

1974

**Additions to
the Mineral Laws
of Wyoming**

THE GEOLOGICAL SURVEY OF WYOMING
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§ 9-160.30. Receipt and disposition of moneys, etc.—When the authority in this section granted is not otherwise vested in the State of Wyoming, or one of its officers, or in any of its county, municipal or other governmental subdivisions or official units, or in officers, boards or legal bodies thereof, the executive director, under the direction and control of the governor, is hereby authorized and empowered to receive assistance, assets and moneys donated, contributed, loaned, or allotted by any national resources board or other federal agency, by other states, or from any other source. Such moneys, together with the proceeds from the sale of any assets shall be used in the investigation, furtherance, construction, financing, operation and maintenance of any works or projects within the authorized activities of the department. All moneys shall be deposited with the state treasurer in the appropriate fund and account and expended by the department or loaned according to law to such local, state, or federal agencies, departments or subdivisions as may by the executive director be deemed necessary or proper to carry out departmental duties and the purposes of this act [§§ 9-160.19 to 9-160.35], such loan to be made in such manner and upon such terms as may be deemed expedient and proper by the executive director ; provided, however, that all moneys and the proceeds from the sale of all assets, donated, contributed, loaned or allotted for a particular or special purpose or purposes shall be expended, loaned or otherwise made available, only in compliance and in accordance with the purpose for which received. All funds to be used, administered, loaned or otherwise made available by the department in furtherance of and in carrying out projects, authorized by this act, shall be kept intact so far as may be by gifts, loans or grants from any source and by reimbursements and repayment of loans made, including interest thereon if required, together with such reimbursement which the department may require from those receiving benefits under a project for the cost of surveys, studies, plans and estimates made by the department in furtherance of such project. All gifts, loans, grants, repayments of loans, and reimbursements shall be paid to the state treasurer and by him deposited in the appropriate fund and account. (Laws 1969, ch. 94, § 12; 1974, ch. 16, § 2.)

The 1974 amendment substituted "the appropriate fund and account" for "a special fund" in the third sentence and for "the special fund hereinabove provided" in the fifth sentence and deleted "as a revolving fund" following "kept intact" in the

fourth sentence. See Editor's note to § 9-557.15.

Amendment effective July 1, 1975.—Section 8, ch. 16, Laws 1974, makes the amendment to this section effective July 1, 1975.

§ 9-160.39. Duties of department of economic planning and development.

(c) All revenues derived from the furnishing of water to water users pursuant to this act [§§ 9-160.38, 9-160.39] shall be credited by the department to an account within the earmarked revenue fund. The department shall use any monies in this account for the repayment to the United States of the allocated cost of construction including interest and the operation and maintenance of the department's acquired space in the Fontenelle Reservoir. All monies in this account in excess of those required for the department's current operations under this act shall be used, with the approval of the governor, for future obligations contracted by the department for water acquisition or physical water development. (Laws 1973, ch. 128, § 1; 1974, ch. 16, § 2.)

The 1974 amendment, in subsection (c), substituted "to an account within the earmarked revenue fund" for "on its books to the fund known as the 'Fontenelle Reservoir Revolving Fund,' as provided for under section 41-532 of the statutes" in the first sentence and "account" for "fund" in the second and third sentences. See Editor's note to § 9-557.15.

Only part of section set out.—As only subsection (c) was affected by the amendment, the remainder of this section is not set out in this Supplement.

Amendment effective July 1, 1975.—Section 8, ch. 16, Laws 1974, makes the amendment to this section effective July 1, 1975.

§ 9-577. Disposition of income.—For the purposes of this act, all moneys paid the State of Wyoming by the secretary of the treasury of the United States under the provisions of that certain act of congress of February 25, 1920, (Public No. 146) entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain" shall be deposited in the trust and agency fund. (Laws 1923, ch. 28, § 1; R. S. 1931, § 78-401; C. S. 1945, § 20-501; Laws 1974, ch. 16, § 2.)

The 1974 amendment substituted "deposited in the trust and agency fund" for "known as and carried upon the books of state officers as the 'Government Royalty Fund'" at the end of the section. See Editor's note to § 9-577.15.

Amendment effective July 1, 1975.—Section 8, ch. 16, Laws 1974, makes the amendment to this section effective July 1, 1975.

§ 9-578. Distribution and use of government royalty revenue up to \$4,000,000.00.—(a) Government royalty revenue received during the period beginning January 1st, and ending December 31st of each calendar year, not exceeding the sum of four million dollars (\$4,000,000.00) shall be paid out in the following manner, to-wit:

(i) The state treasurer shall pay to the county treasurer of each county from which the government royalty revenue originates an amount equal to three per centum of the entire amount received by the state from the county in which such royalties are produced as its proportion of the government royalties received by the United States from oil or other deposits taken from within the boundaries of such county, which moneys shall be expended by such county in the construction and maintenance of permanent roads and highways; provided, that such payment shall in no manner preclude such county from participating in the further distribution of such moneys as herein specified;

(ii) Three per centum (3%) of such government royalty revenue shall be transferred into the highway fund and expended by the state highway commission upon permanent construction or maintenance work in the county in which said royalties are produced;

