

HOUSE BILL NO. HB0025

Limited and small mines-amendments-2.

Sponsored by: Joint Minerals, Business & Economic Development Interim Committee

A BILL

for

1 AN ACT relating to environmental quality; allowing limited
2 mining operations to commence without the prior
3 authorization of the department of environmental quality as
4 specified; providing application procedures for certain
5 surface mining operations; exempting exploration by dozing
6 from special license requirements as specified; requiring
7 development of a single waiver for specified mining
8 equipment operating as portable sources; requiring
9 development of a general permit for stationary sources of
10 sand and gravel mines and quarries; requiring review of
11 standards and permit processes for specified portable
12 sources; conforming provisions; and providing for effective
13 dates.

14

15 *Be It Enacted by the Legislature of the State of Wyoming:*

1

2 **Section 1.** W.S. 35-11-401(e)(vi)(intro) and (j),
3 35-11-406(b)(intro), (g) through (k), (p) and by creating a
4 new subsection (q), 35-11-414(a) and by creating a new
5 subsection (k) and 35-11-801(d) and by creating new
6 subsections (g) and (h) are amended to read:

7

8 **35-11-401. Compliance generally; exceptions.**

9

10 (e) The provisions of this article shall not apply to
11 any of the following activities:

12

13 (vi) Limited mining operations, whether
14 commercial or noncommercial, for the removal of sand,
15 gravel, scoria, limestone, dolomite, shale, ballast or
16 feldspar from an area of fifteen (15) acres or less of
17 affected land, excluding roads used to access the mining
18 operation, if the operator has written permission for the
19 operation from the owner and lessee, if any, of the
20 surface. The operator shall notify the land quality
21 division of the department of environmental quality and the
22 inspector of mines within the department of workforce
23 services of the location of the land to be mined and the

1 postal address of the operator at least thirty (30) days
2 before commencing operations. A copy of the notice shall
3 also be mailed to all surface owners located within one (1)
4 mile of the proposed boundary of the limited mining
5 operation at least thirty (30) days before commencing
6 operations. Upon satisfying the requirements of W.S.
7 35-11-418 and the requirements of this paragraph, the
8 operator may commence operations without the prior
9 authorization of the land quality division. Limited mining
10 operations authorized under this paragraph are subject to
11 the following:

12

13 (j) The council, upon recommendation from the
14 advisory board through the administrator and director, may
15 modify or suspend certain requirements of W.S.
16 35-11-406(a), (b), (d), (f) and (g) by rules and
17 regulations, for surface mining operations involving not
18 more than thirty-five thousand (35,000) cubic yards of
19 overburden, excluding topsoil, and ten (10) acres of
20 affected land in any one (1) year, if the application
21 requirements insure reclamation in accordance with the
22 purposes of this act. Roads used to access a mining
23 operation permitted under this section shall be excluded

1 from the annual ten (10) acres of affected land limit, but
2 shall be included in the permit and bonded for reclamation
3 liability.

4

5 **35-11-406. Application for permit; generally; denial;**
6 **limitations.**

7

8 (b) Except as otherwise permitted under paragraph
9 (q)(iii) of this section, the application shall include a
10 mining plan and reclamation plan dealing with the extent to
11 which the mining operation will disturb or change the lands
12 to be affected, the proposed future use or uses and the
13 plan whereby the operator will reclaim the affected lands
14 to the proposed future use or uses. The mining plan and
15 reclamation plan shall be consistent with the objectives
16 and purposes of this act and of the rules and regulations
17 promulgated. The mining plan and reclamation plan shall
18 include the following:

19

20 (g) Except as otherwise provided in subsection (q) of
21 this section, after the application is determined complete,
22 the applicant shall publish a notice of the filing of the
23 application once each week for two (2) consecutive weeks in

1 a newspaper of general circulation in the locality of the
2 proposed mining site.

