

Chapter 2

Inspections, Enforcement, and Penalties

Section 1. Purpose.

This Chapter establishes requirements to ensure the protection of the public health and safety and of all persons at, or in the vicinity of, the place of use, storage, or disposal of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

Section 2. Scope.

This Chapter applies to the authorized and unauthorized extraction or concentration of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. The Department may inspect, enforce, and penalize both licensees and non-licensees for the unlawful possession, use, transfer, ownership or other such unpermitted handling of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content in accordance with these rules, the Act, and applicable state and federal laws.

Section 3. Inspections and Testing.

(a) Each licensee and applicant shall allow the Department, to enter and inspect any licensed are as provided by Chapter 4, Section 7(j) of these rules. ~~obtain, afford, and grant access to the Department, at all reasonable times, the opportunity to inspect licensed material, facilities, premises, and records to ensure compliance with these rules, the Act, licensing conditions, and other applicable state and federal laws.~~

(b) As required by the Department, each licensee shall perform, or shall permit the Department to perform, such reasonable tests as the Department deems appropriate or necessary including, but not limited to, the testing of:

- (i) Source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content;
- (ii) Facilities wherein licensed materials are used or stored; and
- (iii) Radiation detection and monitoring instruments.

Section 4. Violations.

(a) All violations of this Act or these rules are subject to penalty as provided by Wyoming Statute (W.S.) § 35-11-901.

(b) An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or these rules.

(c) Submittal of false information shall be sufficient basis for rejecting or revoking any Department issued license, registration, certification or other acceptance, approval or permit.

(d) These rules and regulations shall not limit any existing civil or criminal remedies in accordance with W.S. §. 35-11-904.

Section 5. Enforcement.

(a) The Department may issue Notices of Violation and Orders pursuant to W.S. § 35-11-701.

(b) Licensee initiative for self-identification and correction of problems is encouraged. The Department will generally not issue Notices of Violation for a violation that:

(i) Was identified by the licensee;

(ii) Results in low or no health and safety consequences;

(iii) Was documented, in writing, for review by the Department;

(iv) Was or will be corrected, including measures to prevent recurrence, within ninety (90) days, or another time frame approved by the Department; and

(v) Was not a violation that could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation.

(c) Licensees are not ordinarily cited for violations resulting from matters outside of their control, such as equipment failures that were not avoidable by reasonable quality assurance measures. However, licensees are held responsible for acts of their employees. Accordingly, the rules should not be construed to excuse personnel errors.

(d) At the discretion of the Department, and in accordance with W.S. § 35-11-701, licensees may have the opportunity to eliminate or correct the violation before the issuance of a Notice of Violation if that violation results in low or no health and safety consequences and can be eliminated or corrected in an expedient manner.

Section 6. Orders and other Administrative Actions.

(a) The Department may issue Orders:

(i) To remove a threat to public health and safety or the environment;

(ii) To demand that a Licensee or other person cease and desist violations or unauthorized or illegal activities; or

(iii) For any other reason in which license revocation or suspension is authorized.

(b) The Department may issue Orders to suspend all or part of any regulated activity. These Orders may be effective immediately, without prior opportunity for hearing, whenever it is determined that public health, interest, or safety so requires, or when responding to a willful or wanton violation.

(c) The Department may hold informal enforcement or settlement conferences to discuss safety, public health, or environmental problems, compliance with regulatory requirements, proposed corrective measures including schedules for implementation, and enforcement.