

**BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

IN THE MATTER OF REVISIONS TO)	
WATER QUALITY RULES AND)	STATEMENT OF
REGULATIONS, CHAPTER 24)	PRINCIPAL REASONS
CLASS VI INJECTION WELLS)	FOR ADOPTION
AND FACILITIES)	

INTRODUCTION

The Environmental Quality Council, pursuant to the authority vested in it by Wyoming Statutes § 35-11-112 (a)(i) has adopted revisions to the following chapter of the Wyoming Water Quality Rules and Regulations: Chapter 24, Class VI Injection Wells and Facilities .

Section 35-11-302 (a) of the Environmental Quality Act (the Act) establishes that “[t]he 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:

“(iii) Standards for the issuance of permits for construction, installation, modification or operation of any public water supply and sewerage system, subdivision water supply, treatment works, disposal system or other facility, capable of causing or contributing to pollution.

“(vi) In recommending any standards, rules, regulations, or permits, the administrator and advisory board shall consider all the facts and circumstances bearing upon the reasonableness of the pollution involved including:

“(A) The character and degree of injury to or interference with the health and well being of the people, animals, wildlife, aquatic life and plant life affected;

“(B) The social and economic value of the source of pollution;

“(C) The priority of location in the area involved;

“(D) The technical practicability and economic reasonableness of reducing or eliminating the source of pollution; and

“(E) The effect upon the environment.”

Section 35-11-313 (f) of the Act establishes that “[t]he administrator of the water quality division of the department of environmental quality, after receiving public comment and after consultation

with the state geologist, the Wyoming oil and gas conservation commission and the advisory board created under this act, shall recommend to the director rules, regulations and standards for:

“(i) The creation of subclasses of wells within the existing Underground Injection Control (UIC) program administered by the United States Environmental Protection Agency under Part C of the Safe Drinking Water Act to protect human health, safety and the environment and allow for the permitting of the geologic sequestration of carbon dioxide;”

SUMMARY OF PROPOSED REVISIONS TO CHAPTER 24

Water Quality Rules and Regulations Chapter 24 governs the construction, operation, and closure of Class VI wells for the purposes of geologic sequestration. Chapter 24 is based upon federal requirements under the Safe Drinking Water Act for underground injection of carbon dioxide (CO₂) for the purpose of geologic sequestration, located in the Code of Federal Regulations (CFR) at 40 CFR Parts 124, 144, 145, 146, and 147.

Proposed revisions to Chapter 24 include adding or editing passages for consistency with the CFR, removal of passages that are redundant to the Act, and the correction of formatting inconsistencies, grammatical, and capitalization errors.

Section 1. Authority and Purpose.

- Updated the statute cross-reference and corrected formatting inconsistencies.

Section 2. Definitions.

- Removed definitions already defined in the Act and added the appropriate statutory cross-reference.
- Added definitions for consistency with Water Quality Rules and Regulations Chapter 27.
- Added definitions for consistency with 40 CFR §§ 144.3, 146.3, and 146.81.
- Renumbered as needed.
- Corrected formatting and grammatical errors.

Section 3. Applicability.

- Corrected formatting inconsistencies.
- At paragraph (b)(i), combined paragraph (A) with (b)(i) and removed (A) to correct a formatting error.
- At paragraph (b)(ii), corrected cross-reference.
- At paragraph (c), removed statements that were redundant to the Act.
- At paragraph (e), added a passage for consistency with 40 CFR § 144.35(a).
- At paragraph (f), added a passage for consistency with 40 CFR § 146.84(b), § 146.85(b), § 146.90, § 146.92(b), § 146.93(a), and § 146.94(a),

Section 4. Permits Required; Processing of Permits; and Requirements Applicable to All Permits.

