

**Proposed Revisions to Water Quality Rules and Regulations, Chapter 24, Class VI  
Injection Wells and Facilities, Underground Injection Control Program**

**Environmental Protection Agency Review and WDEQ Response**



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## Introduction

The Environmental Protection Agency (EPA) Region 8 reviewed the proposed non-substantial program revisions to Water Quality Rules Chapter 24, Class VI Injection Wells and Facilities to ensure the revisions proposed by the Department of Environmental Quality, Water Quality Division (WDEQ/WQD) maintain stringency with the Code of Federal Regulations. WDEQ/WQD summarized the feedback received from EPA Region 8 in the July 22, 2021 document that identified our responses, noting the passages where WDEQ/WQD proposes to make additional clarifying non-substantive revisions to Chapter 24.

EPA Region 8 requested additional consideration of the passages noted below. WDEQ/WQD proposes to make additional clarifying non-substantive revisions to address these additional items.

## Comments and Responses

### Section 4

#### 4(c)

**EPA Region 8:** EPA noted concern that WDEQ is missing the language in 40 CFR § 124.6(b): “If the Director’s final decision (§ 124.15) is that the tentative decision to deny the permit application was incorrect, he or she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (d) of this section.” EPA is concerned that the proposed rules do not explicitly require the WDEQ/WQD to withdraw the notice of intent (NOI) to deny and then proceed to prepare a draft permit as noted in 40 CFR § 124.6(b) and that the proposed rules do not prevent a permit from being issued as the final decision if WDEQ/WQD changes its mind between a notice of intent to deny and the final decision, and makes the proposed rules less stringent.

**Department Response:** WDEQ/WQD will add the following language as a new subsection (c) under Section 4: “If the Director tentatively decides to deny the permit application, he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit that follows the same procedure as any draft permit prepared under this section. If the Director's final decision is that the tentative decision to deny the permit application was incorrect, he or she shall withdraw the notice of intent and proceed to prepare a draft permit under this section.

WDEQ/WQD will renumber the subsequent subsections in Section 4 accordingly.

## **Section 9 and Section 26**

*9(b)(xxii) and Section 26(h)(iii)*

**EPA Region 8:** EPA noted concern that the proposed rules are missing two provisions that require financial responsibility (FR) be maintained until:

40 CFR § 144.52(a)(7)(i)(B) (See also § 145.11(a)(20)). The well has been converted in compliance with the requirements of §144.51(n); or

40 CFR § 144.52(a)(7)(i)(C) (See also § 145.11(a)(20)). The transferor of a permit has received notice from the Director that the owner or operator receiving transfer of the permit, the new permittee, has demonstrated financial responsibility for the well.

EPA requests that these permit condition provision must be included in all UIC permits when applicable to the activity. EPA noted concern that omitting these provisions from the proposed rules raises a procedural fairness issue for permittees and would not provide a way for an operator requesting conversion or transfer to be released from FR obligations when a well has been converted or transferred to another operator.

EPA requested that WDEQ/WQD revise the proposed chapter to include both § 144.52(a)(7)(i)(B) and (C) to direct an owner/operator to maintain FR until specified events occur; and to require these provisions be included as permit conditions.

**Department Response:** WDEQ/WQD proposes to add the following language as a new subsection (ii) under Section 26(h): “The well has been converted in compliance with the requirements of Section 9(b)(xxii) of this Chapter; or ...”

With the addition of the above language, WDEQ/WQD will revise Section 9(b)(xxii) as follows to clarify conversions: “A requirement that the permittee notifies the Administrator before conversion or abandonment of the facility. Conversion refers to converting a Class VI well to a Class I, II or V well. The permittee shall apply for a permit for Class I and Vas specified in WQR Chapter 27 or Class II through the Wyoming Oil and Gas Conservation Commission. Upon receipt of the Class I, II or V permit, the permittee shall request the permit be terminated as outlined in Section 4(d);

WDEQ/WQD will add the following language as a new subsection (iii) under Section 26(h): “The transferor of a permit has received notice from the Director that the owner or operator receiving transfer of the permit, the new permittee, has demonstrated financial responsibility for the well.

Subsequent subsections in Section 26(h) will be renumbered accordingly.