name, address, telephone number, state of
 469 incorporation, principal place of business and name, title and authority of person signing
 470 application, a corporate resolution authorizing the application, and statement of authority to do
 471 business in the State of Wyoming; or

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(II) For all other forms of business enterprises, name, address and telephone number, and statement of how the enterprise is organized, law of the state under which it is formed, place of business, and relationship and authority of the person signing the application.

(B) Amount of bond required, to be determined in accordance with W.S. 35- 11-307 or W.S. 35-11-306(d). If the self-bond amount is proposed to be less than the full bond amount, the amount ~~which is proposed to be~~ under a self-bond is the bond required.

(C) Type of operation and anticipated dates performance is to be commenced and completed.

(D) Brief chronological history of business operations conducted within the last five (5) years ~~which that~~ would illustrate a continuous operation for five (5) years immediately preceding the time of application.

(I) The ~~department~~ Department may allow a joint venture or partnership with less than five (5) years of continuous, operation to qualify under this requirement, if each member of the joint venture or partnership has been in continuous operation for at least five (5) years immediately preceding the time of application.

(II) When calculating the period of continuous operation, the ~~department~~ Department may exclude past periods of interruption to the operation of the business entity that were beyond the applicant's control and that do not affect the applicant's likelihood of remaining in business during the proposed operation of the regulated facility.

(E) Information in sufficient detail to show good faith performance of past operation and closure/~~postclosure~~ post-closure obligations.

(F) A statement, in detail, to show a history of financial solvency. For an initial bond, each operator must provide audited financial statements supporting the following comparative documents, prepared and certified by an independent Certified Public Accountant who, by reason of education, experience or special training, and disinterest, is competent to analyze and interpret the operator's financial solvency. All statements shall be prepared following generally accepted principles of accounting.

(I) A comparative balance sheet ~~which that~~ shows assets, liabilities, and owner equity for five (5) years. The operator may provide common-size documents for confidentiality.

513 (II) A comparative income statement ~~which that~~ shows all
514 revenues and expenses for five (5) years. The operator may provide common-size documents for
515 confidentiality.

516
517 (III) A report for the most recently completed fiscal year
518 containing the accountant's audit opinion or review opinion of the balance sheet and income
519 statement with no adverse opinion.

520
521 (IV) Notwithstanding the language in (F) above, unaudited
522 financial statements may be submitted to support the comparative documents where current
523 fiscal year quarters have ended but a CPA opinion has not yet been obtained because the fiscal
524 year has not yet ended.

525
526 (G) Financial information in sufficient detail to show that the operator
527 meets one (1) of the following criteria (the specific criterion relied upon shall be identified).

528
529 (I) The operator has a rating for all bond issuance actions over
530 the past five (5) years of "A" or higher as issued by either Moody's Investor Service or Standard
531 and Poor's Corporation (the rating service should be identified together with any further
532 breakdown of specific ratings);

533
534 (II) The operator has a tangible net worth of at least \$10 mil-
535 lion, and a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to
536 current liabilities of 1.2 times or greater. The two ratio requirements must be met for the past
537 year, and documented for the four (4) years preceding the past year. Explanations should be
538 included for any year where the ratios fall below the stated limits.

539
540 (III) The operator's fixed assets in the United States total at least
541 \$20 million, and the operator has a ratio of total liabilities to net worth of 2.5 times or less, and a
542 ratio of current assets to current liabilities of 1.2 times or greater. The two ratio requirements
543 must be met for the past year and documented for the four (4) years preceding the past year.
544 Explanations should be included for any year where the ratios fall below the stated limits.

545
546 (IV) If the operator chooses (II) or (III), the two ratios shall be
547 calculated with the proposed self-bond amount added to the current or total liabilities for the
548 current year. The operator may deduct the costs currently accrued for reclamation ~~which that~~
549 appear on the balance sheet.

550
551 (H) A statement listing any notices issued by the Securities and
552 Exchange Commission or proceedings initiated by any party alleging a failure to comply with
553 any disclosure or reporting requirements under the securities laws of the United States. Such
554 statement shall include a summary of each such allegation, including the date, the requirement

555 alleged to be violated, the party making the allegation, and the disposition or current status
556 thereof.

