



**Certification Page**  
**Regular and Emergency Rules**  
 Revised June 2013

**Emergency Rules** *(After completing all of Sections 1 and 2, proceed to Section 5 below)*

**Regular Rules**

**1. General Information**

a. Agency/Board Name		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Contact Person		f. Contact Telephone Number
g. Contact Email Address		h. Adoption Date
i. Program		

**2. Rule Type and Information:** For each chapter listed, indicate if the rule is New, Amended, or Repealed.

If "New," provide the Enrolled Act numbers and years enacted:

c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed  
*(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)*

Chapter Number:	Short Title:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
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d.  The Statement of Reasons is attached to this certification.

e. If applicable, describe the **emergency** which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

**3. State Government Notice of Intended Rulemaking**

- a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the **Secretary of State**:
- b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Legislative Service Office**:
- c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Attorney General**:

**4. Public Notice of Intended Rulemaking**

- a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice.  Yes  No  N/A
- b. A public hearing was held on the proposed rules.  Yes  No

	If "Yes:"	Date:	Time:	City:	Location:

**5. Final Filing of Rules**

- a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature**:
- b. Date on which final rules were sent to the **Legislative Service Office**:
- c. Date on which a PDF of the final rules was electronically sent to the **Secretary of State**:

**6. Agency/Board Certification**

The undersigned certifies that the foregoing information is correct.

<i>Signature of Authorized Individual (Blue ink as per Rules on Rules, Section 7)</i>	
<i>Printed Name of Signatory</i>	
<i>Signatory Title</i>	
<i>Date of Signature</i>	

**7. Governor's Certification**

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

<i>Governor's Signature</i>	
<i>Date of Signature</i>	

**Attorney General:** 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

**LSO:** 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules: clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

**SOS:** 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

# **STATEMENT OF PRINCIPAL REASONS**

## **PROPOSED RULE CHANGES, DEPARTMENT OF REVENUE, MINERAL TAX DIVISION**

The Mineral Tax Division of the Department of Revenue is amending these rules in order to both simplify and clarify existing rules pursuant to the Governor's streamlining government initiative.

The Department is eliminating in its entirety chapter 5 which deals with tertiary oil tax exemptions for recovery projects between July 1, 1985 and December 31, 1996. Since the taxability of these projects have now long since passed, the rules associated with them are no longer relevant and can be removed. Likewise the Department is also eliminating the whole of chapter 18 which addresses the Gas Research Review Committee which played a role in tax credits under provisions of the Wyoming statutes which have been eliminated.

The Department is also amending Chapter 6 in the following ways:

In an effort to reduce the redundancy of a number of our rules contained in this chapter, we are removing sections and sub-sections which simply restate the statutes, for example numerous definitions contained within sections 4, 4a, 4b and 4c merely duplicate existing statutory definitions as does Section 15, which is being removed as well. Section 9a is eliminated since the statutory methodology of assessing taxable value for trona has been changed. We are also removing section 12 which is associated with the review functions of Wyoming State Board of Equalization and not the Department of Revenue. Section 8d-8g are being eliminated as they are already covered in the statutes.

Chapter 6 currently refers throughout to statutory citations existing prior to the rearrangement and statutory re-codification of the tax code in the late 1990's. The Department is therefore changing all references throughout chapter 6 to current statutory citations. The multitude of proposed elimination requires the Department to re-letter and re-number many of the sections and sub-sections of Chapter 6.

# DEPARTMENT OF REVENUE

**MATTHEW H MEAD**, GOVERNOR  
**EDMUND J. SCHMIDT**, DIRECTOR

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## MEMORANDUM

**TO:** The Honorable Governor Matthew H. Mead

**FROM:** Heather Melius, Rules Coordinator

**SUBJECT:** Wyoming Department of Revenue - Proposed Rules For:  
Chapter 5: Severance Tax Administration  
Chapter 6: Ad Valorem and Severance Taxes on Mineral Production  
Chapter 18: Gas Research Review Committee

**DATE:** 1/21/14

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There were no written comments received.

## CHAPTER 5

### SEVERANCE TAX ADMINISTRATION

~~Section 1. Authority. These rules are promulgated pursuant to W.S. 39-1-303.~~

~~Section 1 Purpose of Rules. These rules are intended to provide the terms to implement the two percent (2%) severance tax exemption applicable to tertiary oil production for a five (5) year period from the date of the first tertiary production as provided in W.S. 39-6-302(j).~~

~~Section 3. Eligibility. These rules apply only to projects certified by the Wyoming Oil and Gas Conservation Commission after July 1, 1985, and before December 31, 1996.~~

~~Section 4. Tertiary Oil Exemption.~~

~~——— (a) ——— Crude oil recovered by means of a tertiary enhanced recovery project, which is entitled to the two percent (2%) severance tax exemption of W.S. 39-6-302(j) (June 1991), shall be the excess of actual production for the calendar month over the base level production, as calculated pursuant to Section 5 Or 6 of this Chapter, for the same month following first tertiary production. "First tertiary production" shall be deemed to have occurred after the commencement of tertiary injection and in the month where actual production exceeds the base level production as calculated pursuant to Section 5 or 6 as applicable, for the project area.~~

~~Section 5. Calculation of Base Level Production for Projects Certified by the Wyoming Oil and Gas Conservation Commission prior to January 1, 1992.~~

~~——— (a) ——— For project areas certified by the Wyoming Oil and Gas Conservation Commission prior to January 1, 1992, and producing crude oil on or before July 1, 1984, base level production means the average monthly production for such property during the 12-month period ending June 30, 1985, reduced (but not below zero) by the sum of:~~

~~(i) One percent (1%) of such amount (the average monthly production for such property as determined in Section 5(a)) for each month which begins after June 30, 1985, and before the first month beginning after the commencement of tertiary injection into the project area.~~

~~(ii) Two and one half percent (2 1/2%) of such amount (the average monthly production for such property as determined in Section 5(a)) for each month which begins after the commencement of tertiary injection into the project area. This provision applies only so long as a qualifying tertiary recovery method is used on the project area.~~

~~———— (b) ——— For project areas certified by the Wyoming Oil and Gas Conservation Commission before January 1, 1992, but discovered after July 1, 1984, or not producing crude oil on or before July 1, 1984, the base level production means the average monthly production for the twelve (12) month period immediately preceding certification. The decline curve as calculated in Section 5(a) (i) and (ii) of this Chapter shall begin with the month beginning after certification of the project by the Wyoming Oil and Gas Conservation Commission.~~

~~———— (c) ——— To qualify for calculation of average monthly production, the production wells on the property must have been maintained at the maximum feasible rate of production in accordance with recognized conservation practices of the Wyoming Oil and Gas Conservation Commission. If the production is curtailed for any reason, including reasons beyond the control of the project operator, the Department of Revenue, after consultation with the Wyoming Oil and Gas Conservation Commission, may adjust the monthly production to recognize maximum feasible rates of production.~~

~~Section 6. Calculation of Base Level Production for Projects Certified by the Wyoming Oil and Gas Conservation Commission after December 31, 1991, and before January 1, 1997.~~

~~———— For project areas certified by the Wyoming Oil and Gas Conservation Commission after December 31, 1991, and before January 1, 1997, base level production shall be established by the Wyoming Oil and Gas Conservation Commission as part of the certification process of the project, in accordance with the Rules and Regulations of the Wyoming Oil and Gas Conservation Commission, through application of generally accepted petroleum engineering practices and based on such additional information which the Wyoming Oil and Gas Conservation Commission may require. The Wyoming Oil and Gas Conservation Commission shall approve the extrapolated base level production decline curve for the project from information submitted by the certification applicant. The base level production established by the Wyoming Oil and Gas Conservation Commission shall be binding upon the Department of Revenue and the taxpayer for purposes of computing the amount of production qualifying for the tertiary oil exemption under W. S. 39-6-302(j)(June 1991).~~

## CHAPTER 6

### AD VALOREM AND SEVERANCE TAXES ON MINERAL PRODUCTION

#### Section 1. Authority.

These rules are promulgated by the authority of W.S. 39-11-102(b).

#### Section 2. Purpose of Rules.

(a) These rules are intended to provide uniform and understandable guidelines for valuation of mineral production for ad valorem ad severance tax purposes. The relevant statutory provisions include Wyoming Title 39, Chapter 13 and Wyoming Title 39, Chapter 14.

(b) These rules also are intended to describe the rights and obligations for ad valorem and severance tax purposes of persons engaged or having an interest in mineral production in this state. These rules are not inclusive of all statutory provisions and do not include the taxpayer bill of rights found in W.S. 39-11-102(a)(i).

(c) These rules shall be effective for the 2014 production year and thereafter until otherwise amended or modified.

#### Section 3. Administrative Functions.

The Department of Revenue shall determine the value of minerals for ad valorem (gross products) and severance tax purposes in accordance with these rules. The taxpayer shall initially determine the value of minerals for severance tax monthly reporting in accordance with these rules. All ad valorem (gross products) and severance tax valuation determinations are subject to audit pursuant to Section 14 of this chapter.

#### Section 4. Definitions-General.

These definitions set forth in Title 39 of the 2013 Wyoming Statutes, as amended, are incorporated by reference in this chapter. In addition, the following definitions shall apply:

(a) “Department” means the Department of Revenue of the State of Wyoming.

(b) “Mineral Tax Division” means the Mineral Tax Division of the Wyoming Department of Revenue.

(c) “Fair market value” means the price established by a bona fide arm’s-length sale. In the absence of a bona fide arm’s-length sale, fair market value shall mean the amount in cash, or terms equivalent to ash, that a willing and well informed buyer would pay for a mineral, and a willing and well informed seller would accept.

(d) “Gross product” means the total or entire output of a mineral or valuable deposit from a mine or oil and gas property whether used, sold or stored, and relates to the quality or volume of a mineral or valuable deposit which is removed, severed, extracted or produced from a mine or well.

(e) “Appropriate units of measure” means the measure of the amount of mineral or valuable deposit remove, severed, extracted or produced, whether by volume or weight as specified by the Department (e.g., ton, pounds, mcfs, barrels, etc.).

(f) “Minerals” means gold, silver, and all other precious metals, soda, saline, coal, uranium, petroleum, trona, oil shale, gas or natural gas, all hydrocarbons produced with oil and gas, and all other valuable deposits, including those produced in association with other minerals.

(g) “Valuable deposit” means any product not otherwise specified which can be removed, extracted, severed or produced from a mine or mining claim and has value as may be determined by sale or use.

(h) “Mine or mining claim” includes properties producing oil and natural gas and means any property which produces a solid, liquid, or gaseous mineral, regardless of right or form of ownership of right of production of the mineral.

(i) “Point of valuation” means the point where value for severance and ad valorem tax is established. This point is generally after all mining functions have been performed and before the mineral is further processed (Pursuant to W.S. 39-14-101(a)(vi) for coal, W.S. 39-14-203(b)(iii) for crude oil or lease condensate, W.S. 29-14-203(b)(vi) for natural gas, W.S. 39-14-301(a)(vi) for trona, W.S. 39-14-401(a)(vi) for bentonite, W.S. 39-14-501(a)(vi) for uranium, W.S. 39-14-601(a)(vi) for sand and gravel, W.S. 39-14-701(a)(vi) for other valuable deposits).

(j) “Operator” means any person responsible for the day-to-day operation of a mine or oil and gas property by reason of contract, lease or operating agreement or ownership of an unleased producing mine or well operated by the owner thereof.