(iii) Thirty-five per centum (35%) of such government royalty revenue shall be transferred into the highway fund and expended by the state highway commission upon permanent construction or maintenance work; provided, however, that there shall be expended in each county of the state its proportion of at least seventy-five per centum (75%) of such total amount so appropriated for highway construction and maintenance and the proportion so appropriated to each county shall be determined: fifty per centum (50%) in ratio that the assessed valuation of each county bears to the total assessed valuation of the state, and fifty per centum (50%) in the ratio that the total mileage of state highways in each county bears to the total mileage of state highways in the state, and not to exceed fifteen per centum (15%) thereof shall be used by the highway commission in all engineering, supervising, and other overhead expense;

(iv) Fifty per centum (50%) of such government royalty revenue shall be held by the state treasurer for the foundation program for the public schools and distributed in accordance with the Public School Foundation Program Act of 1955;

(v) Nine per centum (9%) of such government royalty revenue shall be held

for the University of Wyoming by the state treasurer and paid out by him for the actual and necessary expenses of constructing, maintaining, equipping and furnishing of new buildings or the repairing and maintaining of present buildings, or for the payment of principal and interest on securities issued to finance the construction, equipping or repair of such buildings, or for the payment of principal and interest on securities issued to refund such securities, only upon properly itemized and receipted vouchers approved by the trustees of the University of Wyoming and filed with the state auditor in the same manner as other funds of the state are disbursed. Provided further, however, that proposed expenditures for the construction of new buildings from funds derived under this section shall be budgeted by the university in its biennial budget which is submitted to the governor, and shall be subject to legislative approval each biennium. (Laws 1923, ch. 28, § 2; R. S. 1931, § 78-402; Laws 1933, ch. 38, § 1; 1945, ch. 135, § 1; C. S. 1945, § 20-502; Laws 1951, ch. 91, § 1; 1955, ch. 118, § 1; ch. 168, § 1; 1957, ch. 218, § 6; 1974, ch. 16, § 2.)

The 1974 amendment designated the provisions of this section as subsection (a), redesignated former subdivisions (a) to (e) as subdivisions (i) to (v), changed references to the government royalty fund to references to government royalty revenue throughout the section, and substituted "transferred into the highway fund" for "placed to the credit of the state highway commission" and "the state highway commission" for "said commission" in subdivisions (ii) and (iii), "held by the state treasurer for the foundation program" for "credited by the state treasurer to the foundation program fund" in subdivision (iv), and "held for the University of Wyoming by the state treasurer" for "placed to the credit of the University of Wyoming upon the books of the state treasurer" in

the first sentence of subdivision (v), and made other minor changes in subdivisions (iii) and (v). See Editor's note to § 9-557.15.

Editor's note.-- There is no subsection (b) in this section as it appears in the printed acts.

Section 8, ch. 16, Laws 1974, provides: "The 'University of Wyoming fund' is created for the support and maintenance of the University of Wyoming and shall be used to account for all money deposited by the trustees of the University and any interest accruing thereto. Money may be disbursed and expended from the fund as provided by section 9-561 of the statutes."

Amendment effective July 1, 1975.--Section 8, ch. 16, Laws 1974, makes the amendment to this section effective July 1, 1975.

Page 33-- Section 9-579 revised. Subsections relettered.

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§ 9-579. Distribution and use of government royalty revenue in excess of \$4,000,000.00.—(a) The remainder of such government royalty revenues after distribution of the money provided in section 2 of this act [§ 9-578] shall be distributed in the following manner:

(i) The state treasurer shall pay to the county treasurer of each county from which the government royalty revenue originates, an amount equal to three per centum (3%) of the entire amount received by the state from the county from which such royalties are produced, as its proportion of the government royalties received by the United States from oil or other deposits taken from within the boundaries of such county, which moneys shall be expended by such county in the construction and maintenance of permanent roads and highways. Three per centum (3%) of such government royalty revenue shall be transferred into the highway fund and expended by the state highway commission upon permanent construction or maintenance work in the county in which said royalties are produced;

(ii) Fifty per centum (50%) of all monies received during the period beginning January 1st and ending December 31st of each calendar year exceeding the sum of four million dollars (\$4,000,000.00) shall be held by the state treasurer for the foundation program for the public schools and distributed in accordance with the Public School Foundation Program Act of 1955;

(iii) Nine per centum (9%) shall be held for the University of Wyoming by the state treasurer and paid out by him for the actual and necessary expenses of constructing, equipping and furnishing of new buildings or the repairing of present buildings, or the purchase of such improved or unimproved real estate, as the legislature shall authorize, or for the payment of principal and interest on securities issued to finance the construction, equipping, or repair of such buildings, or the purchase of such real estate, or for the payment of principal and interest on securities issued to refund such securities. Payments from such revenue shall be made only upon properly itemized and receipted vouchers approved by the trustees of the University of Wyoming and filed with the state auditor in the same manner as other funds of the state are disbursed; said proposed expenditures shall be budgeted by the university in its biennial budget which is submitted to the governor and shall be subject to legislative approval each biennium. Provided, however, that so long as any securities payable from such revenue are outstanding, all amounts credited to the university hereunder shall be used for the payment of interest and principal on such securities, and the trustees of the University of Wyoming are hereby authorized to use such amounts, when credited, for such purpose in accordance with the terms of such securities, notwithstanding the requirement herein contained that the expenditures of such funds be included by the university in its biennial budget;

(iv) The remaining thirty-five per centum (35%) of such monies shall be placed in the state highway fund. (Laws 1923, ch. 28, § 3; R. S. 1931, § 78-403; C. S. 1945, § 20-503; Laws 1953, ch. 199, § 1; 1955, ch. 118, §§ 2, 3; ch. 151, § 1; 1959, ch. 151, § 1; 1974, ch. 16, § 2.)

