

OCT 10 2006

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL STATE OF WYOMING

Terri A. Lorenzon, Director Environmental Quality Council

IN THE MATTER OF REVISIONS TO CHAPTER FOURTEEN, SECTION ONE AND THE ADDITION OF SECTION FOUR OF THE WYOMING AIR QUALITY STANDARDS AND REGULATIONS) STATEMENT OF PRINCIPAL REASONS FOR ADOPTION

- 1. The Environmental Quality Council, pursuant to the authority vested in it by the Wyoming Statutes 35-11-112 (a) (i), has revised Chapter 14, Emission Trading Program Regulations, Section 1, Introduction to emission trading programs and added a new Section 4, Mercury budget trading program of the Wyoming Air Quality Standards and Regulations.
2. Section 35-11-202 (a) of the Environmental Quality Act states that the Administrator, after consultation with the Advisory Board, shall recommend to the Director such ambient air standards and regulations that may be necessary to prevent, abate, or control pollution.

Section 35-11-202 (b) of the Act states that in recommending such standards the Administrator shall consider all facts and circumstances bearing upon the reasonableness of the emissions involved including:


- (A) The character and degree of injury to, or interference with the health and physical well being of the people, animals, wildlife and plant life;
(B) The social and economic value of the source of pollution;
(C) The priority of location in the area involved;
(D) The technical practicability and economic reasonableness of reducing or eliminating the pollution; and
(E) The social welfare and aesthetic value.

- 3. Chapter 14, Emission Trading Program Regulations, Section 1, Introduction to emission trading programs is modified to reflect the reference to the new Section 4. The introduction simply discusses the contents of the sections.
4. Chapter 14, Section 4, Mercury budget trading program is a new section which was added to meet the State Mercury (Hg) Emission Budget established by the Environmental Protection Agency (EPA) under 40 CFR part 60, Subpart HHHH - Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units. The State is proposing to meet the budget by participating in the national cap-and-trade program for Hg, which is a fully approvable control strategy for achieving all emission reductions.

5. Chapter 14, Section 4(a) allows the Air Quality Division to incorporate by reference all aspects of the EPA-administered cap-and-trade program excluding sections 40 CFR 60.4104, 60.4140, 60.4141 and 60.4142 and modified through a reconsideration published in the Federal Register on June 9, 2006 (71 FR 33388). Participating in an EPA-managed program ensures that all sources are subject to the same trading and allowance holding requirements, as well as providing for consistent quantification of emissions.
6. Chapter 14, Section 4(d) "Hg Allowance Allocations", establishes the State's own allowance allocation methodology providing the State with more flexibility in deciding the cost of the allowance distribution, the frequency of the distribution, the basis for distribution and the use and size of a set-aside.
7. Under Chapter 14, Section 4(d), allocations are distributed freely from the State to sources at no cost.
8. Under Chapter 14, Section 4(d)(ii) "Timing Requirements for Hg Allowance Allocations", the timing requirements for Hg allowance allocations are described. The State establishes 5-year blocks as the standard distribution frequency for allocations to existing sources.
9. Under Chapter 14, Section 4(d)(iii)(A) and (B), the basis for the allowance distribution to existing sources is described, depending on the age and operating history of the unit, the type of coal burned, and the nature/purpose of the unit.
10. Under Chapter 14, Section 4(d)(iii)(C), the basis for allowance distribution under the new source set-aside is described. The State has established a new source set-aside equal to ten percent of the entire State Hg budget. The State elected to create a new source set-aside twice the size established by the EPA default rule.
11. Under Chapter 14, Section 4(d)(iii)(D), the procedures for reallocating unused portions of the new source set-aside is established. The State does not keep any allocations.
12. Appendix A of Chapter 14, Section 4, establishes monitoring protocol for all affected units operating under the Hg trading program.

The Council finds that these regulations are reasonable and necessary to accomplish the policy and purpose of the ACT, as stated in W.S. 35-11-102, and that they have been promulgated in accordance with rulemaking provisions of the Wyoming Administrative Procedures Act.

Dated this 10th day of October, 2006.



Hearing Examiner
Wyoming Environmental Quality Council