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NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS

Agency: Department of Environmental Quality/Solid and Hazardous Waste Management Division
Address: 122 West 25th Street, Herschler Building, 4W, Cheyenne
Agency Contact Person for these rules: Robert Lucht, P.E. & P.G.
Work Telephone: 777-7095

Statement of the terms and substance of the proposed rule or a description of the subjects and issues involved.

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 develop a new and revised chapter of rules for Underground and Above Ground Storage Tanks regulated under Article 14 of the Act. The amended Chapter 17 will replace Underground Storage Tank rules contained in the current Chapter 17 regulations.

Citation to each agency rule being amended or repealed.

Chapter 17, Wyoming Water Quality Rules and Regulations

If the proposed rules amend existing rules, a copy of the proposed rules in a format that clearly indicates additions to and deletions from existing language may be obtained at:

Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division, 122 West 25th Street, Cheyenne, WY 82002; FAX requests to (307) 777-5973; or by internet at DEQ.state.wy.us

Statement of the time when, the place where, and the manner in which interested persons may present their views on the intended action. A public hearing on the proposed rules has been scheduled. If yes, date, time and place of scheduled hearing.

The Environmental Quality Council will discuss the proposed chapter at their regularly scheduled meeting on XXXX XX, 2007, XX:00 AM, Room XXXX, XXXX Building, XXXX, XXXX, WY 82XXX. In accordance with the Americans with Disabilities Act, special assistance or alternate formats will be made available upon request for individuals with disabilities. At the conclusion of this meeting, the Environmental Quality Council may vote to adopt these rules.

Any person may urge the agency not to adopt the rules and also request the agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response considering the overruling must be made prior to, or within 30 days after adoption of the rule, addressed to

LeRoy C. Feusner, P.E. BCEE, Administrator, Solid and Hazardous Waste Management Division, 122 West 25th Street, Herschler Building, 4W, Cheyenne, WY 82002.

These changes are both created rules and new rules (first set of rules to be promulgated by the agency after the legislature's adoption of a new statutory provision or an act significantly amending an existing statute. A new rule is one that is promulgated in direct response to, or that is mandated by, the enacted statute and may involve creation of an entirely new provision in the agency's rules and the repeal or amendment of an existing rule.)

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This is a created rule in response to the federal Underground Storage Tank Compliance Act of 2005. The new rule requires licensing of operators of storage tanks, licensing of cathodic protection testers and corrosion experts, licensing of tank and line testers, and licensing of tank installers and decommissioning firms. This rule also sets up a procedure to prohibit deliveries of regulated substances to facilities which are in non-compliance with key provisions of Chapter 17.

This is also a new rule in response to the passage of House Bill 139. Some of the language regarding exemptions can be removed from the chapter now that it is in the statute. Deadlines for payment of fees have been changed in the statute to a calendar year basis, and those changes must be reflected in the chapter.

This is also a new rule in response to the passage of House Bill 309. House Bill 309 effectively postpones the deadline for compliance with Part I of this chapter until October 1, 2008.

If yes, citation to the specific legislation resulting in promulgation of these rules.

These changes are a federal mandate contained in the Underground Storage Tank Compliance Act of 2005.

House Bill 139 and House Bill 309, 2007 Legislative Session.

These rules are adopted, amended or repealed to comply with federal law or regulatory requirements.

Yes

If yes, citation to applicable federal law or regulation.

These changes are a federal mandate contained in the Underground Storage Tank Compliance Act of 2005.

*Indicate whether the proposed rules **meet but not exceed** OR **exceed** minimum federal requirements.*

For Underground Storage Tanks (USTs), statutes found in W.S. 35-11-1416(a)(i) specifically state that the Wyoming Rules can be no more and no less stringent than federal rules. The proposed rules are no more and no less stringent, but not identical to, the minimum federal requirements for USTs. The federal Underground Storage Tank Compliance Act of 2005 requires states to develop rules to license operators of storage tanks and those who install or perform tests on storage tanks. It also requires states to develop a procedure to prohibit deliveries of regulated substances to facilities with specifically named violations. The federal statute states that these rules are to be developed in consideration of Guidelines published by EPA. These rules have been developed in consideration of federal guidelines, however, federal guidelines allow a number of different approaches to writing rules. These rules are not necessarily the least stringent nor are they the most stringent of the several approaches allowed by those guidelines.

Any person wishing to object to the accuracy of any information provided by the agency regarding the federal requirements should submit their objections prior to final adoption to:

LeRoy C. Feusner, P.E. BCEE, Administrator, Solid and Hazardous Waste Management Division, 122 West 25th Street, Herschler Building, 4W, Cheyenne, WY 82002.

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If timely objections are submitted, the agency will provide the objecting person with a written response explaining and substantiating the agency's position by reference to federal law or regulations.

cc: Governor's Office (with proposed rule)
Attorney General (with proposed rule)
Legislative Service Office (with proposed rule)
Secretary of State (send electronic copy of NOI)

/RFL