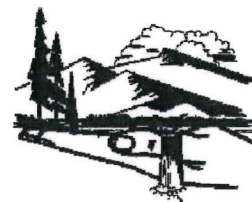




Department of Environmental Quality

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



Mark Gordon, Governor

Todd Parfitt, Director

MEMORANDUM

TO: Matt VanWormer, Wyoming Senior Assistant Attorney General

FROM: Luke Esch, Solid and Hazardous Waste Division Administrator *LE*

DATE: April 8, 2021

PRIORITY: HIGH – Deadline for response is April 22, 2021

SUBJECT: Request for review of proposed rules for statutory authority

The Department of Environmental Quality, Solid and Hazardous Waste Division (SHWD) is proposing to revise Solid Waste Rules and Regulations Chapter 1, General Provisions and Chapter 7, Financial Assurance.

SHWD proposed revisions to Chapter 1 that not only revise defined terms that are used in the rules but also clarifies the permit application format, the permit application procedure, the public notice and comment procedure, and restructures passages in the Chapter for clarity. The proposed revisions to Chapter 7 modernize the financial assurance regulations, retain all financial instruments for use now and into the future, diversify the financial assurance portfolios, provide for immediate cash needs in the event of forfeiture, and ultimately reduce the reclamation liability risk to the State of Wyoming. The revisions also clarify the requirements for closure, post-closure, and corrective action cost estimates; clarify the requirements to participate in the State Guarantee Trust Account; and restructures passages in the Chapter for clarity.

SHWD presented the proposed revisions to the Water and Waste Advisory Board (Board) during their March 23, 2021 meeting and the Board recommended the adoption of revisions to both chapters to the Environmental Quality Council. SHWD has reviewed the requirements of Wyoming Statute § 35-11-503(a) of the Wyoming Environmental Quality Act and has determined this rulemaking to be in procedural compliance with the statute. SHWD has reviewed and responded to the Takings Checklist provided by the Attorney General's Office. SHWD 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 attached a copy of the draft memo to Governor Gordon, a copy of the draft Statement of Principal Reasons for Adoption, copies of Chapter 1 and Chapter 7 in strike and underline and clean formats, and a response to the Attorney General's Takings Checklist. If you have any questions or need additional information regarding the proposed rules please do not hesitate to contact me or Suzanne Engels 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

Matt VanWormer
Signature: Matt VanWormer

4-8-21
Date