

# Wyoming Department of Environmental Quality Surface Water Quality Standards Rule Revision Situation Assessment and Process Recommendations

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Prepared By

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## **Executive Summary**

The Wyoming Department of Environmental Quality (WDEQ) has started a triennial review of the Wyoming Surface Water Quality Standards (SWQS or standards) that will likely include fairly substantive changes to the standards. DEQ requested assistance from the Ruckelshaus Institute of the Environment and Natural Resources at the University of Wyoming to conduct an assessment to determine whether collaborative problem solving would be suitable for developing recommended revisions to the standards. This assessment is based on information gathered from interviews with 18 stakeholders regarding their experience with the SWQS and their perceptions on collaborative processes. Results from the interviews showed that, while some stakeholders doubt that a collaborative process will actually result in solutions to some of the water quality issues identified, most believe that discussion of the standards is important and overdue. Most stakeholders are optimistic that organizations and individuals will work collaboratively and discuss the issues in good faith. Many stakeholders believe it could be beneficial for the community to discuss the proposed changes to the standards and give individuals and groups an opportunity to voice their opinions and be heard. Most stakeholders believe that if a process is either not undertaken or is unsuccessful, the outcome would be maintaining status quo. Some believe the status quo is acceptable while others do not. Based on the results gathered from the stakeholder interviews, the Ruckelshaus Institute concludes that the potential exists for stakeholders to work together in a collaborative process and make substantial progress toward consensus-based recommendations regarding rule revisions for the surface water quality standards. In our analysis, there was no single factor that would negate the ability for a collaborative process to potentially be successful.

## **Introduction and Background**

Wyoming's surface water quality standards (SWQS or standards), outlined in the Department of Environmental Quality's (DEQ's) Water Quality Rules and Regulations, provide the regulatory framework to ensure that the state's streams, lakes, and wetlands are safe for swimming and other types of recreation; can support high-quality drinking water supplies; produce fish that are safe to eat; and can support agricultural and industrial uses, wildlife, and diverse aquatic communities. DEQ is required by the federal Clean Water Act to review the standards every three years and in the fall of 2018, DEQ initiated the scoping process to review and potentially revise the standards. At the time, DEQ identified a number of issues with the standards that could be addressed, held two hearings that outlined these issues, and accepted comments on those issues as well as other aspects of the standards the public and stakeholders thought needed to be revised. Stakeholders provided comments requesting that DEQ engage in a robust public process for developing proposed revisions. Given the importance of surface water quality, the significance of the potential changes to the rules, potential impacts to regulated entities, the importance of stakeholder input in developing alternatives to address the issues, DEQ agreed and reached out to the Ruckelshaus Institute to assist them in exploring whether a collaborative stakeholder process might be used to inform potential revisions to the standards.

The Ruckelshaus Institute, a division of the Haub School of Environment and Natural Resources at the University of Wyoming, advances the understanding and resolution of

complex environmental and natural resources challenges and supports stakeholder-driven solutions to environmental challenges by communicating relevant research and promoting collaborative decision making. The Ruckelshaus Institute has experience and expertise in conducting stakeholder assessments, as well as convening and facilitating collaborative problem-solving processes.

The purpose of this stakeholder assessment is to assist DEQ in evaluating whether the issues surrounding the revision of the standards are amenable to collaborative problem solving. The assessment is based on information gathered from interviews with 18 stakeholders regarding their experience with the DEQ and the standards and their perceptions on collaborative processes. Participants represented federal agencies, State agencies, local governments, non-governmental organizations (NGOs), waste management groups, agricultural interest groups, and industries. Each 45-minute interview employed traditional interview questions to obtain qualitative data that was used by the Ruckelshaus Institute to determine if a collaborative problem-solving process is an appropriate method for DEQ to receive recommendations during the standards revision process.

## **Assessment Process and Methods**

The assessment conducted by the Ruckelshaus Institute is based on data gathered from in-person and telephone interviews of stakeholders in the state of Wyoming. With the assistance by members of DEQ, the authors compiled a list of 25 organizations and individuals to interview. These individuals were emailed and called to schedule interviews. Follow-up emails and calls were made to find a convenient time for the interview. Not all stakeholders contacted successfully scheduled an interview. In total, 18 stakeholders were interviewed for this assessment. Michelle Mortimer conducted the interviews in July and August 2020. Each interview took an average of 45 minutes. A list of the individuals interviewed for this assessment is contained in Appendix A.

