

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL STATE OF WYOMING

JAN 27 1982

Ardelle M. Kissler, Clerk Environmental Quality Council

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES AND REGULATIONS FOR THE SWEETWATER COUNTY NON-ATTAINMENT AREA

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION

1. In reviewing the basis and purpose for the adoption of any regulation, cognizance of pertinent sections of the Wyoming Environmental Quality Act, W.S. 35-11-101 et seq. is essential.

a. Section 35-11-102 sets forth the Policy and Purpose of the Act as follows:

"Whereas pollution of the air, water and land of this state will imperil public health and welfare, create public or private nuisances, be harmful to wildlife, fish and aquatic life, and impair domestic, agricultural, industrial, recreational and other beneficial uses; it is hereby declared to be the policy and purpose of this act to enable the state to prevent, reduce and eliminate pollution; to preserve, and enhance the air, water and reclaim the land of Wyoming; to plan the development, use, reclamation, preservation and enhancement of the air, land and water resources of the state; to preserve and exercise the primary responsibilities and rights of the State of Wyoming; to retain for the state the control over its air, land and water and to secure cooperation between agencies of the state, agencies of other states, interstate agencies, and the federal government in carrying out these objectives."



b. In addition, Section 35-11-114 states:

"(a) The advisory boards shall recommend to the council through the administrator and director, comprehensive plans and programs for the prevention, control and abatement of air, water and land pollution and the protection of public water supplies.

(b) The advisory boards shall recommend to the council through the administrator and director the adoption of rules, regulations and standards to implement and carry out the provisions and purposes of this act which relate to their divisions, and variances therefrom."

c. Section 35-11-202 further provides that:

"(a) Without limiting the authority of the administrator as set out in Section 35-502.10 of the statutes, he shall, after



consultation with the advisory board, recommend to the director such ambient air standards or emission control requirements by rule or regulation, as may be necessary to prevent, abate, or control pollution. Such standards or requirements may be for the state as a whole or may vary from area to area, as may be appropriate to facilitate accomplishment of the purposes of this act and in order to take account of varying local conditions.

(b) In recommending such standards or requirements the administrator shall:

(i) Consider all the facts and circumstances bearing upon the reasonableness of the emissions involved, including:

(A) The character and degree of injury or interference with the health and physical well being of the people, animals, wildlife and plant life;

(B) The social and economic value of the source of pollution;

(C) The priority of location in the area involved;  
and

(D) The technical practicability and economic reasonableness of reducing or eliminating the pollution;

(E) The social welfare and aesthetic value.

(ii) Grant such time as he shall find to be reasonable and necessary for owners and operators of air contaminant sources to comply with applicable standards or requirements."

d. Section 35-11-112 establishes the Council's rule making authority with the provisions that:

"(a) The council shall act as the hearing examiner for the department and shall hear and determine all cases or issues arising under the laws, rules, regulations, standards or orders issued or administered by the department or any division thereof. The council shall:

(i) Promulgate rules and regulations necessary for the administration of this act, after recommendation from the director of the department, the administrators of the various divisions and their respective advisory boards;

(ii) Conduct hearings as required by the Wyoming Administrative Procedure Act for the adoption, amendment or repeal of rules, regulations, standards or orders recommended by the advisory boards through the administrators and the director. The council

shall approve all rules, regulations, standards or orders of the department before they become final;"

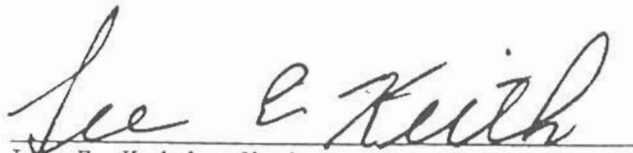
2. The Environmental Quality Council through the promulgation of rules and regulations is responsible for the prevention, reduction, and elimination of pollution, the preservation and enhancement of the air quality, and the planning of the development, use, reclamation, preservation, and enhancement of the clean air resource of Wyoming.

3. Through its policy and purpose, the Wyoming Environmental Quality Act recognizes that programs for the prevention of air pollution, the preservation of high quality clean air and the implementation of plans for the use and development of the state's clean air resource are of prime importance. The statute does not contemplate that emissions are to be unregulated until the ambient concentrations of air pollutants are at a level which adversely affects the health and welfare of the public. Rather, it contemplates through the areas of consideration imposed upon the administrator under W.S. 35-11-202 that sources will be required to control emissions as a function of clean air resource management.

4. The Council earlier adopted the provisions of Section 25 of the Wyoming Air Quality Standards and Regulations in order to impose enforceable requirements for the installation of control technology at specified facilities. This additional control technology was believed to be necessary in order to bring the ambient concentrations of particulate matter into compliance with the applicable standards.

FMC Corporation has made a showing through the use of monitoring data and analytical techniques that the standards have been achieved and that certain of the additional control technology requirements are not necessary to assure the maintenance of the standards.

5. Since the purpose of the Section 25 requirements was to assure attainment and maintenance of the standards, the council is satisfied that measures not necessary to achieve that end should not be required.

  
Lee E. Keith, Chairman  
Wyoming Environmental Quality Council

Date Approved: Jan. 27 1982