

**WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STANDARDS AND REGULATIONS**

Common Provisions

CHAPTER 1

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CHAPTER 1

Section 1. **Introduction to common provisions.**

(a) Chapter 1 includes common provisions which apply to sources of air contaminants throughout Wyoming unless otherwise stipulated. Section 2 describes the authority by which the Wyoming Air Quality Standards and Regulations are promulgated, and Section 3 contains the applicable definitions pertaining to this chapter. Section 4 discusses how it is unlawful to dilute or conceal emissions, and Section 5 explains the provisions for unavoidable equipment malfunctions. Section 6 discusses credible evidence for purposes of submitting compliance certifications, and Section 7 establishes greenhouse gas permitting requirements detailed in Chapter 6, Sections 3 and 4.

Section 2. **Authority.**

(a) In accordance with the Environmental Quality Act, WS 35-11-101 *et seq.*, the following Air Quality Standards and Regulations are hereby promulgated by the Wyoming Environmental Quality Council.

Section 3. **Definitions.**

(a) The definitions contained in the Environmental Quality Act, WS 35-11-103 *et seq.*, shall be applicable, where appropriate. The following terms as used in these standards and regulations shall, unless the context otherwise requires, have the following meanings:

“**Administrator**” means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

“**Air contaminant**” shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas or any combination of the foregoing, but shall not include steam or water vapor.

“**Air pollution**” shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is materially injurious to human health or welfare, animal or plant life or property, or unreasonably interferes with the enjoyment of life or property.

“**Animal matter**” shall mean any product or derivative of animal life.

“Board” shall mean the Air Quality Advisory Board.

“Control equipment” shall mean any device, contrivance, or system which prevents or reduces emissions.

“Control officer” shall mean the Director of the State Department of Environmental Quality, or the Administrator of the Air Quality Division, or any employee of the Division designated by the Administrator, or any local health officer or employee designated by the Administrator.

“Council” shall mean the Environmental Quality Council.

“Department” shall mean the Wyoming Department of Environmental Quality.

“Director” shall mean the Director of the Wyoming Department of Environmental Quality.

“Division” shall mean the Air Quality Division, Wyoming Department of Environmental Quality.

“Emission” shall mean a release into the outdoor atmosphere of air contaminants.

“Equivalent method” shall mean any procedure, practice, policy, system or device which can be demonstrated to produce a result adequate for the purpose required in these regulations and consistent with specified reference methods.

“Existing equipment” shall mean equipment installed prior to the effective date of an applicable regulation.

“Existing source” means any stationary or portable source other than a new source.

“Facility” shall mean any property, real or personal, which may incorporate one or more sources of air pollution and shall include but not be limited to processing plants, manufacturing plants, power generator plants, refining plants, mining operations, lumber mills, ore processing plants, construction material processing operations, etc.

“Fuel burning equipment” shall mean any furnace, boiler apparatus, stack, or appurtenances thereto used in the process of burning fuel or other combustible material for the purpose of producing heat or power by indirect heat transfer.

“Fugitive emissions” means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

“Greenhouse gases (GHGs)” means the air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

“Incinerator” shall mean any equipment, device or contrivance used for the destruction of garbage, rubbish or other wastes by burning, but not wood wastes burned in devices commonly called tepee burners, silos, truncated cones, wigwam burners and other such burners used commonly by the wood products industry.

“Initial start-up” shall mean that point in time when a source or group of sources actually begins operation for the purpose of generating goods or services as an end product or as an intermediate product. Start-up of a source to check functional operation of the “machinery” shall not be construed as initial start-up.

“Installation” shall mean any property, real or personal, including but not limited to processing equipment, manufacturing equipment, fuel burning equipment, incinerators, or any other equipment, or construction, capable of creating or causing emissions.

“Maximum design production rate” shall mean the maximum production rate at which a source is designed for continuous or batch operation.

“Modification” shall mean any physical change in, or change in the method of operation of, an affected facility which increases the amount of any air pollutant (to which any state standards applies) emitted by such facility or which results in the emission of any such air pollutant not previously emitted.

“Motor vehicle” shall mean those vehicles carrying people or goods on public streets or highways.

“Multiple chamber incinerator” shall mean any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of two or more combustion furnaces in series physically separated by walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned.

“New equipment” shall mean:

(i) Any equipment, installation, construction article, machine or contrivance ordered, constructed or installed after the effective date of an applicable regulation;

(ii) Any equipment replaced or altered or processes changed in such a manner after the effective date of an applicable regulation as to have an effect of increasing the production of air contaminants;

(iii) Any equipment moved after the effective date of this regulation to another premise involving a change of address when said move will cause or would be expected to cause an increase in the production of air contaminants;

(iv) Any equipment purchased and to be operated after the effective date of this regulation by a new owner or when a new lessee desires to operate such equipment.

“New source” shall mean any stationary or portable source, the construction or modification of which is commenced after the effective date of regulations prescribing a standard of performance applicable to such source.

“Odor” shall mean that property of an emission which stimulates the sense of smell.

“Opacity” means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background. For continuous opacity monitoring systems, opacity means the fraction of incident light that is attenuated by an optical medium.

“Operating day” shall mean a fixed 24-hour period during which fossil fuel is combusted by fuel-burning equipment for at least 18 hours.

“Owner or operator” shall mean any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation which directly or indirectly result or may result in emissions of any air contaminant.

“Particulate matter”:

(i) “Particulate matter” shall mean any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(ii) “Particulate matter emissions” shall mean all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, specified in 40 CFR part 60, Appendix A, or an equivalent or alternative method approved by the EPA Administrator.