The interviews consisted of a set of open-ended questions designed to elicit information about the potential for a collaborative, consensus-seeking process to inform potential revisions to the standards. Respondents answered questions regarding their prior experience with SWQS in general, their experience with the revision of the standards that began in 2018, their thoughts on whether a collaborative process would work, and logistical details necessary to engage in a collaborative process.

## **Findings: Perceptions of Wyoming's Surface Water Quality Standards**

### ***Perception of Wyoming's Surface Water Quality Standards and Standards-Setting Processes***

Stakeholders were asked to describe their perceptions of the standards as established and regulated by Wyoming DEQ. The goal was to get a baseline for the individual respondents' interests in and knowledge of Wyoming's SWQS. Familiarity with the

standards varied widely. About half of the respondents had considerable experience working with DEQ on their standard-setting procedures by submitting comments and/or conferring with DEQ personnel about standards and their rule-making process. The rest of the respondents had little to no experience with the standards.

When asked about their interest in SWQS, responses varied from general interest in water quality to specific focus on the standards. For example, some respondents stated their interest in the standards is to keep high quality water bodies in the state to enjoy for recreation, aesthetic, and aquatic habitat reasons. The responses that were specific to the standards themselves related to how the standards change and are implemented, because that affects how the specific entity the respondent works for operates. The most common reply explaining why respondents are interested in the SWQS was to help them know how to protect the interests of the people the various respondents represent.

All of the respondents who had experience with the standards had positive things to say about how the standards are working well. Many respondents replied that the standards are easy to find and accessible on DEQ's website. One respondent said, "In general, they reflect a practical approach to protect quality while maintaining the traditional use of the land and the water adjacent to those lands." Most commented on how they appreciated that DEQ is willing to work with people and listen to their concerns or comments regarding the standards and that notices are sent out when revisions are proposed so that people and organizations know when to comment. It was also noted by a few respondents that it is good DEQ is increasing their public outreach and trying to involve as many people as possible.

The respondents that had experience with the standards supplied very specific recommendations on how the standards were not working well. It was suggested by multiple respondents that public health concerns should play a bigger role in the SWQS than they do currently. One respondent said, "the way non-point source pollution is handled and explained could be more clear." One respondent said that DEQ needs to put some of the technical terms into simpler jargon in the emails that are sent out so that everyone can understand what DEQ is trying to do. Another respondent said that more education and specifics are needed on the phosphorus issue. Another suggested that the process used to develop and revise the standards should include the local community government comments and feedback because they all stand to lose or gain from the changes made. Another respondent suggested that more people need to be involved in the creation of standards to support clarity of the standards for the average individual that doesn't have the education or background in water quality. Another expressed concern about SWQS for discharges into ephemeral streams using produced water because of the buildup of pollutants in the sediment over time. There was another concern that use attainability analyses are not being used correctly. Another suggestion for improvement was that there needs to be education and training for those who take water quality samples.

Most respondents were able to provide a recommendation on how to improve the standards if they were able to provide an example of something that needed to be improved. A few of the responses related to ensuring that the classifications of water

bodies have data to support those classifications. One respondent even suggested that there need to be requirements for credibility of third-party data and greater emphasis put on the fact that the classifications are made solely on data collected by DEQ themselves. Another suggestion was that the rules and standards have to clearly protect existing uses and that there needs to be more concern for the water system as a whole. A suggestion that was different from the others was that there should be an environmental health division in the Department of Public Health so that DEQ's and the Department of Health's missions can be analyzed at the same time.

