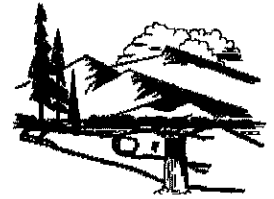




# Department of Environmental Quality



*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:** Jeremiah Williamson, Wyoming Assistant Attorney General  
Elizabeth Lyon, Law Clerk

**FROM:** Steven A. Dietrich, Administrator, Air Quality Division

**DATE:** April 25, 2014

**PRIORITY:** HIGH – Deadline for response is May 9, 2014

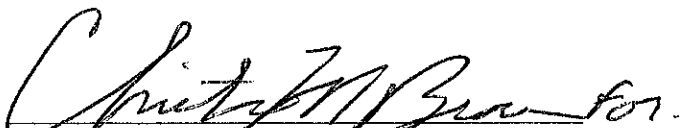
**SUBJECT:** Request for Review of Proposed Rules for Statutory Authority (R-23)

The Department of Environmental Quality, Air Quality Division (AQD) is proposing to revise Chapters 3, 5, 6, 7 and 11 of the Wyoming Air Quality Standards and Regulations (WAQSR). This rulemaking was reviewed by the Air Quality Advisory Board on April 22, 2014, and the Board recommended the rules proceed to formal rulemaking before the Environmental Quality Council. 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 AQD has reviewed and responded to the Takings Guidelines and Checklist provided by the Attorney General's Office. The AQD 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 Statement of Principal Reasons for Adoption, copies of Chapters 3, 5, 6, 7 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 or Jeni Cederle of my staff.

### 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: Jeremiah Williamson



## TAKINGS CHECKLIST

Air Quality Division Rulemaking: Chapter 3, Section 9; Chapter 5, Sections 2, 3 and 4; Chapter 6, Sections 3, 4 and 14; Chapter 7, Section 3; Chapter 11, Section 2 (R-23)

Date Checklist Completed: April 25, 2014

	<b>CRITERIA</b>	<b>YES</b>	<b>NO</b>
1.	Does the action affect private property? (If no, no further inquiry is necessary.)	X	
2.	Is the action mandated by State or federal law? (If yes, go to question 3. If no, go to question 4.)	X	
3.	Does the proposed action advance a statutory purpose?	X	
4.	Does the proposed action result in permanent occupation of private property?		X
5.	Does the action require the property owner to dedicate property or grant an easement?		X
6.	Does the regulatory action interfere with the owner's investment-backed expectations?		X
7.	Does the character of the government action balance the public interest and private burdens?	X	
8.	Does the action deprive the owner of all economically viable uses of the property?		X
9.	Does the action have a significant impact on the landowner's economic interest?		X
10.	Does the action deny the owner of a fundamental attribute of ownership?		X
11.	Does the action serve the same purpose that would be served by directly prohibiting use of the land?		X
12.	Could the problem which has necessitated the action be addressed in a less restrictive manner?		X