557

558 (I) A statement ~~which~~ that:

559

560 (I) Identifies by name, address and telephone number, a
561 registered office, which may be but need not be, the same as the operator's place of business,

562

563 (II) Identifies by name, address and telephone number, a an
564 ~~registered agent; which agent must be either an individual resident in this state, whose business~~
565 ~~office is identical with such registered office, or a domestic corporation, or a foreign corporation~~
566 ~~authorized to transact business in the state, having a business office identical with such registered~~
567 ~~office. registered with the Wyoming Secretary of State's Office to transact business in the State.~~
568 The agent's business office shall be identical to the registered office. The agent may be an
569 individual resident in this state, a domestic corporation, or a foreign corporation. The registered
570 agent so appointed by the operator shall be an agent to such operator upon whom any process,
571 notice or demand required or permitted by law to be served upon the operator may be served.

572

573 (III) Acknowledges that if the operator fails to appoint or maintain
574 a registered agent in this state, or whenever any such registered agent cannot be reasonably found
575 at the registered office, then the Wyoming Secretary of State shall be an agent for such operator
576 upon whom any process, notice or demand may be served. In the event of any such process, the
577 Wyoming Secretary of State shall immediately cause one (1) copy of such process, notice or
578 demand to be forwarded, by registered or certified mail, to the operator at his principle place of
579 business. The Wyoming Secretary of State shall keep a record of all processes, notices, or
580 demands served upon him under this ~~para-graph~~ paragraph, and shall record therein the time of
581 such service and his action with reference thereto.

582

583 (IV) Acknowledges that should the operator change the
584 registered office or registered agent, or both, a statement indicating such change shall be filed
585 immediately with the Solid Waste Management Program or the Water Quality Division.

586

587 (V) Acknowledges that nothing herein contained shall limit or
588 affect the right to serve any process, notice or demand required or permitted by law to be served
589 upon an operator in any other manner now or hereafter permitted by law.

590

591 (J) The ~~department~~ Department may accept a written guarantee for an
592 operator's self-bond from a parent corporation guarantor or from a federal agency, if the
593 guarantor or federal agency satisfies the financial criteria of this chapter as if it were the
594 operator. The operator must only supply information addressing requirements not met by the
595 parent corporation guarantor. The terms of the parent corporate or federal agency guarantee shall
596 provide for the following:

597

598 (I) If the operator fails to complete the closure/post-closure
 599 plan the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to
 600 provide funds to the ~~state~~ State sufficient to complete the reclamation plan, but not to exceed the
 601 bond amount.

602
 603 (II) The parent corporate or federal agency guarantee shall
 604 remain in force unless the guarantor sends notice of cancellation by registered or certified mail to
 605 the operator and to the ~~department~~ Department at least ninety (90) days in advance of the
 606 cancellation date, and the ~~department~~ Department accepts the cancellation. The cancellation shall
 607 be accepted by the ~~department~~ Department if the operator obtains a suitable replacement bond
 608 before the cancellation date, if the lands for which the self-bond, or portion thereof, was accepted
 609 have not been disturbed, or if the lands have been released under W.S. 35-11-306.

610
 611 (K) For the ~~department~~ Department to accept a regulated facility
 612 operator's self-bond, the total amount of the outstanding and proposed self-bond of the operator
 613 shall not exceed 25 twenty-five percent (25%) of the operator's tangible net worth in the United
 614 States. For the ~~department~~ Department to accept a corporate guarantee, the total amount of the
 615 parent corporation guarantor's present and proposed self-bonds and guaranteed self-bonds shall
 616 not exceed 25 twenty-five percent (25%) of the guarantor's tangible net worth in the United
 617 States.

618
 619 (ii) Approval or denial of operator's, self-bond application:

620
 621 (A) The ~~department~~ Department, within sixty (60) days of the
 622 operator's submission of all materials necessary to base a decision on the application shall:

623
 624 (I) Approve or reject such application and declare in writing
 625 its reasons for such action to the operator or his registered agent. The decision shall be based on
 626 the information submitted and shall be sufficient to meet the demonstrations required by W.S.
 627 35-11-306(d).

