

Section 35-11-302(a) of the Act states that the administrator, after receiving public comment and after consultation with the advisory board, shall recommend to the director rules, regulations, standards and permit systems to promote the purposes of this act. Such rules, regulations, standards and permit systems shall prescribe:

(viii) Financial assurance requirements for plugging, abandonment, post-closure monitoring, corrective actions, if required, and site reclamation for any class I hazardous waste or nonhazardous waste underground injection facility or class V coalbed methane underground injection facility described in 40 C.F.R. Part 146. Rules, regulations, standards and permit systems recommended and prescribed under this paragraph shall apply only to any permit issued, renewed or transferred after July 1, 2018, under department of environmental quality regulations for a class I hazardous waste or nonhazardous waste underground injection facility or class V coalbed methane underground injection facility;

SUMMARY OF PROPOSED REVISIONS TO CHAPTER 27, SECTION 19

Since 2014, the Department of Environmental Quality, Water Quality Division (Division) has worked to address the burden of closure, post-closure, plugging and abandonment, and reclamation of CBM produced water injection facilities that were orphaned due to declining revenues. In order to prevent the State from bearing the burden of future reclamation and decommissioning costs in the case of operator default, the Wyoming Legislature enacted Enrolled Act Number 2 (SEA002) in 2018. SEA002 directs the Division to revise Chapter 27 to include financial responsibility requirements of UIC Class V coalbed methane produced water injection facilities that are permitted, renewed, and transferred after July 1, 2018. SEA002 also clarifies the existing financial responsibility requirements of UIC Class I hazardous and non-hazardous well facilities.

Subsection (a) Changed “operator” to “permittee” to be consistent with usage throughout the rest of the section. Removed “by the submission of a surety bond, or other adequate assurance such as financial statements or other materials acceptable to the administrator” as the passage is redundant to the requirements in subsection (g).

(b) Moved the passage previously located at subsection (b) to subsection (e). At subsection (b), added a new paragraph and subparagraphs to explain the effective date of the applicability for Class I hazardous waste and non-hazardous waste underground injection facilities and Class V coalbed methane produced water underground injection facilities; added a cross-reference to the Act that authorizes the rule; established deadlines for submission of financial assurance; and added a cross-reference to 40 CFR 144.51(n) for facilities affected by a well conversion.

(c) Moved the passage previously located at subsection (c) to subsection (f). At subsection (c), added the requirement of a written cost estimate in order to ensure that the proper procedure is followed by the permittee and the Division; added a list of activities to be included in the cost estimate; added differentiated annual deadlines for revising the decommissioning and reclamation cost estimate based on the well class type; added a requirement of a revision of the cost estimate in the case of a change in the plan; and added a provision for Class I hazardous waste wells to maintain stringency with 40 CFR 144.62(a).

(d) Added requirements for the permittee to keep cost estimates at the facility in order that the owner/operator has access to and verifies the facility components that are covered under financial responsibility.

(e) The passage formerly located at subsection (b) was relocated to subsection (e) and was not edited further.

(f) The passage previously located at subsection (c) was moved to subsection (f) and was edited to correct a grammar error.

(g) Subsection (j) was added and new passage was added to clarify that permittees shall establish financial assurance from the options in new paragraphs (i) through (vi). The instruments listed are consistent with Department policies concerning acceptable financial instruments.

(h) The passage formerly located at subsection (d) was relocated to new subsection (h). The passage was edited to include all activities in the cost-estimate and was edited to correct a formatting error.

(i) The passage formerly located at subsection (e) was relocated to new subsection (i). Changed “operator” to “permittee” to be consistent with usage throughout the rest of the section, and corrected the reference to the Code of Federal Regulations.

The Council finds that these regulations are reasonable and necessary to accomplish the policy and purpose of the Act, as stated in W.S. 35-11-102, and that they have been promulgated in accordance with rulemaking provisions of the Wyoming Administrative Procedures Act.

Dated this 6th day of November, 2018.

Meghan Lally
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