The 1974 amendment designated the provisions of this section as subsection (a), redesignated former subdivisions (a) to (d) as subdivisions (i) to (iv), changed references to the government royalty fund to references to government royalty revenue throughout the section, substituted "transferred into the highway fund" for "placed to the credit of the state highway commission" and "the state highway commission" for "said commission" in subdivision (i), "held by the state treasurer for the foundation program" for "placed in the foundation program fund" in subdivision (ii), and "held for the University of Wyoming by the state treasurer" for "accredited to the credit of the University of Wyoming upon the books of the state treasurer" in the first

sentence of subdivision (iii). See Editor's note to § 9-557.15.

Editor's note.—There is no subsection (b) in this section as it appears in the printed acts.

Section 6, ch. 16, Laws 1974, provides: "The 'University of Wyoming fund' is created for the support and maintenance of the University of Wyoming and shall be used to account for all money deposited by the trustees of the University and any interest accruing thereto. Money may be disbursed and expended from the fund as provided by section 9-561 of the statutes."

Amendment effective July 1, 1975.—Section 8, ch. 16, Laws 1974, makes the amendment to this section effective July 1, 1975.

Page 34 Sections 9-580.1, 9-580.2, 9-580.3 created.

§ 9-580.1. Coal, oil shale and geothermal bonuses; disposition; conflicts.—(a) The state treasurer is directed to ascertain and withhold all bonus payments received from the federal government attributable to coal or oil shale and geothermal leases of federal land within Wyoming, and to deposit such proceeds in the impact and emergency account within the earmarked revenue fund. The state treasurer shall invest any uncommitted monies and credit interest earned to the account. Money within the account shall be expended or loaned only to assist in the emergency construction or operation of public schools, other public educational institutions and public roads or for the construction or operation of such schools, institutions and roads in impacted areas.

(b) An impacted area is a political subdivision or district in which either sudden or prolonged population growth has caused both social and economic stress of such a nature that the total present resources available are not sufficient to resolve them properly and effectively.

(c) Sections 9-578 and 9-579 of the statutes are superseded insofar as they conflict with this act [§§ 9-580.1 to 9-580.3]. (Laws 1974, ch. 10, § 1.)

§ 9-580.2. **Impact and emergency assistance board; purpose.**—The Wyoming farm loan board is hereby designated as the impact and emergency assistance board. The board is authorized and empowered to determine impacted areas and emergency conditions within the state and to make such loans and grants in accordance with section 9-580.1 of the statutes as it deems necessary to resolve conditions of impaction or emergency conditions. (Laws 1974, ch. 10, § 1.)

§ 9-580.3. **Meetings.**—Upon the call of the chairman or a majority of the board members the board shall meet to determine impacted areas and emergency conditions and to consider impact or emergency assistance. (Laws 1974, ch. 10, § 1.)

Effective date.—Section 2, ch. 10, Laws 1974, makes the act effective immediately upon passage. Approved February 11, 1974.

Page 177 Section 30-125 revised.

§ 30-125. **Same; qualifications generally; certificate of competency required; reciprocity.**—No person shall act as mine foreman, assistant mine foreman or safety engineer unless he shall be at least twenty-three (23) years of age, a citizen of the United States with at least three (3) years' experience underground in coal mines or the type of underground mine in which he desires to work in such position, one (1) year of which shall be in Wyoming and possesses a mine foreman certificate granted by the coal mining examining board of Wyoming. No person shall act as unit foreman, fire boss or mine examiner unless he has at least (2) years' experience underground in coal mines, or the type of underground mine in which he desires to work in such position, one (1) year of which shall be in Wyoming and possesses a mine examiner certificate granted by the coal mining examining board of Wyoming. Each one (1) year's training as a mining engineer in an accredited college or university is considered the equivalent of one (1) year's practical experience underground, but such credit for training as a mining engineer shall not exceed two (2) years for mine foreman certificate and one (1) year for fire boss or mine examiner certificate. Any person holding a certificate of competency from a proper examining board of any state with which Wyoming has a reciprocal agreement may perform the duties in Wyoming for which his certificate certifies that he is competent, without examination by the coal mining examining board of Wyoming. Any such person before assuming any duties in a coal mine or other underground mines in Wyoming shall present his certificate to the coal mining examining board of Wyoming or to the mine inspector of coal mines in Wyoming and secure approval of the certificate. Such person is subject to examination by the board at the request of the mine inspector, and his authority to act in Wyoming as mine foreman, assistant mine foreman, mine examiner, safety engineer, unit foreman, or fire boss is subject to cancellation as if his certificate were issued by the coal mining examining board of Wyoming. No owner, operator, contractor, lessee, or agent shall employ any mine foreman, assistant mine foreman, mine examiner, safety engineer, unit foreman, or fire boss who does not possess the certificate of competency herein required. This act [section] shall not apply to open-pit mining. (Laws 1951, ch. 128, § 10; 1973, ch. 16, § 1; 1974, ch. 13, § 1.)

The 1974 amendment so changed this section as to make a detailed comparison impracticable. Its general effect, however, was to change the qualifications for the positions of mine foreman, assistant mine foreman, safety engineer, unit foreman,

fire boss and mine examiner and to reduce the limit for training credit.

Effective date.

Section 2, ch. 13, Laws 1974, makes this act effective immediately upon passage. Approved February 12, 1974.

Page 226- Section 30-228 revised.