628
 629 (II) If a rejection is based on inadequate information or failure
 630 of the operator to supply all necessary material, the ~~department~~ Department shall allow the
 631 operator thirty (30) days to remedy the deficiencies. Such corrections shall be made to the
 632 satisfaction of the ~~department~~ Department. The ~~department~~ Department shall have an additional
 633 sixty (60) days to approve or reject the corrected application.

634
 635 (B) If the ~~department~~ Department accepts an uncollateralized self-
 636 bond, an indemnity agreement shall be submitted subject to the following requirements:

637
 638 (I) The indemnity agreement shall be executed by all persons
 639 and parties who are to be bound by it, including the parent corporation or federal agency
 640 guarantor, and shall bind each jointly and severally.

641
 642 (II) Corporations applying for a ~~self-bond~~ self-bond or parent
 643 corporation guaranteeing a subsidiary's ~~self-bond~~ self-bond shall, submit an indemnity agreement
 644 signed by two (2) corporate officers who are authorized to bind the corporation. A copy of such
 645 authorization shall be provided to the ~~department~~ Department. A federal agency guaranteeing an
 646 operator's self-bond shall submit an indemnity agreement signed by two (2) officers of the
 647 agency who are authorized to bind the agency and a copy of their authorization. The agency shall
 648 also submit documents supporting the availability of a cause of action against the federal agency
 649 for performance under the indemnity agreement.

650
 651 (III) If the applicant is a partnership or joint venture, the
 652 agreement shall bind each partner or party who has a beneficial interest directly or indirectly, to
 653 the operator.

654
 655 (IV) The indemnity agreement shall provide that the persons or
 656 parties bound shall pay all litigation costs including reasonable attorney fees incurred by the ~~state~~
 657 State in any successful, effort, to enforce the agreement against the operator.

658
 659 (C) If the application is rejected based on the information required in
 660 Section 4(a)(i), or based on the limitation set in Section 4(a)(i)(K) then the operator may offer
 661 collateral and an indemnity agreement to support the self-bond application. The indemnity
 662 agreement shall be subject to the requirements of (B) above.

663
 664 (I) For any collateral offered to support a self-bond, the
 665 following information shall be provided.

666
 667 (1.) The value of the property. The property shall be
 668 valued at the difference between ~~75~~ seventy-five percent (75%) of the fair market value and any
 669 reasonable expense anticipated by the ~~department~~ Department in selling the property. The fair
 670 market value shall be determined by an appraiser or appraisers appointed by the ~~department~~
 671 Department and mutually acceptable to both the ~~department~~ Department and the operator. The
 672 appraisal shall be expeditiously made, and copies thereof furnished to the ~~department~~
 673 Department and the operator. The expense of the appraisal shall be borne by the operator.

674
 675 (2.) A description of the property satisfactory for
 676 deposit to further assure that the operator shall faithfully perform all requirements of the ~~a~~Act.
 677 The ~~department~~ Department shall have full discretion in accepting any such offer.

678
 679 a. Real property shall not include any lands in
 680 the process of being used for the transfer, treatment, processing, storage or disposal of solid
 681 wastes, reclaimed or subject to this application. The operator may offer any lands the bonds for
 682 which have been released or lands within a permit area ~~which~~ that will not be affected. In

683 addition, any land used as a security shall not be used for disposal, treatment, processing or
684 storage while it is a security.

685
686 b. Securities shall only include those ~~which~~
687 that are United States government securities or those state government securities acceptable to
688 the ~~department~~ Department. Securities shall meet the requirements specified in the definition of
689 “Securities” found in Section 1(e)(iii)(B).

690
691 c. Personal property shall be in possession of
692 the operator, shall be unencumbered, and shall not include:

693
694 i. Property ~~which~~ that is already being
695 used as collateral, or

696
697 ii. Goods ~~which~~ that the operator sells
698 in the ordinary course of his business, or

699
700 iii. Fixtures, or

701
702 iv. Certificates of deposit ~~which~~ that are
703 not federally insured or where the depository is unacceptable to the ~~department~~ Department.