(k) “Exempt interest” means any interest owned by the United State, the State of Wyoming, or an Indian tribe.

(l) “Production taxes” means the severance tax authorized by W.S. 39-14-103, W.S. 39-14-203, W.S. 39-14-303, W.S. 39-14-403, W.S. 39-14-503, W.S. 39-14-603, W.S. 39-14-703 and the Ad Valorem (Gross Products) Tax authorized by W.S. 39-13-103, the Oil and Gas Conservation tax authorized by W.S. 30-5-116, black lung excise tax authorized by 26 USC Section 4121 and the abandoned mine lands fee authorized by 30 USC Section 1232, as determined on the accrual basis of accounting in accordance with generally accepted accounting principles.

(m) “Exempt royalty” means royalty expenses, as determined on the accrual basis accounting in accordance with generally accepted accounting principles, for interests owned by the United State, the State of Wyoming or an Indian tribe.



(n) “Nonexempt royalty” means royalty expense, as determined on the accrual basis accounting in accordance with generally accepted accounting principles, for all royalty expense other than exempt royalty.

Section 4a. Definitions-Solid Minerals.

(a) “Solid mineral” means any mineral other than crude oil and natural gas. Sulfur produced from natural gas shall be considered an element of the natural gas stream.

(b) “Supervisory personnel” means generally employees who direct and control the work of other employees and whose duties can still be distinguished as either relating to mining or processing.

(c) “Depreciation” means depreciation as actually determined and used by the taxpayer, in accordance with generally accepted accounting principles, for financial statement purposes. This depreciation is commonly referred to as book depreciation.

(d) “Pound” means 16 ounces avoirdupois.

(e) “Ton” means short ton or 2000 pound avoirdupois.

Section 4b. Definitions – Oil and Gas.

(a) “Lease condensate” means liquid hydrocarbons which are separated from other components of the production stream on the lease or before the inlet to a natural gas processing facility. Lease condensate is oil for severance and gross products tax reporting purposes.

(b) “Plant condensate” means liquid hydrocarbons which are separated from other components of the production stream beyond the inlet of a gas processing facility. Plant condensate is a natural gas plant product for severance and gross products tax purposes.

(c) “Barrel” means 42 (U.S.) gallons measured at 60 degrees Fahrenheit at atmospheric pressure.

(d) “Cubic foot” of gas means the volume of gas contained in one cubic foot of space at a pressure of 14.73 pounds “per square inch absolute” (psia) and at a temperature of 60 degrees Fahrenheit. (Generally stated as Mcf (1000 cubic feet)).

(e) “Working interest” means any interest in a well or group of wells which is burdened by the cost of exploration for minerals on, the development of, or the production of minerals from the well or group of wells.

(f) “Non-working interest” means any interest which is not burdened by the cost of exploration, development, or the production of minerals from a property. This type of interest includes but is not limited to royalty interest, overriding royalty interest and net profits interest.

(g) “Take in kind” means the event when an election is made by an interest owner under lease or joint operating agreement, with notice to the affected parties, to separately market or dispose of crude oil natural gas or natural gas products. An interest owner must affirmatively exercise an option under a lease or operating agreement to separately market his share of the production to qualify as take in kind. If an option to separately market is not exercised by the interest owner, the operator shall report the interest owner’s portion of the production. The phrase “take in kind” does not include sales under common agreement by interest owners and the operator where the purchases merely makes disbursements for the purchases directly to the parties selling their production.

(h) “Intangible drilling cost” means the intangible expense associated with drilling a well and preparing it for production. This expense includes labor, materials and supplies, drilling equipment costs, fuel and power, etc. and supplies, and shall be determined on the financial book basis of accounting as used by the taxpayer for financial statement purposes in accordance with generally accepted accounting principles.

(i) “Dry hole expense” means the expense associated with drilling a dry development or exploratory well on the producing property as determined on the financial book basis of accounting and used by the taxpayer for financial statement purposes, in accordance with generally accepted accounting principles.

(j) “Plant or facility depreciation” means the annual expense associated with the amortization of the capitalized cost of a plant or facility, calculated based on the units of production or straight line basis and used by the taxpayer for financial statement purposes, in accordance with generally accepted accounting principles.

(k) “Direct costs of producing” includes labor for field and production personnel whose primary responsibility is extraction of crude oil, lease condensate, natural gas and other mineral products removed from the production stream before processing; materials and supplies used for and during the production process; depreciation expense for field equipment used to take the production stream from the wellhead to the point of valuation; fuel, power and other utilities used for production and maintenance; gathering and transportation expenses from the wellhead to the point of valuation; ad valorem taxes on production and transportation equipment; intangible drilling costs, including dry hole expense; and other direct costs incurred prior to the point of valuation that are specifically attributable to producing mineral products.

(l) “Direct costs of producing, processing and transporting” includes the direct cost of producing determined under paragraph (w) of this section plus transportation and processing plant or facility labor whose primary purpose is transporting or processing crude oil, plant condensate, natural gas and other mineral products removed from the production stream; materials and supplies used for transporting and processing; depreciation expense for equipment used for transportation and processing; fuel, power and other utilities used for transportation and processing and maintenance of the transporting and processing plant or facilities; transportation from the point of valuation to the processing plant or facility to the extent included in the price and

provided by the producer; ad valorem taxes on the transporting equipment and processing plant or facility; and any other direct costs incurred that are specifically attributable to the transporting or processing of mineral products contained in the production stream.

Section 4c. Definitions - Bentonite. (In addition to the definitions in Section 4a, the definitions in this section are specific to bentonite.)

(a) “Mining cost” means the cost incurred prior to the point of valuation for stripping, drilling, scraping, field drying, loading, hauling to the point of valuation, reclamation and any other costs directly related to the mining operation that are incurred prior to the point of valuation. A written claim or request may be made by the taxpayer to the Department for approval of field drying within the pit as a processing cost based upon information which shows a definite change in the physical or chemical characteristic or a definite enhancement of the marketability of the mineral.

Section 5. Persons Bearing the Incidence of the Tax.

(a) Liability for ad valorem (gross products) or severance taxes arises when any mineral is removed, extracted, severed or produced in this State.

(i) The ad valorem (gross products) tax relates to the ownership or interest in the mineral removed, extracted, severed or produced, and the incidence of the tax is on all the interest owners in proportion to their ownership shares unless exempted by law. Ad Valorem taxes are determined from the gross production of minerals for the previous calendar year.

(ii) The severance tax is an excise tax imposed on the present and continuing privilege of removing, extracting, severing or producing any mineral in this state, and the incidence of the severance tax is upon all interest owners in proportion to their ownership shares, unless otherwise exempt by law. Severance taxes are determined from the gross production in the current calendar year.

Section 6. Persons Responsible for Remittance of Tax; Take in Kind Election, Term, Termination and Exchange of Information.

(a) This section identifies the persons responsible for remitting payment of ad valorem and severance taxes on mineral production in this state. For solid mineral production the mine operator shall report and remit tax payments for 100% of the production from the producing property.

(i) All Ad Valorem taxes on the gross product from an oil or gas property attributable to any working or non-working interest owner shall be remitted by

the interest owner or may be remitted on behalf of the interest owner in proportion to his ownership interest by the operator.

(ii) All severance taxes on the gross product from an oil or gas property attributable to any working or non-working interest owner shall be remitted by the operator except as stated in Section 6 (a)(iii).

(iii) All taxes on the gross product attributable to any interest owner electing to take in kind shall be remitted by the interest owner or on behalf of the interest owner in proportion to his ownership interest by the operator. An election for operator reporting and remittance of ad valorem and severance tax shall be allowed if, on or before January 1st of the production year in which operator reporting shall commence, the take in kind interest owner notifies the operator and the Mineral Division in writing of the intent to have the operator report and remit on behalf of the take in kind interest owner. The operator or other entity reporting and remitting the interest owner's gross product (ad valorem) tax must also report and remit severance tax.

(iv) An election made under this section shall remain in effect until terminated by the interest owner or by the Department pursuant to paragraph (v) of this subsection.

(v) An operator may petition the Department to terminate the interest owner election on the basis of either failure to provide the necessary information for reporting taxable volume and value, or failure to remit to the operator on or before the date the taxes are due, or as extended by written agreement between the parties, the amount of taxes owed by the take in kind interest owner. Notice and opportunity for a hearing shall be provided to the operator and interest owner, with a final decision by the Department within ninety (90) days following receipt of the petition.

(b) In order to minimize erroneous reporting, the following exchange of information shall occur:

(i) Exchange of Oil and Natural Gas Data. On or before the second Monday in February, the take in-kind interest owner shall provide the operator an annual summary of monthly volumes taken in kind by property name and by property identification number as assigned by the Mineral Tax Division. The take in-kind interest owner may negotiate an extension of time for cause with the operator not to exceed thirty days.

(ii) The operator shall notify the take in-kind interest owner of any discrepancies in volume, property name or property identification number within thirty days of receipt of the take in-kind interest owner's data.

(iii) Penalty. Failure to comply with the requirements of paragraphs (i) and (ii) above may subject the taxpayer to a penalty of up to \$1000 per property. This penalty is authorized by W.S. 39-14-208(d)(i). A copy of the cover letter listing the

properties and property identification numbers for which data is being exchange shall be mailed to the Mineral Tax Division.

Section 7. Reporting and Payment Requirements.

(a) Each operator shall:

(i) For ad valorem (gross products) tax purposes, annually file a sworn statement required pursuant to W.S. 39-14-107(a)(i) for coal, W.S. 39-14-207(a)(i) for oil and gas, W.S. 39-14-307(a)(i) for trona, W.S. 39-14-407(a)(i) for bentonite, W.S. 39-14-507(a)(i) for uranium, W.S. 39-14-607(a)(i) for sand and gravel, W.S. 39-14-707(a)(i) for other valuable deposits with the Department. The Department shall prescribe the form of the statement and may issue written instructions and guidelines to assure uniform compliance with the reporting requirements. The sworn statement shall include:

(A) Information identifying the operator and a description of the mine, or property from which any minerals were removed, extracted, severed or produced. Such description shall include the name of the property, legal description, lease or unit number, if any, and the code number assigned by the Department.

(B) Information concerning the total quantity or volume of the gross production in appropriate units of measurement as defined in Section 4a, paragraphs (d) and (e) for solid minerals and in Section 4b, paragraphs (c) and (d) for oil and gas. Any production which is reported as taken in kind shall be reported on actual production taken, including exempt royalty burdens, as opposed to production entitlement. Production and/or sales volumes and values for all producing wells located on a lease or unit shall be included in the tax return for that property.

(C) Information concerning the sale or use of any mineral or minerals removed, extracted, severed or produced. Such information shall include the quantity or volume and aggregate price of any mineral which is sold, and an estimate of the quantity or volume of any mineral which is stored or used without sale also including the use for the mineral;

(D) Current information regarding the extent and identity of exempt, working and non working interest owners or division orders if requested. All reporting interests must total one hundred percent (100%);

(E) Information concerning all costs which relate to processing and transportation; and

(F) Copies of coal sales contracts and contract summaries as required by W.S. 39-14-107(a)(i)(A). Contract copies shall be submitted by the taxpayer within 18 months after the date of the agreement provided the contract is publicly available. Contracts are publicly available when available to the public through other government agencies, private consulting or data collection firms or through any other source which allows public access.

(G) Gross products filing dates for oil and natural gas reports;

(I) The statutory due date for annual oil and natural gas reports is February 25th of the year following the production year.

