

IN RE: SOLID AND HAZARDOUS WASTE

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1 WYOMING WATER AND WASTE ADVISORY BOARD

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3 IN RE: SOLID AND HAZARDOUS WASTE DIVISION

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7 TRANSCRIPT OF MEETING PROCEEDINGS

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10 Pursuant to notice duly given to all parties in
11 interest, this matter came on for meeting on the 22nd day
12 of January, 2016, at the hour of 9:28 a.m., at Wyoming Oil
13 and Gas Conservation Commission, 2211 King Boulevard,
14 Casper, Wyoming before the Wyoming Water and Waste
15 Advisory Board, Ms. Marjorie Bedessem, Chairman,
16 presiding, with Mr. Klaus Hanson and Mr. David Applegate
17 in attendance, and Ms. Lorie Cahn appearing by
18 videoconferencing

19 Also present were Mr. Bob Doctor, Waste Program
20 Manager; Craig McOmie, Manager for Landfill Remediation
21 and Cease and Transfer program; and Ms. Gina Thompson,
22 Water Quality Division.

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1 P R O C E E D I N G S

2 (Meeting proceedings commenced

3 9:28 a.m., January 22, 2016.)

4 CHAIRMAN BEDESSEM: We will then move on in
5 the agenda to the Solid Waste Division.

6 First up is updates on the status of the
7 Municipal Solid and Hazardous Waste Facilities Cease and
8 Transfer Program.

9 MS. THOMPSON: Madam Chairman, it will take
10 me just a moment to pull up his presentation.

11 (Off-the-record discussion.)

12 MS. THOMPSON: Okay. Lorie, we're going to
13 go ahead and share this presentation. Okay. Here we go.

14 MR. MCOMIE: Okay. So I'm here to talk
15 about the cease and transfer program. My name is
16 Craig McOmie. I'm program manager for Landfill Remediation
17 and the Cease and Transfer program. I've spoke to you guys
18 a couple of times.

19 There's been some movement that I thought was
20 worthy of an update in the programs. I'm going to start
21 off with the cease and transfer program, which is, of
22 course, the program that we helped to fund the closure of
23 small landfills throughout the state through grants and
24 loans, up to 75 percent currently, and then they bring a
25 25 percent match, and we fund the transfer station or the

1 closure.

2 But on the first slides you'll see project
3 successes. To date, 14 programs have been approved for
4 funding by the State Lands Investment Board. Of those 14,
5 8 of them have been transfer stations, 6 have been
6 closures. So we have a nice balance there.

7 Some of the concerns initially in the program
8 were, you know, we were being -- they would be able to fund
9 the transfer station and afford those, and then we would
10 get to the closures and we would strip them of their
11 reserves, and they wouldn't be able to do that.

12 I will say most of these landfill closures were
13 stand-alone projects. They either add a transfer station
14 or -- so we're getting to that next phase now that we're
15 getting more closures.

16 BOARD MEMBER CAHN: Excuse me, Craig, could
17 you speak a little slower and get a little closer to the
18 microphone?

19 MR. MCOMIE: Sure.

20 BOARD MEMBER CAHN: Thank you.

21 MR. MCOMIE: Closer I can do; slower, I
22 don't know.

23 So do you need me to restart, or did you get some
24 of it, Lorie?

25 BOARD MEMBER CAHN: Just go -- you can go

1 ahead from where you were, yes.

2 MR. MCOMIE: So I'm moving down to the
3 second bullet. To date, we've awarded \$17.6 million in
4 grants, \$2.8 million in loans, which are zero-interest
5 loans that we provide to facilities to be paid back over
6 20 years. The account has remaining balance of 3.3 million
7 in grants and \$3 million in loans. Last legislative
8 session they replenished \$6.5 million to the program to
9 bring it back to its original balance. So we had a very
10 successful outing just last year, as you can see from the
11 drawdown.

12 Next page. So from there, in the 2016
13 legislative session, some things have happened where the
14 department -- every year we're required to provide an
15 annual renewal list of the project priority list, as it's
16 called. And, obviously, on that we removed the facilities
17 that have received funding in the past year, and I have
18 added a facility this year. Last year we added one as
19 well. Lusk transfer station was added last year. They had
20 fallen -- some funding fell through that they were working
21 with another entity to secure. So we brought them into the
22 program.