704
705 (3.) Evidence of ownership submitted in one of the
706 following forms:

707
708 a. If the property offered for deposit is real
709 property, the operator’s interest must be evidenced by:

710
711 i. In the case of a federal or state lease,
712 a status report prepared by an attorney, satisfactory to the ~~department~~ Department as
713 disinterested and competent to so evaluate the asset, and an affidavit from the owner in fee
714 establishing that the leasehold could be transferred upon default.

715
716 ii. In the case of a fee simple interest, a
717 title certificate or similar evidence of title and encumbrances prepared by an abstract office
718 authorized to transact business within the ~~state~~ State and satisfactory to the ~~department~~
719 Department.

720
721 b. If the property offered for deposit is a
722 security, the operator’s interest must be evidenced by possession of the original or a notarized
723 copy of the certificate or a certified statement of account from a brokerage house.

724

725 c. If the property offered for deposit is
726 personal property as defined in Section 1(e)(iii) (C), evidence of ownership shall be submitted in
727 the form satisfactory to the ~~department~~ Department to establish unquestionable title to the
728 property to the operator.

729
730 (II) In addition to submitting the above information, if the
731 operator offers personal property as collateral to support a self-bond, ~~he~~ the operator must meet
732 the financial criteria contained in (1.) or (2.) of the following:

733
734 (1.) The operator must have a tangible net worth of at
735 least \$10 million, a ratio of total liabilities to new worth of, 3.0 times or less, and a ratio of
736 current assets to current liabilities of 1.0 times or greater. The two ratios shall be calculated with
737 the proposed self-bond amount added to the current or total liabilities for the current year. The
738 operator may deduct the costs currently accrued for reclamation ~~which~~ that appear on the balance
739 sheet.

740
741 (2.) The operator must have fixed assets in the United
742 States that total at least \$20 million, a ratio of total liabilities to net worth of 3.0 times or less,
743 and a ratio of current assets to current liabilities of 1.0 times or greater. The two ratios shall be
744 calculated with the proposed self-bond amount added to the current or total liabilities for the
745 current year. The operator may deduct the costs currently accrued for closure/post-closure ~~which~~
746 that appear on the balance sheet.

747
748 (III) If the ~~department~~ Department accepts personal property as
749 collateral to support a self-bond, the ~~department~~ Department shall require:

750
751 (1.) Quarterly maintenance reports prepared by the
752 operator, and

753
754 (2.) A perfected, first-lien security interest in the
755 property used, in favor of the Wyoming Department of Environmental Quality. This security
756 interest shall be perfected by filing a financial statement or taking possession of the collateral in
757 accordance with (IV)(1.) below.

758
759 (3.) In addition, the ~~department~~ Department may also
760 require quarterly inspections of the personal property by a qualified representative of the
761 ~~department~~ Department.

762
763 (IV) If the ~~department~~ Department accepts any property as
764 collateral to support a self-bond, the ~~department~~ Department shall, as applicable, require
765 possession by the ~~department~~ Department of the personal property, or a mortgage or security
766 agreement executed by the operator in favor of the Department of Environmental Quality. The
767 requirement shall be that which is sufficient to vest such interest in the property in the

768 ~~department~~ Department to secure the right and power to sell or otherwise dispose of the property
 769 by public or private proceedings so as to insure reclamation of the affected lands in accordance
 770 with the ~~a~~Act. Personal property collateral to support a self-bond shall be secured under the
 771 provisions of the Uniform Commercial Code as required by (2.) below.

772

773 (1.) Any mortgage shall be executed and duly recorded
 774 as required by law so as to be superior to all other liens, mortgages or encumbrances pertaining
 775 to the real property in question.