(II) Extensions of time to file these reports, for up to 60 days, may be granted for cause. Extension requests must be in writing and be received by the Mineral Tax Division prior to the statutory due date.

(III) In addition to the gross products reports filed with the Department of Revenue, each taxpayer whose current reported annual volume produced is in excess of 500,000 mcfs of gas or 50,000 barrels of oil per county shall provide an estimate of taxable value to the appropriate county assessor by May 1 of the current reporting year to enable the various tax districts to begin their budget process in a timely and accurate manner. The Department may identify additional taxpayers for reporting under this subsection as requested by a county. This information is to be provided on the form prescribed by the Department. Failure to file this report may subject the taxpayer to a penalty of up to one thousand dollars as provided by W.S. 39-14-208(d)(ii).

(H) W.S. 39-14-202(a)(iii) requires the Department of Revenue to certify the annual oil and natural gas valuation to the counties on June 1, or as soon thereafter as the fair market value is determined. Taxpayers may be granted filing extensions to allow sufficient time for accurate tax return preparation. To accommodate the extended reporting deadlines, annual fair market value determinations and certifications will be deferred until July 1.

(ii) For severance tax purposes, monthly file with the Department a statement of information containing the quantity and value of the gross production. Production data for all producing wells and those capable of producing located on a lease or unit shall be included in the tax return for that property. Data and computations relating to differences between the gross sales value and taxable value shall be reported, and the total amount due shall be remitted with the tax return. When an interest owner has elected to have the operator report and remit on their behalf, a monthly statement of take in kind volumes and all other information necessary for reporting taxable values shall be supplied by the take in kind interest owner or representative to the operator by the fourth working day of the second month following the month of production. The taxpayer is responsible for computing the taxable value and the tax due in accordance with all applicable statutes and rules.

(iii) File the severance tax report and remit payment on or before the 25th day of the second month following the month of production. The report will be considered timely filed if postmarked on or before the 25th day of the second month following the month of production.

(iv) File any request for extension of a monthly filing deadline with the Department in writing not less than five days prior to the statutory due date. Any extension if granted, shall be conditional upon payment of the reasonable estimate of

90% of the tax by the statutory due date, with the remaining tax to be remitted with the extended return.

(b) All financial data required to be reported under this section shall be determined and reported in accordance with generally accepted accounting principles (GAAP) unless otherwise required by these rules.

(c) Any person owning a non exempt interest who elects to take his production in kind shall file all reports and information required by subsection (a) of this section relating to the sale or use of production taken in kind. The actual quantity taken (not entitlements) shall be reported including the exempt royalty burden for which they are responsible pursuant to the exempt royalty provisions of the joint operating agreement. If the exempt royalty reported is not the product of the royalty rate multiplied by the value of the production being reported, the taxpayer shall notify the Department in writing and specify the reason for the difference. The take in kind interest owner may provide the operator of the property with the necessary value, volume and other information by the second Monday in February to allow the operator to report on behalf of the take in kind interest owner. This election shall be made by the persons taking in kind, not the operator, consistent with Section 6. In the absence of such agreement, however, an operator is not relieved from filing all reports and information required by subsection (a) of this section including the identity and extent of interest owners electing to take production in kind and the actual quantity or volume of production taken in kind (not entitlements) including exempt royalty burdens; provided however, that an operator is not required to report information relating to sale or disposition of production taken in kind if the interest owner has not made the election described in Section 6.

(d) When a producing lease or portion thereof becomes a part of a unit during the production year, the operator shall report the production from January 1 to the unitization date, and the operator of the unit shall report the production of the unit from the date of unitization through December 31.

(e) If a producing property is sold during the production year, the operator of the property prior to sale shall report mineral production from January 1 up to the date of sale. The operator who assumes the operation after the date of sale shall report production from the date of sale through December 31.

(f) All production tax returns and return information including all statements, reports, summaries, and all other data and documents under audit or provided by the taxpayer in accordance with W.S. 39-14-107(a)(i) for coal, W.S. 39-14-207(a)(i) for oil and gas, W.S. 39-14-307(a)(i) for trona, W.S. 39-14-407(a)(i) for bentonite, W.S. 39-14-507(a)(i) for uranium, W.S. 39-14-607(a)(i) for sand and gravel, W.S. 39-14-707(a)(i) for other valuable deposits and related statute sections shall be confidential. Any disclosure of this information to other government agencies shall be in accordance with W.S. 39-14-102(g) for coal, W.S. 39-14-202(b)(iii) for oil and gas, W.S. 39-14-302(g) for trona, W.S. 39-14-402(f) for bentonite, W.S. 39-14-502(f) for uranium, W.S. 39-14-602(f) for sand and gravel, W.S. 39-14-702(g) for other valuable deposits. Information or data which would otherwise be confidential that must be disclosed through formal discovery in a contested case

proceeding will be aggregated or otherwise combined with information from several taxpayers to protect the confidentiality of the information. All parties to a contested case shall agree to protective orders when appropriate. (W.S. 39-14-102(h) for coal, W.S. 39-14-202(b)(iv) for oil and gas, W.S. 39-14-302(h) for trona, W.S. 39-14-402(g) for bentonite, W.S. 39-14-502(g) for uranium, W.S. 39-14-602(g) for gravel, W.S. 39-14-702(h) for other valuable deposits).

(g) The penalties for failure to comply with the take-in-kind reporting and payment requirements are established by W.S. 39-14-108(d) for coal, W.S. 39-14-208(d) for oil and gas, W.S. 39-14-308(d) for trona, W.S. 39-14-408(d) for bentonite, W.S. 39-14-508(d) for uranium, W.S. 39-14-608(d) for sand and gravel, W.S. 39-14-708(d) for other valuable deposits. When the Department does not receive a tax return and alleges the reporting entity has not filed the return, to avoid a late filing penalty, the reporting entity must produce documentation establishing the return was filed.

#### Section 8. Determination of the Gross Product.

(a) The portion of the gross product of a mineral which relates to an exempt interest, whether taken in-kind or realized by a money royalty, is not subject to an ad valorem or severance tax; provided however, that such portion shall be included when determining the gross product.

(b) The gross product shall be expressed in terms indicating the total quantity of a mineral removed, severed, extracted or produced for the relevant reporting period or periods by appropriate units of measure. The gross product of each mineral shall be separately stated.

(c) Any mineral which is used without sale or consumed shall be considered to be a part of the gross product of a mineral.

#### Section 9. Determination of the Value of the Gross Product - In General.

(a) The fair market value of the gross product shall be determined at the point at which the mining or production of the mineral is completed. Unless otherwise provided by law, the mining or production of the mineral shall be considered completed at the point of valuation as provided by W.S. 39-14-101(a)(vi) for coal, W.S. 39-14-203(b)(iii) for crude oil or lease condensate, W.S. 39-14-203(b)(vi) for natural gas, W.S. 39-14-301(a)(iv) for trona, W.S. 39-14-401(a)(vi) for bentonite, W.S. 39-14-501(a)(vi) for uranium, W.S. 39-14-601(a)(vi) for sand and gravel, W.S. 39-14-701(a)(vi) for other valuable deposits.



(b) When a solid mineral is sold at the point of valuation pursuant to a bona fide arm's-length sale, the sales price shall be the fair market value.

(c) When a solid mineral, for which there is no specific statutory valuation method, is sold at a point other than the point of valuation, the fair market value shall be determined by the Department in accordance with recognized appraisal techniques.

(d) When a solid mineral other than coal is not sold pursuant to a bona fide arm's-length sale, or is used without sale, the fair market value shall be determined by the Department in accordance with recognized appraisal techniques.

Section 10. Recognized Appraisal Techniques Applicable to Miscellaneous Minerals.

(a) When the Department is required to appraise or determine the fair market value of miscellaneous minerals by application of recognized appraisal techniques, the Department shall use one or more of the following approaches or a combination thereof:

(i) Cost approach. Applied to minerals, the cost approach is a method of estimating the value of a mineral by determining the total of direct and indirect costs attributable to mining or production of a mineral. Other elements of value include but are not limited to royalty, and return on and of investment.

(ii) Comparison approach. Applied to minerals, the comparison approach is a method of determining the fair market value of a mineral by comparison with sales of minerals similar in quality and characteristics. This approach includes consideration of:

(A) Direct arm's-length sales of unprocessed minerals at the mine or oil and gas property; and

(B) Direct sales of processed or transported minerals whether at or away from the mine or oil and gas property.

(b) The Department shall consider whether the sales price includes the value of processing or transportation to market or both added after the mineral has passed beyond the point of valuation.

(i) If the selling price includes such value, the Department shall deduct such value from the selling price to determine the fair market value of the mineral.

(ii) If the value or cost of processing or transportation to market or both is represented by a bona fide arm's-length contract, such value or cost shall be deemed to be the appropriate deduction from the selling price.

(c) Return on investment attributable to mining and processing may be determined by a direct cost ratio proportion of costs, the proportion of investment, or rates of return prevalent in the industry.

(d) The Department shall weigh the relative significance, applicability and appropriateness of the indicators of value derived from the approaches to value or methods outlined above, including comparison of value indicators for similar minerals which best approximates the value of the mineral being appraised or valued.

(e) The fair market value of a mineral shall not include direct and indirect costs attributable to processing or transportation to market.

#### Section 11. Taxable Value of Mineral Production.

(a) The value of the gross product as determined pursuant to these rules constitutes the taxable value; provided, however, that any portion of the gross product of a mineral attributable to an exempt interest shall not be subject to an ad valorem or severance tax.

(b) After the Department has determined the taxable value of a mineral, it shall immediately notify by mail the operator or interest owner of the values so determined.

(c) For ad valorem tax purposes, the Department shall annually certify pursuant to W.S. 39-14-102(d) for coal, W.S. 39-14-202(a)(iii) for natural gas, crude oil or lease condensate, W.S. 39-14-302(d) for trona, W.S. 39-14-402(c) for bentonite, W.S. 39-14-502(c) for uranium, W.S. 39-14-602(c) for sand and gravel, W.S. 39-14-702(c) for other valuable deposits the taxable value of mineral production to the county assessor in which the mine or oil and gas property is located.

Section 12. Audit Rights and Responsibilities.

(a) Financial data and other information prescribed by these rules and contained in reporting forms required to be filed with the Department are subject to audit by the Department of Audit and examination by the Department of Revenue. The purpose of such audit is to:

(i) Verify the accuracy of the financial data submitted by the taxpayer or operator as well as to determine whether such financial data is in accordance with generally accepted accounting principles; and

(ii) Verify the accuracy of all other data or information contained in the required reporting forms.

(b) Audits shall be conducted at the discretion of the Department of Audit or upon request by the Department of Revenue.

(c) All pertinent records, including but not limited to accounting, production sales and tax records, shall be maintained by the taxpayer and reporting entity in accordance with the time periods established by W.S. 39-14-108(b)(vii) for coal, W.S. 39-14-208(b)(vii) for natural gas, crude oil or lease condensate, W.S. 39-14-308(b)(vii) for trona, W.S. 39-14-408(b)(vii) for bentonite, W.S. 39-14-508(b)(vii) for uranium, W.S. 39-14-608(b)(vii) for sand and gravel, W.S. 39-14-708(b)(vii) for other valuable deposits. These records shall include the work papers reconciling source documents to the tax returns. Records shall be made available to the auditors during regular business hours at the place of business where such records are normally kept unless otherwise arranged by mutual consent.

