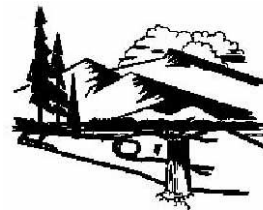




Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.




Mark Gordon, Governor



Todd Parfitt, Director

TO: Honorable Mark Gordon, Governor

FROM: Todd Parfitt, Director 
Department of Environmental Quality

SUBJECT: Supplemental Information Related to Proposed Rules for Wyoming Department of Environmental Quality, Water Quality, Chapter 12

DATE: August 15, 2022

PRIORITY: **HIGH**—Deadline for response is **August 29, 2022**

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SUPPLEMENTAL INFORMATION: As noted in the request for approval to proceed with rulemaking, the Department is proposing to amend Chapter 12, Design and Construction Standards for Public Water Supplies. The following supplemental information summarizes the Water Quality Division's (WQD) determination that consultation and advice of the Water and Waste Advisory Board (WWAB) under Wyoming Statutes (W.S.) § 35-11-114(b) has been satisfied in order to proceed with the associated request for approval to begin formal rulemaking.

The WQD presented revisions to Chapter 12 to the WWAB three times, at meetings held on December 21, 2021, March 15, 2022, and May 3, 2022. At the May 3, 2022 meeting, the WWAB voted 2-2 on a motion to move the proposed rule forward to the Environmental Quality Council (EQC).

The two board members opposed to the motion expressed concern that the proposed revisions contained incorrect and unclear references. In response, the WQD has carefully considered these concerns and has conducted an additional review of the proposed rule to ensure the use of correct references and to clarify incorporation by reference language. The WQD will include these non-substantive revisions in the rulemaking materials submitted to the Environmental Quality Council.

The two board members opposed to the motion also felt another public comment opportunity associated with the WWAB's review was warranted. The WQD has considered this advice but does not agree that an additional public comment period would add value at this time because of the substantive public outreach already conducted: the WQD held an informal public outreach comment period in October 2020; the proposed rule was available for public comment for a total of 130 days in association with the WWAB meetings; the WQD responded in writing to all comments received during the public comment opportunity and contacted each commenter individually to ensure comments were understood and

addressed; and the WQD hosted a webinar to provide an overview of the proposed rule and answer questions from the public. Only one member of the public provided comments during the March 2022 meeting, and, during that meeting, the WWAB advised the WQD that another public comment period would not be necessary if the WWAB had an additional meeting to review the rule.

Upon receipt of the Governor's Office approval to proceed with formal rulemaking, the WQD will provide a 45-day public comment opportunity prior to the EQC hearing, in accordance with W.S. § 16-3-103(a)(i). Additionally, the WQD will provide the EQC with all WWAB comments to ensure EQC members are informed of the concerns raised by members of the WWAB.

The WWAB has consulted and advised the WQD Administrator on the entirety of the proposed rule and that advice has been thoroughly considered and incorporated as appropriate by the WQD Administrator. It is the WQD's determination that the WWAB has satisfied its statutory requirement to advise the Administrator on the proposed rule, per W.S. § 35-11-114(b).

Finally, it is important to update the chapter in a timely manner to ensure public water systems are constructed and modified in accordance with current standards, specifications, and treatment technologies. With the state poised to potentially receive over \$413 million for drinking water infrastructure projects over the next five years under the Bipartisan Infrastructure Law, it is particularly important to ensure we are operating under up-to-date standards and specifications to support defensible and consistent decision-making to protect public health and to give the regulated community current information to support long-term planning and avoid compliance issues.

JZ/KH/GJT