776

777 (2.) Any security interest created by a security
 778 agreement shall be perfected by filing a financing statement or taking possession of the collateral
 779 in accordance with ~~W.S. 34-21950 through W.S. 34-21-955 (1977)~~ 34.1-9-310 through 34.1-9-
 780 314, W.S. 34.1-9-501 through 34.1-9-504, and W.S. 34.1-9-515 through 34.1-9-516. ~~The~~
 781 ~~department shall have all rights and duties set forth in W.S. 34-21-926 (1977) when the collateral~~
 782 ~~is in its possession as a secured party, as defined in W.S. 34-21905(a)(ix). Any money received~~
 783 ~~from the collateral during this period of time shall be remitted to the operator. When the~~
 784 ~~collateral is left in the possession of the operator, the security agreement shall require that, upon~~
 785 ~~default, the operator shall assemble the collateral and make it available to the department at a~~
 786 ~~place to be designated by the department which is reasonably convenient to both parties.~~

787

788 (V) The operator may, with written consent from the
 789 ~~department~~ Department, substitute for any of the property held hereunder other property upon
 790 submittal of all information required under this subsection and compliance with all requirements
 791 of this subsection so as to secure all obligations under all periods of time as they relate to
 792 disposal operations.

793

794 (VI) For collateral posted to support a self-bond, all persons
 795 with an interest in the collateral shall be notified by the operator of the posting, and of all other
 796 actions affecting the collateral.

797

798 (iii) Renewal bonds:

799

800 (A) Information for the renewal bond under the self-bonding program,
 801 which shall accompany the annual report, shall include:

802

803 (I) Amount of bond required, which shall be determined in
 804 accordance with W.S. 35-11-307 or W.S. 35-11-306. If the self-bond amount is proposed to be
 805 less than the full bond amount, the amount ~~which~~ that is proposed to be under a self-bond is the
 806 bond required.

807

808 (II) Financial information in sufficient detail to show that the
 809 guarantor still meets one (1) of the criteria in Section 4(a)(i)(G), and the limitation in Section
 810 4(a)(i)(K). The ~~departments~~ Department requires financial statements for the most recently

811 completed fiscal year together with an independent certified public accountant's audit opinion or
 812 review opinion of the financial statements with no adverse opinion. Additional unaudited
 813 information may be required by the ~~department~~ Department.

814
 815 (III) If the ~~department~~ Department has accepted a mortgage, any
 816 evidence of change in value, title and possession of the property shall be submitted.

817
 818 (IV) If the ~~department~~ Department deems it necessary to revalue
 819 any asset, it may appoint the appraiser or appraisers mutually acceptable to the department and
 820 the operator. Any such reappraisal shall be expeditiously made, and copies thereof furnished to
 821 the ~~department~~ Department and the operator. The expense of the appraisal shall be borne by the
 822 operator. The findings of the appraisal shall be final and binding unless both parties agree to a
 823 reappraisal.

824
 825 (V) For regulated facility operators using personal property as
 826 collateral to support a ~~self-bond~~ self-bond, the operator's current financial information showing
 827 continuing compliance with Section 4(a)(ii)(C)(II) of this chapter.

828
 829 (B) If the ~~department~~ Department has authorized a parent corporate
 830 guarantee, the parent corporation shall supply all information required under subsection
 831 (iii)(A)(II) of this section.

832
 833 (C) Any valid initial self-bond shall carry the right of successive
 834 renewal as long as the above listed information is submitted, which demonstrates that the
 835 guarantor remains qualified under W.S. 35-11-307 or W.S. 35-11-306.

836
 837 (iv) Substitution of the operator's self-bond:

838
 839 (A) The ~~department~~ Department may require the operator to substitute
 840 a good and sufficient corporate surety licensed to do business in the ~~state~~ State if the ~~department~~
 841 Department determines in writing that the self-bond of the operator fails to provide this
 842 protection consistent with the objectives and purposes of W.S. 35-11-307 or W.S. 35-11-306.
 843 The ~~department~~ Department shall require this substitution if the financial information submitted
 844 or requested under Section (4)(a)(ii)(A)(II) indicates that the operator no longer qualifies under
 845 the self-bonding program. Substitution of an alternate bond shall be made within thirty (30) days.
 846 The operator may also request substitution. This request is contingent upon the operator meeting
 847 all the requirements of the bond provisions, W.S. 35-11-307 or W.S. 35-11-306 of the ~~act~~ Act. If
 848 these requirements are met, the ~~department~~ Department shall accept substitution.