3
4 (h) Except as otherwise provided in subsection (q) of
5 this section, the administrator shall review the
6 application and unless the applicant requests a delay
7 advise the applicant in writing within one hundred fifty
8 (150) days from the date of determining the application is
9 complete, that it is suitable for publication under
10 subsection (j) of this section, that the application is
11 deficient or that the application is denied. All reasons
12 for deficiency or denial shall be stated in writing to the
13 applicant. All items not specified as being deficient at
14 the end of the first one hundred fifty (150) day period
15 shall be deemed complete for the purposes of this
16 subsection. After this period, for noncoal permits, the
17 administrator shall not raise any item not previously
18 specified as being deficient unless the applicant in
19 subsequent revisions significantly modifies the
20 application. If the applicant submits additional
21 information in response to any deficiency notice, the
22 administrator shall review such additional information
23 within thirty (30) days of submission and advise the

1 applicant in writing if the application is suitable for
2 publication under subsection (j) of this section, that the
3 application is still deficient or that the application is
4 denied.

5
6 (j) The applicant shall cause notice of the
7 application to be published in a newspaper of general
8 circulation in the locality of the proposed mining site
9 once a week for four (4) consecutive weeks commencing
10 within fifteen (15) days after being notified by the
11 administrator. The notice shall contain information
12 regarding the identity of the applicant, the location of
13 the proposed operation, the proposed dates of commencement
14 and completion of the operation, the proposed future use of
15 the affected land, the location at which information about
16 the application may be obtained, and the location and final
17 date for filing objections to the application. For initial
18 applications or additions of new lands the applicant shall
19 also mail a copy of the notice within five (5) days after
20 first publication to all surface owners of record of the
21 land within the permit area, to surface owners of record of
22 immediately adjacent lands, and to any surface owners
23 within one-half (1/2) mile of the proposed mining site. The

1 applicant shall mail a copy of the application mining plan
2 map within five (5) days after first publication to the
3 Wyoming oil and gas commission. Proof of notice and sworn
4 statement of mailing shall be attached to and become part
5 of the application. This subsection does not apply to
6 applications for mining operations described in subsection
7 (q) of this section.

8
9 (k) Except for applications for mining operations
10 described in subsection (q) of this subsection, any
11 interested person has the right to file written objections
12 to the application with the administrator within thirty
13 (30) days after the last publication of the above notice.
14 For surface coal mining operations, the director may hold
15 an informal conference if requested and take action on the
16 application in accordance with the department's rules of
17 practice and procedure, with the right of appeal to the
18 council which shall be heard and tried de novo. A
19 conference shall be held if the director determines that
20 the nature of the complaint or the position of the
21 complainants indicates that an attempt to informally
22 resolve the disputes is preferable to a contested case
23 proceeding. An informal conference or a public hearing

1 shall be held within twenty (20) days after the final date
2 for filing objections unless a different period is
3 stipulated to by the parties. The council or director shall
4 publish notice of the time, date and location of the
5 hearing or conference in a newspaper of general circulation
6 in the locality of the proposed operation once a week for
7 two (2) consecutive weeks immediately prior to the hearing
8 or conference. The hearing shall be conducted as a
9 contested case in accordance with the Wyoming
10 Administrative Procedure Act, and right of judicial review
11 shall be afforded as provided in that act.

12

13 (p) The director shall render a decision on the
14 application within thirty (30) days after completion of the
15 notice period if no informal conference or hearing is
16 requested. If an informal conference is held, all parties
17 to the conference shall be furnished with a copy of the
18 final written decision of the director issuing or denying
19 the permit within sixty (60) days of the conference. If a
20 hearing is held, the council shall issue findings of fact
21 and a decision on the application within sixty (60) days
22 after the final hearing. The director shall issue or deny
23 the permit no later than fifteen (15) days from receipt of

1 any findings of fact and decision of the environmental
2 quality council. This subsection does not apply to
3 applications for mining operations described in subsection
4 (q) of this section.

