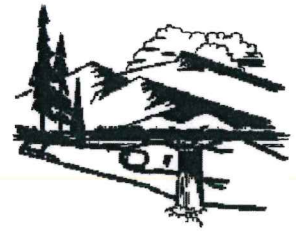




Filed: 8/22/2024 9:34:31 AM WEOC  
**Department of Environmental Quality**  
*To protect, conserve and enhance the quality of Wyoming's  
 environment for the benefit of current and future generations.*



Mark Gordon, Governor

Todd Parfitt, Director

**MEMORANDUM**

**TO:** David DeWald, Wyoming Deputy Attorney General

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

**DATE:** July 29, 2024

**PRIORITY:** **HIGH** – Deadline for response is August 5, 2024

**SUBJECT:** **Request for Review of Proposed Rules for Statutory Authority (R-37)**

The Department of Environmental Quality, Air Quality Division (Division) is proposing to revise 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

In this proposed rulemaking, the Division is updating the date of incorporation of the Code of Federal Regulations in the Incorporation by Reference sections of all of the listed chapters to July 1, 2024. If the State does not adopt the most recent versions of these sections by reference, the rules still apply at the federal level. Adopting these national standards into the State rules allows for State implementation of the rules. Additionally, the Division is proposing revisions to Chapter 2, Section 2, Ambient Standards for Particulate Matter, to update the PM<sub>2.5</sub> primary annual standard so it reflects the newly promulgated 2024 PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). The Division is also proposing revisions to Chapter 5, Section 2, New Source Performance Standards, to incorporate 40 CFR Part 60, subpart UU and 40 CFR Part 60, subpart OOOOb, that apply to sources located in the State of Wyoming. The Division is also proposing revisions to Chapter 6, Section 3, Operating permits, that remove the Title V Affirmative Defense provisions from subsection (l), per a U.S. Court of Appeals for the D.C. Circuit ruling. The Division is also proposing revisions to Chapter 6, Section 4, Prevention of significant deterioration, that remove the PM<sub>2.5</sub> Significant Impact Levels from subsection (b)(i)(A)(I)(1.). Additionally, the Division is proposing revisions to Chapter 6, Section 14, Incorporation by Reference, to match the

language of other IBR sections in the WAQSR that were updated previously in the R-35 rulemaking package that became State-effective on April 30, 2024. Finally, the Division is proposing two minor, non-substantive typographical revisions in Chapter 3 and Chapter 14.

The proposed revisions to Chapter 2, Section 12, Chapter 3, Section 9, Chapter 6, Sections 4 and 14, and Chapter 8, Section 10 involve changes to the Wyoming State Implementation Plan (SIP). The Division will submit these SIP revisions to the Environmental Protection Agency after the rules are State effective.

This rulemaking was reviewed by the Air Quality Advisory Board (AQAB) on July 23, 2024, and the Board recommended that the rules proceed to formal rulemaking before the Environmental Quality Council (EQC).

The Division received three written comments during the public comment period prior to the AQAB meeting, which ran from June 21, 2024 to July 23, 2024. The Division developed responses to those respective comments that were signed by Division Administrator Nancy Vehr on July 29, 2024.

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 Statement of Principal Reasons for Adoption, copies of Chapters 2, 3, 4, 5, 6, 8, 11, and 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 Mike Morris at 307-777-2068.

**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: Wyoming Assistant Attorney General

8/1/24