

Wyoming Department of Environmental Quality

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Other Locations: Casper, Lander, Rock Springs, Sheridan and Pinedale

Statutory References: The Environmental Quality Act, and the Industrial Development Information and Siting Act.

Clients Served: The people of Wyoming, Wyoming businesses, other state agencies, Federal land management agencies operating in the state and outside entities requesting support

Budget Information: The FY2011/12 operating budget for the Wyoming Department of Environmental Quality is \$158M of which \$36M are in general funds.

WYOMING

Wyoming Department of Environmental Quality

Annual Report

FY 2011

Quality of Life Result

Wyoming natural resources are managed to maximize the economic, environmental and social prosperity of current and future generations.

Department

Wyoming Department of Environmental Quality

Contribution to Wyoming Quality of Life

This agency contributes to Wyoming's quality of life through a combination of monitoring, permitting, enforcement and restoration/remediation activities which protect, conserve and enhance the environment while supporting responsible stewardship of our state's resources.

Basic Facts

This agency has 269 employees and operates with a FY 11/12 budget of \$158M of which \$36M are in general funds.

There are four key sections in our Department listed within this Annual Report:

Monitoring – of both air and water

Permitting – setting standards to limit environmental impacts

Compliance – actions taken in cases where standards are not met

Restoration/Remediation – fixing problems from the past

Also, a fifth section has been added to this report:

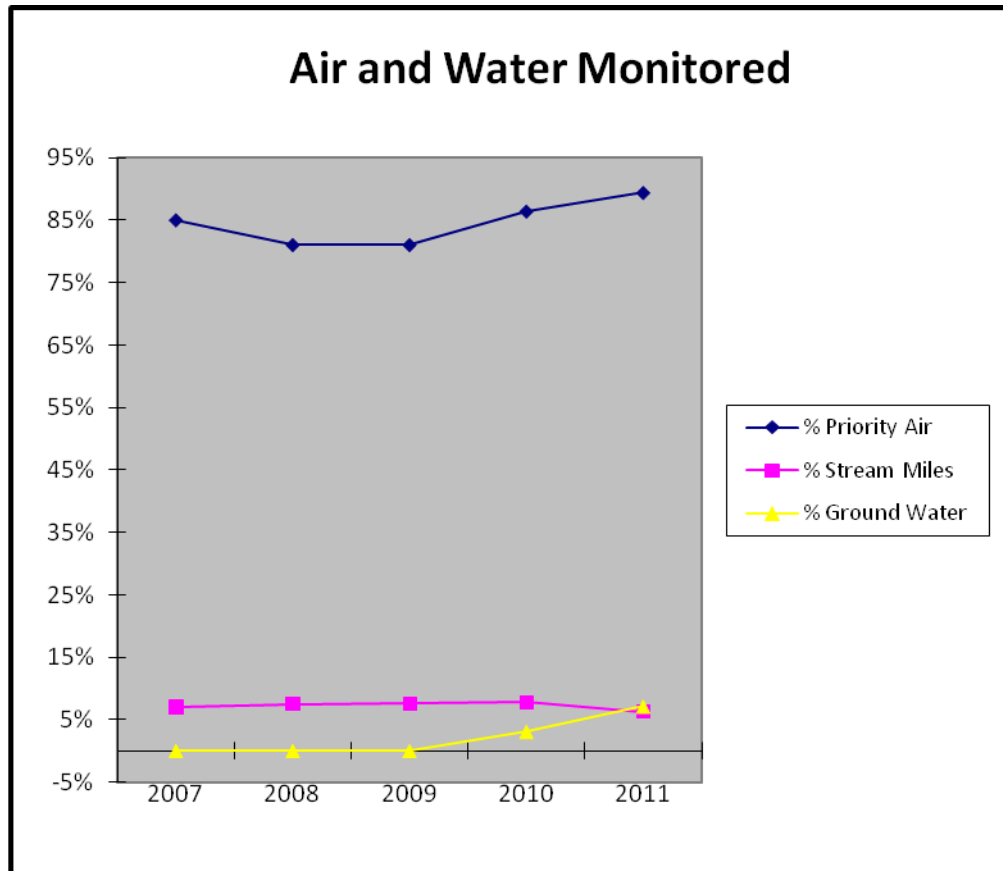
Agency Commitments – Commitments made to Governor Mead to increase performance and service

The DEQ is comprised of 7 divisions with numerous programs that serve over 5,000 businesses annually operating over 28,000 individual facilities throughout Wyoming. The Department monitors, regulates and encourages minimization of environmental pollution to protect the environment in the state. In this process, the Department enables responsible economic development while facilitating good stewardship of the state's resources. Through a variety of restoration and remediation actions, the Department also restores previously disturbed and polluted sites to benefit the entire population of Wyoming as well as all visitors to the State who benefit from the quality of life here.

Performance Measures

Updated performance measures reflecting work of the previous fiscal year follow.

MONITORING TRENDS IN OUR ENVIRONMENT



Story behind the last year of performance:

Statewide air quality monitoring is currently conducted for pollutants which have been shown to affect health. These pollutants include particulate matter, ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide. Based on a review of the ambient monitoring network in 2004 and the *Wyoming Ambient Monitoring Network Assessment 2010*, the Air Quality Division (AQD) identified 38 priority areas where ambient monitoring should be conducted. Currently, monitoring takes place at 34 of these sites. The chart above reflects our performance on this measure from FY 2007 through FY 2011.

Surface water is being monitored using two approaches. Targeted monitoring is conducted on priority streams with suspected water quality problems for the purpose of assessing support of designated water uses, or at high quality streams for the purpose of establishing reference conditions. This approach is used to identify candidate streams for a list of impaired waters requiring additional assessment or mitigation. The percent of stream miles monitored this way is relatively low with only small annual increases due to the data and time intensive nature of these assessments, the fact that monitoring data are applied only to a discrete stream segment of a defined length, and the time and financial constraints of intensively monitoring over 100,000

miles of streams and hundreds of lakes in the state. In addition, these data do not reflect monitoring conducted by other agencies, such as State-funded and interagency monitoring networks administered by the U.S. Geological Survey (USGS), or monitoring conducted by Conservation Districts or other groups. As of June 2011, ~7.8% of the State's stream miles had been monitored as part of a targeted designated use assessment.

The second approach uses probabilistic surveys as a cost-effective, scientifically-defensible alternative to determine the condition of all waters in the state. The probabilistic survey involves assessing a statistically representative subsample of the State's streams and rivers to arrive at estimates of stream miles supporting their designated uses, as well as estimates of the occurrence and extent of various stressors affecting water quality. Since 2004, the Water Quality Division (WQD) has been conducting a statewide probabilistic survey of water quality. This survey will conclude in 2011 with results available for inclusion in the 2012 biennial report to the United States Environmental Protection Agency (EPA). The statistically representative nature of this survey allows for data to be extrapolated to the state-scale and therefore 100 % of Wyoming's stream miles can be considered monitored by this approach.

In recent years, WQD implemented a new comprehensive monitoring strategy that better integrates probabilistic surveys with targeted monitoring within smaller geographic regions than the State as a whole. Probability survey results are used to objectively select and prioritize areas for targeted monitoring of designated use support. By applying probability surveys to smaller regions we increase the value of the data for local monitoring, planning and restorations efforts. On an annual basis, the WQD probabilistic and targeted monitoring will be more geographically-focused, therefore increasing efficiency and reducing cost. In 2010, WDEQ conducted a probabilistic survey of the Bighorn/Wind basin. The results will be used to identify and prioritize streams for targeted designated use assessments in 2012. In 2011, WDEQ conducted a probabilistic survey of the Powder/Tongue/Belle Fourche/Cheyenne basins, with results used to identify and prioritize streams for targeted designated use assessments in 2013.

