

owning the mausoleum, vault or crypt. If no person, firm, partnership, association, company or corporation can be found in the county where the mausoleum, vault or crypt is located, the removal and interment shall be at the expense of the cemetery, city, town or county within which the mausoleum, vault or crypt is located, or of the cemetery association in charge of any such cemetery, provided, however, that if there is a perpetual care and maintenance fund in existence for the care of the mausoleum, vault, crypt or structure, the expense incident thereto may be defrayed from the principal of the fund by order of the district judge. Any columbarium or mausoleum maintained or constructed contrary to the provisions of this act shall be deemed a public nuisance, and may be enjoined in an action brought by any taxpayer of this state in the district court.

35-8-406. Rules and regulations.

The state department of health and the insurance commissioner are hereby empowered and directed to make such rules and regulations as shall in their judgment be necessary for the carrying out of the provisions of this act, which regulations shall have the force and effect of law.

35-8-407. Penalty.

Any person, officer, manager or agent of any firm, partnership, association, company or corporation who violates any provisions of this act shall be fined not more than seven hundred fifty dollars (\$750.00), imprisoned not more than six (6) months, or both.

CHAPTER 9
FIRE PROTECTION

ARTICLE 1
DEPARTMENT OF FIRE PREVENTION
AND ELECTRICAL SAFETY

35-9-101. Department created.

The department of fire prevention and electrical safety is created.

35-9-102. Definitions.

(a) As used in W.S. 35-9-101 through 35-9-130:

(i) "Apprentice electrician" means a person who has insufficient qualifications to be a journeyman electrician and is hired by a licensed electrical contractor to assist a licensed journeyman or master electrician. An apprentice electrician must be registered with the department of fire prevention and electrical safety and must be enrolled in a bona fide program of training approved by the bureau of apprenticeship and training, United States department of labor, or present evidence directly to the department that he is enrolled in an apprentice training program which provides training equivalent to a program approved by the bureau of apprenticeship and training, United States department of labor;

(ii) "Apprentice technician" means a person who has insufficient qualifications to be a low voltage or a limited technician and is hired by a licensed electrical contractor, low voltage contractor, or limited contractor to assist a licensed low voltage or limited technician. An apprentice technician must be registered with the department of fire prevention and electrical safety and must be enrolled in a training program as approved by the department;

(iii) "Board" means the electrical board;

(iv) "Council" means the council on fire prevention and electrical safety in buildings;

(v) "Department" means the department of fire prevention and electrical safety;

(vi) "Electrical contractor" means a person licensed by the department to contract with another to plan, lay out and supervise the installation of electric equipment. "Electrical contractor" excludes a person who only plans or designs electrical installations;

(vii) "Full-time paid fire fighters" means an individual regularly employed for devoting his entire time of employment to the care, operation and requirements of a regularly constituted fire department;

(viii) "Installation of electric equipment" includes installing, altering and repairing the wiring of apparatus equipment and conductors subject to the National Electrical Code;

(ix) "Journeyman electrician" means a person licensed by the department who has four (4) years experience in the electrical wiring industry and technical knowledge to install and supervise the installation of electrical equipment for any purpose in accordance with the National Electrical Code and city, county and state ordinances and regulations;

(x) "Limited electrical contractor" means a person, licensed by the department to contract with another to plan, lay out and supervise the installation of electrical equipment associated with the type of limited electrical contractor license held. "Limited electrical contractor" excludes a person who only plans or designs electrical installations;

(xi) "Limited technician" means a person licensed by the department who has met the minimum experience requirements as prescribed by board rules and regulations in the portion of the electrical wiring industry covered by his limited license. The limited technician shall have technical knowledge to install and supervise the installation of electrical equipment associated with the type of limited electrical license held in accordance with the National Electrical Code and city, county and state ordinances and regulations;

(xii) "Low voltage electrical contractor" means a person licensed by the department to contract with another to plan, lay out and supervise the installation of electrical equipment associated with the type of limited electrical contractor license held. "Low voltage electrical contractor" excludes a person who only plans or designs electrical installations;

(xiii) "Low voltage technician" means a person licensed by the department who has met the minimum experience requirements as prescribed by board rules and regulations in the portion of the electrical wiring industry covered by his low voltage license. The low voltage technician shall have technical knowledge to install and supervise the installation of electrical equipment associated with the type of low voltage electrical license held in accordance with the National Electrical Code and city, county and state ordinances and regulations;

(xiv) "Master electrician" means a person licensed by the department who has eight (8) years experience in the electrical wiring industry and technical knowledge to plan, lay out and supervise the installation of electric equipment in

accordance with the National Electrical Code and city, county and state ordinances and regulations;

(xv) "Master electrician of record" means a Wyoming licensed master electrician who is actively employed by a licensed electrical contractor in a full-time capacity, and who assumes responsibility to ensure that the National Electrical Code, W.S. 35-9-120 through 35-9-130 and applicable rules of the department of fire prevention and electrical safety are adhered to on all electrical work undertaken by the electrical contractor in the state of Wyoming, and who is not the master electrician of record for, or employed by, any other electrical contractor;

(xvi) "Owner" means the person holding legal title to a building or real property;

(xvii) "Public building" means a building intended for access by the general public;

(xviii) "Remodeling" includes repairing, altering or adding to a building or its electrical system;

(xix) "Technician of record" means a Wyoming licensed low voltage or limited technician who is actively employed by a licensed low voltage or limited electrical contractor in a full-time capacity, and who assumes responsibility to ensure that the National Electrical Code, W.S. 35-9-120 through 35-9-130 and applicable rules of the department of fire prevention and electrical safety are adhered to on all low voltage or limited electrical work undertaken by the low voltage or limited electrical contractor in the state of Wyoming, and who is not the technician of record for, or employed by, any other low voltage or limited electrical contractor.

35-9-103. Divisions created; council and board created.

(a) There are created within the department:

(i) The division of fire prevention;

(ii) The division of electrical safety;

(iii) The council on fire prevention and electrical safety in buildings;

(iv) The electrical board.

(b) The council consists of five (5) members appointed by the governor for six (6) year terms which commence on April 1 following appointment. One (1) member shall be appointed to represent each of the following: counties or municipalities, fire fighters, the electrical board, an association of architects or an association of general contractors and the general public. Vacancies shall be filled for the unexpired term. When new appointments are made, the council shall select a chairman, a vice chairman and a secretary. A quorum consists of three (3) members. The council shall meet at least twice each year.

(c) The board consists of five (5) members appointed by the governor for six (6) year terms. At least one (1) member and no more than two (2) members shall be journeymen electricians, at least one (1) and no more than two (2) shall be master electricians, and at least one (1) and no more than two (2) shall be electrical contractors. No two (2) members shall be employed by the same entity and serve on the board. Any member who becomes employed by the same entity as another member during his term of office shall be ineligible to continue as a member of the board. Vacancies shall be filled for the unexpired term. When new appointments are made, the board shall select a chairman, a vice chairman and a secretary. A quorum consists of three (3) members. The board shall meet at least twice each year.

(d) The members of the council and board shall receive compensation, per diem and travel expenses in the same manner and amount as the state legislature while going to, attending or returning from meetings. The governor may remove any council or board member as provided in W.S. 9-1-202.

35-9-104. State fire marshal; qualifications.

(a) After consultation with the council, the governor shall appoint a state fire marshal who shall be the director of the department and shall have theoretical knowledge and practical and managerial skill and experience which fits him for the position, as determined by the governor.

(b) Repealed by Laws 1987, ch. 185, § 2.

35-9-105. Division administrators; qualifications.

(a) After consultation with the council and the governor, the state fire marshal shall appoint:

(i) The chief deputy fire marshal, who is the administrator of the fire prevention division. His qualifications shall be the same as the state fire marshal;

(ii) The chief electrical inspector who is the administrator of the electrical safety division. He shall be a master electrician and an electrical inspector certified by the International Code Council or the International Association of Electrical Inspectors.

(b) The chief deputy fire marshal and the chief electrical inspector shall devote full time to the duties of the office and shall be directly responsible to the state fire marshal.

35-9-106. Powers and duties of council.

(a) The council shall adopt rules and regulations to:

(i) Establish minimum fire standards not exceeding the standards prescribed by the International Fire Code, the International Building Code, the International Mechanical Code, the International Existing Building Code and the International Fuel Gas Code for:

(A) All new building construction or remodeling under W.S. 35-9-108(a);

(B) The prevention of fire and the protection of life and property from fire and panic in all existing buildings;

(C) The safeguarding of life and property from hazards of fire and explosion arising from storage, handling and use of hazardous substances, materials and devices.

(ii) Repealed by Laws 2003, Ch. 49, § 3.

(iii) Repealed By Laws 2010, Ch. 84, § 3.

(iv) Implement this section.

(b) The council shall have access to records of the divisions and may require written or oral information from any officer or employee of the department when conducting investigations pursuant to W.S. 35-9-108(p) and 35-9-117.

(c) Except as provided under W.S. 35-9-121(d), 35-9-121.1(d)(ii) and 35-9-124(a)(ii), the council shall hear appeals to determine the suitability of alternate materials and type of construction and to interpret and grant variances from rules and regulations of the council.

(d) The standards for liquefied petroleum gas installations shall be the current edition of NFPA 58 Liquefied Petroleum Gas Code and ANSI Z223.1/NFPA 54 National Fuel Gas Code. To the extent the standards for liquefied petroleum gas conflict with the standards prescribed by the International Fuel Gas Code, the NFPA 58 Liquefied Petroleum Gas Code and ANSI Z223.1/NFPA 54 National Fuel Gas Code control.

(e) Repealed By Laws 2010, Ch. 84, § 3.

35-9-107. Duties and powers of state fire marshal.

(a) The state fire marshal shall:

(i) Establish administrative policy for the department;

(ii) Adopt regulations in consultation with the board and council to implement this article, excluding the provisions of W.S. 35-9-106 and 35-9-124;

(iii) Implement fire safety programs designed to minimize fire hazards and disasters and loss of life and property from these causes. These programs shall include:

(A) Establishment and enforcement of fire safety and safety practices throughout the state;

(B) Preventive inspection and corrective activities;

(C) Coordination of fire safety programs with volunteer and paid fire companies and other state agencies and political subdivisions;

(D) Critical analysis and evaluation of fire loss statistics to determine problems and solutions;

(E) Coordination, development and implementation of training programs designed to assist fire fighters in all

phases of fire prevention and suppression activities except the wild land and forestry division fire control programs implemented by the state forester; and

(F) Acceptance testing on fire alarm systems, fire sprinkler systems and kitchen hood and duct suppression systems.

(iv) Inspect each state owned building not under the authority of a local governmental entity pursuant to W.S. 35-9-121(b) and require conformance to the minimum standards of fire prevention, fire protection and public safety;

(v) Inspect facilities or installations upon request by the owner. The department may charge reasonable fees not exceeding the cost of the inspection;

(vi) Upon request, assist the chief of a fire company or department, a fire marshal, a local building inspector, other state agencies or political subdivisions of the state or county fire wardens in fire prevention matters;

(vii) Keep a record of all fires which occur in the state, including the origin, facts, statistics and circumstances of the fire determined by investigation under this act. The record, except for testimony given in the examination, shall be open for public inspection at all times;

(viii) Upon request, assist a municipality, county or other local governmental entity in exercising authority granted to that entity under W.S. 35-9-121.

(b) The state fire marshal may:

(i) Subject to W.S. 35-9-121(b) and 35-9-121.1(d), enforce state laws not otherwise enforceable by another state agency concerning:

(A) The prevention of fire;

(B) The storage, sale and use of an explosive, combustible or other dangerous article in solid, liquid or gas form;

(C) Repealed By Laws 2003, Ch. 49, § 3.

(D) The suppression of arson and investigation of fire and explosions.

(ii) Subject to W.S. 35-9-121(b), inspect public, business or industrial buildings and require conformance to standards of prevention and safety and of uses of premises as promulgated by the International Fire Code, the International Building Code, the International Mechanical Code and the International Fuel Gas Code;

(iii) Deputize a member of a fire department who is approved by the chief of his department, or a local building inspector approved by the local governmental entity, provided that the person is qualified to inspect, investigate and carry out orders for the state fire marshal under the rules adopted by the department;

(iv) Employ personnel and contract with appropriate personnel as necessary for the efficient performance of assigned duties.

(c) The state fire marshal shall not interfere with the hookup of a utility to a new or remodeled building either during construction or after construction is completed, unless the state fire marshal determines that the hookup of a utility poses immediate danger to life or property.

35-9-108. Plan review; procedure; fees.

(a) Except as provided under subsections (h) and (q) of this section and W.S. 35-9-118, prior to beginning any new construction, the remodeling of existing buildings or the installation of aboveground flammable or combustible fuel storage tanks, the owner or the owner's designated representative shall submit plans to the state fire marshal for review of the proposed project for compliance with applicable fire and electrical safety standards for:

(i) Buildings or structures owned or leased by the state or local governmental entities;

(ii) Public buildings over five thousand (5,000) square feet of total floor area including basement;

(iii) Multistory public buildings;

(iv) Buildings intended for use as child care centers housing more than ten (10) children;

(v) Public bars, public lounges, restaurants, night clubs, lodge halls, theaters, churches or public meeting places regardless of size;

(vi) Public and private aboveground fuel dispensing facilities.

(b) If the state fire marshal does not notify the sender in writing of violations of the fire or electrical safety standards within twenty-one (21) working days of receiving the plans, they are approved as submitted. If code deficiencies are discovered through inspection by the fire marshal during the construction or remodeling of buildings, the plan and plan review shall be amended to bring the building into compliance with applicable codes.

(c) Plans which are disapproved may be corrected and resubmitted. The state fire marshal shall review only the corrections made in response to the violations cited in the initial review. If the state fire marshal does not notify the sender in writing of violations of the fire and electrical safety standards within ten (10) working days of receiving the corrected plans, they are approved as resubmitted.

(d) The department shall collect fees for plan reviews and other inspections except as provided in subsections (q) and (r) of this section, in the amount provided in the 1997 Uniform Building Code and adjusted for inflation as adopted by rule or regulation by the department. Fees collected under this subsection shall be deposited into the general fund.

(e) For publicly owned buildings, the department may charge fees not in excess of fees authorized under W.S. 35-9-108(d) to any entity for which it performs any plan inspection or review.

(f) Repealed By Laws 2003, Ch. 49, § 3.

(g) Repealed By Laws 2003, Ch. 49, § 3.

(h) Nothing in this section shall apply to municipalities or counties which have received enforcement authority for fire safety standards under W.S. 35-9-121.

(j) Except as provided under subsections (h) and (q) of this section and W.S. 35-9-118, no new construction or remodeling of buildings or installation of aboveground flammable or combustible fuel storage tanks shall begin until the state fire marshal has approved the plans for compliance with applicable fire and electrical safety standards.

(k) If new construction or remodeling of buildings or installation of aboveground flammable or combustible fuel storage tanks is commenced without approved plans, the state fire marshal may order the construction, remodeling or installation to cease until plans are approved, subject to the requirements of subsection (m) of this section.

(m) Orders issued by the state fire marshal pursuant to this section shall be served upon the owner in the manner provided for service of process by the Wyoming Rules of Civil Procedure. The order shall require that the person served immediately cease certain activities until he has complied with the applicable statutory requirements. The order shall be in full force and effect from the time of service until the person complies with the statutory requirement as described in the order, or the order is revoked by the council. If the person fails to cease certain activities as required within forty-eight (48) hours of service, the person is guilty of a misdemeanor.

(n) Except as provided under subsections (h) and (q) of this section and W.S. 35-9-118, after new construction or remodeling of buildings is completed, the state fire marshal shall inspect the building and determine conformance with the plan review or amended plan review. If he finds conformance, the state fire marshal shall issue a certificate of occupancy for a newly constructed building and a letter of compliance for a remodeled building. No newly constructed or remodeled building shall be used or occupied until the state fire marshal has issued a certificate of occupancy or letter of compliance. If a newly constructed or remodeled building is used or occupied prior to the issuance of a certificate of occupancy or letter of compliance, the state fire marshal shall order the use and occupancy of the building to cease until a certificate of occupancy or letter of compliance is issued, subject to the requirements of subsection (m) of this section.

