

Passage and Application of the “Credible Data” Law

In the 1996 and prior 305(b) Reports and 303(d) Lists, Wyoming based much of its decisions on water quality information, which often did not have adequate data to back up those decisions. Recognizing the repercussions this could cause, DEQ committed in both its TMDL Work plan (July 30, 1997) and in Criteria for Determining Non-Support of Beneficial Uses (November 10, 1997) to using valid scientific data and reasoning in its water quality decisions. As a consequence, the 1998 303(d) list changed dramatically from 1996 and prior lists to only include those waters that had valid scientific data and documentation indicating use impairments of threats.

During the 1999 Legislative Session of the State of Wyoming, Enrolled Act #47 was adopted (Credible Data Law) The Credible Data law requires the Department of Environmental Quality to utilize “credible data” in its decisions concerning whether designated uses are impaired by pollutants.

“Credible data” means scientifically valid chemical, physical and (emphasis added) biological monitoring data collected under an accepted sampling and analysis plan, including quality control, quality assurance procedures and available historical data.

The data considered in the year 2000 303(d) listing process met all requirements of the Credible Data law. The water quality administrator interprets the Credible Data law to required “credible data” even when making full support determinations. The 1998 305(b) Report reported over 90,000 miles of waters which were evaluated as fully supporting their uses because existing scientifically valid data and information, in the 1998 305(b) Report, which indicated no water quality threats was, for the most part, a combination of biological and physical data, primarily from state and federal land and wildlife managers, combined with historical data and information, knowledge of land uses, geology, geomorphology, soils and or climate. All of those are elements of credible data. However, because much of this data was over five years old or it was qualitative, it was placed in the evaluated category in the 1998 305(b) report. The combination of the different data and information was interpreted in the 1998 305(b) report as valid assessments of the actual water quality condition in those areas, and meets the requirements for data and information, much of the data used in the 1998 305(b) report was not complete enough for WDEQ to make a legal (per Wyoming’s “Credible Data Law”) determination of attainment of designated use. Therefore, when scientifically valid data and information was not complete enough to meet those state requirements on a given water body, it was reported as unassessed in the 2000 305(b) report.