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JUL 08 2013

Jim Ruby, Executive Secretary
Environmental Quality Council

RULE MAKING OUTREACH DOCUMENT

Response to Comments

for the

Written Comment Period Ending June 27, 2013

Water Quality Rules and Regulations

Chapter 1

Wyoming Surface Water Quality Standards

Triennial Review



July 8, 2013

FILED

1 **Background**

2
3 Section 303(c) of the Clean Water Act provides states, tribes and territories with the primary
4 authority and responsibility to establish water quality standards for waters of the U.S. within
5 their respective jurisdictions. In Wyoming, the surface water quality standards are administered
6 by the Wyoming Department of Environmental Quality, Water Quality Division (WDEQ/WQD)
7 and are contained in Chapter 1 of the Wyoming Water Quality Rules and Regulations. Water
8 quality standards must be reviewed at least once every three years, known as the triennial review,
9 at which time existing standards can be modified and new standards adopted as necessary. In
10 addition to the standards, the *Implementation Policies for Antidegradation, Mixing Zones and*
11 *Dilution Allowances, Turbidity and Use Attainability Analysis* are revised as necessary to
12 accommodate changes in the rules. The policies are not in themselves rules or regulations, but
13 have been developed to provide additional detail and guidance on the procedures used to
14 interpret and implement Chapter 1. Following adoption by the state, the standards and
15 *Implementation Policies* are submitted to the Environmental Protection Agency (EPA) for
16 review to determine whether they meet the goals and requirements of the Clean Water Act.
17

18 WDEQ/WQD initiated a revision of Chapter 1 on September 12, 2011 with the release of a
19 public notice¹ and Proposed Rule Revision Outreach Document². Proposed revisions included:
20 resolution of Environmental Protection Agency (EPA) disapprovals from the last rule making,
21 updates of numeric criteria for priority and non-priority pollutants, revision of *E. coli* sampling
22 requirements and correction of a number of omissions, errors or inconsistencies that had been
23 identified since the most recent update in April 2007. The public was invited to submit written
24 comments between September 12 and October 21, 2011 or submit oral comments during a public
25 meeting held in Casper, Wyoming on October 13, 2011.
26

27 Considering the initial public comment, and in anticipation of a fourth quarter Water and Waste
28 Advisory Board (board) meeting, a second public notice³ was published on August 24, 2012 and
29 drafts of Chapter 1⁴, the Implementation Policies⁵, Statement of Principle Reasons⁶ and Response

¹September 12, 2011 Public Notice:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Chapter1/Chapter_1_Rule_Revision_Public_Notice_September_12_2011.pdf

²September 12, 2011 Outreach Document:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Chapter1/Chapter_1_Proposed_Rule_Revision_Outreach_Document_September_12_2011.pdf

³August 24, 2012 Public Notice:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Chapter_1_Public_Notice_for_Newspaper_and_Website_08242012.pdf

⁴August 24, 2012 Chapter 1 Draft:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Draft_1_Surface_Water_Quality_Standards_08242012.pdf

⁵August 24, 2012 Policies:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Draft_1_Implementation_Policies_08242012.pdf

⁶August 24, 2012 SOPR:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Statement_of_Principle_Reasons_08242012.pdf

30 to Comments (October 21, 2011)⁷ were released. Comments were received until September 24,
31 2012. A Response to Comments (September 24, 2012)⁸ was prepared and minor changes made
32 to the drafts of Chapter 1⁹, Implementation Policies¹⁰ and Statement of Principle Reasons¹¹.
33 These documents were included in the rule package released through a November 13, 2012
34 public notice¹² and considered by the board at a public meeting in Casper, Wyoming on
35 December 14, 2012.

36 During the December 14, 2012 meeting, the board extended public comment¹³ until January 15,
37 2013. No additional written comments were received by the department during the extended
38 public comment period. Considering comments made by the board and the public, a rule
39 package consisting of Chapter 1¹⁴, Implementation Policies¹⁵, Statement of Principle Reasons¹⁶,
40 and Response to Comments (January 15, 2013)¹⁷ were released through a February 19, 2013
41 public notice¹⁸ and considered by the Water and Waste Advisory Board at a public meeting held
42 in Casper, Wyoming on March 21, 2013. At that meeting, the board recommended that the rules
43 be advanced to the Environmental Quality Council (council).