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§ 30-228. **Disposition of monies; payment of expenses; charge assessed on value of oil or gas produced.** -- (a) All moneys collected by the commission or as civil penalties under the provisions of this act [§§ 30-216 to 30-

231] shall be remitted to the state treasurer for deposit in an account within the earmarked revenue fund. Expenses incident to the administration of this act shall be paid out of the account.

(b) There is hereby levied and assessed on the value at the well of all oil and gas produced, saved and sold or transported from the premises in Wyoming where produced a charge not to exceed two fifths (2/5) of one (1) mill on the dollar. The commission shall by order fix the amount of such charge in the first instance and may, from time to time, reduce or increase the amount thereof as, in its judgment, the expenses chargeable may require: provided that the amounts fixed by the commission shall not exceed the limit hereinabove prescribed. It shall be the duty of the commission to make collection of such assessments. All monies so collected shall be remitted to the state treasurer for deposit in an account within the earmarked revenue fund and shall be used exclusively to pay the costs and expenses incurred in connection with the administration and enforcement of this act [§§ 30-216 to 30-231] (chapter 94, Session Laws of Wyoming, 1951). The persons owning an interest (working interest, royalty interest, payments out of production, or any other interest) in the oil and gas, or in the proceeds thereof, subject to the charge hereinabove provided for shall be liable for such charge in proportion to their ownership at the time of production. The charge so assessed and fixed shall be payable monthly, and the sum so due shall be remitted to the commission, on or before the twenty-fifth (25) of the month next following the month in which the charge accrued, by the producer on behalf of himself and all other interested persons; provided however in the event of a sale of oil or gas within this state said charge shall be payable by the purchaser thereof. Any such charge not paid within the time herein specified shall bear interest at the rate of one percent (1%) per month from the date of delinquency until paid, and such charge together with the interest shall be a lien upon the oil or gas against which the same is levied and assessed. The person remitting the charge as herein provided is hereby authorized, empowered and required to deduct from any amounts due the persons owning an interest in the oil and gas or in the proceeds thereof at the time of production the proportionate amount of such charge before making payment to such persons. This subsection (b) shall apply to all lands in the State of Wyoming, anything in section 15 of chapter 94, Session Laws of Wyoming, 1951 [§ 30-230], to the contrary notwithstanding: provided, however, there shall be exempted from the charge hereinabove levied and assessed the following, to-wit:

(1) The interest of the United States of America and the interest of the State of Wyoming and the political subdivisions thereof in any oil or gas or in the proceeds thereof.

(2) The interest of any Indian or Indian tribe in any oil or gas or in the proceeds thereof, produced from land subject to the supervision of the United States.

(3) Oil and gas used in producing operations or for repressuring or recycling purposes. (Laws 1951, ch. 94, § 11; 1953, ch. 88, § 1; 1973, ch. 245, § 5; 1974, ch. 16, § 2.)

The 1974 amendment, in subsection (a), substituted "an account within the earmarked revenue fund" for "a special fund to be known as the oil and gas conservation fund" in the first sentence and "account" for "oil and gas conservation fund" in the second sentence, redesignated subsection (c) as subsection (b), and, in subsection (b), deleted "against the oil and gas conservation fund" following "expenses

chargeable" in the second sentence and substituted "an account within the earmarked revenue fund" for "the oil and gas conservation fund" in the third sentence and "subsection (b)" for "subsection (c)" in the ninth sentence. See Editor's note to § 9-557.15.

Amendment effective July 1, 1975.—Section 8, ch. 16, Laws 1974, makes the amendment to this section effective July 1, 1975.

§ 35-502.3. Definitions.

(c) Specific definitions applying to water quality:

(i) "Pollution" means contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity or odor of the waters or any discharge of any acid or toxic material, chemical or chemical compound, whether it be liquid, gaseous, solid, radioactive or other substance, including wastes, into any waters of the state which creates a nuisance or renders any waters harmful, detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, wildlife or aquatic life, or which degrades the water for its intended use, or adversely affects the environment. This term does not mean water, gas or other material which is injected into a well to facilitate production of oil, or gas or water, derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state, and if the state determines that such injection or disposal well will not result in the degradation of ground or surface or water resources;

(Laws 1974, ch. 14, § 1.)

The 1974 amendment deleted the third sentence of subsection (c) (i).

Only part of section set out.—As only subsection (c) (1) was affected by the amendment, only the introductory language

of subsection (c) and subdivision (1) are set out in this Supplement.

Effective date.—Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 12, 1974.

§ 35-502.17. Establishment of standards.

(c) Recommend to the director, after consultation with the advisory board, regulations to prevent construction, modification or operation of any source at any location where emissions from such source will prevent the attainment or maintenance of a state or national standard. (Laws 1973, ch. 250, § 1; 1974, ch. 14, § 1.)

The 1974 amendment deleted "stationary" preceding "source at any location" in subsection (c).

Only part of section set out.—As only subsection (c) was affected by the amend-

ment, the remainder of this section is not set out in this Supplement.

Effective date.—Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 12, 1974.

§ 35-502.19. Administrator's authority to recommend rules, regulations, etc.—(a) The administrator, after consultation with the advisory board, shall recommend to the director rules, regulations, standards and permit systems to promote the purposes of this act (§§ 35-502.1 to 35-502.56). Such rules, regulations, standards and permit systems shall prescribe:

(iii) Standards for the issuance of permits for construction, installation, modification or operation of any public water supply and sewerage system, treatment works, disposal system or other facility, capable of causing or contributing to pollution;

(Laws 1974, ch. 14, § 1.)

The 1974 amendment inserted "public water supply and" preceding "sewerage system" in subsection (a) (iii).