(o) Except as provided under subsections (h) and (q) of this section and W.S. 35-9-118, after the installation of aboveground flammable or combustible fuel storage tanks is completed, the state fire marshal shall inspect the premises and

determine conformance with the plan review. If he finds conformance, the state fire marshal shall issue a letter of compliance. No premises with aboveground flammable or combustible fuel storage tanks installed shall be used until the state fire marshal has issued a letter of compliance. If a premise with aboveground flammable or combustible fuel storage tanks installed is used prior to issuance of a letter of compliance, the state fire marshal shall order the use of the premises to cease until a letter of compliance is issued, subject to the requirements of subsection (m) of this section.

(p) Any owner aggrieved by an order of the state fire marshal may appeal to the council within forty-eight (48) hours. The complaint shall be investigated immediately by direction of the council. Unless the order is revoked by the council, it shall remain in force and the owner shall comply.

(q) A plan review is:

(i) Not required for remodeling that is exempt from permitting under the International Code;

(ii) Required for remodeling that costs less than forty thousand dollars (\$40,000.00) and affects a built-in fire protection system for the building, provided a fee of no more than fifty dollars (\$50.00) per hour shall be paid to the department for the review;

(iii) Required for remodeling that costs forty thousand dollars (\$40,000.00) or more, provided the department shall collect a fee pursuant to subsection (d) of this section;

(iv) Not required to be submitted to the state fire marshal if the plan review is submitted to a local governmental entity which has been granted sole plan review authority pursuant to W.S. 35-9-121(b).

(r) There shall be no inspection fees for school buildings.

(s) Plan reviews may be submitted in phases so that work may begin on the first phase of a project upon approval of the plans for that phase. Subsequent work may begin on each successive phase as plans are approved for each successive phase. Plans for fire alarm systems and fire sprinkler systems shall be submitted as successive phase plans after the initial plans are approved.

(t) Subsections (a) through (s) shall not apply to remodeling that is exempt under subsection (q).

35-9-109. Investigation of fires; notification to fire marshal; powers of fire marshal.

(a) The county fire warden or chief of the fire department of a city, town, county or fire district shall investigate the cause, origin and circumstances of each fire occurring in the city, town, county or district that was reported or subject to emergency response, by which property has been destroyed or damaged.

(b) The officer investigating a fire shall notify the state fire marshal and within one (1) week of the fire shall furnish him a written statement of all facts relating to its cause and origin, and other information required by forms provided by the state fire marshal.

(c) The state fire marshal may investigate the origin or circumstances of any fire or explosion or any attempt to cause a fire or explosion.

(d) In performing the duties imposed by this act, the state fire marshal may:

(i) Enter and examine any building or premises where any fires or attempt to cause fires occurred;

(ii) Enter any building adjacent to that in which a fire or attempt to cause a fire occurred; and

(iii) Take full control and custody of the buildings and premises until his examination and investigations are completed.

35-9-110. Investigation of fires; testimony; subpoena; arrest.

(a) The state fire marshal may take testimony under oath and cause the testimony to be reduced to writing.

(b) When the examination discloses that a fire or explosion was of incendiary origin, the state fire marshal may arrest the supposed incendiary or cause him to be arrested and charged with the crime. The state fire marshal shall transmit a

copy of the testimony to the district attorney for the county where the fire, explosion or attempt occurred.

(c) The state fire marshal may:

(i) Subpoena witnesses and compel their attendance before him;

(ii) Cause to be produced papers he requires in the examination; and

(iii) Administer oaths and affirmations to persons appearing as witnesses before him.

35-9-111. Certain structures declared nuisance; repair or demolition; procedure.

(a) A building or structure is a public nuisance if it is especially liable to fire and endangers people, buildings or property in the vicinity. If the state fire marshal, county fire warden, or the chief of a fire department or district finds that a building or structure is especially liable to fire and endangers people, buildings or property in the vicinity, the officer shall order the structure to be repaired, torn down or demolished, all materials removed and all dangerous conditions remedied.

(b) The order shall be in writing, state the grounds and be filed in the office of the clerk of the district court of the county in which the building or structure is situated. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the owner and any occupants of the building or structure with a written notice that the order has been filed and will be put in force unless the owner or occupant files his objections or answer with the clerk of the district court within the time specified in W.S. 35-9-112. A copy of the order shall be posted in a conspicuous place upon the building or structure.

35-9-112. Certain structures declared nuisance; answer to notice or order.

Within twenty (20) days of service of an order under W.S. 35-9-111(b) the owner or occupant may file with the clerk of the district court and serve upon the council an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the court shall affirm the order of

condemnation and fix a time in which the order shall be enforced. If an answer is filed and served, the court shall hear and determine the issues raised as provided in W.S. 35-9-113.

35-9-113. Certain structures declared nuisance; hearing.

Upon application of the state fire marshal, county fire warden or the chief of a fire department or district, the court shall order a hearing within twenty (20) days from the date of the filing of the answer. If the court sustains the order, the court shall fix a time within which the order shall be enforced. Otherwise the court shall annul or set aside the order of condemnation.

35-9-114. Certain structures declared nuisance; appeal.

An appeal from the judgment of the district court may be taken by the owner or occupant in accordance with the Wyoming Rules of Appellate Procedure.

35-9-115. Certain structures declared nuisance; sale of materials; expenses constitute lien; disposition of proceeds.

If the owner or occupant fails to comply with an order of condemnation within the time fixed by the court, the state fire marshal, county fire warden or the chief of a fire department or district shall alter, repair or demolish the building or structure in accordance with the order. If a building or structure is demolished in accordance with the order, the state fire marshal, county fire warden or the chief of a fire department or district may dispose of the salvaged materials at public auction upon five (5) days posted notice. He shall keep an accurate account of the expenses incurred in carrying out the order. He shall report his action and present a statement of the expenses incurred by him and the amount received from any salvage sale to the court for approval and allowance. The court shall examine, correct if necessary and allow the expense account. The amount allowed constitutes a lien against the real estate on which the building or structure is or was situated and if the amount is not paid by the owner or occupant within six (6) months after the amount has been examined and approved by the court, the real estate shall be sold under court order by the county sheriff in the manner provided by law for the sale of real estate upon execution. The proceeds of the sale shall be paid into the state treasury. If the amount received as salvage or on sale exceeds the expense incurred by the state fire marshal, county fire warden or the chief of the fire department

or district, the court shall direct the payment of the surplus to the previous owner for his use and benefit.

35-9-116. Removal of combustible material; remedy of flammable conditions.

If the state fire marshal, county fire warden or the chief of a fire department or district finds combustible materials or flammable conditions or fire hazards in a building or on premises subject to an inspection and the materials or conditions are dangerous to the safety of the buildings, premises or public, the officer shall order the materials to be removed or conditions remedied. The order shall be in writing and shall be served upon the owner, lessee, agent or occupant. A person who is served and fails to comply within twenty-four (24) hours after service, unless the order prescribes a longer time, is guilty of a misdemeanor. The material may be removed or the condition corrected at the expense of any person served. The state fire marshal, county fire warden or the chief of a fire department or district may maintain actions for the recovery of the expenses. In the event of a hazard of immediate life threatening severity, the state fire marshal, county fire warden or the chief of a fire department or district may order evacuation of a building or area and may implement emergency measures to protect life and property and to remove the hazard.

35-9-117. Removal of combustible material; appeal to council.

An owner or occupant aggrieved by an order of an officer under W.S. 35-9-116 may appeal to the council within forty-eight (48) hours. The cause of the complaint shall be investigated immediately by direction of the council. Unless the order is revoked by the council, it shall remain in force and the owner or occupant shall comply.

35-9-118. Exceptions.

(a) W.S. 35-9-106 through 35-9-117 do not apply to:

(i) Farms or ranches of forty (40) acres or more on deeded land;

(ii) County memorial hospitals, state-owned health care institutions, hospital districts, private hospitals and other health care facilities, except as permitted pursuant to W.S. 35-9-121.1;

(iii) Mines or their appurtenant facilities, oil field operations, petroleum refineries and liquefied petroleum gas facilities;

(iv) Railway shops, railway buildings (except those used for public assembly, cafeterias, dormitories, etc.), rolling stock and locomotive equipment;

(v) Automotive equipment employed by a railway, gas, electric or communication utility in the exercise of its function as a public utility.

(b) Nothing in this section prohibits the state fire marshal from assisting, upon request, another state agency, or an owner or operator of property listed in subsection (a) of this section or a municipality, county or other local governmental entity in exercising authority granted to that entity under W.S. 35-9-121.

35-9-119. Duties of chief electrical inspector.

(a) The chief electrical inspector shall:

(i) Enforce the minimum requirements for electrical installations except in localities which have received enforcement authority for electrical safety standards under W.S. 35-9-121(a);

(ii) Aid cities, towns, counties and inspectors in understanding the National Electrical Code;

(iii) Distribute copies of the National Electrical Code at cost;

(iv) Interpret the National Electrical Code; and

(v) Supervise deputy electrical inspectors.

(b) The chief electrical inspector may investigate electrocution incidents that occur in the state pursuant to W.S. 35-9-131.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the chief electrical inspector, the chief electrical inspector shall notify the party

named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order.

35-9-120. Minimum requirements for electrical installations; permits; inspections; fees.

(a) The installation of electric equipment in or on buildings, mobile homes and premises shall be made subject to the applicable minimum requirements of the National Electrical Code. To the extent that any provision in the International Fire Code, the International Building Code, the International Mechanical Code, the International Existing Building Code and the International Fuel Gas Code conflicts with the standards prescribed by the National Electrical Code, the National Electrical Code shall control.

(b) Subject to W.S. 35-9-121(b), the chief electrical inspector and his deputies:

(i) Have the right of ingress or egress to all buildings or other structures owned or leased by the state or local governmental entities during reasonable working hours to make electrical inspections;

(ii) May inspect any building or structure:

(A) With a search warrant issued by a district court after a finding of probable cause that there is a violation of state law regarding electrical installations; or

(B) At any time during construction and within thirty (30) days after completion of the installation for which an electrical wiring permit was issued or an electrical plan review was performed.

(iii) Shall inspect any building or structure within five (5) business days of the request of the owner or the general or electrical contractor installing the electrical equipment.

(c) For any requested electrical inspection conducted or electrical wiring permit issued by the chief electrical inspector or his deputy, a fee established by the department by rule shall be paid by the person or contractor making the request. The electrical wiring permit fee shall be waived for anyone requesting and paying for an electrical inspection. The

fees established by the department shall not exceed the following:

(i) Electrical inspection fees for requested inspections:

(A) Each residential unit \$20.00

plus \$.50 per ampere rating of the electrical service;

(B) Mobile home services \$20.00

plus \$.50 per ampere rating of mobile home;

(C) Temporary services ..\$40.00 each;

(D) Remodels of residential units \$20.00

plus 2% of the value of any electrical installation included in the remodel;

(E) All other electrical installations

\$20.00

plus \$.50 per ampere rating of the electrical service;

(F) Reinspections \$50.00

plus \$.20 per ampere rating of the electrical service.

(ii) Electrical wiring permit fees. \$50.00

(d) Inspection fees pursuant to paragraph (c)(i) of this section shall be charged for requested inspections made on installations that are not under new construction or remodeling.

(e) No person shall install electrical equipment in new construction or remodeling, if the remodeling requires a public utility to connect or disconnect and restore electrical power, of a building, mobile home or premises without obtaining an electrical wiring permit. No public utility shall energize an electrical service for an electrical installation which requires an electrical wiring permit until the person responsible for the electrical installation has obtained an electrical wiring permit. A utility may energize an electrical service in an emergency situation without proof that an electrical wiring

permit has been obtained, however the utility shall notify the department of the action as soon as possible, but in no case later than five (5) days following the date that the electrical service was energized. Electrical wiring permits shall be issued by the chief electrical inspector upon request. Each permit shall explain procedures and costs for permits and requested inspections conducted by the chief electrical inspector or his deputy electrical inspectors. This subsection does not apply to municipalities and counties granted local enforcement authority for electrical safety standards under W.S. 35-9-121(a) and to exempt installations under W.S. 35-9-123(a)(ii) through (v).

(f) Sixty percent (60%) of the fees collected pursuant to subsection (c) of this section shall be deposited in a separate account for the purpose of providing additional state electrical inspectors. Forty percent (40%) of the fees collected pursuant to subsection (c) of this section shall be deposited in the general fund.

35-9-121. Local enforcement.

(a) The state fire marshal shall delegate complete authority to municipalities and counties which apply to enforce and interpret local or state fire, building, existing building standards or electrical safety standards which meet the requirements of this section. The state fire marshal shall notify the governing body of the municipality or county of the minimum standards and requirements of this act and W.S. 16-6-501 and 16-6-502 and transfer jurisdiction and authority by letter. Except as provided in W.S. 35-9-119(a)(i) and subsection (b) of this section, nothing in this section affects the authority of the state fire marshal or chief electrical inspector regarding state owned or leased buildings. Local enforcement authority under this subsection shall be subject to the following requirements and certification of inspectors:

(i) Before a municipality or county without local enforcement authority is initially granted local enforcement authority for fire, building, existing building standards or electrical standards the state fire marshal shall determine that the local governing body has adopted minimum standards by ordinance or resolution that are equivalent to or more stringent than those applicable standards adopted by the department;

(ii) If a municipality or county that has been granted local enforcement authority under this subsection fails to adopt, within six (6) months following the adoption of new

standards by the department, or maintain standards by ordinance or resolution that at least meet the statewide standards, enforcement authority shall immediately revert to the department. It shall be the responsibility of the municipality or county to notify the department of the repeal of minimum standards in their jurisdiction;

(iii) If code enforcement authority for fire and building codes is requested, certification of a fire inspector or building inspector by the International Code Council or the International Conference of Building Officials is required for any inspector employed or contracted after July 1, 2010 to enforce those codes for the municipality or county;

(iv) If code enforcement authority for the electrical code is requested, certification of an electrical inspector by the International Code Council or the International Association of Electrical Inspectors and licensing by the state as a journeyman or master electrician is required;

(v) If a municipality or county that has been granted local enforcement authority under this subsection fails to maintain employment of an inspector holding any certification required by this subsection, enforcement authority shall revert to the department one hundred twenty (120) days after the last day the properly certified inspector has left the employment of the municipality or county. It shall be the responsibility of the municipality or county to notify the department upon the termination of employment of any certified inspector required by this subsection.

(b) Notwithstanding the provisions of subsection (a) of this section a local governmental entity is authorized to assume sole plan review authority, and, in accordance with W.S. 35-9-107(a)(iv), that entity has sole construction inspection authority on the approved plans and sole authority for periodic fire and life safety inspections on state owned or leased buildings. For the purpose of this section, school buildings shall be construed to be state buildings. If local code provisions are more stringent than adopted state codes, the local code prevails. The authority granted to local governmental entities under this subsection is subject to certification of local inspectors as follows:

(i) If sole plan review authority is requested, certification of a plan reviewer by the international conference of building officials or the International Code Council;

(ii) If code enforcement authority for fire and building codes is requested, certification of a fire inspector or building inspector by the International Code Council or the International Conference of Building Officials;

(iii) If code enforcement authority for the electrical code is requested, certification of an electrical inspector by the International Code Council or the International Association of Electrical Inspectors and licensing by the state as a master electrician.

(c) If a municipality or county has assumed enforcement authority for only one (1) or two (2) of the fire, building and electrical standards, the municipality or county shall deliver notice of any project plans submitted to the municipality or county for approval to the department. The notice of the project shall be delivered within ten (10) days of receiving plans from the applicant.

