

**BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING**

IN THE MATTER OF REVISIONS TO )  
CHAPTER 8, WATER QUALITY DIVISION )  
REGULATIONS FOR PROTECTION OF )  
GROUNDWATERS OF THE STATE )

**STATEMENT OF PRINCIPAL REASONS**

**Background**

In 1979, the Wyoming legislature amended the Wyoming Environmental Quality Act by adding specific requirements for the restoration of in-situ mining operations. W.S. 35-11-428 (a) (iii) (H) requires an in-situ mining applicant to describe how they will achieve "groundwater restoration" in their mining plan, which must be approved by the department. W.S. 35-11-103 (f) (iii) defines "groundwater restoration" as a condition achieved when the quality of the groundwater affected by injection of the in-situ mining recovery fluids is returned to a quality of use equal to or better than, and consistent with the uses for which the water was suitable prior to the operation by employing best practicable technology. Water Quality Division (WQD) Chapter 8 Rules and Regulations are used by the department to classify uses of groundwater and the levels of restoration required to return affected groundwaters to their class of use. During a rulemaking process between 1978 through March 1980, Section 4 of Water Quality Division Chapter 8 was adopted as it exists today. In 1984, in a stipulated agreement between KERR-McGEE NUCLEAR Corp. versus SUNDIN (DEQ), the parties agreed to the administration of certain sections of Chapter 8. Specifically, the agreement stipulated and acknowledged that groundwaters within the production zone of Class V Mineral Commercial groundwaters (see Chapter 8, Section 4 (d) (viii) (B)), if it is determined that it is not feasible to return the water to background ambient conditions, would be returned to "a level consistent with the class of groundwater in existence prior to commencement of mining." The parameters of Table 1 of Chapter 8 would be used to determine the class of use. Table 1 standards are not drinking water standards, but are criteria used to classify waters for potential suitable uses. In 1991, a petition was filed with the Environmental Quality Council by U. S. Energy Corp. of Wyoming to modify Section 4 d. (6) of Chapter 8 of the Water Quality Rules and Regulations, to delete the requirement that uranium concentrations in Class 1 groundwaters shall not exceed the pre-discharge background concentrations. U. S. Energy argued that this requirement singled out the uranium industry, was imposed without opportunity for comment, and was unnecessary and unreasonable. The Council did not accept this amendment and the rule has remained unchanged since 1980.

**The Proposed Rule**

This rule is proposed to make the requirements for groundwater restoration consistent with the requirements of the Environmental Quality Act, as amended in 1979. The minimum requirements of the Act for in-situ operations requires that groundwater be restored to a pre-discharge class of use, which is determined by ambient water quality conditions or existing use. Provisions in Chapter 8 that require restoration to background as the minimum applicable standard are proposed to be deleted from the regulation. The requirement that an operator employ best practical technology to achieve restoration to