

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF THE)
EMERGENCY AMENDMENT OF)
CHAPTER I OF THE DEQ)
HAZARDOUS WASTE MANAGEMENT)
RULES & REGULATIONS)

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION

The Environmental Quality Council, pursuant to the authority vested in it by W.S. 35-11-112(a)(i) and -503(a), has amended Chapter I, Section 1(h) of the Wyoming Department of Environmental Quality (DEQ) Hazardous Waste Management Rules & Regulations. This amendment is an emergency rule which clarifies standards and procedures for obtaining a DEQ permit for transfer, treatment or storage of hazardous waste, as already required under existing statutes and regulations. The basic requirement that "All hazardous waste treatment, storage and disposal facilities are required to obtain hazardous waste facility permits from the department" under Chapter I, Section 1(h)(i) remains unchanged by this amendment. As an emergency rule, this amendment has an effective life of 120 days.

In 1988 the Council adopted Chapter IX of the Wyoming Solid Waste Management Rules & Regulations, which suspended permitting of commercial solid waste management facilities (including those treating wastes either by chemical, physical thermal or biological means) until existing regulations could

be updated to meet current needs and promote the policy and purpose of the Wyoming Environmental Quality Act (the Act) as expressed at W.S. 35-11-102. (Council's Statement of Principal Reasons for Adoption of Chapter IX, dated December 18, 1988.) Since then, the Council and the Department have promulgated a number of rules to better address the growing range of solid and hazardous waste management activities, but the task is not yet completed.

In 1989 the Council amended Chapter IX to lift the permit suspension from hazardous waste facilities in order for the State to obtain federal superfund money to remediate sites such as Brookhurst. (Council's Statement of Principal Reasons for Adoption of Amendment to Chapter IX, dated July 21, 1989.) The permit suspension was not lifted from hazardous waste facilities to allow them to be located, constructed and operated without going through a DEQ permit application and review process covering all aspects of the proposed activity that are capable of causing adverse public health, safety or environmental impacts. Construing amended Chapter IX as requiring anything less would not fully serve the Act's purpose expressed in W.S. 35-11-102. (Council's Statement of Principal Reasons for Adoption of Chapter IX, dated December 18, 1988.) The Council did not amend Chapter IX to grandfather potential new hazards as the price for funding to clean up earlier ones.

DEQ approval for new hazardous waste management facilities is already required under existing statutes and regulations. This emergency rule amends Chapter I, Section 1(h) to clarify the basic permit requirement by:

(a) narrowing the range of activities subject to the permit requirement;

(b) specifying certain procedures and standards for obtaining a hazardous waste permit, some of which are already prescribed by statute; and

(c) keeping air quality permitting issues separate.

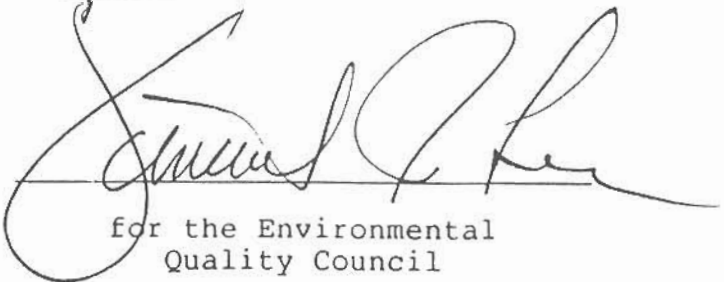
The Council finds the emergency addressed by this rule is a continuation of that which existed at the time the permit suspension under Chapter IX was adopted. (Council's Statement of Principal Reasons for Adoption of Chapter IX, dated December 18, 1988.) The State's hazardous waste permit system, including Chapter XV (Council's Statement of Principal Reasons for Adoption of Chapter XV, dated November 14, 1989), is still currently functional but not yet fully developed in all details. This rule supplies some of that detail.

W.S. 35-11-503(a)(v) calls for consistency and equivalency of state hazardous waste rules with federal hazardous waste rules adopted under RCRA, but allows for stricter state rules if determined by the Council to be

necessary to adequately protect the public health and environment of the state. Those hazardous waste standards in this rule which are stricter than comparable federal standards are equivalent and consistent with and derived directly from standards already prescribed by the state legislature or existing DEQ regulations. Stricter state standards are also consistent with RCRA itself (42 USC 6929). The Council determines that such standards already prescribed by the state legislature and existing DEQ regulations to adequately protect public health and the environment from potential hazards posed by other waste management activities are at least as necessary for hazardous waste management facilities.

The Council finds that this amendment is reasonable and necessary to accomplish the policy and purpose of the Act, as stated in W.S. 35-11-102 and -503(a), and that it has been promulgated in accord with the emergency rulemaking provisions of the Wyoming Administrative Procedure Act.

DATED this 16th day of August, 1991.


for the Environmental
Quality Council