44
45 The formal rulemaking process began on May 13, 2013 with the release of Notice of Intent to
46 Adopt Rules¹⁹ and a public notice²⁰ outlining that the council would hold a hearing regarding the

⁷ Responses to Comments (October 21, 2011):

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Response2_to_Comments_Public_Comment_Period_Ending_10212011_08242012.pdf

⁸ Responses to Comments (September 24, 2012):

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Response_to_Comments_Public_Comment_Period_Ending_09242012_11132012.pdf

⁹ November 13, 2012 Chapter 1 Draft:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/PublicNotice111312/Draft_Surface_Water_Quality_Standards_11132012.pdf

¹⁰ November 13, 2012 Policies:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/PublicNotice111312/Draft_Implementation_Policies_11132012.pdf

¹¹ November 13, 2012 SOPR:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/PublicNotice111312/Statement_of_Principle_Reasons_11132012.pdf

¹² November 13, 2012 Public Notice:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/PublicNotice111312/FINAL_Public_Notice_WWAB_December_2012_Mtg_11132012.pdf

¹³ December 14, 2013 Public Comment Extension:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Public_Notice_Extended_Public_Comment_Chapter_1_12142012_2.pdf

¹⁴ February 19, 2013 Chapter 1 Draft:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/PublicNotice021913/Draft_Surface_Water_Quality_Standards_02192013.pdf

¹⁵ February 19, 2013 Policies:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/PublicNotice021913/Draft_Implementation_Policies_02192013.pdf

¹⁶ February 19, 2013 SOPR:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/PublicNotice021913/Statement_of_Principle_Reasons_02192013.pdf

¹⁷ Responses to Comments (January 15, 2013):

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/PublicNotice021913/Responses_to_Comments_Period_Ending_01152013.pdf

¹⁸ February 19, 2013 Public Notice:

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/PublicNotice021913/Public_Notice_WWAB_March212013_Mtg_02192013.pdf

¹⁹ Notice of Intent (May 13, 2013):

http://deq.state.wy.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Chapter1/Notice_of_Intent_05132013.pdf

47 proposed changes to Chapter 1 on July 11, 2013. Also released on May 13, 2013 were drafts of
48 Chapter 1²¹, the Implementation Policies²² and Statement of Principal Reasons²³. Written
49 comments received by 5:00 PM MST June 27, 2013 have been included in this response to
50 comments. Based on the public comments received during the May 13, 2013 to June 27, 2013
51 comment period and some additional changes made by WDEQ/WQD, revised drafts of Chapter
52 1, the Implementation Policies, and Statement of Principal Reasons were prepared and made
53 available to the council and the public for review prior to the July 11 hearing. In addition,
54 WDEQ/WQD has prepared a “takings analysis” to comply with changes to W.S. 16-1-103(a)
55 that became effective July 1, 2013. The analysis was made available to the council and the
56 public along with the other rule revision documents.

57

58 At the July 11, 2013 hearing, the council will determine whether the revised rules will be
59 recommended for adoption, sent to the governor for approval, to the Legislative Service Office
60 for review, and the Secretary of State for certification or whether the rules need to be revised
61 further and brought before them again. Following adoption and certification by the state, the
62 standards will be submitted to EPA for review to determine whether they meet the goals and
63 requirements of the Clean Water Act.

64

65 **Changes Made By the Department**

66

67 **Appendix B Footnotes**

68

69 During the May 13, 2013 to June 27, 2103 comment period, the department identified an
70 error in footnote 10 of Appendix B that applies to the selenium criteria. In the May 13,
71 2013 proposed version of Chapter 1, footnote 10 was applied to the aquatic life acute
72 value for selenium. Footnote 10 contained the conversion factor for the aquatic life
73 chronic value for selenium, but did not include the conversion factor for the aquatic life
74 acute value. Footnote 10 now reads “This value is expressed in terms of total recoverable
75 metal in the water column. It is scientifically acceptable to use a conversation factor
76 (0.996 for the acute and 0.922 for the chronic) to convert this number to a value that is
77 expressed in terms of a dissolved metal. Using these conversion factors, the aquatic life
78 acute value for selenium is 19.92 µg/L as a dissolved metal and the aquatic life chronic
79 value for selenium is 4.61 µg/L as a dissolved metal.” The department included the
80 additional conversion factor in the revised version of Chapter 1 and a description of the

