

DRAFT 10/22/14

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

IN THE MATTER OF REVISIONS TO)	
WATER QUALITY RULES AND)	STATEMENT OF
REGULATIONS: CHAPTER 2, PERMIT)	PRINCIPAL REASONS
REGULATIONS FOR DISCHARGES)	FOR ADOPTION
TO WYOMING SURFACE WATERS;)	
AND CHAPTER 6, SALINITY)	
STANDARDS, CRITERIA FOR THE)	
COLORADO RIVER BASIN)	

INTRODUCTION

The Environmental Quality Council, pursuant to the authority vested in it by Wyoming Statute 35-11-112 (a)(i), has adopted revisions to the following chapters and sections of the Wyoming Water Quality Rules and Regulations: Chapter 2, Permit Regulations for Discharges to Wyoming Surface Waters; and Chapter 6, Salinity Standards, Criteria for the Colorado River Basin. Chapter 2 contains procedures for applying for, drafting, issuing and complying with Wyoming Pollutant Discharge Elimination System (WYPDES) permits. Chapter 6 contains provisions for the control of salinity in permitted point source discharges in the Colorado River System. This proposal constitutes a ministerial revision of Chapter 2 and Chapter 6 by incorporating the relevant contents of Chapter 6 into Chapter 2.

Section 35-11-302 (a) of the Environmental Quality Act (Act) states that the administrator, after receiving public comment and after consultation with the advisory board, shall recommend to the director rules, regulations, standards and permit systems to promote the purposes of the Act. Such rules, regulations, standards and permit systems shall prescribe:

- (ii) Effluent standards and limitations specifying the maximum amounts or concentrations of pollution and wastes which may be discharged into the waters of the state; ...
- (vi) In recommending any standards, rules, regulations, or permits, the administrator and advisory board shall consider all the facts and circumstances bearing upon the reasonableness of the pollution involved including:

- (A) The character and degree of injury to or interference with the health and well being of the people, animals, wildlife, aquatic life and plant life affected;
- (B) The social and economic value of the source of pollution;
- (C) The priority of location in the area involved;
- (D) The technical practicability and economic reasonableness of reducing or eliminating the source of pollution; and
- (E) The effect upon the environment.

Chapter 2 - Discharges, Permit Regulations for Wyoming

The Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987 (collectively, the CWA), gives the Environmental Protection Agency (EPA) the authority to regulate the discharge of pollutants to waters of the United States. The CWA establishes the National Pollutant Discharge Elimination System (NPDES) Permit Program and grants EPA the authority to define pollution control technologies, establish effluent limitations, obtain information through reporting and compliance inspections, and take enforcement actions when violations occur.

The Code of Federal Regulations, Chapter 40 Part 123, establishes procedures for states to assume responsibility for implementing the NPDES Permit Program and related program authorities. On November 1, 1974, Wyoming Governor Stan Hathaway submitted a request to the EPA seeking authorization for Wyoming to implement a state program. On January 30, 1975, pursuant to Section 402 (c) of the CWA, the EPA approved the Wyoming Department of Environmental Quality (WDEQ) NPDES program (referred to as the WYPDES permit program) and suspended the issuance of NPDES permits by EPA, with a few exceptions. Wyoming's WYPDES program authority was amended on September 24, 1991 to include state authority for the issuance of general permits.

The WYPDES program must be implemented by WDEQ in accordance with Section 402 of the CWA, all guidelines promulgated pursuant to Section 304 (h) (2) of the CWA, and the Memorandum of Agreement between the EPA Regional Administrator and the Director of the WDEQ. The Wyoming discharges/permit regulations are contained in Chapter 2 of the Wyoming Water Quality Rules and Regulations. The existing discharges/permit regulations were originally approved in 1974 and were substantially revised in 2004.

Chapter 6 – Salinity Standards/Criteria for the Colorado River Basin

Wyoming is a member of the Colorado River Basin Salinity Control Forum, an organization composed of water quality and water resource representatives of the states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. The Colorado River Basin Salinity Control Forum is responsible for developing salinity standards and criteria for the waters of the Colorado River Basin. Wyoming Water Quality Rules and Regulations Chapter 6 provides the authority to condition permits for point source discharges in the Colorado River Basin in conformance with policies agreed to among the seven member

states for control of salinity through the NPDES permit program. Chapter 6 was originally adopted in 1981 and has never been revised.

Purpose and Intent of this Proposed Revision

The purpose of this rule revision is to move the permitting requirements of Chapter 6 into Chapter 2, which currently contains all of the WYPDES permit program requirements except for those relating to the special conditions for discharges in the Colorado River Basin. The revision consolidates all of the state point source discharge regulations under a single chapter, consistent with the intent of the Governor's rule streamlining initiative.

Proposed Revisions to Chapter 2 of the Wyoming Water Quality Rules and Regulations

To Chapter 2 a new Appendix O is added which incorporates the existing Chapter 6 in its entirety except:

1. Definitions for the terms "Total Dissolved Solids" and "Salinity" have been deleted as being unnecessary. Both terms are used elsewhere in the chapter. Defining these terms separately in Appendix O would imply that the terms, as used in Appendix O, have additional or separate meanings other than the commonly understood meanings, which is not the intent; and
2. Reference is made to the three specific Salinity Forum policies intended to be implemented rather than the general policy reference in the existing Chapter 6.

Cross-reference and formatting corrections were made to the following section and appendices:

1. Section 10(f): Corrected "14" to "15";
2. Appendix E
 - (a) Subsection (c)(iii)(C)(II): Corrected Arabic numerals to Roman numerals;
 - (b) Subsection (c)(iii)(D): Corrected Roman numerals to Arabic numerals;
 - (c) Subsection (c)(v)(E)(I) Clarified cross reference.
3. Appendix G
 - (a) Subsection (k)(ii): Corrected "(iii)" to "(ii)";
 - (b) Subsection (l)(iii): Corrected "(iv)" to "(ii)";
 - (c) Subsection (m)(ii): Corrected "(iii)" to "(ii)";
4. Appendix H, Subsection (c)(iii): Corrected "(b)(i)" and "(b)(ii)" to "(c)(i)" and "(c)(ii)," respectively.

Effect of the Rule Revision

This rule revision is purely an administrative action. It does not create any new or substantive regulatory requirements. This action simply incorporates the substantive provisions of Chapter 6 into Chapter 2 and reserves Chapter 6. It also makes minor typographically corrections to other limited sections of Chapter 2.

The Council finds that these regulations are reasonable and necessary to accomplish the policy and purpose of the Act, as stated in W.S. 35-11-102, and that they have been promulgated in accordance with rulemaking provisions of the Wyoming Administrative Procedure Act.

Dated this _____ day of _____, 2014.

Hearing Examiner – *Printed Name*
Wyoming Environmental Quality Council

Hearing Examiner – **Signed Name**
Wyoming Environmental Quality Council