

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

**IN THE MATTER OF REVISIONS)
TO WATER QUALITY RULES)
AND REGULATIONS: CHAPTER 14,)
FINANCIAL ASSURANCE REQUIREMENTS)** **STATEMENT OF
PRINCIPAL REASONS
FOR ADOPTION**

INTRODUCTION

The Environmental Quality Council, pursuant to the authority vested in it by the Wyoming Statutes 35-11-112 (a)(i) has adopted revisions to the following chapters and sections of the Wyoming Water Quality Rules and Regulations: Chapter 14, Financial Assurance Requirements.

Section 35-11-302 (a) of the Environmental Quality Act (the 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 this Act. Such rules, regulations, standards and permit systems shall prescribe:

(iii) Standards for the issuance of permits for construction, installation, modification or operation of any public water supply and sewerage system, subdivision water supply, treatment works, disposal system or other facility, capable of causing or contributing to pollution.

(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.

Section 35-11-306(d) of the Act states that the Council, by rules and regulations, shall establish bonding or financial assurance requirements for commercial oil field waste disposal facilities to assure there are adequate sources of funds to provide for:

(i) Cost effective closure, post-closure inspection and maintenance, and environmental monitoring and control, including but not limited to:

(A) Removal and disposal of buildings, fences, roads and other facility developments, and reclamation of affected lands;

(B) Construction of any waste cover or containment system required as a condition of any facility permit;

(C) Removal and off-site treatment or disposal of any wastes that are being stored or treated;

(D) Decontamination, dismantling and removal of any waste storage, treatment or disposal equipment or vessels;

(E) Operating any environmental monitoring systems or pollution control systems that are required as a condition of any facility permit or by order of the director; and

(F) Conducting periodic post-closure inspections of cover systems, surface water diversion structures, monitor wells or systems, pollutant detection and control systems, and performing maintenance activities to correct deficiencies that are discovered.

Section 35-11-307(c) of the Act states that the Environmental Quality Council shall promulgate rules and regulations necessary to carry out 35-11-307, Commercial Waste Treatment, Storage, and Disposal Facilities, including rules establishing bonding and financial assurance requirements in conformance with W.S. 35-11-306(d) through (p).

SUMMARY OF PROPOSED REVISIONS TO CHAPTER 14

In November 2014, the Department of Environmental Quality, Water Quality Division (Division) received a report outlining an estimate of costs related to closure, post-closure, corrective action, and reclamation of 12 grandfathered facilities of the 35 that are currently permitted in Wyoming. Grandfathered facilities are facilities in operation prior to February 24, 1989. At the time of the original promulgation of Chapter 14 in 1991, the twelve grandfathered facilities were exempt from financial assurance requirements. The November 2014 report indicated that if operators defaulted on the grandfathered facilities, the State would be responsible for the costs associated with the decommissioning and reclamation. The cost estimate identified in the November 2014

report is a range of \$7.2 million to \$9.2 million. In order to prevent the State from bearing the burden of the reclamation and decommissioning costs in the case of operator default, the Division has proposed to revise Chapter 14 to remove the grandfathered facilities exemption and therefore require financial assurance of all 35 permitted facilities.

The proposed revisions also correct cross-reference errors, correct formatting inconsistencies, correct capitalization errors, correct grammar errors, correct paragraph numbering errors, and remove sections that are already stated in the Act.

Section 1.

(a) Corrected cross references to the Act and streamlined the passage.

(b) Removed the passages allowing for exemptions of grandfathered facilities; combined paragraph (i) and paragraph (ii) in order to streamline the section; and renumbered the paragraph previously located at paragraph (iii) and corrected the cross reference within that paragraph.

(c) Corrected the cross reference.

(e) Added a cross reference to the Act, corrected capitalization errors, formatting, and spelling errors.

Section 2.

(a) Removed the references which allowed exemptions for grandfathered facilities. Added a deadline for previously exempted facilities to comply with the rule.

(b) Corrected a cross-reference.

Section 3.

(a) Corrected punctuation errors.

(b) Corrected capitalization, punctuation, grammar, and formatting errors.

(c) Corrected formatting, grammar, and punctuation errors.

(d) Corrected capitalization, formatting, and punctuation errors.

(e) Corrected capitalization, formatting, and grammar errors.

(f) Clarified that the cross reference in subparagraph (f)(i)(A) was related to Chapter 14. Added a deadline for providing financial assurance at f(i)(C) in order to clarify the submission deadline for previously grandfathered facilities. Corrected punctuation and formatting errors.

(g) Corrected formatting errors.

(h) Created new subsection (h). Moved the passage from Section 6 to Section 3 under new subsection (h), as it pertains to other provisions of Section 3.

Section 4.

(a) Corrected formatting, capitalization, grammar and punctuation errors.

At (a)(i)(B), the passage was edited to streamline the self-bond proposal requirement.

At (a)(i)(I)(II), the passage was edited to clarify the registration requirements for the agent.

At (a)(ii)(C)(I)(2.)(c.) the passages at i. through iv. were renumbered to 1. through 4. per Secretary of State Rules on Rules, Chapter 2 requirements.

At (a)(ii)(C)(I)(3.)(a.) the passages at i. through ii. were renumbered to 1. through 2. per Secretary of State Rules on Rules, Chapter 2 requirements.

At (a)(ii)(C)(IV)(2.) the passage was updated to correct obsolete cross-references, to remove language that is redundant to the statutes; and to remove language that would put burdensome workflow on Department of Environmental Quality accounting staff.

(b) Corrected formatting, punctuation, and cross-reference errors.

(c) Corrected formatting errors.

(d) Corrected a formatting error.

(e) Corrected a formatting error.

Section 5.

Removed the passage located at Section 5 as it is a restatement of provisions of the Act. Reserved the section.

Section 6.

Moved the passage from Section 6 to Section 3, as described above, and reserved the section.

Section 7.

Removed the passage located at Section 7 as it is a restatement of provisions of the Act. Reserved the section.

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 Procedures Act.

Dated this _____ day of _____, 2017.

Hearing Examiner – *Printed Name*
Wyoming Environmental Quality Council

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