(iii) “PM₁₀” shall mean particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of 40 CFR part 50, and designated in accordance with 40 CFR part 53.

(iv) “PM₁₀ emissions” shall mean finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method approved by the EPA Administrator.

(v) “Total suspended particulates (TSP)” shall mean particulate matter as measured by the method described in Appendix B to 40 CFR part 50.

(vi) “PM_{2.5}” shall mean particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on Appendix L of 40 CFR part 50, and designated in accordance with 40 CFR part 53.

(vii) “PM_{2.5} emissions” shall mean finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method approved by the EPA Administrator.

“**Person**” means any individual, partnership, firm, association, municipality, public or private corporation, sub-division or agency of the state, trust, estate or any other legal entity.

“**Premises**” shall mean any property, piece of land or real estate or building.

“**Process weight**” shall mean the total weight of all materials introduced into any specific process which may cause emissions. Solid fuels charged will be considered as part of the process weight but liquids and gaseous fuels, combustion air, and water will not. However, water included as part of the normal charge to a beet pulp dryer process shall be considered as part of the process weight.

“**Reduction**” shall mean any heated process, including rendering, cooking, drying, dehydrating, digesting, evaporating, and protein concentrating.

“**Salvage operation**” shall mean any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

“**Source**” shall mean any property, real or personal, or person contributing to air pollution.

“**Stack or chimney**” shall mean any flue, conduit or duct arranged to conduct emissions.

“**Standard conditions**” shall mean a temperature of 68° Fahrenheit and pressure reduced to 29.92 inches of mercury at sea level.

“**Trade wastes**” shall mean solid, liquid, or gaseous material resulting from construction or the prosecution of any business, trade or industry, or any demolition operation including but not limited to wood, plastics, cartons, grease, oil, chemicals and cinders.

“Wood waste burners” shall mean devices commonly called tepee burners, silos, truncated cones, wigwam burners, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes.

Section 4. Diluting and concealing emissions.

(a) No person shall cause or permit the installation or use of any device, contrivance or operational schedule which, without resulting in reduction of the total amount of air contaminant released to the atmosphere, shall dilute or conceal an emission from a source.

(b) Subsection (a) of this regulation shall not apply to the control of odors.

Section 5. Unavoidable equipment malfunction.

(a) Unavoidable Equipment Malfunction.

(i) Any source believing that any emissions in excess of established regulation limits or standards resulted from an unavoidable equipment malfunction shall notify the Division within 24 hours of the incident via telephone, electronic mail, fax, or other similar method. A detailed description of the circumstances of the incident as described in paragraph 5(a)(i)(A) of this section, including a corrective program directed at preventing future such incidents, must be submitted within 14 days of the onset of the incident.

(A) In the incident report noted above, the source shall include any relevant evidence, including, but not necessarily limited to, evidence that (1) there was an equipment malfunction beyond the reasonable control of the owner or operator; (2) the excess emissions could not have been avoided by better operation, maintenance or improved design of the malfunctioning component; (3) to the maximum extent practicable, the source maintained and operated the air pollution control equipment and process equipment, in a manner consistent with good practice for minimizing emissions, including minimizing any bypass emissions; (4) any necessary repairs were made as quickly as practicable, using off-shift labor and overtime as needed and possible; (5) all practicable steps were taken to minimize the potential impact of the excess emissions on ambient air quality; and (6) the excess emissions are not part of a recurring pattern that may have been caused by inadequate operation or maintenance, or inadequate design of the malfunctioning component.

(ii) The burden of proof is on the owner or operator of the source to provide sufficient information to demonstrate that an unavoidable equipment malfunction occurred.

(b) Enforcement Discretion.

(i) The Division may elect not to pursue enforcement after considering whether excess emissions resulted from an unavoidable equipment malfunction. The Division will evaluate, on a case-by-case basis, the information submitted pursuant to paragraph (a)(i)(A) of this section to determine whether to pursue enforcement action. The Administrator may extend the 14-day time period for the submission of the incident report for cause.

Section 6. Credible evidence.

(a) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in the Wyoming State Implementation Plan, nothing in the Wyoming State Implementation Plan shall preclude the use, including the exclusive use, of any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

Section 7. Greenhouse gases.

(a) Sources that directly emit, or have the potential to emit the pollutant Greenhouse Gases (GHGs) shall be subject to operating permit requirements as specified in Chapter 6, Section 3, and subject to prevention of significant deterioration (PSD) permit requirements as specified in Chapter 6, Section 4.

(b) Notwithstanding the requirements of Chapter 6, Section 2(a)(i) and (iii), a preconstruction permit under Chapter 6, Section 2 is not required for the pollutant Greenhouse Gases (GHGs) unless the facility or source is also required to obtain a permit for GHGs under Chapter 6, Section 4.

(c) All Greenhouse Gas Regulations adopted in Chapter 1, Sections 1(a), 3(a) and 7; Chapter 6, Sections 1(a), 3(b), 4(a) and 14; and Chapter 7, Section 3(a) are repealed upon the occurrence of any one (1) of the following events:

(i) The United States Congress enacts a law prohibiting the United States Environmental Protection Agency from regulating greenhouse gases; or

(ii) A federal court issues a final judgment prohibiting the United States Environmental Protection Agency from regulating greenhouse gas emissions from stationary sources.

(d) As used in this section, the term “final judgment” means a judgment issued by a federal court that is no longer subject to potential or ongoing appeal to any federal court with jurisdiction over the court judgment.

(e) The effective date of such repeal shall be the date the Governor certifies to the Secretary of State the occurrence of any act which repeals Wyoming Statute Ann. § 35-11-213 (e) through (k).