Groundwater is emerging as an important resource in terms of its capacity to provide additional water supplies as well as for other reasons. DEQ has identified groundwater monitoring as an important part of groundwater protection and restoration strategies and has begun implementation of its baseline, or ambient quality groundwater monitoring program during. During FY09, DEQ coordinated with the United States Geological Survey (USGS) and was awarded federal funds under DEQ's Non-point Source Program to begin implementation of a statewide, baseline groundwater quality monitoring program. Monitoring is focused on relatively shallow (<500' deep) aquifers (i.e. 'critical' areas) where groundwater is used as a source of drinking water and is susceptible to contamination due to its hydrologic characteristics and the presence of overlying potential sources of pollution. DEQ has identified 30 'critical' areas for sampling. USGS also contributes cooperative funding to the program. A steering committee comprised of representatives from DEQ, EPA, USGS, Wyoming Water Development Commission (WWDC), State Engineering Office (SEO) and Wyoming State Geological Survey (WSGS) meets periodically to provide input and guidance on the development and implementation of the monitoring program. A funding agreement with USGS for well sampling and laboratory services was completed in FY10, and initial groundwater sampling efforts beginning in the Green River Basin began during the 2nd quarter of FY10. EPA provides

significant laboratory assistance for groundwater sample analyses in order to help defray program costs.

What has been accomplished:

For both air and water, the department is focusing its monitoring efforts in areas of greatest concern, especially in relation to ongoing energy development. This initiative will provide early identification of localized problem areas in which permit requirements may have to be tightened or other mitigation measures put in place to protect our air and water resources. The goal is to increase the percentage of air and water monitored while ensuring the most critical areas receive first priority in that process.

Air Quality

For ambient air monitoring, we have historically reviewed whether monitoring occurred in the 37 priority areas identified in 2004 as a measure of performance. In consideration of the short-term nature of special studies, in 2011 they were removed from designation as priority areas. The Air Quality Division has performed a five-year assessment of its ambient monitoring network in accordance with 40 CFR part 58.10. A network assessment uses historical monitored data, emissions, meteorological data and topographic data to perform a series of analyses. Results of these analyses are used to determine the most efficient and effective network for monitoring criteria pollutants, precursors, and meteorology. Results of the *Wyoming Ambient Monitoring Network Assessment 2010* will be used to guide future monitor placement in Wyoming. The network assessment and determination to exclude special studies were considered and resulted in the incorporation of an addition of three (3) and removal of two (2) priority areas, resulting in a total of 38 priority areas.

During 2011, AQD added two more Special Purpose Monitors (SPM) across the State within industrial development areas: Hiawatha in Sweetwater County and Wyoming Range in Sublette County. Additionally, as part of the National Core Monitoring Network, the AQD also began operations of the NCore multi-pollutant monitoring station in Cheyenne within Laramie County. Another SPM stationary monitor is planned in the population based area of Casper in Natrona County.

Mobile Trailers: During 2011, AQD added two mobile monitoring trailers that are scheduled to operate for one year at these sites. One is located near Pavillion in Fremont County to monitor a rural residential area that is intermingled with gas development and another is located near Big Piney in Sublette County to monitor the Big Piney and LaBarge gas fields. The AQD also plans to deploy a mobile trailer in the population based area of Gillette in Campbell County.

Special Studies: Due to the increase of ozone issues in Sublette County relating to the natural gas development, AQD has been involved in several studies over the past five (5) years. The Upper Green Winter Ozone Study (UGWOS) is designed to look at winter ozone levels by gathering data on meteorological conditions and area ozone precursors. Also, a health risk assessment has been underway since 2008 to study air toxic constituents during a 14 month period (February 2009-March 2010) in Sublette County. This study concluded with the January 2011 *Sublette County Screening Health Risk Assessment* prepared for the Sublette County

Commissioners, Wyoming Department of Environmental Quality, and Wyoming Department of Health. In 2011, the AQD collected speciated Volatile Organic Compound (VOC) samples at the Boulder monitoring station to supplement VOC precursor information gathered during the UGWOS study. Also located at the Boulder monitoring station, the AQD began a speciated particulate matter study in 2011 to examine the changes in particulate matter composition year round. Both special studies were called for in the *Wyoming Ambient Monitoring Network Assessment 2010*.

Water Quality

Targeted surface water monitoring has allowed WQD to assess the impacts of both point and nonpoint pollution sources on water quality. For example, an extensive State-funded monitoring effort by USGS in areas of ongoing Coal Bed Methane (CBM) development can determine if current point source permitting activities are protective of designated water uses in the watersheds experiencing development. Targeted monitoring of nonpoint source pollution by the WQD has identified streams that do not fully support designated water uses due to factors not related to discrete (end-of-pipe) discharges. This approach has identified streams for inclusion on a list of impaired waters requiring additional assessment or mitigation.

Until recently, most WQD surface water monitoring has been conducted at sites on the ends of the water quality spectrum – either those with suspected water quality problems or those in which water quality conditions were expected to be good. Therefore, unbiased estimates of statewide water quality conditions could not be based on the resultant monitoring data. Furthermore, time and financial constraints allowed for only a relatively small percentage of the State's over 100,000 miles of streams and hundreds of lakes to be monitored. Probability surveys have provided statistically-defensible means for measuring the status and trends of water quality condition in Wyoming, while also allowing the Clean Water Act objective of assessing all stream miles to be achieved.

Groundwater monitoring within 'critical' areas relies heavily upon the use of existing landowner wells to minimize the cost of the sampling program, as well as provide a service to those who wish to have their wells sampled. In the Cheyenne, Torrington, and Wheatland areas, numerous residents have volunteered for the well testing program over concerns that the Niobrara Shale play in SE Wyoming may impact their drinking water supplies. During FY11 groundwater samples were collected from 51 water wells within 'critical' groundwater areas near Evanston, Baggs, Pinedale and Cheyenne. This represents approximately 5% of the total 'critical' area to be sampled. To date, approximately 7% of the total has been sampled.

In cooperation with the Bureau of Land Management (BLM), EPA, and operators in the Pinedale Anticline area (Shell, Ultra, Questar), DEQ continued working towards completion of a ground water characterization study. The results of the study will enable the agencies and operators to re-design the existing ground water monitoring program to become more effective and efficient in monitoring the health of the aquifer. The group is currently working to complete a groundwater model for use in identifying appropriate groundwater monitoring locations.

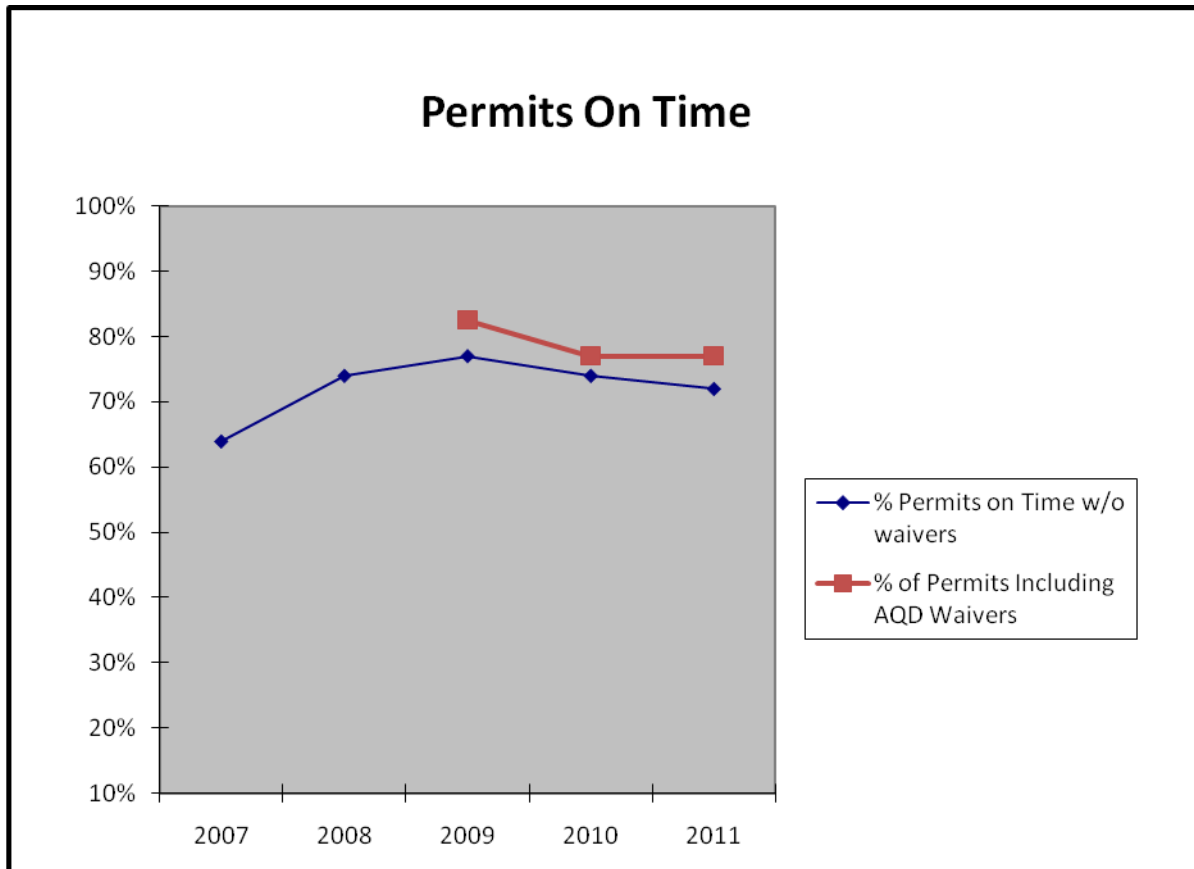
This year DEQ continued to coordinate with OGCC and WWDC in the investigation of possible sources of groundwater contamination in the Pavillion, WY area. Following a public meeting in