- Updated the section title by correcting a capitalization error for consistency with the Secretary of State's Rules on Rules for State Agencies.
- Corrected formatting, capitalization, and grammatical errors.
- At paragraph (a)(vii), edited the passage for clarity and consistency with 40 CFR § 144.36(a).
- At paragraphs (a)(viii) and (a)(ix), revised statute references for more specificity.
- At paragraph (b)(i), revised the description of required copies to reflect current Division practices.
- At paragraph (b)(ii), added a passage for consistency with 40 CFR § 144.31(d).
- At paragraph (b)(iv), added paragraphs (A) and (B) for consistency with 40 CFR § 124.6(b).
- At paragraph (b)(v), clarified paragraphs (B) and (C).
- Removed paragraph (b)(vi) due to redundancy to the Act.
- Removed paragraph (b)(vii) due to redundancy to Section 3(f).
- At paragraph (b)(vii)(A) and (B), added passages for consistency with 40 CFR § 124.6(b).
- At paragraph (b)(viii), edited for grammatical consistency with the section, corrected the cross-references at paragraph (D) and (E), and added passages for consistency with 40 CFR § 144.39(b)(3) and § 144.39(c).
- At paragraph (b)(ix), added the passage for consistency with 40 CFR § 144.39(b)(3) and § 144.39(c).
- At paragraph (b)(x)(F), edited the cross-reference added a cross-reference for consistency with 40 CFR § 144.52(a)(1).
- corrected the title to the Department of Environmental Quality Rules of Practice and Procedure.
- At paragraph (b)(xii), updated the cross-reference from Section 5 to Section 4.
- At paragraph (b)(xii)(A), renumbered to (b)(xiii) to correct a formatting error.
- At paragraph (b)(xvii)(D), added a passage for consistency with 40 CFR § 144.38(a).
- At paragraph (c)(i) and (c)(i)(A), added passages for consistency with 40 CFR § 144.51.
- At paragraph (c)(i)(E), added clarification for consistency with 40 CFR § 144.51(e).
- At paragraph (c)(i)(I), separated inspection requirements into separate subdivided passages (1.)-(5.), and added clarification for consistency with 40 CFR § 144.51(i)(3-4).
- At paragraph (c)(i)(J), added additional subdivided passages (1.)-(3.) for consistency with 40 CFR § 144.54(a)-(c).
- At paragraph (c)(i)(L), corrected cross-references.
- At paragraph (c)(i)(R), added language, reorganized, added paragraph (III), and renumbered paragraphs for consistency with 40 CFR § 144.51(l)(6) and Chapter 24, Section 18(b).

- At paragraph (c)(i)(W), added additional subdivided passages (I)-(III) for consistency with 40 CFR § 144.51(m).
- At paragraph (c)(i)(Y), added additional subdivided passages (I) and (II) for consistency with 40 CFR § 144.51(q)(2).
- At subparagraph (c)(i)(AA), combined the passage formerly located at (I) with (AA) and clarified in order to correct a formatting error.
- Added new paragraph (c)(i)(BB) and subdivided passages (I)-(VII)(4.) for consistency with 40 CFR § 144.52(a)(1).
- Added new paragraph (c)(i)(CC) and subdivided passages (I)-(III) for consistency with 40 CFR § 144.53(a).
- At paragraph (c)(ii), added a passage for consistency with 40 CFR § 144.12(b).
- Added new paragraph (c)(iii) for consistency with 40 CFR § 144.52(b)(1).
- Added new paragraph (c)(iv) for consistency with 40 CFR § 144.52(b)(2-3).
- Added new paragraph (d) for consistency with 40 CFR § 144.35(c).

Section 5. Permit Application.

