

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL STATE OF WYOMING

IN THE MATTER OF CHAPTER 17, STORAGE TANKS WATER QUALITY RULES AND REGULATIONS

STATEMENT OF PRINCIPAL REASONS FOR RULE MAKING

The Department of Environmental Quality, Solid and Hazardous Waste Management Division, pursuant to the authority vested in it by the Act, Wyoming Statutes 16-3-101 et seq., advanced a proposal to amend Chapter 17, Water Quality Rules and Regulations to include new rules for prohibiting deliveries to non-compliant operators of storage tanks, require licensing of operators of storage tanks, require licensing of tank installers, tank tightness testing personnel and cathodic protection testers and corrosion experts, and to make minor modifications to the operating rules for storage tanks. The principle reasons for these new and revised rules include:

PROHIBITION OF DELIVERIES. In August, 2005 a federal law was passed called the "Underground Storage Tank Compliance Act of 2005" hereinafter referred to as the "Energy Bill". This federal law mandates that all states must pass some form of regulation which allows the implementing agency to prohibit deliveries to operators of storage tanks who have not complied with the rules. Part K sets up a procedure to allow the Storage Tank Program to prohibit deliveries to non-compliant locations through the Administrative Order process.

LICENSING OF INSTALLERS AND TESTERS. The Energy Bill also requires that every state develop rules for the licensing of those who operate underground storage tanks. Section 46 of the draft chapter has not been approved by the Environmental Quality Council, but will be reconsidered at a later date. The department was directed to conduct meetings with industry to modify Section 46. Licensing requirements for tank installers and those who perform testing on tanks was approved.

BRINGING CHAPTER 17 IN LINE WITH STATE STATUTE. Chapter 17 was compliant with state statute when it was last amended. There were two bills passed in the last legislative session, House Bill 139 and House Bill 309, that have been signed into law since Chapter 17 was last revised. These bills will require minor changes to Chapter 17, mostly in changing dates found in Section 9 (d), and Section 35 (k). Exemptions found in Section 4 (b) will also be deleted because those exemptions have been included in the statute by House Bill 139.

MINOR CORRECTIONS. Several places were found in Chapter 17 where numbers were not in the correct format. All of the numbers found in the chapter were placed in the same format, for example: "three (3) years." The web address for the department is changing, and that web addresses in the Chapter were corrected.

OBTAINING PRIMACY OF THE UNDERGROUND STORAGE TANK PROGRAM. The State of Wyoming is currently working to obtain primacy of the underground storage tank program. EPA requires that Wyoming rules be as stringent as the federal regulations. A few items have been identified in current rules that are less stringent then federal regulations.

PUBLIC PARTICIPATION. These rules were the subject of numerous public meetings to obtain input from the public. A public hearing was held June 2, 2006 in the Herschler Building, Cheyenne Wyoming to solicit public input on the development of these rules. The rules have been posted for several months on the Storage Tank Program website. A copy of the draft rules was sent, on three (3) different occasions to all operators of record for storage tanks in Wyoming.

Public Notice was provided by publication in the Casper Star Tribune on September 6, 2006 for a hearing before the Water and Waste Advisory Board. That hearing was held on October 18, 2006 in Casper, Wyoming, and made available at several other locations through compressed video. The Advisory Board recommended promulgation of these rules.

Public Notice was provided by publication in the Casper Star Tribune on July 27, 2007 for a second hearing before the Water and Waste Advisory Board. That hearing was held on September 13, 2007 in Jackson, Wyoming, and made available at several other locations through compressed video. The Advisory Board again recommended promulgation of these rules.

Public Notice was provided by publication in the Casper Star Tribune on January 14, 2008 for a hearing before the Environmental Quality Council conducted on March 18, 2008. During that meeting, the chapter was tabled until the next quarterly meeting of the Council. The next quarterly meeting was held May 29, 2008 and public notice was provided by sending a copy to every operator of a regulated storage tank facility by mail.

CONCLUSION. The Council has determined that the adoption of these rules is necessary to clarify and update the requirements of the Storage Tank Program and to provide the department with adequate authority and flexibility to operate the program.

EXECUTED THIS 29 DAY OF June 2008.

FOR THE ENVIRONMENTAL QUALITY COUNCIL

Dennis M. Boal Chairperson