THE DEPARTMENT OF ENVIRONMENTAL QUALITY

WORKING AGREEMENT
BETWEEN
THE LAND QUALITY DIVISION
AND
THE WATER QUALITY DIVISION

I. Purpose

This agreement between the Land Quality Division (LQD) and Water Quality Division (WQD) of the Department of Environmental Quality is for the purpose of identifying the respective responsibilities of the divisions regarding the permitting and enforcement actions relating to mining operations.

II. Policy

Whereas LQD has broad jurisdiction over any mining related activity and the WQD has specific jurisdiction over some mining related activity, it is the policy of the department to eliminate duplication, increase permitting efficiency, and to promote "one stop shopping" by designating LQD as the responsible division for the items specified below. Attachment 1 (WQD Rules and Regulations for LQD Reviews and Enforcement) lists those regulations to be used by LQD for permitting and enforcement actions. Any facility or activity exterior to the mine permit boundary or not covered by Article 4 of the Environmental Quality Act is not subject to this agreement and would be separately permitted or otherwise administered by WQD. Except as otherwise defined herein, LQD will enforce the provisions of Article 3 and the Water Quality Division Rules and Regulations (WQDRRs) for all applicable facilities and related activities located within the mine permit boundary or exploration or license area. However, LQD will utilize the time frames in Article 4 rather than those in Article 3 whenever there is a conflict.

III. Responsibilities

A. Impoundments.

LQD will be the lead review for the department and sole approving division for sedimentation, process water, or any combination of sedimentation and process water impoundments. All applications will come directly to LQD. A WQDRRs Chapter III application form will not be required but the design and performance requirements will be met in the LQD permit.

LQD will utilize, in addition to their own regulations, the WQD regulations listed in Attachment 1 of this agreement. If necessary, LQD may request technical assistance from WQD concerning specific construction and groundwater issues. If so requested, LQD will provide a copy of the application to WQD identifying specific areas where assistance is requested, with a schedule for a reasonable review period. The WQD will notify the LQD if it is unable to meet the schedule. LQD will refer these construction and groundwater issues to the respective WQD district office representative for assistance and comment. A single review document will be prepared by LQD and forwarded to

the applicant. LQD will be responsible for the satisfactory resolution of any joint (LQD/WQD) review disagreement prior to comment submittal to the applicant.

B. Groundwater Cleanup.

Groundwater cleanup operations associated with unauthorized release without a permit of discharges from uranium or trona tailings or other impoundments will be the responsibility of LQD. LQD will be responsible for permitting and enforcement of groundwater restoration activities at in situ mines, and associated facilities. WQD will continue to permit Class V wells and will coordinate with LQD on clean-up of unauthorized release from wells used for the injection of mill tailings into underground mine voids.

C. Underground Injection Control Wells.

LQD will be responsible for the permitting, operation and abandonment of Class III wells associated with in situ mining permits. For purposes of obtaining aquifer exemption from EPA, LQD (with the assistance of WQD) will prepare the aquifer exemption request and render a determination temporarily classifying during mining and restoration all groundwater within the production zone as Class V (Mineral Commercial) groundwater under Chapter VIII, WQDRRs. LQD will provide a copy to WQD of the request to EPA and EPA's response on aquifer exemption. LQD will not issue mining permits until the aquifer exemption is approved. WQD will continue to maintain DEQ's primacy responsibilities and be the primary interface with EPA including reporting and obtaining grants. The LQD may have contact with the EPA concerning in situ mining.

The WQD will be responsible for all other types of UIC wells (Class I and V wells) located at mining operations unless specified otherwise in the LQD regulations. WQD shall provide to LQD copies of permits issued for Class I and Class V wells located on mining operations.

D. Oil and Hazardous Substance Spills.

WQD will continue to be the primary agency for the reporting and cleanup of oil and hazardous substance spills as defined in Chapter IV of WQDRRs. WQD will inform LQD of reported spills on mining operations. WQD will provide LQD with information on all spills reported on mining operations. LQD will assist in clean-up activities to ensure other parts of the mining permit affected by the spill or clean up are adequately protected.

E. Land Application of wastes.

LQD will be responsible for reviewing and approving land and road application practices conducted within the mine permit area. LQD will assure that land and road applications of petroleum, antifreeze, and sump waste from shops are analyzed for hazardous

characteristics. Disposal of wastes which fail these tests, and which are not exempt from RCRA regulation, shall be referred to the Solid and Hazardous Waste Division.

For operations that have a NPDES permit, land application of wastes, and chemicals which could affect the effluent quality, must also be approved by WQD under the conditions of the NPDES permit.