(i) Mineral purchase contracts, orders or agreements, complete with supporting schedules and documentation, shall be examined by auditors upon request and such records may be photocopied by auditors with the consent of the taxpayer. The written results (audit report) required by W.S. 39-14-108(b)(v)(C) for coal, W.S. 39-14-208(b)(v)(C) for natural gas, crude oil or lease condensate, W.S. 39-14-308(b)(v)(C) for trona, W.S. 39-14-408(b)(v)(C) for bentonite, W.S. 39-14-508(b)(v)(C) for uranium, W.S. 39-14-608(b)(v)(C) for sand and gravel, W.S. 39-14-708(b)(v)(C) for other valuable deposits shall include specific references to supporting documentation necessary to sustain and explain audit findings.

(ii) All records relating to production year 1989 and subsequent production years shall be retained for a minimum of five (5) years unless otherwise provided by law.

(d) The Department of Revenue shall compute severance tax liability and issue a notice to the taxpayer audited of severance taxes due if a deficiency is determined

or amount of refund or credit if overpayment is determined. This notice shall be mailed along with the final audit report, after review by the Department of the final audit findings.

(e) No employee of the state shall receive a bonus, be promoted or in any way rewarded on the basis of the amount of assessments or collections from taxpayers.

(f) The Department shall certify the amended taxable value resulting from a mineral tax audit and final determination to the appropriate county assessors as otherwise provided in these rules.

## CHAPTER 6

### AD VALOREM AND SEVERANCE TAXES ON MINERAL PRODUCTION

#### Section 1. Authority.

These rules are promulgated by the authority of ~~W.S. 39-1-303~~ W.S. 39-11-102(b).

#### Section 2. Purpose of Rules.

(a) These rules are intended to provide uniform and understandable guidelines for valuation of mineral production for ad valorem and severance tax purposes. The relevant statutory provisions include ~~W.S. 39-2-201 et seq. and W.S. 39-6-301 et seq~~ Wyoming Title 39, Chapter 13 and Wyoming Title 39, Chapter 14.

(b) These rules also are intended to describe the rights and obligations for ad valorem and severance tax purposes of persons engaged or having an interest in mineral production in this state. These rules are not inclusive of all statutory provisions and do not include the taxpayer bill of rights found in ~~W.S. 39-1-103~~ W.S. 39-11-102(a)(i).

(c) These rules shall be effective for the ~~1995~~ 2014 production year and thereafter until otherwise amended or modified. ~~(Note: See 1986 laws, rules, and subsequent amendments for requirements in effect for 1986, 1987, 1988, 1989, 1990, 1991, and 1994 mineral production.)~~

#### Section 3. Administrative Functions.

The Department of Revenue shall determine the value of minerals for ad valorem (gross products) and severance tax purposes in accordance with these rules. The taxpayer shall initially determine the value of minerals for severance tax monthly reporting in accordance with these rules. All ad valorem (gross products) and severance tax valuation determinations are subject to audit pursuant to Section 14 of this chapter.

#### Section 4. Definitions-General.

The definitions set forth in Title 39 of the ~~1977-2013~~ Wyoming Statutes, as amended, are incorporated by reference in this chapter. In addition, the following definitions shall apply:

(a-) "Department" means the Department of Revenue of the State of Wyoming.

(b-) "Mineral Tax Division" means the Mineral Tax Division of the

Wyoming Department of Revenue.

(c-) “Fair ~~cash~~-market value” means the price established by a bona fide arm's-length sale. In the absence of a bona fide arm's-length sale, fair ~~cash~~-market value shall mean the amount in cash, or terms equivalent to cash, that a willing and well informed buyer would pay for a mineral, and a willing and well informed seller would accept.

(d-) “Gross product” means the total or entire output of a mineral or valuable deposit from a mine or oil and gas property whether used, sold or stored, and relates to the quantity or volume of a mineral or valuable deposit which is removed, severed, extracted or produced from a mine or well.

(e-) “Appropriate units of measure” means the measure of the amount of mineral or valuable deposit removed, severed, extracted or produced, whether by volume or weight as specified by the Department (e.g., tons, pounds, mcfs, barrels, etc.).

(f-) “Minerals” means gold, silver, and all other precious metals, soda, saline, coal, uranium, petroleum, trona, oil shale, gas or natural gas, all hydrocarbons produced with oil and gas, and all other valuable deposits, including those produced in association with other minerals.

(g-) “Valuable deposit” means any product not otherwise specified which can be removed, extracted, severed or produced from a mine or mining claim and has value as may be determined by sale or use.

(h-) “Mine or mining claim” includes properties producing oil and natural gas and means any property which produces a solid, liquid, or gaseous mineral, regardless of right or form of ownership or right of production of the mineral.

(i-) “Point of valuation” means the point where value for severance and ad valorem tax is established. This point is generally after all mining functions have been performed and before the mineral is further processed (pursuant to ~~W.S. 39-2-202(b) for solid minerals and W.S. 39-2-208(b) for oil and gas~~ W.S. 39-14-101(a)(vi) for coal, W.S. 39-14-203(b)(iii) for crude oil or lease condensate, W.S. 39-14-203(b)(vi) for natural gas, W.S. 39-14-301(a)(vi) for trona, W.S. 39-14-401(a)(vi) for bentonite, W.S. 39-14-501(a)(vi) for uranium, W.S. 39-14-601(a)(vi) for sand and gravel, W. S. 39-14-701(a)(vi) for other valuable deposits).

(j-) “Operator” means any person responsible for the day-to- day operation of a mine or oil and gas property by reason of contract, lease or operating agreement of ownership of an unleased producing mine or well operated by the owner thereof.

(k-) “Exempt interest” means any interest owned by the United States, the State of Wyoming, or an Indian tribe.

~~————(l.)—— “Bona fide arm's length sale” means a transaction in cash or terms equivalent to cash for specified property rights after reasonable exposure in a competitive market between a willing, well informed and prudent buyer and seller with adverse economic interests and assuming neither party is acting under undue compulsion or duress.~~

~~————(m.)—— “Arm’s length market or sales price” means the transaction price determined in connection with a bona fide arms length sale as defined in subsection (l) above.~~

~~(n.)~~ “Production taxes” means the severance tax authorized by ~~W.S. 39-6-302~~ W.S. 39-14-103, W.S. 39-14-203, W.S. 39-14-303, W.S. 39-14-403, W.S. 39-14-503, W.S. 39-14-603, W.S. 39-14-703 and the Ad Valorem (Gross Products) Tax authorized by ~~W. S. 39-2-201~~ W.S. 39-13-103, the Oil and Gas Conservation tax authorized by W.S. 30-5-116, black lung excise tax authorized by 26 USC Section 4121 and the abandoned mine lands fee authorized by 30 USC Section 1232, as determined on the accrual basis of accounting in accordance with generally accepted accounting principles.

~~(o,m)~~ “Exempt royalty” means royalty expense, as determined on the accrual basis accounting in accordance with generally accepted accounting principles, for interests owned by the United States, the State of Wyoming, or an Indian tribe.

~~(p,n)~~ “Nonexempt royalty” means royalty expense, as determined on the accrual basis accounting in accordance with generally accepted accounting principles, for all royalty expense other than exempt royalty.

#### Section 4a. Definitions - Solid Minerals

(a) “Solid mineral” means any mineral other than crude oil and natural gas. Sulfur produced from natural gas shall be considered an element of the natural gas stream.

~~————(b.)—— “Mouth of the mine” means the point at which a mineral is brought to the surface of the ground and is taken out o f the pit, shaft or portal. For a surface mine, this point shall be the top of the ramp where the road or conveying system leaves the pit. For an in situ mine, the point of valuation shall be the wellhead. (W. S. 39-2-202(b)(i)). For solid minerals, the “mouth of the mine” is the “point of valuation” (see general definition for “point of valuation”).~~

~~————(c.)—— “Mining or production” means drilling, blasting, loading, roadwork, overburden removal, pre-mouth of the mine reclamation, transportation from the point of severance to the mouth of the mine, and maintenance of facilities and equipment directly relating to any of the functions stated in this paragraph. (W. S 39-2-202 (b)(ii)).~~

~~————(d.)—— “Processing” means crushing, sizing, milling, washing, drying, refining, upgrading, beneficiation, sampling, testing, treating, healing, separating, tailing or reject material disposal, compressing, storing, loading for shipment, transportation from the point of valuation to~~

~~the load out, transportation to market to the extent included in the price and provided by the producer, processing plant site and post point of valuation reclamation, maintenance of facilities and equipment relating to any of the functions stated in this paragraph, and any other function after severance that changes the physical or chemical characteristics or enhances the marketability of the mineral. (W.S. 39-2-202(b)(iii)).~~

~~———— (e.) ——— “Transportation to market provided by the producer” means the costs incurred for any movement of a mineral which is performed by the producer beyond the point of loading for shipment to the customer, commonly referred to as the loadout, completed by the employees of the producer using equipment owned by the producer. (W.S. 39-2-202(b)(iv)). For purposes of this subsection, “equipment owned” includes equipment leased.~~

~~(f.b)~~ “Supervisory personnel” means generally employees who direct and control the work of other employees and whose duties can still be distinguished as either relating to mining or processing.

~~(g.c)~~ “Depreciation” means depreciation as actually determined and used by the taxpayer, in accordance with generally accepted accounting principles, for financial statement purposes. This depreciation is commonly referred to as book depreciation.

~~(h.d)~~ “Pound” means 16 ounces avoirdupois.

~~(i.e)~~ “Ton” means short ton or 2000 pounds avoirdupois.

#### Section 4b. Definitions - Oil and Gas.

~~———— (a.) ——— “Compressor” means a device associated with processing or transporting gas which mechanically increases the pressure of natural gas. W.S. 39-2-208(m)(i).~~

~~———— (b.) ——— “Dehydrator” means a device which removes water vapor that is commonly associated with raw natural gas. W.S. 39-2-208(m)(ii).~~

~~———— (c.) ——— “Gathering” means the transportation of crude oil or natural gas from multiple wells by separate and individual pipelines to a central point of accumulation, dehydration, compression, separation, heating, and treating or storage. W.S. 39-2-208(m)(iii).~~

~~———— (d.) ——— “Heating and treating” means the removal of solid, liquid, and gaseous components from the well stream by chemical, mechanical, and thermal processes. (W.S. 39-2-208(m)(iv)).~~

~~———— (e.) ——— “Lease” means the area encompassed in the leasehold granting the right to explore for and produce oil and/or gas, which may include a single tract or multiple tracts of land described in the instrument granting the leasehold.~~



~~\_\_\_\_\_ (f.) \_\_\_\_\_ “Lease automatic custody transfer unit (LACT)” means a device which automatically and mechanically measures and identifies at which point custody of crude oil transfers from the producer to the purchaser. (W.S. 39-2-208(m)(v)).~~

(g.a) “Lease condensate” means liquid hydrocarbons which are separated from other components of the production stream on the lease or before the inlet to a natural gas processing facility. Lease condensate is oil for severance and gross products tax reporting purposes.

(h.b) “Plant condensate” means liquid hydrocarbons which are separated from other components of the production stream beyond the inlet of a gas processing facility. Plant condensate is a natural gas plant product for severance and gross products tax purposes.