²⁰May 13, 2013 Public Notice:

http://deq.state.wv.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Chapter1/EQC_Public_Notice_05132013.pdf

²¹May 13, 2013 Chapter 1 Draft:

http://deq.state.wv.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Chapter1/Draft_Surface_Water_Quality_Standards_Strike_Undertline_05132013.pdf

²²

²³May 13, 2013 SOPR:

http://deq.state.wv.us/wqd/watershed/surfacestandards/Downloads/Triennial2011/Chapter1/Statement_of_Principal_Reasons_05132013.pdf

81 proposed change in the Statement of Principal Reasons that was made available to the
82 council and the public along with this response to comments.

84 **Implementation Policies**

85
86 During the May 13, 2013 to June 27, 2013 comment period, the department identified some
87 issues with the proposed changes to the *Antidegradation Implementation Policy*. The
88 department had inadvertently applied tier 3 antidegradation protections to Class 2 waters.
89 Class 2 waters should be protected by tier 2 antidegradation. The department has made
90 edits to the policy; these include the addition of some language that had been deleted and
91 modification of some of language that had been added to the proposed policy. The
92 department has provided a revised version of the policy to the council and the public
93 along with this response to comments.

94 95 List of Commenters

96
97 U.S. Environmental Protection Agency
98 Wyoming Game and Fish Department
99 Wyoming Association of Conservation Districts
100 Western Watersheds Project

101
102 Comments with an asterisk (*) have resulted in a change to Chapter 1 or the *Implementation*
103 *Policies*.

104 105 Comments and Responses

106 107 **Section 2. Definitions**

108
109 **Entity:** Wyoming Game and Fish Department

110 ***Comment:** "Page 1-5 line 199: Remove *Plyodictis*. In the past the Department has
111 attempted to stock flathead catfish. This stocking was unsuccessful and flathead catfish
112 does not occur in Wyoming."

113
114 **Response:** WDEQ/WQD has removed *Plyodictis* from the definitions of game fish
115 and warm water game fish in Section 2. WDEQ/WQD also determined that no surface
116 water classifications were based solely on the presence of *Plyodictis*, so the change will
117 not impact any surface water classifications. These changes are reflected in the revised
118 rule package that was made available to the public and council prior to the July 11, 2013
119 hearing.

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Entity: Wyoming Game and Fish Department

***Comment:** “Page 1-10 line 424: Include the following language “undesirable including aquatic invasive species.”

Response: WDEQ/WQD incorporated “aquatic invasive species” into the definitions of “aquatic life” and “undesirable aquatic life” in Section 2 and the description of the fisheries designated use and aquatic life other than fish designated use in Sections 3(b) and 3(g), respectively.

The definition of “aquatic life” now reads “fish, invertebrates, amphibians and other flora and fauna which inhabit waters of the state at some stage in their life cycles. Aquatic life does not include human pathogens or insect pests, aquatic invasive species or other organisms which may be considered ‘undesirable’ by the Wyoming Game and Fish Department or U.S. Fish and Wildlife Service within their appropriate jurisdictions.”

The definition of “undesirable aquatic life” now reads “organisms generally associated with degraded or eutrophic conditions. These may include the following organisms where they have replaced members of the natural biotic community: insect pests, aquatic invasive species or other organisms which may be considered ‘undesirable’ by the Wyoming Game and Fish Department or the U.S. Fish and Wildlife Service within their appropriate jurisdictions.”

The fisheries designated outlined in Section 3(b) now includes “This use does not include the protection of aquatic invasive species or other fish which may be considered “undesirable” by the Wyoming Game and Fish Department or the U.S. Fish and Wildlife Service within their appropriate jurisdictions.”

The aquatic life other than fish designated use outlined in Section 3(g) now includes “This use does not include the protection of human pathogens, insect pests, aquatic invasive species or other organisms which may be considered “undesirable” by the Wyoming Game and Fish Department or the U.S. Fish and Wildlife Service within their appropriate jurisdictions.”

Section 27. *E. coli* Bacteria.