(d) A municipality or county which has enforcement authority under this section shall create its own appeals boards to determine the suitability of alternate materials and types of construction and to interpret and grant variances from adopted codes or standards. The boards shall be appointed and removed by the governing body of the municipality or county, but the person making the decision upon which the appeal is based shall not be a member of the appeal board.

(e) A decision rendered by the local municipal or county appeals board pursuant to subsection (d) of this section may be appealed to the council on fire prevention and electrical safety in buildings for a final decision. A decision of the council may be appealed to the appropriate district court.

(f) Any appeal to a local board under subsection (d) of this section or the council under subsection (e) of this section shall be heard within thirty (30) days of the request for appeal.

(g) Nothing in this section prohibits the state fire marshal from assisting, upon request, a municipality, county or other local governmental entity in exercising authority granted to that entity under this section.

35-9-121.1. Health care facilities; jurisdiction; delegation; rules.

(a) The department of health has jurisdiction over all aspects of construction and remodeling, except electrical installation, of any state licensed health care facility as defined in W.S. 35-2-901.

(b) The fire safety code requirements for the construction and remodeling of any state licensed health care facility shall meet the minimum requirements established in the National Fire Protection Association 101 Life Safety Code or any other code required to meet federal fire and life safety certification. If any code requirements for federal certification conflict with the code of any other state or local governmental entity, the code required for federal certification shall prevail.

(c) The department of health shall promulgate rules and regulations for all aspects of construction and remodeling of health care facilities except electrical installation. For aspects of construction and remodeling included in codes adopted by the council pursuant to W.S. 35-9-106, the rules and regulations shall be based on and not exceed the standards of these codes except where federal certification requirements dictate otherwise.

(d) Upon written request from any county or municipality, the department of health shall delegate plan review and inspection responsibilities to the county or municipality that has personnel who are certified pursuant to the applicable code. The department of health shall transfer jurisdiction and authority by letter. The department of health shall notify the governing body of the municipality or county of the minimum standards and requirements under this section and W.S. 16-6-501 and 16-6-502. The following shall apply:

(i) Any municipality or county may issue a certificate of occupancy for a health care facility. The certificate shall reference any code applied to the construction or remodeling of the facility;

(ii) A municipality or county which has enforcement authority under this subsection shall create its own appeals board to determine the suitability of alternate materials and types of construction.

(e) After construction or remodeling of any health care facility, the department of health shall have jurisdiction over

the fire and life safety inspections required for federal certification.

35-9-122. Chief electrical inspector responsible for licensing.

The chief electrical inspector is responsible for licensing electrical contractors, master electricians, journeyman electricians, low voltage electrical contractors, limited electrical contractors, low voltage technicians and limited technicians and shall pass on the fitness and qualifications of applicants for licenses. Every applicant for a license under this chapter shall provide his social security number to the chief electrical inspector.

35-9-123. Electrical installations to be performed by licensed electricians; exceptions.

(a) Licensed electrical contractors employing licensed master or journeymen electricians, or registered apprentice electricians supervised by a licensed master or journeyman electrician shall install all electrical equipment. This requirement is waived for the following, however the waiver does not exempt the following persons from meeting all other code requirements under this act:

(i) Property owned or leased by a person when the person, his partner or a major stockholder of a family corporation is installing the equipment and the property is not for immediate resale;

(ii) Oil or gas field operations, including those operations involving exploration, testing, drilling, production or transporting via pipeline of oil or gas, railroads, petroleum refineries, fertilizer manufacturing facilities, foundries, mines and their appurtenant facilities;

(iii) Liquefied petroleum, gas, electric or communication facilities exercising their function as public utilities;

(iv) Cable-TV, satellite-TV and telecommunications, including data and related services of cable-TV, satellite-TV and telecommunications providers including its contractors and subcontractors provided such contractors and subcontractors are limited to the installation of low voltage cable, A.M. or F.M.

radio stations, television stations, phone services, internet services, data services and related services;

(v) Farms or ranches of forty (40) acres or more on deeded land;

(vi) Buildings constructed by a school or community college district as part of an industrial arts curriculum, under the direct supervision of a qualified industrial arts instructor. The school or community college district shall have the installations inspected by the state electrical inspector's office or the local enforcement authority, whichever has jurisdiction, to ensure compliance with W.S. 35-9-120;

(vii) Licensed low voltage electrical contractors employing licensed low voltage technicians or registered low voltage apprentice technicians who may install electrical equipment which falls under the scope of their low voltage license or registration. No low voltage contractor may work on electrical systems which exceed ninety (90) volts unless allowed pursuant to this subsection. The chief electrical inspector may issue a low voltage electrical contractor's license to contractors not qualified for an electrical contractor's license but qualified for their low voltage area of expertise for the installation, repair or remodel of:

(A) All electrical systems under ninety (90) volts;

(B) Alarm systems under ninety (90) volts;

(C) Communication systems under ninety (90) volts or current limited communication systems of higher voltage;

(D) Sound systems under ninety (90) volts;

(E) Television systems under ninety (90) volts;

(F) Control systems under ninety (90) volts;

(G) Lawn sprinkler systems under ninety (90) volts.

(viii) Licensed limited electrical contractors employing licensed limited technicians or registered limited apprentice technicians who may install electrical equipment

which falls under the scope of their limited license or registration. The electrical work shall only include the electrical system on the load side of the disconnect which supplies power to the electrical equipment that they are licensed to work on. The chief electrical inspector may issue a limited electrical contractor's license to a contractor not qualified for an electrical contractor's license but qualified in his limited area of expertise for the:

(A) Installation, repair or remodel of heating, ventilating and air conditioning systems limited to wiring on the load side of the equipment disconnect;

(B) Installation, repair or remodel of elevator systems limited to wiring on the load side of the equipment disconnect;

(C) Installation, repair or remodel of sign systems limited to wiring on the load side of the equipment disconnect;

(D) Installation, repair or remodel of water well and irrigation systems limited to wiring on the load side of the equipment disconnect;

(E) Routine repair or maintenance of light fixtures limited to replacement of ballasts and fixture parts.

(ix) Employees of rural electric cooperatives, as defined in W.S. 37-17-101(a)(i), when performing the following work:

(A) Installation of new or upgraded service connections or attachments of secondary service wires to any utility point of attachment on all overhead connections of the cooperative's equipment to the cooperative's customer's connections and all underground connections that are in close proximity to conductors in excess of six hundred (600) volts; or

(B) Making repairs on secondary service wires or reattachments of secondary service wires to any utility point of attachment in emergency or outage situations.

(b) Exceptions shall not apply to anyone who contracts or subcontracts to or for any exempt person, partnership or corporation.

35-9-124. Powers and duties of board; appeals.

(a) The board shall:

(i) Adopt rules and regulations to implement this section and to establish minimum standards for:

(A) Training requirements for all classes of electricians;

(B) Licensing requirements for all classes of electricians; and

(C) Reciprocal licenses for any journeyman electrician, master electrician, low voltage technician or limited technician license.

(ii) Regarding the installation of electrical equipment and electrical safety standards, hear appeals to determine the suitability of alternate materials and type of construction and to interpret and grant variances from the National Electrical Code.

(b) Any applicant may appeal a decision of the chief electrical inspector to the board.

(c) The board may suspend or cancel the license of any licensee for a repeated or serious violation of this act or the rules and regulations of the board. A serious violation is any violation that poses a risk of injury or death to persons or is likely to result in property damage exceeding two thousand five hundred dollars (\$2,500.00). A repeated violation is one that occurs within two (2) years of any previously documented violation.

(d) Any person whose license is suspended, cancelled or refused by the board may appeal to the appropriate district court.

(e) Repealed By Laws 2010, Ch. 84, § 3.

(f) The board may hear appeals of civil penalties imposed by the department pursuant to W.S. 35-9-130.

(g) The board may enter into and approve reciprocal license agreements with other states if such agreements conform

with the conditions and minimum standards required under W.S. 35-9-126(d).

35-9-125. Electrical contractor's, low voltage electrical contractor's and limited electrical contractor's licenses.

(a) On or before July 1 of each year, an electrical contractor shall file with the chief electrical inspector a license application in writing for each of his firms. The applicant shall be or actively employ in a full-time capacity a licensed master electrician of record who assumes responsibility to ensure that the National Electrical Code, W.S. 35-9-120 through 35-9-130 and applicable rules of the department are adhered to on all electrical work undertaken by the electrical contractor in the state of Wyoming, and who is not the master electrician of record for, or employed by, any other electrical contractor. The electrical contractor shall pay the fee required by W.S. 35-9-129 for each firm operated by him. If the applicant qualifies, he shall receive a license which bears the date of issue and expires on July 1 next following the date of issue.

(b) On or before July 1 of each year, a low voltage electrical contractor shall file with the chief electrical inspector a license application in writing for each of his firms. The applicant shall be or actively employ in a full-time capacity a licensed low voltage technician of record who assumes responsibility to ensure that the National Electrical Code, W.S. 35-9-120 through 35-9-130 and applicable rules of the department are adhered to on all electrical work undertaken by the low voltage electrical contractor in the state of Wyoming, and who is not the low voltage technician of record for, or employed by, any other low voltage electrical contractor. The low voltage electrical contractor shall pay the fee required by W.S. 35-9-129 for each firm operated by him. The low voltage electrical contractor's license fee shall be waived for any low voltage electrical contractor not employing additional low voltage technicians or low voltage apprentice technicians other than himself. If the applicant qualifies, he shall receive a license which bears the date of issue and expires on July 1 next following the date of issue.

(c) On or before July 1 of each year, a limited electrical contractor shall file with the chief electrical inspector a license application in writing for each of his firms. The applicant shall be or actively employ in a full-time capacity a licensed limited technician of record who assumes responsibility to ensure that the National Electrical Code, W.S. 35-9-120

through 35-9-130 and applicable rules of the department are adhered to on all electrical work undertaken by the limited electrical contractor in the state of Wyoming, and who is not the limited technician of record for, or employed by, any other limited electrical contractor. The limited electrical contractor shall pay the fee required by W.S. 35-9-129 for each firm operated by him. The limited electrical contractor's license fee shall be waived for any limited electrical contractor not employing additional limited technicians or limited apprentice technicians other than himself. If the applicant qualifies, he shall receive a license which bears the date of issue and expires on July 1 next following the date of issue.

(d) An electrical contractor, low voltage electrical contractor or limited electrical contractor is entitled to renew his license for the ensuing year by paying the proper fee on or before the date his license expires.

35-9-126. Licensing of master electricians, journeymen electricians, low voltage technicians, limited technicians; temporary permits; reciprocal licenses; master electrician of record for only 1 electrical contractor; technician of record for only 1 low voltage or limited electrical contractor.

(a) Applicants for master electrician, journeymen electrician, low voltage technician and limited technician licenses shall apply to the chief electrical inspector on a form furnished by the department and accompanied by the required examination fee. The form shall state the applicant's full name, his address, the extent of his experience and other information required by the department. An applicant who complies with the rules of the board, is qualified, successfully completes the examination and pays the required license fee shall be issued the proper license by the chief electrical inspector which bears the date of issue. A master license, low voltage technician license and limited technician license shall expire on July 1 in the third year following the year of issue. A journeyman license shall expire on January 1 in the third year following the year of issue. Credit for time spent in any electrical school shall be given to master electricians, journeyman electricians, low voltage technicians or limited technicians for time spent in classes up to a total of two (2) years, or four thousand (4,000) hours, on the work experience requirements.

(b) Each master electrician, journeyman electrician, low voltage technician or limited technician licensed under this act

may renew his license by paying fifty percent (50%) of the proper license fee to the state of Wyoming. Master and journeymen electricians shall provide proof of attendance at not less than sixteen (16) hours of training in the National Electric Code or in advances in the electrical industry meeting criteria established by the department on or before the date his license expires. At least eight (8) of the required sixteen (16) hours of training shall specifically cover the National Electrical Code. An electrician or technician who applies for renewal of his expired license within forty-five (45) days after its expiration and is otherwise entitled to renewal of his license shall have his license renewed by paying an additional fee of fifty dollars (\$50.00).

(c) The department shall issue temporary permits to engage in the work of a journeyman electrician, low voltage technician or limited technician to a person who applies, furnishes satisfactory evidence of experience to qualify for the examination and pays the required fee. Temporary permits shall continue in effect not longer than one hundred fifty (150) days and may be revoked by the department at any time.

(d) The department may issue a reciprocal license to any applicant for a journeyman electrician, master electrician, low voltage technician or limited technician license if the applicant has obtained an out-of-state or foreign license through an examination which is equal to or exceeds the Wyoming journeyman electrician's, master electrician's, low voltage technician's or limited technician's examination.

(e) Repealed by Laws 2015, ch. 158, § 2.

(f) Repealed by Laws 2015, ch. 158, § 2.

(g) Repealed by Laws 2015, ch. 158, § 2.

35-9-127. Apprentice electricians and apprentice technicians.

(a) An electrical contractor may employ apprentice electricians to assist a licensed journeyman or master electrician. From and after March 1, 1994, apprentice electricians shall be enrolled in a bona fide program of training approved by the bureau of apprenticeship and training, United States department of labor, or present evidence directly to the department that he is enrolled in an apprentice training program which provides training equivalent to a program approved

by the bureau of apprenticeship and training, United States department of labor. The department may monitor the apprenticeship programs and receive necessary progress reports. For purposes of determining whether a program provides equivalent training the department shall consider and apply the current bureau of apprenticeship and training standards. Apprentice electricians shall register with the department and update the registration yearly as required by the department. The electrical contractor shall notify the chief electrical inspector in writing of the name and address of each apprentice electrician employed, and the date of employment or termination of employment within ten (10) days of the action. A licensed journeyman or master electrician shall supervise each apprentice electrician. A licensed journeyman or master electrician shall not supervise more than two (2) apprentice electricians at the same time.

(b) A low voltage or limited electrical contractor may employ apprentice technicians to assist a licensed technician. Apprentice technicians shall be enrolled in a program of training as approved by the department. Apprentice technicians shall register with the department and update the registration yearly as required by the department. The low voltage or limited electrical contractor shall notify the chief electrical inspector in writing of the name and address of each apprentice technician employed, and the date of employment or termination of employment within ten (10) days of the action. A licensed technician shall supervise each apprentice technician. A licensed technician shall not supervise more than one (1) apprentice technician at the same time.

35-9-128. Repealed by Laws 1993, ch. 190, § 2.

35-9-129. Fees.

(a) The fees for licenses, work permits, examinations and apprentice registrations shall be determined by the department but shall not exceed:

(i) Electrical contractor's license \$400.00

(ii) Low voltage electrical contractor's license
\$200.00

(iii) Limited electrical contractor's license

\$200.00

(iv) Master electrician license \$200.00

(v) Journeyman electrician license \$100.00

(vi) Low voltage technician's license \$100.00

(vii) Limited technician's license \$100.00

(viii) Temporary working permit for journeyman electrician, low voltage technician or limited technician

\$50.00

(ix) Examination fee \$300.00

(x) Apprentice registration fee \$20.00

(b) Sixty percent (60%) of the fees collected pursuant to subsection (a) of this section shall be deposited in a separate account for the purpose of providing additional state electrical inspectors. Forty percent (40%) of the fees collected pursuant to subsection (a) of this section shall be deposited in the general fund.

35-9-130. Penalties; civil penalties; other remedies.

(a) A person who violates W.S. 35-9-101 through 35-9-130 commits a misdemeanor punishable as follows:

(i) An individual, including an officer or agent of a corporation or association who participates in or is an accessory to the violation may be punished by a fine of not more than five hundred dollars (\$500.00), imprisonment for not more than six (6) months, revocation of his license, or fine, imprisonment and revocation; and

(ii) A corporation may be punished by a fine of not more than one thousand dollars (\$1,000.00), revocation of its license or both.