Pavillion in August, 2010 Work Groups were established to investigate potential problems associated with the production pits closed many years ago, and to evaluate the integrity of existing production wells. The Work Groups include interested members of the community, and have held several public working sessions in Riverton over the past year and a half. The WWDC presented its findings regarding options for alternative drinking water supplies, and treatment of existing water supplies at a public meeting in September 2011. Work Groups anticipate completing their investigations and final report in 2012.

The State Ground Water Committee, comprised of the agency heads from DEQ, SEO, Wyoming Oil and Gas Conservation Commission (WOGCC), Wyoming Department of Agriculture, Wyoming Water Development Commission (WWDC) and the state Geological Survey held its first meeting during December, 2010 and has met about every quarter since then. Several topics of mutual interest have been discussed, focusing on the need for outreach and public education regarding protection of drinking water wells and groundwater. The Committee also expressed interest and a desire to explore options for a state Groundwater Conference/Workshop. The Committee was established in August, 2010 by Governor Freudenthal under Executive Order 2010-3.

TIMELINESS OF PERMIT ISSUANCE

Five divisions within DEQ issue permits. Because a majority (~90%) of permits are issued by the WQD and the AQD, the results below are heavily influenced by the performance of those divisions.



Story behind the last year of performance:

The timeliness of permit issuance is dependent upon a number of factors. These factors can include the number of new applications, renewals and revisions submitted to the Department, the complexity and quality of those packages, the efficiency of the DEQ staff, the internal procedures used to process them, the promptness of responses by submitters to DEQ questions/comments and third party interests (objections by neighbors, requests for public meetings, etc.).

From 2009 to 2011, the department saw a slight 5% decrease in timeliness of permit issuance. DEQ has identified several areas where this can be improved within the divisions. However, outside factors have contributed to the time for a permit to be issued. The department remains committed to increasing permit timeliness performance in all divisions and programs.

Air Quality

In 2009, there was discussion on whether the permitting numbers should include waivers. Waivers are sources deemed to be insignificant in terms of emission rates and ambient air impacts. These waivers are permits that authorize air emissions with conditions that are federally enforceable. However, the waiver process does not require a 30 day public notice requirement. Permit waivers still require application review, emission calculations, and regulatory applicability determinations similar to NSR permits. The NSR program issued more waivers (658) than permits (592) in FY 2011. To better reflect actual work load, DEQ is now including these waivers to the overall permitting performance number.

Land Quality

An increased level of demand for in-situ uranium permitting, underground coal gasification, cumulative hydrologic impact assessments, small mine applications and coal mine amendments related to coal leasing led to an examination of the divisions workload and processes. Permits and permit maintenance applications have dramatically increased while staffing levels have remained relatively constant. Significant learning curve issues for both applicants and staff resulting from rule changes in 2005 were encountered and resolved. An assessment was conducted in late summer of 2010, leading to opportunities to improve the process work flow and outline activities to reduce the backlog and improve efficiencies.

Water Quality

WQD had over 89% of their permits issued within the targeted timeframe. The Water and Wastewater program completed 95% of the actions for the permits issued in FY 2011 in 60 days or less.

The Wyoming Pollutant Discharge Elimination System (WYPDES) completed 84% within the timeline goal. The WYPDES Program has also received over 200 renewal permit applications for Coal Bed Methane (CBM) and Concentrated Animal Feeding Operations (CAFO) facilities that cannot be processed at this time due to unresolved issues related to Agriculture Use and Nutrient Management Plans. The WYPDES Program is working with multiple federal and state agencies as well as land owners to address these issues.

Industrial Siting

Industrial Siting permits are issued by the Governor-appointed Industrial Siting Council as a consequence of a contested case hearing. During this time the DEQ staff changed and the division's attorney general changed; the Industrial Development, Information and Siting Act was amended and new Industrial Siting Council rules were promulgated. Despite the fluid situation, the cases were properly processed within statutory time line.

Solid and Hazardous Waste

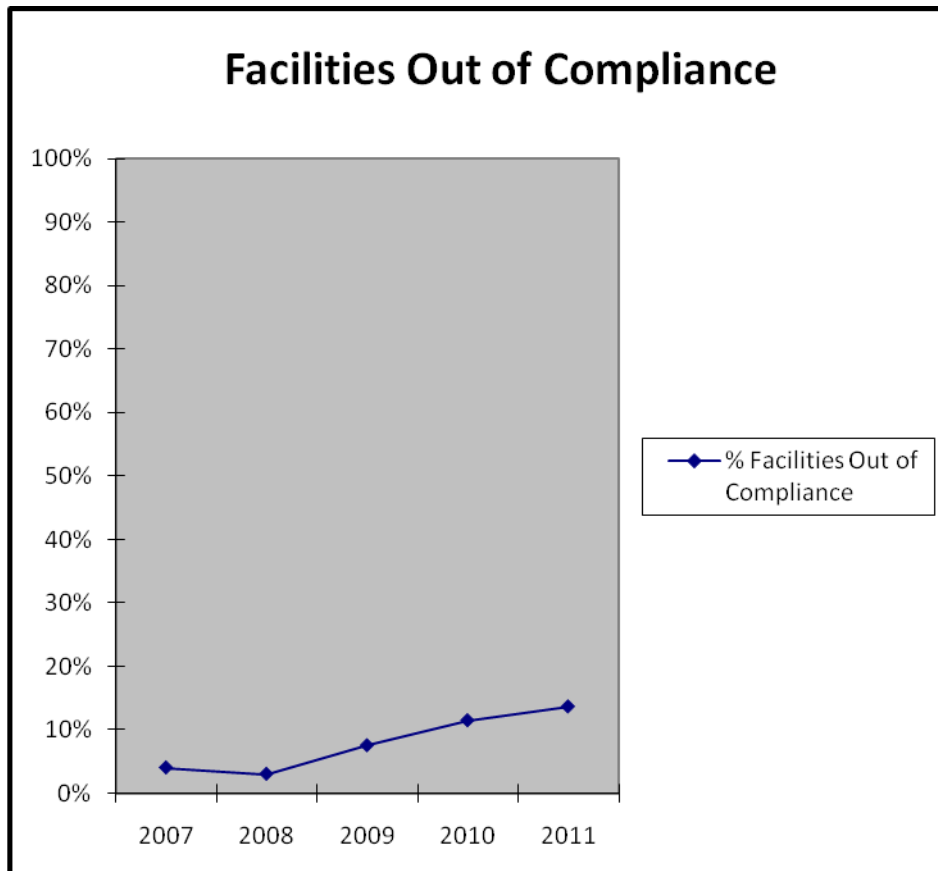
Solid Waste Program permit actions constitute about 3.0% of the Department's total permit actions. For FY11, the Solid Waste Program met its statutory or regulatory permit action

timeframes about 70.0% of the time. This is an improvement from FY10 when timeframes were met about 60.0% of the time. Factors for not meeting timeframes include renewals and revisions submitted to the Department, the complexity and quality of those packages, the efficiency of the DEQ staff, the internal procedures used to process them, the promptness of responses by submitters to DEQ questions/comments and third party interests (objections by neighbors, requests for public meetings, etc.). In addition, the timeframes may have been extended in working with communities to address issues related to municipal solid waste planning efforts, liner and groundwater requirements, and municipal landfill lifetime permitting considerations. In March 2011, the Solid Waste Program, along with permitting stakeholders, completed a Kaizen process improvement event to assess and implement improvements to the permitting process.