~~\_\_\_\_\_ (i.) \_\_\_\_\_ “Processing” means any activity occurring beyond the inlet of a gas processing facility which changes the production stream physical or chemical characteristics, enhances the marketability of the stream, or enhances the value of the separate components of the stream. Processing includes, but is not limited to fractionation, absorption, adsorption, flashing, refrigeration, cryogenics, sweetening, dehydration within a processing facility, beneficiation, stabilizing, compression (other than production compression such as reinjection, wellhead pressure regulation or the changing of pressures and temperatures in a reservoir) and separation which occurs within a processing facility. (W.S. 39-2-208(m)(vi)).~~

~~\_\_\_\_\_ (j.) \_\_\_\_\_ “Property” means lease or unit.~~

~~\_\_\_\_\_ (k.) \_\_\_\_\_ “Separating” means the isolation of the production stream into discrete gas, liquid hydrocarbons, liquid water and solid components. (W.S. 39-2-208(m)(vii)).~~

~~\_\_\_\_\_ (l.) \_\_\_\_\_ “Sweetening” means any activity which removes acid gases, such as hydrogen sulfide and carbon dioxide, from the production stream. Sweetening includes, but is not limited to absorption, stabilization, thermal and catalytic conversions, chemical reaction and regeneration. (W.S. 39-2-208(m)(viii)).~~

~~\_\_\_\_\_ (m.) \_\_\_\_\_ “Unit” means the total area incorporated in a unitization agreement providing for a consolidated development and operational plan to recover oil and/or gas from the lease areas incorporated in the unit. Participating areas of units as designated by the Wyoming Oil and Gas Conservation Commission may be designated as separate units for production tax purposes.~~

~~\_\_\_\_\_ (n.) \_\_\_\_\_ “Well” means a hole drilled in the earth for the purpose of finding or producing crude oil and natural gas. (W.S. 39-2-280(m)(ix)).~~

(o.c) “Barrel” means 42 (U.S.) gallons measured at 60 degrees Fahrenheit Fahrenheit at atmospheric pressure.

(~~p~~-d) “Cubic foot” of gas means the volume of gas contained in one cubic foot of space at a pressure of 14.73 pounds “per square inch absolute” (psia) and at a temperature of 60 degrees ~~fahrenheit~~ Fahrenheit. (Generally stated as Mcf (1000 cubic feet).

(~~q~~-e) “Working interest” means any interest in a well or group of wells which is burdened by the cost of exploration for minerals on, the development of or the production of minerals from the well or group of wells.

(~~r~~-f) “Non-working interest” means any interest which is not burdened by the cost of exploration, development, or the production of minerals from a property. This type of interest includes but is not limited to royalty interest, overriding royalty interest and net profits interest.

(~~s~~-g) “Take in kind” means the event when an election is made by an interest owner under a lease or joint operating agreement, with notice to the affected parties, to separately market or dispose of crude oil, natural gas or natural gas products. An interest owner must affirmatively exercise an option under a lease or operating agreement to separately market his share of the production to qualify as take in kind. If an option to separately market is not exercised by the interest owner, the operator shall report the interest owner's portion of the production. The phrase “take in kind” does not include sales under common agreement by interest owners and the operator where the purchaser merely makes disbursements for the purchases directly to the parties selling their production.

(~~t~~-h) “Intangible drilling cost” means the intangible expense associated with drilling a well and preparing it for production. This expense includes labor, materials and supplies, drilling equipment costs, fuel and power, etc. and supplies, and shall be determined on the financial book basis of accounting as used by the taxpayer for financial statement purposes in accordance with generally accepted accounting principles.

(~~u~~-i) “Dry hole expense” means the expense associated with drilling a dry development or exploratory well on the producing property as determined on the financial book basis of accounting and used by the taxpayer for financial statement purposes, in accordance with generally accepted accounting principles.

(~~v~~-j) “Plant Of facility depreciation” means the annual expense associated with the amortization of the capitalized cost of a plant or facility, calculated based on the units of production or straight line basis and used by the taxpayer for financial statement purposes, in accordance with generally accepted accounting principles.

(~~w~~-k) “Direct costs of producing” includes labor for field and production personnel whose primary responsibility is extraction of crude oil, lease condensate, natural gas and other mineral products removed from the production stream before processing; materials and supplies used for and during the production process; depreciation expense for field equipment used to take the

production stream from the wellhead to the point of valuation; fuel, power and other utilities used for production and maintenance; gathering and transportation expenses from the wellhead to the point of valuation; ad valorem taxes on production and transportation equipment; intangible drilling costs, including the hole expense; and other direct costs incurred prior to the point of valuation that are specifically attributable to producing mineral products.

~~(\*)~~ “Direct costs of producing, processing and transporting” includes the direct cost of producing determined under paragraph (w) of this section plus transportation and processing plant or facility labor whose primary purpose is transporting or processing crude oil, plant condensate, natural gas and other mineral products removed from the production stream; materials and supplies used for transporting and processing; depreciation expense for equipment used for transportation and processing; fuel, power and other utilities used for transportation and processing and maintenance of the transporting and processing plant or facilities; transportation from the point of valuation to the processing plant or facility to the extent included in the price and provided by the producer; ad valorem taxes on the transporting equipment and processing plant or facility; and any other direct costs incurred that are specifically attributable to the transporting or processing of mineral products contained in the production stream.

~~Section 4c. Definitions – Coal (In addition to the definitions in Section 4a, the definitions in this section are specific to coal.)~~

~~(a) Direct mining costs include mining labor including mine foremen and supervisory personnel whose primary responsibility is extraction of coal, supplies used for mining, mining equipment depreciation, fuel, power and other utilities used for mining, maintenance of mining equipment, coal transportation from the point of severance to the point of valuation, and any other direct costs incurred prior to the point of valuation that are specifically attributable to the mining operation. (W.S. 39-2-209(d)(ii)).~~

~~(b) “Total direct costs” include direct mining costs determined under paragraph (a) of this section plus mineral processing labor including plant foremen and supervisory personnel whose primary responsibility is processing coal, supplies used for processing, processing plant and equipment depreciation, fuel, power and other utilities used for processing, maintenance of processing equipment, coal transportation from the point of valuation to the point of shipment, coal transportation to market to the extent included in the price and provided by the producer, and any other direct costs incurred that are specifically attributable to the mining, processing or transportation of coal up to the point of loading for shipment to market. (W.S. 39-2-209(d)(iii)).~~

~~(c) Indirect costs, royalties, ad valorem production taxes, severance taxes, black lung excise taxes and abandoned mine lands fees shall not be included in the computation of the ratio set forth in this chapter. Indirect costs include but are not limited to allocations of corporate overhead, data processing costs, accounting, legal and clerical costs, and other general and administrative costs which cannot be specifically attributed to an operational function without allocation. (W.S. 39-2-209(d)(iv)).~~

~~———— (d.) ——— “Transportation to market provided by a third party” means the costs incurred for any movement of a mineral which is performed by a third party, after completion of all mining and processing functions, beyond the point of loading for shipment to the customer, commonly referred to as the loadout, established by contract or by government regulations. (W.S. 39-2-209(d)(v)).~~

~~———— Section 4d. Definitions – Uranium (In addition to the definitions in Section 4a, the definitions in this section are specific to uranium.)~~

~~———— (a.) ——— “Total mining costs for in-situ mines” include labor, including mine foremen and supervisory personnel whose primary function is the extraction of uranium, supplies, equipment depreciation and maintenance, fuel, power and other utilities, uranium transportation to the point of valuation, indirect costs related to extraction and any other costs incurred prior to the point of valuation that are specifically attributable to the installation of the well field, pumps used for extraction or injection, or any other extraction activity. (W. S. 39-2-210(d)(i)).~~

~~———— (b.) ——— “Total mining costs for conventional surface and underground mines” include labor, including mine foremen and supervisory personnel whose primary function is the extraction of uranium ore, supplies, equipment depreciation and maintenance, fuel, power and other utilities, uranium transportation to the point of valuation, indirect costs related to extraction and any other costs incurred prior to the point of valuation that are specifically attributable to the excavation and transportation of uranium ore to the point of valuation. (W. S. 39-2-210(d)(ii)).~~

~~———— (c.) ——— “Total mining and processing costs” include mining costs determined under paragraph (a) or (b) of this section plus mineral processing labor including plant foremen and supervisory personnel whose primary responsibility is processing uranium, supplies used for processing, processing plant and equipment depreciation, fuel, power and other utilities used for processing, maintenance of processing equipment, uranium transportation from the point of valuation to the point of shipment, indirect processing costs and any other costs incurred that are specifically attributable to the mining or processing of uranium up to the point of sale FOB the mine. (W.S. 39-2-210(d)(iii)).~~

~~———— (d.) ——— “Indirect costs” include but are not limited to allocations of corporate overhead, data processing costs, accounting, legal and clerical costs and other general and administrative costs which cannot be specifically attributed to an operational function without allocation. Indirect costs shall be allocated using methods in accordance with generally accepted accounting principles. Similar costs shall be allocated using the same method for each producer. (W.S. 39-2-210(d)(iv)).~~

~~Section 4ec. Definitions - Bentonite. (In addition to the definitions in Section 4a, the definitions in this section are specific to bentonite.)~~

~~(a.) “Mining cost” means the cost incurred prior to the point of valuation for~~

stripping, drilling, scraping, field drying, loading, hauling to the point of valuation, reclamation and any other costs directly related to the mining operation that are incurred prior to the point of valuation. A written claim or request maybe made by the taxpayer to the Department for approval of field drying within the pit as a processing cost based upon information which shows a definite change in the physical or chemical characteristic or a definite enhancement of the marketability of the mineral.

Section 5. Persons Bearing the Incidence of the Tax.

(a) Liability for ad valorem (gross products) or severance taxes arises when any mineral is removed, extracted, severed or produced in this State.

(i) The ad valorem (gross products) tax relates to the ownership or interest in the mineral removed, extracted, severed or produced, and the incidence of the tax is on all the interest owners in proportion to their ownership shares unless exempted by law. Ad Valorem taxes are determined from the gross production of minerals for the previous calendar year.

(ii) The severance tax is an excise tax imposed on the present and continuing privilege of removing, extracting, severing or producing any mineral in this state, and the incidence of the severance tax is upon all interest owners in proportion to their ownership shares, unless otherwise exempt by law. Severance taxes are determined from the gross production in the current calendar year.

Section 6. Persons Responsible for Remittance of Tax; Take in Kind Election, Term, Termination and Exchange of information.

(a) This section identifies the persons responsible for remitting payment of ad valorem and severance taxes on mineral production in this state. For solid mineral production the mine operator shall report and remit tax payments for 100% of the production from the producing property.

(i) All Ad Valorem taxes on the gross product from an oil or gas property attributable to any working or non-working interest owner shall be remitted by the interest owner or may be remitted on behalf of the interest owner in proportion to his ownership interest by the operator.

(ii) All severance taxes on the gross product from an oil or gas property attributable to any working or non-working interest owner shall be remitted by the operator except as stated in ~~section~~ Section 6 (a)(iii).

(iii) All taxes on the gross product attributable to any interest owner electing to take in kind shall be remitted by the interest owner or on behalf of the interest owner in proportion to his ownership interest by the operator. An election for operator reporting

and remittance of ad valorem and severance tax shall be allowed if; on or before January 1st of the production year in which operator reporting shall commence, the take in kind interest owner notifies the operator and the Mineral Division in writing of the intent to have the operator report and remit on behalf of the take in kind interest owner. The operator or other entity reporting and remitting the interest owner's gross product (ad valorem) tax must also report and remit severance tax.

(iv.) An election made under this section shall remain in effect until terminated by the interest owner or by the Department pursuant to paragraph (v) of this subsection.

(v.) An operator may petition the Department to terminate the interest owner election on the basis of either failure to provide the necessary information for reporting taxable volume and value, or failure to remit to the operator on or before the date the taxes are due, or as extended by written agreement between the parties, the amount of taxes owed by the take in kind interest owner. Notice and opportunity for a hearing shall be provided to the operator and interest owner, with a final decision by the Department within ninety (90) days following receipt of the petition.