Just above half of the respondents were able to provide ideas for what DEQ is missing when it comes to development and revision of the standards. A few respondents had comments relating to ensuring that communication during the process is kept open and that the standards need to be understandable to the vast range of people in Wyoming. One respondent replied that it's hard to know how to address certain issues that are more obscure in the standards. They suggested that, if possible, there should be clear paths to follow in the standards that help address issues that are hard to address presently. Another respondent said that DEQ is missing input from other stakeholders like the general public and land management agencies. They also suggested that the places where environmental risk is the greatest are sometimes overlooked because no one is recreating in those areas. Another respondent suggested that there needs to be a protection of fundamental existing uses and the goal to protect water quality to the highest standard possible for aquatic life.

### ***Perception of Specific Issues with the Standards DEQ Prioritized for Revisions***

A little less than half of the respondents were unable to answer these questions because of lack of experience with the standards in general, not just those prioritized for revision. If the respondent was able to answer a question, they provided a response that is included here.

As noted above DEQ started the scoping process in 2018. Many of the respondents did not provide comments during the 2018 scoping process. A few endorsed submitted comments of other organizations, and those who provided their own comments had no additional comments or concerns to add.

Respondents whose organizations did not provide comments supplied information on very specific issues that DEQ could consider changing. One respondent suggested adding more public information about ephemeral drainage and phosphorus limits. Another suggested ,DEQ should pay attention to what local counties and conservation districts have for site-specific recommendations. Another suggested that DEQ use the best available science to protect public health. Another respondent suggested that there is too much leeway in the uses in the 2D category and it would be helpful to provide more specificity in the regulations regarding that category.

Respondents had different views on what constituted the most pressing issues regarding Wyoming's standards. Many mentioned the *E. coli* criteria and the need for clarity on

how standards are set and how people can be involved in resolving chronic impairment issues. Around one third of the respondents mentioned that they were concerned with industrial waste water and agricultural runoff and the effect that it has on the water system as a whole.

One respondent said that the most pressing issue is being able to identify whether the source of bacterial nonpoint source pollution is from humans or natural species so that specific remedies can be identified. Another mentioned phosphorus limits and designated uses. Two respondents would like to see more clarity and detail in the definitions of designated uses. One respondent suggested revising the classification of surface water uses. Another respondent expressed concern about over-appropriated systems and the harm that comes to those systems because river flows and water quality are inextricably linked. Another respondent said that the most pressing issue is the ability to maintain surface water quality while meeting the competing needs of different entities. Another respondent expressed concern about the growing levels of toxins in the water that are making people sick. Another expressed concern about negative effects of permitted discharges of produced water. Another said that the standards need to be stringent enough to protect fisheries and aquatic resources in relation to surface waters.

### ***Experience with Existing Rule Revision Process***

About half of the respondents had little to no experience with providing input on the standards using the existing rule revision process. That was the main reason that so many were interested in participating in this process. Those that had little experience with the standards expressed that they would like to become more familiar with the revision process and to make connections with others through the collaborative process.

Respondents who had prior experience with the rule revision process had submitted comments and had been involved in other aspects of the process like attending hearings and other meetings. Many respondents replied that they get notices from DEQ when a revision is proposed and updates from the listserv function on DEQs website, which allows them to keep up to date on changes. One respondent said they are unable to get a full picture or a full analysis of the problem and that there isn't as much transparency as there could be. They also said that for them, it is hard to participate in the process and sometimes difficult to understand all of the classifications and the total maximum daily load (TMDL) process. They stated that it should be more scientific.

Most of the respondents said that the listserv emails are very useful. About half of the experienced respondents also commented on the ease of the input process for comments. Many also appreciated that DEQ engages the public from all across the state and receives public input to help them understand the effect of the changes. One respondent said that the redline strike-out of the rule is useful for monitoring changes in real time. Another respondent said that the people in DEQ are approachable and are willing to listen when suggestions are made for changes.

Some respondents found the rule revision process to be somewhat confusing and suggested some improvements. One respondent stated that stakeholders in Wyoming

don't really know what to expect from the process, which makes them a little anxious about the what the outcome of the process will be. Another suggested that there needs to be a statement of purpose and a description of how the standards meet required federal regulations like the Clean Water Act (CWA). Another respondent expressed the concern that in their specific agency, they are the only one who works on issues pertaining to surface water quality, and if they weren't contacted directly about possible revisions, the message likely didn't get passed to them so they wouldn't have an opportunity to comment on the changes. Another expressed that sometimes it feels like certain comments are taken as challenges by DEQ staff.