COMPLIANCE

The following percentages represent the relative contribution by each division to the overall non-compliance performance in FY 2011.

Because the majority of compliance work by DEQ each year is through the WQD and the SHWD, the results reflected below are heavily influenced by the performance of those divisions.



- All department programs, with the exception of The Wyoming Pollutant Discharge Elimination System (WYPDES), had non-compliance rates 8% or lower.
- Compliance Inspections increased by 8% in FY 2011.

Story behind the last year of performance:

This performance measure addresses how well the regulated community is complying with the Environmental Quality Act and the rules and regulations of the department. This measure reflects both the efforts of the regulated community to stay in compliance and the effectiveness of the department's efforts to inspect facility operations, review reports required to be submitted by permittees, provide educational materials and training opportunities to the regulated community.

DEQ identifies noncompliance through a combination of physical, on site compliance inspections, and through review of self-monitoring reports filed by permittees. Five of the divisions have authority to take enforcement action. While the options for enforcement actions are similar among the divisions, the applications of the options vary between divisions. The Water Quality Division (WQD) makes extensive use of Letters of Violations (LOV) while other divisions use them on a limited scale and the Land Quality Division (LQD) not at all.

In FY 2011, WQD had an increase in non-compliance. This can be attributed to several factors. Due to new EPA reporting requirements, WQD began taking enforcement on minor administrative non-compliance that had been handled informally in the past. Also, database enhancements have resulted in an improved ability to identify violations and enforcement responses.

What has been accomplished:

Water Quality

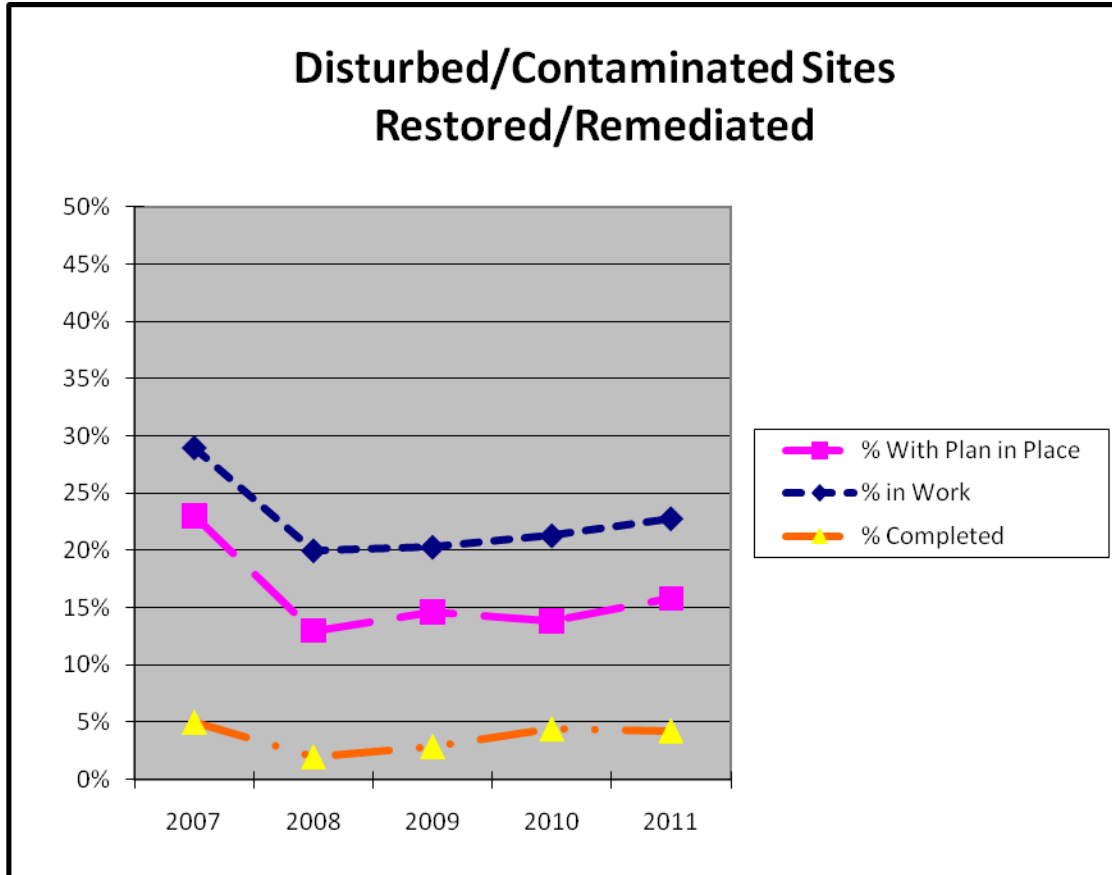
The department regularly provides ongoing information and assistance to the regulated community. Recent efforts toward that end include training offered by the WQD to discharge permit applicants. This assistance included help in improving the quality of permit applications and describing the process of issuing a WYPDES permit. The department also engages in a continuous program to improve its public web site where information is posted to help companies comply with federal and state environmental requirements.

The State of Wyoming finances water and wastewater projects to protect the environment, bring facilities into compliance, and to develop the Wyoming economy. Many of these projects are multi-million dollar efforts. The Water Quality Division, in cooperation with the Wyoming Water Development Commission and the Office of State Lands, administers revolving fund loan programs. During FY11, the programs made five conventional state revolving funds' loans totaling \$1.86 million. Borrowers repay these 2.5% loans from the revenues of the projects financed. This creates a self-sustaining loan fund for future water and wastewater improvement needs.

Solid and Hazardous Waste

In FY11, non-compliance rates in the Hazardous and Solid Waste programs remained unchanged at 6.0% with respect to FY10. However, non-compliance in the Storage Tank Program increased from approximately 1.0% in FY10 to approximately 4.0% in FY11. The reasons for increased non-compliance in the Storage Tank Program is due, in part, to elevated enforcement efforts with respect to contaminated site fee non-payments and to an increased number of above ground storage tank sites not meeting compliance deadlines. In addition, an increased number of site visits may have contributed to increased identification of non-compliant sites. However, it should be noted that an effective notification and enforcement program for petroleum storage tanks helps Wyoming maintain one of the highest compliance rates in the country.

SITES RESTORED/REMEDIATED



Story behind the last year of performance:

This performance measurement addresses the enhancement portion of the DEQ Mission statement: “To protect, conserve and enhance the quality of Wyoming’s environment for the benefit of current and future generations.”

Four DEQ divisions aggressively pursue the identification and restoration, reclamation, or remediation of impacted sites across the State with the goal of returning the site to an appropriate level of post-impact beneficial use. The Abandoned Mine Land Division (AML) reclaims hazardous mine sites which were disturbed before 1977. The Land Quality Division (LQD) manages the reclamation of mine sites with forfeited bonds. The Solid and Hazardous Waste Division (SHWD) reclaims and remediates petroleum storage tank sites, solid and hazardous waste sites, and other contaminated sites through the Solid and Hazardous Waste Permitting and Corrective Action programs, the Voluntary Remediation Program, the Brownfields Program, the Orphan Sites Program, and the Storage Tank Program. The Water Quality Division (WQD) restores impacted watersheds and manages groundwater cleanup not involving hazardous waste. While progress continues in this area, the downward trend in the number of completed sites reflects an increase in the number of known and newly identified sites in need of restoration and remediation.

The Performance Measures displayed in the above graph are defined as follows:

Corrective Action Plan in Place: DEQ has taken affirmative action to restore the site to a condition of beneficial use. The Corrective Action Plan may be a contract, issuance of a permit with conditions, an agreement with a landowner, responsible party or public entity, or other document that commits DEQ or a responsible party to take corrective action.

Work in Progress: DEQ or a responsible party has actively initiated a correction action involving on-the-ground activity which will ultimately result in restoration of the site to some level of beneficial use. On some severely impacted sites, or where the restoration or decontamination process proceeds incrementally over time, corrective work may be in progress for many years.

Sites Completed: Sites restored to some level of beneficial use.

The universe of impacted sites used to calculate the percentages displayed in the graph is comprised of the total of all currently known sites in DEQ Division inventories. The base number of impacted sites will vary over time as new sites are identified and added to inventories, and as known sites are restored and entered in the completed category.

What has been accomplished:

The Agency has provided training and new process tools to improve employee performance for all staff involved in these activities. Retention of professional staff and recruitment of qualified new employees will enhance the Agency's ability to identify, prioritize, and reclaim disturbed sites.