Entity: Wyoming Association of Conservation Districts

Comment: “WACD continues to support the DEQ’s modification of the *E. coli* standard to a 60 day period versus a 30 day period. WACD also understands DEQ’s decision to place the sampling frequency and duration in the Methodologies document. WACD does

160 want to reiterate the importance of this methodology being modified so that sampling
161 occurs over the 60 day period which is more representative of the contact recreation
162 season. During the WACD September 2012 area meetings this change was discussed and
163 there was broad based support among the local Conservation Districts for this change and
164 most all have their sampling plans established to collect data over the recreation season.
165

166 WACD understands and supports DEQ's decision to include the sampling frequency and
167 geometric mean criteria in the Listing Methodologies. WACD continues to support
168 efforts to modify the sampling from 5 samples separated by 24 hours to the longer
169 separation period."
170

171 **Response:** WDEQ/WQD appreciates support of the proposed change from a 30-day
172 duration to a 60-day duration for the *E. coli* geometric mean and placement of the
173 sampling requirements for attainment decisions within *Wyoming's Methods for*
174 *Determining Surface Water Quality Condition and TMDL Prioritization* (Listing
175 Methodology) document. The most recent version of the Listing Methodology, which is
176 based on the current version of Chapter 1, outlines that "Four of the five samples must be
177 collected in separate weeks." WDEQ/WQD plans to revise the Listing Methodology
178 after the proposed changes to Chapter 1 have been approved. Similar to the current
179 language, WDEQ/WQD anticipates maintaining a sampling frequency that is
180 representative of the entire duration of the *E. coli* geometric mean. Revisions to the
181 Listing Methodology will be made available to the public for comment prior to being
182 finalized.
183

184 **General Comments**

185

186 **Entity:** U.S. Environmental Protection Agency

187 **Comment:** "The Water Quality Unit commends you for your thorough review of
188 Wyoming's water quality standards. The proposed changes include significant
189 improvements, such as:

- 190 • Resolution of EPA's September 29, 2008 disapprovals regarding elements of
191 Section 27 and the thallium and toxaphene human health criteria;
- 192 • New aquatic life criteria for acrolein, nonyphenol and diazinon and revised
193 aquatic life criteria for tributyltin and silver consistent with the Agency's
194 recommendations pursuant to Clean Water Act § 304(a).
- 195 • New human health criteria for hexachlorocyclo-hexane-technical and revised
196 human health criteria for acrolein, chlorobenzene/monochlorobenzene, phenol,
197 endrin, cyanide, and nickel consistent with the agency's recommendations
198 pursuant to Clean Water Act § 304(a); and

- New human health criteria for bromate, chlorite, haloacetic acids, total trihalomethanes, and a revised human health criteria for 1,1-dichloroethylene consistent with the Maximum Contaminant Levels established under the National Primary Drinking Water Regulations.”

Response: As outlined by EPA, DEQ/WQD is proposing to address EPA’s disapprovals from the last rule revision; adopt new aquatic life criteria for acrolein, diazinon, and nonylphenol; revise aquatic life criteria for silver and tributyltin; adopt new human health criteria for bromate, chlorite, haloacetic acids, hexachlorocyclo-hexane-technical, and total trihalomethanes; revise human health criteria for acrolein, chlorobenzene (monochlorobenzene), 1,1-dichloroethylene, phenol, toxaphene, cyanide, nickel and thallium. WDEQ/WQD appreciates EPA’s support for the proposed changes.

Entity: Wyoming Association of Conservation Districts

Comment: “General comment in regard to modification of ‘waste’ to ‘pollution’ Section 24. Dissolved Oxygen; modification of ‘effluent’ to ‘pollution’ Section 25. Temperature; ‘wastes’ to ‘pollution’ Section 26. pH.”

The Association understands based on conversations with DEQ personnel that the modification is intended to address both traditional point source ‘wastes’ and ‘effluent’ as well as nonpoint source contributions therefore bringing the language into conformance with current application of the standards and the overall water quality program.

In essence, the change from ‘waste’ and ‘effluent’ to ‘pollution’ would not have any practical impact to how DEQ would evaluate data in terms of a standard exceedance. Further, WACD understands that as it pertains to the temperature and pH standard that DEQ would utilize a weight of evidence approach in making an impairment determination. WACD appreciates confirmation in response to comments that this understanding is correct.”

