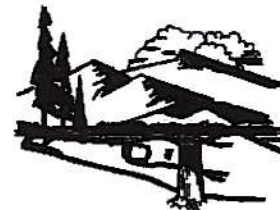




# Department of Environmental Quality

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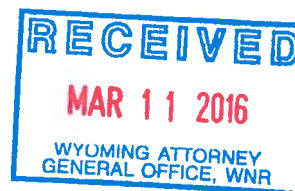
*To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.*



Matthew H. Mead, Governor



Todd Parfitt, Director



## MEMORANDUM

**TO:** David Ross, Wyoming Assistant Attorney General

**FROM:** Kevin Frederick, Water Quality Division Administrator *KF*

**DATE:** **March 9, 2016**

**PRIORITY:** **HIGH** – Deadline for response is **March 23, 2016**

**SUBJECT:** **Request for review of proposed rules for statutory authority**

The Department of Environmental Quality (DEQ), Water Quality Division (WQD) is proposing to revise Chapter 24 of the Water Quality Rules and Regulations. The proposed revisions incorporate federal regulations for carbon sequestration for financial assurance, incorporate federal and statutory conditions for conversion of other class wells to Class VI wells, incorporate conditions for a waiver of the requirement to inject below the lowermost underground source of drinking water (USDW), and correct grammar and punctuation errors.

On September 11, 2015, the Water and Waste Advisory Board recommended adoption of the rules to the Environmental Quality Council. On March 4, 2016, Governor Mead signed into law SEA026, which specified criteria for the conversion of enhanced oil recovery (EOR) operations to geologic sequestration at W.S. 35-11-313(c). The Oil and Gas Conservation Commission shall recommend transfer of oversight of the EOR operation to DEQ if the primary purpose of the well changes to long term storage of CO2 and there is an increased risk to a USDW, compared to the EOR operation. WQD has incorporated language in Chapter 24, Section 3 that references this statutory update.

WQD has reviewed the requirements of 35-11-302(a)(iii) and (vi), and 35-11-313(f) of the Wyoming Environmental Quality Act and has determined this rulemaking to be in procedural compliance with the statute. Per W.S. 35-11-313 (f), WQD has requested review of the proposed rule by the state geologist and Oil and Gas Commission. WQD has reviewed and responded to the Takings Checklist provided by the Attorney General's Office. WQD is now seeking a review of the proposed rules for statutory authority prior to submitting the rules to the Governor's Office for permission to proceed to formal rulemaking.

Per the Attorney General's Rules Handbook, you will find enclosed a copy of the draft memo to Governor Mead, a copy of the draft Statement of Principal Reasons for Adoption, a copy of Chapter 24 in strike and

Per the Attorney General's Rules Handbook, you will find enclosed a copy of the draft memo to Governor Mead, a copy of the draft Statement of Principal Reasons for Adoption, a copy of Chapter 24 in strike and underline format, a copy of Chapter 24 in clean format, and a response to the Attorney General's Takings Checklist. We have also enclosed a copy of the request for review that was sent to the OGCC Supervisor and State Geologist. If you have any questions or need additional information regarding the proposed rules please do not hesitate to contact me or William Tillman of my staff.

**Attorney General's Response Options:**

Proposed Rules are within the Division's statutory authority, may seek permission to proceed from the Governor's Office.

Proposed rules exceed statutory authority, delay proceeding with rulemaking

  
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Signature: David Ross

KF/gjt/16-0149