F. NPDES and Storm Water Permits.

NPDES and storm water permits at all types of mining operations will be issued and enforced by WQD under its primacy agreement with EPA. WQD will provide LQD with copies of all coal mine NPDES inspection reports.

G. Aboveground/Underground Storage Tanks.

WQD will continue to retain storage tank registration, fee collection, removal and installation inspection, and contaminated site remediation responsibility for the AUST/LAUST program activities.

H. Domestic Wastewater Facilities.

WQD will continue to retain all review and approval responsibility for domestic wastewater facilities, including such items as sewage lagoons and septic tanks, unless addressed under a local delegation agreement. LQD will be the lead approving division for all facilities on mine permits that include combined sediment, process and domestic wastewater ponds. LQD will bond for the removal/ reclamation of any facility under the mining permit. The operator will provide necessary information in the LQD permit to support bond calculations. WQD will inform LQD of special closure requirements for these facilities permitted by WQD.

I. Water Supply and Distribution Systems.

WQD will continue permitting water supply systems.

IV. Existing WQD Permits

All currently WQD permitted facilities identified herein as being transferred to the LQD will be the responsibility of LQD. There will be a transition period where LQD will enforce the applicable conditions of the WQD permit prior to those conditions being incorporated into the LQD permit.

V. Records and Reporting and Grants

WQD will provide LQD, by LQD district, a list of all permits and clean-up projects located at mines sites.

For those projects for which LQD is assuming full responsibility, LQD will inform WQD which records if any, should be transferred or copied to LQD.

For reporting to EPA under the UIC program, LQD shall provide semi-annual reporting to WQD on Class III wells. LQD will assist WQD on the data development and reporting of water quality conditions associated with mining operations for purposes of the WQD assessment reports.

The LQD will provide the necessary information to the WQD to assist in the preparation of the EPA grant for Class III wells under the UIC Program. The WQD will transfer a portion of its UIC grant to cover the allowable expenses by the LQD conducted under this agreement.

VI. Enforcement

As appropriate, LQD will utilize WQDRRs for enforcement actions, as allowed under W.S. § 35-11-803(a) relating to those projects, structures or sites included under LQD responsibility of this agreement.

Signed this 28 day of May, 1996

WQD Administrator

LQD Administrator

Director

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Attachment 1
WQD Rules and Regulations Applicable to Agreement

A. CONSTRUCTION PERMITS

REGULATION	BRIEF EXPLANATION OF REGULATION
Ch X	Design standards (stds) for sedimentation control facilities at surface coal mining operations.
Ch XI Part B Section 18	Design stds for domestic wastewater lagoons.
Ch XI Part C Section 25	Part C general introduction. Commercial/industrial (C/I) wastewater facilities shall not violate surface water stds & groundwater stds. References Ch I (surface water stds) & Ch VIII (groundwater stds).
Ch XI Part C Section 26	Discharge to public sewage system via service connection.
Ch XI Part C Section 27	Design stds for C/I facility domestic waste or combined C/I domestic waste and C/I waste. See Ch XI Part B Section 18 & Part D Section 47.
Ch XI Part C Section 28	Design stds for biological treatment of primarily organic C/I waste. References Ch III Section 15.
Ch XI Part C Section 30	Design stds for non-biological treatment of primarily non-organic C/I waste. References Ch III Section 15.
Ch XI Part C Section 31	Design stds for sedimentation control facilities at non-surface coal mining operations.
Ch XI Part D Section 46	Design stds for a small wastewater (SWW) lagoon.
Ch XI Part D Section 47	Requirements for (C/I) waste or combined C/I waste & C/I domestic waste for SWW systems, which includes small one-cell, non-discharging lagoons. References Ch XI Part D Section 46.

B. IMPOUNDMENTS AND GROUNDWATER PROTECTION

Chapter III, Water Quality Rules and Regulations

Section 15 (a)(i)	requires a double liner with leak detection
(a)(iii)	requires a containment system to control discharge (i.e. pumpback to impoundment)
Section 15 (b)	If one of the alternatives in sec. 15(a) cannot be used, a subsurface investigation to demonstrate Chapter VIII standards can be protected shall be completed. Must be able to predict contaminate fate and transport from information obtained and classify groundwater quality. Chapter VIII allows two alternatives. Limited degradation within the class of use; or Degradation above class of use provided the pollution can be controlled and the pollution restored to pre-existing use after facility operation is complete. If section (b) is allowed, a groundwater monitoring plan under Section (c) & (d) &(e) & (f) is required to determine compliance. The permit needs to be clear as to the point of compliance and use parameter concentrations which are considered a permit or standard violation.