Solid and Hazardous Waste

Within the SHWD, the Voluntary Remediation Program (VRP), and the Brownfields and Orphan Site programs continue to evolve and mature. For instance, the Orphan Site Program is investigating, evaluating risk, and implementing mitigation systems at a number of sites that have extensive underground contaminant plumes that have no viable responsible party.

The VRP continues to enter new sites, resolve existing sites and issue environmental liability assurances. Also, an unprecedented outreach effort was initiated to inform over 15,000 Wyoming businesses and facilities, which deal with industrial contaminants, about pollution prevention and VRP eligibility over a new rule that went into effect on January 1, 2011.

Under the Hazardous Waste Program (HW), significant cleanup activities have occurred at all of the HW facilities (primarily closed/operating petroleum refineries) including implementation of remedial alternatives, such as barrier walls to eliminate off-site migration of contaminants. Those sites include: Frontier Refinery (Cheyenne), Sinclair Oil Refinery (Sinclair and Casper), and Wyoming Refining (New Castle).

The Storage tank Program continues to investigate and remediate tank sites as funding allows. More stability in funding has allowed the program to put more sites into design and eventually into cleanup implementation. Rather than remediate individual sites, the program takes an economy of scale approach and cleans up a number of sites in relatively large project areas.

Abandoned Mine Lands

The AML Program accomplishes hazard reduction and environmental restoration at long abandoned mine sites throughout the state. Many abandoned mines have serious hazards to public health and safety, as well as environmental degradation resulting from past mining practices. In some areas large tracts are devoid of vegetation, heavily impacting the quality of wildlife habitat and rangeland. Abandoned mine hazards addressed by this program include open mine shafts and adits, dilapidated buildings, unstable mine highwalls, flooded mine pits, sinkholes open to mine workings, actively burning coal fires, and other features that are hazardous to life and limb. The AML Program first performs a full environmental evaluation prior to initiating a reclamation project. Then, with consideration for the natural and cultural resources present, AML designs successful hazard mitigation and habitat restoration projects for these impaired sites. Larger AML projects may span several construction seasons before reclamation is complete, while reclamation of smaller sites can be completed in a single season.

The AML completed reclamation on 58 abandoned mine sites across the state during the fiscal year. Among the sites reclaimed were 2 in Albany County, 21 in Carbon County, 11 in Lincoln & Uinta Counties, 7 in Fremont County, 1 in Sheridan County, and 16 abandoned coal mines in Sweetwater County, the majority of which were in or adjacent to Rock Springs. One subsidence abatement grouting project in Rock Springs expended nearly \$2.8 million of AML's budget alone.

Also, AML has increased its interaction with energy and utility companies, and continues to provide mine location data and information for large and small utility planning projects. This important service can help utilities avoid placing sensitive utilities over subsidence-prone areas or in areas with other potential abandoned mine hazards.

The AML Program continues to implement new techniques for site reclamation to provide enhanced wildlife habitat and achieve greater site stability over the long-term. One specific goal is to collaborate proactively with other entities to improve sage grouse habitat, and to protect Sage Grouse Core areas within the state.

Water Quality Division

WQD continues to oversee cleanup at numerous sites with groundwater contamination issues that were brought before DEQ prior to establishment of the Voluntary Remediation Program. These sites include several Formerly Used Defense (FUDs) sites, such as the former Atlas Missile sites in Laramie county. One site west of Cheyenne has impacted the city's municipal water supply wells. This past year DEQ has worked closely with the Cheyenne/Laramie County Board of Public Utilities and the US Army Corps of Engineers to evaluate and implement options to control groundwater contamination near the City's wellfield and to treat municipal wells that have been impacted by contaminants from a former missile site.

AGENCY COMMITMENTS

On June 21, 2011, DEQ made several commitments to Governor Mead. These commitments were separated into three primary categories: Improving Service to the Public, Agency Structural Review and Recommended Structural Changes, and Rules and Regulation Improvements.

Below are updates on DEQ's progress towards these commitments.

Improving Service to the Public

Background

Our plan to improve service to the public consists of general action items to be applied agency wide and division specific activities. Public service will be improved by giving attention to the following items: Training, Conducting Public Outreach and Meetings, Coordinating with Trade Associations, and Enhancing IT Capability

Division Commitment Updates for Improving Service to the Public:

Abandoned Mine Lands Division

- *Increased Awareness of Mine Subsidence Program:*
As AML coordinates closely with landowners, local officials and outside interest groups over reclamation projects, further efforts will be made to expand the outreach efforts for the program. The subsidence insurance program is currently not utilized by many eligible property owners. Increased public awareness of the subsidence insurance program will help give homeowners another option for addressing potential mine subsidence.

UPDATE: AML has completed the new software upgrade for the Abandoned Mine Lands subsidence insurance program. The upgrade is undergoing the final office beta testing and evaluation. The new software upgrade will allow greater access and data management for subsidence insurance files and accounts. With the completion of the upgrade, AML is beginning work on the development of a plan to increase the visibility of the subsidence insurance program. These efforts will include working with lenders and realtors to determine the most effective approach for providing information to homeowners in potentially impacted areas on insurance options available. This is an on-going effort.

Air Quality Division

- *Title V permitting program and implementation of Title V "engineers notebook" to be utilized by New Source Review Staff:*

The Title V permitting program will conduct a Kaizen event to look at ways to increase efficiency. In addition, an “engineer’s notebook” has been developed by the Title V program staff that keeps a detailed inventory of the permit background information and decisions on applicability and streamlining opportunities. The benefit to this notebook is that previous decisions do not have to be revisited, making future permit actions easier to incorporate. A procedure will be developed so that this notebook can also be utilized by the minor NSR staff as they write future permits that will be incorporated into the corresponding Title V permit for the facility. AQD is crafting a scope of work in order to hire a contractor to perform a Kaizen event. Participants include Title V staff, select industry representatives, and certain NSR staff who have previously participated in this activity.

- *Oil and Gas Emissions Reporting (OGER) database:*
This database will enable the upload of air emission data compiled for each county into the EPA Emission Inventory System. The result of this effort will be a more efficient system to report required information to the EPA and more efficient use of staff resources. This has been in production since August of 2011 and with final implementation tasks expected to be completed by the 1st Quarter in 2012.
- *Complete development of the Energy Impact Analysis System (EIAS):*
EIAS will ultimately serve as the division's core system for facility-related functionality, including emissions inventory, permitting and compliance. The system will include internal functionality, as well as an external web-based portal for directly gathering data from the regulated community. By centralizing and streamlining how the division manages facility information, the AQD will be better able to quickly respond to information requests including evaluation of air quality impacts through trends analysis and model-ready data handling. In order to reach this goal, the division has divided the project into phases.

Phase I included an analysis and evaluation of existing systems and business processes. Currently, facility-related data is housed in multiple systems, including AQDS, WiseView and several independent systems housed in the field offices. The Phase I analysis evaluated those systems to gauge effectiveness, gather information about EIAS Version 1.0 system requirements, and identify the best source(s) of data for migration. The results of the Phase I analysis have guided the Division toward the next step (Phase II), facility inventory.

Phase II includes the design, development and implementation of a facility management system, EIAS Version 1.0. In addition to an internal system for Division staff use, the system will include a web-based external portal, in which industry users can view and submit data related to their facility. EIAS Version 1.0 will be limited to facility name, address, location, contacts, ownership, etc. Subsequent phases will include expansion of this information.

- Coordinate with the Solid and Hazardous Waste Division (SHWD) in the inspection of tanks at gasoline dispensing facilities:

This effort will include finding the best way to inspect and administer the rule for these facilities that are subject to this National Emission Standards for Hazardous Air Pollutants (NESHAP) so that site visit redundancy is minimized.

Currently, both the AQD and SHWD staff have met and developed a draft inspection checklist for the SHWD inspectors. This checklist will assist DEQ staff in notifying facility owners of possible violations and NESHAP requirements. AS DEQ does not currently have rules or primacy in place, this will provide a needed outreach to the regulated community over possible federal actions.

- Develop a general permit for source categories in the minor source permitting program that essentially have the same type of permit and emission controls:

This will greatly shorten and streamline portions of our minor source permitting program.

Draft regulations have been created to enable AQD to issue general permits. An additional draft regulation is in process to address specific facility types (i.e. Oil and Gas, quarries, and emergency generators).

The target completion date for final rules is the 4th Quarter of 2012.