5
6 (q) The following application procedures and
7 requirements apply to surface mining operations for the
8 removal of sand, gravel, scoria, limestone, dolomite,
9 shale, ballast or feldspar involving not more than
10 thirty-five thousand (35,000) cubic yards of overburden,
11 excluding topsoil, and ten (10) acres of affected land in
12 any one (1) year:

13
14 (i) Once the application is deemed complete
15 under subsection (e) or (f) of this section, the
16 administrator shall review the application and within sixty
17 (60) days, unless the applicant requests a delay, inform
18 the applicant in writing that notice of the application is
19 suitable for publication under paragraph (ii) of this
20 subsection;

21
22 (ii) Within fifteen (15) days of being notified
23 by the administrator that notice of the application is

1 suitable for publication, the applicant shall cause notice
2 of the application to be published once per week for four
3 (4) consecutive weeks in a newspaper of general circulation
4 in the locality of the proposed mining site. The notice
5 shall provide for a thirty (30) day public comment period
6 after the date of first publication. The applicant shall
7 mail a copy of the notice within five (5) days after first
8 publication to all surface owners within one-half (1/2)
9 mile of the proposed mining site. Within thirty (30) days
10 of the close of public comment or following a public
11 hearing held by the director, whichever is later, the
12 director shall approve or deny the permit as provided in
13 subsection (m) of this section, except that paragraph
14 (m) (x) of this section shall not apply;

15
16 (iii) In lieu of the reclamation plan prescribed
17 in subsection (b) of this section, the applicant may submit
18 a reclamation plan that meets landowner requirements,
19 provided that the reclamation plan is consistent with the
20 objectives and purposes of this act and sufficient bond is
21 in place to complete reclamation;

22

1 (iv) Within two (2) business days of receipt,
2 the administrator shall approve cash or securities
3 submitted in lieu of bonds pursuant to W.S. 35-11-418.

4
5 **35-11-414. Special license to explore for minerals by**
6 **dozing; application; standards; fee; bond; denial; appeal.**

7
8 (a) Except as otherwise provided in subsection (k) of
9 this section, any person desiring to engage in mineral
10 exploration by dozing shall apply to the administrator for
11 a special license. The application shall be in accordance
12 with rules and regulations adopted pursuant to the
13 standards set forth in subsection (b) of this section, by
14 the council upon recommendation by the director after
15 consultation with the administrator and advisory board, and
16 shall be accompanied by a fee of twenty-five dollars
17 (\$25.00).

18
19 (k) Exploration by dozing, whether commercial or
20 noncommercial, on private land for privately owned sand,
21 gravel, scoria, limestone, dolomite, shale, ballast or
22 feldspar is exempt from the requirements of this section,
23 provided that the operator has written consent from the

1 landowner and a reclamation plan that meets landowner
2 requirements and is consistent with the objectives and
3 purposes of this act.

4

5 **35-11-801. Issuance of permits and licenses;**
6 **stationary source waiver.**

7

8 (d) Except for general permits under subsection (h)
9 of this section, general permits shall be issued solely in
10 accordance with procedures set forth by regulation adopted
11 by the council. Procedures for the issuances of general
12 permits shall include public notice and an opportunity for
13 comment. All department authorizations to use general
14 permits under this section shall be available for public
15 comment for thirty (30) days. Any aggrieved party may
16 appeal the authorization as provided in this act.

17

18 (g) The director shall develop and seek the
19 environmental protection agency's approval of a single
20 waiver covering all equipment related to any sand, gravel
21 or similar operation and operating as a portable source,
22 including crushers, screens and other similar equipment.

23

1 (h) The director shall develop and seek the
2 environmental protection agency's approval of a general
3 permit for stationary sources of any sand or gravel mine or
4 quarry.

5
6 **Section 2.**

7
8 (a) Not later than July 1, 2018, the director of the
9 department of environmental quality shall:

10
11 (i) Review the department's standards and permit
12 processes for crushers, screens and other similar equipment
13 operating as portable sources related to sand and gravel or
14 quarry operations to ensure they do not conflict with or
15 duplicate local standards and to achieve the minimum
16 permitting requirements necessary to fulfill the objectives
17 and purposes of this act; and

18
19 (ii) Develop the waiver and general permit
20 described in W.S. 35-11-801(g) and (h) in section 1 of this
21 act.

22
23 **Section 3.**

1

2 (a) Except as otherwise provided in subsection (b) of
3 this section, this act is effective July 1, 2018.

4

5 (b) Section 2 of this act is effective immediately
6 upon completion of all acts necessary for a bill to become
7 law as provided by Article 4, Section 8 of the Wyoming
8 Constitution.

9

10

(END)