(b.) In order to minimize erroneous reporting, the following exchange of information shall occur:

(i.) Exchange of Oil and Natural Gas Data. On or before the second Monday in February, the take in-kind interest owner shall provide the operator an annual summary of monthly volumes taken in kind by property name and by property identification number as assigned by the Mineral Tax Division. The take in-kind interest owner may negotiate an extension of time for cause with the operator not to exceed thirty days.

(ii.) The operator shall notify the take in-kind interest owner of any discrepancies in volume, property name or property identification number within thirty days of receipt of the take in-kind interest owner's data.

(iii.) Penalty. Failure to comply with the requirements of paragraphs (i) and (ii) above may subject the taxpayer to a penalty of up to \$1000 per property. This penalty is authorized by ~~W. S. 39-5-101(e)~~ W.S. 39-14-208(d)(i). A copy of the cover letter listing the properties and property identification numbers for which data is being exchange shall be mailed to the Mineral Tax Division.

#### Section 7. Reporting and Payment Requirements.

(a.) Each operator shall:

(i.) For ad valorem (gross products) tax purposes, annually file a sworn

statement required pursuant to ~~W.S. 39-2-201(b)~~ W.S. 39-14-107(a)(i) for coal, W.S. 39-14-207(a)(i) for oil and gas, W.S. 39-14-307(a)(i) for trona, W.S. 39-14-407(a)(i) for bentonite, W.S. 39-14-507(a)(i) for uranium, W.S. 39-14-607(a)(i) for sand and gravel, W. S. 39-14-707(a)(i) for other valuable deposits with the Department. The Department shall prescribe the form of the statement and may issue written instructions and guidelines to assure uniform compliance with the reporting requirements. The sworn statement shall include:

(A-) Information identifying the operator and a description of the mine, or property from which any minerals were removed, extracted, severed or produced. Such description shall include the name of the property, legal description, lease or unit number, if any, and the code number assigned by the Department.

(B-) Information concerning the total quantity or volume of the gross production in appropriate units of measurement as defined in Section 4a, paragraphs (~~hd~~) and (~~ie~~) for solid minerals and in Section 4b, paragraphs (~~oc~~) and (~~pd~~) for oil and gas. Any production which is reported as taken in kind shall be reported on actual production taken, including exempt royalty burdens, as opposed to production entitlement. Production and/or sales volumes and values for all producing wells located on a lease or unit shall be included in the tax return for that property.

(C-) Information concerning the sale or use of any mineral or minerals removed, extracted, severed or produced. Such information shall include the quantity or volume and aggregate price of any mineral which is sold, and an estimate of the quantity or volume of any mineral which is stored or used without sale also including the use for the mineral;

(D-) Current information regarding the extent and identity of exempt, working and non working interest owners or division orders if requested. All reporting interests must total one hundred percent (100%);

(E-) Information concerning all costs which relate to processing and transportation; and

(F-) Copies of coal sales contracts and contract summaries as required by ~~W. S. 39-2-201~~ W.S. 39-14-107(a)(i)(A). Contract copies shall be submitted by the taxpayer within 18 months after the date of the agreement provided the contract is publicly available. Contracts are publicly available when available to the public through other government agencies, private consulting or data collection firms or through any other source which allows public access.

(G-) Gross products filing dates for oil and natural gas reports:

(~~I~~) The statutory due date for annual oil and natural gas reports is February 25th of the year following the production year.

(~~2-II~~) Extensions of time to file these reports, for up to 60 days, maybe granted for cause. Extension requests must be in writing and be received by the Mineral Tax Division prior to the statutory due date.

(~~3-III~~) In addition to the gross products reports filed with the Department of Revenue, each taxpayer whose current reported annual volume produced is in excess of 500,000 mcf of gas or 50,000 barrels of oil per county shall provide an estimate of taxable value to the appropriate county assessor by May 1 of the current reporting year to enable the various tax districts to begin their budget process in a timely and accurate manner. The Department may identify additional taxpayers for reporting under this subsection as requested by a county. This information is to be provided on the form prescribed by the Department. Failure to file this report may subject the taxpayer to a penalty of up to one thousand dollars as provided by ~~W.S. 39-5-101(g)~~ W.S. 39-14-208(d)(ii).

(~~H-~~) ~~W.S. 39-2-201~~ W.S. 39-14-202(a)(iii) requires the Department of Revenue to certify the annual oil and natural gas valuation to the counties on June 1, or as soon thereafter as the fair market value is determined. Taxpayers may be granted filing extensions to allow sufficient time for accurate tax return preparation. To accommodate the extended reporting deadlines, annual fair market value determinations and certifications will be deferred until July 1.

(ii-) For severance tax purposes, monthly file with the Department a statement of information containing the quantity and value of the gross production. Production data for all producing wells and those capable of producing located on a lease or unit shall be included in the tax return for that property. Data and computations relating to differences between the gross sales value and taxable value shall be reported, and the total amount due shall be remitted with the tax return. When an interest owner has elected to have the operator report and remit on their behalf, a monthly statement of take in kind volumes and all other information necessary for reporting taxable values shall be supplied by the take in kind interest owner or representative to the operator by the fourth working day of the second month following the month of production. The taxpayer is responsible for computing the taxable value and the tax due in accordance with all applicable statutes and rules.

(iii-) File the severance tax report and remit payment on or before the 25th day of the second month following the month of production. The report will be considered timely filed if postmarked on or before the 25th day of the second month following the month of production.

(iv-) File any request for extension of a monthly filing deadline with the Department in writing not less than five days prior to the statutory due date. Any extension if granted, shall be conditional upon payment of the reasonable estimate of 90% of the tax by the



statutory due date, with the remaining tax to be remitted with the extended return.

(b-) All financial data required to be reported under this section shall be determined and reported in accordance with generally accepted accounting principles (GAAP) unless otherwise required by these rules.

(c-) Any person owning a non exempt interest who elects to take his production in kind shall file all reports and information required by subsection (a) of this section relating to the sale or use of production taken in kind. The actual quantity taken (not entitlements) shall be reported including the exempt royalty burden for which they are responsible pursuant to the exempt royalty provisions of the joint operating agreement. If the exempt royalty reported is not the product of the royalty rate multiplied by the value of the production being reported, the taxpayer shall notify the Department in writing and specify the reason for the difference. The take in kind interest owner may provide the operator of the property with the necessary value, volume and other information by the second Monday in February to allow the operator to report on behalf of the take in kind interest owner. This election shall be made by the persons taking in kind, not the operator, consistent with Section 6. In the absence of such agreement, however, an operator is not relieved from filing all reports and information required by subsection (a) of this section including the identity and extent of interest owners electing to take production in kind and the actual quantity or volume of production taken in kind (not entitlements) including exempt royalty burdens; provided however, that an operator is not required to report information relating to sale or disposition of production taken in kind if the interest owner has not made the election described in Section 6.

(d-) When a producing lease or portion thereof becomes a part of a unit during the production year, the operator shall report the production from January 1 to the unitization date, and the operator of the unit shall report the production of the unit from the date of unitization through December 31.

(e-) If a producing property is sold during the production year, the operator of the property prior to sale shall report mineral production from January 1 up to the date of sale. The operator who assumes the operation after the date of sale shall report production from the date of sale through December 31.

(f-) All production tax returns and return information including all statements, reports, summaries, and all other data and documents under audit or provided by the taxpayer in accordance with ~~W. S. 39-2-201(b), W. S. 39-6-304~~ W.S. 39-14-107(a)(i) for coal, W.S. 39-14-207(a)(i) for oil and gas, W.S. 39-14-307(a)(i) for trona, W.S. 39-14-407(a)(i) for bentonite, W.S. 39-14-507(a)(i) for uranium, W.S. 39-14-607(a)(i) for sand and gravel, W. S. 39-14-707(a)(i) for other valuable deposits and related statute sections shall be confidential. Any disclosure of this information to other government agencies shall be in accordance with ~~W.S. 39-6-309(e)~~ W.S. 39-14-102(g) for coal, W.S. 39-14-202(b)(iii) for oil and gas, W.S. 39-14-302(g) for trona, W.S. 39-14-402(f) for bentonite, W.S. 39-14-502(f) for uranium, W.S. 39-14-602(f) for sand and gravel, W. S. 39-14-702(g)

for other valuable deposits. Information or data which would otherwise be confidential that must be disclosed through formal discovery in a contested case proceeding will be aggregated or otherwise combined with information from several taxpayers to protect the confidentiality of the information. All parties to a contested case shall agree to protective orders when appropriate. ~~(W.S. 39-6-309~~W.S. 39-14-102(h) for coal, W.S. 39-14-202(b)(iv) for oil and gas, W.S. 39-14-302(h) for trona, W.S. 39-14-402(g) for bentonite, W.S. 39-14-502(g) for uranium, W.S. 39-14-602(g) for gravel, W. S. 39-14-702(h) for other valuable deposits).

(g-) The penalties for failure to comply with the take-in-kind reporting and payment requirements are established by ~~W. S. 39-5-101, and W. S. 39-6-307~~W.S. 39-14-108(d) for coal, W.S. 39-14-208(d) for oil and gas, W.S. 39-14-308(d) for trona, W.S. 39-14-408(d) for bentonite, W.S. 39-14-508(d) for uranium, W.S. 39-14-608(d) for sand and gravel, W. S. 39-14-708(d) for other valuable deposits. When the Department does not receive a tax return and alleges the reporting entity has not filed the return, to avoid a late filing penalty, the reporting entity must produce documentation establishing the return was filed.

#### Section 8. Determination of the Gross Product.

(a) The portion of the gross product of a mineral which relates to an exempt interest, whether taken in-kind or realized by a money royalty, is not subject to an ad valorem or severance tax; provided however, that such portion shall be included when determining the gross product.

(b) The gross product shall be expressed in tons indicating the total quantity of a mineral removed, severed, extracted or produced for the relevant reporting period or periods by appropriate units of measure. The gross product of each mineral shall be separately stated.

(c) ~~Subject to subsections (d), (e), (f) and (g) of this section, a~~Any mineral which is used without sale or consumed shall be considered to be a part of the gross product of a mineral.

~~(d) Gas which is lawfully flared or vented pursuant to authorization of the Wyoming Oil and Gas Conservation Commission shall have no value for ad valorem or severance tax purposes.~~

~~(e.) Gas which is re-injected for repressuring or pressure maintenance into the same field and formation from which it was removed shall not be included in the gross product of a mineral until it is otherwise used or consumed, sold or exchanged.~~

~~(f.) Natural gas which is consumed prior to sale for the purpose of maintaining, stimulating, treating, or~~

~~(g.) Coal has no value and is exempt from taxation if it is consumed prior to sale for the purpose of treating or processing coal produced from the same mine. (W.S. 39-2-202(h)).~~

#### Section 9. Determination of the Value of the Gross Product - In General.

(a) The fair ~~cash~~ market value of the gross product shall be determined at the point at which the mining or production of the mineral is completed. Unless otherwise provided by law, the mining or production of the mineral shall be considered completed at the point of valuation ~~for solid minerals as provided by W.S. 39-2-202(b) or at the point of valuation as provided by W.S. 39-2-208(b) for oil and gas, W.S. 39-14-101(a)(vi) for coal, W.S. 39-14-203(b)(iii) for crude oil or lease condensate, W.S. 39-14-203(b)(vi) for natural gas, W.S. 39-14-301(a)(iv) for trona, W.S. 39-14-401(a)(vi) for bentonite, W.S. 39-14-501(a)(vi) for uranium, W.S. 39-14-601(a)(vi) for sand and gravel, W. S. 39-14-701(a)(vi) for other valuable deposits~~

(b) When a solid mineral is sold at the point of valuation pursuant to a bona fide arm's-length sale, the sales price shall be the fair ~~cash~~ market value.