Response: As outlined by the commenter, WDEQ/WQD is proposing to change the terms “wastes” and “effluent” to “pollution” in Sections 24 (Dissolved Oxygen), Section 25 (Temperature) and Section 26 (pH) to make the language in Chapter 1 more inclusive of the types of anthropogenic activities that can result in impacts to these water quality parameters. The use of the terms “wastes” dates back to the 1968 version of Wyoming’s water quality standards. The change from “wastes” and “effluent” to “pollution” will also make the text more consistent with the purpose of the Environmental Quality Act, “to enable the state to prevent, reduce and eliminate pollution” as identified in W.S. 35-11-102.

239 As identified by the commenter, WDEQ/WQD does not expect changing the terms
240 “wastes” and “effluent” to “pollution” to have an impact on the way that data is
241 evaluated to determine whether a waterbody is meeting its designated uses. A separate
242 document, *Wyoming’s Methods for Determining Surface Water Quality Condition and*
243 *TMDL Prioritization*²⁴ (Listing Methodology) details the policies and data requirements
244 for making designated use support determinations that are incorporated into the
245 Wyoming Water Quality Assessment and Impaired Waters List (Integrated 305(b) and
246 303(d) Report)²⁵. The current version Listing Methodology identifies that “evaluations of
247 numeric criteria for non-toxic pollutants may or may not require the use of credible data”.
248 Dissolved oxygen, temperature and pH are considered by the department to be “non-
249 toxic.” As such, WDEQ/WQD will generally use credible data (chemical, physical and
250 biological data) in a weight of evidence approach to determine whether fisheries or
251 aquatic life other than fish designated uses are impaired due to dissolved oxygen,
252 temperature or pH.

253
254 **Entity:** Wyoming Association of Conservation Districts

255 **Comment:** “WACD appreciates DEQ’s work on the UAA model to date. The
256 Association and the member districts are hopeful that this model will be released for
257 public review and comment in the near future as it is extremely important that this effort
258 move forward so that accurate water body classifications can occur. This will ensure that
259 resources can be targeted towards the state’s priority water quality issues.”

260
261 **Entity:** Western Watersheds Project

262 **Comment:** “While we have not seen a final version of the categorical downgrade model,
263 we have reviewed the version from a few months ago. It does not comply with the
264 requirements for a UAA in the current or revised regulations or implementation
265 document.”

266
267 **Response:** Since the proposed changes to Section 27, *E. coli* Bacteria, will result in many
268 of the waters of state reverting back to primary contact recreation rather than secondary
269 contact recreation, WDEQ/WQD has been working on a Categorical Use Attainability
270 Analysis for Recreation. WDEQ/WQD understands that there is significant interest in
271 this UAA. This UAA is not included in this rule package. As outlined in Chapter 1,
272 Section 33 and 34, UAAs have a separate approval and submittal process. Chapter 1,
273 Section 34 identifies that “The Water Quality administrator shall review all petitions
274 under Section 33 of these regulations and make a determination based upon the technical
275 merits of the Use Attainability Analysis. Public notice and opportunity for comment
276 shall be provided prior to making this determination.” As such, WDEQ/WQD will

²⁴ Methodology: http://deq.state.wy.us/wqd/watershed/WyomingMethods_13_0352.pdf

²⁵ 2012 Integrated Report: <http://deq.state.wy.us/wqd/watershed/Downloads/305b/2012/WY2012IR.pdf>

277 address comments on UAAs after a draft of the UAA has been released for public
278 comment.

279

280 **Entity:** Western Watersheds Project

281 **Comment:** “Also the implementation document does not provide sufficient guidance
282 to implement listing decisions based on turbidity or temperature.

283

284 So example, read the guidance and let me know if a streams with turbidity of 40 for 3
285 weeks would be listed or not?

286

287 The same for temperature, lets say you have 3 data points over a 3 week period showing
288 in a 2AB cold water fisheries, a temperature of 23 degrees, would that be listed?

289

290 The last two in addition to being comments are questions I would like answers to outside
291 the comment process.”

292

293 **Response:** Chapter 1 contains designated uses, water quality criteria to protect designated
294 uses, and Wyoming’s antidegradation policy. The *Implementation Policies for*
295 *Antidegradation, Mixing Zones, Turbidity and Use Attainability Analysis* document
296 contains additional detail on how to implement portions of Chapter 1. A separate
297 document, *Wyoming’s Methods for Determining Surface Water Quality Condition and*
298 *TMDL Prioritization*²⁶ (Listing Methodology) details the data requirements for making
299 designated use support determinations that are incorporated into the *Wyoming Water*
300 *Quality Assessment and Impaired Waters List (Integrated 305(b) and 303(d) Report)*²⁷.
301 Based on Chapter 1, Sections 23 and 25 and Wyoming’s Listing Methodology, neither of
302 the scenarios presented in the comment would result in inclusion of the stream in
303 Wyoming’s 303(d) List.

