

# Department of Environmental Quality

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

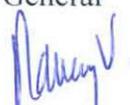


Matthew H. Mead, Governor

Todd Parfitt, Director

## MEMORANDUM

**TO:** Elizabeth Morrisseau, Wyoming Assistant Attorney General

**FROM:** Nancy E. Vehr, Administrator, Air Quality Division 

**DATE:** July 24, 2017

**PRIORITY:** HIGH – Deadline for response is July 28, 2017

**SUBJECT:** Request for Review of Proposed Rules for Statutory Authority (R-28)

The Department of Environmental Quality, Air Quality Division (Division) – on behalf of the Department – is proposing to revise Chapter 14, Emission Trading Program Regulations of the Wyoming Air Quality Standards and Regulations (WAQSR). Chapter 14, Section 3, Sulfur dioxide milestone inventory is being updated to include new provisions for annual sulfur dioxide emissions reporting for Basin Electric Power Cooperative. Basin Electric requests to amend requirements to report its sulfur dioxide emissions for Units 1 and 2 under the 309 Program (40 CFR §51.309) using the emission rates applicable to those Units during the 2001-2003 BART baseline period. This change ensures that the sulfur dioxide emissions reductions obtained under the Settlement Agreement with Basin Electric Power Cooperative, Environmental Protection Agency (EPA), and the State of Wyoming, are no longer counted as reductions under the 309 Program. Specifically, Basin Electric must use the annual average SO<sub>2</sub> emission rates of 0.159 lb/MMBtu for Laramie River Unit 1 and 0.162 lb/MMBtu for Laramie River Unit 2, reflecting actual emissions in 2001 to 2003, and multiply those rates by the actual annual heat input for each unit to calculate and report emissions under the 309 Program.

This rulemaking was reviewed by the Air Quality Advisory Board (Board) on July 17, 2017, and the Board recommended that the rules proceed to formal rulemaking before the Environmental Quality Council (EQC). 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.

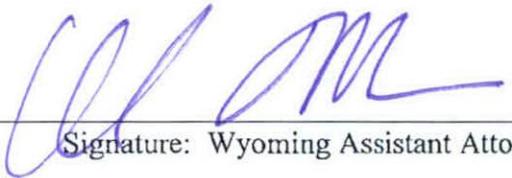
Attached, you will find a copy of the draft Notice of Agency Rulemaking, draft Statement of Principal Reasons for Adoption, copies of Chapter 14 in strike and underline format, and responses

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

 7/28/17  
Signature: Wyoming Assistant Attorney General