



Matthew H. Mead, Governor

Department of Environmental Quality

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



Todd Parfitt, Director

MEMORANDUM

TO: James LaRock, Wyoming Assistant Attorney General

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

DATE: January 2, 2018

PRIORITY: **HIGH** – Deadline for response is **January 17, 2018**

SUBJECT: Review request of proposed rules for statutory authority

The Department of Environmental Quality, Solid and Hazardous Waste Division (SHWD) is proposing to move Chapter 17 from Water Quality Division Rules and Regulations to the Solid and Hazardous Waste Division, Storage Tank Program - Chapter 1, Storage Tanks. The Storage Tank Program was moved from the Water Quality Division (WQD) to SHWD during the 2017 legislative session. The proposed revisions: 1) are in response to changes made to the federal law in October 2015 to implement the 2005 Energy Policy Act; 2) address previously deferred tanks that as of October 2015 are no longer deferred by federal law; 3) update and move all standards, publications, and reference full citations to Section 2; 4) include new technologies that were not available when the federal law was written in 1988; 5) remove references to old dates; 6) make editorial, formatting, and technical corrections; 7) provide aboveground storage tank owners and/or operators the option of obtaining financial assurance; and 8) move WQD Chapter 19 (Financial Assurance for Underground Storage Tanks) into this Chapter 1.

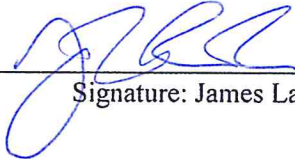
SHWD presented the proposed revisions to the Water and Waste Advisory Board during their December 13, 2017, meeting. At the meeting, the Board recommended adoption of the rules to the Environmental Quality Council. SHWD has reviewed the requirements of 35-11-302(a)(iii) and (iv) of the Wyoming Environmental 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: 1) a copy of the draft memo to Governor Mead, 2) a copy of the draft Statement of Principal Reasons for Adoption, 3) copies of Chapter 1 in strike and underline and clean formats, and 4) a response to the Attorney General's Takings Checklist. If you have any questions or need additional information regarding the proposed rules, please contact me or Karen Halvorsen, STP Manager.

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



Signature: James LaRock

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