Just under half of the respondents were able to give examples of other rule revision processes that might be worth using as an example. One respondent cited the Chapter 12 revision process, where DEQ received comments and went back to the drawing board to take the new information into account. The respondent appreciated that approach to rule making. Another respondent suggested engaging with stakeholders early in the process, before draft regulations are prepared. Another respondent said that the Colorado process for revising SWQS is clear and understandable, has a high degree of public involvement, and could be used as a model for Wyoming. One respondent mentioned that the federal rule making process under the Administrative Procedures Act (APA) and National Environmental Policy Act (NEPA) could be a good example because they involve state and local agencies to a greater degree and allow them to provide more input than other federal processes. That respondent said specifically that state and local governments should be actively engaged in the rule making process. Another specific response was that the Coal Mine Bonding Rule package may be a good example of rule making. Another respondent cited the new Chronic Wasting Disease Management Plan as a good example of how the collaborative process can work. One respondent said that there have been some NEPA collaborative processes that have worked really well, but no specifics were given. One respondent said that when a question specific to their agency comes up in a different agency, they are contacted and are sometimes given the opportunity to draft a section in the rule that is specific to that question.

## **Findings: Stakeholder Interest in and Capacity for a Collaborative Process**

### ***Potential for Collaborative Process***

The vast majority of respondents believe that it is possible for all the parties interested in Wyoming's standards to work together and develop recommended revisions.. A couple of respondents weren't quite as sure that a collaborative process would work. One respondent who replied maybe, said that there are a lot of competing demands for water in the State. Two respondents stated that as long as those participating in the process are willing to work together to come to a solution that may not necessarily advance the individuals' agenda, the process could work. If there are some who are not willing to work with others, then the process won't work.



Just over half of the respondents identified specific issues that they believed needed to be discussed in order for a collaborative effort to be successful. Multiple respondents mentioned that bacteria or *E. coli* problems are important and the standards need to address why *E. coli* standards are important and help pinpoint what is causing the issues and provide a way to test for the specific species causing the problem to help find a solution. Multiple respondents mentioned industrial discharges and concerns that the State is putting industrial interests over the interests of others.

One respondent said that both the ephemeral stream discharge and phosphorus limits should be discussed in the collaborative process. Another respondent said that the single issue that needs to be resolved is the appropriate role for external parties to play in identifying water bodies that need further analysis by DEQ. Another respondent stated that all stakeholders need to be on the same page about use definitions before DEQ could move forward on rule-making. Another respondent said that it would be important to determine allowable wastewater levels and agricultural impacts to water systems.

One respondent brought up the procedural issue of ensuring that DEQ engages with local governments in the rule revision process. Another stated that there must be an agreement on the legal framework that needs to be in place for the proposed revisions, further stating that DEQ must comply with the CWA and participants need to understand the legal requirements and standards the rules have to meet. Another respondent said that there needs to be a better way to resolve conflicts and disputes other than the legal system. They brought up the question of how do we maintain all of the uses on the land that are permitted and support all of the uses that are needed to help improve water quality? Another respondent said that the main thing is to decide the Department of Health's role in providing input into the standards. Although, this may be a discussion between DEQ and the Department of Health rather than between the stakeholders.

A few respondents said that having an open discussion on their issues between the various parties would encourage discussion and establish understanding between all of the points of view involved, making things more transparent and helping everyone understand the different sides of the issues.

All of the respondents said that they thought the stakeholders would be able to identify solutions to the issues, with some respondents adding a qualifier. Some of the qualifiers included: there would probably be a lot of different opinions and a strong facilitator would be necessary; as long as stakeholders want to protect water quality, if they don't want to protect water quality, then no; the ideas need to be realistic and everyone needs to come together and find middle ground; and, it depends on who is at the table and how the objectives are laid out. Other qualifiers were along similar lines to the ones specifically referred to above.

