

2002 Wyoming Statutes
Title 35
Public Health and Safety

CHAPTER 11
ENVIRONMENTAL QUALITY

ARTICLE 16
VOLUNTARY REMEDIATION OF CONTAMINATED SITES

35-11-1609. Use control areas; when establishment required; procedure; contents of petition; notice; failure of governmental entity to act; enforcement; exception.

(a) The owner of a site who proposes long-term restrictions on the use of the site shall petition to the appropriate governmental entity or entities for the creation of a use control area to establish long-term restrictions on the use of the site.

(b) A use control area may be created or modified only upon the petition of the owner of a site, and notice and public hearing as provided in subsection (d) of this section, and shall include only the site, unless adjacent property owners consent.

(c) The petition to establish a use control area shall contain data, information and any remedy options required in a preliminary remediation agreement under W.S. 35-11-1606.

(d) Upon submission of a petition for long term use restrictions, the governmental entity to whom the use area designation petition has been submitted shall cause the owner to give written notice of the petition to all surface owners of record of land contiguous to the site, and to publish notice of the petition and a public hearing once per week for four (4) consecutive weeks in a newspaper of general circulation in the county in which the site is located. The notice shall identify the property, generally describe the petition and proposed use restrictions, direct that comments may be submitted to the governmental entity or entities to whom the petition has been submitted, and

provide the date, time and place of a public hearing. The public hearing shall be held no sooner than thirty (30) days after the first publication of the notice. After the public hearing has been held, the governing board, commission or council shall vote upon the creation of the use control area in accordance with applicable rules, regulations and procedures. No use control area shall be created except upon petition of the owner and a majority vote of the appropriate board, commission or council.

(e) The governmental entity to whom the use control area petition has been submitted shall approve or deny an owner's petition for a use control area within one hundred eighty (180) days after the petition is received. The owner and a governmental entity may agree to extend the time period in which the governmental entity is to vote upon the petition. The governmental entity may, on a vote taken within one hundred eighty (180) days after the petition is received, condition its vote approving the petition upon the owner's subsequent filing of the determination by the director that a remedy can be selected that meets the requirements of W.S. 35-11-1605 and is consistent with owner's petition.

(f) The restrictions in a use control area are enforceable by the issuing governmental entity by injunction, mandamus or abatement, in addition to any other remedies provided by law.

(g) Except as provided in subsection (e), nothing in this section shall contravene or limit the authority of any county, city or town to regulate and control the property under their jurisdiction.

(h) The department shall not have the authority to require a governmental entity to adopt any zoning regulation or restriction applicable to a site as part of a remediation or response action or a remedy agreement.

(j) If the department has issued a no further action letter under W.S. 35-11-1608, then no use control area designation shall be required.