



# 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:** Suzanne Engels, Solid and Hazardous Waste Division Administrator *SE*

**DATE:** February 25, 2022

**PRIORITY:** HIGH – Deadline for response is March 11, 2022

**SUBJECT:** Request for review of proposed rule for statutory authority

The Department of Environmental Quality, Solid and Hazardous Waste Division (SHWD) is proposing Solid Waste Rule (SWR) Chapter 18 Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments.

The proposed Chapter 18 incorporates by reference the national regulations for the disposal of coal combustion residuals in landfills and surface impoundments. These requirements have been finalized under the solid waste provisions, Subtitle D, of the Resource Conservation and Recovery Act, specifically found in the Code of Federal Regulations, Title 40, Part 257, Subpart D. Incorporating these standards by reference ensures that the SWR Chapter 18 meets the federal minimum criteria.

SHWD presented the proposed rule to the Water and Waste Advisory Board (Board) during their June 25, 2019, October 17, 2019, and December 21, 2021 meetings. At the December 21, 2021 meeting, the Board advised the adoption of Chapter 18 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 rule for statutory authority prior to submitting the rule 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 18 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 rule please contact me or Jody Weikart of my staff.

### Attorney General's Response Options:

  *J*   Proposed rule is within the Division's statutory authority, may seek permission to proceed from the Governor's Office

       Proposed rule exceed statutory authority, delay proceeding with rulemaking

  *Matt VanWormer*    
Signature: Matt VanWormer

  02/28/2022    
Date