There were many different perceptions between the respondents on what would be a successful outcome to the collaborative process, but most fell into four main categories. The first category of responses was that a successful outcome would be where all

stakeholders felt like they had the opportunity to provide input and their input was listened to. Also, the stakeholders were willing to come to an agreement on the issues and DEQ took that into account when making the final decision on the standards. The second category pertains to the outcome being that the standards themselves are more clear. Specifically referring to the standards including information on how the individual standards are set and implemented on the ground and how specific issues are resolved within the standards. The third category is similar to the first, but it purely relates to communication between the stakeholders on the issues. Many respondents said that if all of the stakeholders are willing to communicate with each other and come up with solutions, then the collaborative process will be a success. The fourth category is similar to the second one, but a little more specific. The fourth category of responses relates to the outcome of the process being revision to rules that address the primary resource needs and are able to be implemented successfully by DEQ.

### ***Information that DEQ needs to share for a successful process and Information that stakeholders can share***

This section provides a baseline for the information that DEQ should share with participants, and the information participants will be able to share with the group to help the collaborative process be successful. It also provides information on additional water quality experts that DEQ may want to involve in the process.

Nearly all of the respondents stated that it is important for DEQ to establish a common, foundational level of knowledge associated with the SWQS so that the working group discussions will be effective.

A few respondents said that DEQ should provide a rationale for why they are proposing particular changes to the standards to help stakeholders understand the purpose for the changes. Other respondents requested water quality data and data on permit requests for specific water bodies over the last 10 years. A few respondents requested information be shared on the federal regulations that DEQ has to comply with so the working group members will be able to keep them in mind. Another respondent requested an economic outlook of Wyoming that includes an assessment of industrial water demands, and how use restrictions may affect that demand. One respondent requested specific examples of issues the DEQ deals with including what went wrong in the past to cause those issues and why those issues continue to exist. The same respondent requested information on water quality trends and causes of water quality degradation. Another respondent said that everyone in the working group should share their concerns or goals, and reasons behind those concerns or goals. Another respondent said that anything related to public health should be shared.

About half of the respondents were able to identify other water quality experts that may be helpful to the working group. Most mentioned local conservation districts as being particularly knowledgeable about water quality. Others mentioned the State Engineer's Office, Natural Resource Conservation Service (NRCS), United States Geological Survey (USGS), and University of Wyoming experts. A few respondents mentioned experts in the Game and Fish Department.

Every respondent said that they can bring information on their individual experiences with water quality standards in their particular field. They all said that they would bring their personal experience to the process and help inform the other working group members with that experience. Those respondents who were not as experienced with the SWQS were still willing to present their respective views and experiences. Respondents also said that if there were people in their organization with more experience than them on a particular issue, they would be willing to reach out and gather the needed information for the group.

### ***Potential for Participation in a Collaborative Process and Logistics for a Successful Process***

Respondents were asked to gauge their level of interest in a collaborative process and any concerns they had. There was a lot of very positive feedback for a collaborative process, and also quite a few concerns that were voiced about how the process might work.

Nearly all respondents were in favor of a collaborative but had concerns about it as well. There were three overarching concerns about the proposed working group process. The first was how demanding the process will be on both time and resources and that the process may not be effective. The second overall concern was related to the parties' willingness to collaborate. The concern here was that some will come with their own agendas, be unwilling to listen, be disrespectful of others' viewpoints and negatively affect the outcome of the overall process. The third overall concern is that their participation in the collaborative process could cause some of those they represent to form a negative perception of them or view them as a regulatory body because of the outcome of the collaborative process. Those organizations

Many respondents offered suggestions on ways to mitigate their concerns. For example, concerns about time and resources could be mitigated by having a clear format, structure, and timeframe outlined at the beginning of the process with clear expectations about reaching consensus by a certain date. Suggestions to ensure positive involvement in the process related to making sure that there is transparency about who is involved and what needs to happen to come to an agreement. It was suggested by some that if the group is not willing or able to negotiate effectively, then DEQ should go back to the rule making process. For those concerned that their participation in the collaborative process will affect the perception of their organization, the suggestion was made to allow public input before designations of impaired water ways are made.

