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Responses to Oral Comments

Received September 11, 2015

Water and Waste Advisory Board

Wyoming Water Quality Rules and Regulations

Chapter 24

Class VI Injection Wells and Facilities

Underground Injection Control Program



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Chapter 24 Response to Oral Comments

Water and Waste Advisory Board Meeting

September 11, 2105

List of Commenters

Ms. Marge Bedessem, Chairwoman, Water and Waste Advisory Board
Mr. Dave Applegate, Vice-Chairman, Water and Waste Advisory Board
Ms. Lorie Cahn, Water and Waste Advisory Board

Comments and Responses

General Comments

Entity: Chairwoman Marge Bedessem, Water and Waste Advisory Board

Comment: Ms. Bedessem requested that WDEQ/WQD consistently state “requirements of Section #” throughout the chapter. Ms. Bedessem identified multiple passages that cross-reference sections as “requirements at Section #.”

Response: WDEQ/WQD revised the chapter as requested.

Entity: Chairwoman Marge Bedessem, Water and Waste Advisory Board

Comment: Ms. Bedessem requested that WDEQ/WQD correct any instances of “USDWs” that include an apostrophe.

Response: WDEQ/WQD revised the chapter as requested.

Entity: Vice-Chairman Dave Applegate, Water and Waste Advisory Board

Comment: Mr. Applegate requested that WDEQ/WQD provide the advisory board members with a PDF copy of *Report and Recommendations of the Carbon Sequestration Working Group to the Joint Minerals, Business and Economic Development Committee and the Joint Judicial Committee of the Wyoming State Legislature*, September 2009.

Response: WDEQ/WQD emailed a PDF copy of the report to the advisory board members on December 10, 2015.

Entity: Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn explained she had identified a number of minor grammar and formatting errors and would be providing WDEQ/WQD with a hard copy of her notes.

Response: WDEQ/WQD revised the chapter as requested.

Section 3

3(c)(i)

Entity: Vice-Chairman Dave Applegate, Water and Waste Advisory Board

Comment: Mr. Applegate asked if the Oil and Gas Commission has the ability to require “no change” for owners/operators of permitted Class II injection wells seeking to convert to Class VI wells.

Response: As Mr. Tillman explained at the advisory board meeting, the Oil and Gas Commission Supervisor may use discretion and recommend no change. The OGCC Supervisor and the WDEQ Director have some room to make that decision based on consideration of the nine factors in 3(c)(i)(A-I).

Section 6

6(a)(iii)

Entity: Ms. Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn noted that the passage is unclear. She suggested that WQD edit the passage to correct the problem with the parallel construction of the grammar.

Response: As discussed at the advisory board meeting, WDEQ/WQD has revised the passage to state: “Conduct any authorized injection activity in a manner that results in a violation of any permit condition, representations made in the application, or the request for coverage under the individual permit. A permit condition supersedes any application content.”

Section 10

Entity: Vice-Chairman Dave Applegate, Water and Waste Advisory Board

Comment: Mr. Applegate asked WDEQ/WQD to explain the basis for the inclusion of Section 10.

Response: As Mr. Tillman explained at the advisory board meeting, the existing version of Section 10 does not contain regulations regarding injection depth waiver requirements. The injection depth waiver requirements from the Code of Federal Regulations were promulgated after the existing Chapter 24 was adopted by the State.

10(d)

Entity: Ms. Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn noted that the usage of “administrator” is confusing in the context of the passage. She requested that WDEQ/WQD revise the passage to clearly identify whether the “administrator” is the US EPA regional administrator or the administrator of the Water Quality Division.

Response: WDEQ/WQD revised the chapter as requested.

Section 11

11(a)(i)(B)(II)

Entity: Ms. Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn noted that the passage is worded in a confusing manner. She requested that WDEQ/WQD revise the passage to include a comma after “temperature log.”

Response: WDEQ/WQD revised the chapter as requested.