Industrial Siting Division

- Coordinate and facilitate the multi-agency Renewable Energy Coordination Committee:
The committee has been meeting on a regular monthly basis. The last meeting was held on November 1, 2011 with the next meeting scheduled for December 6, 2011. The group charter will be finalized at the December 6th meeting. Wind and Transmission project information is shared amongst the group. Primary contributors are DEQ/ISD, Bureau of Land Management (BLM), Office of State Lands and Investment (OSLI), Wyoming County Commissioners Association (WCCA) and Wyoming Infrastructure Authority (WIA). An interactive map has been created by DEQ/IT with all ISD projects identified. BLM, OSLI, WCCA and WIA layers will be built in over time and the map made available to all agencies through SharePoint.
- Develop an MOU between the ISD, BLM and OSLI for bonding requirements related to decommissioning and reclamation:

A draft MOU was sent to BLM in August 2011 for comment. Final revisions to the draft are being made with an expected completion date of December 5, 2011. Final review and approval by BLM and DEQ is expected for the 4th Quarter of 2011 or 1st Quarter of 2012.

Land Quality Division

- Complete Phase 1 of the IT Project that will develop an electronic permitting system, and migrate the current database to the enterprise system, and incorporate metrics to measure performance:

LQD is carefully evaluating an electronic permitting and adjacent database system that was developed first in Colorado, and subsequently adopted and implemented in Montana; This evaluation suggests significant advantages in adopting an existing system, used by adjacent states for their coal and non-coal programs, which is already recognized by industry, OSM, and others. Currently, the database is being evaluated internally with numerous LQD records management staff in each of the three LQD district offices, with good results.

- Revise and update web page to include permit application tracking information and LOD metrics and improve accessibility of information:

DEQ is currently evaluating options for implementing newly designed websites for each Division of DEQ. Inherent within this new design, is greater transparency of statuses associated with new permit and maintenance actions, greater accessibility of information, forms, guidance documents and general information, and overall, greater degree of user-friendliness. The desires for greater transparency and accessibility of information are also supported in our holistic approach to the IT Project.

- Hire contractor assistance:

This Commitment had been fulfilled, but associated efforts will be ongoing. In the third quarter of 2011, the LQD staff completed the professional service solicitation process, with the assistance of A&I's Procurement office. As a result of this process, seven consultants were selected to assist LQD with high-volume, simple permitting and inspection tasks, with the aim of allowing more staff time for more complex tasks. LQD staff then began drafting scoping documents for these various tasks, and assigned them to the appropriate consultant. Currently, the LQD has executed four task orders: to conduct inspections on 33 non-coal mine sites; to perform the review of an insitu uranium mining application; to assist with creating all necessary guidance documents and associated processes addressing hard rock mining; and to revise guidance documents, develop a report format and permitting requirements for insitu uranium recovery, and other non-coal mining. Two additional task orders will be executed by the end of 2011: update the Small Mining Permit Handbook and prepare a new Drilling Notification Handbook, and to develop standardized electronic inspection forms.

- Clean up the database to achieve a measure of the "real" backlog:

This Commitment had been fulfilled, but associated efforts will be ongoing. For nearly a

year, LQD staff has made significant progress in addressing issues associated with the database. In December 2010, the permit maintenance workload was measured at 338, and the new permit workload was measured at 99. Currently (approximately one year later), the permit maintenance workload is 161 and the new permit workload is 82. LQD staff feels that this is more accurate reflection of the “real” workload, although ongoing evaluation of the database will be a monthly effort, to ensure that these numbers are as low as reasonably possible.

- Conduct a third Kaizen event focused on the coal bond release process:
LQD committed to conducting three Kaizen events in the Backlog Reduction Plan. Two of these events have been held, with significant improvements and changes to the LQD permitting process. One event formalized the pre-application process, and was targeted at working with applicants to achieve high quality applications. The second event examined the permit review process and identified a significant improvement that will result in reduced review time. The outcome of these two projects, better applications and streamlined review, will result in fewer rounds of review and more rapid reviews. These changes are being incorporated into the LQD IT permitting project. LQD staff intends to embark on the third Kaizen event in the first quarter 2012.
- Maintain a low backlog through development of standardized inspection forms and reports, and development of guidance documents:
This Commitment had been fulfilled, but associated efforts will be ongoing. This commitment is connected to our efforts to hire contractor assistance, as previously stated. Several task orders will be executed to, not only free up staff time by supplementing it with consultant services, but also to assist staff and industry through the use and development of streamlined guidance documents. Currently, the LQD has executed four task orders: to conduct inspections on 33 non-coal mine sites; to perform the review of an insitu uranium mining application; to assist with creating all necessary guidance documents and associated processes addressing hard rock mining; and to revise guidance documents, develop a report format and permitting requirements for insitu uranium recovery, and other non-coal mining. Two additional task orders will be executed by the end of 2011: to update the Small Mining Permit Handbook and prepare a new Drilling Notification Handbook, and to develop standardized electronic inspection forms.
- Develop a pilot “on-boarding” program:
LQD staff is encouraged to participate in training opportunities focused on public interactions, crucial conversations, developing informed consent with the public, and gaining exposure to specific permitting and compliance procedures. In addition, the Administrator has surveyed new employees to understand what tools and established processes should be considered for a smooth on-boarding process. Many of these tools are currently under development, such as the IT project, updating the LQD website, efforts associated with implementing a new database and establishing an e-permitting

system. Completion of these initiatives will inevitably assist in consistent on-boarding of new staff.

Solid and Hazardous Waste Division

- Identify possible sources of adequate, sustained funding to the brownfields and orphan sites programs:
Currently, the majority of funds come from federal grants and the prior balance payments from AML. Both of these areas are at risk due to federal deficit matters. The program continues to look for opportunities to identify sources of stable, sustained funding.
- Implement short-term action plan recommendations from the Kaizen Lean 6 Sigma process:
In March of 2011, SHWD's Solid Waste Permitting and Corrective Action Program (SWPCA) conducted a solid waste permitting process efficiency evaluation (Kaizen Lean 6 Sigma). SWPCA has been implementing recommendations through a short-term action plan agreed to by the event participants. Participants included SWPCA staff, environmental consultants who prepare permit applications, and landfill operators and managers. The action plan includes process improvements, collaborative meetings and communications during permit application development, improved permitting guidance (e.g., application checklist), web access to information, and better sharing of information. The majority of work on the short-term (30 day) action plan has been completed.
- Implement two long-term process improvements identified in the Kaizen Lean 6 Sigma process:
The first is to conduct routine pre-application meetings to reach agreement on key elements of application development. The second is to develop a limit to the number of application review cycles before the division makes a decision. These 2 application review improvement processes are being implemented on a 'by- facility' basis. A policy letter from the Director/Administrator regarding these permitting process improvements was sent to landfill operators in June 2011.
- An internal work group will evaluate and make recommendations regarding regulatory and policy changes in the management and oversight of used oil:
Currently, requirements for used oil storage are found in three (3) programs – Hazardous Waste Permitting and Corrective Action (HWPCA), SWPCA and the Storage Tank Program (STP). HWPCA requirements are necessary to maintain implementation primacy of the state program with respect to EPA. STP requirements only apply to those rare circumstances when used oil is stored in underground storage tanks – used oil is most frequently stored in drums and above ground storage tanks. SWPCA regulations require storage permits if certain volumes of used oil are stored on-site. In September

2011, the work group sent a memo to the SHWD administrator finalizing recommendations. These recommendations are to increase used oil storage quantities necessitating a permit for generators and storers. The recommendations are currently being implemented through policy pending changes to rules (SW Chapter 6) which are needed to fully implement the recommendations.

- Evaluate alternatives to allow the Inspection and Compliance Program to meet responsiveness needs in all industry sectors, including sharing inspection and compliance responsibilities with other SHWD programs and cross media inspections with other divisions:

A summary report will be developed and provided to the Administrator and an implementation plan will be developed.

- SHWD IT initiative:

The SHWD will be developing, refining and implementing software applications to improve our ability to track all work flow activities and functions, to improve our facility information and data management capabilities, to improve management and tracking of written and electronic communications, to improve contract management, and to provide greater visibility by improving public access to information and data and to our outreach activities. The SHWD is currently working internally and with DEQ IT staff to finalize a priority of work flows and processes to be incorporated into the initiative.