All of the respondents were able to provide suggestions for ground rules. Most respondents suggested that the basic rules of civility be present. Another suggestion brought up by multiple people was that there needs to be a "share the air" approach where everyone has the opportunity to share, even if it means that there are time limits placed on certain subject matter. Another suggestion was to make sure that all of the participants had authority from their various organizations to make suggestions and decisions for that organization. One respondent said specifically that the ground rules

should encourage participants to think about what is best for the state of Wyoming and for any individual entity. Another respondent said that in any collaborative process there should be the ability to respectfully disagree.

Almost all of the respondents were willing to participate in the collaborative process. Those who said yes, but qualified their answer to the question, needed more information on the timeframe and the level of commitment of time and resources that would be required. A couple of respondents were unsure of their participation based on the concerns that they voiced.

All of the respondents gave suggestions on who they thought should participate in the process. Some answered this question by naming specific interests and organizations, where other answers were more general. The general answers included responses similar to one respondent who said, “the entities that should participate are the people who have a stake in the issues being discussed. The representation should be equitable, inclusive, and diverse.” The specific answers were similar to one respondent who said, “Representatives from everyone who interacts with Wyoming water – Municipalities, ag producers, environmental interest groups, schools, conservation districts, conservation managers. Anyone who wants to learn about the process and be involved.” Other respondents mentioned some of the same groups, but added public health officials, sportsman groups, USGS, federal and state government agencies, the power community, industries, small business representatives that depend on water quality, like tourism, and the general public to their answers.

### ***Potential for Virtual Participation in a Collaborative Process***

Almost all of the respondents replied that they would be comfortable participating in a virtual collaborative process. Only one respondent said that a virtual collaborative process wouldn't work. Their concern was that so much happens in person during a collaboration that can impact the outcome of the process, and that would be missing in a virtual process.

Many respondents provided recommendations for ensuring an effective virtual process. Recommendations included using a platform that is accessible to everyone and easy to use, requiring webcams for all participants, and using breakout groups. Another suggestion is to use breakout groups to develop recommendations and poll the entire working group after the meeting has closed so that the discussion could continue to flow without the stress of coming to a decision. About half of the respondents said that the meetings need to be in chunks of 2-2.5 hours at most to allow participants to mentally digest the information and material. A few respondents mentioned that there should be an overall facilitator to guide the group, and then another host that can keep an eye on the chat and mute others who are not talking and allow those who have a question to ask. One respondent suggested sending out a questionnaire before each meeting to help participants mentally prepare for what will be discussed. Another suggested circulating a detailed agenda before each meeting to enable participants to pay closer attention to what is happening in the meeting.

Over half of the respondents had suggestions about ways to structure a virtual process so that members of the public would be able to participate. Suggestions included holding meetings after work or at different times during the day, having DEQ staff on hand to clarify issues for the working group and the public, providing public comment periods at a consistent time each meeting, and posting agendas on social media or by email that can be reposted and shared. One respondent suggested using breakout groups with members of the public who are attending as a targeted way to get the public engaged where they have an interest. One respondent suggested including the media and agency public information officers in the process could enhance collaboration.

## **Appendix A – List of Completed Interviews**

### *Federal Government Agencies*

Karen Vyverberg	United States Forest Service
Maggie Pierce	Environmental Protection Agency
Lyle Myler	The Bureau of Reclamation
Kim Dickerson	United States Fish and Wildlife Service
Andi Neugebauer	Natural Resource Conservation Service

### *State Government Agencies*

Justin Caudill and Scott McDonald	Wyoming Department of Agriculture
Carly-Ann Carruthers	Wyoming State Parks and Cultural Resources
Karl Musgrave	Wyoming Department of Health
Amanda Losch	Wyoming Game and Fish Department

### *Local Government Agencies*

Bailey Brennan	Wyoming County Commissioners Association
Cathy Rosenthal	Wyoming Association of Conservation Districts

### *Non-Governmental Organizations*

Dan Heilig	Wyoming Outdoor Council
Liz Rose	Trout Unlimited
Jill Morrison	Powder River Basin Resource Council

### *Drinking Water and Waste Water Management*

Michelle Christopher	Wyoming Association of Rural Water Systems
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### *Industry*