Only part of section set out.—As only subsection (a) (iii) was affected by the amendment, only the introductory language

of subsection (a) and subdivision (iii) are set out in this Supplement.

Effective date.—Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 12, 1974.

Page 278- Section 35-502.20 Subsection (f) revised.
279 Subsections (g), (h) created.

§ 35-502.20. Compliance generally; exceptions.

(f) The provisions of section 35-502.24 (a) (v), (a) (ix), (b) (v), (b) (vii), (d), (e) and (f) of the statutes shall not apply to surface mining operations for which not more than four thousand (4,000) tons of overburden are removed and the affected land does not exceed two (2) acres in any one (1) year. In the event that the topographic map provided for in paragraph 35-502.24 (a) (viii) is not available the applicant shall furnish a map in such detail as the administrator may specify under paragraph 35-502.24 (a) (ix).

(g) A single permit may be issued to all county or other local governmental entities of the state to operate noncontiguous facilities in compliance with the statutes.

(h) A single permit may be issued for mining of noncontiguous bentonite deposits in compliance with the statutes when such operations are served in such an area by a single processing plant. (Laws 1973, ch. 250, § 1; 1974, ch. 14, § 1.)

The 1974 amendment, in subsection (f), deleted "(a) (vii)" following "section 35-502.24 (a) (v)," added the second sentence, and made other minor changes. The amendment also added subsections (g) and (h).

Only part of section set out.—As only

subsections (f), (g) and (h) were affected by the amendment, the remainder of this section is not set out in this Supplement. Effective date.

Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 12, 1974.

Page 280- Section 35-502.24. Subsection (a) (vi) (C) revised.
283 Subsection (h) revised.

§ 35-502.24. Application for permit; generally; denial; limitations.

—(a) Applications for a mining permit shall be made in writing to the administrator and shall contain:

(vi) An identification of the land to be included in the permit area to include:

(C) The approximate number of acres to be affected, including the total number of acres in the area covered by the permit application;

(h) The administrator, if the application is not protested, or the council, if the application is protested, shall make a decision on the application, within thirty (30) days after the completion of the application, if not protested, or sixty (60) days after the final hearing, if protested, stating therein the findings upon which the decision is based, and shall send a copy to the applicant, and to all parties to the hearing, if one is held. (Laws 1973, ch. 250, § 1; 1974, ch. 14, § 1.)

The 1974 amendment added the language beginning "including the total number of acres" to the end of subsection (a) (vi) (C) and substituted "thirty (30)" for "30" and "completion of the application, if not protested, or sixty (60) days after the final hearing, if protested" for "final hearing or the completion of the application" in subsection (h).

Only part of section set out.—As only

subsections (a) (iv) (C) and (h) were affected by the amendment, only the introductory language of subsection (a) and of subdivision (iv), paragraph (C), and subsection (h) are set out in this Supplement.

Effective date.—Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 12, 1974.

Page 285 Section 35-502.31. Subsection (j) created.

§ 35-502.31. Same; application; standards; fee; bond; denial; appeal.

(j) Any abandoned drill hole shall be subject to the reclamation provisions of subsections 30-96.16 (e) of the statutes. (Laws 1973, ch. 250, § 1; 1974, ch. 14, § 1.)

The 1974 amendment added subsection (j).

Only part of section set out.—As only subsection (j) was affected by the amendment, the remainder of this section is not set out in this Supplement.

Editor's note. — There is no subsection (i) in this section as it appears in the printed acts.

Effective date.—Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 12, 1974.

Page 286 Section 35-502.33. Subsection (b) revised.

§ 35-502.33. Protection of the surface owner.

(b) An owner of real property and who holds a valid adjudicated water right and who obtains all or part of his supply of water for domestic, agricultural, industrial, recreational, or other legitimate use from a surface or an underground source other than a subterranean stream having a permanent distinct known channel may maintain an action against an operator to recover damages for pollution, diminution, or interruption of such water supply resulting from surface or underground mining. (Laws 1973, ch. 250, § 1; 1974, ch. 14, § 1.)

The 1974 amendment inserted "or underground" preceding "mining" in subsection (b).

Only part of section set out.—As only subsection (b) was affected by the amend-

ment, the remainder of this section is not set out in this Supplement.

Effective date.—Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 14, 1974.

Page 286- Section 35-502.34. Subsections (c) (i), (ii) revised.
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§ 35-502.34. Bonding provisions.

(c) The amount of any bond to be filed with the administrator prior to commencing any mining shall be:

(i) For an initial bond the amount equal to the estimated cost of reclaiming the affected land disturbed during the first year of operation under each permit. The estimated cost shall be based on the operator's cost estimate submitted with the permit plus the administrator's estimate of the additional cost to the state of bringing in personnel and equipment should the operator fail or the site be abandoned. In no event shall the bond be less than ten thousand dollars (\$10,000.00), except for operators complying with section 35-502.20 (f) of the statutes or for sand and gravel, scoria or jade mining in which case the bond amount shall be set by the administrator with approval of the director to cover the cost of reclamation, and in no event less than two hundred dollars (\$200.00) per acre, for affected land;

(ii) For renewal bonds the amount equal to the estimated cost of reclaiming the land to be disturbed during that renewal period, and the estimated cost of completing reclamation of unreleased lands disturbed during prior periods of time. The estimated cost shall be based on the operator's cost estimate, which shall include any changes in the actual or estimated cost of reclamation of unreleased affected lands, plus the administrator's estimate of the additional cost to the state of bringing in personnel and equipment should the operator fail or the site be abandoned. In no event shall the bond be less than ten thousand dollars (\$10,000.00), except for operators complying with section 35-502.20 (f) of the statutes or for sand and gravel, scoria or jade mining in which case the bond amount shall be set by the administrator with approval of the director to cover the cost of reclamation, and in no event less than two hundred dollars (\$200.00) per acre, for affected land. (Laws 1974, ch. 14, § 1.)