(b) Violators of W.S. 35-9-101 through 35-9-130 may be enjoined from continuing the violation by proceedings brought by the district or county and prosecuting attorney or by the attorney general. The department shall make recommendations to the appropriate district attorney, county and prosecuting

attorney or attorney general regarding proceedings under this subsection.

(c) A person who violates W.S. 35-9-123 shall pay a civil penalty in an amount the department determines of not more than five hundred dollars (\$500.00) for a first offense, or one thousand dollars (\$1,000.00) for any subsequent offense within any three (3) month period. The penalty shall be collected from the violator and credited as provided by W.S. 8-1-109. Notwithstanding subsection (d) of this section, no penalty under this subsection shall be enforceable for sixty (60) days after delivery of the notice of violation or if the violation has been cured or appealed pursuant to subsection (d) of this section within sixty (60) days after issuance of the notice of violation.

(d) Before the department imposes a civil penalty, the department shall notify the person accused of a violation, in writing, stating specifically the nature of the alleged violation. Upon receipt of a notice of violation the person receiving it shall pay the assessed fine to the department within sixty (60) days or file an appeal to the electrical board. The department shall determine the amount of the civil penalty to be imposed in accordance with the limitations expressed in subsection (c) of this section. Each violation is a separate offense. If an appeal is submitted to the electrical board, the board shall hear the appeal at its next regularly scheduled meeting. At the appeal hearing, the electrical board may uphold the proposed fine, rule that the alleged violation is not substantiated, or reduce the amount of the proposed fine.

(e) A civil penalty may be recovered in an action brought thereon in the name of the state of Wyoming in any court of appropriate jurisdiction. Failure to pay the fine imposed by the department and upheld by the electrical board shall result in suspension of the electrical license until such time as the fine is paid in full.

(f) The provisions of subsections (c) through (e) of this section are in addition to and not instead of any other enforcement provisions contained in this article, except that no criminal penalty shall be applicable if a civil penalty has been imposed under this section for the same violation.

35-9-131. Investigation of electrocutions; powers of chief electrical inspector.

(a) Except in cases where a federal agency has and asserts the right to control an investigation under applicable federal law or when an entity or activity involved is regulated by the Wyoming public service commission, the chief electrical inspector, or his designee, may investigate the cause, origin and circumstances of each incident of electrocution or serious injury from electrical contact occurring in the state. In cases where more than one (1) agency has investigative authority over the incident, all agencies shall work together to fully investigate.

(b) In performing the duties imposed by this section, the chief electrical inspector, or his designee, may:

(i) Enter and examine any property, building or premises where any incident occurred;

(ii) Enter any property, building or premises adjacent to that in which an incident occurred;

(iii) Take full control and custody of the buildings and premises until his examinations and investigations are completed; and

(iv) Take testimony under oath and cause the testimony to be reduced to writing. In taking testimony and performing an investigation, the chief electrical inspector or his designee may:

(A) Subpoena witnesses and compel their attendance before him;

(B) Cause to be produced papers he requires in the examination; and

(C) Administer oaths and affirmations to persons appearing as witnesses before him.

(c) When the examination discloses that an incident involved criminal activity, the chief electrical inspector shall transmit a copy of the testimony to the district attorney for the county where the incident occurred.

(d) As used in this section, "incident" means an event in which a person is seriously injured or killed as a result of transient electrical current from an electrical device or installation.

35-9-141. Repealed By Laws 1999, ch. 7, § 2.

35-9-142. Repealed By Laws 1999, ch. 7, § 2.

35-9-151. Short title.

This act shall be known and may be cited as the "Wyoming Emergency Response Act".

35-9-152. Definitions.

(a) As used in this act:

(i) "Emergency responders" means public, state or federal fire services, law enforcement, emergency medical services, public health, public works, homeland security and other public response services or agencies that would be involved in direct actions to contain or control a hazardous material release, weapons of mass destruction incident or clandestine laboratory investigation. The term "emergency responders" does not include private on-site facilities with immediate emergency response capabilities unless formally requested to assist off the private facility site by the state or a political subdivision of the state;

(ii) "Emergency response" means a clandestine laboratory investigation or a response to any occurrence, including a weapon of mass destruction incident, which has resulted, or may result, in a release of a hazardous material;

(iii) "Hazardous material" means any substance, material, waste or mixture designated as hazardous material, waste or substance as defined in 49 C.F.R. part 171.8, as amended as of April 1, 2004;

(iv) "Incident" means the release, or imminent threat of release, of a hazardous material, or a situation involving a potential weapon of mass destruction that requires the emergency action of responders to limit or prevent damage to life or property. "Incident" also includes the discovery of hazardous materials related to clandestine laboratory operations as defined in W.S. 35-7-1058;

(v) "Incident commander" means the person in charge of all responders at the site of an emergency response;

(vi) "Local emergency response authority" means the single point of contact designated for a political subdivision for coordinating responses to incidents;

(vii) "Political subdivision" means any county, city, town or fire protection district of the state;

(viii) "Regional emergency response team" means any group of local government emergency responders brought together and supported by the state and confirmed by the director, office of homeland security to assist an affected jurisdiction within the different regions of the state with the intent to protect life and property against the dangers of incidents and emergencies involving hazardous materials or weapons of mass destruction;

(ix) "Transporter" means an individual, firm, copartnership, corporation, company, association or joint stock association, including any trustee, receiver, assignee, or similar representative, or a government or Indian tribe, or an agency or instrumentality of any government or Indian tribe, that transports a hazardous material to further a commercial enterprise or offers a hazardous material for transportation in commerce. "Transporter" does not include the following:

(A) The United States Postal Service;

(B) Any government or Indian tribe, or an agency or instrumentality of any government or Indian tribe, that transports hazardous material for a governmental purpose.

(x) "Director, office of homeland security" means as defined in W.S. 19-13-102(a)(v);

(xi) "Unified command" means a system of command that allows all parties with jurisdictional or functional responsibility for the incident to work together to develop a common set of incident objectives and strategies, share information, maximize the utilization of available resources and enhance the efficiency of the individual response organizations;

(xii) "Weapons of mass destruction" means as defined in 18 U.S.C. 2332(a) as of April 1, 2004, or as subsequently defined by rules and regulations of the director, office of homeland security;

(xiii) "This act" means W.S. 35-9-151 through 35-9-159.

35-9-153. State emergency response commission; creation; duties.

(a) There is created a state emergency response commission that shall consist of members appointed by the governor to advise the director, office of homeland security with respect to activities under this act. The commission shall consist of not less than four (4) members representing the mining, trucking, manufacturing, energy and railroad industries, one (1) member each from the legislature, local government, local law enforcement, fire services, the Eastern Shoshone tribe, the Northern Arapaho tribe, homeland security, the media, the medical field, emergency medical services and the general public, and one (1) representative from each of the following state agencies:

- (i) The department of environmental quality;
- (ii) The department of health;
- (iii) The department of transportation;
- (iv) The department of agriculture;
- (v) The department of fire prevention and electrical safety;
- (vi) The University of Wyoming.

(b) The governor may remove any member as provided in W.S. 9-1-202.

(c) The commission shall appoint a chairman and other officers deemed necessary from among its members. The commission may meet as often as deemed necessary by a majority of the commission or at the request of the director, office of homeland security. Commission members who are not state employees may be reimbursed for per diem and mileage for attending commission meetings in the same manner and amount as state employees.

(d) The governor may give consideration to the geographical location of the commission members, to the extent possible, in order to have broad representation of the geographical areas of the state.

(e) The commission shall review collection and disbursement of funds and advise the director, office of homeland security on activities and responsibilities under this act.

(f) The commission shall, by rule, establish emergency planning districts in accordance with the requirements of 42 U.S.C. 11001 et seq. and in compliance with the Wyoming Administrative Procedure Act, to consist of twenty-three (23) districts corresponding to the jurisdictions of the twenty-three (23) counties of the state. The commission shall appoint members of the local emergency planning committees for each emergency planning district to include representatives required by 42 U.S.C. 11001, et seq. The commission shall annually review memberships and activities of the local emergency planning committees and report to the governor annually on those activities. The commission shall work with each board of county commissioners and city council to promote support by the board for the local emergency planning committee in the county.

(g) The commission shall perform all duties and acts prescribed by 42 U.S.C. 11001 et seq., and all other applicable law, with the assistance of the Wyoming office of homeland security and other state agencies determined to be necessary by the commission.

(h) The commission shall, by rule and regulation, establish standards for protection of the safety of responding personnel during clandestine laboratory incident responses, standards for determining a site uninhabitable under W.S. 35-9-156(d), standards for determining the extent of contamination and standards for remediation required to render former clandestine laboratory operation sites safe for re-entry, habitation or use with respect to the following:

(i) Decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris;

(ii) Appropriate methods for the testing of buildings and interior surfaces, furnishings, soil and septic tanks for contamination;

(iii) When testing for contamination may be required;
and

(iv) When a site may be declared remediated.

(j) The commission shall, by rule and regulation, establish due process standards for the protection of the property interests of real estate owners, subject to subsection (h) of this section.

35-9-154. Emergency response training, planning and reporting.

(a) After consultation with the commission and the state fire marshal, the director, office of homeland security shall:

(i) Coordinate, develop, implement and make available a comprehensive voluntary training program designed to assist emergency responders in hazardous material or weapons of mass destruction incidents;

(ii) Provide for ongoing training programs for political subdivisions, state agency employees and private industry employees involved in responding to hazardous materials or weapons of mass destruction incidents;

(iii) Assist with emergency response planning by appropriate agencies of government at the local, state and national levels.

35-9-155. Regional response teams; rulemaking.

(a) The state, political subdivisions of the state and other units of local government, may contract or coordinate to make available for use in any county, city or fire protection district any part of a regional emergency response team of appropriately trained personnel and specialized equipment necessary to respond to an incident or emergency.

(b) Members of the regional emergency response teams shall be indemnified and defended from liability by the state self-insurance program:

(i) While engaged in response to incidents outside their normal jurisdiction and pursuant to an appropriate request for assistance; or

(ii) While traveling to or from an operation authorized by this act.

(c) The state may lend equipment and personnel and make grants from available state or federal funds for the purchase of equipment to any local government participating in the regional emergency response program.

(d) The director, office of homeland security, in consultation with the state fire marshal and subject to approval by the state emergency response commission, shall:

(i) Promulgate rules and regulations establishing:

(A) Standards for regional response teams;

(B) Hazardous material emergency response training confirmation;

(C) Local and regional hazardous materials or weapons of mass destruction incident response reporting.

(ii) Establish criteria for providing aid to regional emergency response teams.

35-9-156. Local response authority.

(a) Every political subdivision of the state shall designate a local emergency response authority for responding to and reporting of hazardous material or weapons of mass destruction incidents that occur within its jurisdiction. The designation of a local emergency response authority and copies of any accompanying agreements and other pertinent documentation created pursuant to this section shall be filed with the director, office of homeland security within seven (7) days of the agreement being reduced to writing and signed by all appropriate persons.

(b) Every local emergency response authority shall coordinate the response to an incident occurring within its jurisdiction in a fashion consistent with standard incident command protocols. The local emergency response authority shall also coordinate the response to an incident which initially occurs within its jurisdiction but which spreads to another jurisdiction. If an incident occurs on a boundary between two (2) jurisdictions or in an area not readily ascertainable, the first local emergency response authority arriving at the scene shall coordinate the initial emergency response and shall be responsible for seeking reimbursement for the incident on behalf

of all responding authorities entitled to reimbursement under W.S. 35-9-157(a).

(c) Any unusual incident involving hazardous materials or weapons of mass destruction and any incident involving a clandestine laboratory operation shall be investigated to determine if a criminal act has occurred until it is determined otherwise. To ensure preservation of evidence while mitigating the threat to life and property under this subsection, a command structure with primary command authority by the appropriate law enforcement agency shall be implemented.

(d) The incident commander shall declare an incident ended when he has determined the threat to public health and safety has ended. Until the incident commander has declared the threat to public safety has ended the incident commander shall have the authority to issue an order on behalf of the political subdivision that any portion of the building, structure or land is uninhabitable or contaminated, secure the portion of the building, structure or land that is uninhabitable or contaminated and take appropriate steps to minimize exposure to identified or suspected contamination at the site or premise. If the subject of the site or premise is commercial real estate, the incident commander shall limit the declaration of uninhabitable or contaminated to the areas affected by the clandestine laboratory operation and shall not declare the entire commercial real estate uninhabitable or contaminated unless the entire commercial property has been documented and determined uninhabitable or contaminated using the standards promulgated by the state emergency response commission under W.S. 35-9-153(h). The incident commander shall provide written notice to the commercial real estate owner, describing with specificity the extent of the commercial property deemed uninhabitable or contaminated. Any property that is ordered uninhabitable or contaminated under this subsection shall only be transferred or sold prior to remediation if full, written disclosure is made to the prospective purchaser, attached to the earnest money receipt if any, and shall accompany the sale documents but not be a part of the deed nor shall it be recorded. The transferor or seller shall notify the incident commander of the transfer or sale within ten (10) days of the transfer or sale. Receipt of full written disclosure under this subsection constitutes a full release of liability on the part of the seller or transferor and acceptance of liability on the part of the buyer or transferee unless otherwise agreed to in writing by the transferor and transferee.

(e) The order issued under subsection (d) of this section shall be in writing, shall state the grounds for the order and shall be filed in the office of the clerk of the district court of the county in which the building or structure is situated. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the owner and any occupants of the building or structure with a written notice that the order has been filed and shall remain in force, unless the owner or occupant files his objections or answer with the clerk of the district court within the time specified in subsection (f) of this section. A copy of the order shall be posted in a conspicuous place upon the building or structure.

(f) Within twenty (20) days of service of an order issued under subsection (d) of this section, the owner or occupant may file with the clerk of the district court and serve upon the political subdivision issuing the order, an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the court shall affirm the order declaring the site uninhabitable and fix a time when the order shall be enforced. If an answer is filed and served, the court shall hear and determine the issues raised as set forth in subsection (g) of this section.

(g) The court shall hold a hearing within eleven (11) days from the date of the filing of the answer. If the court sustains the order, the court shall fix a time within which the order shall be enforced. Otherwise, the court shall annul or set aside the order declaring the property to be uninhabitable.

(h) An appeal from the judgment of the district court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure.

35-9-157. Right to claim reimbursement.

(a) The state, political subdivision of the state or other unit of local government is hereby given the right to claim reimbursement for the costs resulting from action taken to remove, contain or otherwise mitigate the effects of a hazardous materials abandonment, a hazardous materials spill or a weapons of mass destruction incident.

(b) Notwithstanding subsection (a) of this section and except with respect to a response to a clandestine laboratory operation incident, no person shall be liable under this act if the incident was caused by:

(i) An act of God; or

(ii) An act or omission of a person not defined as a transporter under this act, provided that:

(A) The potentially liable person exercised reasonable care with respect to the hazardous material involved, taking into consideration the characteristics of the hazardous material in light of all relevant facts and circumstances; and

(B) The potentially liable person took reasonable precautions against foreseeable acts or omissions of any third person and the consequences that could foreseeably result from those acts or omissions.

(c) Local emergency response authorities and regional emergency response teams shall be entitled to recover their reasonable and necessary costs incurred as a result of their response to a hazardous material or weapons of mass destruction incident. Costs subject to recovery under this act include, but are not limited to, the following:

(i) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the response;

(ii) Remuneration of employees for the time and efforts devoted to responding to a hazardous materials or weapons of mass destruction incident outside the responders' normal jurisdiction;

(iii) A reasonable fee, as established through rules and regulations of the director, office of homeland security, for the use of equipment, including rolling stock, in responding to a hazardous materials or weapons of mass destruction incident outside the responders' normal jurisdiction;

(iv) Rental or leasing of equipment used specifically for the response;

(v) At value replacement costs for equipment owned by the person claiming reimbursement that is contaminated beyond reuse or repair, if the loss occurred as a result of the response;

(vi) Decontamination of equipment contaminated during the response;

(vii) Special technical services specifically requested and required for the response;

(viii) Medical monitoring or treatment of response personnel;

(ix) Laboratory expenses for analyzing samples taken during the response; and

(x) If determined to involve criminal activity, all costs and expenses of the investigation.