23 This year we brought the town of Clearmont in for
24 a closure, and it was a small \$300,000 project, but they
25 were struggling to try to find financing for that project.

1 So that was one of the additions.

2 Additionally, as entities get closer to their
3 projects, they are allowed to submit cost revisions, if you
4 will, if they have an engineer's estimate. A lot of them,
5 if they're seven years out, they don't go and get an
6 engineer's estimate. They'll default to the department to
7 set a price that we think the project might cost. If they
8 get an engineer's estimate, we present that to the
9 legislature, and if they approve of that increase or
10 decrease, then that comes into statute, and we can fund
11 that amount.

12 This year WSWRA has, once again, been active in
13 the program. And one of the recommendations they made to
14 the Joint Appropriations Committee and Minerals -- Minerals
15 Committee tends to have more oversight of this. They've
16 been the ones carrying the water for landfill issues for
17 10 years now.

18 JAC, of course, is who -- is the budget -- is the
19 pursestrings. So when they went in front of JAC recently,
20 it looked like there was going to be some budget issues, as
21 you can all understand. And so the governor didn't put any
22 money into the cease and transfer program budget for this
23 year. The Wyoming Solid Waste and Recycling Association
24 went forth and proposed that \$15 million be moved from
25 the landfill remediation program, which has a balance of

1 45 million, over to the cease and transfer program to
2 continue to fund operations. That number was arrived at by
3 a burn rate that the department develops every year on the
4 projects that we anticipate coming forward in that -- in
5 that biennium.

6 The current biennium, I anticipate, what,
7 7 projects coming in, and 16, at least, entities have
8 expressed interest. Of those 7 projects, 6 of them are
9 closures, and 1 of them is a transfer station.

10 It was met with -- I think positively at this
11 point. We'll see if it makes it through the whole body of
12 this session. But at this point in -- and, actually, the
13 director, Director Parfitt, recommended \$17 million. Of
14 the \$45 million, you know, I'm not sure -- the
15 recommendation -- we wanted to make sure -- there's
16 currently three projects, as I'll go into with the
17 remediation side, but the three projects that we've got
18 coming up, we guesstimate to cost around 28 to \$30 million
19 to remediate. And that's kind of where we got the 15 to
20 the \$17 million that they requested information on. And so
21 it shouldn't cause any problems to the landfill remediation
22 program, hopefully, if they were to fund this out of that.

23 House Bill 105 is a bill that's being represented
24 by Representative Larsen out of Fremont County. House Bill
25 105, what it does is some of these smaller-smaller

1 facilities in the state have struggled to get their
2 25 percent match for the cease and transfer program, and so
3 what House Bill 105 would do is make the program whole,
4 where communities can reach up to a hundred percent funding
5 through grants and loans instead of 75. That would still
6 be a zero-interest loan blend, and there will still be, you
7 know, some -- there will be grant and loan blends. I don't
8 see a hundred percent grant going out in the program to do
9 that. It will just help people capture so they're not
10 matching.

11 We have one entity that ended up taking
12 consensus, direct distribution, a zero-interest loan and a
13 cease and transfer loan and a mineral royalty grant, and so
14 for the Office of State Lands and Investments to track all
15 these different arms, it just seems a lot cleaner if they
16 make the program whole.

17 Some concern has been stressed about maybe
18 somebody receiving a hundred percent grant on that, the
19 "skin in the game" term comes up. I think WSWRA offered an
20 amendment that in no event shall grants exceed 90 percent.
21 That didn't make it into the current bill that is on the
22 website, I noticed. So that could be an amendment that's
23 offered on the floor. I don't know where that would go.

24 But currently the department and the Office of
25 State Lands do a very thorough job of vetting people's

1 books and looking at their audits and seeing what they can
2 handle for loans.

3 Next page. So on the landfill remediation
4 program, very pleased to announce that since I was here
5 last, we now have three written agreements that have been
6 signed and executed with the entities that were in the
7 program. Two of the entities opted for what's called
8 "operator-led," which means that they have a little bit
9 more control as far as selection of the consultants or --
10 the biggest thing that I notice is a lot of the invoicing
11 and everything will go through that entity, and then the
12 entity submits to the department for reimbursement of the
13 funds.

14 The DEQ-led project, the department actually has
15 a lot more control on the invoicing side, so we would meet
16 with the consultant and say here are the parameters for
17 billing and things of that nature. And so if for some
18 reason something was billed out that wasn't eligible, the
19 department would say it's not reimbursable.