The 1974 amendment, in subsection (c), substituted "In no event shall" for "In no event will" at the beginning of the third sentence of subdivision (i) and "ten thousand dollars (\$10,000.00)" for "\$10,000" and "two hundred dollars (\$200.00)" for "\$200" in that sentence and the third sentence of subdivision (ii) and inserted "operators complying with section 35-502.20 (f)

of the statutes or for" following "except for" in those sentences.

Only part of section set out.—As only subsection (c) was affected by the amendment, the remainder of this section is not set out in this Supplement.

Effective date.—Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 12, 1974.

Page 287 Section 35-502.35. Entire section rewritten.

§ 35-502.35. Cash, etc., in lieu of bond.—In lieu of a bond, the operator may deposit federally insured certificates of deposit, payable to the Wyoming department of environmental quality or cash or government securities, or all three. (Laws 1973, ch. 250, § 1; 1974, ch. 14, § 1.)

The 1974 amendment rewrote this section, adding certain federally insured certificates of deposit as a possible substitute for a bond.

Effective date.—Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 12, 1974.

Page 291 Section 35-502.49. Subsection (c) revised.
Subsection (e) repealed.

§ 35-502.49. Violations of act; penalties.

(c) Any person who willfully or negligently violates any provision of this act [§§ 35-502.1 to 35-502.56] or any rule, regulation, standard, permit, license, or variance or limitations adopted hereunder or who willfully violates any determination or order of the council pursuant to this act or any rule, regulation, standard, permit or limitation issued under this act shall be fined not more than twenty-five thousand dollars (\$25,000.00) per day violation, or imprisoned for not more than (1) year, or both. If the conviction is for a violation committed after a first conviction of such person under this act, punishment shall be by a fine of not more than fifty thousand dollars (\$50,000.00) per day of violation or by imprisonment of not more than two (2) years, or by both.

(e) Repealed by Laws 1974, ch. 14, § 2.
(Laws 1974, ch. 14, §§ 1, 2.)

The 1974 amendment inserted "or negligently" preceding "violates any provision of this act" near the beginning of the first sentence of subsection (c), made other minor changes in that subsection, and repealed subsection (e).

Subsections (c) and (e) were affected by the amendment, the remainder of this section is not set out in this Supplement.

Effective date.—Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 12, 1974.

Only part of section set out.—As only

Page 293 Section 35-502.56. Subsection (e) repealed.

§ 35-502.56. Limitation of scope of act.—Nothing in this act [§§ 35-502.1 to 35-502.56] :

(d) Limits or interferes with the jurisdiction, duties or authority of the state engineer, the state board of control, the game and fish commissioner, the state mine inspector, the oil and gas supervisor or the oil and gas conservation commission, or the occupational health and safety commission.

(e) Repealed by Laws 1974, ch. 14, § 2. (Laws 1973, ch. 250, § 1; 1974, ch. 14, §§ 1, 2.)

The 1974 amendment repealed subdivision (e).

Only part of section set out.—Only the introductory language and the subdivisions affected by the amendment are set out in this Supplement.

Effective date.—Section 3, ch. 14, Laws 1974, makes the act effective immediately upon passage. Approved February 12, 1974.

Page 309- Section 39-224. Entire section rewritten.

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§ 39-224. Valuation; rules and regulations.—(a) Based upon the information received or procured pursuant to section 39-223 of the statutes, the department of revenue and taxation shall annually fix the value of the gross product, in appropriate unit measures, of all mines and mining claims from which hydrocarbons, fissionable materials, fossil fuels, minerals or other valuable deposits are produced at the fair cash market value of the product at the mine or mining claim where produced, after the mining or production process is completed, provided:

(i) Where the application of the method specified in [section] 39-224 (a) above results in the fixing of the unit value of the product of any one coal mine producing less than ten thousand (10,000) tons of coal per year at a unit value which varies by more than three hundred percent (300%) from that of other mines with a like product of comparable quality, then in such case the department of revenue and taxation is directed to fix a weighted average value based on the quantities involved at each said fair cash market value at the mine where produced after the mining process is completed and before any beneficiation or transportation cost.

(ii) If the fair cash market value of such product is not established by bona fide sale at the mine or mining claim, the market value shall be determined by reference to the sale price at the point of sale for like mineral products of similar quality from mines or mining claims similarly situated less any beneficiation and transportation costs incurred after completion of the mining or production process; or

(iii) For unique mineral products for which a market value cannot be established by reference to bona fide sales of similar products in arms-length transactions, the value shall be determined by reference to sales prices, if any, received in arms-length transactions for other products which can be put to comparable beneficial uses and by reference to factors relevant to the commercial value of such products, following completion of the mining or production process.

(b) The department of revenue and taxation shall adopt and promulgate such rules or regulations as shall be deemed necessary and proper to effect the purposes of this act [§ 39-224]. (Laws 1903, ch. 81, § 3; C. S. 1910, § 2451; Laws 1917, ch. 11, § 3; C. S. 1920, § 2908; Laws 1931, ch. 73, § 47; R. S. 1931, § 115-603; C. S. 1945, § 32-1003; Laws 1974, ch. 12, § 1.)