(c) When a solid mineral, for which there is no specific statutory valuation method, is sold at a point other than the point of valuation, the fair ~~cash~~ market value shall be determined by the Department in accordance with recognized appraisal techniques. ~~(Valuation methods are specifically provided by statute for the following solid minerals: trona, W.S. 39-2-202; coal, W.S. 39-2-209; uranium, W.S. 39-2-210; and bentonite, W. S. 39-2-211).~~

(d) When a solid mineral other than coal is not sold pursuant to a bona fide arm's-length sale, or is used without sale, the fair ~~cash~~ market value shall be determined by the Department in accordance with recognized appraisal techniques. ~~(See W.S. 39-2-209(e), (f), and (g) for coal valuation).~~

~~———— (e) ———— When crude oil, lease condensate or natural gas are sold to a third party, or processed by or transported by a third party at or prior to the point of valuation, the fair cash market value shall be the value established by a bona fide arms length transaction in accordance with W.S. 39-2-208(e).~~

~~———— (f) ———— When crude oil, lease condensate or natural gas are not sold at or prior to the point of valuation pursuant to a bona fide arm's length transaction, the fair cash market value shall be determined in accordance with W.S. 39-2-208(d), (e), (g), and (h).~~

#### ~~Section 9a. Determination of the value of the gross product trona~~

~~———— (a) ———— The value of trona ore for severance and ad valorem tax purposes shall be calculated using the individual producer's fair cash market value of soda ash fob plant multiplied by the industry factor, divided by the individual producer's trona to soda ash ratio less exempt royalties.~~

~~———— (b) ———— The industry factor shall be computed using data relating to production from the two previous calendar years as described in paragraph (h) of this section. The industry factor shall be calculated by dividing the composite trona value per ton of soda ash by the composite soda ash sales price per ton.~~

~~———— (c.) ——— The composite trona value per ton of soda ash shall be calculated by multiplying the trona cost ratio described in paragraph (d) of this section by the composite sales price per ton of soda ash.~~

~~———— (d.) ——— The trona cost ratio shall be a combination of two ratios, the direct cost ratio and the asset ratio. The direct cost ratio shall be direct mining costs per ton for all producers divided by total direct costs per ton for all producers. The asset ratio shall be mining depreciation for all producers divided by mining and processing depreciation for all producers. These ratios will be combined based on the direct cost ratio. The direct cost ratio will be multiplied by itself and added to the product of (one minus direct cost ratio) times the asset ratio to determine the trona cost ratio.~~

~~———— (e.) ——— Direct mining costs shall include mining labor (including mine foremen and supervisory personnel whose primary responsibility is the extraction of trona), supplies used for mining; mining equipment depreciation and related real and personal property taxes; fuel; power and other utilities used for mining; taxable royalties; maintenance of mining equipment; trona transportation from the point of severance to the mouth of the mine; ad valorem gross products and severance taxes; and any other direct costs incurred prior to the mouth of the mine which are specifically attributable to the mining operations. Direct mining costs shall be divided by the total tons of trona mined to arrive at direct mining costs per ton.~~

~~———— (f.) ——— Total direct costs per ton shall include direct mining costs per ton described in paragraph (e) of this section plus direct processing costs per ton. Direct processing costs shall include processing labor (including plant foremen and supervisory personnel whose primary responsibility is processing trona into soda ash), supplies used for processing trona into soda ash; processing plant and equipment depreciation and related real and personal property taxes; fuel, power and other utilities used for processing trona into soda ash; maintenance of soda ash processing plant and equipment; trona and/or soda ash transportation from the mouth of the mine to the point of shipment; and any other direct costs incurred which are specifically attributable to the mining, processing or transportation of trona and/or soda ash up to and including the point of shipment to market. Direct processing costs shall be divided by the total tons of trona processed into soda ash to arrive at direct processing costs per ton.~~

~~———— (g.) ——— Depreciation shall be book depreciation as computed for purposes of a certified financial statement.~~

~~———— (h.) ——— This section shall be effective for the 1993 production year and thereafter unless otherwise amended or modified.~~

#### Section 10. Recognized Appraisal Techniques Applicable to Miscellaneous Minerals.

(a.) When the Department is required to appraise or determine the fair ~~cash~~ market value of miscellaneous minerals by application of recognized appraisal techniques, the Department shall use one or more of the following approaches or a combination

thereof:

(i) Cost approach. Applied to minerals, the cost approach is a method of estimating the value of a mineral by determining the total of direct and indirect costs attributable to mining or production of a mineral. Other elements of value include but are not limited to royalty, and return on and of investment.

(ii) Comparison approach. Applied to minerals, the comparison approach is a method of determining the fair ~~cash~~-market value of a mineral by comparison with sales of minerals similar in quality and characteristics. This approach includes consideration of:

(A-) Direct arm's-length sales of unprocessed minerals at the mine or oil and gas property; and

(B-) Direct sales of processed or transported minerals whether at or away from the mine or oil and gas property.

(b) The Department shall consider whether the sales price includes the value of processing or transportation to market or both added after the mineral has passed beyond the point of valuation.

(i) If the selling price includes such value, the Department shall deduct such value from the selling price to determine the fair ~~cash~~-market value of the mineral.

(ii-) If the value or cost of processing or transportation to market or both is represented by a bona fide arm's-length contract, such value or cost shall be deemed to be the appropriate deduction from the selling price.

(c) Return on investment attributable to mining and processing may be determined by a direct cost ratio proportion of costs, the proportion of investment, or rates of return prevalent in the industry.

(d) The Department shall weigh the relative significance, applicability and appropriateness of the indicators of value derived from the approaches to value or methods outlined above, including comparison of value indicators for similar minerals which best approximates the value of the mineral being appraised or valued.

(e) The fair ~~cash~~-market value of a mineral shall not include direct and indirect costs attributable to processing or transportation to market.

#### Section 11. Taxable Value of Mineral Production.

(a) The value of the gross product as determined pursuant to these rules constitutes the taxable value; provided, however, that any portion of the gross product of a mineral attributable to an exempt interest shall not be subject to an ad valorem or severance tax.

(b) After the Department has determined the taxable value of a mineral, it shall immediately notify by mail the operator or interest owner of the values so determined.

(c) For ad valorem tax purposes, the Department shall annually certify pursuant to ~~W.S. 39-2-201~~ W.S. 39-14-102(d) for coal, W.S. 39-14-202(a)(iii) for natural gas, crude oil or lease condensate, W.S. 39-14-302(d) for trona, W.S. 39-14-402(c) for bentonite, W.S. 39-14-502(c) for uranium, W.S. 39-14-602(c) for sand and gravel, W.S. 39-14-702(c) for other valuable deposits the taxable value of mineral production to the county assessor in which the mine or oil and gas property is located.

~~Section 12. Objection to Annual Notice of Mineral Valuation for Ad Valorem Tax.~~

~~(a) For ad valorem tax purposes, within thirty (30) days of the postmark date of the notice from the Department of the taxable value of a mineral, the taxpayer shall file written objections, if any, with the Board. Failure to file written objections within the above indicated time period shall be a waiver of any objection to the taxable value.~~

~~(b) The written objection shall state in clear and concise language the reasons for the objection or objections to the taxable value determined by the Department.~~

~~(c) The Board shall notify the relevant county assessor following the timely filing of written objection. Such notification shall not be considered by the county assessor as an authorization to make any adjustment to the taxable value certified by the Department. Such notification is intended to make the relevant county aware that the taxable value is in dispute.~~

~~Section 13. Hearing Before the Wyoming State Board of Equalization.~~

~~(a) Following the timely filing of a written objection, the Board or its designee shall docket the objection.~~

~~(b) Any person who has timely filed written objection is entitled to a contested case hearing before the Board pursuant to the Wyoming Administrative Procedure Act and the relevant rules of practice and procedure of the Board concerning contested cases.~~

~~(c) Any person aggrieved by a decision of the Board concerning objection to the taxable value of mineral production may file a petition for review in the appropriate district court as provided by law.~~

Section ~~1412~~. Audit Rights and Responsibilities.

(a) Financial data and other information prescribed by these rules and contained in reporting forms required to be filed with the Department ~~is~~are subject to audit by the Department of Audit and examination by the Department of Revenue. The purpose of such audit is to:

(i) Verify the accuracy of the financial data submitted by the taxpayer or operator as well as to determine whether such financial data is in accordance with generally accepted accounting principles; and

(ii) Verify the accuracy of all other data or information contained in the required reporting forms.

(b) Audits shall be conducted at the discretion of the Department of Audit or upon request by the Department of Revenue.

(c) All pertinent records, including but not limited to accounting, production sales and tax records, shall be maintained by the taxpayer and reporting entity in accordance with the time periods established by ~~W. S. 39-2-214~~ W.S. 39-14-108(b)(vii) for coal, W.S. 39-14-208(b)(vii) for natural gas, crude oil or lease condensate, W.S. 39-14-308(b)(vii) for trona, W.S. 39-14-408(b)(vii) for bentonite, W.S. 39-14-508(b)(vii) for uranium, W.S. 39-14-608(b)(vii) for sand and gravel, W.S. 39-14-708(b)(vii) for other valuable deposits. These records shall include the work papers reconciling source documents to the tax returns. Records shall be made available to the auditors during regular business hours at the place of business where such records are normally kept unless otherwise arranged by mutual consent.

(i) Mineral purchase contracts, orders or agreements, complete with supporting schedules and documentation, shall be examined by auditors upon request and such records may be photocopied by auditors with the consent of the taxpayer. The written results (audit report) required by ~~W.S. 39-6-304(p) (1977 as amended)~~ W.S. 39-14-108(b)(v)(C) for coal, W.S. 39-14-208(b)(v)(C) for natural gas, crude oil or lease condensate, W.S. 39-14-308(b)(v)(C) for trona, W.S. 39-14-408(b)(v)(C) for bentonite, W.S. 39-14-508(b)(v)(C) for uranium, W.S. 39-14-608(b)(v)(C) for sand and gravel, W. S. 39-14-708(b)(v)(C) for other valuable deposits shall include specific references to supporting documentation necessary to sustain and explain audit findings.

(ii) All records relating to production year 1989 and subsequent production years shall be retained for a minimum of five (5) years unless otherwise provided by law.

(d) The Department of Revenue shall compute severance tax liability and issue a notice to the taxpayer audited of severance taxes due if a deficiency is determined or amount of refund or credit if overpayment is determined. This notice shall be mailed along with the final audit report, after review by the Department of the final audit findings.

(e) No employee of the state shall receive a bonus, be promoted or in any way rewarded on the basis of the amount of assessments or collections from taxpayers.

(f) The Department shall certify the amended taxable value resulting from a mineral tax audit and final determination to the appropriate county assessors as otherwise provided in these rules.

