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2020 Report

Wyoming's Capacity Development Program

Wyoming Department of Environmental Quality  
Water Quality Division

September, 2020



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## **EXECUTIVE SUMMARY**

The 1996 Safe Drinking Water Act amendments require the Department of Environmental Quality to provide this report to Wyoming Governor Mark Gordon by September 30, 2020.

The 1996 Safe Drinking Water Act amendments established new programs and requirements. Capacity development was one of the new activities. Capacity development is a process that examines a water supply's technical, financial and managerial capabilities. States that failed to comply with capacity development requirements would realize reductions to their Drinking Water State Revolving Fund capitalization grants.

Wyoming continues to meet all of the 1996 Safe Drinking Water Act mandatory requirements. This includes developing a Capacity Development Program. Through public participation, the Wyoming Department of Environmental Quality Capacity Development Program started its efforts with a committee representing communities, water districts, extractive mineral industries, technical assistance providers, water system operators and state and federal agencies. This committee drafted the capacity development self-assessment documents and provided advice and recommendations during the rulemaking process.

Wyoming Water Quality Rules and Regulations (WWQRR) Chapter 22, *Capacity Development Standards for Public Water Supplies* became effective on August 11, 1999. The Wyoming Capacity Development Program is fully implemented. During the past twenty-one years, two hundred and fifteen drinking water systems have performed Capacity Development self-assessments. Any new system that is activated by the EPA, any existing system that seeks a WWQRR Chapter 3 construction permit, or any facility seeking Drinking Water State Revolving Fund loans must perform a self-assessment or will have done so within the last five (5) years.

Through training and outreach efforts, the Department of Environmental Quality enjoys a new level of trust with the drinking water regulated community. Mayors, board members and public officials now regularly contact the Department of Environmental Quality staff to discuss their systems' issues and concerns. The Wyoming Association of Rural Water Systems, Wyoming Water Pollution Control Association, Wyoming Association of Municipalities, Casper College and Midwest Assistance Program have all been instrumental in providing valuable training to Wyoming's drinking water systems personnel.

The Department of Environmental Quality is pleased to submit this report to Governor Mark Gordon. The Department of Environmental Quality is also making this report available to the public. Interested parties may obtain a copy of this report by calling the Department of Environmental Quality at 307-777-6371. Copies may also be viewed and downloaded from the Department's webpage at <http://deq.state.wy.us/wqd/www/Capdev/index.asp>

## **Purpose**

Section 1420(c)(3) of the 1996 Safe Drinking Water Act requires that, not later than two years after the date on which a State first adopts a capacity development strategy, and every three years thereafter, the head of the State agency (Wyoming Department of Environmental Quality) shall submit to the Governor a report on the efficacy of the strategy and progress made toward improving the technical, managerial and financial capacity of public water systems in the State. The report shall also be made available to the public.

## **Background**

Capacity development is a federal requirement tied to the Safe Drinking Water Act Revolving Loan Fund, more commonly known as the Drinking Water State Revolving Fund. Capacity is a term coined at the federal level to describe capabilities. Drinking water capacity development comprises three overlapping areas: technical, financial and managerial.

Wyoming's Drinking Water State Revolving Fund enabling legislation (Wyoming State Statutes 35-11-302(a)(x)) granted the Department of Environmental Quality's Water Quality Division administrator authority to develop standards for the determination of capacity development. During the summer of 1998 the Department of Environmental Quality invited representatives from communities, water districts, extractive mineral industries, technical assistance providers, water systems and state and federal agencies to participate in, and become part of the Capacity Development Committee. The Water Quality Division administrator directed this committee to develop and draft a self-assessment tailored to Wyoming's public water supplies' needs. The administrator requested the committee to provide their suggestions, concerns and visions regarding how Wyoming Water Quality Rules and Regulations should govern the Capacity Development Program. Using suggestions and recommendations developed by the Capacity Development Committee, the Department of Environmental Quality finalized capacity development self-assessment materials and draft rules in an extensive public participation and outreach effort.