11(e)(i)

Entity: Vice-Chairman Dave Applegate, Water and Waste Advisory Board

Comment: Mr. Applegate opposed the proposed revision to the passage, because he believes it is impossible for an operator to give 30 days’ notice once the well is spudded. After considering the federal language of 40 CFR 146.87 (f), Mr. Applegate requested that WDEQ/WQD adopt the federal passage verbatim.

Response: WDEQ/WQD revised the chapter as requested.

Section 12

12(h)(i)(C)

Entity: Chairwoman Marge Bedessem, Water and Waste Advisory Board

Comment: Ms. Bedessem pointed out that the strike and underline version of the chapter was missing stricken language for 12(h)(i)(C).

Response: WDEQ/WQD corrected the strike and underline version to show that “of discovery” has been stricken.

Section 18

18(b)

Entity: Chairwoman Marge Bedessem, Water and Waste Advisory Board

Comment: Ms. Bedessem noted that it seems inconsistent that EPA recommended the revision which states “may endanger drinking water” but did not recommend revising the rest of the passage to “may threaten human health, safety or the environment.”

Response: WDEQ/WQD reviewed this passage. The language in the passage is not a direct quote of 40 CFR 146.94. For consistency, we have revised the passage to state “may endanger a USDW or may threaten human health, safety, or the environment...”

Section 19

Entity: Vice-Chairman Dave Applegate, Water and Waste Advisory Board

Comment: Mr. Applegate noted the financial assurance section is complex and will be challenging to implement. He believes it leaves uncertainty for the regulated community.

Response: WDEQ/WQD agrees that the financial assurance requirements are complex. WDEQ/WQD has not yet received comments or suggestions from the regulated community. As Mr. Tillman explained, the financial assurance requirements incorporate language from 40 CFR 146.85, from W.S 35-11-313, and recommendations from the Carbon Sequestration Working Group.. As carbon sequestration transitions from experimental to practical, WDEQ/WQD is committed to future revisions of the rule, as needed.

19(d)

Entity: Ms. Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn noted that the passage is worded in a confusing manner. She requested that WDEQ/WQD revise the passage to state “The submission requirements for the financial responsibility instruments are based on results of the cost estimate.”

Response: WDEQ/WQD revised the chapter as requested.

19(d)(ii)

Entity: Ms. Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn noted that “or evaluated” is redundant. She requested that WDEQ/WQD revise the passage to state “The Risk Activity matrix in Appendix A shall be considered during the risk assessment process.”

Response: WDEQ/WQD revised the chapter as requested.

19(d)(iii)(B)

Entity: Ms. Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn noted that the passage is worded in a confusing manner. She requested that WDEQ/WQD revise the passage to state “For all cases of potential damages, the probability distributions should be identified for 50 percent, 95 percent, and 99 percent probabilities of occurrence.”

Response: WDEQ/WQD revised the chapter as requested.

19(k)(ii)

Entity: Ms. Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn opposed the inclusion of the phrase “or present a risk.” She requested that WDEQ/WQD revise the passage to state “will not harm human health, safety, environment, or drinking water supplies.”

Response: WDEQ/WQD revised the chapter as requested.

Appendix A

Entity: Chairwoman Marjorie Bedessem, Ms. Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn requested that WDEQ/WQD correct formatting and grammar errors.

Response: WDEQ/WQD revised the chapter as requested.

Entity: Ms. Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn noted that provisions in the table related to contributing causes are inconsistently worded. She requested that WDEQ/WQD revised those provisions to “Address also contributing causes...”

Response: WDEQ/WQD revised the chapter as requested.

Entity: Ms. Lorie Cahn, Water and Waste Advisory Board

Comment: Ms. Cahn requested that WDEQ/WQD revise item 4 to include human and ecological receptors so that the applicant understands what they are supposed to address.

Response: WDEQ/WQD revised the chapter as requested.