Section 15. Severance Tax Refunds:

~~(a.) Any request for refund of severance taxes for production during the year 1989 and thereafter shall be filed with the Department on forms it prescribes prior to the end of the full calendar year following the calendar year which included the month for which overpayment was made. Refunds of \$2,000 or less may be approved by the Division, and if allowed shall be applied as a credit to subsequent severance taxes due. Any refund request exceeding \$2,000 shall be approved in writing by the Department and at the election of the Department, may be refunded or applied as a credit to subsequent severance taxes due.~~

~~(b.) Any request for refund of severance taxes for production during years prior to 1989 shall be filed with the Department on forms it prescribes within two (2) years of the date of the erroneous payment. Refunds of \$2,000 or less may be approved by the Division, and if allowed shall be applied as a credit to subsequent severance taxes due. Any refund request exceeding \$2,000 shall be approved in writing by the Department and at the election of the Department, may be refunded or applied as a credit to subsequent severance taxes.~~

~~(c.) If an overpayment is determined, the resulting refund or credit shall be granted without interest.~~



## CHAPTER 18

### GAS RESEARCH REVIEW COMMITTEE

~~Section 1. Authority. These rules are adopted pursuant to W. S. 39-6-310(c).~~

~~Section 2. Purpose. This committee was created to administer a program designed to promote research into new technology or the innovative use of existing technology to develop significant gas reserves for the purpose of enhancing the economy of the State of Wyoming. These projects must have the potential for significant and long-term benefit to the state.~~

~~Section 3. Requirements. In addition to meeting the term and conditions listed in W. S. 39-6-310(d), research projects submitted for certification shall comply with the following requirements:~~

~~(a) A project can be approved at any time during the year. Credits can be taken from the month of approval forward against the severance tax owed monthly. Provided the project is approved by the GRRC between February 24, 1995 and June 30, 1999, credits for project expenses incurred after February 24, 1995 and as defined by W.S. 39-6-310(c) may be applied against severance tax liability from the month of project approval, forward. Credits will amount to 50% of monthly budgeted expenses applied to 41.67% of severance tax liability. On a monthly basis credits will be taken based on budgeted expenses. Reconciliation of budgeted expenses versus actual expenses for determination of earned credits will occur once a year as explained in section (b).~~

~~(b) Total documented expenditures shall be submitted to the Gas Research Review Committee (GRRC) by February 15, of each year covering expenditures (excluding in-kind services and materials) incurred in the preceding calendar year. This amount shall be certified to the Department of Revenue (DOR) no later than March 15 of each year and 50% of that amount shall be applied as credit against 41.67% of severance taxes owed within that preceding calendar year. The credit is not a dollar for dollar credit as it cannot be taken against the 11/2% severance tax going to the permanent mineral trust fund. The DOR shall reconcile credits taken (based on monthly budgeted amounts) versus credits actually earned (based on actual expenses) at that time. If more than fifty percent (50%) of actual expenditures was taken as earned credits, the difference shall be paid to DOR within thirty (30) days from postmark of DOR notification to taxpayer. No interest and penalty shall be charged as long as the difference represents no more than 10% of actual credits earned.~~

~~(c) Each application shall designate a project manager, who shall be an individual, not an organization.~~

~~———— (d) ——— The project manager shall submit at least quarterly progress reports to the GRRC. Reports shall be due on specified dates within the months of April, July, October and January. The reports shall include a review showing monthly budgeted amounts versus monthly actual expenditures. The project manager shall also submit a quarterly summary of year-to-date budget versus actual. If the GRRC foresees problems developing at the quarterly review, the GRRC shall notify the applicant. Failure to comply with statutes and/or this chapter may result in a project's decertification.~~

~~———— (e) ——— No one taxpayer can qualify for more than \$1,000,000 in credit (i.e. \$2,000,000 investment/ expenditures) for any one calendar year.~~

~~———— Section 4. Submitting an Application. Applications may be submitted at any time. The GRRC shall review and judge each application on its own merit. As soon as applications are received, the GRRC shall conduct an administrative review to ensure that the application is complete. Additional information or clarifications may be requested. An applicant's application shall be reviewed by individual committee members and by external consultants who may be assisting the committee.~~

~~(a) ——— Submit applications to: Gas Research Review Committee  
c/o Don Basko, Supervisor  
Oil and Gas Conservation Commission  
P.O. Box 2640  
Casper WY 82602~~

~~———— (b) ——— Applications submitted to GRRC shall not be returned once they are accepted for review. All copies of the application shall be retained by the GRRC for a period of one (1) year following the final decision.~~

~~Section 5. Application Format, General Instructions.~~

~~———— (a) ——— Applications for certification shall be typewritten double spaced and address each of the areas outlined below. Applicants shall submit eight (8) copies of their application.~~

~~———— (b) ——— Applications containing proprietary, trade secret, or confidential information (hereinafter referred to as "classified information") shall be marked as follows:~~

~~(i) The title page shall be conspicuously annotated to show that the application contains classified information. The annotation shall describe the nature of the materials, such as proprietary design information, trade secrets, confidential financial data, etc.~~

~~(ii) Each page containing classified information shall be marked with the word "CONFIDENTIAL" at the top and the bottom of the page. Each paragraph containing classified information shall be marked with a vertical black bar in the outer margin of the page extending from the top of the paragraph to the bottom of the paragraph.~~

~~(c) Title Page. The title page shall provide pertinent facts about the application "at a glance" (refer to Appendix A). All official correspondence regarding the application shall be addressed only to the individual listed as the project manager.~~

~~(d) Table of Contents. All pages shall be numbered, and the first page of each section shall be referenced to the title of that section.~~

~~(e) Executive Summary. Each application shall contain an executive summary which shall summarize the entire project in two pages or less. Enough detail shall be provided so that someone could read the summary by itself and get a clear idea of what the applicant is proposing to do with what technology, at what cost, and with what expected results. The Executive Summary Shall NOT contain classified, sensitive, or proprietary information. The executive summary shall follow the following outline:~~

~~(i) History of the applicant's company or individual's curriculum vitae~~

~~(ii) Summary of natural gas severance taxes paid in the last three years~~

~~(iii) Description of proposed project~~

~~(iv) Description of the market for the proposed product or service~~

~~(v) Description of the business impact of project~~

~~(vi) Description of the project's relevancy to Wyoming~~

~~(vii) Summary of budget~~

~~(f) Research Plan. Each application shall contain a research plan which includes the following:~~

~~(i) Objectives. In *two pages or less*, list and clearly describe the objective of the project.~~

~~The objectives shall include a description of the final products or processes expected to result from this project.~~

~~(ii) Background Review. The background review shall give a thorough, descriptive summary of all work done to date which is relevant to the proposed project. It shall include both the applicant's own work done previously, as well as the~~

~~work of others. The current state of the art in the proposed research shall also be included.~~

~~(iii) — Project Design.~~

~~(A) The research plan shall discuss in detail how the project shall be conducted to achieve the previously stated objectives. The project design shall present everything which will be undertaken, who will do each task, what results are expected, what steps are planned to reach the objective, etc. The project design shall include sufficient detail for readers to assess whether the applicant is likely to reach the project's goals.~~

~~(B) The project design shall make as clear as possible the specific tasks and roles of all individuals and institutions. The nature of the project in terms of research, development and commercial results shall be presented.~~

~~(C) Letters of endorsement from individuals who shall contribute directly to the project or use the project's results may be included in the project design, or may be referenced and included as an appendix.~~

~~(D) The project design shall include a detailed schedule in chart format.~~

~~(iv) — Facilities and Equipment. The research plan shall provide a clear and complete description of the working environments and any equipment needed to implement the project. Research plans shall also include the geographical locations where the various tasks shall be accomplished. The majority of research and testing tasks shall be done in Wyoming.~~

~~(v) — Research Budget. The research plan shall include a detailed, monthly budget showing all expenditures required to complete the project. The budget shall be prepared in a spreadsheet format and amounts shall be rounded to the nearest dollar. The budget shall be both time and event phased.~~

~~(g) — Business Plan.~~

~~(i) — The Business Plan shall demonstrate a clear path to a commercial product, process, or service resulting from the project. It shall show that the applicant has planned beyond the research and development stages and outlined the project's realistic market place application for the product.~~

~~(ii) — The Business Plan shall include full descriptive statements for engineering, manufacturing, marketing and distribution, as well as projections for additional gas production for at least three years beyond market entry. Management resources and market data shall be described in sufficient detail to demonstrate that~~

market projects are realistic.

~~\_\_\_\_\_ (iii) The Business Plan shall describe the growth that an existing production company expects to realize.~~

~~\_\_\_\_\_ (h) Benefits to Wyoming. The applicant shall state the benefits expected to Wyoming's economy. The statement shall include future ventures using the results of this research and estimated future additional gas production, along with identification of areas where this research could be applied.~~

~~(i) Release and Indemnification:~~

~~(i) All applicants shall file a Release and Indemnification Form with GRRC at the time the application is submitted. This form is found in Appendix B.~~

~~\_\_\_\_\_ (ii) An original copy of the form, signed by the project manager, shall be filed with GRRC and copies shall be included in each copy of the application. The submission process shall not be complete until this form is filed according to GRRC requirements.~~

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~~APPENDIX A—SAMPLE TITLE PAGE~~

~~Application Submitted to  
Gas Research Review Committee  
e/o Don Basko, Supervisor  
Oil and Gas Conservation Commission  
P.O. Box 2640  
Casper WY 82602~~

~~TITLE:~~

~~SUBMITTED BY:~~

~~TOTAL PROJECT COST:~~

~~PROJECT SCHEDULE: [starting and ending dates]~~

~~PROJECT MANAGER:~~

~~PHONE: FAX:~~

~~DATE SUBMISSION:~~

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~~OFFICIAL APPROVAL OF APPLICATION:~~

~~President~~

~~Vice President~~

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*APPENDIX B*

*RELEASE AND INDEMNIFICATION*

~~\_\_\_\_\_ (hereinafter Applicant) has submitted an application for certification of a research project entitled \_\_\_\_\_ to the Gas Research Review Committee (hereinafter GRRC). GRRC agrees not to use or disclose confidential information and/or trade secrets of Applicant contained in this application. This obligation of GRRC shall not be construed to prevent disclosure and/or use of information:~~

~~\_\_\_\_\_ (a) \_\_\_\_\_ which is known to GRRC as evidenced by its written records before receipt by GRRC pursuant to this Agreement;~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ which is disclosed to GRRC before or after execution of this Agreement by a third party lawfully in possession thereof and not under an obligation of non-disclosure;~~

~~\_\_\_\_\_ (c) \_\_\_\_\_ which is or becomes part of the public domain or is publicly divulged through no fault of GRRC;~~

~~\_\_\_\_\_ (d) \_\_\_\_\_ which GRRC can demonstrate has been developed independently without the use of and not as a consequence of any information received from Applicant.~~

~~Applicant agrees to indemnify and hold harmless, the members of the GRRC and the State of Wyoming, and any third persons with whom GRRC might consult, against any claims, damages, costs and expenses including, but not necessarily limited to, attorney's fees arising out of any such information furnished to GRRC or such third parties by or on behalf of the Applicant; provided, however, that Applicant shall have no duty to indemnify an employee or consultant of GRRC with respect to any claim by GRRC against such employee or consultant.~~

*APPLICANT:* \_\_\_\_\_ *GAS RESEARCH REVIEW*  
*COMMITTEE:*

\_\_\_\_\_  
(Signature) \_\_\_\_\_ (Signature)

\_\_\_\_\_  
(Print or Type Name and Title) \_\_\_\_\_ (Print or Type Name)

GRRC (Company Name) \_\_\_\_\_ Chairman of  
(Title)

\_\_\_\_\_  
(Date) \_\_\_\_\_ (Date)

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