

# City of Casper

Incorporated 1889  
Casper, Wyoming 82401

**FILED**

**FEB 08 2006**

Terri A. Lorenzon, Director  
Environmental Quality Council

February 8, 2006

Wyoming Environmental Quality Council  
C/O Barb Barnes  
Department of Environmental Quality – Water Quality Division  
Herschler Building – 4 W  
Cheyenne, Wyoming 82002

Re: Chapter 12 Rule Revision Residential and Domestic Non-Residential Cross  
Connection Control

Dear Environmental Quality Council Members,

As member of the Casper City Council and the Casper Board of Public Utilities, I urge you to recommend to the Governor that all WDEQ rules currently in place covering residential cross connection control be completely repealed. In hindsight, had we known then what we know now about the basis for these rules and their impact on our community, the City of Casper would have aggressively opposed the original rule making. To wit, these rules have no scientifically based risk justification and the financial impact of this unfunded State mandate for just the City of Casper is estimated to be in the millions of dollars.

It is interesting to note the early history of this rule making. The consensus recommendation of the committee formed to review the old residential cross connection control rules was that all WDEQ cross connection control rules be repealed. Somewhere between the meeting in Casper where this consensus was reached, and Cheyenne, it was changed or ignored. Both WDEQ personnel and one member of the committee, Medicine Bow Mayor Gerald Cook, have confirmed this recommendation to be a fact. While there is much speculation as to why and how this committee's consensus recommendation was changed, the fact remains that the original consensus recommendation was to have no rules related to residential cross connection control.

After years of outcry by the private sector and states because of unfunded and unjustified regulatory mandates from our federal government, the United States Congress amended, in 1995, many of its previous Acts requiring both a risk and cost/benefit analysis that was peer reviewed before any new regulations could be enacted. It is worthy to note two peer groups, the AWWA and the Foundation for Cross Connection Control and Hydraulic Research both do not recommend residential cross connection control. Since this requirement has been placed into law, private and public entities have successfully challenged federal agency requirements in the courts. Not to anyone's knowledge has a single study been put forth evaluating the true risk to the public due to the lack of residential cross connection control or the actual cost to the public of implementing this rule. Why are we allowing this unfunded and unjustified mandate to be placed on our own citizens when we demand more from our federal government on regulations just like this one?

So what is the risk to the water purveyor or the public due to the lack of residential cross connection control? Many of the residential cross connection proponents have stated the City of Casper underestimates the number of occurrences or the risks. Some would have you believe there is high risk. They point to rare residential related incidents like the infamous 1979 Roanoke, Virginia, as their justification, but disregard the fact that these incidences, are in large part, the only documented incidents affecting any water purveyor's system or the public's safety over scores of years. The Roanoke incident is always used by the dual check manufactures and other proponents when they talk of the need of residential cross connection control, but they typically ignore the fact that it occurred over 25 years ago. If incidents such as this highlight the need for mandatory residential controls, the question one needs to ask is why regulations were not instituted across the country long ago. The fear and hysteria associated with these incidents belie the historical facts that these incidents are indeed extremely rare.

At the Water Quality Advisory Board meeting, a board member posed the question to the WDEQ as to what incidents had occurred in Wyoming. The answer was there may have been an occurrence where blue water showed up in a faucet. Is this what we are afraid of? Given all the scores of years of historical data, it is difficult to come to no other conclusion than these rules represent a solution in search of a problem. For those water purveyors that believe this is risk warranting cross connection control, repealing these rules will not preclude them from instituting a dual check requirement.

As noted above, the cost of this unfunded mandate did not become clear until the final rule making was received and reviewed. Our understanding of the original rule was that it was to apply to only new construction. Only when we realized our water main replacements would also trigger this rule did the true cost of this program come to light. While it is our opinion that new construction is the least hazardous of all residential connections due to newer stricter building codes, we were willing to let this rule go forward as the financial impact would be minimal to the overall public. Given our estimate that it will cost at a minimum of \$200 per connection to purchase and install a dual check, the cost to just the citizens of Casper is estimated at \$4,000,000 in today's dollar. It should be noted reports from other communities that have given up hope for any regulatory relief have found costs to generally be more in \$300 to \$600 range.