Water Quality Division

- Enhancements to the Wyoming Pollution Discharge Elimination System Program (WYPDES) database:

These enhancements will allow staff to easily edit permit and monitoring data. This was completed in July 2011.

- Completion of the Surface Water Monitoring (SWM 2.0) software:

This will allow surface water quality laboratory data to be directly downloaded into the program used by WQD staff to evaluate the ecological health of WY surface waters. This will eliminate the need for staff to transcribe the lab data into the evaluation program which will save staff time and eliminate problems with transcription errors.

The project is presently underway and the workload has been strategically allocated between the contractor and DEQ staff for efficient and timely completion of project milestones.

- Update to the Operator Certification database:

This will eliminate the need for WQD staff to manually maintain the education and work

experience records of WY water and wastewater operators which is required under the state's operator certification program. Completion of this project will allow for direct entry of information by the operators via a web portal.

All features, including direct limited access and input by certified operators will be fully functional before December 31, 2011.

- *The Graduated Environmental Management (GEM) system project:*
This project will allow for the electronic submission of applications for Underground Injection Control (UIC) permits and facilitate electronic submission of groundwater data associated with those permits. This upgrade to the system will “flag” evident permit violations for further staff review. This will eliminate the need for staff to manually review large volumes of data searching for probable violations. The upgrade to allow for electronic submission of groundwater data was just recently completed. The contractor is working on completion of a training video that will allow users to see how the EDD (Electronic Data Delivery) module works. The contractor is working now on development of a 'Violations/Enforcement' module to 'flag' permit violations; a mock-up has been completed and reviewed with staff.
- *Groundwater Data Management System:*
The WQD, SHWD and LQD will create an agency groundwater data management system with electronic data delivery that will vastly improve the agencies efficiency and ability to receive, store, manage and utilize the groundwater data reported to, or collected by DEQ. Similar types of groundwater data management systems are already in place within both the private and public sectors. Working with DEQ IT, WQD is developing a description of a conceptual framework envisioned to efficiently receive, store, manage and utilize groundwater data collected by, or reported to DEQ. Once completed, the conceptual framework draft document will be shared with SHWD and LQD for review and comment. WQD anticipates that the document will be ready for review and comment on November 1, 2012.
- *Groundwater Protection Committee:*
Groundwater availability is becoming increasingly important to the State of Wyoming. Additionally, threats to and uses of groundwater are increasing as both human and industrial development proceed. The WQD has facilitated the development of an executive order that will bring various state agencies together for the purposes of examining how groundwater is managed in the state and whether additional management systems need to be deployed. The group is called the Groundwater Protection Committee and WQD is the convener. The first meeting was held in December 2010 and approximately every quarter since then. Recommendations on how to ensure adequate protection of the resource will be worked on and presented to the Governor.

Agency Wide

- Provide refresher training on the mission and values with employees on an annual basis, incorporating the training with service award recognitions.: Administration staff met with all staff in Cheyenne and District offices in October 2011.
- The Administrators will review performance measures with the Director on a monthly basis and with program staff annually: This is being accomplished with the administrators during the monthly senior management meetings. Meetings with field office program staff have been conducted.
- If funded, facilitators will be retained to begin the process of developing action items, with stakeholder input, that will streamline processes without reducing environmental protection in the 3rd Quarter 2012.: This activity is pending budget approval.
- DEQ will continue with the policy of attending trade association events throughout the year. We will also continue to stay in contact with the environmental groups and keep them informed and involved as we deal with issues.: This activity is ongoing.

Agency Structural Review and Recommended Structural Changes

Background

The DEQ structure is based on two important themes. First and foremost is that the Environmental Quality Act and the Industrial Development Information and Siting Act specifically call for the divisions shown and that an administrator head up those divisions. The second is that we have adopted an environmental media oriented design vs. a functional design. This is how most successful businesses are set up (i.e. along product lines). A functional design would mean that the permitting, enforcement, compliance and monitoring functions would span across the divisions and the various environmental media. Because of the diverse nature of the technical and management challenges that occur with air, land, water and waste, we would lose capability to serve and to solve problems effectively.

Specific programs are contained within the divisions, and these are oriented in a more functional way. These programs are all centered on specific regulatory requirements and primacy issues with our federal partners. At this level, the degree of technical difficulty and required skills can differ greatly across programs. We have reviewed the structure and find that it meets our needs and allows for the best way to deliver service to the citizens. However, there are a few areas that are worthy of further review and may provide some potential for efficiency gains.

Abandoned Mine Lands Division

- Transition Plan:

AML reclamation activity will be winding down in about 3 to 5 years. Mop-up work and dealing with mine fires and unplanned events will continue after that for an indefinite period of time. These needs can be met with a reduced staff and function at that time and could be combined with other remediation programs in the agency.

AML is currently re-evaluating the reclamation/remediation sites inventory. The last significant update to the inventory was completed in 2004-2005. Since that time, additional information has become available to allow an update of sites in Wyoming to be reclaimed/remediated. The update to the inventory will allow AML to better determine reclamation/remediation work remaining to be completed, estimated costs for that work and a projection of when all reclamation/remediation may be complete.

Air Quality

- Evaluation of combining new source review permitting with the operating permit program:

This may maximize synergies between the two programs, and provide a more challenging and rewarding work environment for employees in those areas.

Discussions and evaluation to explore the benefits of this structural change started October 2011. Decisions on appropriate action is pending the outcome of the Kaizen event process.

Land Quality

- Evaluate the value of developing cross-functional teams for all mining activities and provide a recommendation for implementing change that will enhance efficiency and effectiveness of mine permitting and oversight:

This Commitment had been fulfilled, but associated efforts will be ongoing. Numerous cross-functional teams have been established or revitalized, such as the Process Improvement Team (PIT), GIS workgroup, Uranium LQD-Industry workgroup, LQD/WQD/SHWD hydrology definitions workgroup, and database review teams. Membership into various groups is intended to acknowledge skills sets, but also provide consistency between LQD districts.

Agency Wide

- A work group comprised of the programs with bonding requirements will evaluate the bonding work and oversight of the agency:

The work group will provide written recommendations to the Director for any structural changes that will improve efficiency and effectiveness of the agency's bonding functions before the end of 2012.

Rules and Regulations Improvements

Background

There are nearly 3,600 pages of rules and about 4,700 pages of guidance documents that have been developed over the years to implement the Environmental Quality Act and the Industrial Development, Information and Siting Act. Many of these rules are aimed at assuring that we maintain primacy for the implementation of the many federal environmental laws. The world of environmental regulation is complex, to say the least. The agency spends a great deal of time meeting with the public and the regulated community, both in the development of the rules and their application. There are significant challenges in keeping up with a very fast-paced and changing regulatory world, and we are continuously updating rules. New standards based on new and additional scientific review, new federal requirements, the need to address emerging contaminants, and the need to respond to new pressures on the environment in Wyoming resulting from energy and other development all must be dealt with while performing the basic work functions required to enable responsible development in the state.

There exists some opportunity to clean up rules. This will take careful planning and several years to complete, given current staffing levels and other demands on personnel time. The rule making process is lengthy. It starts with public outreach in nearly all cases, with close engagement with the regulated community in particular. Once rules are drafted, they are sent to the Attorney General for review and then reviewed by our various advisory boards. Sometimes this review takes a couple of cycles because both expert and public comments are addressed. Once the proposed rule clears the advisory board, it is scheduled for hearing and review by the Environmental Quality Council. Unless there is no controversy, this review takes several cycles. The promulgated rule is then sent over for final review by the Attorney General and the Legislative Service Office, and review by the Legislative Management Council. Finally, it is reviewed and approved by the Governor and sent to the Secretary of State. This process can take anywhere from nine months to several years depending on the complexity of the subject matter.

Rule development is something that our existing staff performs, in addition to their regular duties associated with permitting, inspecting and monitoring. However, to expedite this review effort and ensure that expected service levels are maintained throughout the agency, contractor assistance is being requested. The review of the rules is only the first step. Changing the rules will consume the majority of time, and a big piece of the requested expense.

Division Commitment Updates for Rule and Regulation Improvements:

Air Quality

- **Chapter 6 – Permitting Requirements:**

This rule change will incorporate new federal fine particulate standards for PSD permitting to maintain permitting primacy. This effort will also remove the customized permitting section for air toxics and consolidate requirements under Chapter 5 to keep air toxics section up to date.

