

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

October 23, 2024



<b>IN THE MATTER OF THE )          PROPOSED REVISION OF )          THE LAND QUALITY )          DIVISION RULES RELATED )          TO THE REGULATION OF )          COAL MINING )</b>	<b>STATEMENT OF PRINCIPAL          REASONS (SOPR) FOR ADOPTON</b>  <b>DOCKET #: 24-4101</b>
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**Coal Rules**

**Chapter 14 – Exploration for Coal by Drilling**

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**Introduction to Rule Package**

This rule package provides revisions to Coal Chapter 14, Exploration for Coal by Drilling. The proposed revisions are intended to address a new round of comments provided by Office of Surface Mining Reclamation and Enforcement (OSMRE) in a concern letter dated October 24, 2023 and to incorporate informal comments provided via a July of 2021 email. Chapter 14 was originally submitted as a formal amendment to OSMRE on June 4, 2021. Those changes were intended to bring the public notice and objection procedures into conformity with the OSMRE regulations. OSMRE responded to the formal amendment with an August 12, 2022 concern letter which identified a single deficiency with the rules.

LQD drafted proposed rules to address the OSMRE’s concern letter and presented the rules to the LQD Advisory Board on September 22, 2022. The Advisory Board unanimously recommended the proposed rules should proceed to formal rulemaking. The Wyoming Environmental Quality

Council (EQC) held a hearing on the proposed rules and approved the rules on February 22, 2023. The rules were approved by Wyoming Governor Gordon and filed with the Secretary of State on April 26, 2023. LQD resubmitted Coal Chapter 14 to the OSMRE on September 22, 2023 to address the noted deficiency. OSMRE responded with a new concern letter dated October 24, 2023 which noted additional concerns.

The LQD drafted additional revisions to Chapter 14 to address the concerns noted in the October 2023 concern letter. The LQD also included revisions based on a June 2021 email that noted some issues that were not identified as a concern in the August 2022 concern letter. These proposed revisions were presented to the LQD Advisory Board on December 14, 2023 and the board again recommended the Chapter 14 rules should proceed to formal rulemaking.

## **Summary of Proposed Rule Changes**

### Coal Chapter 14 – Exploration for Coal by Drilling

Chapter 14 was revised to correct two deficiencies noted in OSMRE’s October 24, 2023 concern letter. The first correction was to replace the word “location” with “condition”. It appears that an editing error was made to the previous version of Chapter 14, Section 3(a). The second correction made in response to the concern letter was to add the word “Division” in references to the Land Quality Rules and Regulations in Subsection 3(c), 3(d), 3(e), and 4(d).

In addition to the correction noted above, the LQD also incorporated comments that were made on the draft rules via an email from OSMRE during their initial review of the 2021 formal amendment. These comments were not included in the formal concern letter dated August 12, 2022. The changes include correcting the spelling of the word “part” in Chapter 14, Section 2(e)(iii) and fixing several punctuation errors in Chapter 14, Sections 2(g) and 2(h).

## **Stringency Statement**

The proposed revisions to Coal Chapter 14 are no more stringent than the corresponding Office of Surface Mining Reclamation and Enforcement regulations.

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*The authority to amend these rules is provided by Wyoming Statute (W.S.) §§ 35-11-112(a)(i), 35-11-114(b), 35-11-401(j), 35-11-402(a), and 35-11-406.*

## Chapter 14

### Exploration for Coal by Drilling

...

*No changes are proposed for Chapter 14, Section 1.*

#### **Section 2. General Drill Hole Abandonment Requirements.**

...

(e) Sealant materials shall meet the technical requirements for making a proper seal, shall meet applicable recognized industry standards and shall be prepared according to manufacturer's directions for specific site requirements. The following are approved sealant materials:

...

(iii) Concrete Slurry must consist of a mixture of Portland Cement, sand and gravel aggregate and water in a proportion of not more than one (1) ~~part~~ **part** by weight of aggregate to one (1) part of cement with not more than six (6) gallons of clean water per bag of cement (one (1) cubic foot or ninety-four (94) pounds);

*Section 2(e)(iii) was revised to correct a spelling error that was noted in an OSMRE email provided during their initial review of the formal amendment submitted in June 2021.*

...