Chapter VIII contains the standards which permits must meet to discharge to underground water. Prohibitions are contained in 35-11-301 (a)(i) & (ii).

1. Groundwater Cleanup

   Any violation of W.S. §35-11-301 (a)(i) & (ii) or a violation of the groundwater use standards or permit conditions is enforceable under the EQ Act. Cleanup of violations need to bring all parameters below the highest concentration of the use standard contained in Chapter VIII.

2. UIC Wells

   Every LQD permit must contain the permit conditions listed in Section C.

3. Land Application of wastes

   The land application of wastes shall protect the groundwater use standards of Chapter VIII.

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C. In Situ Mining

The following sections of Chapter IX, Water Quality Division Rules and Regulations are currently applicable to in situ mining operations. In the future these requirements will be deleted from the WQD rules when they are incorporated into the LQD rules:

Section 2(y) Definition of a "Special Process Discharge"

Section 3(c)(2)Applicability to "Special Process Discharges"

Section 3(c)(3)(h)Sets up joint LQD/WQD Permit

Section 5(a)(2)Exempts mining operations from a one year period to comply. Mote anyway now.

Section 6(b)Application contents. Mostly duplicates what LQD already has anyway.

Section 7(a)"For any subsurface discharge except a special process discharge."

Section 7(a)(11)Limits a special process discharge in time. Duplicates LQD Rules. Applies to R&D.

Section 7(b)Administrative Processing Procedures

Section 19 States that certain portions of the permit shall be identical to the LQD Application

There are Sections of Water Quality Rules and Regulations which apply to in situ mining in Chapter VIII. Namely groundwater classification, etc. which will remain the same.

Please note Chapter VIII, Section 4(d)(vi) the second half of the paragraph. This rule makes an exception to the overall groundwater standards in that it allows no increase at all for uranium over background. In effect, this prohibits all injection of water if the background concentration of uranium to be injected is greater than the background concentration of the aquifer to be affected, even if both concentrations are less than all applicable standards.

DEQ Primacy agreement with EPA, as well as federal regulations require that all permits issued under the UIC program contain certain language. That language is contained in 40 CFR 144.51 and 144.52 as follows:

Re: Subpart E-Permit Conditions

144.51 Conditions applicable to all permits.

The following conditions apply to all UIC permits. All conditions applicable to all permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved State regulations) must be given in the permit.

(a) Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Safe Drinking Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application;except that the permittee need not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit under 144.34.

(b) Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

(c) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(d) Duty to mitigate. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

(e) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(f) Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(g) Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

(h) Duty to provide information. The permittee shall furnish to the Director, within a time specified, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

(i) Inspection and entry. The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the SDWA, any substances or parameters at any location.

(j) Monitoring and records.

(1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(2) The permittee shall retain records of all monitoring information, including the following:

(i) Calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time; and

(ii) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under 144.52(a)(6), or under part 146 subpart G as appropriate. The Director may require the owner or operator to deliver the records to the Director at the conclusion of the retention period. For EPA administered programs, the owner or operator shall continue to retain the records after the three year retention period unless he delivers the records to the Regional Administrator or obtains written approval from the Regional Administrator to discard the records.

(3) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(k) Signatory requirement. All applications, reports, or information submitted to the Administrator shall be signed and certified.
(See 144.32.)

(l) Reporting requirements.

(1) Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.

(2) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(3) Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Safe Drinking Water Act. (See 144.38; in some cases, modification or revocation and reissuance is mandatory.)

(4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 30 days following each schedule date.

(6) Twenty-four hour reporting. The permittee shall report any noncompliance which may endanger health or the environment, including:

(i) Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW; or

(ii) Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between USDWs. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (l) (4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (l)(6) of this section.

(8) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

(m) Requirements prior to commencing injection. Except for all new wells authorized by an area permit under 144.33(c), a new injection well may not commence injection until construction is complete, and

(1) The permittee has submitted notice of completion of construction to the Director; and

(2)

(i) The Director has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or

(ii) The permittee has not received notice form the Director of his or her intent to inspect or otherwise review the new injection well within 13 days of the date of the notice in paragraph (m)(1) of this section, in which case prior inspection or review is waived and the permittee may commence injection. The Director shall include in his notice a reasonable time period in which he shall inspect the well.

(n) The permittee shall notify the Director at such times as the permit requires before conversion or abandonment of the well or in the case of area permits before closure of the project.

