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# R-37 Proposed Rulemaking

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## Wyoming DEQ – Air Quality Division Presentation

Wyoming Environmental Quality Council Hearing

October 23, 2024

Cheyenne, Wyoming



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## R-37 Overview

- ◆ The R-37 proposed rulemaking involves revising 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 6 – Permitting Requirements
  - Chapter 8 – Nonattainment Area Regulations
  - Chapter 11 – National Acid Rain Program
  - Chapter 14 – Emission Trading Program Regulations



## R-37: Key Proposed Revisions

- Updates the date of Incorporation by Reference (IBR) sections of WAQSR to July 1, 2024
- Updates PM<sub>2.5</sub> primary annual standard in Chapter 2, Section 2
- Incorporates two subparts from 40 CFR Part 60 into Chapter 5, Section 2 (New Source Performance Standards)
- Removes Title V Affirmative Defense provisions from Chapter 6, Section 3
- Removes PM<sub>2.5</sub> Significant Impact Levels from Chapter 6, Section 4
- Minor, non-substantive typographical revisions in Chapters 3 and 14



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## R-37: Pre-Rulemaking

- Work on R-37 initiated in April 2024 (involved tracking associated CFR changes since July 1, 2023 that will be incorporated as a result of updated IBR date in WAQSR)
- Pre-rulemaking reviews were undertaken by the Wyoming AG's Office in June 2024
- Presented before Air Quality Advisory Board on July 23, 2024 (received AQAB recommendation to proceed to EQC)



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## R-37: IBR Explained

- IBR helps keep Wyoming's state-level regulations concise and user-friendly:
  - Makes direct reference to certain subparts of the CFR that Wyoming takes state regulatory lead or primacy over through incorporation
  - Some of the CFR subparts are very lengthy and would extend the WAQSR by hundreds or even thousands of pages if they were not IBR'd
  - Assists regulated community in Wyoming by allowing them to interface with WDEQ's Compliance Program on the IBR'd regulations
  - Wyoming will submit state-effective revisions to EPA for State Implementation Plan approval for sections that are in Wyoming's SIP



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## R-37: IBR Explained (cont'd)

- IBR sections included in this rulemaking:
  - Chapter 2, Section 12 (part of Wyoming's SIP)
  - Chapter 3, Section 9 (part of Wyoming's SIP)
  - Chapter 4, Section 6
  - Chapter 5, Section 4
  - Chapter 6, Section 14 (part of Wyoming's SIP)
  - Chapter 8, Section 10 (part of Wyoming's SIP)
  - Chapter 11, Section 2
  - Chapter 14, Section 5



## R-37: IBR Explained (cont'd)

- Changing IBR date to July 1, 2024 will involve Wyoming obtaining regulatory lead or primacy over all regulations in the CFR that have been revised since July 1, 2023:
  - Affects all CFR parts/subparts/appendices referenced in WAQSR Chapters 2, 3, 4, 5, 6, 8, 11, 14 that were revised between July 1, 2023 – July 1, 2024
  - WDEQ compiled 13-page summary reference sheet detailing changes that occurred during that time (see EQC docket)
  - Utilized “Timeline” feature on eCFR.gov website to track all changes



## R-37: IBR Explained (cont'd)

- Changing Chapter 6, Section 14's IBR date to July 1, 2024 will involve Wyoming obtaining regulatory primacy over many CFR regulations cited in Chapter 6 that have been revised since July 1, 2017:
  - As mentioned previously, WAQSR Chapter 6, Section 14 is included in this rulemaking
  - Referenced CFR sections in Chapter 6 include 40 CFR Part 52, subpart A, 40 CFR Part 52, subpart ZZ, 40 CFR Part 61, 40 CFR Part 58, Appendix B, and 40 CFR Part 60, Appendix B



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## R-37: 2024 PM<sub>2.5</sub> NAAQS

- Chapter 2, Ambient Standards, Section 2, Ambient Standards for Particulate Matter:
  - Incorporating new PM<sub>2.5</sub> primary annual standard of 9.0 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ )
  - New standard was finalized in Federal Register on March 6, 2024 (89 FR 16202)
  - State of Wyoming has until Feb. 7, 2025 to make area designations for the 2024 PM<sub>2.5</sub> NAAQS (ongoing process)
    - Anticipate all counties in Wyoming to be designated as attainment/unclassifiable



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## R-37: NSPS Incorporation

- Chapter 5, National Emission Standards, Section 2, New Source Performance Standards:
  - Incorporating 40 CFR Part 60, subpart UU – Standards for Performance for Asphalt Processing and Asphalt Roofing Manufacture
  - A facility informed AQD that it has operations subject to subpart UU and the Division’s Title V and Compliance Programs evaluated and confirmed this was the case
  - Incorporating this subpart into the WAQSR will allow the Division to be the regulatory lead and, consequently, the facility will interface with AQD’s Compliance Program rather than EPA



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## R-37: NSPS Incorporation

- Chapter 5, National Emission Standards, Section 2, New Source Performance Standards:
  - Incorporating 40 CFR Part 60, subpart OOOOb – Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After December 6, 2022
  - Affects all new, modified or reconstructed designated facilities, as defined under the rule, including compressors, storage vessels, gas plant process units, and pneumatic controllers and pumps
  - R-37 proposed rulemaking does not introduce any new requirements that are not already federally effective under 40 CFR Part 60, subpart OOOOb; it is an incorporation of the regulation.



