

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

JAN 17 2012

Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF REVISIONS TO SECTION NINE )  
TO CHAPTER THREE; REVISIONS TO SECTIONS )  
TWO, THREE AND FOUR TO CHAPTER FIVE; )  
REVISIONS TO SECTIONS ONE, THREE, FOUR, )  
FIVE, SIX AND FOURTEEN TO CHAPTER SIX; )  
REVISIONS TO SECTION TWO OF CHAPTER )  
ELEVEN; AND REVISIONS TO SECTIONS ONE, )  
THREE AND FIVE, AND THE REMOVAL OF )  
SECTION FOUR FROM CHAPTER FOURTEEN 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 or removed the following chapters and sections to the Wyoming Air Quality Standards and Regulations. The following sections have been revised: Chapter 3, General Emission Standards, Section 9, Incorporation by reference; Chapter 5, National Emission Standards, Section 2, New source performance standards, Section 3, National emission standards for hazardous air pollutants, and Section 4, Incorporation by reference; Chapter 6, Permitting Requirements, Section 1, Introduction to permitting requirements, Section 3, Operating permits, Section 4, Prevention of significant deterioration, Section 5, Permit requirements for construction and modification of NESHAPs sources, Section 6, Permit requirements for case-by-case maximum achievable control technology (MACT) determination, and Section 14, Incorporation by reference; Chapter 11, National Acid Rain Program, Section 2, Acid rain program; and Chapter 14, Emission Trading Program Regulations, Section 1, Introduction to emission trading programs, Section 3, Sulfur dioxide milestone inventory, and Section 5, Incorporation by reference. The following section has been removed: Chapter 14, Emission Trading Program Regulations, Section 4, Mercury budget trading program.
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 3, General Emission Standards, Section 9, Incorporation by reference, was revised as part of the annual effort to adopt changes to the federal definition, bringing the version up to date as of July 1, 2010. The revisions to Section 9, Incorporation by reference, involve changes to the State Implementation Plan (SIP).



4. Chapter 5, National Emission Standards, Section 2, New source performance standards, Section 3, National emission standards for hazardous air pollutants, and Section 4, Incorporation by reference, and Chapter 11, National Acid Rain Program, Section 2, Acid rain program, have been updated as an annual effort to adopt by reference from the Code of Federal Regulations (CFR) for July 1, 2010. Section 2, New source performance standards, was revised to remove certain subparts for which Wyoming has no sources, and to replace the word “part” with the word “section” to maintain consistency with other Wyoming Air Quality Standards and Regulations (WAQSR). Section 3, National emission standards for hazardous air pollutants, was revised to remove certain subparts for which Wyoming has no sources, and to include new applicable subparts that have been added to the CFR as of July 1, 2010. In order to maintain consistency with federal language, the general provisions of this section were removed and adopted by reference from Subpart A of 40 CFR part 63. A minor revision was made in Section 3 to clarify that NSPS sources may need to obtain a permit for construction in accordance with Chapter 6, Permitting Requirements, Section 2, Permit requirements for construction, modification, and operation.
  
5. Chapter 6, Permitting Requirements, Section 3, Operating permits, has been revised to include the definitions “Alternative Operating Scenario (AOS)” and “Approved Replicable Methodology (ARM)” to maintain consistency with federal rules. Minor revisions to Section 3 included additions, taken directly from federal language, to specify how the definitions fit into the operating permit program. Also, the numbering of definitions was removed to maintain consistency with other WAQSR, references to definitions were corrected, the word “part” was replaced with the word “section” to maintain consistency with the WAQSR, and minor typographical errors were corrected. Section 4, Prevention of significant deterioration, was revised to maintain consistency with federal rules through the inclusion of PM<sub>2.5</sub> increments. Section 5, Permit requirements for construction and modification of NESHAPs sources, will now be covered under Chapter 5, National Emission Standards, Section 3, National emission standards for hazardous air pollutants. Language has been added to Section 1, Introduction to permitting requirements, and Section 5, Permit requirements for construction and modification of NESHAPs sources, to reflect this change. Language regarding the permitting requirements has been removed from Section 5. Section 6, Permit requirements for case-by-case maximum achievable control technology (MACT) determination, was revised to correct cross references to Chapter 5. Section 14, Incorporation by reference, was updated to adopt by reference from the CFR for July 1, 2010. Section 4, Prevention of significant deterioration, and Section 14, Incorporation by reference, involve changes to the SIP.
  
6. Chapter 14, Emission Trading Program Regulations, Section 1, Mercury budget trading program, was revised to reflect the removal of Section 4, Mercury budget trading program. The measurement techniques and baseline date in Section 3, Sulfur dioxide milestone summary, was revised to address modifications to the sulfur dioxide milestone program in response to national litigation. Section 4, Mercury budget trading program, was removed from Chapter 14. Section 4 was created in response to the 2005 Clean Air Mercury Rule (CAMR), but the rule was vacated by the Environmental Protection Agency (EPA) in 2008. Section 5, Incorporation by reference, was updated to adopt by reference from the CFR for July 1, 2010. Section 3, Sulfur dioxide milestone summary, and Section 5, Incorporation by reference, involve changes to the SIP.

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 13<sup>th</sup> day of January, 2012.

David Seale  
Hearing Examiner - **Printed Name**  
Wyoming Environmental Quality Council

Fi Dan Lark  
Hearing Examiner - **Signed Name**  
Wyoming Environmental Quality Council