- Updated the section title by correcting a capitalization error for consistency with the Secretary of State’s Rules on Rules for State Agencies.
- Capitalization, spelling, formatting, punctuation, and grammatical errors were corrected.
- At paragraph (b)(v)(E), added a passage for consistency with 40 CFR § 146.82(a)(1) and renumbered the remaining paragraphs.
- At paragraph (b)(vi)(C), added a passage for consistency with 40 CFR § 146.82(a)(2).
- At paragraph (b)(viii), added clarification for consistency with similar phrasing elsewhere in the chapter.
- At paragraph (b)(ix)(D), changed “reservoir” to “capillary” for consistency with 40 CFR § 146.82(a)(3)(iii) and removed redundancies in the remaining passage.
- At paragraph (b)(xviii), combined the passage formerly located at (A) with paragraph (xviii) to correct a formatting error.
- At paragraph (b)(xxxiv), edited for consistency with the rest of the chapter and corrected the cross-references.
- At paragraph (b)(xxviii), combined the passage formerly located at (A) with (xxviii) to correct a formatting error.
- At paragraph (b)(xxviii)(A)(I), moved the passage to Section 16(b) as it fits more appropriately in Section 16.
- At paragraph (b)(xxix), removed the passage as Wyoming will not be allowing alternative post-injection site care that is outlined in the CFR. Renumbered remaining paragraphs.
- At paragraph (c), added new passages through (c)(ii)(B)(IV) and renumbered the remaining paragraphs. The new passages are consistent with 40 CFR § 144.7(d).

- At paragraph (d), edited for consistency with the rest of the chapter and corrected the cross-references.
- At paragraph (e)(i-iii), corrected cross-references.
- At paragraph (e)(v), removed the reference to alternative post-injection site care due to irrelevance.
- At paragraph (e)(vi), renumbered to (f) for consistency with 40 CFR §146.82(d).
- At paragraph (h)(iii), added passages (A) and (B) for consistency with 40 CFR § 144.32(a)(3)(i-ii).
- Added new paragraph (h)(iv) and subdivisions (A)-(C) to paragraph (g) for consistency with 40 CFR § 144.32(b).
- Added new paragraph (h)(v) for consistency with 40 CFR § 144.32(c).
- At paragraph (j), removed a redundancy.

Section 6. Prohibitions.

- At paragraph (a), added paragraph (iv) for consistency with 40 CFR §144.12(a).
- At paragraph (b), added a new paragraph for consistency with 40 CFR § 144.12(b).
- At paragraph (e), added a passage and clarified the existing language for consistency with 40 CFR § 144.7(a).

Section 7. Minimum Criteria for Siting Class VI Wells.

- Updated the section title by correcting capitalization errors for consistency with the Secretary of State's Rules on Rules for State Agencies.
- At paragraph (a), a capitalization error was corrected.

Section 8. Area of Review Delineation and Corrective Action.

- Updated the section title by correcting capitalization errors for consistency with the Secretary of State's Rules on Rules for State Agencies.
- Capitalization and formatting errors were corrected.
- At paragraph (a), combined the passage formerly located at (a)(i) with the remainder of (a) to correct a formatting error.
- At paragraph (b)(ii), corrected cross-references.
- At paragraph (c)(ii)(B), added a passage for consistency with 40 CFR § 146.84(c)(1)(ii).
- At paragraph (c)(iv)(B), added a passage for consistency with 40 CFR § 146.84(c)(3).
- At paragraph (d), edited the passage for consistency with the rest of the chapter and corrected cross-references.

Section 9. Construction and operation standards for Class VI wells.

- Updated the section title by correcting capitalization errors for consistency with the Secretary of State’s Rules on Rules for State Agencies.
- Capitalization errors were corrected.
- At paragraph (b)(iii)(E), changed “composition” to “corrosiveness” for consistency with 40 CFR § 146.86(b)(1)(v).

Section 10. Class VI Injection Depth Waiver Requirements.

- Capitalization, grammatical, spelling, and formatting errors were corrected.
- At paragraphs (a)(i-ii), removed extraneous punctuation and verbiage for consistency with the rest of the chapter.
- At paragraph (d)(ii), clarified the official in question is the US EPA Regional Administrator for consistency with 40 CFR § 146.95(d)(2).
- At paragraph (f)(iii), corrected cross-references and edited to clarify the responsibility of the owner or operator to conduct testing.

Section 11. Logging, Sampling, and Testing Prior to Injection Well Operation.