849
 850 (B) If the operator fails within sixty (60) days to make a substitution
 851 for the revoked self-bond with a corporate surety, cash, governmental securities, or federally
 852 insured certificates of deposit, or irrevocable letters of credit, the ~~department~~ Department shall
 853 suspend or revoke the permit until such substitution is made.

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(C) All methods of substitution shall be made in accordance with the bonding provisions W.S. 35-11-504 or W.S. 35-11-306 of the act. The ~~department~~ Department shall either:

(I) Require substitution of a good and sufficient corporate surety licensed to do business in the ~~state~~ State that will stand as surety so as to cover all periods of time as they relate to disposal operations, or

(II) Retain from the operator sufficient assets within the ~~department~~ Department so as to cover ~~that the~~ period of time of the disposal operation ~~which that~~ is not covered by the substituted surety. Those assets not retained shall be returned to the operator within sixty (60) days free from the ~~department's~~ Department's encumbrances, liens, mortgages or security interests.

(v) Requirements for forfeiture and release:

(A) All requirements as to bond forfeiture proceedings and the release of bonds shall be consistent with W.S. 35-11-307 or W.S. 35-11-306 of the ~~act~~ Act, excepting the requirements as to notification to the surety. When the ~~department~~ Department has required a mortgage, and the bond has been forfeited, foreclosure procedures shall be in accordance with W.S. 34-4-101 through 34-4-113 ~~(1977)~~.

(B) For self-bonds supported by collateral, upon bond release property return shall be of that form sufficient for the ~~department~~ Department to release that portion of the interest or mortgage commensurate with the amount of the bond released less any disposed of in accordance with the mort- gage or indemnity agreement.

(b) Surety Bonds:

(i) A corporate surety shall not be considered good and sufficient for purposes of W.S. 35-11-307 or W.S. 35-11-306 unless:

(A) It is licensed to do business in the ~~state~~ State;

(B) The estimated bond amount does not exceed the limit of risk as provided for in W.S. 26-5-110, nor raise the total of all bonds held by the applicant under that surety above three (3) times the limit of risk;

(C) The surety agrees:

(I) Not to cancel bond, except as provided for in W.S. 35-11-

896 307 or W.S. 35-11-306 or where the ~~department~~ Department gives prior written approval of a
 897 good and sufficient replacement surety with transfer of the liability that has accrued against the
 898 operator on the permit area;

899

900 (II) To be jointly and severally liable with the permittee;

901

902 (III) To provide immediate written notice to the ~~department~~
 903 Department and operator once it becomes unable or may become unable due to any action filed
 904 against it to fulfill its obligations under the bond.

905

906 (ii) The provisions applicable to cancellation of the surety's license in W.S.
 907 35-11- 307 or W.S. 35-11-306 shall also apply if for any other reason the surety becomes unable
 908 to fulfill its obligations under the bond. Upon such occurrence the operator shall provide the
 909 required notice. Failure to comply with this provision shall result in suspension of the permit.

910

911 (c) Federally Insured Certificate of Deposit: The ~~department~~ Department shall not
 912 accept an individual certificate of deposit in an amount in excess of \$100,000 or the maximum
 913 insurable amount as ~~deter-mined~~ determined by the FDIC or the Federal Savings and Loan
 914 Insurance Corporation. Such certificates of deposit shall be made payable to the ~~department~~
 915 Department both in writing and upon the records of the bank issuing these certificates. The
 916 ~~department~~ Department shall require the banks issuing these certificates to waive all rights of
 917 setoff or liens against the certificates. The bond amount may be calculated to include any amount
 918 ~~which~~ that would be deducted as a penalty for payment before maturity.

