

CHAPTER 66

Original Senate File No. 29

PLANT SITING PERMIT FACILITIES

AN ACT to create W.S. 35-502.8:2; and to amend W.S. 35-502.9(a) by creating a new paragraph (xi), 35-502.82(b)(i) and 35-502.91 relating to monitoring plant siting permit facilities and original applications; providing the department of environmental quality with monitoring authority; providing for initial consideration of water quality and supply; and providing for an effective date.

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

Section 1. W.S. 35-502.80:2 is created to read:

35-502.80:2. Quantity of water available; analysis; public comment.

(a) Whenever an applicant applies for an industrial siting permit, pursuant to W.S. 35-502.80 for a facility which requires the use of the waters of the state, the applicant shall prepare and submit to the state engineer a water supply and water yield analysis with a request for a preliminary and final opinion as to the quantity of water available for the proposed facility.

(b) Within thirty (30) days after the applicant has submitted the water supply and yield analysis, the state engineer shall cause to be made, at the applicant's expense, a comprehensive review of the water supply and water yield analysis submitted.

(c) Within five (5) days after completion of the review, the state engineer shall render a preliminary opinion as to the quantity of water available for the proposed facility. The preliminary opinion, or a reasonable summary, shall be published for three (3) consecutive weeks in a newspaper of general circulation in the county in which the proposed facility is to be located. The expense of the publication shall be borne by the applicant.

(d) In rendering a final opinion as to the quantity of water available for the proposed facility, the state engineer shall consider any comments which are submitted in writing within twenty (20) days of the last date of publication.

(e) Within thirty (30) days after the last date of publication, the state engineer shall render a final opinion.

(f) The final opinion of the state engineer shall be submitted to the industrial siting council and the public service commission. The final opinion shall be binding on the industrial siting council for the purposes of issuing an industrial siting permit, and shall be reviewed by the public service commission prior to its issuance of a certificate of public convenience and necessity.

(g) The preliminary and final opinion of the state engineer shall not create a presumption concerning injury or noninjury to water rights, nor shall the opinions of the state engineer be used as evidence in any administrative proceeding or in any judicial proceeding concerning water right determinations or administration.

Section 2. W.S. 35-502.9(a) by creating a new paragraph (xi), 35-502.82(b)(i) and 35-502.91 are amended to read:

35-502.9. Powers and duties of director.

(a) In addition to any other powers and duties imposed by law, the director of the department shall:

(xi) Designate authorized officers, employees or representatives of the department to monitor the air, water, and land quality, and solid waste management operations of all facilities which have been granted permits under W.S. 35-502.75 through 35-502.94, for assuring continuing compliance with conditions and requirements of their permits and for discovering and preventing noncompliance with the permits or violations of law.

35-502.82. Study and evaluation; service of notice of application.

(b) Not less than ninety (90) nor more than one hundred twenty (120) days after receipt of an application for a permit, the director shall:

(i) Schedule and conduct a public hearing, provided that no hearing shall be held until the state engineer has submitted a preliminary and final opinion as to the quantity of water available for the proposed facility pursuant to W.S. 35-502.80:2;

35-502.91. Monitoring of facilities. The council and the office, utilizing to the fullest extent possible the staff and resources of all state agencies, boards and commissions, shall have continuing authority and responsibility for monitoring the operations of all facilities which have been granted permits under this act, for assuring continuing compliance with this act and permits issued hereunder, and for discovering and preventing noncompliance with this act and the permits, except that the department of environmental quality shall have continuing authority and responsibility for monitoring and assuring compliance with laws and regulations pertaining to air, water, and land quality, and solid waste management, and for monitoring and assuring compliance with any permit conditions ordered by the council relating to matters of air, water, and land quality, and solid waste management.

Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

Approved February 23, 1977.