

**BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

IN THE MATTER OF)
CHAPTER 24, CLASS VI)
UNDERGROUND INJECTION)
CONTROL WELLS, WATER)
QUALITY RULES AND)
REGULATIONS)

DEQ PROPOSED STATEMENT OF PRINCIPAL REASONS

The Department of Environmental Quality, Water Quality Division, pursuant to the authority vested in it by the Environmental Quality Act (the Act), specifically Wyoming statute §35-11-313, proposes to develop and promulgate a new chapter of rules and regulations governing the geologic sequestration of carbon dioxide. Permit requirements for geologic sequestration of carbon dioxide shall be as defined in the proposed rule and regulation. The principal reasons for these new rules include:

Establish an efficient and effective permitting system for the geologic sequestration of carbon dioxide.

In the 2007-2008 legislative session the Wyoming legislature passed House Bill (HB) 0090 that was then signed by the Governor, providing the Water Quality Division of the Department of Environmental Quality with the authority to recommend to the Director, rules and regulations for the creation of a subclass of wells within the existing Underground Injection Control (UIC) program to protect human health, safety, and the environment and to allow for the permitting of the geologic sequestration of carbon dioxide. The legislation also described the requirements for the content of applications for geologic sequestration permits. The law became effective July 1, 2008.

Subsequent to the Wyoming legislation, on July 25, 2008 the US Environmental Protection Agency (US EPA) published a proposed federal regulation in the Federal Register to establish a new class (Class VI) of underground injection wells for the purposes of geologic sequestration, including requirements for the design, construction, operation, post-injection monitoring, and site closure phases associated with geologic sequestration. The purpose of the proposed regulation closely parallels the purpose of Wyoming legislation governing the permitting of carbon sequestration facilities. The US EPA received public comment on the proposed regulation until December 24, 2008 and it is anticipated that the agency will have a final rule promulgated sometime in late 2010 or early 2011.

The proposed regulation (Chapter 24) drafted by the Department of Environmental Quality, Water Quality Division, incorporates the permitting elements contained within the Wyoming legislation at §35-11-313(f)(ii), and also incorporates most of the requirements contained within the proposed US EPA regulation.

Maintaining primacy of the federal Underground Injection Control (UIC) Program.

In 1983, Wyoming made application to the US EPA and received primacy, or authority, to administer the federal Underground Injection Control Program regulations (Part C, Sections 1422 and 1425 of the federal Safe Drinking Water Act (SDWA)) in accordance with state rules and regulations. These regulations require, among other things, that a permit must be obtained in order to inject wastes and other materials into the subsurface through wells. The purpose of the permit is to ensure the protection of groundwater quality, public health, and existing and future groundwater uses.

Currently the Department of Environmental Quality regulates under its existing rules and regulations UIC Class I (hazardous and non-hazardous industrial waste) disposal wells, Class III (in-situ mining) wells, and Class V (inject into useable groundwater) underground injection wells. The Wyoming Oil and Gas Conservation Commission (OGCC) regulates Class II (produced water disposal and enhanced oil/gas recovery) wells. Class IV, hazardous waste disposal wells are no longer allowed under the SDWA, nor Department regulations.

To obtain state primacy of the Underground Injection Control Class VI (carbon sequestration) well permitting program, state rules and regulations must be as stringent as the federal regulations. The Department believes that it is important to proceed with the development of this regulation even though the proposed US EPA rule may not become final for quite some time, if ever. The Department is hopeful that its own proposed regulation, when final, will likely meet most, if not all of the final federal rule requirements, providing Wyoming the opportunity to obtain primacy for regulating Class VI wells with little, if any difficulty, should it elect to do so.

Conclusion.

The Environmental Quality Council (the Council) has determined that the adoption of these rules is necessary to provide the Department of Environmental Quality, Water Quality Division, with adequate authority and flexibility to operate and administer the Class VI UIC well permitting program for the geologic sequestration of carbon dioxide.

EXECUTED THIS _____ DAY OF _____, 2010.

FOR THE ENVIRONMENTAL QUALITY COUNCIL

Chairperson