

NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS

FILED

AUG 07 2002

Terri A. Lorenzon, Director
Environmental Quality Council

- 1. Agency: Department of Environmental Quality/Land Quality Division
Address: 122 West 25th Street, Herschler Building, 3W, Cheyenne
Agency Contact Person for these rules: Paige Smith
Work Telephone: 777-6860

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

This package proposes to modify rules regarding road construction, road reclamation, and mine facility performance standards in accordance with comparable Federal rules; and contains State initiatives on excess spoil and threatened and endangered plant species.

- 3. *Citation to each agency rule being amended or repealed.*

Chapter 1, Section 2; Chapter 2, Section 2; Chapter 4, Section 2; Chapter 12, Section 1, Chapter 18, Section 3; and Appendix A, Appendix IV

- 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 address listed below, the WDEQ web page at <http://deq.state.wy.us/lqd.htm> or by contacting:

Helen Croissant
Department of Environmental Quality, Land Quality Division
122 W. 25th Street, Herschler 3W
Cheyenne, WY 82002
(307) 777-7757

- 5. *Statement of the time when, the place where, and the manner in which interested persons may present their views on the intended action.*

Persons wishing to submit written comments should do so by 5:00 p.m. on September 19, 2002. Written comments should be addressed to Richard A. Chancellor, Administrator and mailed to the following address:

Department of Environmental Quality, Land Quality Division
122 W. 25th Street, Herschler 3W
Cheyenne, WY 82002

- 6. *A public hearing has been scheduled as shown 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 to consider these proposed rules on September 20, 2002, beginning at 9:00 a.m. at the Teton County Public Library, 125 Virginian Lane, Jackson WY. Those planning to comment verbally at the hearing are encouraged to bring a written copy of their comments to the hearing and arrive early so that the Council may determine the order of the persons wishing

to comment. If a quorum is present, the Council may make a decision on these rules at the end of the hearing. In accordance with the American with Disabilities Act, special assistance or alternate formats will be made available upon request for individuals 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*

Richard A. Chancellor, Administrator
Department of Environmental Quality, Land Quality Division
122 W. 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.*

30 CFR §§ 701.5; 761.5; 780.14; 780.37; 780.38; 816.22; 816.41; 816.42; 816.43; 816.57; 816.100; 816.150; 816.151; 816.180; 816.181

- (b) *Indicate one:*

 The proposed rules meet but do not exceed minimum federal requirements

 X *The proposed rules exceed minimum federal requirements.*

Several of these proposed rules are more effective than the counterpart Federal Rules by requiring that an operator consider "ephemeral streams that have the potential for substantial flow in response to precipitation events" when designing roads that may impact such a stream. The Federal rules regarding road construction only require consideration of perennial and intermittent streams.

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

 The proposed rule change 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 Richard A. Chancellor, Administrator at the address presented above. 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.