304

305 LP/rm/13-0623

²⁶ Methodology: http://deq.state.wy.us/wqd/watershed/WyomingMethods_13_0352.pdf

²⁷ 2012 Integrated Report: <http://deq.state.wy.us/wqd/watershed/Downloads/305b/2012/WY2012IR.pdf>

APPENDIX A. WRITTEN COMMENTS FOR COMMENT PERIOD ENDING JUNE 27, 2013

Figure A-1. Environmental Protection Agency (2 pages).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

June 6, 2013

Ref: 8EPR-EP

Lindsay Patterson
Water Quality Division
Wyoming Department of Environmental Quality
Herschler Building 4-W
122 West 25th Street,
Cheyenne, WY 82002

Dear Ms. Patterson:

The U.S. Environmental Protection Agency Region 8's Water Quality Unit received the Wyoming Department of Environmental Quality's public notice, published on May 13, 2013. The notice includes information about the July 11, 2013 public hearing and supporting documents, including the proposed changes to Chapter 1 of the Wyoming Water Quality Rules and Regulations and associated Implementation Policies, Statement of Principal Reasons, and Notice of Intent. The Water Quality Unit reviewed the proposed amendments and supports adoption.

The Water Quality Unit commends you for your thorough review of Wyoming's water quality standards. The proposed changes include significant improvements, such as:

- Resolution of the EPA's September 29, 2008 disapprovals regarding elements of Section 27 and the thallium and toxaphene human health criteria;
- New aquatic life criteria for acrolein, nonylphenol and diazinon and revised aquatic life criteria for tributyltin and silver consistent with the Agency's recommendations pursuant to Clean Water Act § 304(a);¹
- New human health criteria for hexachlorocyclo-hexane-technical and revised human health criteria for acrolein, chlorobenzene/monochlorobenzene, phenol, endrin, cyanide, and nickel consistent with the agency's recommendations pursuant to Clean Water Act § 304(a); and
- New human health criteria for bromate, chlorite, haloacetic acids, total trihalomethanes, and a revised human health criterion for 1,1-dichloroethylene consistent with the Maximum Contaminant Levels established under the National Primary Drinking Water Regulations.²

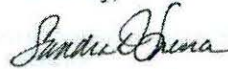
The EPA looks forward to continuing to work with you to protect and improve Wyoming's surface waters.

¹ See <http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm>.

² See <http://water.epa.gov/drink/contaminants/index.cfm>.

Please note that these comments are preliminary in nature and should not be interpreted as final agency decisions under Clean Water Act § 303(c). If you have any questions, please call Tonya Fish on my staff at (303) 312-6832.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sandra Spence".

Sandra Spence, Chief
Water Quality Unit

Figure A-2. Wyoming Game and Fish Department (1 page).



WYOMING GAME AND FISH DEPARTMENT

5400 Bishop Blvd. Cheyenne, WY 82006

Phone: (307) 777-4600 Fax: (307) 777-4699

wgfd.wyo.gov

GOVERNOR
MATTHEW H. MEAD

DIRECTOR
SCOTT TALBOTT

COMMISSIONERS
MIKE HEALY - President
RICHARD KLOUDA - Vice President
MARK ANSELM
AARON CLARK
KEITH CULVER
T. CARRIE LITTLE
CHARLES PRICE

June 26, 2013

WER 8859.06
Department of Environmental Quality
Water Quality Division
Proposed Revisions to Chapter 1 of the
Wyoming Department of Environmental Quality
Water Quality Division's, Water Quality Rules and Regulations

Lindsay Patterson
WDEQ/Water Quality Division
122 West 25th Street
Herschler 4W
Cheyenne, WY 82002

Dear Ms. Patterson:

The staff of the Wyoming Game and Fish Department has reviewed the proposed revisions to Chapter 1 of the Wyoming Department of Environmental Quality Water Quality Division's, Water Quality Rules and Regulations. We offer the following comments.

Page 1-5 line 199: Remove *Pylodictis*. In the past the Department has attempted to stock flathead catfish. This stocking was unsuccessful and flathead catfish does not occur in Wyoming.

