

NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS

1. *Agency:* Department of Environmental Quality
Land Quality Division (LQD)
Address: LQD - 122 West 25th Street, Herschler Building, 3W
Cheyenne, Wyoming, 82002
Agency Contacts for these rules: Craig Hults (LQD)
Work Telephone: (307) 777-7066
2. *Statement of the terms and substance of the proposed rule or a description of the subjects and issues involved.*

WDEQ is proposing to amend Chapters 1, 2, 4, 5 and Appendix A of the LQD Coal Rules and Regulations. The LQD is proposing the changes to address program amendments required by the Office of Surface Mining (OSM). The proposed changes are intended to clarify vegetation baseline requirements and revegetation reclamation plan requirements, clarify revegetation success standards and codify normal husbandry practices, reorganize and clarify species diversity and shrub density requirements, revise and add definitions supporting the proposed changes and address several miscellaneous OSM deficiencies.
3. *Citation to each agency rule being amended or repealed.*

LQD Coal Rules and Regulations: Chapter 1, Section 2; Chapter 2, Sections 1-6; Chapter 4, Sections 2(b)(viii), 2(c)(ix)(G)(II)(1.)(c.), 2(d), 2(g), 2(i), 2(j), Appendix 4A and B; Chapter 5, Section 2(b)(iii); and Appendix A.
4. *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:*

Copies of these proposed rules are available from the LQD web page at <http://deq.state.wy.us/lqd/> or by contacting:

Becky Brosius
Department of Environmental Quality, Land Quality Division
122 W. 25th Street, Herschler 3W
Cheyenne, WY 82002
Work Telephone: (307) 777-7176
5. *Statement of the time when, the place where, and the manner in which interested persons may present their views on the intended action.*

Notice of an initial public comment period was published **November 16, 2008**. Persons wishing to submit comments should do so by 5:00pm, **January 16, 2009**. Following the

initial comment period the LQD will file an analysis of comments received with the Environmental Quality Council (EQC). Notice of the public hearing to consider the rules will be published in the **December 28, 2008** and **January 11, 2009** Casper Star-Tribune.

That public hearing is scheduled for **February 11, 2009** and is discussed more fully below. The EQC will also accept oral statements that focus on the written comments, the LQD's analysis of comments and/or issues raised by the analysis. Written comments submitted for the initial comment period should be addressed to:

Craig Hults, Environmental Scientist I
Land Quality Division
122 West 25th Street, Herschler 3W
Cheyenne, WY 82002

6. *A public hearing has been scheduled as discussed below.*

7. Yes No *A public hearing on the proposed rules has been scheduled.*

A public hearing will be held by the Environmental Quality Council (EQC) to consider these proposed rules on Wednesday, **February 11, 2009** at the Campbell County Library, Pioneer Room, 2101 S. 4J Road, Gillette, Wyoming commencing at 9:30 a.m. The EQC will consider the proposed rules, written comments and the LQD's analysis of comments, along with any modifications proposed by the LQD to the draft rules. At the public hearing, oral statements that focus on the written comments, the LQD's analysis of comments and issues raised by the analysis will be accepted.

A time limit may be imposed on comments. Persons desiring to be heard in these matters are hereby notified to appear at the designated time and place on **February 11, 2009**. Oral statements will be accepted at the time of the hearing; however, for the record, written copies of the statements are required at the time of the hearing or prior thereto. Any person wishing to use a digital presentation during their testimony before the EQC must provide a digital copy to the EQC no less than 3 days prior to the hearing unless you contact the EQC and request an extension for good cause. Failure to submit a timely digital copy will result in the person not being allowed to use the presentation during their testimony.

The LQD will also present an introduction to the rule package to the EQC on **January 15, 2009** at the Laramie County Commission, 310 W. 19th Street, Board Room – Ste. 310, 3rd Floor, Cheyenne, Wyoming starting at 9:00am. This introduction is intended to familiarize the EQC with some of the basic issues presented in the rule package prior to the hearing date.

Special assistance or alternative formats of the proposed rules will be made available upon request for persons with disabilities.

8. 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:

Don McKenzie, Administrator
Land Quality Division
122 West 25th Street, Herschler 3W
Cheyenne, WY 82002

9. Yes ___ No X These are 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.)

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

10. Yes X No ___ These rules are adopted, amended or repealed to comply with federal law or regulatory requirements.

If Yes:

- (a) Citation to applicable federal law or regulation.

These rules were drafted to comply with Federal Office of Surface Mining Reclamation and Enforcement regulatory requirements as follows:

Revegetation Success Standards – 30 CFR §816.111 and §816.116(a), (b) and (c)

Fish & Wildlife Enhancement Measures – 30 CFR §780.16(a)-(c), §780.21(a)-(c)

Public Availability of Permit Applications and Confidentiality – 30 CFR §779.12(b)(1), §779.24(i), §783.12(b)(1), §783.24(i) and §773.6(d)(3)(iii)

Prime Farmland – 30 CFR §785.17(a) and §823.11

Siltation Structures and Impoundments – 30 CFR §816.46(c)(2), §816.49(a)(8) and (c)(2), §816.84(b)(2), §817.46(c)(2), §817.49(a)(8) and (c)(2), and §817.84(b)(2)

Applicant/Operator Contact Information – 30 CFR §778.13(b)

- (b) Indicate one:

X The proposed rules meet but do not exceed minimum federal requirements.

___ The proposed rules exceed minimum federal requirements.

11. *The proposed rule change(s) meet minimum substantive state statutory requirements.*
 The proposed rules change(s) exceeds minimum substantive state statutory requirements.

If the rule change exceeds the minimum substantive state statutory requirements, the agency shall include a statement explaining the reason the rule exceeds minimum substantive statutory requirements.

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:

Don McKenzie, Administrator
Land Quality Division
122 West 25th Street, Herschler 3W
Cheyenne, WY 82002

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.