(o) Plugging and abandonment report. For EPA-administered programs, within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator shall submit a report to the Regional Administrator. If the quarterly report is due less than 15 days before completion of plugging, then the report shall be submitted within 60 days. The report shall be certified as accurate by the person who performed the plugging operation. Such report shall consist of either:

(1) A statement that the well was plugged in accordance with the plan previously submitted to the Regional Administrator; or

(2) Where actual plugging differed from the plan previously submitted, and updated version of the plan on the form supplied by the regional administrator, specifying the differences.

(p) Mechanical integrity demonstrations. For EPA administered programs, the Regional Administrator by written notice may require the owner or operator to comply with a schedule describing when such demonstrations shall be made.

[48 FR 14189, Apr. 1, 1983, as amended at 49 FR 20185, May 11, 1984; 53 FR 28147, July 26, 1988]

Part 144.52 Establishing permit conditions.

(a) In addition to conditions required in 144.51, the Director shall establish conditions, as required on a case-by-case basis under 144.36 (duration of permits), 144.53(a) (schedules of compliance), ^A144.54 (monitoring), and for EPA permits only 144.53(b) (alternate schedules of compliance), and 144.4 (considerations under Federal law). Permits for owners or operators of hazardous waste injection wells shall include conditions meeting the requirements of 144.14 (requirements for wells injecting hazardous waste), 144.52(a)(7) and (a)(9), and subpart G of part 146. Permits for other wells shall contain the following requirements, when applicable.

(1) Construction requirements as set forth in part 146. Existing wells shall achieve compliance with such requirements according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction as part of the permit application. Except as authorized by an area permit, no construction may commence until a permit has been issued containing construction requirements (see 144.11). New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Administrator as minor modifications (144.41). No such changes may be physically incorporated into construction of the well prior to approval of the modification by the Director.

(2) Corrective action as set forth in 144.55 and 146.7

(3) Operation requirements as set forth in 40 CFR part 146; the permit shall establish any maximum injection volumes and/or pressures necessary to assure that fractures are not initiated in the confining zone, that injected fluids do not migrate into any underground source of drinking water, that formation fluids are not displaced into any underground source of drinking water, and to assure compliance with the part 146 operating requirements.

(4) Requirements for wells managing hazardous waste, as set forth in 144.14.

(5) Monitoring and reporting requirements as set forth in 40 CFR part 146. The permittee shall be required to identify types of tests and methods used to generate the monitoring data. For EPA administered programs, monitoring of the nature of injected fluids shall comply with applicable analytical methods cited and described in table I of 40 CFR 136.3 or in appendix III of 40 CFR part 261 or in certain circumstances by other methods that have been approved by the Regional Administrator.

(6) After a cessation of operations of two years the owner or operator shall plug and abandon the well in accordance with the plan unless he:

(i) Provides notice to the Regional Administrator;

(ii) Describes actions or procedures, satisfactory to the Regional Administrator, that the owner or operator will take to ensure that the well will not endanger USDWs during the period of temporary abandonment. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells unless waived by the Regional Administrator.

(7) Financial responsibility. The permittee is required to maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Director. The permittee shall show evidence of such financial responsibility to the Director by the submission of a surety bond, or other adequate assurance, such as financial statements or other materials acceptable to the Director. For EPA administered programs, the Regional Administrator may on a periodic basis require the holder of a lifetime permit to submit an estimate of the resources needed to plug and abandon the well revised to reflect inflation of such costs, and a revised demonstration of financial responsibility if necessary. The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of Subpart F of this part.

(8) Mechanical integrity. A permit for any Class I, II or III well or injection project which lacks mechanical integrity shall include, and for any Class V well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Director under 146.08 that the well has mechanical integrity.

(9) Additional conditions. The Director shall impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of fluids into underground sources of drinking water.

(b)

(1) In addition to conditions required in all permits the Director shall establish conditions in permits as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the SDWA and parts 144, 145, 146 and 124.

(2) For a State issued permit, an applicable requirement is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of the permit. For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement (including any interim final regulation) which takes effect prior to the issuance of the permit (except as provided in 124.86(c) for UIC permits being processed under subpart E or F of part 124). Section 124.14 (reopening

of comment period) provides a means for reopening EPA permit proceedings at the discretion of the Director where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. For State and EPA administered programs, an applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in 144.39.

(3) New or reissued permits, and to the extent allowed under 144.39 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in 144.52.

(c) Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

[48 FR 14189, Apr. 1, 1983, as amended at 49 FR 20185, May 11, 1984; 53 FR 28147, July 26, 1988]