



# Department of Environmental Quality

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



Mark Gordon, Governor

Todd Parfitt, Director

## Memorandum

**To:** Steve Lenz, Chair, Environmental Quality Council

**From:** Todd Parfitt, Director, Wyoming Department of Environmental Quality

**Date:** January 16, 2024

**Subject:** Proposed Rulemaking Package (R-35)

The Air Quality Division (Division) of the Wyoming Department of Environmental Quality is proposing revisions to the following chapters of the Wyoming Air Quality Standards and Regulations (WAQSR):

- Chapter 2 Ambient Standards
- Chapter 3 General Emissions Standards
- Chapter 4 State Performance Standards for Specific Existing Sources
- Chapter 5 National Emission Standards
- Chapter 8 Nonattainment Area Regulations
- Chapter 11 National Acid Rain Program
- Chapter 14 Emission Trading Program Regulations

The Division is requesting the Environmental Quality Council to review the proposal and to consider the adoption of these rules when you meet on March 27, 2024. The Division is bringing forth essentially the same proposed revisions that were outlined in my October 12, 2023 memo to the Council, with one minor proposed addition, which will be explained momentarily. The original set of proposed revisions were intended for the Council's consideration at the December 5, 2023 hearing. However, because of an unexpected error where the Wyoming Tribune Eagle newspaper accidentally published the Division's public notice on the wrong date, the Division did not fully meet the 45-day public notice statutory requirement and consequently had to withdraw the proposed revisions from the Council's agenda for the December 5, 2023 hearing.

In addition to the originally proposed revisions, which are enumerated hereafter, the Division is updating the Clean Air Act list of Hazardous Air Pollutants in (c)(i)(A) of Chapter 5, Section 3, National Emission Standards for Hazardous Air Pollutants, to include "1-bromopropane (1-BP)." This pollutant was added to the Clean Air Act list through federal rulemaking in 2022 and was accidentally omitted by the Division in the original set of proposed revisions. The Division additionally brings forth all of the originally proposed revisions for the Council's consideration, which are as follows:

In this proposed rulemaking, the Division is updating the date of incorporation of the Code of Federal Regulations (CFR) to July 1, 2023. If the State does not adopt the most recent versions of these sections

by reference, the rules still apply at the federal level. Adopting these national standards into the State rules allows for State implementation of the rules. Additionally, the Division is proposing revisions to Chapter 4 that remove language pertaining to an outdated State plan for Municipal Solid Waste Landfills that has been superseded by a Federal plan. The Division is also proposing revisions to Chapter 5, Section 2, New Source Performance Standards, and Chapter 5, Section 3, National Emission Standards for Hazardous Air Pollutants, that incorporate four subparts from 40 CFR Part 60 and 40 CFR Part 63 that apply to specific subcategories of sources located in the State of Wyoming. Additionally, the Division is proposing revisions to Chapter 5, Section 2 to remove 40 CFR Part 60, subpart TTTT, which pertained to the Clean Power Plan that was overruled by a 2022 U.S. Supreme Court decision, *West Virginia v. EPA*. Finally, the Division is also proposing various non-substantive typographical and formatting edits throughout the chapters.

The proposed revisions to Chapter 2, Section 12, Chapter 3, Section 9, and Chapter 8, Section 10 involve changes to the Wyoming State Implementation Plan (SIP). The Division will submit these SIP revisions to the Environmental Protection Agency after the rules are State effective.

The Division issued a notice for public comment on the proposed rulemaking prior to the July 11, 2023 Air Quality Advisory Board (AQAB) meeting, with the public comment period running from June 9, 2023 to July 11, 2023. There were no comments received on the proposed rules. At the July 11, 2023 meeting, the AQAB recommended that the rules proceed to a formal rulemaking before the Environmental Quality Council.

The enclosed statement of principal reasons and public notice summarize the nature of the revisions. We have enclosed one hard copy of the rule package including:

- Strike and underline copies of all aforementioned chapters (draft dated 9/5/23, with the exception of Chapter 5; draft dated 1/10/24)
- Clean copies of all aforementioned chapters (draft dated 9/5/23, with the exception of Chapter 5; draft dated 1/10/24)
- List of affected CFR subparts and appendices, and summary of changes to those subparts and appendices, through updating the incorporation by reference date to July 1, 2023
- Statement of Principal Reasons for Adoption
- July 11, 2023 Air Quality Advisory Board Meeting Transcript
- Taking Analysis
- Attorney General's Statutory Authority Review
- Governor Gordon's permission to proceed memo signed 10/11/23
- Notice of Intent to Adopt Rules
- Public Notice

cc: Nancy Vehr, Air Quality Division Administrator  
Amber Potts, Air Quality Division  
Mike Morris, Air Quality Division  
Laura Ballard, Air Quality Division  
Jonathan Chenchar, Air Quality Division