(d) Nothing contained in this section shall be construed to change or impair any right of recovery or subrogation arising under any other provision of law.

35-9-158. Expense recovery and civil remedies.

(a) The decision to commence a civil action to recover expenses shall be made by the state, political subdivision of the state or other unit of local government, including local emergency response authorities and regional response teams, in consultation with the attorney general or county or municipal attorney as appropriate. With respect to a civil action to recover expenses for a clandestine laboratory operation incident, the governing body shall first make such claim against the party responsible for the clandestine laboratory operation and shall use the proceeds of any asset forfeiture directly related to the building or structure containing the clandestine laboratory to offset expenses, including expenses for remediation of the site. Claims of expenses for remediation for a clandestine laboratory operation incident may be made against the owner of a building or structure containing a clandestine laboratory operation only as follows:

(i) The law enforcement agency acting as an emergency responder shall keep an accurate account of the expenses incurred in carrying out the remediation and shall report the actions and present a statement of the expenses incurred and the amount received from any salvage sale to the court for approval and allowance;

(ii) The court shall examine, correct, if necessary, and allow the expense account to the extent the expenses exceed

those recovered from the party responsible for the clandestine laboratory operation. If the owner did not know or could not with reasonable diligence have known of the clandestine laboratory operation, the amount recoverable from the owner shall be limited to one percent (1%) of the fair market value as determined by the county assessor of that portion of the building, structure or land declared uninhabitable by the incident commander;

(iii) The amount allowed by the court constitutes a lien against the real property on which a clandestine laboratory operation incident occurred or was situated. If the amount is not paid by the owner within six (6) months after the amount has been examined and approved by the court, the real estate may be sold under court order by the county sheriff in the manner provided by law for the sale of real estate upon execution;

(iv) The proceeds of the sale shall be paid into the treasury of the governing body of the law enforcement agency acting as the emergency responder. If the amount received as salvage or upon sale exceeds the expenses allowed by the court, the court shall direct payment of the surplus to the previous owner for his use and benefit;

(v) Whenever any debt which is a lien pursuant to this subsection is paid and satisfied, the law enforcement agency acting as an emergency responder shall file notice of satisfaction of the lien statement in the office of the county clerk of any county in which the lien is filed; and

(vi) If the expenses of the law enforcement agency exceed the amount allowed by the court pursuant to paragraph (ii) of this subsection, the law enforcement agency acting as an emergency responder may apply for reimbursement of the excess expenses from the funds as authorized by W.S. 1-40-118(g)(i)(C). If the expenses further exceed amounts available under W.S. 1-40-118(g)(i)(C), the emergency responder may apply for reimbursement from the clandestine laboratory remediation account created pursuant to W.S. 35-9-159(f).

(b) Prior to commencing a civil action for recovery of expenses pursuant to this act, the governmental entity shall afford the person alleged to owe those expenses a reasonable opportunity to engage in nonbinding mediation. Each party to mediation shall bear his own costs and expenses, including a proportionate share of the fees of the mediator.

(c) In the event that the attorney general or county or municipal attorney prevails in a civil action for reimbursement under this act, the court shall award costs of collection including reasonable attorney's fees, investigation expenses and litigation expenses.

(d) Any person who receives remuneration for the emergency response expenses pursuant to any other federal or state law shall be precluded from recovering reimbursement for those expenses under this act. Nothing in this act shall otherwise affect or modify in any way the obligations or liability of any person under any other provision of state or federal law, including common law, for damages, injury or loss resulting from the release of any hazardous material or for remedial action or the expenses of remedial action for the release.

35-9-159. Exceptions to reimbursements; exception to act; clandestine laboratory remediation fund.

(a) This act shall not apply to releases of a hazardous material where there is an immediate on-site private industry response capability to the emergency. The exemption under this subsection shall apply only if the private industry files evidence of its immediate response capability to respond to emergency releases of hazardous materials that may be present at the site of the private industry or the responsible party and incident commander have determined that the local or regional response team is no longer required and should be released. The exemption shall not apply if emergency responders responded to a release of hazardous materials at the request of the on-site private industry where the emergency occurred.

(b) Except with respect to a response to a clandestine laboratory operation incident, the state, political subdivisions of the state or other unit of local government shall not be entitled to reimbursement under this act from any responsible party for an incident involving less than the following quantities of hazardous materials:

Hazard Class/Division	Hazard Type	Quantity subject to reimbursement
from 49 CFR		
Article 100-185		
1.1, 1.2, 1.3	Explosive Materials	Any quantity

(Table 1 materials)

1.4, 1.5, 1.6 Explosive Materials 1001 pounds

(Table 2 materials)

2.1 Flammable Gas 150 gallons

(Table 2 material)

2.3 Poison Gas Any quantity

(Table 1 material)

3 Flammable Liquid 150 gallons

(Table 2 material)

3 Combustible Liquid 300 gallons

(Table 2 material)

4.1 Flammable Solid or 11 pounds

4.2 Spontaneously Combustible

(Table 2 materials) Material

4.3 Dangerous When Wet 3 pounds

(Table 1 material)

5.1 Oxidizer 1001 pounds

(Table 2 material) (Includes inorganic
Peroxides)

5.2 Organic Peroxide 66 pounds

(Table 1 material)

6.1 Poison (Inhalation 32 pounds

(Table 1 material) Hazard Zone A or B)

6.1 Poison (Other than 1001 pounds

(Table 2 material)	Inhalation Hazard Zone	
	A or B)	
6.2	Infectious Substance	1001 pounds
(Table 2 material)		
Class 7	Radioactive Material	Any quantity
(Table 1 material)	(Yellow Label III only)	
Class 8	Corrosive Material	1001 pounds
(Table 2 material)		
Class 9	Miscellaneous	1001 pounds
(Table 2 material)	Hazardous Material	

(c) The initial response authority shall seek reimbursement on behalf of all responders entitled to reimbursement under this act from any responsible party for an incident involving hazardous materials under this act.

(d) Notwithstanding any other provision of this act, if a local law enforcement agency acting as an emergency responder does not find an immediate and substantial threat to public health when responding to a clandestine laboratory operation incident the local law enforcement agency discovering the clandestine laboratory operation shall provide written notice of the discovery to the owner of the property. The owner of the property shall have ninety (90) days to remediate the property in accordance with standards established pursuant to W.S. 35-9-153(h). If the property is not remediated within ninety (90) days of receipt of notice pursuant to this subsection, the law enforcement agency acting as an emergency responder may take remediation action as provided in rules authorized under W.S. 35-9-153(h). If the owner is unable to complete the remediation within ninety (90) days, the owner may request an extension of time from the local law enforcement agency which shall grant the extension if it finds:

(i) The owner is making a good faith effort to remediate the property; and

(ii) The owner has a practical time schedule to complete the remediation.

(e) The owner may appeal a notice to remediate a clandestine laboratory operation or a denial of an extension under subsection (d) of this section in accordance with W.S. 16-3-114 of the Administrative Procedure Act. The law enforcement agency's authority to take remediation action shall be stayed while the appeal is pending.

(f) There is created the clandestine laboratory remediation account to be administered by the attorney general. A local law enforcement agency acting as an emergency responder may apply for reimbursement from the account for expenses incurred in responding to a clandestine laboratory operation incident as provided in W.S. 35-9-158(a) (vi).

35-9-161. Repealed By Laws 2007, Ch. 91, § 3.

35-9-162. Fire training facility; oversight.

The state fire marshal is authorized to purchase on behalf of the state the state fire training academy facility in Riverton. The state fire marshal shall be responsible for all transaction costs involved in the purchase. The state fire marshal is authorized to operate the facility thereafter.

35-9-163. Enforcement of building codes; application of building codes to specific uses.

(a) Except as provided in this article for any county or municipality requesting and granted local enforcement authority pursuant to W.S. 35-9-121, no state or local official authorized to enforce the provisions of this article shall interpret or enforce any building codes or standards adopted by the state or local governmental entity in a way that is more stringent or burdensome than required by the standards or codes.

(b) Notwithstanding any other provision of law, short term rental of detached one (1) and two (2) family dwellings and townhomes shall not be regulated as a commercial use for purposes of fire, building and electrical standards and shall not be subject to regulation under the International Building Code.

ARTICLE 2
FIRE PROTECTION DISTRICTS

35-9-201. Applicability; powers of districts generally.

This act shall apply to a fire protection district created under the provisions of this act or under the provisions of article 1, chapter 45, Wyoming Compiled Statutes, 1945, as amended. Such fire protection district is hereby authorized to provide protection from fire and other public safety emergencies for all persons and property within its boundaries, and to contract, including mutual aid agreements, to give or receive such protection to or from one (1) or more other municipal corporations, other fire protection districts, private organizations or individuals. No fire protection district is liable for damages to persons or property resulting from the operation or presence of fire fighting equipment outside the district boundaries pursuant to an agreement or contract under this section. Entry into an agreement or contract pursuant to this section does not create a new or reorganized taxing entity as provided in W.S. 39-13-104(m).

35-9-202. Election of board of directors.

(a) The election of the initial board of directors shall be held by the board of county commissioners at the same time as the election for formation of the district, or at the next general election in the case of a district created pursuant to W.S. 35-9-213. There shall be elected a board of directors consisting of either three (3) or five (5) members, the number of which is to be designated by the county commissioners pursuant to subsection (e) of this section, who are residents living within the district who shall serve without compensation. Within ten (10) days after each election the board shall meet and select a president and a secretary-treasurer. The first elected board shall serve until the next director election as provided in W.S. 22-29-112. At the first director election of a three (3) member board, one (1) member of the board shall be elected for two (2) years, and two (2) members for four (4) years, for staggered terms. Thereafter, directors shall be elected for four (4) year terms. At the first director election of a five (5) member board, two (2) members of the board shall be elected for two (2) years and three (3) members for four (4) years. Biennial elections shall be held in accordance with the Special District Election Act of 1994.

(b) The board is authorized to:

(i) Increase the number of directors to five (5) when the assessed valuation of the property of the district exceeds three million dollars (\$3,000,000.00);

(ii) Divide the district into director districts and provide for the election of a director from each director district to be chosen by all voters of the fire protection district. The board may provide for district directors to be apportioned in any combination of single member, multi-member or at-large representation; and

(iii) Fix the initial term of the additional directors so that the term of not more than three (3) directors shall expire in any one (1) year.

(c) Director districts and biennial elections shall be approved by the board of county commissioners of the county in which the district is located.

(d) Directors are subject to the conflict of interest disclosure requirements of W.S. 6-5-106 and 16-6-118.

(e) The board of county commissioners may provide for the election of an initial board of directors with five (5) members if the assessed valuation of property of the district exceeds three million dollars (\$3,000,000.00) at the time the district is formed.

35-9-203. Powers and duties of board of directors generally; administration of finances; assessment and levy of taxes.

(a) The board of directors of any fire protection district is hereby authorized to enact such ordinances as may be necessary to establish and operate a fire protection district and shall file them with the county clerk for each county in which the district is located. The board of directors of fire protection districts shall administer the finances of such districts according to the provisions of the Wyoming Uniform Municipal Fiscal Procedure Act, except that an annual audit in accordance with W.S. 16-4-121 is not required. Each fire protection district shall comply with the provisions of W.S. 9-1-507(a)(iii). The assessor shall, at the time of making the annual assessment of his county, also assess the property of each fire protection district in his county and return to the county assessor at the time of returning the assessment schedules, separate schedules listing the property of each fire

protection district assessed by him. The separate schedules shall be compiled by the county assessor, footed, and returned to the board of county commissioners as provided for other assessment schedules.

(b) The board of county commissioners, at the time of making the levy for county purposes shall levy a tax for the year upon the taxable property in such district in its county for its proportionate share based on assessed valuation of the estimated amounts of funds needed by each district. In no case shall the tax for each district exceed in any one (1) year the amount of three (3) mills for operation on each dollar of assessed valuation of such property. There shall be no limit on the assessment for payment of principal and interest on bonds approved by the board of and the electors of the districts as provided in W.S. 35-9-204. The taxes and assessments of all fire protection districts shall be collected by the county collector at the same time and in the same manner as state and county taxes are collected. The assessment and tax levied under the provisions of W.S. 35-9-201 through 35-9-209 shall not be construed as being a part of the general county mill levy.

(c) A fire protection district formed pursuant to this act may, as a condition for a position with the district, require applicants to submit to fingerprinting in order to obtain state and national criminal history record information.

35-9-204. Issuance of bonds; authority of board to submit questions to electors; restriction upon amount; interest; purpose.

The board of directors of a fire protection district is authorized, whenever a majority thereof so decide, to submit to the electors of the district the question whether the board shall be authorized to issue the coupon bonds of the district in a certain amount, not to exceed four percent (4%) of the assessed valuation of taxable property in the district, and bearing a certain rate of interest, payable and redeemable at a certain time, not exceeding twenty-five (25) years for the purchase of real property, for the construction or purchase of improvements, and for equipment for fire protection district purposes.

35-9-205. Issuance of bonds; conduct of election; canvass of returns.

The election authorized under W.S. 35-9-204 shall be called, conducted and the results thereof canvassed and certified in all respects as near as practicable in the same manner as provided for bond elections by the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112.

35-9-206. Issuance of bonds; notice; bids.

If the proposal to issue said bonds shall be approved, the board of directors must issue such bonds in such form as the board may direct and shall give notice by publication in some newspaper published in the counties in which said district is located and in some newspaper of general circulation in the capital of the state of its intention to issue and negotiate such bonds, and to invite bidders therefor; provided that in no case shall such bonds be sold for less than their full or par value and the accrued interest thereon at the time of their delivery. And the said trustees are authorized to reject any bids, and to sell said bonds at private sale, if they deem it for the best interests of the district.

35-9-207. Issuance of bonds; form of bonds; execution; registration.

After ascertaining the best terms upon and the lowest interest at which said bonds can be negotiated, the board shall secure the proper engraving and printing and consecutive numbering thereof, and said bonds shall thereupon be otherwise properly prepared and executed; they must bear the signature of the president of the board of directors and be countersigned by the secretary of the board and bear the district seal and be countersigned by the treasurer of the board, and the coupons attached to the bonds must be signed by the president, secretary and treasurer; and the secretary of the board shall endorse a certificate upon every such bond, that the same is within the lawful debt limit of such district and is issued according to law and he shall sign such certificate in his official character. When so executed they shall be registered by the county treasurer where said district's funds are kept in a book provided for that purpose, which shall show the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached and any other proper description thereof for future identification.

35-9-208. Issuance of bonds; payment of principal and interest.

The county treasurer where said district's funds are kept may pay out of any monies belonging to said district tax fund, and from the tax fund of a detracted district as provided in W.S. 35-9-215(b), the interest and the principal upon any bonds issued under this chapter by such district, when the same becomes due, upon the presentation at his office of the proper coupon or bond, which must show the amount due, and each coupon must also show the number of the bond to which it belonged, and all bonds and coupons so paid must be reported to the district directors at their first regular meeting thereafter.

35-9-209. Procedure for proposing establishment of fire protection district.

- (a) Repealed by Laws 1998, ch. 115, § 5.
- (b) Repealed by Laws 1998, ch. 115, § 5.
- (c) Repealed by Laws 1998, ch. 115, § 5.
- (d) Repealed by Laws 1998, ch. 115, § 5.
- (e) Repealed by Laws 1998, ch. 115, § 5.
- (f) Repealed by Laws 1998, ch. 115, § 5.
- (g) Repealed by Laws 1998, ch. 115, § 5.
- (h) Repealed by Laws 1998, ch. 115, § 5.