Page 1-10 line 424: Include the following language "undesirable including aquatic invasive species"

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Konishi".

for Mark Konishi
Deputy Director

MK/mf/gb

cc: USFWS

"Conserving Wildlife - Serving People"

Figure A-3. Wyoming Association of Conservation Districts (2 pages).



Wyoming Association of Conservation Districts

517 E. 19th Street - Cheyenne, WY 82001 - Phone: 307-632-5716 - Fax: 307-638-4099
www.conservewy.com

June 26, 2013

Lindsay Patterson
Wyoming Department of Environmental Quality
4th Floor West, Herschler Bldg.
Cheyenne, WY 82002

RE: Chapter 1 Surface Water Quality Standards; May 13, 2013

Dear Ms. Patterson,

The Wyoming Association of Conservation Districts (WACD) appreciates the opportunity to provide additional input on the proposed revisions to Chapter 1, Surface Water Quality Standards.

General comment in regard to modification of "waste" to "pollution" Section 24. Dissolved Oxygen; modification of "effluent" to "pollution" Section 25. Temperature; "wastes" to "pollution" Section 26. pH

COMMENT: The Association understands based on conversations with DEQ personnel that the modification is intended to address both traditional point source "wastes" and "effluent" as well as nonpoint source contributions thereby bringing the language into conformance with current application of the standards and the overall water quality program.

In essence the change from "waste" and "effluent" to "pollution" would not have any practical impact to how DEQ would evaluate data in terms of a standard exceedence. Further, WACD understands that as it pertains to the temperature and pH standard that DEQ would utilize a weight of evidence approach in making an impairment determination. WACD appreciates confirmation in response to comments that this understanding is correct.

Section 27. E. coli Bacteria

COMMENT: WACD continues to support DEQ's modification to the E. coli standard to a 60 day period versus a 30 day period. WACD also understands DEQ's decision to place the sampling frequency and duration in the Methodologies document. WACD does want to reiterate the importance of this methodology being modified so that sampling occurs over the 60 day period which is more representative of the contact recreation season. During the WACD September 2012 area meetings this change was discussed and there was broad based support among the local Conservation Districts for this change and most all have their sampling plans established to collect data over the recreation season.

WACD understands and supports DEQ's decision to include the sampling frequency and geometric mean criteria in the Listing Methodologies. WACD continues to support efforts to modify the sampling from 5 samples separated by 24 hours to the longer separation period.

CONSERVATION – DEVELOPMENT – SELF-GOVERNMENT

Section 33. Reclassifications and Site Specific Criteria

COMMENT: WACD appreciates DEQ's work on the UAA model to date. The Association and the member districts are hopeful that this model will be released for public review and comment in the near future as it is extremely important that this effort move forward so that accurate water body classifications can occur. This will ensure that resources can be targeted towards the state's priority water quality issues.

Thank you for the opportunity to comment.

Sincerely,



Shaun Sims
President

cc: Department of Agriculture
Conservation Districts

Figure A-4. Western Watersheds Project (1 page).



Wyoming Office
PO Box 1160
Pine dale, WY 82941
Tel: (877) 744-3628
Fax: (707) 597-4058
Email: Wyoming@WesternWatersheds.org
Web site: www.WesternWatersheds.org

Working to protect and restore Western Watersheds

**Western
Watersheds
Project**

Lindsay Patterson
DEQ - WQD
122 West 25th St, Herschler Building 4-W
Cheyenne, WY 82002

June 27, 2013

Dear Lindsay,

In addition to our previous two sets of comments, we provide the following.

While we have not seen the final version of the categorical downgrade model, we have reviewed the version from a few months ago. It does not comply with the requirements for a UAA provided in the current or revised regulations or implementation document.

Also the implementation document does not provide sufficient guidance to implement listing decisions based on turbidity or temperature.

So example, read the guidance and let me know if a stream with turbidity of 40 for 3 weeks would be listed or not?

The same for temperature, lets say you have 3 data points over a 3 week period showing in a 2AB cold water fisheries, a temperature of 23 degrees, would that be listed?

The last two in addition to being comments are questions I would like answers to outside the comment process.

Thank you for your consideration of these issues,

A handwritten signature in black ink, appearing to read "Jonathan B. Ratner".

Jonathan B Ratner
Director – Wyoming Office