On August 11, 1999 Wyoming adopted Water Quality Rules and Regulations Chapter 22, *Capacity Development Standards for Public Water Supplies*. This new rule required new and modified community and non-transient, non-community water systems to perform self-evaluations that examine their technical, financial, and managerial capabilities. Community water systems include towns, cities, and water districts where at least 25 of the same consumers live year-round. Non-transient, non-community systems include factories, schools, and mines where at least 25 of the same consumers do not live, but spend more than 6 months a year at the facilities serving water.

There are approximately 407 of these systems in Wyoming; 317 community water systems and 90 non-transient, non-community water systems. Although transient water supplies are not subject to capacity development requirements, the Department of Environmental Quality encourages all public water supplies to perform a capacity development self-assessment. Transient systems include campgrounds, rest stops, and restaurants where at least 25 different consumers are present for at least 6 months a year. Wyoming has approximately 369 transient water systems.

Wyoming Water Quality Rules and Regulations Chapter 22 provides the standards these public

water supplies must meet to demonstrate capacity development. To demonstrate capacity development public water supplies must 1) have Wyoming Department of Environmental Quality certified chief and backup operators, 2) complete self-assessments of their systems' operations, 3) develop corrective action plans and implementation schedules if the self-assessments identify deficiencies, 4) provide plans to assure sufficient financial resources if the self-assessments identify financial deficiencies, and 5) demonstrate compliance with Chapter 3 construction permitting requirements and Chapter 12 design standards for public water supplies. The Department of Environmental Quality's goal is to assist systems to demonstrate capacity development. In the few instances where systems could not adequately demonstrate capacity development, the Department of Environmental Quality worked with those systems to secure funding for capital improvements, to establish compliance schedules for operators, and to invite technical assistance providers to contact and visit systems.

In addition to mandating a Capacity Development Program, the 1996 Safe Drinking Water Act amendments also required each state to establish a Capacity Development Strategy. This strategy details how a state will assist public water supplies to attain capacity development. If a state failed to develop a strategy, it would realize recurring and increasing reductions of federal Drinking Water State Revolving Fund grant awards. The United States Environmental Protection Agency approved Wyoming's Capacity Development Strategy on October 10, 2000.

### **Capacity Development Program**

As detailed in the Capacity Development Strategy, Wyoming uses regulatory requirements and technical assistance to help systems develop and maintain capacity development. The State of Wyoming continues to assist public water systems to attain and maintain sound technical, financial and managerial capabilities. Wyoming public water supplies receive technical assistance in many ways. Wyoming's technical assistance providers regularly provide training courses and conferences. State agencies also provide technical assistance, managerial guidance and much needed funding.

The Wyoming Water Development Office evaluates drinking water systems with various studies. These studies lead to well-planned capital improvement projects and add to systems' technical capacities. The Water Development Office also promotes and develops partnerships among multiple drinking water systems to encourage and create regional systems. These regional systems benefit from combined resources and economies of scale and help to increase financial and managerial capabilities. The Water Development Office also provides managerial, contractual and financial guidance to their project recipients.

The Office of State Lands and Investments assists systems with achieving financial capacity. As the administrative agency of the State Loan and Investment Board, the Office of State Lands and Investments oversees several grant and loan programs. These include both the Clean Water and Drinking Water State Revolving Funds, the Mineral Royalty Grant program and the Joint Powers Act loan program. Each of these programs fund capital improvements, including drinking water system projects. These programs provide much needed financial assistance to systems struggling to attain or maintain financial capacity.

The Department of Environmental Quality provides technical advice and interpretations of treatment methods and regulatory issues. Department staff regularly interact with drinking water system personnel and owners on construction permitting, operator certification and Safe Drinking Water Act compliance issues. The Department hosts and supports training for engineers and operating personnel on a variety drinking water topics including permitting requirements, continuing education for operators, and facility design standards.

The Department also works with outside organizations to provide technical assistance to drinking water systems. The Wyoming Association of Rural Water Systems, the Wyoming Water Quality and Pollution Control Association, and the Midwest Assistance Program all partner with state agencies to provide technical training to water system personnel. These technical assistance providers offer operators training through conferences, meetings, class sessions and site visits.