(j) A fire protection district may be established under the procedures for petitioning, hearing and election of special districts, and subsequent elections shall be held, as set forth in the Special District Elections Act of 1994.

(k) Notwithstanding subsection (j) of this section, a fire protection district may be established through division of an existing fire protection district pursuant to W.S. 35-9-213 through 35-9-215.

35-9-210. District formation initiated by resolution of county commissioners; procedures; conditions.

(a) A fire protection district comprised of lands within unincorporated areas of the county which are not within existing fire protection districts may be created under the following procedure:

(i) The board of county commissioners may, by resolution, identify lands to be included within the proposed district and submit the question of establishing the district to the electors of the proposed district at the next general election. The board shall provide notice that it will consider a resolution under this paragraph at least thirty (30) days prior to the meeting at which the resolution will be considered. Notice of the election shall be given as required by W.S. 22-29-110;

(ii) If the establishment of the district is defeated at the election, the board may refuse to provide fire and public safety protection to the area within the proposed district commencing with the succeeding fiscal year. If a majority of the voters in the proposed district voting at the election vote for the establishment of the district, the board of county commissioners shall enter that fact upon its records and the district is established. The board shall hold an election for a district board of directors under W.S. 35-9-202. Districts formed under this subsection are otherwise subject to W.S. 35-9-201 through 35-9-208.

35-9-211. Formation of county commission fire protection districts; procedures; conditions.

(a) As an alternative to the procedures provided by W.S. 35-9-210, a county commission fire protection district comprised of lands within unincorporated areas of the county which are not within existing fire protection districts and which are currently receiving fire protection or public safety services from an existing fire department funded by the county may be created under the following procedure:

(i) The board of county commissioners may, by resolution, identify lands to be included within the proposed county commission fire protection district and submit the question of establishing the district to the electors of the proposed district at the next general election. The board shall provide notice that it will consider a resolution brought pursuant to this paragraph at least thirty (30) days prior to the meeting at which the resolution will be considered. Notice of the election to establish the district shall be given as required by W.S. 22-29-110;

(ii) If the establishment of the district is defeated at the election, the board may refuse to provide fire and public

safety protection to the area within the proposed district commencing with the succeeding fiscal year. If a majority of the voters in the proposed district voting at the election vote for the establishment of the district, the board of county commissioners shall enter that fact upon its records and the district is established. Following establishment of the district:

(A) Pursuant to the assessed property valuation requirements of W.S. 35-9-202(e) the board of county commissions shall appoint either three (3) or five (5) members to the board who are residents and property owners within the district and who shall serve on the board until the next election of directors, at which time the members of the board shall be elected in accordance with W.S. 35-9-202;

(B) The board of county commissioners shall annually levy a tax on the taxable property in the district as provided by W.S. 35-9-203 and shall expend the proceeds of the tax solely for the support of the fire department or agency providing fire protection or public safety services for the property within the district or outside the district pursuant to a mutual aid agreement as provided in W.S. 35-9-201.

(b) A county commission fire protection district created under this section may, as a condition for a position with the district, require applicants to submit to fingerprinting in order to obtain state and national criminal history record information.

35-9-212. Division of fire protection district authorized.

Fire protection districts may be divided as provided in W.S. 35-9-213 through 35-9-215.

35-9-213. Petition for division; hearing and notice.

(a) Whenever a petition in writing is made to the county commissioners, signed by the owners of fifty percent (50%) or more of the privately owned lands of an area proposed to be detracted from the original fire protection district, who constitute fifty percent (50%) or more of the taxpayers within the proposed detracted area based upon the last completed assessment roll, the county commissioners shall, within twenty (20) days from the receipt of the petition, give notice of the hearing on the petition by:

(i) Mailing a copy of the notice by first-class mail to each landowner in the district at the address shown in the assessment roll;

(ii) Causing a notice thereof to be posted, at least twenty (20) days prior to the time appointed by them for the consideration of the petition, in at least three (3) public places within the proposed detracted area and also in at least three (3) public places within the remaining area; and

(iii) Publishing a notice in the newspapers of general circulation in the area of the district.

(b) The petition for detraction shall describe the boundaries of the proposed detracted area and the boundaries of the remaining area in the manner provided in W.S. 22-29-103(e).

(c) The county commissioners shall, on the day fixed for hearing the petition, or on any legally postponed day, proceed to hear the petition. Prior to the hearing the commissioners shall appoint an individual or group of individuals from the persons signing the petition to act in negotiations on behalf of the proposed detracted area.

(d) If the detracting district is within two (2) or more counties, the county commissioners for purposes of W.S. 35-9-213 and 35-9-214 are the county commissioners of the county where the majority of the detracting district property lies.

35-9-214. Decision on petition for division; protest.

(a) The petition may be granted and the original districts may thereupon be divided into separate districts if at the time of the hearing on the petition the county commissioners determine:

(i) Protests have not been signed by:

(A) The owners of twenty percent (20%) or more of the area of the privately owned lands included within the entire original district who constitute twenty percent (20%) or more of the taxpayers who are landowners within the entire original district based upon the last completed assessment roll;
or

(B) The owners of twenty percent (20%) or more of the area of the privately owned lands included within the

area of the proposed detracted area who constitute twenty percent (20%) or more of taxpayers who are landowners within the proposed detracted area based upon the last completed assessment roll.

(ii) The districts have in place standard operating procedures that ensure that both districts have the ability to provide fire protection to the satisfaction of the commissioners;

(iii) The boundary changes are in the best interests of the public; and

(iv) The mutual agreement negotiated pursuant to W.S. 35-9-215(a)(i) regarding the distribution of assets is acceptable to the commissioners.

(b) If the required amount of protests are presented as provided in paragraph (a)(i) of this section, the petition for division shall be disallowed.

(c) Upon allowance of a petition for division of a fire protection district, the board of county commissioners shall appoint members to the newly formed board who are residents and property owners within the newly formed district and who shall serve on the board until the initial election of directors, at which time the members of the board shall be elected in accordance with W.S. 35-9-202(a).

(d) Until a board of directors for the newly formed district shall be appointed and until the first tax assessment is received by the newly formed district, the original fire protection district shall remain responsible for provision of fire protection services to the area encompassing the newly detracted fire protection district.

35-9-215. Distribution of assets and liabilities following division.

(a) The division of the assets of the fire protection districts shall be apportioned as follows:

(i) Through a mutual agreement signed by the president of the original fire protection district board and the person or persons appointed to represent the detracted district pursuant to W.S. 35-9-213(c);

(ii) If a mutual agreement cannot be reached as provided in paragraph (i) of this subsection and the assets are located entirely within one (1) county, the board of county commissioners of that county may impose an equitable division of the assets;

(iii) If a mutual agreement cannot be reached as provided in paragraph (i) of this subsection and the assets are located in more than one (1) county, the boards of county commissioners of the counties where the assets are located may negotiate a division of the assets, with each board having an equal vote regardless of the number of commissioners on the respective boards;

(iv) If a mutual agreement cannot be reached as provided in paragraph (i), (ii) or (iii) of this subsection, the district court of the county where a majority of the original district's electors reside shall have jurisdiction to equitably divide the district assets, with each county responsible to pay legal fees and costs in proportion to the division of assets between or among the counties.

(b) Any detracted area shall remain liable for any existing warrant and bonded indebtedness of the original district, which indebtedness shall be apportioned between the divided areas according to their respective taxable valuations.

(c) New fire protection districts created by a division of a fire protection district pursuant to W.S. 35-9-212 through 35-9-215 shall not be treated as a new or reorganized taxing entity for purposes of W.S. 39-13-104(m).

ARTICLE 3 AREAS OF EXTREME FIRE DANGER

35-9-301. Closing area upon recommendation of county fire warden.

When, upon recommendation of the county fire warden, a board of county commissioners deems the fire danger in a given area of the county to be extreme, because of drought, the presence of an excessive amount of inflammable material or for any other sufficient reason, the board of county commissioners may close the area to any form of use by the public or may limit such use upon recommendation of the county fire warden. This closing shall include prohibition of any type of open fire for such period of time as the board of county commissioners may deem

necessary and proper. The county fire warden shall notify the Wyoming state forester of any type of fire closure or the lifting of any type of fire closure under this section.

35-9-302. Access of residents to home or property; contents of order of proclamation.

Provided however, that nothing in W.S. 35-9-301 through 35-9-304 and no order of a board of county commissioners shall prohibit any person residing within the area from full and free access to his home or property, nor prevent any legitimate use thereof by the owner or authorized personnel on ordinary day to day business or lessee of such property. The order of proclamation closing or limiting the use of said area shall set forth the exact area coming under the order, the date on which the order shall become effective, and if deemed advisable, the authority from which permits for entry into said area may be obtained.

35-9-303. Rules.

The board of land commissioners shall promulgate rules as are necessary to require county fire wardens and boards of county commissioners to carry out the purposes of W.S. 35-9-301 through 35-9-304, and provide for proper notice to the public.

35-9-304. Illegal entry or use.

Any entry into or use of any area in violation of this act shall be a misdemeanor and shall be punished by a fine of not to exceed one hundred dollars (\$100.00) or imprisonment in the county jail for not to exceed thirty (30) days or both the fine and imprisonment.

ARTICLE 4
UNINCORPORATED CITIES OR TOWNS

35-9-401. Appointment of county fire warden.

County commissioners may appoint a county fire warden who shall act under the authority of this article [chapter], W.S. 35-9-101 through 35-9-701, and the local governmental authority responsible for fire suppression and fire prevention within the county.

35-9-402. Duties of fire wardens.

Fire wardens or their duly designated representative shall be responsible for management of fire suppression, fire prevention and related activities, except within any incorporated city, town or fire district, and responsible for coordinating fire suppression and fire prevention activities among all county fire agencies.

35-9-403. Repealed by Laws 1989, ch. 75, § 2.

35-9-404. Repealed by Laws 1989, ch. 75, § 2.

35-9-405. Repealed by Laws 1989, ch. 75, § 2.

35-9-406. Abatement of nuisances.

Said board of county commissioners, upon receiving notice as aforesaid, or upon personal knowledge, shall have power to and are hereby authorized to abate any such nuisance at the expense of the person or persons, either by causing the same to be removed, or by filling up, or boarding around such excavations, as the case may be; provided, that said commissioners shall first notify the person or persons aforesaid, to abate such nuisances.

ARTICLE 5
FIRE ESCAPES

35-9-501. Required in private and public buildings; specifications generally; notices as to location to be posted.

Every building now or hereafter used, in whole or in part, as a public building, public or private institution, office building, lyceum, church, theater, public hall, place of assemblage or place of public resort, and every hotel, apartment house, boarding house, tenement house, factory or workshop, three (3) or more stories in height, school and hospital building, two (2) or more stories in height, shall be provided with safe and suitable metallic, tunnel, iron or fireproof ladders or stair fire escapes with guard rail of sufficient strength, attached to the outside walls thereof and extending from or suitably near the ground to the uppermost story thereof, with platforms not less than six by three (6 x 3) feet and of such shape and size and in such proximity to the windows of each story above the first, as to render access to such ladders or stairs from each such story easy and safe to the occupants of such building, in case of fire; and it shall be the duty of every proprietor, custodian, superintendent or person or persons having charge and

control of such public buildings mentioned and described herein, to post notices in every hall, and in a public and conspicuous place in such building, designating the places on each and every floor of such building where such fire escapes are located and may be found.

35-9-502. Means of exit; doors.

Every building now or hereafter used, in whole or in part, as a public building, public or private institution, office building, lyceum, church, school house, theater, picture show house, public hall, place of assemblage or place of public resort, and every hotel, apartment house, boarding house or tenement house, two (2) stories or less in height, having twelve (12) or more rooms shall be provided with at least two (2) stairways, hallways or means of exit or escape from each story in case of fire. In addition to the above mentioned and described stairways and hallways or means of exit, all doors to every public hall, lyceum, theater, picture show house, or other place of amusement, which is thrown open to and used for the profit of the owner or proprietor or owners or proprietors by public assemblies in the state of Wyoming, shall not be less than three (3) feet in width, and shall swing or open out of and not into said public hall, lyceum, theater, picture show house, or other place of amusement.

35-9-503. Factories, offices and other buildings to be equipped.

Every building now or hereafter used, in whole or in part, as a factory, mill, workshop, garage, office, bakery, laundry, store, and any other building or buildings in which people are employed at manual or other labor, shall be provided with proper and sufficient means of escape in case of fire, by two (2) or more ways of egress, and all doors leading into or to such factory, mill, workshop, garage, office, bakery, laundry, store, and any other building or buildings in which people are employed at manual or other labor, shall not be locked, bolted or fastened during working hours as to prevent free and easy access therefrom.

35-9-504. Exits to be unobstructed; stairways to be lighted.

All such metallic, iron or fireproof ladders or stair fire escapes, stairways, hallways or means of egress, mentioned or described in this act, shall at all times be kept free from any

obstruction, in good repair and ready for use; and at night, or where lights are necessary in the daytime, a red light shall be provided with the words inscribed thereon "FIRE ESCAPE". Provided, that on all hotel, theater, school and hospital buildings, two (2) or more stories in height, said stairways shall extend from each floor of said building to the ground and shall not be less than three (3) feet wide; the risers of said stairs shall not be greater than eight (8) inches, and the treads not less than ten (10) inches wide; and the platform not less than three (3) feet wide, and in all cases the full width of the stairs. All such stairs shall have proper guard rails not less than twenty-eight (28) inches high. Where tubing is used for guard rails they shall be not more than ten (10) inches apart; and where balusters are used they shall be not more than six (6) inches apart.

35-9-505. Applicability; fire and safety drills required in schools; supervision of drills.

(a) This chapter shall apply to the trustees of school districts in this state.

(b) In every public and private school in Wyoming, there shall be a fire drill at least once every month. Safety drills may be used in lieu of fire drills if approved by and coordinated with the local fire department provided fire drills are conducted at each school not less than four (4) times during any one (1) academic year and further provided the school's fire alarm is tested at each fire or safety drill. A safety drill includes any organized response to a potential threat to the health and safety of the student population. The school administration shall supervise and administer this subsection and shall determine the types of safety drills appropriate for each school. In localities where a paid fire department is maintained, a fire department member shall be requested to be in attendance at each fire or safety drill conducted within a school for the purpose of instruction and constructive criticism.

35-9-506. Penalty.

Every person, firm or corporation, or his or its agents, officers, directors or trustees, owning or having the management or control of any such buildings or structures herein mentioned or described, who shall fail, neglect or refuse to comply with the provisions of this act not later than October first, nineteen hundred seventeen, shall be deemed guilty of a

misdemeanor and on conviction thereof shall be punishable by imprisonment in the county jail for not less than three (3), nor more than six (6) months, or by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or by both such fine and imprisonment. Each month or fraction thereof in which any building designated in this act shall remain in violation thereof shall constitute a separate offense.

35-9-507. Applicability to cities and towns.

The provisions of W.S. 35-9-501 through 35-9-507 shall not be applicable in any incorporated city or town that has by ordinance adopted a uniform building code which provides among other things adequate and safe means of inside fire escapes, smoke towers and fireproof inclosed stairways and further fixes the types of occupancies and types of buildings subject to the said code.

ARTICLE 6

VOLUNTEER FIREFIGHTER, EMT AND SEARCH AND RESCUE PENSION ACCOUNT

35-9-601. Repealed by Laws 2015, ch. 32, § 3.

35-9-602. Repealed by Laws 2015, ch. 32, § 3.

35-9-603. Repealed by Laws 2015, ch. 32, § 3.

35-9-604. Repealed by Laws 2015, ch. 32, § 3.

35-9-605. Repealed by Laws 2015, ch. 32, § 3.

35-9-606. Repealed by Laws 2015, ch. 32, § 3.

35-9-607. Repealed by Laws 2015, ch. 32, § 3.

35-9-608. Repealed by Laws 2015, ch. 32, § 3.

