

File

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF THE)	
ADOPTION OF CHAPTER X,)	STATEMENT OF PRINCIPAL
WYOMING WATER QUALITY)	REASONS FOR ADOPTION
RULES AND REGULATIONS)	

After due consideration, the Wyoming Environmental Quality Council hereby adopts Chapter X, Wyoming Water Quality Rules and Regulations. The Environmental Quality Council hereby determines that the adoption of these regulations is necessary and appropriate for the effectuation of the policy and purposes of the Wyoming Environmental Quality Act, as set forth in W.S. 35-11-102. In considering the adoption of these regulations, the Environmental Quality Council held a hearing after proper public notice, concerning Chapter X, on October 25, 1984, in Laramie, Wyoming. In addition to allowing for oral public comment to be made at the hearing, written comments were also received at the time of the hearing and additional comments were received for a period of 30 days following the hearing. Also, a 15 day public comment period which began on April 10, 1985 was provided for those persons who wished to comment on modifications to the draft regulations which were made in response to the original public comments.

Chapter X of the Wyoming Water Quality Rules and Regulations is entitled "Performance/Design Standards for Surface Coal Mining Sedimentation Control Facilities". This chapter has been revised from an already existing "Chapter X". The chapter was revised in order 1) to standardize regulatory language used by various agencies that is applicable to the surface coal mining industry, 2) to provide the surface coal mining industry with adequate information regarding what is required in an applica-

tion for a runoff control facility permit, 3) to clarify when standards for runoff facilities are to be applied, and 4) to allow a public hearing on the standards. The existing "Chapter X" that had been in effect was promulgated pursuant to the Wyoming Administrative Procedures Act (specifically W.S. 16-3-103(b)) and the Wyoming Environmental Quality Act (specifically, W.S. 35-11-111). This chapter was promulgated under an emergency provision which allowed the agency to proceed with rulemaking without the required hearing. This was necessary in order to enable the state to assume primacy of the Office of Surface Mining program under Public Law 95-87 (30 U.S.C. Section 1201 et seq.).

The Coal Ad Hoc Committee, which includes state agencies and members of the coal mining industry, reviewed the existing regulations with an eye towards standardizing applicable regulation language and eliminating duplication as much as possible. Many of the recommendations provided by the Coal Ad Hoc Committee were incorporated into the Chapter X that the Environmental Quality council has now decided to adopt and promulgate.

Portions of Chapter X remains much the same as the old version; however, Section 7 has been changed to make clear that submittal of an improved sedimentation structure control plan, as required by Wyoming Water Quality Rules and Regulations, Chapter III, is sufficient for a permit application for runoff control facilities at surface coal mining operations. Furthermore, a separate permit for these facilities is not necessary, and one consolidated permit for surface coal mining operations may be submitted by the operator rather than requiring the submittal of separate permits. Section 9 has been revised to state that any enforcement of Chapter X will be invoked only if enforcement would also be required by the provisions of P.L. 95-87 (30 U.S.C. Section 1201 et. seq.) - the Federal Surface Mining Program.

Sections 2 through 6 have been changed substantially to reflect modifications to the U.S. Environmental Protection Agency's effluent limitations for the coal mining industry. Specifically, the changes allow use of an effluent limitation for total settleable solids in certain instances. This change will allow the industry to construct sedimentation ponds of significantly smaller volume while still protecting surface water quality.

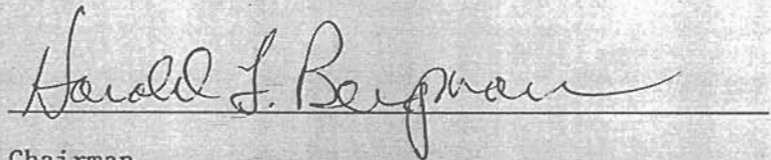
Appendix A of the new Chapter X has been significantly expanded. The purpose of this change was to fully inform the surface coal mining industry regarding the acceptable standards for the design and construction of runoff control facilities and the information needed for permit applications. Much more detail has been supplied to the mining operators, which should aid them in their efforts to comply with these regulations.

After full consideration of the Coal Ad Hoc Committee's reports, all testimony adduced at the public hearing and the written comments which were submitted, the Wyoming Environmental Quality Council hereby determines that the adoption of these regulations is necessary and appropriate to carry out the policy and purposes of the Wyoming Environmental Quality Act (W.S. 35-11-101 to 1207), to clarify existing departmental policy regarding the regulation of coal mining in Wyoming, and is necessary for the administration of the Wyoming Environmental Quality Act. These regulations are hereby adopted after recommendation from the director of the department, the administrator of the Water Quality Division, and the Water Quality Advisory Board. Specifically, the Environmental Quality Council finds that:

1. These regulations will avoid unnecessary duplicative review and analysis of, and decisions on, surface coal mining permit content, in a manner consistent with P.L. 95-87.

2. These regulations are necessary and appropriate to preserve and exercise the primary responsibilities and rights of the State of Wyoming; to attain for the state the control over its air, land and water resources; and secure cooperation between agencies of the state and federal government in carrying out the policies and purposes of the Environmental Quality Act.
3. These regulations are reasonable and appropriate to protect the waters of the state.

Dated this 22 day of May, 1985.



Chairman

Environmental Quality Council

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