

American Rivers, et al (Justin Hayes)

Our comments are attached as a pdf.

Thank you,
Justin Hayes
American Rivers



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Submitted via the online portal at: <http://wq.wyomingdeq.commentinput.com/> and to joanna.harter2@wyo.gov

Re: Comments on Draft “Methods for Determining Attainment of Surface Water Quality Standards: Basis and Overall Approach” (March 5, 2026)

Dear Wyoming Department of Environmental Quality:

Thank you for the opportunity to comment on the draft Methods for Determining Attainment of Wyoming’s Surface Water Quality Standards: Basis and Overall Approach (March 5, 2026).

We appreciate the Department’s effort to periodically refresh how Wyoming evaluates attainment of water quality standards and prepares its Integrated Reports under Clean Water Act Sections 305(b) and 303(d). An up to date assessment methodology is essential to ensuring that Wyoming’s waters are accurately assessed and appropriately protected.

About American Rivers

American Rivers is a national nonprofit organization founded in 1973 that works to protect wild rivers, restore damaged rivers, and conserve clean water for people and nature. We have more than 355,000 members and supporters nationwide and maintain offices across the country, including in the Northern Rockies, where our members and supporters live, work, and recreate in Wyoming’s rivers and streams subject to assessment under this methodology.

About Protect Our Water Jackson Hole

Protect Our Water Jackson Hole (POWJH) is a nonprofit organization dedicated to serving as a powerful advocate and catalyst to protect and restore Teton County’s water resources. Through science-based advocacy, community engagement, and collaboration with local partners, POWJH works to safeguard clean water for people and the environment.

About Powder River Basin Resource Council

Powder River Basin Resource Council (PRBRC) is a nonprofit organization founded by ranchers and townspeople in 1973 to advocate for the responsible development of Wyoming's energy resources. Using community organizing, connections with scientific, policy, and legal experts, and coalitions with other organizations, PRBRC wages effective campaigns to protect Wyoming's air, land, and water quality and to promote sustainable agricultural practices and policies in the state.

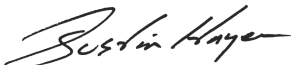
Our comments

These comments focus on a central issue: the draft retains a categorical restriction—first introduced in Wyoming's 2020 methodology—that limits the use of water quality data for designated use support determinations to data collected by governmental entities or their contractors. This restriction is not required by Wyoming law – indeed it is inconsistent with Wyoming law – and departs from the State's prior approach. Further, this provision conflicts with Clean Water Act regulations and EPA guidance. It should be removed.

Our detailed comments are attached.

Thank you for your consideration of these comments. We would welcome the opportunity to discuss these issues further and to work with the Department to ensure that the final methodology is legally sound, scientifically robust, and reflective of the best available data.

Sincerely,



Justin Hayes
Northern Rockies Conservation Director



Jennifer Evans
Advocacy Director, Protect Our Water Jackson Hole



Lynne Huskinson
Chair, Powder River Basin Resource Council

Comments on Draft Methods for Determining Attainment of Wyoming's Surface Water Quality Standards

1. The Source-Based Restriction Is a Recent and Unnecessary Departure from Wyoming's Prior Approach

Wyoming's 2014 methodology applied a source-neutral, quality-based framework in which data could be used in attainment determinations if it met the State's definition of "credible data." That framework focused on whether data were scientifically valid, collected under appropriate sampling and analysis plans, and supported by adequate quality assurance and quality control procedures. Under that approach, data collected by Tribes, academic institutions, watershed groups, and other non-governmental entities were fully usable in designated use support determinations, provided they met these criteria.

The 2020 methodology introduced a new limitation requiring that data used for designated use support determinations be collected by or under contract with a governmental entity. At the same time, it relegated non-governmental data to a secondary role, allowing such data to be used only as supporting information, for identifying trends over time, for evaluating the effectiveness of best management practices, or for prioritizing future monitoring. Although these are legitimate uses, they are not equivalent to use in determining whether waters are meeting water quality standards. The current draft retains this framework.