35-9-609. Repealed by Laws 2015, ch. 32, § 3.

35-9-610. Repealed by Laws 2015, ch. 32, § 3.

35-9-611. Repealed by Laws 2015, ch. 32, § 3.

35-9-612. Repealed by Laws 2015, ch. 32, § 3.

35-9-613. Repealed by Laws 2015, ch. 32, § 3.

35-9-614. Repealed by Laws 2015, ch. 32, § 3.

35-9-615. Repealed by Laws 2015, ch. 32, § 3.

35-9-616. Definitions.

(a) As used in this article:

(i) "Account" or "pension account" means the volunteer firefighter, EMT and search and rescue pension account created pursuant to W.S. 35-9-617(a);

(ii) "Board" means the volunteer firefighter, EMT and search and rescue pension account board created pursuant to W.S. 35-9-623(a);

(iii) "Children" means all natural children and adopted children of the participating member, born or conceived at the time of his death or retirement;

(iv) "Eligible retirement plan" means as defined in W.S. 9-3-402(a) (xxvii);

(v) "Participating member" means any volunteer firefighter, volunteer EMT or volunteer search and rescue person for whom payments are received by the volunteer firefighter, EMT and search and rescue pension account as prescribed in W.S. 35-9-621(e);

(vi) "Rollover contribution" means as defined in W.S. 9-3-402(a) (xxviii);

(vii) "Spouse" means the lawful spouse of a participating member who was married to the volunteer firefighter, volunteer EMT or volunteer search and rescue person at the time of the volunteer's entry into the account, or who although married after the date of entry, is recognized as the spouse covered by the benefits of the account as a result of special action of the board;

(viii) "Volunteer emergency medical technician" or "EMT" means as defined by W.S. 33-36-102(a) (x), and a person who performs EMT services as an attendant with a state licensed ambulance service and who devotes less than his entire time of employment to, but is carried on the rolls of, a regularly constituted Wyoming ambulance service, the members of which may

be partly paid and partly volunteer. Persons performing EMT services for an industrial ambulance service as defined in W.S. 33-36-102(a)(vi) or a privately owned, for profit ambulance service shall not be considered a volunteer emergency medical technician or EMT. Payment of compensation for services actually rendered by enrolled volunteers does not take them out of this classification. Any individual who volunteers assistance but is not regularly enrolled as an EMT is not a volunteer within the meaning of this chapter;

(ix) A "volunteer fire department" means any duly constituted and organized firefighting unit:

(A) Recognized by the appropriate local government with jurisdiction of the area the unit services and which provides fire protection services to the community as a whole pursuant to a contract or agreement with, or as sponsored by, a governmental entity;

(B) Operating under duly adopted bylaws;

(C) All or a portion of the members of which are volunteers;

(D) Holding monthly meetings to conduct business and training; and

(E) The membership of which is not comprised exclusively of employees of a sponsoring nongovernmental entity.

(x) "Volunteer firefighter" or "firefighter" means any individual who may or may not receive compensation for services rendered as a volunteer firefighter and who:

(A) Is carried on the regular rolls of, but devotes less than his entire time of employment to, activities of a volunteer fire department, all or a portion of the members of which are volunteer; and

(B) During the course of any one (1) year, attends not less than fifty percent (50%) of the monthly volunteer fire department meetings.

(xi) Repealed by Laws 2019, ch. 83, § 2.

(xii) "County search and rescue organization" means a search and rescue operation acting under the coordination of a county sheriff pursuant to W.S. 18-3-609(a)(iii) that:

(A) Has adopted and filed bylaws with the county clerk for the county in which the organization is located; and

(B) Holds not less than two (2) meetings per month and requires each volunteer search and rescue person to attend not less than fifty percent (50%) of the total number of meetings held each month.

(xiii) "Volunteer search and rescue person" or "search and rescue person" means any individual who:

(A) Is engaged in search and rescue operations with a county search and rescue organization;

(B) Is carried on the regular rolls of, but devotes less than the individual's entire time of employment to, activities of a county search and rescue organization; and

(C) May or may not receive compensation for services rendered as a member of a county search and rescue organization.

35-9-617. Volunteer firefighter, EMT and search and rescue pension account; merger with other pension accounts; membership.

(a) The volunteer firefighter, EMT and search and rescue pension account is created. All awards, benefits and pensions established under this article shall be paid from the account.

(b) The account established under subsection (a) of this section shall be controlled by the board and administered by the director of the Wyoming retirement system. All expenses of administration shall be paid from the account. Disbursements from the account shall be made only upon warrants drawn by the state auditor upon certification by authorized system employees.

(c) The account shall be comprised of all funds and liabilities of the volunteer firemen's pension account created pursuant to W.S. 35-9-602, the volunteer emergency medical technician pension account created pursuant to W.S. 35-29-102, funds directed into the account as provided by W.S. 26-4-102(b), 35-9-619(a), 35-9-621(e) and 35-9-628 and all other funds as directed by this article and the legislature for the benefit of

the account, or the volunteer firemen's pension account or volunteer emergency medical technician pension account, respectively.

(d) All members and retirees of the volunteer emergency medical technician pension account created pursuant to W.S. 35-29-101 through 35-29-112, including those members who are no longer participating or contributing members of the volunteer emergency medical technician pension account, but who have not withdrawn their funds as provided by W.S. 35-29-106(f) on or before June 30, 2015, shall become members or retirees of the pension account created pursuant to this section.

(e) All members and retirees of the volunteer firemen's pension account created pursuant to W.S. 35-9-601 through 35-9-615, including those contributing members who are no longer active but who have not withdrawn their funds as provided by W.S. 35-9-608(f) on or before June 30, 2015, shall become members or retirees of the pension account created pursuant to this section.

(f) The director of the retirement system shall determine by rule and regulation a benefit level for all members joining the pension account under subsections (d) and (e) of this section equal to or greater than the benefits the member would have received under the volunteer firemen's or volunteer emergency medical technician pension accounts, respectively.

35-9-618. Annual audit; state's liability.

(a) The director of the Wyoming retirement system shall hire an independent audit firm to perform an annual audit of the account established under W.S. 35-9-617 and shall report audit findings to the board and the governor.

(b) Nothing in this article shall be construed to:

(i) Except for obligations transferred pursuant to W.S. 35-9-617(c), acknowledge any past, present or future liability of or obligate the state of Wyoming for contribution except the employer's contributions provided for in this article, to either the volunteer firefighter, EMT and search and rescue pension system provided by this article or any other retirement system previously existing in the state of Wyoming; or

(ii) Constitute a contract or binding obligation of any kind whatsoever or, except as provided in subsection (c) of this section, to create or grant any vested right or interest in any individual, corporation or body politic.

(c) If the account is terminated, all affected members have a nonforfeitable interest in their benefits that were accrued and funded to date. The value of the accrued benefits to be credited to the account of each affected member shall be calculated as of the date of termination.

35-9-619. Authority to receive donations; investment of monies; employment of actuary; actuarial reports.

(a) In addition to contributions from the state, counties, volunteer fire departments and licensed ambulance services, the board may receive and credit to the account any gifts, donations and other contributions made by individuals, organizations and cities, towns, counties and other political subdivisions for the benefit of the account. The board may invest monies within the account not immediately necessary to pay benefits, awards or pensions under this article, in investments authorized under W.S. 9-3-408(b).

(b) The board shall employ a consulting actuary to review the account annually to determine its solvency and to make recommendations as to revisions and modifications to the pension account. The board may employ legal and other consultants as necessary. Actuarial reports are public records and available for inspection by all participating members of the account.

35-9-620. Contributions on behalf of volunteer firefighters, EMTs and search and rescue persons; collection; dual participation prohibited.

(a) The county, city, town, fire district, volunteer fire department or licensed ambulance service for whom a participating volunteer firefighter or EMT performs firefighting or EMT services shall pay to the pension account the amount required under W.S. 35-9-621(e) for those members. The county for whom a volunteer search and rescue person performs search and rescue services shall pay to the pension account the amount required under W.S. 35-9-621(e) for those members. Payments shall be collected upon terms and conditions established by the board under W.S. 35-9-621(e) and shall be forwarded by each collecting officer to the state retirement director for deposit in the account. Any entity listed in this subsection may elect

to provide for a member's contribution or any portion thereof provided that any payment of a contribution is made on behalf of a member. Whether an entity makes a contribution for a member shall be at the discretion of the entity as an incentive to improve their local volunteer fire department, emergency medical services or search and rescue services.

(b) No volunteer firefighter member of the pension account shall participate as a member of the firemen's pension accounts under W.S. 15-5-201 through 15-5-209 or 15-5-401 through 15-5-422 if participation is based upon covered service for the same fire department.

35-9-621. Benefits enumerated; death of participant or spouse; amount and payment of contributions; death benefits; withdrawal from pension account.

(a) For any participating member attaining the retirement age and service requirements as specified under subsection (d) of this section, the board shall authorize a monthly payment to the member during the member's remaining lifetime of an amount equal to sixteen dollars (\$16.00) per year of service for the first ten (10) years of service and nineteen dollars (\$19.00) per year of service over ten (10) years of service.

(b) When any participating member or retired member dies, the board shall immediately authorize payment monthly to the member's surviving spouse during the spouse's remaining lifetime of an amount equal to sixty-six percent (66%) of the member's monthly benefit as provided in this section, if the deceased member had at least five (5) years of active participation in the pension account. If a participating member dies with less than five (5) years of active participation in the pension account, the board shall immediately authorize payment monthly to the member's spouse, during the spouse's remaining lifetime, of an amount equal to sixty-six percent (66%) of the equivalent of the deceased member's benefit as if the member had attained five (5) years of active participation in the pension account.

(c) When any participating member or retired member and the participating member's or retired member's spouse die with children who have not attained the age of twenty-one (21) years, the board shall immediately authorize payment monthly to the lawful guardians of the children of an amount equal to a proportional share of thirty-three percent (33%) of the member's benefit as provided in this section, if the deceased member had at least five (5) years of active participation in the pension

account. If a participating member or retired member and the participating member's or retired member's spouse die with children who have not attained the age of twenty-one (21) years, and the deceased member had less than five (5) years of active participation in the pension account, the board shall immediately authorize payment monthly to the lawful guardians of the children of an amount equal to a proportional share of thirty-three percent (33%) of the equivalent of the deceased member's benefit as if the member had attained five (5) years of active participation in the pension account.

(d) Members who begin to participate in the pension account prior to attaining the age of fifty-five (55) years shall be eligible for retirement at sixty (60) years of age, if the member has at least five (5) years of active participation in the pension account. Members who begin participation in the pension account after attaining the age of fifty-five (55) years shall be eligible for retirement after participating in the pension account for at least five (5) years.

(e) A volunteer firefighter or volunteer EMT is a participating member under this article for each month a contribution of eighteen dollars and seventy-five cents (\$18.75) is made by or on behalf of the member. A volunteer search and rescue person is a participating member under this article for each month a contribution of thirty-seven dollars and fifty cents (\$37.50) is made by or on behalf of the member. For purposes of eligibility for benefits under subsections (b) and (c) of this section, a volunteer firefighter, EMT or search and rescue person is a participating member beginning the first month following the month in which the required monthly payment and any required application for participation is actually received by the Wyoming retirement system. To continue as a participating member, subsequent monthly payments shall be received by the Wyoming retirement system not later than three (3) months following the close of the calendar month for which the payments are applicable. With the consent of and upon any terms and conditions established by the board, payments may be accepted at an earlier or later date. The board shall maintain full and complete records of the contributions made on behalf of each participating member and on request, shall furnish any participating member a statement of the contribution amounts and the dates for which contributions were received. If contributions have varied in amount, the board may make appropriate adjustments in the benefits awarded. In making any adjustment, the board shall be guided by actuarial practice to afford substantial equity to members of the pension account. No

penalty shall be imposed upon any participating member transferring employment in Wyoming if required payments are made on a timely basis.

(f) A participating member may withdraw from the pension account and upon withdrawal shall be paid an amount equal to the amount contributed into the member's account together with interest at the rate of three percent (3%) per annum compounded annually.

(g) If a member with less than five (5) years of active participation in the pension account fails to provide contributions to the account as provided in subsection (e) of this section, the member's account shall be deemed delinquent. No interest shall accrue on delinquent accounts. A member's account that remains delinquent for nine (9) months shall be closed and the associated funds shall revert into the pension account. A member whose account is closed pursuant to this subsection who subsequently reenrolls in the pension account shall be entitled to a refund equal to the amount that was reverted into the pension account upon the closing of the member's delinquent account.

(h) The board shall authorize benefit payments from the account in accordance with qualified domestic relations orders pursuant to W.S. 9-3-426.

(j) Any participating member with at least five (5) years of participation in the pension account who retires from active service as a volunteer firefighter, EMT or search and rescue person before reaching retirement age and does not withdraw from the pension account as provided in subsection (f) of this section shall be entitled to a monthly benefit payment as provided in subsection (a) of this section upon reaching the retirement age specified in subsection (d) of this section. A member with ten (10) or more years of active participation in the pension account may choose to remove himself from active service as a volunteer firefighter, EMT or search and rescue person and continue to contribute to the pension account for an amount of time not to exceed the total number of years the member was an active participant in the pension account, as provided in subsection (e) of this section and rules promulgated by the board.

(k) The board shall adopt rules to allow service for any period of time, after commencement of participation under this article, which a participating member spends in active military

or other emergency service of the United States as required by the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq. to count towards a member's years of active participation.

(m) Upon the death of any participating member, a death benefit shall be paid from the deceased member's account in the following manner and amount:

(i) A lump sum payment of five thousand dollars (\$5,000.00) or the amount in the deceased member's account, whichever is greater, to the estate of a deceased member without a survivor eligible for a benefit under subsection (b) or (c) of this section;

(ii) If a spouse who is eligible to receive a benefit under subsection (b) of this section dies, an amount equal to five thousand dollars (\$5,000.00) less the total amount of benefits received under subsection (b) of this section or the amount remaining in the deceased member's account, whichever is greater, shall be paid to the spouse's estate unless the spouse is survived by a person eligible to receive a benefit under subsection (c) of this section;

(iii) When the last person under the age of twenty-one (21) years who is eligible for the benefit provided by subsection (c) of this section dies or attains the age of twenty-one (21) years, an amount equal to five thousand dollars (\$5,000.00) less the total amount of benefits received under subsections (b) and (c) of this section or the amount remaining in the deceased member's account, whichever is greater, shall be paid in equal shares to each of the children alive on that date;

(iv) For former members of the volunteer firemen's account created pursuant to W.S. 35-9-602(a) who contributed five dollars (\$5.00) per month before July 1, 1989, the appropriate benefit shall be determined by substituting two thousand five hundred dollars (\$2,500.00) for five thousand dollars (\$5,000.00) in paragraphs (i) through (iii) of this subsection.

(n) Cost of living increases may be recommended by the board for retirees of the pension account pursuant to W.S. 9-3-454(a).

(o) Retired recipients of the account and their survivors shall receive any benefit increases provided to members of the account.

35-9-622. Death benefits in addition to other benefits.

Death benefits received under this article shall be in addition to, and are payable after the application of, worker's compensation benefits which are payable to volunteer firefighters, volunteer EMTs or volunteer search and rescue persons under the Wyoming Worker's Compensation Act.

35-9-623. Board; established; nomination; appointment; terms and qualification of members; first members.

(a) The volunteer firefighter, EMT and search and rescue pension board is created. The board shall control the account.

(b) The board shall consist of eight (8) members who shall be appointed by the governor to staggered terms of three (3) years. The governor may remove any board member as provided in W.S. 9-1-202. Of these board members:

(i) Six (6) members shall be volunteer firefighters who have a minimum of five (5) years service as a volunteer firefighter in the state. Appointments under this paragraph shall be made from nominees recommended to the governor by the Wyoming state firemen's association;

(ii) One (1) member shall be a volunteer EMT who has a minimum of five (5) years service as a volunteer EMT in the state. Appointments under this paragraph shall be made by the governor; and

(iii) One (1) member shall be a volunteer search and rescue person who has a minimum of five (5) years service as a volunteer search and rescue person in the state. Appointments under this paragraph shall be made by the governor.