(g) For any drill hole that has been sealed with a sealant material, the discoverer responsible for sealing the drill hole shall ~~;~~:

*Section 2(g) was revised to correct a punctuation error noted in OSMRE's informal review email.*

(h) If a hole is drilled without the use of drilling fluids and the bottom of the hole is above the preexisting natural elevation of the uppermost saturated groundwater stratum, the drill hole shall be abandoned by completely backfilling from the bottom of the drill hole to the surface with uncontaminated earthen material or drill cuttings as a backfill material ~~;~~ **This** material should be emplaced in a manner to promote settling and compaction and to minimize voids caused by bridging. If the drill hole is backfilled to the natural ground surface with dry nonslurry materials, then no surface cap is necessary.

*Section 2(h) was revised to correct the punctuation error noted in OSMRE's informal review email. No changes are proposed for the remainder of Chapter 14,*

Section 2.

**Section 3. Reclamation of Drill Sites and Affected Lands**

(a) Drill sites and associated ancillary roads, as defined in Chapter 1 and 4 of these rules and regulations, shall be restored as nearly as possible to their original ~~location~~ condition.

*Chapter 14, Section 3(a) was revised to correct the deficiency noted by OSMRE in their October 24, 2023 Concern Letter. During a previous revision of the chapter, the word “condition” was inadvertently changed to “location”. The original language has been restored.*

...

(c) To the extent possible, any surface preparation of the drill site shall be accomplished in a manner consistent with Chapter 4, Section 2(b), Land Quality Division Coal Rules and Regulations.

(d) To the extent possible, topsoil removal and stockpiling shall precede any excavation within the drill site and associated ancillary roads in a manner consistent with Chapter 4, Section 2(c) and 2(j), Land Quality Division Coal Rules and Regulations.

(e) To the extent possible, the discoverer shall reestablish the vegetative cover where vegetation has been removed or destroyed within the drill site and associated ancillary roads by seeding, planting, transplanting, or by other adequate methods in a manner consistent with Chapter 4, Section 2(d) and 2(i), Land Quality Coal Division Rules and Regulations.

*Chapter 14, Sections 3(c), 3(d), and 3(e) have been revised to include the word “Division” when referring to the Land Quality Rules and Regulations as noted by OSMRE in their October 24, 2023 Concern Letter. No additional changes are proposed for the remainder of Section 3.*

**Section 4. Bond.**

...

(d) The Administrator may accept the bond of the discoverer itself without separate surety when the discoverer demonstrates to the satisfaction of the Administrator substantial compliance with the applicable provisions of Chapter 11, Land Quality Division Coal Rules and Regulations.

*Chapter 14, Section 4(d) was revised to include the word “Division” when referring to the Land Quality Rules and Regulations as noted by OSMRE in their October 24, 2023 Concern Letter. No additional changes are proposed for the remainder of the chapter.*

## CONCLUSION

The Environmental Quality Council, in accordance with the authority granted to it by W.S. § 35-11-112 As Amended, and having complied with the provision of the Wyoming Administrative Procedures Act, find as follows:

1. These rules provide for the regulation of coal mining and reclamation operations in accordance with the requirements of W.S. § 35-11-101 through W.S. § 35-11-1803, As Amended (Wyoming Environmental Quality Act), and the requirements of the Surface Mining Control and Reclamation Act, (P.L. 95-87, As Amended).
2. These rules and regulations are as effective as those promulgated by the Secretary of the Interior pursuant to P.L. 95-87, As Amended.
3. The Department of Environmental Quality, Land Quality Division, Coal Rules and Regulations are necessary and appropriate to preserve and exercise the primary responsibilities and right of the State of Wyoming; to retain for the State the control over its air, land, and water resources and secure cooperation between agencies of the State and Federal Government in carrying out the policy and purposes of the Environmental Quality Act.
4. These Land Quality Division Coal Rules and Regulations are reasonable and necessary for the effectuation of the Wyoming Environmental Quality Act, W.S. § 35-11-101 through W.S. § 35-11-1803, As Amended.
5. These Land Quality Division Coal Rules and Regulations are necessary and appropriate to protect the public health, safety, welfare, and environment of the State of Wyoming.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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Hearing Examiner, Wyoming Environmental Quality Council