



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

MEMORANDUM

To: Governor Freudenthal

From: John V. Corra, Director, Department of Environmental Quality

Subject: DRAFT Chapter 17, Water Quality Rules and Regulations [Storage Tanks]

Date: September 14, 2007

Priority: Normal

T-12628
 T-17
 P-1023
 03-001-12
 Barb W.

John V. Corra

Summary:

As defined in the referenced chapter, storage tanks include underground storage tanks and above ground storage tanks as defined by the Storage Tank Act of 2007 (the Act). On August 8, 2005, Congress passed the "Underground Storage Tank Compliance Act of 2005 (USTCA)." This federal law requires that the states promulgate regulations covering "red-tagging" and operator certification provisions. "Red-tagging" is a procedure placed in regulations giving a state a mechanism to stop fuel deliveries to individual tanks if specific sections of the rules are violated.

Operator certification requires that the on-site operators of tanks be trained in the proper operation of tanks under the regulations. The Act requires the state to be no less or no more stringent than federal rules for underground storage tanks. The Act also requires the state to promulgate rules for above ground storage tanks "determined by the Environmental Quality Council (EQC) to be necessary to meet the goals" of the Act. In drafting these new rules, all tanks must meet the same requirements regardless of whether they are aboveground storage tanks or underground storage tanks. We have endeavored to draft a chapter that will accomplish the intent of the Act while not violating the constraints placed upon us by the Act.

On March 28, 2006, Governor Freudenthal granted the department permission to proceed to rulemaking. On June 2, 2006, a public meeting was held to discuss the need for changes to Chapter 17. After the initial meeting, rules were drafted. On September 6, 2006, a copy of the draft rule was sent to every owner/operator of any regulated tank in Wyoming and to the Colorado Wyoming Petroleum Marketers Association, the Wyoming State Fire Marshall, the Environmental Protection Agency, and others who had expressed interest in these rules. These

RECEIVED

OCT 8 - 2007

GOVERNOR'S OFFICE

Bjw returned inter-agency 10/9/07



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rules were also posted on the DEQ website at that same time. On October 18, 2006, a draft of this proposed chapter was the subject of a meeting of the Water and Waste Advisory Board held in Casper and carried by compressed video to several other sites throughout Wyoming. A public notice of this meeting was published as required by the Administrative Procedures Act.

On February 16, 2007, the entire rule making package was sent to the EQC. The EQC held a 60 day public comment period without scheduling a hearing. Included in transmittal to the EQC were:

- The proposed rule,
- A draft statement of principal reasons for adoption (SOPR),
- Advisory Board minutes for meeting when the rule was recommended to Council and if prepared, an analysis of public comments before the Board,
- Nine copies of the package (1 file copy, 7 members, 1 Executive Director),
- A draft of the Notice of Intent, and
- A copy of the engrossed version of House Bills 139 and 309.

A public notice was published on April 26, 2007, with a deadline for public comments of June 26, 2007. After receiving extensive comments, this chapter was referred back to the Water and Waste Advisory Board for consideration of all new changes.

On September 13, 2007, a draft of this proposed chapter was the subject of a meeting of the Water and Waste Advisory Board held in Jackson and carried by compressed video to several other sites throughout Wyoming. A public notice of this meeting was published as required by the Administrative Procedures Act. This second meeting of the Water and Waste Advisory Board was held to consider all of the changes made to the draft as a result of the last public comment period.

Recommendation: We respectfully request that you review the attached rules and allow the department to proceed with rulemaking through the Environmental Quality Council. We respectfully request to be allowed to place this rulemaking package on their agenda for action in the first quarter of 2008. Within the next 60 days, a copy of these rules will be sent to Attorney General Bruce A. Salzburg and to the U.S. Environmental Protection Agency, along with detailed responses to every comment received to date.

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GOVERNOR'S RESPONSE OPTIONS:

Proceed (Agency may proceed)
 Delay public comment and set up a meeting with _____

Ell Lucht
Governor's Staff Representative

10/8/07
Date

AGENCY CONTACT: Robert Lucht, Storage Tank Compliance Supervisor
777-7095 or blucht@state.wy.us

RFL:/KH/LCF/JVC

Enclosure: Proposed Rule
Response to Comments
Statement of Reasons
Draft Notice of Intent

xc: LeRoy C. Feusner, Administrator, SHWMD
Robert Lucht, Storage Tank Program