- Updated the section title by correcting capitalization errors for consistency with the Secretary of State’s Rules on Rules for State Agencies.
- Capitalization, numbering, and formatting errors were corrected.
- At paragraph (a), combined the passage formerly located at (a)(i) with (a) to correct a formatting error.
- At paragraph (a)(ii)(B) clarified the passage for consistency with 40 CFR § 146.87(a)(3)(ii).
- At paragraph (a)(iv)(B) changed “diagnostic tools” to “a tracer survey” for consistency with 40 CFR § 146.87(a)(4)(ii) .
- At paragraph (c), removed a statement for consistency with 40 CFR § 146.87(c).
- At paragraph (d), removed a statement for consistency with 40 CFR § 146.87(d). Also restructured (d) and paragraphs (i-iii) for clarity.
- Added a new passage at paragraph (d)(iv) for consistency with 40 CFR § 146.87(d)(2) and (3).
- At paragraph (e), combined the passage formerly located at (i) with paragraph (e) and edited for consistency with 40 CFR § 146.87(f).

Section 12. Injection Well Operating Requirements.

- Updated the section title by correcting capitalization errors for consistency with the Secretary of State’s Rules on Rules for State Agencies.
- Capitalization and formatting errors were corrected.

- Reorganized paragraphs (a), (c), (h) and subparagraphs to correct formatting.

Section 13. Mechanical Integrity.

- Updated section title by correcting capitalization errors for consistency with the Secretary of State’s Rules on Rules for State Agencies.
- Capitalization and formatting errors were corrected.
- At paragraph (e), corrected “US EPA Regional Administrator” to “US EPA Administrator” for consistency with 40 CFR § 146.89(e). Combined the passage formerly located at (e)(i) with (e) to correct a formatting error.

Section 14. Testing and Monitoring Requirements.

- Updated the section title by correcting capitalization errors for consistency with the Secretary of State’s Rules on Rules for State Agencies.
- Capitalization, grammatical, and formatting errors were corrected.
- At paragraph (a), removed paragraph (a)(i) as it is redundant to the statement at 3(f). Reorganized remaining passages into (a) to correct a formatting error.
- At paragraph (b)(i)(C), removed a passage due to redundancy to the statute.
- At paragraph (b)(iv)(C), removed part of the passage for consistency with 40 CFR § 146.90(c)(3).
- At paragraph (b)(v), revised passage for consistency with 40 CFR § 146.90(d).
- At paragraph (b)(v)(B), corrected cross-references.
- At paragraph (b)(vii), removed part of the passage for consistency with 40 CFR §146.90(f).
- At paragraph (b)(ix)(A), clarified for consistency with 40 CFR § 146.90(h)(1).
- At paragraph (b)(x), corrected cross-references.
- At paragraph (b)(xi), corrected cross-references.
- At paragraph (c), added a new paragraph and paragraphs (i) and (ii) for consistency with 40 CFR § 144.51(j)(2) and § 144.51(j)(2)(i-ii).
- At paragraph (d), added a new paragraph and paragraphs (i)-(vi) for consistency with 40 CFR § 144.51(j)(3).

Section 15. Reporting Requirements.

- Updated the section title by correcting capitalization errors for consistency with the Secretary of State’s Rules on Rules for State Agencies.
- Capitalization and formatting errors were corrected.
- Combined paragraph (b) with paragraph (a) for clarity.
- At paragraph (f), revised for consistency with the rest of the chapter.

Section 16. Injection Well Plugging.

- Updated the section title by correcting capitalization errors for consistency with the Secretary of State's Rules on Rules for State Agencies.
- Capitalization, formatting, and numbering errors were corrected.
- At paragraph (b), added a passage formerly located at Section 5(b)(xxvii)(A)(I) for clarification and added passage formerly located at 16(b)(ii) to correct a formatting error.
- At paragraph (b)(i) removed passage for redundancy with Section 3(f).
- At paragraph (v), combined the passage formerly located at (I) to correct a formatting error.

Section 17. Post-injection Site Care and Site Closure.