Ken Hamilton	Wyoming Farm Bureau
Jim Magagna	Wyoming Stock Growers Association

## **Appendix B – Email Sent to Stakeholders**

### ***Email to find correct contact person***

Dear Wyoming Water Quality Standard Stakeholders,

My name is Michelle Mortimer, and I am interning for the Ruckelshaus Institute at the University of Wyoming. The Wyoming Department of Environmental Quality (WDEQ) is in the process of developing proposed revisions to Wyoming's Surface Water Quality Standards (WSWQS) rules and regulations and is working with the Ruckelshaus Institute at the University of Wyoming to determine whether to convene a working group to help inform the rule development process. The first step in this process is to interview the major stakeholders invested in surface water quality in Wyoming to determine the best approach for structuring a collaborative working group process.

I'm sending this email to the organizations that have been identified who may have an interest in what the revised WSWQS should look like. If you are the person in your organization who has knowledge about the WSWQS rules and would be willing to participate in a 45-minute interview regarding the revisions of the WSWQS, please respond to this email and I will send you more information regarding the interview procedures.

If you are not the person in your organization who has knowledge about the WSWQS, please respond to this email with the correct contact person.

The goal of this survey is to find those parties who have an invested interest in the WSWQS and would be willing to work with others to revise the Water Quality Standards to benefit more people if a working group is convened.

Thank you,

Michelle Mortimer  
Intern for The Ruckelshaus Institute  
JD/MA ENR Candidate 2021  
University of Wyoming College of Law

## ***Email with interview protocol and information to schedule an interview***

Dear [Name],

The Wyoming Department of Environmental Quality (WDEQ) is in the process of developing proposed revisions to Wyoming's Surface Water Quality Standards rules and regulations and is working with the Ruckelshaus Institute at the University of Wyoming to determine whether to convene a working group to help inform the rule development process. The first step in this process is to interview the major stakeholders invested in surface water quality in Wyoming to determine the best approach for structuring a collaborative working group process.

This interview is expected to last about 45 minutes. Information gathered from this interview will be compiled with all other interviews and included in a written report by Ruckelshaus Institute staff and may be distributed to all members of a Water Quality Standards Working Group if a collaborative process is undertaken. Your comments will be kept anonymous. We will not use any information that would make it possible for anyone to identify you in any notes, presentation, or written reports about this study. Where appropriate and with your permission, we might want to use a direct quote from you. Rather than attributing the quote directly to you, we will attribute it to a general affiliation such as: "one survey respondent said...". The notes from our conversation will be kept for five years. The only people who will have access to these notes are Ruckelshaus Institute staff and only in compiled form.

The questions I ask during the interview will be related to:

- Perception of the General Issues regarding Water Quality Standards
- Perception of specific issues with the Standards DEQ prioritized for Revisions
- Experience with DEQ's Existing Rule Revision Process
- Potential for Collaborative Process
- Information Needs

I will be conducting telephone interviews with water quality stakeholders through the month of July. Please [click here](#) to go to schedule a date and time for an interview.

If times available do not work for you, please let me know and I will work with your schedule to set up a time for the interview.

Thank you,

Michelle Mortimer  
Intern for The Ruckelshaus Institute  
JD/MA ENR Candidate 2021  
University of Wyoming College of Law



# **Appendix C – Interview Protocol**

## **Wyoming Surface Water Quality Standards Collaborative Process**

### **Situation Assessment**

#### **Introduction for Call**

You may be aware that in the fall of 2018, DEQ initiated the rulemaking process to develop proposed revisions to Wyoming’s surface water quality standards. At the time, DEQ identified a number of issues with the standards they were interested in addressing that were outlined in a scoping document. DEQ held two hearings where they outlined the issues they had identified and accepted comments on these issues as well as other aspects of the standards the public and stakeholders thought needed to be revised. Since that time, DEQ has worked on developing proposed revisions, however, given the significance of the potential changes to the rules and the importance of stakeholder input in developing alternatives to address the issues, DEQ reached out to the Ruckelshaus Institute to assist them in designing a collaborative stakeholder process.

This study is being conducted and paid for by the Spicer Grant for Collaborative Solutions. There are no expected direct benefits for you. Indirect benefits to you and others from participating in this study include a collaborative working group process to develop proposed water quality standards.

