

Wyoming Department of Environmental Quality's
Response to Comments For
Proposed Revisions to Rules of Practice and Procedure

The following document details the actions taken by the Wyoming Department of Environmental Quality (DEQ) to gather public comments and input regarding the proposed revisions to Rules of Practice and Procedure Chapter 3 related to the December 11, 2019 Water and Waste Advisory Board meeting, the December 12, 2019 Land Quality Advisory Board meeting and the December 8, 2020 Air Quality Advisory Board meeting. DEQ is taking this opportunity to summarize and respond to all comments officially received.

On November 1, 2019 DEQ published a public notice of the Water and Waste Advisory Board meeting in the Casper Star-Tribune. On November 13, 2019 DEQ published a public notice of the Land Quality Advisory Board meeting in the Casper Star-Tribune. On November 8, 2020, DEQ published a public notice of the Air Quality Advisory Board meeting. In each notice, DEQ informed the public that DEQ is proposing changes to the Rules of Practice and Procedure Chapter 3. The public was informed that the proposed revisions were being recommended in order to conform with statutory changes made during the 2019 Legislative Session through House Enrolled Act 33 – Environmental quality council-amendments. The public was provided an electronic link to the proposed revisions and also invited to submit comments to DEQ. A comment period of thirty days was provided prior to the meeting of each advisory board.

DEQ did not receive any comments from the public. DEQ did receive comments from members of the Water and Waste Advisory Board. This document summarizes the comments and includes DEQ's response to each comment.

Comment: How do the comments and concerns that our board comes up with get passed on to EQC?

Department Response: DEQ responded that Advisory Board comments are shared with the EQC in a number of formats. EQC is provided the transcript of each board meeting when rulemaking is involved, so the EQC can review the direct discussions. Additionally, DEQ provides this document, a response to comments, which summarizes the comments from the advisory board and DEQ's response.

DEQ also noted there are a number of other steps in the rulemaking process which would make it ill-advised to not adhere to an advisory board's comments, concerns or considerations. This includes the review by the Governor's office, the public and the Legislative Service Office.

Comment: What assurance does an advisory board have that DEQ will adhere to our advice if the DEQ does not have to receive an affirmative recommendation from the board on rulemaking?

Department Response: DEQ Divisions have functioned with advisory boards since inception. The change in statute language does not change the function of an advisory board or its interaction with a division. The perspective of the advisory boards is necessary for the divisions to develop strong rule packages. If certain advice is not followed, DEQ would have to justify that either to the public, the Governor's office, LSO, or the EQC.

Comment: The WWAB had concern about deleting Section 4(b)(i), (ii) and (iii). Those romanettes provide some guidance to an advisory board of the actions available to them to complete a requested action.

Department Response: DEQ did initially propose to delete those provisions in the rules. DEQ's reasoning is that they seemed prescriptive and may restrict the possible actions of an advisory board. Additionally, the three options provided are now within the authority of DEQ to take upon receiving the advice of an advisory board. DEQ recommended that, in lieu of the three romanettes, advisory boards could develop policy guidance of options available to them on providing advice to a division.

After discussion, DEQ did retain the three romanettes in the rules and added a fourth romanette providing the broad discretion that is afforded to the advisory boards.

**Attachment A
Commenters**

Water and Waste Advisory Board Member Commenters
Lorie Cahn