- Capitalization, grammatical, and formatting errors were corrected.
- At paragraph (a), removed passage for redundancy with Section 3(f).
- At paragraph (a)(i), added a passage for consistency with 40 CFR § 146.93(c).
- At paragraph (a)(ii)(A), added a new passage for consistency with 40 CFR § 146.93(c) and renumbered remaining paragraph.
- At paragraph (a)(ii)(B), added a passage formerly located at Section 19(k)(ii) as it fit more appropriately in Section 17.
- Added new paragraphs (a)(ii)(H)-(S) for consistency with 40 CFR § 146.93(c)-(c)(2).
- At (a)(iii), added a new passage and new paragraphs (A)-(H) for consistency with 40 CFR § 146.93(c)-(c)(2) and renumbered remainder of the paragraph.
- At paragraph (a)(iv), reorganized subparagraphs to correct a formatting error.
- At paragraph (b)(vi), added a passage formerly located at Section 19(k)(i) 146.85(a)(5)(ii).
- At paragraph (f), added the passage formerly located at (i) and reorganized to correct a formatting error.

Section 18. Emergency and Remedial Response.

- Updated section title by correcting capitalization errors for consistency with the Secretary of State's Rules on Rules for State Agencies.
- Capitalization, formatting, and grammatical errors were corrected.
- At paragraph (a), removed part of passage due to redundancy with Section 3(f).
- At paragraph (b)(iii) and (b)(iv), added passages and clarified notification for consistency between 40 CFR § 146.94(b)-(b)(3) and Wyoming Statute § 35-11-313.
- Removed paragraph (d) due to redundancy with Section 15(a)(iv)(A).

Section 19. Financial Responsibility.

- Updated the section title by correcting capitalization errors for consistency with the Secretary of State's Rules on Rules for State Agencies.
- Capitalization, cross-reference, and formatting errors were corrected.

- At paragraph (b)(ii), added a new passage monitoring and testing requirement to ensure coverage for all phases of the geologic sequestration project and renumbered remaining paragraphs.
- At paragraph (b)(iii), added language for consistency with 40 CFR § 146.85(a)(2)(ii).
- At paragraph (b)(iv), added language for consistency with 40 CFR § 146.85(a)(2)(iii).
- Removed paragraph (c) due to redundancy with Section 3(f) and renumbered remaining section.
- At new paragraph (c), added section references in order to clarify the location within the chapter of the estimate requirements, added passages for consistency with 40 CFR § 146.85(c).
- At paragraph (f), added a new passage for consistency with 40 CFR § 146.85(a) and renumbered remaining section.
- At paragraph (g), clarified passage for consistency with 40 CFR § 146.85(a)(1).
- At paragraph (g)(iv)(A-B), reorganized the text to correct a formatting error.
- At paragraph (h), added a new passage for consistency with 40 CFR § 146.85(a)(2).
- At paragraph (j)(iii), corrected passage for consistency with the rest of the chapter.
- At paragraph (j)(vi), corrected the passage for consistency with the rest of the chapter.
- Moved paragraphs (l)(i) and (l)(ii) to Section 17 for a more appropriate fit.

Section 20. Public Participation, Public Notice and Public Hearing Requirements.

- Updated section title by correcting capitalization errors for consistency with the Secretary of State's Rules on Rules for State Agencies.
- Capitalization and formatting errors were corrected.
- Removed paragraph (a) for redundancy to Section 4.
- At paragraph (c)(i) and (c)(i)(K-M) clarified and added requirements for consistency with 40 CFR § 124.10(e).
- At paragraphs (d)(iv)-(vi), added new passages for consistency with 40 CFR § 124.8(b) and renumbered remaining paragraphs.
- At new paragraph (d)(viii), clarified and added passages (A)-(D) for consistency with 40 CFR § 124.8(b)(6).
- Removed the passage formerly at paragraph (h) due to redundancy to the Act.
- At paragraph (k)(ii), removed "legitimate" to clarify that the Water Quality Division will consider all comments voicing a technical or regulatory concern.
- At paragraph (o), corrected the title to the Department of Environmental Quality Rules of Practice and Procedure.

Appendix A. Risk Activity Table

- A spelling error was corrected.

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

Dated this 19 day of November, 2019.

David M. Bagley
Hearing Examiner – *Printed Name*
Wyoming Environmental Quality Council

David M. Bagley
Hearing Examiner – **Signed Name**
Wyoming Environmental Quality Council