



February 20, 2018

**HAND DELIVERED**

Courtesy Copy emailed to eqc-all@wyo.gov

Environmental Quality Council  
Attn: John Corra, Hearing Examiner  
122 W. 25th  
Herschler Bldg. 1W, Room 1714  
Cheyenne, WY 82002

Re: Docket # 17-3102 - Water Quality Variances

Dear Mr. Corra:

The Wyoming Outdoor Council respectfully submits the following comments for your consideration regarding the proposed adoption of amendments to Chapter 1 of the DEQ/WQD rules and regulations. The Outdoor Council has participated in this rulemaking process since the amendments were first proposed, including the submittal of both written and verbal comments.

As stated previously, the Wyoming Outdoor Council supports the adoption of the rules proposed by the DEQ/WQD governing the issuance of variances, provided they are consistent with and no less effective than regulations found at 40 C.F.R. § 131.14. Although the rules proposed by DEQ/WQC largely meet this requirement, they fall short in two important respects.

First, as pointed out in previous comments, language in proposed Section 37(g) that provides for automatic approval of variances when EPA fails to act within the prescribed period is inconsistent with the Clean Water Act and should therefore be deleted. Note that an earlier draft of the rule (February, 2017) quite correctly did not contain the automatic approval provision; this language appeared in subsequent drafts.

Second, in order to be consistent with the Clean Water Act, we encourage the EQC to adopt the revision to Section 37(h)(ii) recommended by the U.S. EPA in its February 2, 2018, letter to the DEQ, filed with the EQC on 2/6/2018.

Lastly, we recommend that Section 37(c)(ii) be revised to reflect the May, 2017 draft. In that version, the highest attainable condition was identified through a comprehensive alternatives analysis **and** other supporting documentation. The current draft changes “and” to “and/or”, meaning that a comprehensive alternatives analysis is no longer required to identify the highest attainable condition. The highest attainable condition can now be identified solely on the basis of “other supporting documentation.” This phrase is not defined in the proposed rule. We therefore recommend that this section be returned to the May 2017 version or alternatively, be revised to clarify the information that may be used in the development of the variance.

Thank you very much for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink that reads "Dan Heilig". The signature is written in a cursive style with a prominent initial "D".

Dan Heilig  
Senior Conservation Associate  
Wyoming Outdoor Council