The 1974 amendment rewrote this section. act effective immediately upon passage. Approved February 12, 1974.

Effective date.

Section 2, ch. 12, Laws 1974, makes the

§ 39-227.1. Excise tax on extraction of minerals; amount generally; value of gross product.—(a) There is hereby levied an excise tax which shall be payable to the department of revenue and taxation, in an amount equal to one percent (1%) of the value of the gross product extracted, upon the privilege of extracting any gold, silver or other precious metals, soda, saline, uranium, bentonite, and any oil produced from a property or lease whose average daily production, per well, of crude petroleum and petroleum condensates, including natural gas liquids, did not exceed ten (10) barrels per day during the calendar year for which the production was reported, or other valuable deposit; but excepting and excluding from this subsection trona, coal, petroleum, natural gas, oil shale, or any other fossil fuel minerals. "Average daily production" means the qualified maximum total production of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from a property during the preceding calendar year, divided by a number equal to the number of calendar days in that year times the number of wells which produced crude petroleum and petroleum condensates including natural gas liquids from that property in that year. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production, in accordance with recognized conservation practices and not significantly curtailed by reason of mechanical failure or other disruption in production.

(b) There is hereby levied upon the privilege of extracting trona, coal, petroleum, natural gas, oil shale or any other fossil fuel minerals, an excise tax which shall be payable to the department of revenue and taxation in an amount equal to three percent (3%) of the value of the gross product extracted. This subsection shall not apply to a property or lease whose average daily production of crude petroleum and petroleum condensates, including natural gas liquids per well, did not exceed ten (10) barrels per day during the preceding calendar year.

(c) The tax levies provided for in subsections 39-227.1 (a) and (b) shall be levied separately and shall not be construed as being cumulative or in addition to the excise tax that would be created by the passage of the constitutional amendment creating the permanent Wyoming mineral trust fund to be submitted to the electors in the general election to be held in 1974, or to any other excise tax or taxes on extraction of minerals as may be levied by any constitutional or statutory law.

(d) For the purpose of this act [§§ 39-227.1 to 39-227.11], the value of the gross product shall be the value fixed by the department of revenue and taxation pursuant to section 39-224 of the statutes and shall not include gross production otherwise exempt by law. (Laws 1969, ch. 193, § 1; 1974, ch. 19, § 1.)

The 1974 amendment rewrote this section. 1974, makes the act effective immediately upon passage. Approved February 13, 1974.

Effective date.—Section 3, ch. 19, Laws

§ 39-227.2. Same; when payable; computation of amount.—The tax levy provided for by this act [§§ 39-227.1 to 39-227.11] shall commence as of January 1, 1974 and shall be payable to the department of revenue and taxation of Wyoming annually, beginning in 1974, on the first day of July, and shall be and become delinquent on and after the first day of September. The amount of the tax so payable shall be computed upon the gross production for the preceding calendar year, as described in section 1 hereof [§ 39-227.1]. (Laws 1969, ch. 193, § 2; 1974, ch. 19, § 1.)

The 1974 amendment, in the first sentence, substituted "levy provided for by this act shall commence as of January 1, 1974 and" for "levied by the provisions of this act." "department of revenue and taxation"

for "tax commission" and "1974" for "1969."

Effective date.—Section 3, ch. 19, Laws 1974, makes the act effective immediately upon passage. Approved February 13, 1974.

Page 311 Section 39-227.3 revised.

§ 39-227.3. Same; report of gross production and other information.—Every person, partnership, corporation, company, firm or association of whatever nature, extracting any of the products hereinabove described shall be required to report the gross production for the preceding calendar year, together with such information as shall be requested to determine the value thereof, to the department of revenue and taxation not later than the second Monday in February in each and every year, and shall be liable for the payment of the tax assessed thereon. (Laws 1969, ch. 193, § 3; 1974, ch. 19, § 1.)

The 1974 amendment substituted "department of revenue and taxation" for "state board of equalization."

Effective date.—Section 3, ch. 19, Laws 1974, makes the act effective immediately upon passage. Approved February 13, 1974.

Page 311 Section 39-227.4. Entire section rewritten.

§ 39-227.4. Same; computation and certification of value of gross production; notice of tax due.—The department of revenue and taxation shall compute the value of the gross production returned, shall compute the amount of tax herein levied, and shall notify each taxpayer of the amount of tax due on or before the first weekday in June of each and every year, beginning in the year 1974. (Laws 1969, ch. 193, § 4; 1974, ch. 19, § 1.)

The 1974 amendment rewrote this section.

1974, makes the act effective immediately upon passage. Approved February 13, 1974.

Effective date.—Section 3, ch. 19, Laws

Page 311 Section 39-227.5 revised.

§ 39-227.5. Same; appeal; refund of excess tax; collection of tax, etc., may not be enjoined.—Every taxpayer who shall feel aggrieved by the valuation and tax levied by this act [§§ 39-227.1 to 39-227.11] shall have the right of appeal therefrom to the state board of equalization, but such appeal shall not relieve the taxpayer from paying the tax assessed by the department of revenue and taxation of Wyoming under this act as the same shall become due and payable, provided that the payment of such tax under appeal shall not invalidate or nullify the protest. Any excess tax found to have been paid, whether as the result of appeal or erroneous assessment, shall be refunded to the person paying said tax. No restraining order or injunction shall be granted or issued by any court or judge to restrain or enjoin the collection of any tax, interest, or penalty imposed pursuant to this act. (Laws 1969, ch. 193, § 5; 1974, ch. 19, § 1.)