919

920 (i) Release of the Owner or Operator from the Requirements of this Chapter:
 921 Within sixty (60) days after receiving certification from the owner or operator that closure has
 922 been accomplished in accordance with the closure plan and the provisions of these regulations,
 923 the ~~director~~ Director shall verify that proper closure has occurred. Unless the ~~director~~ Director
 924 has reason to believe that closure has not been in accordance with the closure plan, he shall
 925 notify the owner or operator in writing that he is no longer required to maintain financial
 926 assurance for closure of the particular facility. Such notice shall release the owner or operator
 927 only from the requirements for financial assurance for closure of the facility; it does not release
 928 him from legal responsibility for meeting the closure or post-closure standards. If no written
 929 notice or termination of financial assurance requirements or failure to properly perform closure is
 930 received by the owner or operator within sixty (60) days after certifying proper closure, the
 931 owner or operator may petition the ~~director~~ Director for an immediate decision, in which case the
 932 ~~director~~ Director shall respond within ten (10) days after receipt of such petition.

933

934 (A) Incapacity of Institution Issuing Financial Assurance: An owner or
 935 operator who fulfills the requirements of Section 3(c)(i) of this chapter by obtaining a surety
 936 bond or a certificate of deposit will be deemed to be without the required financial assurance in
 937 the event of bankruptcy, insolvency or a suspension or revocation of the license or charter of the

938 issuing institution. The owner or operator must establish other financial assurance within sixty
939 (60) days of such event.

940
941 (d) Government-Backed Securities: In lieu of a bond, the operator or its principal
942 may deposit government securities registered solely in the ~~department's~~ Department's name and
943 backed by the full faith and credit of the United States.

944
945 (e) Cash: In lieu of a bond, the operator or its principal may deposit cash in a bank
946 account in the ~~department's~~ Department's name.

947
948 **~~Section 5. Bond or other Forms of Financial Assurance Release.~~**

949
950 ~~(a) — Any bond or other form of financial assurance may be canceled by the surety only~~
951 ~~after ninety (90) days written notice to the director, and upon receipt of the director's written~~
952 ~~consent, which may be granted only when the requirements of the bond have been fulfilled.~~

953
954 ~~(b) — When the director determines that the violation has been remedied or the damage~~
955 ~~abated, the director shall release that portion of the bond or financial assurance instrument being~~
956 ~~held under W.S. 35-11-307 or W.S. 35-11-306(d). When the director determines that closure~~
957 ~~activities have been successfully completed at any regulated facility, the director shall release~~
958 ~~that portion of the bond or financial assurance being held to guarantee performance of activities~~
959 ~~specified in W.S. 35-11-307 or W.S. 35-11-306(d). The remaining portion of the bond or~~
960 ~~financial assurance shall be held for a period of not less than five (5) years after the date of~~
961 ~~facility closure, or so long thereafter as necessary to assure proper performance of any post-~~
962 ~~closure and corrective activities specified in W.S. 35-11-307 or W.S. 35-11-306(d).~~

963
964 ~~Section 6. Bond or other Forms of Financial Assurance Recalculations. Financial~~
965 ~~assurance amounts will be recalculated on a yearly basis.~~

966
967 ~~Section 7. Bond or other Forms of Financial Assurance Forfeiture.~~

968
969 ~~(a) — Bond or other financial assurance forfeiture proceedings shall occur only after the~~
970 ~~department provides notice to the operator and any surety in accordance with W.S. 35-11-421~~
971 ~~that a violation exists and the council has approved the request of the director to begin forfeiture~~
972 ~~proceedings.~~

973
974 ~~(b) — With the approval of the council the director may:~~

975
976 ~~(i) — Expend forfeited funds to remedy and abate the circumstances with~~
977 ~~respect to which any financial assurance was provided; and~~

978

979 (ii) — Expend funds from the trust and agency account under W.S. 35-11-307 or
980 W.S. 35-11-306(d) to remedy and abate any immediate danger to human health, safety and
981 welfare.

982
983 (e) — ~~If the forfeited bond or other financial assurance instrument is inadequate to cover~~
984 ~~the costs to carry out the activities specified in W.S. 35-11-307 or W.S. 35-11-306(d), or in any~~
985 ~~case where the department has expended trust and agency account monies, the attorney general~~
986 ~~shall bring suit to recover the cost of performing the activities where recovery is deemed~~
987 ~~possible.~~