

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

**Response to Comments Received by June 25, 2019 Water and Waste Advisory Board
Meeting**



September 12, 2019

Prepared by:

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Water Quality Division

Groundwater Section

Commenters:

United States Environmental Protection Agency (USEPA)
Wyoming Geological Survey
Wyoming Oil and Gas Conservation Commission

Comments and Responses

General

Wyoming Geological Survey: “The Wyoming State Geological Survey has reviewed the proposed revisions for WQRR Chapter 24, Class VI Injection Wells and Facilities Underground Injection Control Program and have no comments for the Water and Waste Advisory Board meeting.”

Department Response: The Department of Environmental Quality, Water Quality Division (WDEQ/WQD) appreciates the review of the Wyoming Geological Survey.

Section 3

3(c)

Wyoming Oil and Gas Conservation Commission: The passages at Section 3(c) and 3(c)(i) are duplicative. The Commission recommended striking the passage at 3(c) and renumbering 3(c)(i) to 3(c).

Department Response: WDEQ/WQD edited the passage as recommended.

Section 4

4(b)(xii)(F)

USEPA: “Chapter 24, Section 4(b) (xii) ... minor modifications may only: (F) Change construction requirements approved by the administrator pursuant to department rules and regulations provided that any such alteration shall comply with the requirements of this chapter.

The federal corollary is: 40 CFR §144.52(a)(1) Changes in construction plans during construction may be approved by the Administrator as minor modifications (§144.41).

The difference is that approval of construction by minor modification is permitted only during construction. Addressing this difference would ensure that the state regulations are as stringent as the federal regulations.”

Department Response: WDEQ/WQD proposes to edit the passage to the following: “Change construction requirements approved by the Administrator pursuant to subparagraphs (c)(i)(BB)(I) through (III) of this section provided that any such alteration shall comply with the requirements of this chapter.”

4(c)(vi)

USEPA: Chapter 24, Section 4.c.(vi) New or reissued permits, and to the extent allowed under Section 4 954 modified or revoked and reissued permits, shall incorporate each of the applicable requirements 955 referenced in Section 4. This appears to cover four conditions: new permits, reissued permits, modified permits and revoked and reissued permits. Since the permit is for the life of the permit and does not expire, it won't expire and require reissuance. When "reissued" is used throughout Chapter 24, it is in the context of revoke and reissue. In order to avoid confusion, we recommend that "reissued permit" be struck out.

Department Response: WDEQ/WQD proposes to remove the first statement of “reissue” in the passage. The passage would now state: “New permits, and to the extent allowed under Section 4, modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in Section 4.”

Section 6

6(a)(iv)

USEPA: “Chapter 24, Section 6.a.(iv) No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 141 or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.

In addition to this section, which mirrors 40 CFR §144.12(a), 144.12(b), which is directly applicable to Class VI wells, is also required. Adding this provision would ensure that the state regulations are as stringent as the federal regulations.”

Department Response: WDEQ/WQD proposes to revise Section 6(a) by adding new paragraph (v):

“(v) If any water quality monitoring of an underground source of drinking water indicates the movement of any contaminant into the underground source of drinking water, except as authorized under this chapter, the Director shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of wells authorized by permit, these additional requirements shall be imposed by modifying the permit in accordance with Section 4 of this chapter, or the permit may be terminated under with Section 4 of this chapter if cause exists, or appropriate enforcement action may be taken if the permit has been violated.”

Section 19

19(d)

USEPA: “Chapter 24, Section 19(d) The owner or operator must demonstrate and maintain financial responsibility by meeting the following requirements: (i) through (iv). Where (i) through (iv) are relating to submission and determination of cost estimates. These actions do not demonstration nor maintain financial responsibility. Rather this section provides detail on what should be included and how to determine the cost estimates. In order to avoid confusion, we recommend that the introduction sentence be rewritten to clarify this.”

Department Response: WDEQ/WQD proposes to revise the section by editing Section 19(b), 19(d), 19(g), 19(h), and 19(i):

(b) Owners or operators of Class VI wells must demonstrate and maintain financial responsibility for all applicable phases of the geologic sequestration project including complete site reclamation in the event of default. The phases of a geologic sequestration project are as follows:

- (i) Permitting/Characterization

(ii) Monitoring and testing, including the requirements of Section 14 of this chapter.

(iii) Operations (injection and permanent well closure activities), including the requirements of Section 16 of this chapter.

(iv) Post-injection site care (“plume stabilization” – monitoring until certified by the Administrator; above ground reclamation completed.), including the requirements of Section 17 of this chapter.

(d) The owner or operator must submit a detailed written estimate, at the time of permit application and updated annually in accordance with paragraph (k)(iii) below, in current dollars, that includes the cost of performing corrective action on wells in the area of review that meets the requirements of Section 8 of this chapter; plugging the injection well(s) that meets the requirements of Section 16 of this chapter; post injection site care and site closure that meets the requirements of Section 17 of this chapter; monitoring activities that meets the requirements of Section 14 of this chapter; and emergency and remedial response that meets the requirements of Section 18 of this chapter.

(g) The owner or operator must demonstrate and maintain financial responsibility as determined by the Administrator that meets the conditions of this section.

(h) The financial responsibility instrument(s) used shall be from the following list of qualifying instruments:

- (i) Trust Funds
- (ii) Surety Bonds
- (iii) Letter of Credit
- (iv) Insurance

(A) Any insurance instruments submitted for financial assurance purposes shall include State of Wyoming as an additional insured, which inclusion shall not be deemed a waiver of sovereign immunity.

(v) Self-insurance (i.e., Financial Test and Corporate Guarantee)

(vi) Escrow account

(vii) Any other instrument(s) satisfactory to the Administrator

(i) The qualifying instrument(s) must be sufficient to cover the cost of the estimate required in subsection (d) of this section.