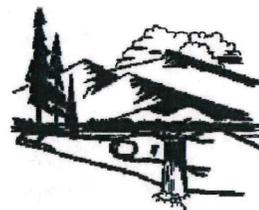




Department of Environmental Quality

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

MEMORANDUM

TO: Abigail Boudewyns, Wyoming Senior Assistant Attorney General

FROM: Jennifer Zygmunt, Water Quality Division Administrator 

DATE: January 16, 2025

PRIORITY: HIGH – Deadline for response is February 17, 2025

SUBJECT: Request for review of proposed rules for statutory authority and concurrence with non-inclusion of strike and underline version of Water Quality Rules Chapter 1

The Department of Environmental Quality (DEQ), Water Quality Division (WQD) is seeking a statutory authority review of proposed revisions to Water Quality Rules Chapter 1, Wyoming Surface Water Quality Standards, and Chapter 2, Permit Regulations for Discharges to Wyoming Surface Waters. The Water Quality Division is proposing revisions to Chapter 1 that (1) make the rules more clear, concise, and consistent with state and federal law, regulations, and guidance; (2) revise designated uses and remove the bundled designated use classification system so that designated uses can be applied separately to Surface Waters of the State; (3) provide minor updates to a few water quality standard provisions and criteria to incorporate additional methods and clarity, respectively, for protection of designated uses in Wyoming; and (4) fulfill CWA requirements to review surface water quality standards at least once every three years. The Water Quality Division is proposing revisions to Chapter 2 to address specific changes to Chapter 1; these changes include: (1) removing references to the bundled classification system that is being removed from Chapter 1; and (2) incorporating provisions related to fish toxicants, aquatic pesticides, and short-term sediment disturbances (including turbidity), that were removed from Chapter 1 because they address discharges to surface waters and are not water quality standards. Water Quality Division is proposing revisions to update grammar, formatting, and definitions throughout Chapter 1.

WQD took public comment on the proposed rules between April 11, 2024, and June 13, 2024, in advance of the June 13, 2024, Water and Waste Advisory Board meeting, and between October 15, 2024, and November 15, 2024, in advance of the December 12, 2024, Water and Waste Advisory Board meeting. On December 12, 2024, the Water and Waste Advisory Board advised WQD to proceed with the proposed revisions to the Environmental Quality Council.

WQD has reviewed the requirements of the Secretary of State's Rules on Rules for State Agencies, Chapter 3, Section 1(b)(ii)(A). Based on prior consultation with the Attorney General's Office and due to the pervasiveness of the proposed revisions to Chapter 1, we have not included a strike and underline version and are seeking concurrence that the strike and underscore version of Chapter 1 is not required. Our statement of principal reasons and supplementary guidance to the statement of principal reasons identify the type of changes made and include all substantive deletions and additions with appropriate citations to the sections affected.

WQD has reviewed the requirements of W.S. 35-11-302(a)(iii) and (vi) of the Environmental Quality Act and has determined this rulemaking to be in procedural compliance with the statute. WQD has reviewed and responded to the Takings Checklist provided by the Attorney General's Office. Per the Attorney General's Rules Handbook, you will find enclosed:

- A copy of the draft memo to Governor Gordon;
- A copy of the draft Statement of Principal Reasons for Adoption;
- A copy of the Supplementary Guidance to the Statement of Principal Reasons;
- A copy of Chapter 1 in clean format only due to the pervasiveness of the changes;
- A copy of Chapter 2 in strike and underline format;
- A copy of Chapter 2 in clean format; and
- A response to the Attorney General's Takings Checklist.

WQD requests a response as noted below regarding the review of the proposed rules for statutory authority and concurrence with non-inclusion of the strike and underscore of Chapter 1 due to the pervasiveness of the proposed revisions. Once WQD receives your response, we will proceed as appropriate.

If you have any questions or need additional information regarding the proposed rules please contact me or Lindsay Patterson and Eric Hargett of my staff.

Attorney General's Response Options:

X

Proposed Rules are within the Division's statutory authority,
Concur that strike and underscore is not required for Chapter 1
May seek permission to proceed from the Governor's Office.

Proposed rules exceed statutory authority,
Do not concur that strike and underscore is not required for Chapter 1
Delay proceeding with rulemaking


Signature: Abigail Boudewyns

2.18.25
Date