

ANALYSIS OF COMMENTS

Subject: Comments received and Wyoming DEQ/WQD responses relative to the Second Draft of Chapter 1 - Proposed Rules and associated policy documents before the Water & Waste Advisory Board which were published in August, 2005.

A second draft of proposed revisions to the Chapter 1 Surface water standards (Triennial Review) were published for public review in August 2005. Written public comments on the proposed rules and associated implementation policies were solicited by the Advisory Board and a public meeting was held on September 13 where the board also received oral testimony and extended the written comment period until October 1. This document summarizes the comments received and includes the Department of Environmental Quality's responses. The tables that follow are a compilation of these comments and DEQ/WQD responses. In the tables, the comments have been organized according to topic and paraphrased to create a manageable summary.

*** Comments marked with a triple asterisk (red typeface) indicate that the DEQ is recommending a modification to the proposed rules relative to that comment. Where multiple commenters are indicated in the attached tables, the actual comment should be attributed to the first name in the list. The others made essentially the same point in their comments.

List of Comments Received

<u>Code</u>	<u>Submitted by</u>	<u>Type</u>
SA	Adami, Steve	Pvt
GB	Barlow, Glenn	Pvt
DB	Belus, David	Pvt
CRC	Clark Resource Council	Env
DC	Davis & Cannon	Pvt
DHCC	Deadhorse Creek Cattle Company (Helen Jones)	Pvt
DD	Doncaster, Dennis	Pvt
TH	Hubbard, Todd	Pvt
JBH	Jorden Bischoff & Hiser (Yates Petroleum)	Ind
DJ	Joslyn, Don	Pvt
LCCC	Laramie County Conservation District	CD
CL	Lawrence, Chip	Pvt
NM	McCoy, Nancy	Pvt
PAW	Petroleum Association of Wyoming	Ind
PRBRC	Powder River Basin Resource Council	Env
ES	Schwartz, Edward	Pvt
EPA	U.S. EPA	Gov
FWS	U.S. Fish & Wildlife Service	Gov
USFS	U.S. Forest Service	Gov
WW	Western Watersheds Project	Env
MW	West, Marjorie	Pvt
WACD	Wyoming Association of Conservation Districts	CD
WDA	Wyoming Dept. of Agriculture	Gov
WOC	Wyoming Outdoor Council	Env

CD - Conservation District
Env - Environmental Organization
Gov - Government Agency
Ind - Industry Representative
Pvt - Private Individual

PUBLIC COMMENTS

The tables that follow contain public comments and DEQ responses organized according to the Chapter 1 section or implementation policy referenced by each. The original comments contain more detail and in many instances have been paraphrased to produce a manageable summary. Where a comment is attributed to more than one commenter, the actual language reflects what was submitted by the first person indicated in the "From" column. The other commenters simply raised the same issue and had the same viewpoint.

PRBRC	<p>53 Lines 21 "Acutely toxic" is not a safe or reasonable assurance for livestock health. Production agriculture depends upon healthy, thrifty animals to gain weight and optimize reproduction potential. "Not acutely toxic" falls short of assuring industry of non-injury. Language suggestion: Delete Line 20-22.</p>	<p>The entire sentence referenced by the commenter reads: <i>The basic concept in protecting a livestock watering use is to ensure that water quality is not acutely toxic to livestock or does not contain pollutants in concentrations that would affect growth or reproduction.</i> It does reference protecting growth and reproduction and the chemical criteria provided are appropriate for those purposes.</p>
PRBRC	<p>p. 53 Line 27 3,000 mg/L for Sulfates contradicts the very language presented in draft on P. 53 line 21-22. As we have pointed out to DEQ many times previously, this level of Sulfates allowed in livestock water is a detriment to animal health, growth and reproductive potential.</p>	<p>This concentration for sulfate is an effluent limit established in Chapter 2 of the WQR&R. It has been in use for oil and gas discharges for many years and we are not aware of any circumstances where it has been a problem.</p>
PRBRC	<p>Barium is another constituent the DEQ is not providing levels that are protective for livestock watering. The Utah State University Extension Service has published a document stating that the safe upper limit concentration of barium in drinking water for livestock is .2 mg/l or 200 ppm. Colorado State University Cooperative Extension Agency has stated that water containing more than .3mg/L or 300 ppm is unacceptable for livestock consumption. The DEQ proposed barium limit is 1.8 mg/l or 1800 ppm.</p>	<p>The effluent limit for barium was established as part of an antidegradation review that was done to achieve compliance with the human health criteria. In short, this effluent limit is adequately protective of waters in the watersheds where it applies (NE Wyoming) because the barium in these waters is primarily in the form of barium sulfate which is an inert substance with little potential for health effects.</p>
PRBRC	<p>54 Line 1-4 The "exception" language is questionable in regards to "background water quality." Is this considered water quality in the natural flow regimen, unaffected by pre-CBM by-product water or upstream oil and gas activity? The short coming of this definition has been pointed out in previous comments. This "background" reference is made repeatedly in this document and should be defined and adjusted accordingly. Historic main stem data should be filtered for effects of oil and gas activity,</p>	<p>"Background" in the context which it is used here is intended to mean natural background.</p>