(c) The members of the initial board shall be comprised of the volunteer firemen members of the volunteer firemen's pension board created pursuant to W.S. 35-9-610 serving on June 30, 2015 and one (1) member of the volunteer emergency medical technician pension board created pursuant to W.S. 35-29-108 serving on June 30, 2015, as selected by the governor. The volunteer firefighter members and volunteer EMT member of the initial board shall serve for the same term to which they were appointed

to the volunteer firemen's pension board or volunteer emergency medical technician pension board, respectively.

35-9-624. Board; chairman; compensation of members; powers and duties.

(a) Members of the board shall serve without compensation, but actual and reasonable expenses incurred by members for attending meetings and representing the board shall be reimbursed from the account.

(b) The board may:

(i) Adjust claims made by participating members under this article and may waive or alter specific requirements relating to benefits under this article, but shall not have authority to make a general increase in benefits;

(ii) Promulgate rules and regulations governing its operation;

(iii) Investigate claim applications, conduct hearings, receive evidence and otherwise act in a quasi-judicial capacity in accordance with the Wyoming Administrative Procedure Act;

(iv) Permit the suspension of payments in certain cases deemed appropriate by the board, with a commensurate reduction in benefits paid under this article.

35-9-625. Board; hearings; appeals.

(a) The board shall provide an opportunity for hearing to any person petitioning the board for a hearing with or without counsel or witnesses. The board shall provide petitioners the power to subpoena witnesses to testify in their behalf. The taking of evidence shall be summary, giving a full opportunity to all parties to develop the facts. The board shall provide a written transcript of all testimony received at any hearing conducted by the board to any requesting party.

(b) The decision of the board upon hearing is a final administrative decision and is subject to judicial review in accordance with the Wyoming Administrative Procedure Act.

35-9-626. Adjustment of benefits in case of impairment of funds.

If at any time the net assets of the account become actuarially impaired, the board may adjust the benefits provided, pro rata, until the impairment is removed.

35-9-627. Purchase of service credit.

Any member who has been a participating member for at least five (5) years may elect to make a one (1) time purchase of up to five (5) years of service credit as authorized and limited by section 415(c) and 415(n) of the Internal Revenue Code and as established in rules promulgated by the board. Any member electing to purchase service credit shall pay into the account a single lump sum amount equal to the actuarial equivalent of the benefits to be derived from the service credit computed on the basis of actuarial assumptions approved by the board, the individual's attained age and the benefit structure at the time of purchase. A member may purchase service credit with personal funds or, subject to rules and regulations established by the board, through rollover contributions. Unless received by the pension account in the form of a direct rollover, rollover contributions shall be paid to the pension account on or before sixty (60) days after the date the rollover contribution was received by the member.

35-9-628. Deposit of tax on fire insurance premiums into account.

(a) As provided in this subsection, the state treasurer shall deposit into the account up to one hundred percent (100%) of the gross tax levied upon fire insurance premiums paid to insurance companies for fire insurance in the state of Wyoming for the preceding calendar quarter, as computed under W.S. 26-4-102(b)(ii) and provided by W.S. 26-4-103(k). The sum specified shall be calculated by the Wyoming retirement system:

(i) Before giving effect to any premium tax credits which may otherwise be provided by law; and

(ii) To achieve one hundred seven percent (107%) funding of the account, taking into account the benefits and employee contribution specified in W.S. 35-9-621 and actuarial assumptions adopted by the Wyoming retirement board;

(iii) After the account achieves one hundred seven percent (107%) actuarial funding, the board shall recommend a funding amount of not less than sixty percent (60%) of the gross

tax levied upon fire insurance premiums. A recommended funding amount under this section in an amount greater than sixty percent (60%) which results in an actuarial funding level greater than one hundred seven percent (107%) requires approval of the legislature.

ARTICLE 7
VOLUNTEER FIRE SERVICES IMMUNITY FROM LIABILITY

35-9-701. Repealed By Laws 1997, ch. 155, § 2.

ARTICLE 8
REDUCED CIGARETTE IGNITION

35-9-801. Short title.

This article shall be known and may be cited as the "Wyoming Reduced Cigarette Ignition Propensity Act".

35-9-802. Definitions.

(a) For the purposes of this act unless the context otherwise requires:

(i) "Agent" means any person authorized by the department of revenue to purchase and affix stamps on packages of cigarettes;

(ii) "Cigarette" means:

(A) Any roll of tobacco wrapped in paper or in any substance not containing tobacco. "Cigarette" includes any roll or tube of tobacco, or product derived from tobacco, that is produced by a machine on the premises of a retail dealer or a wholesale dealer; or

(B) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette as described in subparagraph (A) of this paragraph.

(iii) "Manufacturer" means:

(A) Any entity that manufactures cigarettes or causes the manufacture of cigarettes that are intended for sale

in this state including cigarettes intended to be sold in the United States through an importer;

(B) Any successor of any entity described in subparagraph (A) of this paragraph.

(iv) "Quality control" and "quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors and equipment related problems do not affect the results of testing. A quality control program shall ensure that testing repeatability remains within the required repeatability values stated in W.S. 35-9-803(a)(vi) for all test trials used to certify cigarettes in accordance with this act;

(v) "Repeatability" means the range of values within which the repeat results of test trials from a single laboratory must fall ninety-five percent (95%) of the time;

(vi) "Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or tobacco products;

(vii) "Sale" means any transfer of title or possession, exchange or barter in any manner, by any means, or by any agreement, including cash and credit sales, giving of cigarettes as samples, prizes or gifts, and the exchange of cigarettes for any consideration other than money;

(viii) "Sell" means to sell, or to offer or agree to do the same;

(ix) "Wholesale dealer" means any person other than a manufacturer who sells cigarettes or tobacco products to retail dealers or others for resale and any person who owns, operates or maintains one (1) or more cigarette or tobacco product vending machines upon premises owned or occupied by any other person;

(x) "This act" means W.S. 35-9-801 through 35-9-811.

35-9-803. Requirements for sale; test method; adoption of other state's testing method, if appropriate; performance standards; exceptions.

(a) Except as provided in this act, cigarettes may not be offered for sale or sold to persons located in this state unless

the cigarettes have been tested and have met the required performance standard specified in this section, the manufacturer has filed a written certification with the department of revenue in accordance with W.S. 35-9-804 and the cigarettes have been marked in accordance with W.S. 35-9-805. The following testing requirements shall apply:

(i) Cigarette testing shall be conducted in accordance with the American society of testing and materials ("ASTM") standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes," in effect on February 1, 2010. The state fire marshal may adopt a subsequent ASTM standard upon a written finding that the subsequent method does not result in a change in the percentage of full length burns exhibited by any tested cigarette when compared to the percentage of full length burns the same cigarette would exhibit when tested in accordance with ASTM standard E2187-04 and the performance standard in this section;

(ii) Testing shall be conducted on ten (10) layers of filter paper;

(iii) No more than twenty-five percent (25%) of the cigarettes tested in a test trial in accordance with this section shall exhibit full length burns. Forty (40) replicate tests shall comprise a complete test trial for each cigarette tested;

(iv) The performance standard required by this section shall be applied only to a complete test trial;

(v) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization ("ISO"), or other comparable accreditation standard required by the state fire marshal;

(vi) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall not be greater than nineteen hundredths (0.19);

(vii) This section does not require additional testing if cigarettes are tested consistent with this act for any other purpose;

(viii) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required by this section shall be conducted in accordance with this section.

(b) Each cigarette listed in a certification submitted pursuant to W.S. 35-9-804 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one (1) complete band shall be located at least fifteen (15) millimeters from the lighting end of the cigarette. Cigarettes on which the bands are positioned by design shall have at least two (2) bands fully located at least fifteen (15) millimeters from the lighting end and at least ten (10) millimeters from the filter end of the tobacco column. For nonfiltered cigarettes the bands shall be at least ten (10) millimeters from the labeled end of the tobacco column.

(c) If the state fire marshal determines that a cigarette cannot be tested in accordance with paragraph (a)(i) of this section, the manufacturer shall propose a test method and performance standard. If the state fire marshal approves the proposed test method and determines that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in paragraph (a)(iii) of this section, that test method and performance standard may be used to certify the cigarette pursuant to W.S. 35-9-804.

(d) The state fire marshal shall authorize a manufacturer to employ an alternative test method and performance standard to certify a cigarette for sale in this state if the fire marshal determines that:

(i) Another state has enacted reduced cigarette ignition propensity standards that include the proposed alternative test method and performance standard;

(ii) The other state's testing method and performance standard are the same as those adopted pursuant to paragraph (a)(i) of this section;

(iii) The officials responsible for implementing the other state's requirements have approved the proposed alternative test method and performance standard for a particular cigarette as meeting the fire safety standards of

that state's law or regulation under a legal provision comparable to this section; and

(iv) There is no reasonable basis to reject the alternative testing method.

(e) Manufacturers shall maintain copies of reports of all tests conducted on all cigarettes offered for sale for three (3) years and shall make copies available upon written request by the department of revenue or attorney general. Any manufacturer failing to make copies of the requested reports available within sixty (60) days of receipt of the request shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000.00) for each day after the sixtieth day that the manufacturer fails to make copies available.

(f) Repealed by Laws 2015, ch. 55, § 2.

(g) The requirements of subsection (a) of this section shall not prohibit:

(i) Wholesale or retail dealers from selling after the effective date of this act the dealer's inventory of cigarettes existing on the effective date of this act if the wholesale or retail dealer can establish that state tax stamps were affixed to the cigarettes prior to the effective date and the wholesale or retail dealer can establish that the inventory was purchased prior to the effective date of this act in a comparable quantity to the inventory purchase during the same period of the prior year; or

(ii) The sale of cigarettes solely for the purpose of consumer testing using only the quantity of cigarettes that is reasonably necessary for the testing. For purposes of this paragraph the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, for the purpose of evaluating consumer acceptance of the cigarettes.

35-9-804. Certification and product change.

(a) Each manufacturer shall certify in writing to the department of revenue:

(i) Each cigarette listed in the certification has been tested pursuant to W.S. 35-9-803; and

(ii) Each cigarette listed in the certification meets the performance standard set forth in W.S. 35-9-803.

(b) For each cigarette listed in the certification the following information shall be included:

- (i) Brand or trade name on the packaging;
- (ii) Style;
- (iii) Length in millimeters;
- (iv) Circumference in millimeters;
- (v) Flavor such as menthol if applicable;
- (vi) Filter or nonfilter;
- (vii) Package description such as soft pack or box;
- (viii) Marking pursuant to W.S. 35-9-805;

(ix) Contact information for the laboratory that conducted the testing, including name, address and telephone number; and

(x) The date of testing.

(c) The department of revenue shall make the certifications available to the attorney general and the state fire marshal for purposes consistent with this act.

(d) Cigarettes certified pursuant to this section shall be recertified every three (3) years.

(e) For each cigarette listed in a certification, a manufacturer shall pay a fee of two hundred fifty dollars (\$250.00) payable to the department of revenue to be deposited into the general fund.

(f) If a cigarette is certified and is subsequently changed in a manner that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this act, the cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards consistent with the provisions of this act and maintains the records of that

retesting as required by this act. Any altered cigarette which does not meet the performance standard set forth in this act shall not be sold in this state.

35-9-805. Cigarette packaging.

(a) Cigarettes certified by a manufacturer in accordance with W.S. 35-9-804 shall be marked to indicate compliance with the requirements of W.S. 35-9-803. The marking shall include the letters "FSC" (Fire Standard Compliant), shall not be less than eight (8) point type and shall be permanently printed, stamped, engraved or embossed on the package at or near the UPC Code.

(b) A manufacturer shall use only one (1) marking applied uniformly for all packages including packs, cartons, cases and brands marketed by the manufacturer.

(c) Manufacturers certifying cigarettes in accordance with W.S. 35-9-804 shall submit copies of the certification to all wholesale dealers and agents selling their cigarettes.

35-9-806. Penalties.

(a) A manufacturer, wholesale dealer, agent or any other person or entity who knowingly sells or offers for sale cigarettes, other than through retail sale, in violation of W.S. 35-9-803 shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00) for each pack of such cigarettes sold or offered for sale. In no case shall the penalty against any such person or entity exceed one hundred thousand dollars (\$100,000.00) during any thirty (30) day period.

(b) A retail dealer who knowingly sells or offers for sale cigarettes in violation of any provision of this act shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00) for each pack of such cigarettes sold or offered for sale. In no case shall the penalty against any retail dealer exceed ten thousand dollars (\$10,000.00) during any thirty (30) day period.

(c) In addition to any penalty prescribed by law any corporation, partnership, sole proprietor, limited partnership or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to W.S. 35-9-804 shall be subject to a civil penalty of not less than seventy-five thousand dollars (\$75,000.00) nor more than two hundred

fifty thousand dollars (\$250,000.00) for each false certification.

(d) Any person violating any other provision of this act shall be subject to a civil penalty for a first offense not to exceed one thousand dollars (\$1,000.00) and for each subsequent offense a penalty not to exceed five thousand dollars (\$5,000.00) for each violation.

(e) Law enforcement personnel or authorized employees of the department of revenue may seize cigarettes for which no certification has been filed or that have not been marked in the manner required by this act. Cigarettes seized pursuant to this section shall be destroyed not less than thirty (30) days after the trademark holder in the cigarette brand has been given an opportunity to inspect the cigarettes.

(f) In addition to any other remedy provided by law, the attorney general may file an action in district court for a violation of this act, including petitioning for any one (1) or more of the following remedies:

(i) For preliminary or permanent injunctive relief against any manufacturer, importer, wholesale dealer, retail dealer, agent or any other individual or entity to enjoin such individual or entity from selling, offering to sell or affixing tax stamps to any cigarette that does not comply with the requirements of this act;

(ii) To recover any costs or damages suffered by the state because of a violation of this act, including enforcement costs relating to the specific violation and attorney's fees.

(g) Each violation of this act or of rules and regulations adopted under this act constitutes a separate civil violation for which the department of revenue or attorney general may obtain relief. Upon obtaining judgment for injunctive relief under this section, the department of revenue or attorney general shall provide a copy of the judgment to all wholesale dealers and agents to which the subject cigarette has been sold.

35-9-807. Inspection and enforcement.

(a) The department of revenue may inspect cigarettes to determine if the cigarettes are marked as required by W.S. 35-9-805. If the cigarettes are not marked as required, the

department of revenue shall seize the cigarettes as provided in W.S. 35-9-806(e) and notify the attorney general.

(b) To enforce the provisions of this act, the attorney general, the department of revenue and other law enforcement personnel are authorized to examine books, papers, invoices and other records of any person or entity possessing, controlling or occupying any premises where cigarettes are placed, held, stored, sold or offered for sale.

35-9-808. Fee and penalties.

All certification fees paid under W.S. 35-9-804 shall be deposited in the general fund. All monies recovered as penalties under W.S. 35-9-806 shall be paid over to the state treasurer pursuant to W.S. 8-1-109.

35-9-809. Sale in other states.

Nothing in this act shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of W.S. 35-9-803 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this state.

35-9-810. Preemption of local law.

This act shall preempt any local law, ordinance or regulation conflicting with any provision of this act.

35-9-811. Construction of act.

This act shall be interpreted and construed as provided in W.S. 8-1-103(a) (vii).

CHAPTER 10
CRIMES AND OFFENSES

ARTICLE 1
DISPOSAL OF GARBAGE, REFUSE AND DEAD ANIMALS

35-10-101. Depositing or placing refuse matter, dead animals and garbage into rivers, ditches, railroad rights-of-way, highways or public grounds prohibited; exception.