### **Capacity Development Program Successes**

Wyoming's Capacity Development Strategy focuses on working with systems to identify and correct existing problems and avoid foreseeable problems. Wyoming believes this approach is more successful than relying solely on enforcement actions to correct deficiencies. Although enforcement is required, pro-active and voluntary measures can, and do work. The Department of Environmental Quality believes this approach is valid and proper, having enjoyed particular success in the operator certification program. Properly trained and licensed operators are a key element of capacity development.

The Department of Environmental Quality administers Wyoming's Operator Certification Program. Currently, the program has 978 certified water treatment, distribution, and well system operators. Properly trained operators, often the largest expense systems realize, are fundamental to successful public water supplies' operations. Drinking water systems often struggle to attract and retain the required qualified personnel to operate their facilities. There are occasions when enforcement actions are necessary to ensure that technically competent operators are operating Wyoming's public water supplies. As prescribed in the Wyoming Environmental Quality Act, the Department of Environmental Quality uses conference and conciliation to resolve violations whenever possible. Wyoming attempts to avoid contentious, and often counterproductive, enforcement proceedings by negotiating acceptable compliance schedules to correct violations when they arise. These mutually negotiated schedules help systems achieve compliance without enforcement actions and usually require operators to attend additional training and achieve higher certification levels for chief and backup operators.

The Wyoming Association of Municipalities and the Wyoming Association of Rural Water Systems are key partners in Wyoming's capacity development efforts. These organizations are well-versed in the area of education and training of managers, local decision-makers and operating personnel. The Associations regularly provide training to their members on a variety of governmental functions.

### **Efficacy of the Wyoming Capacity Development Strategy**

The purpose of the Capacity Development Program is to prevent problems and to help systems

attain and preserve long-term Safe Drinking Water Act compliance and public health protection. The Department of Environmental Quality tracks the effectiveness of the Capacity Development Program with a database that records systems' assessments, sanitary survey recommendations and compliance histories. Only community and non-transient, non-community water systems seeking a Chapter 3 construction permit and/or a Drinking Water State Revolving Fund loan are required to perform self-assessments and demonstrate capacity development. Currently, 208 of 407 community and non-transient, non-community water systems have performed self-assessments, or a little over 50 percent of all these systems.

Transient water systems are not required to demonstrate capacity development under any circumstances but, with encouragement from the Department of Environmental Quality, seven (7) of Wyoming's 369 transient water systems have completed capacity development self-assessments. Although only about 1.9 percent of Wyoming's transient systems have completed capacity development self-assessments, the Capacity Development Program is voluntarily reaching systems that are specifically exempt from the Capacity Development Program requirements.

The United States Environmental Protection Agency's (EPA) most recent Enforcement Targeting Tool summary lists two (2) Wyoming public water supplies that were referred to enforcement. The EPA refers facilities to enforcement to correct violations before they become serious health threats. This means that 213 of the 215 systems, or 99.1 percent, avoided being referred to enforcement.

### **Conclusions and Outlook**

The 1996 Safe Drinking Water Act amendments created a number of new regulatory requirements and programs; these include Operator Certification, Drinking Water State Revolving Fund and Capacity Development. The Department of Environmental Quality faced many federal challenges and deadlines to implement these programs and requirements to meet the needs of Wyoming public water supplies.

The Department of Environmental Quality implements a Capacity Development Program that seeks to help public water systems take a good hard look at their operations. The program relies on a mixture of regulatory, voluntary and incentive-based tools to achieve the desired results. The Capacity Development Program promotes pro-active compliance, rather than punitive measures and enjoys improved relationships with its regulated community. Both regulators and the regulated now openly discuss problems that exist and seek alternate approaches to correct potential problems before they materialize. Wyoming's capacity development efforts will continue to enjoy success as the developing partnership among state and federal agencies, technical assistance providers, communities and operators continues to grow.

### **Contacts**

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Information may also be obtained from the Wyoming Department of Environmental Quality website at <http://deq.state.wy.us/wqd/www/Capdev/index.asp>