Expected risks to you for helping us with the study are minimal. The only risk to you might be if your identity were ever revealed. You may stop the interview, or shorten it, at any point. Refusal to participate will not affect your potential participation in the collaborative process, nor involve any other loss of benefits related to this project. If we get interrupted, we can complete the interview at another time.

You may contact Dr. Steve Smutko at the Ruckelshaus Institute at 307-766-2703 with questions about the research study. Your participation in the interview will serve as your informed consent. Do I have your permission to begin asking you questions?

#### **Questions**

##### ***Getting Started***

1. Do you have any questions for me before we get started?

##### ***Perception of the General Issues***

*First, we want to get an understanding of your interests and thoughts regarding Wyoming's surface water quality standards.*

2. What is your interest in Wyoming's surface water quality standards?
3. What do you think works well about Wyoming's surface water quality standards?
4. What do you think can be improved about Wyoming's surface water quality standards?  
Can you provide specific recommendations on how to improve the standards?
5. What do you think DEQ is missing when it comes to development and revision of Wyoming's surface water quality standards?

### ***Perception of Specific Issues with the Standards DEQ Prioritized for Revisions***

*Next, we want to understand your thoughts on the specific issues with the standards that DEQ identified during the scoping process they started in 2018. Some of the topics included changes to how Wyoming assigns designated uses to surface waters; turbidity criteria; definitions of primary and secondary contact recreation; duration and frequency elements for human health criteria; water quality criteria for recreation uses; how to address the implementation policies, etc.? You may have already commented during the scoping process and we have your comments available to us.*

6. If you did provide comments, do you have additional comments or concerns you would like to add?
7. If you did not provide comments, do you have suggestions related to the topics that DEQ identified or recommendations for additional issues with the surface water quality standards DEQ should consider changing?
8. In your opinion what are the most pressing issues with Wyoming's surface water quality standards?

### ***Experience With Existing Rule Revision Process***

*Now I want to ask you about your experience with the existing rule revision process to identify what has worked well and what has not worked well.*

9. What has your experience been with providing input on Wyoming's Surface Water Quality Standards using the existing rule revision process?
10. In your opinion, what has worked well about the existing rule revision process?
11. In your opinion, what has not worked so well about the existing rule revision process?
12. Are you familiar with other rule revision processes that may be worth using as an example?

### ***Potential for Collaborative Process***

*Now I want to ask you some questions about the potential of using a collaborative process for developing surface water quality standards. A collaborative process brings multiple interests to*

*the table to learn about the issues, generates options to satisfy multiple interests, and builds consensus on recommendations to the DEQ for revising water quality standards.*

13. Do you believe that it is possible for all the parties interested in Wyoming's Surface Water Quality Standards to work collaboratively and develop recommended revisions in good faith?
14. What issue that you identified earlier do you believe needs to be discussed and resolved in order for a collaborative effort to be successful?
15. Do you believe that stakeholders can identify a solution to this issue?
16. What would you consider to be a successful outcome of the process?

### ***Information Needs***

*Now I want to understand what information should be shared by DEQ and participants to ensure that a collaborative process is successful.*

17. What information should DEQ share with the group to ensure a successful process?
18. Are you aware of any other water quality experts DEQ should bring into the process?
19. What information or expertise can you bring to the process?

### ***Participation and Logistics***

*Now I want to understand whether the collaborative process described would be successful and how DEQ might make it successful.*

20. Would you be in favor of a collaborative, consensus-building working group process?
21. Do you have any concerns about participating in this process? What can be done to overcome those concerns?
22. Do you have any suggestions about ground rules to guide the group's discussion?
23. Are you and your group willing to participate in the process I described?
24. Who do you think should participate?

### ***Virtual Participation***

*Due to COVID-19, DEQ may need to hold a number of meetings virtually. We want to ensure that a virtual process is designed effectively and ensure that members of the public can participate should they be interested.*

25. Are you comfortable participating in a virtual manner?
26. Do you have any recommendations on how to structure a virtual process?
27. Do you have recommendations on how to structure a virtual process so that members of the public can participate?

### ***Closing***

28. Is there anything else you would like to share?