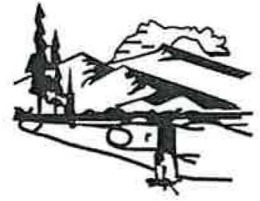




Mark Gordon, Governor

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: David Dewald, Senior Assistant Attorney General

FROM: Kyle Wendtland, Administrator, Land Quality Division *KW 11/29/22*

DATE: November 29, 2022

PRIORITY: HIGH – Deadline for response is December 13, 2022

SUBJECT: Request for review of proposed rules for statutory authority

Mr. Dewald:

The Department of Environmental Quality, Land Quality Division (LQD) is proposing to promulgate revisions to Noncoal Chapter 2 – Regular Noncoal Mine Permit Applications and Chapter 9 – Permit Application Requirements for Small Mining Operations. The proposed revisions to Chapters 2 and 9 are intended to comply with House Bill, HB0123 (2022) requiring LQD to promulgate rules to detail requirements for operators to use inert materials as backfill at noncoal mining operations. The LQD Advisory Board reviewed Chapters 2 and 9 during meetings held on June 23, 2022, and September 22, 2022. The proposed rules were brought before the Board a second time after the initial scoping meeting in June. The Board recommended the rules proceed to formal rulemaking before the Environmental Quality Council. The LQD is 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.

Attached you will find a copy of the draft rules, the takings analysis and a draft memo to the Governor seeking permission to proceed to formal rulemaking. If you have any questions or need additional information regarding the proposed rules please do not hesitate to contact me.

Attorney General's Response Options:

Proposed Rules are within the Division's statutory authority, Division may seek permission to proceed from the Governor's Office.

Proposed rules exceed statutory authority, delay proceeding with rulemaking

[Signature]
 Signature: David Dewald, Senior Assistant Attorney General

12/2/22
 Date