- Chapter 3 – General Emissions Standards:
 This effort will remove outdated state-only SO₂ limits that have already been incorporated into permits and updated through Incorporation by Reference (IBR) list of VOCs that have negligible reactivity as part of a biennial effort.

- Chapter 5 – National Emission Standards:
 This rule revision will remove source categories from the list of New Source Performance Standards and National Emission Standards for Hazardous Pollutants for which Wyoming has no sources and replace customized general provisions with federal general provisions through IBR to keep the section up to date. This effort will also update IBR dates as part of a biennial update.

- Chapter 11 – National Acid Rain Program:
 This rule effort will update IBR dates to keep the Acid Rain Program up to date with federal requirements. This is a biennial effort.

- Chapter 14 – Emission Trading Program Regulations:
 This rule revision will make corrections to inventory requirements for SO₂ trading program to adjust the baseline date and remove the federally revoked mercury trading program in anticipation of new federal mercury rules to be incorporated through Chapter 5.

- Chapter 6 – Permitting Requirements:
 There are several source categories that essentially have the same type of permit and emission controls. Developing a general permit will simplify the process by having one permit document spelling out best available control technologies and operating stipulations, with applicants simply submitting a Notice of Intent showing some basic information and a commitment to enforceable standards. This will greatly shorten and streamline portions of our minor source permitting program.

- Chapter 6 – Permitting Requirements:
 The AQD will look into rules that define how drill rigs can be permitted in areas of concentrated development. This will enhance our capability to control emissions and potentially reduce ozone and other pollution issues.

The Wyoming Air Quality Advisory Board met on August 16, 2011. AQD took comment on proposed changes to Chapter 3, General Emission Standards, Chapter 5, National Emission Standards, Chapter 6, Permitting Requirements, Chapter 11, National Acid Rain Program, and Chapter 14, Emission Trading Program Regulations. The rules package is scheduled for EQC hearing on January 13, 2012.

Land Quality

- *Rule Package 1 - Chapters 8, 9 and 10 Noncoal Rules:*

Chapter 8 revisions include details on capping, plugging and sealing wells, bonding termination, and well abandonment. Chapter 9 revisions are intended to clarify rules and remove the need to constantly consult statutes to determine requirements. Chapter 10 intends to resolve the "6 mile" policy to clarify how we will ensure multiple Limited Mine Operations are not being used to circumvent the statute.

This rule package was presented at the Land Quality Advisory Board (LQAB) meeting on November 14, 2011. (Chapter 8 was pulled from the agenda at the 11/14 meeting, in order to allow the Uranium LQD-Industry Team to further evaluate its technical content. This chapter may be presented to the LQAB on March 26, 2012.) As a result of the November 14 meeting, public comment suggested that Chapter 9 will need some revision, and will be presented again at an upcoming LQAB meeting. Chapter 10 received only minor comment, and will advance to the Environmental Quality Council at an upcoming 2012 meeting.

- *Rule Package 2 - Chapters 4, 11, 15 and 16 Coal Rules:*

Chapter 4 is being revised to allow for variable topsoil depth. Chapter 11 corrections include self-bonding rule changes intended to return rules to status prior to rules which OSM disapproved in 2006. Chapter 15 is being revised to address the definition of inactive mines as it relates to inspection frequency, and clarify the incremental bond release section. Chapter 16 is being revised to be consistent with Chapter 15. This rule package will likely also respond to comments from OSM's review of our most recently submitted rule package. This package is still in drafting stages, but should be ready for submission to LQAD at the March 26, 2012 meeting.

- *Rule Package 3 - Chapter 11 Non-coal Rules:*

Chapter 11, noncoal in-situ regulations, will be drafted in collaboration with industry representatives, using an established work group to address resolve specific issues such as aquifer exemption rules and other issues identified after several years of implementation. This chapter is scheduled for presentation to the LQAB at the November 19, 2012 meeting.

- Rule Package 4 - Chapter 18 Non-coal Rules:
Chapter 18, Coal, in-situ mining, incorporates the technology of underground coal gasification, and will be presented to the LQAB during the 2nd Q 2013 meeting.

Solid and Hazardous Waste

- Phase 1 Solid Waste Rulemaking

This phase of rulemaking in the Solid Waste Permitting and Corrective Action Program includes Chapter 1 (General Provisions), Chapter 2 (Sanitary Landfill Regulations), Chapter 6 (Treatment and Storage Facility Regulations), and Chapter 7 (Financial Assurance Regulations). The Phase 1 rule changes are primarily intended to incorporate changes due to recent legislation affecting permitting (e.g., lifetime permits) of municipal solid waste landfills, but will also use the opportunity to improve, simplify and streamline the rules on a relatively limited bases and to incorporate sage grouse considerations. More significant efforts to improve, simplify and streamline the solid waste rules will occur in Phase 2 rulemaking, as discussed below. Phase 1 rulemaking has begun and will progress to the Water and Waste Advisory board in December 2011 or January 2012.

- Phase 2 Solid Waste Rulemaking

Phase 2 of Solid Waste Rulemaking will include chapters 1, 2, 6 and 7, as well as Chapter 3 (Industrial Landfill Regulations), Chapter 4 (Construction/Demolition Landfill Regulations), Chapter 9 (Suspension of Permits for Commercial Solid Waste Management Facilities) and Chapter 15 (Solid Waste Management Rules and Regulations). The primary purpose of Phase 2 rulemaking will be to improve, simplify and streamline the rules, and to remove redundant rules (e.g., Chapter 15) or to repeal no longer relevant rules (i.e., Chapter 9). In addition, the Phase 2 changes will consider lifetime permitting for waste management facilities (other than municipal landfills, which are addressed in Phase 1 rulemaking), and will add considerations for sage grouse. This rulemaking effort is expected to be initiated in the 1st quarter of 2013.

- Chapter 17 – Storage Tanks:

This rule effort will remove redundant language, update and re-write provisions to conform with current standards and approaches to regulation. This rule effort would also remove a large and unnecessary appendix and move equations to a guidance document. Finally, this effort would remove and/or revise unnecessary or overly burdensome provisions. This rulemaking has been slightly delayed pending EPA's issuance of draft rule affecting the state rules, and the program commenting on the EPA rules. The current target date for this rule revision in the 4th quarter of 2013, but it is likely this schedule will be accelerated.

Water Quality

- Chapter 5 – Certification of Water and Wastewater Operators:
This rule revision will result in updates and improvements including incorporation of electronic submittals by operators, resulting in efficiency gains to the program. This rule revision is on schedule for the target completion date of 2nd Quarter 2012. It is on the Environmental Quality Councils (EQC) January 13, 2012 hearing schedule.
- Chapter 25 – Septic Tank and/ Soil Absorption Systems and Other Small Wastewater Systems:
This rule revision will simplify the rule and provide updates to reflect changes in technology. The Secretary of State office rejected the current Chapter 25 as being improperly promulgated. DEQ resubmitted the current chapter to the Water and Waste Water Advisory Board on September 30, 2011. The Board passed the rule and it is scheduled to go before the EQC on January 13, 2012. If the EQC promulgates the revisions to the rule before the Advisory Bd. in the 2nd quarter of 2012 and still may be able to get the rule promulgated before the end of 2012.
- Chapter 27 – UIC Class 6 Financial Assurance:
This rule update is necessary for program primacy. A preliminary draft was submitted to consultant for her review in early September 11, 2012.
- Chapter 16 – UIC Class 5 Well Rules:
This rule revision will incorporate new statutory requirements addressing bio-stimulation of coal (Luca/Ciris, etc.). WQD has begun plans for rule making outreach session(s).
- Chapter 15 – Use and Surface Disposal of Bio-solids:
This rule effort would eliminate these rules as EPA has retained primacy for this program. This rescission will be done as a part of the Chapter 25 adoption process and is targeted for completion by 4th quarter 2012.
- Chapter 9 – Discharges to Ground Water Other Than Class 1 & 5:
This rule revision will provide clarification from requirements in Chapters 13 and 16. The target date for this rule revision is the 4th quarter of 2014.

- Chapter 12 – Design Criteria for Public Water Supplies:
This update will address changes in technology since primary authorship in 1984. The target date for this rule revision is the 4th quarter of 2014.

- Chapter 11 – Design Criteria for Wastewater Treatment Systems:
This rule revision will remove redundancy with Chapters 15, 16, 20 and 21. The target date for this rule revision is the 2nd quarter of 2014.

Department of Environmental Quality