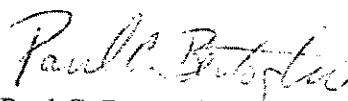
A hidden cost not considered in the installation of a dual check is its effect on one's system pressure. Unlike the pressurized systems in those communities that have willingly adopted residential cross connections, Casper's system is a gravity system. Many areas in Casper already experience low residential pressure and the pressure loss through a dual check will only exacerbate this problem. Our only solution will be expensive modifications to our system.

The alternative to mandatory installation currently being discussed provides little economic relief; and in fact, it may be more expensive in the long term and is clearly going to be more burdensome to administer. Casper not only will have to hire additional full time staff, but the associated reporting requirements will create a bureaucratic nightmare. In either case, it is not possible to justify the cost of implementing this rule to the public we serve.

In summary, it is urged the WEQC recommend to the Governor that the entire rules covering residential cross connection control be repealed. The financial burdens from this unfunded mandate in any form cannot be justified to our citizens. No scientific basis has been put forth showing the public is at any significant risk without this rule or that they will receive any benefit associated with the cost of implementing this rule. Moreover, it can be easily concluded from historical research of incidents related to residential cross connection control that the lack thereof possesses little threat to the public. Hysteria and fear from the handful of incidents around the entire country over scores of years of modern water systems should not be used to replace the scientific realities in justifying any regulatory rules. After years of burdensome and unwarranted federal regulations being placed on states, the federal government finally recognized regulations must have a scientific basis for their implementation. We should not expect anything less from ourselves.

I am intending to be at the public hearing on this issue and will be ready to respond to any of your questions. Thank you for your consideration of this matter.

Sincerely,



Paul C. Bertoglio  
Councilman

cc: Office of Governor David Freudenthal  
Casper City Council  
George Parks, Executive Director of WAM  
Philip R. Stuckert, Public Services Director  
David W. Hill, Public Utility Manager  
Public Utilities Advisory Board Members

RESOLUTION NO. 06-21

A RESOLUTION REQUESTING REPEAL OF DEPARTMENT OF ENVIRONMENTAL QUALITY - WATER QUALITY DIVISION CHAPTER 12 RULES AND REGULATIONS AS IT APPLIES TO CROSS CONNECTION CONTROL FOR RESIDENTIAL AND DOMESTIC NON-RESIDENTIAL WATER SERVICES.

WHEREAS, Chapter 12 Rules and Regulations of the Department of Environmental Quality - Water Quality Division (DEQ-WQD), as it applies to cross connection control for residential and domestic non-residential services, has detrimentally impacted water purveyors throughout the State of Wyoming; and,

WHEREAS, the Department of Environmental Quality - Water Quality Division's self-initiated policy (DEQ-WQD Policy 14.14.11) requiring dual check valves be installed on residential services during water main replacement projects, is an unfunded mandate that is now, and in the future, going to have serious repercussions for financing and water main replacement projects; and,

WHEREAS, proposed changes to the DEQ-WQD Chapter 12 Rules and Regulations, as it applies to cross connection control on residential and domestic non-residential water services, allows water purveyors to perform hazard classification surveys in lieu of mandatory installation of dual check valves for residential and domestic non-residential water connections; and,

WHEREAS, such dual check valve installation and/or hazard classification surveys are both costly and logistically difficult for local governments and water purveyors to administer, implement, and enforce; and,

WHEREAS, such dual check valve installation and/or hazard classification surveys are an unfunded mandate by the State of Wyoming; and,

WHEREAS, residential and domestic non-residential connections pose a low risk of contamination to the City Water Distribution System; and,

WHEREAS, the City of Casper is willing to assume the risks of contamination from these low hazard residential and domestic non-residential water connections.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING: That the Casper City Council urges the Wyoming Environmental Quality Council and the Department of Environmental Quality to repeal those sections of the Water Quality Chapter 12 Rules and Regulations that govern mandatory dual check valve installation and/or hazard classification surveys on residential and domestic non-residential water service connections, unless otherwise determined by the discovery of a hazardous condition.

BE IT FURTHER RESOLVED that if such a repeal of the Department of Environmental Quality – Water Quality Division Chapter 12 Rules and Regulations is unsuccessful, the City of Casper strongly encourages the Environmental Quality Council and the Department of Environmental Quality to work with water purveyors to develop flexible compliance plans that are cost effective to water purveyors and their customers.

PASSED, APPROVED, AND ADOPTED this 7th day of February, 2006.

ATTEST:



V. H. McDonald  
City Clerk

CITY OF CASPER, WYOMING  
A Municipal Corporation



Renee R. Burgess  
Mayor