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## R-37: NSPS Incorporation

- 40 CFR Part 60, subpart OOOOb (cont.)
  - Includes Super-Emitter Program that utilizes third-party emissions detection to identify large leaks and releases of methane known as “super emitters”
  - Requires routine monitoring at all well sites, centralized production facilities, and compressor stations
  - Requires storage vessels (tanks), including groups of adjacent tanks known as “tank batteries” to reduce emissions by 95%
  - Some affected facilities were required to be in compliance within 60 days of the effective date, or upon initial startup
    - Rule allows for a two-year phase-in compliance schedule for routine flaring of natural gas at oil wells and a one-year phase-in compliance schedule for process controllers and pumps



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## R-37: NSPS Incorporation

- 40 CFR Part 60, subpart OOOOb (cont.)
  - Incorporated the March 8, 2024 Federal Register version of OOOOb into WAQSR through state emergency rulemaking process on May 6, 2024
  - Allowed affected facilities in Wyoming to interface with WDEQ-AQD's Compliance and Enforcement Program rather than EPA for initial rule compliance and questions regarding the rule's requirements
  - The initial R-36 emergency rule was renewed for an additional 120 days on September 3, 2024 per Wyoming Secretary of State's Rules on Rules
  - 40 CFR Part 60, subpart OOOOc will not be incorporated into WAQSR through this rulemaking

## R-37: Affirmative Defense Provisions

- Chapter 6, Permitting Requirements, Section 3, Operating Permits:
  - Proposed revision would remove requirements under “(1) Emergency Provision.” from page 6-47
  - Replaces that subsection with [Reserved]
  - Revision occurs in response to an EPA Rule (88 FR 47029) (currently being litigated in DC Circuit)
  - EPA Rule gave States until August 21, 2024 to meet the 12-month program revision deadline or request a 12-month extension; AQD requested and received an extension until August 21, 2025
  - Removal means Title V facilities no longer have affirmative defense exemption during emergencies

## R-37: Significant Impact Levels

- Chapter 6, Permitting Requirements, Section 4, Prevention of Significant Deterioration:
  - Proposed revision would remove the PM<sub>2.5</sub> Significant Impact Levels (SILs)
  - The PM<sub>2.5</sub> SILs were promulgated by EPA through a rulemaking in 2010
  - WDEQ incorporated this value into the WAQSR and SIP in 2012 (R-19 rulemaking)
  - In 2013, the D.C. Circuit Court vacated and remanded the PM<sub>2.5</sub> SILs rule to EPA

## R-37: Significant Impact Levels

- Chapter 6, Permitting Requirements, Section 4, Prevention of Significant Deterioration:
  - EPA has issued a series of Guidance documents, but no formal rule
  - EPA issued a new Guidance this Spring further revising the SILs, but they still differ from the levels in the WAQSR
  - Because the values still vary significantly from what is in the WAQSR, and because EPA has not proposed a revised SIL rule, WDEQ-AQD is proposing removal of the SILs that came from the now-vacated 2010 rule

## R-37: Miscellaneous Revisions

- Other miscellaneous revisions:
  - Ch. 3, Sec. 8: Correcting the spelling of “CANCELLED” to “CANCELED”
  - Ch. 6, Sec. 14: Changed language pertaining to electronic CFR to match the language in the other IBR sections of the WAQSR that were revised in 2023-24 rulemaking (R-35)
  - Ch. 14, Sec. 5: Changing URL font sizes from 10 point to 12 point



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## R-37: Public Comment

- Public comment period for submitting written comments on the proposed revisions for EQC:
  - Opened at 8:00 a.m. MST on August 30, 2024
  - Closed at 5:00 p.m. MST on October 14, 2024
  - The Division received 128 individual comments through its SmartComment electronic comment form
  - Comments that were not submitted through the SmartComment form, mailed, or faxed, as specified in the public notice, are not part of the administrative record



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## R-37: Public Comment

- WDEQ reviewed all comments received and developed a Response to Comments document dated Oct. 21, 2024:
  - Essentially all comments were directed towards Methane regulations for the oil and natural gas industry that were promulgated by EPA and are already federally effective for affected facilities
  - 115 comments expressed support for Methane Regulation
  - 13 comments expressed opposition to Methane Regulation
  - Only 4 comments acknowledged that the nature of the proposed rulemaking involves incorporating a regulation that is already federally effective



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## R-37: Public Comment

- WDEQ reviewed all comments received and developed a Response to Comments document dated Oct. 21, 2024:
  - There were no comments made on the proposed rule package that pertained to other publicly noticed chapters or sections within the WAQSR other than Chapter 5, Section 2
  - No comments pertaining to Chapter 5, Section 2 that addressed technical or procedural aspects of the rulemaking
  - WDEQ-AQD addressed all comments received through one comprehensive response



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## Questions from the Board?

- Please feel free to ask any questions at this time about this presentation or other aspects of the proposed R-37 rulemaking