Nothing in Wyoming statute requires this shift. The State's definition of "credible data" is based on scientific rigor and accepted methods, including adherence to sampling and analysis plans and QA/QC procedures, not on the identity of the data collector. By imposing a source-based limitation, the methodology excludes otherwise scientifically valid data solely because of who collected it and thereby narrows the scope of usable data beyond what Wyoming law authorizes.

2. The Restriction Conflicts with Clean Water Act Requirements to Evaluate All Available Data

Federal regulations require that states "assemble and evaluate all existing and readily available water quality-related data and information." 40 C.F.R. § 130.7(b)(5). This requirement explicitly encompasses data from a wide range of sources, including federal, state, local agencies, Tribes, academic institutions, and members of the public. The intent is to ensure that impairment and attainment decisions are based on the most complete body of information available.

The Department's 2026 draft methodology acknowledges these sources and, consistent with federal requirements, recognizes that such data must be assembled and evaluated. However, it continues the 2020 prohibition on the use of non-governmental data in designated use support determinations. This presents a fundamental inconsistency. The State treats non-governmental data as sufficiently reliable to inform trend analysis, prioritize monitoring, and evaluate management actions, yet categorically excludes such data from the central regulatory determination of whether water quality standards are being met.

EPA guidance has consistently emphasized that data should be evaluated based on quality, representativeness, and adherence to accepted methods, not on the identity of the entity that collected it. The draft's source-based restriction violates this principle by perpetuating a categorical exclusion for a quality-based evaluation.

3. The Categorical Exclusion Is Inconsistent with the Requirement to Exclude Data Only for “Good Cause”

Under the Clean Water Act framework, when a state chooses not to use available data, it must provide a technical, science-based rationale—commonly referred to as “good cause.” This requirement reflects a fundamental principle: data should be excluded only where there is a defensible reason grounded in scientific considerations such as inadequate QA/QC, flawed methodology, or lack of representativeness.

The source-based restriction adopted in 2020 and retained in the draft does not operate in this way. It excludes entire categories of data without evaluating their quality, without considering whether they meet the State's own credible data standards, and without providing a case-specific technical rationale. It therefore replaces a science-based, case-by-case evaluation with a blanket rule based solely on the identity of the data collector. Such an approach is not consistent with the requirement that decisions to exclude data be supported by good cause grounded in scientific judgment.

4. The Restriction Undermines the Use of the Best Available Information and Creates Risk Regarding EPA Approval

By excluding otherwise valid data solely because of its source, the methodology reduces the amount of information available to support water quality assessments and increases the likelihood that decisions will not reflect actual conditions. This is particularly important in a state where monitoring resources are limited and where data collected by Tribes, academic researchers, and watershed groups often provide valuable spatial and temporal coverage that would otherwise be unavailable.

The restriction also diminishes the role of these partners in the State's water quality program by limiting their ability to contribute data that can directly influence regulatory outcomes. This undermines collaboration and reduces incentives for high-quality monitoring efforts outside of government programs.

Because Wyoming implements Clean Water Act programs under delegated authority, its methodology must remain consistent with federal requirements. If the exclusion of non-governmental data affects listing decisions, EPA could determine that Wyoming has failed to consider all existing and readily available data, which could result in disapproval of the State's Integrated Report, require revisions to the methodology, or lead EPA to independently identify impaired waters based on excluded data.

5. Recommended Revision

WDEQ should remove the categorical restriction on data sources and return to a quality-based, source-neutral framework consistent with Wyoming's prior methodology and federal requirements.

We recommend deleting the current language:

~~Data used to make use support determinations must be collected by a person employed by, or under contract with, a governmental entity. Governmental entities are defined as the government of Wyoming, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.~~

And replacing it with:

Data used to make use support determinations may be collected by governmental or non-governmental entities, provided that such data meet applicable requirements for data quality, including adherence to accepted sampling and analysis plans, quality assurance and quality control procedures, and representativeness criteria.

All existing and readily available data and information shall be evaluated consistent with 40 C.F.R. § 130.7(b)(5), and any decision not to use such data shall be supported by a documented, technical, science-based rationale.

This approach ensures that data are evaluated based on their scientific merit rather than their source, aligns with Wyoming statute and Clean Water Act requirements, and supports more accurate and comprehensive water quality assessments.