

Water and Waste Advisory Board Comments
May 3, 2022 Meeting
Chapter 12

General Comments

Lorie Cahn: Ms. Cahn advised WDEQ/WQD to include 2018 TSS 1.1, specifically the phrase “where pertinent” in Chapter 12.

Department Response: As discussed at the May 3, 2022 meeting, WDEQ/WQD will not include the reference and the phrase “where pertinent” as the phrase may lead to confusion and potential enforcement issues.

Lorie Cahn: Ms. Cahn advised WDEQ/WQD to include 2018 TSS 1.1.7 in Chapter 12.

Department Response: As noted at the May 3, 2022 meeting, WDEQ/WQD will not include the reference as the part applies to sources of water that are addressed in Chapter 12 and the inclusion would be redundant.

Lorie Cahn: Ms. Cahn noted that she did not think that WDEQ/WQD provided enough time for her to review and discuss her comments on the chapter. Ms. Cahn noted that she did not think that WDEQ/WQD adequately considered her limited availability for the May 3, 2022 meeting. She explained that she needed to thoroughly review both the 2018 TSS and the proposed revisions to Chapter 12 and that her review was time-consuming and confusing. Ms. Cahn noted that she discovered other potential conflicts in her comparison of the 2018 TSS to Chapter 12. Ms. Cahn noted concern at the volume of public comments received for Chapter 12. Ms. Cahn advised WDEQ/WQD to provide an additional comment period and Water and Waste Advisory Board presentation as she thinks the revisions that WDEQ/WQD proposed since the March 15, 2022 are significant. Ms. Cahn explained that she believes the role of the WWAB is to provide a technical review to ensure rules are ready for the Environmental Quality Council’s review and adoption.

Department Response: WDEQ/WQD reviewed our correspondence with Ms. Cahn regarding the scheduling of the May 3, 2022 Water and Waste Advisory Board (WWAB) Special Meeting. In the March 26, 2022 email that Ms. Cahn sent to Administrator Zygmunt and WDEQ/WQD rulemaking staff, she indicated she would be available the weeks of April 18-22, May 3-6, and May 9-13.

WDEQ/WQD compared Ms. Cahn’s request to staff availability and sent a scheduling poll to the four WWAB members and to WDEQ/WQD staff to find a date that would provide a quorum of the WWAB and adequate participation by WDEQ/WQD staff. Due to the nature of the WWAB members’ schedules and the WDEQ/WQD staff schedules, finding meeting dates that work for everyone can be difficult. If WWAB members are unable to attend a scheduled meeting but there is a quorum, WDEQ/WQD would

potentially proceed with scheduling and would explain to board members that are unavailable for a particular meeting date that they may request that another board member or the WDEQ/WQD Administrator read the unavailable board member's comments into the record.

However, in the case of the May 3, 2022 meeting, all four board members indicated in their poll responses that they would be available on May 3. WDEQ/WQD staff, meeting space, and a court reporter were also available on May 3. On April 4, 2022, WDEQ/WQD staff sent a calendar invitation to the WWAB and WDEQ/WQD staff that the next meeting would be on May 3. The WQD did not receive further correspondence from Ms. Cahn regarding her availability for the May 3 meeting.

WDEQ/WQD understands that it can be confusing to review the 2018 TSS and the proposed revisions to Chapter 12 as both documents contain public water supply requirements that pertain to complex engineering designs. However, the WDEQ/WQD's drafting process to consider the incorporation of the 2018 TSS into Chapter 12 was thorough, the material we are proposing to incorporate is appropriate, and we have addressed comments received from the comment opportunities provided between November 5, 2021 and March 15, 2022. Comments from both the public and the WWAB have provided helpful feedback that the WDEQ/WQD has used to refine and improve incorporation by reference of the 2018 TSS into the proposed rule.

As WDEQ/WQD had received only one additional public comment at the March 15, 2022 meeting after conducting thorough and individualized outreach with entities that had submitted public comments before the March 15, 2022 meeting, WDEQ/WQD agreed with the WWAB's request to close the public comment period as it seemed the public was satisfied with WDEQ/WQD's resolution of comments and updated revisions. WDEQ/WQD revised Chapter 12 after the March 15, 2022 meeting in response to WWAB advice and the one public comment received during the meeting. However, the changes were not substantively different from what the public had seen previously, were a logical outgrowth of public discussion, and are in line with the scope proposed in all of the public notices. Therefore, the WDEQ/WQD disagrees that an additional public comment opportunity would add value at this time, and, as discussed during the May 3 meeting, a 45-day formal rulemaking public comment opportunity will be provided in advance of the EQC meeting.

WDEQ/WQD appreciates the specific feedback that all board members have provided to WDEQ/WQD throughout the Chapter 12 rulemaking process; this feedback has helped to improve the proposed rule. WDEQ/WQD has provided the WWAB with three opportunities to provide advice, and the WWAB has provided advice on the rule in its entirety. Therefore, the WQD has determined that the WWAB has satisfied its statutory requirement to advise the Administrator per Wyoming Statutes § 35-11-114(b).

WDEQ/WQD has openly and thoroughly considered the WWAB advice, and proposed

revisions to Chapter 12 satisfy the provisions and purposes of the Environmental Quality Act. At this time, the WQD Administrator will recommend that the Director proceeds with proposing the adoption of Chapter 12 to the EQC.

11(e)(i)

Lorie Cahn: Ms. Cahn recommended revising the proposed edit to “or ~~not noncommunity nontransient~~ nontransient noncommunity water systems...”

Department Response: WDEQ/WQD corrected the passage as advised.

12(a)

Lorie Cahn: Ms. Cahn identified areas in 12(a) where the references were out of numerical order. For the references to 2018 TSS Part 4.4, 4.6, and 9.5. Ms. Cahn explained the references are unclear as to what parts are included. Ms. Cahn identified additional 2018 TSS references that included incorrect titles.

Department Response: WDEQ/WQD reviewed the references in Section 12(a) and corrected titles and numerical order as needed. For 2018 Part 4.4, WDEQ/WQD has stricken the reference and added in the passages from the 2018 TSS to Chapter 12, Section 12(l).