



Department of Environmental Quality

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

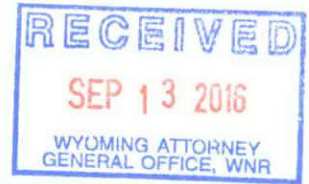


Matthew H. Mead, Governor



Todd Parfitt, Director

MEMORANDUM



TO: Elizabeth Morrisseau, Wyoming Assistant Attorney General
FROM: Nancy E. Vehr, Administrator, Air Quality Division
DATE: September 13, 2016
PRIORITY: HIGH – Deadline for response is September 14, 2016
SUBJECT: Request for Review of Proposed Rules for Statutory Authority (R-27)

The Department of Environmental Quality, Air Quality Division (Division) – on behalf of the Department – is proposing to revise Chapter 2, Ambient Standards, Chapter 3, General Emission Standards, Chapter 4, State Performance Standards for Specific Existing Sources, Chapter 5, National Emission Standards, Chapter 6, Permitting Requirements, Chapter 7, Monitoring Regulations, Chapter 8, Nonattainment Area Regulations, and Chapter 11, National Acid Rain Program, of the Wyoming Air Quality Standards and Regulations (WAQSR). Chapter 2, Section 6, Ambient standards for ozone, is being updated to include the latest ozone National Ambient Air Quality Standards (NAAQS). Chapter 3, Section 3, Emission standards for nitrogen oxides, is being revised to correct an inconsistency regarding internal combustion engines. Chapter 5, Section 2, New source performance standards, is being revised to incorporate from the Code of Federal Regulations (CFR) OOOOa and TTTT (40 CFR part 60) into the WAQSR, and to update subpart OOOO CFR citations in order to incorporate the most recent versions of federal rules. Chapter 6, Section 3, Operating permits, and Chapter 7, Section 3, Compliance assurance monitoring (CAM), are being updated to reflect the Supreme Court's decision in UARG v. EPA, 134 S. Ct. 2427 (2014) regarding greenhouse gas emissions. Chapter 2, Section 12, Chapter 3, Section 9, Chapter 4, Section 6, Chapter 5, Section 4, Chapter 6, Section 14, Chapter 8, Section 10 – all titled 'Incorporation by reference' – and Chapter 11, Section 2, Acid rain program, are being updated to adopt by reference from the CFR for July 1, 2016. Chapter 6, Section 3 and Section 4, Prevention of significant deterioration, and Chapter 7, Section 3, are all additionally being revised to remove an outdated Federal Register citation under the definition of 'tpy CO₂ equivalent emissions (CO₂e),' which will now be incorporated by reference as of July 1, 2016. Finally, Chapter 3, Section 9, Chapter 4, Section 6, Chapter 5, Section 4, and Chapter 11, Section 2 are all being revised to update contact information for the Division.

This rulemaking was reviewed by the Air Quality Advisory Board (AQAB) on September 8, 2016, and the Board recommended that the rules proceed to formal rulemaking before the Environmental Quality Council (EQC) with the guidance that the Division would revise all of the IBR dates from July 1, 2015 to July 1, 2016 prior to the EQC hearing. The Division has incorporated the suggested revisions into the rulemaking package as enclosed.

The Division did not receive written comments during the public process.

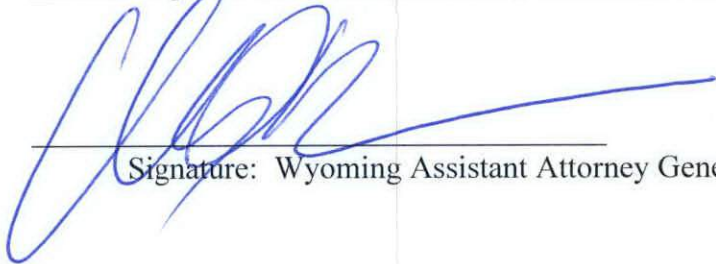
The Division has reviewed the requirements of section 35-11-202(a) and (b) of the Wyoming Environmental Quality Act and determined this rulemaking to be in procedural compliance with the statute. Finally, the Division has reviewed and responded to the Takings Guidelines and Checklist provided by the Attorney General's Office. The Division 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.

Attached, you will find a copy of the draft Notice of Agency Rulemaking, draft Statement of Principal Reasons for Adoption, copies of Chapters 2, 3, 4, 5, 6, 7, 8 and 11 in strike and underline format, and responses to the Attorney General's Takings Checklist. If you have any questions, or need additional information regarding the proposed rules, please do not hesitate to contact me at 307-777-7391 or Amber Potts at 307-777-2489.

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: Wyoming Assistant Attorney General