

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF A PETITION TO REVISE)
CHAPTER III AND CHAPTER XI, PART E AND)
TO ADOPT NEW CHAPTERS XV AND XXI, WYOMING)
WATER QUALITY RULES AND REGULATIONS)

STATEMENT OF PRINCIPAL REASONS FOR REVISION AND ADOPTION

Background. The State of Wyoming regulates the land application of biosolids in accordance with Chapter III and Chapter XI, Part E, Wyoming Water Quality Rules and Regulations. The Environmental Protection Agency regulates this same material in accordance with 40 CFR Part 503. With the adoption of 40 CFR Part 503, biosolids are subject to dual permitting and conflicting state and federal criteria as a result of the new federal program. There is a need to revise state regulations in order to eliminate these problems.

Chapter III, Wyoming Water Quality Rules and Regulation was adopted and became effective on March 28, 1988. Section 2 is titled "Applicability" and clarifies who is required to obtain permits from the Department of Environmental Quality (DEQ), Water Quality Division (WQD).

Chapter XI, Wyoming Water Quality Rules and Regulation was adopted and became effective on May 4, 1984. Chapter XI, Part E and Part B, Section 19(d) contain standards for the following:

1. Land application of biosolids and septage;
2. Land application as a method of treatment by rapid infiltration, slow rate infiltration or overland flow; and
3. Reuse of treated wastewater.

Biosolids. On February 19, 1993 the U.S. Environmental Protection Agency (EPA) promulgated 40 CFR Part 503 establishing a national program to regulate the use and disposal of biosolids produced by municipal wastewater treatment facilities and septage from small on-site systems. With the promulgation of federal regulations, land application of biosolids and septage is regulated by EPA in accordance with 40 CFR PART 503. The State of Wyoming also regulates these materials in accordance with Chapter XI, Part E. Facilities land applying biosolids are therefore subject to duplicative state and federal permitting requirements. The federal and state regulations also contain conflicting numeric criteria, management practices, and operation standards. Chapter III and Chapter XI, Part E need to be revised in order to eliminate duplicative permitting and conflicting requirements.

It is proposed that Chapter XI, Part E be revised by suspending all provisions related to biosolids and for the most part adopting the federal 40 CFR Part 503 regulations as Chapter XV, Wyoming Water Quality Rules and Regulations. The federal regulations are risk based standards which are intended to facilitate and encourage beneficial use of biosolids and reflect the most recent and widely accepted practices and scientific knowledge. Chapter III would also be revised to eliminate duplicative permitting by accepting federal permits where issued as satisfying the requirement to obtain a state permit. Chapter III would require a state permit only in the following instances:

1. Where EPA does not regulate the operation by issuing a permit in accordance with the provisions of Part 503;
2. Where commercial waste treatment, storage and disposal systems are involved;
3. Where waste treatment, storage and disposal facilities used for the management of more than ten (10) dried tons of sewage sludge per day; or
4. Where biosolids are prepared outside of the state and brought into the state for land application.

Reuse of treated wastewater. The use of treated municipal wastewater as an alternative water supply for irrigation has received increasing attention as a viable option in the management of the state's scarce water resources. Reuse of treated wastewater is particularly attractive when the treated wastewater is a substitute for high cost potable water being utilized for landscape irrigation. Several communities are currently utilizing or considering the reuse of treated wastewater on parks and recreation areas and have requested that the Department of Environmental Quality review the current regulations and propose revisions in order to facilitate more efficient, productive and safe reuse of this resource. The Water Quality Division has met with representatives of several communities to receive their suggestions regarding revising the current regulations and held a public meeting to receive public input. After evaluating input from the public, the Water Quality Division concurs with the need for revising and updating the portions of Chapter XI, Part E dealing with wastewater reuse. It is proposed that Chapter XI, Part E be revised by suspending all provisions related to treated wastewater reuse and adopting new regulations as Chapter XXI, Wyoming Water Quality Rules and Regulations.

Land application as treatment. Part E and Part B, Section 19(d), Chapter XI currently contain standards for the design of systems utilizing land application of wastewater as a means of treatment. These standards are outdated, incomplete and overly prescriptive. It is recommended that Part B, Section 19(d) and all provisions of Part E relating to land application as treatment be suspended and that these systems be permitted in accordance with Part A, Section 5, Chapter XI. Section 5 provides a process for evaluating and permitting systems based upon the submittal of an engineering design demonstrating compliance with the purpose of the regulations which is to protect surface and ground waters as well as the public health and safety. The Water Quality Division would develop a guideline which identifies and references the most current and widely accepted methods of land application as a means of treatment. This approach would provide flexibility to the design engineer and allow for consideration of appropriate site specific conditions.

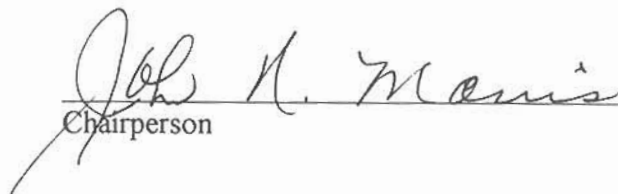
Rulemaking process. The Administrator, Water Quality Division, after providing this Draft Statement of Reasons to the Director, Governor and the Attorney General and receiving the Governor's approval to proceed with rule making, has held public meetings and hearings to solicit public input. Draft regulations were prepared and presented in a public meeting before the Water and Waste Advisory Board on December 12, 1996. The draft regulations have been revised to reflect input and recommendations from the Board. The draft regulations were presented at a public hearing before the Environmental Quality Council on August 8, 1997 in Rock Springs, Wyoming. The draft rules were revised to reflect input received at this hearing. The rule making process will proceed and will involve the Environmental Quality Council, Legislative Services Office, Legislative Management Council, Attorney General, Governor and the Secretary of State in accordance with the provisions of the Wyoming Administrative Procedure Act and the Environmental Quality Act.

Conclusion. The proposed revisions to the Water Quality Rules and Regulations are consistent with the Department's mission statement and strategic plan to protect public health and the environment while responding to increased development and the public's demand for a healthier and cleaner environment. The proposed rules and regulations would reduce duplicative and conflicting requirements and facilitate the efficient and beneficial use of biosolids and treated wastewater. The proposed revisions partially fulfill the Department's objective to review all regulations by 1998. The proposed revisions are also consistent with the Department's objective of modifying regulations in order to provide equal protection while reducing unnecessary burden on the regulated community. The proposed revisions will reduce the burden and provide increased flexibility to the regulated community.

The Council has determined that the adoption of these rules is necessary to protect public health and safety and the environment, to encourage the beneficial reuse of wastewater and biosolids, and to eliminate confusion between state and federal permitting systems.

EXECUTED THIS 13TH DAY OF October ~~November~~, 1997.

FOR THE ENVIRONMENTAL QUALITY COUNCIL


Chairperson