

# 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

**TO:** John Corra, Chairman, Environmental Quality Council

**FROM:** Todd Parfitt, Director, Department of Environmental Quality

**DATE:** July 8, 2022

**SUBJECT:** Hearing Request for Land Quality Division Noncoal Rules Chapters 7, 9, and 11

The Department of Environmental Quality (Department), Land Quality Division (LQD) is proposing revisions to LQD Noncoal Rules Chapter 7 – Noncoal Mine Permit or Research and Development Testing License Revisions, Chapter 9 – Permit Application Requirements for Small Mining Operations, and Chapter 11 – In Situ Mining and is requesting the Environmental Quality Council review the proposal and consider adoption of these rules at your September 13, 2022 hearing.

The LQD presented the proposed revisions to Noncoal Chapters 7, 9, and 11 to the Land Quality Advisory Board (LQAB) during the following meeting dates as described below:

- Noncoal Chapter 7:
  - December 9, 2021 LQAB Meeting;
    - Legislative changes to W.S. § 35-11-406 regarding public involvement in permitting actions.
    - Informal statutory review comments received from Wyoming Attorney General's Office.
    - Introduction of comments received from Wyoming Mining Association (WMA) on Chapter 7 (pages 29 – 44, 12/9/2021 meeting transcript).
  - March 22, 2022 LQAB Meeting;
    - LQD response to WMA comments received during 12/9/2021 LQAB meeting, no changes were proposed to draft rules in response to the comments received (pages 8 – 23 3/22/2022 meeting transcript).
    - LQD response to comments memo dated 3/3/2022.
  - LQAB voted unanimously (4-0) to advise Land Quality Division to proceed with rulemaking during 3/22/2022 LQAB meeting.
- Noncoal Chapter 9:
  - August 9, 2021 LQAB Meeting;
    - Legislative changes to W.S. § 35-11-406 regarding public involvement in permitting actions.
    - Legislative changes made during 2021 legislative session that increased permitting fees.
    - Changes made to conform to Secretary of State's Rules on Rules.

- December 9, 2021 LQAB Meeting;
  - Informal statutory review comments received from Wyoming Attorney General's Office.
- LQAB voted unanimously (3-0) to advise Land Quality Division to proceed with rulemaking during 12/9/2021 LQAB meeting. No comments were received on the proposed rules.
- Noncoal Chapter 11:
  - June 27, 2019 LQAB Meeting;
    - Correcting editing error that occurred to final rules submitted to Secretary of State approved on November 11, 2018.
    - Suggested revisions from the Legislative Service Office regarding statutory references.
  - LQAB voted unanimously (3-0) to advise Land Quality Division to proceed with rulemaking during 6/27/2019 LQAB meeting. No comments were received on the proposed rules.
  - Submitted for Attorney General's statutory authority review in November of 2019, this was LQD's first experience with the Attorney General's in-depth statutory review. Due to the number of comments received from Attorney General's Office Chapter 11 was tabled until August 19, 2021 LQAB meeting.
  - August 19, 2021 LQAB Meeting;
    - June 27, 2019 proposed revisions.
    - Legislative changes to W.S. § 35-11-406 regarding public involvement in permitting actions.
    - Incorporation of Wyoming Attorney General's statutory authority and general review comments. Comments while numerous were grammatical and organizational in nature.
  - LQAB voted unanimously (4-0) to advise Land Quality Division to proceed with rulemaking during 8/19/2021 LQAB meeting.

The Department sought and has been granted approval by the Governor's Office to proceed with the proposed rule Noncoal Chapter 7 on April 25, 2022. The Department sought and has been granted approval by the Governor's Office to proceed with the proposed rule Noncoal Chapter 9 on March 31, 2022. The Department sought and has been granted approval by the Governor's Office to proceed with the proposed rule Noncoal Chapter 11 on February 3, 2022.

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:

- LQD Noncoal Chapters 7, 9, and 11 clean copy
- LQD Noncoal Chapters 7, 9, and 11 strike and underline copy
- Statement of Principal Reasons for Adoption
- Governor Gordon's permission to proceed memos signed April 25, March 31, and February 3, 2022
- Notice of Intent to Adopt Rules

- Takings Checklist and accompanying analysis
- Attorney General's Statutory Authority Review
- June 26, August 9, and December 9, 2021 and March 22, 2022 LQAB Meeting transcripts
- Responses to comments received at the December 9, 2021 LQAB meeting, no other comments were received at the other LQAB meetings noted above

cc: Kyle Wendtland, LQD Administrator

Enclosures

