

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE)
PROMULGATION OF CHAPTER I,)
SECTION 1 (h)(i) OF THE)
HAZARDOUS WASTE MANAGEMENT)
RULES AND REGULATIONS)

STATEMENT OF PRINCIPLE REASONS
FOR ADOPTION

The Environmental Quality Council, pursuant to the authority vested in it by Wyoming Statutes 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 and Regulations.

Chapter I, Section 1(h) is entitled "Permit Required". This amendment replaces an emergency rule promulgated on August 16, 1991. The amendment clarifies standards and procedures for obtaining a DEQ permit for disposal, treatment, or storage of hazardous waste as required under existing statutes and regulations.

In 1988 the Council adopted Chapter IX of the Wyoming Solid Waste Management Rules and Regulations, which suspended permitting of commercial solid waste management facilities (including those treating wastes either by chemical, physical, thermal, or biological means) until the 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. 35-22-102. (Council's Statement of Principle 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 monies to remediate sites such as Brookhurst. (Council's Statement of Principle 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, and 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 Principle 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. The amendment to Section 1(h), entitled "Permits Required", clarifies state hazardous waste management facility permitting requirements and standards. The proposed amendment addresses location standards, history of civil or criminal violations of environmental or racketeering laws, financial assurance requirements, permit application signatories, facility compliance history, waste manager requirements, specific facility requirements, and provisions for additional permits from the Air Quality Division.

The Council finds that the conditions addressed by the amendment are the same as those which existed at the time the permit (Council's Statement of Principle Reasons for Adoption of Chapter IX, dated December 18, 1988.) The State's hazardous waste permit system, including Chapter XV (Council's Statement of Principle Reasons for Adoption of Chapter IX, 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 public health and environment of the state. The location standards contained in this amendment are stricter than location standards in RCRA. RCRA does not contain comparable location restrictions, because RCRA was designed to have national applicability. The Council determines that Wyoming's specific circumstances, in that the state is largely rural, compel adoption of more stringent location standards to preserve public health and the environment.

The Council finds this amendment to be 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 rulemaking provisions of the Wyoming Administrative Procedures Act.

DATED this 13th day of December, 1991.



for the Environmental Quality Council