The 1974 amendment substituted "appeal therefrom to the state board of equalization" for "protest thereof as provided for upon assessments made by the state board of equalization" and "department of revenue and taxation" for "tax commission" in

the first sentence and "appeal" for "protest" twice in that sentence and once in the second sentence.

Effective date. Section 3, ch. 19, Laws 1974, makes the act effective immediately upon passage. Approved February 13, 1974.

§ 39-227.6. Fixing value of production when statement of gross production not filed; examination of books, etc.; requiring attendance of officers, employees, etc.; testimony and proof.—If any person shall fail or refuse to file a statement of gross production with the department of revenue and taxation as above provided, the department of revenue and taxation shall fix the value of production from the best information or knowledge it can obtain. The department of revenue and taxation, for the purpose of ascertaining the correctness of any return or for the purpose of ascertaining the value that should be fixed when a return has not been filed, shall have power to examine or cause to be examined by any agent or representative designated by it for that purpose, any books, papers, records or memoranda bearing upon the matter required by it therefor, and may require the attendance of any officer or employee of any corporation, person required by this act [§§ 39-227.1 to 39-227.11] to make a return, or the attendance of any other person having knowledge of any pertinent fact, and may take testimony and require proof material to the required information. (Laws 1969, ch. 193, § 6; 1974, ch. 19, § 1.)

The 1974 amendment substituted "department of revenue and taxation" for "state board of equalization" twice in the first sentence and once in the second.

Effective date.—Section 3, ch. 19, Laws 1974, makes the act effective immediately upon passage. Approved February 13, 1974.

§ 39-227.8. Same; penalty for failure to file return; extension; interest on delinquent taxes; collection.—In case of any failure to make or file a return as required by this act [§§ 39-227.1 to 39-227.11], there may be added to the tax determined by the department of revenue and taxation to be due, a penalty of twenty-five percent (25%) of said tax, unless the person required to make the return shall for good cause obtain from the department of revenue and taxation an extension of time for filing the return prior to the due date thereof. Interest at the rate of eleven percent (11%) per annum from September 1 until payment shall be added to all taxes which shall become delinquent hereunder. The tax due, together with interest, penalties and costs shall be collectible by the department of revenue and taxation of Wyoming by any appropriate judicial proceedings. (Laws 1969, ch. 193, § 8; 1974, ch. 19, § 1.)

The 1974 amendment, in the first sentence, substituted "may" for "shall" and "department of revenue and taxation" for "state tax commission" and for "state board of equalization" and in the third sen-

tence, substituted "department of revenue and taxation" for "tax commission."

Effective date.—Section 3, ch. 19, Laws 1974, makes the act effective immediately upon passage. Approved February 13, 1974.

Page 312 Section 39-227.10. Entire section rewritten.

§ 39-227.10. Same; disposition of money received and collected.—

(a) All revenue received and collected under the provisions of this act [§§ 39-227.1 to 39-227.11] shall be transferred to the state treasurer.

(b) In the event an amendment to the Wyoming Constitution is ratified by a majority of the electors on or before January 1, 1975, creating a constitutional permanent Wyoming mineral trust fund, then the constitutional portion of the revenue derived from all excise taxes on extraction of minerals shall be transferred by the state treasurer to the permanent Wyoming mineral trust fund and the balance transferred to the general fund. During the year 1974, one half of the revenue derived from all excise taxes on the extraction of minerals shall be transferred to the Wyoming mineral trust fund as established by the statutes. In the event of the failure of passage of the constitutional amendment creating the permanent Wyoming mineral trust fund then all such revenues shall be transferred from the statutory Wyoming mineral trust fund to the general fund, and in the event of passage of the constitutional amendment then the one half of the revenue derived from all excise taxes on extraction of minerals levied during the year 1974, as deposited in the statutory Wyoming mineral trust fund, shall become part of the constitutionally created permanent fund and shall remain inviolate and the principal and income then accounted for shall be subject to the provisions of the constitutional amendment. (Laws 1969, ch. 193, § 10; 1974, ch. 16, § 2; ch. 19, § 1.)

The 1974 amendments. — The first 1974 amendment rewrote this section. See Editor's note to § 9-557.15.

The second 1974 amendment designated the provisions of this section as subsection (a) and added subsection (b).

Effective date.—Section 3, ch. 19, Laws

1974, makes the second 1974 amendment effective immediately upon passage. Approved February 13, 1974.

Amendment effective July 1, 1975.—Section 8, ch. 16, Laws 1974, makes the first 1974 amendment to this section effective July 1, 1975.

Page 312 Section 39-227.11 revised.

§ 39-227.11. Same; refunds generally. — All applications for refunds shall be made within two (2) years from the payment of the erroneous tax. (Laws 1969, ch. 193, § 11; 1974, ch. 16, § 2; ch. 19, § 1.)

The 1974 amendments. — The first and second 1974 amendments made identical changes by eliminating a provision requiring the preparation and presentation to the state auditor of a voucher for refund and providing for the state auditor then to draw his warrant on the state treasurer against the mineral severance tax fund in favor of the person entitled to refund. See Editor's note to § 9-557.15.

Effective date.

Section 3, ch. 19, Laws 1974, makes the second 1974 amendment effective immediately upon passage. Approved February 13, 1974.

Amendment effective July 1, 1975.—Section 8, ch. 16, Laws 1974, makes the first 1974 amendment to this section effective July 1, 1975.