20 There are some other, obviously, nuances that go
21 along with the DEQ-led, but that's at the will of the
22 entity, if they would like us to handle more the publicity
23 side of it with the community, things like that.

24 On the status of each entity, I don't know if I
25 put that on the next slide. So there has -- the three

1 entities that have signed written agreements are Casper,
2 Sheridan and Campbell County. And so Casper is through
3 what's called the nature and extent and the assessment of
4 corrective measures.

5 The department's just issued yesterday a letter
6 with our approval of the nature and extent and ACM, and
7 then what we believe the remedies should be for that
8 assessment of corrective measures.

9 Campbell County is also in a pipeline, but
10 they're in the nature and extent study phase right now. I
11 think they've just recently submitted that to the
12 department, so there'll be some meetings happening in the
13 very near future with them to go over that, maybe look at
14 well placement and try to determine things of that nature
15 to move forward in theirs.

16 And then the city of Sheridan is in the infancy
17 stage. They actually hadn't begun anything. So their
18 department had just gone through what was called the
19 statement of interest, where firms indicated desire to do
20 the remediation projects for those. Of that, we've
21 shortlisted four firms. Of the four firms, the RFPs from
22 them are due on February 2nd, and then we'll do interviews
23 on those in the first week of March. I think March 10th
24 and 11th, actually. And for -- to select a consultant to
25 do the work at those facilities.

1 Besides that, I think -- I think that's all for a
2 quick and dirty update. Yes. So thank you guys for
3 letting me jump in and do it. Do you have any questions on
4 any of the programs or how things are going or --

5 Hi, Lorie. I can see you now.

6 BOARD MEMBER CAHN: So I had a question at
7 the last board meeting that we asked for you to be able to
8 address for us, and that was -- obviously, there's
9 uncertainty regarding legislative funding with this new
10 session. So if funding is not available for an entity,
11 will their closure dates be pushed back?

12 MR. MCOMIE: It's a good news/bad news
13 scenario. For the facilities that are in the burn rate
14 that you look to come in in 2016 at least, I do have
15 funding for at least five of the seven projects. One of
16 the projects is rather large. It's over a \$10 million
17 project, but the other ones tend to be 1 million here, you
18 know, 500,000 for a small closure there. So we would be
19 able to move on some of those projects while we iron out
20 the funding maybe going into the '17 session.

21 Like I said, thus far it's been kind of positive
22 results as far as meeting with Minerals and Joint
23 Appropriations, but in the event that we can't do a closure
24 on one of these, yes, we would look to move those dates
25 back. That would be up to the permitting staff to try to

1 find whether or not they had space. If there was an
2 instance where they were out of room, we might have to look
3 at a temporary vertical expansion, something of that
4 nature, to push that date.

5 On the flipside, the waste really shouldn't be an
6 issue for us as much as just getting a robust intermediate
7 cover on in the meantime because they should have a
8 transfer station in place, because we phase these,
9 obviously, the transfer station to allow them to haul waste
10 first, before they get to a closure. But that is the
11 option that we would consider the most, yes.

12 We do our very best not to force them into --
13 with that said, we will take into consideration the amount
14 of impact that they're having as far as contamination to
15 the environment. That is always a factor that's
16 considered. That's one of the things in the landfill
17 remediation program. There's redundancy. The people that
18 are on the cease and transfer list, those landfills are all
19 on the other lists as well. And so that -- the hope is we
20 get good caps on these things, and when we get to them on
21 the remediation list, perhaps the cap has done its duty and
22 we don't have to do further investigation. But --

23 Did that answer your question, Lorie?

24 BOARD MEMBER CAHN: Uh-huh. Thank you.

25 MR. MCOMIE: Anything else for the board?

1 CHAIRMAN BEDESSEM: I had a question.

2 I know you kind of gave us an update on revised
3 list for cease and transfer, but you also have to submit a
4 revised list for the remediation projects?

5 MR. MCOMIE: I do. What we do, though, is
6 we --

7 BOARD MEMBER CAHN: Craig, could you please
8 repeat the question? I couldn't hear Marge's question.

9 MR. MCOMIE: Yeah. Marge asked with
10 respect to the cease and transfer list that's updated every
11 year and resubmitted for approval by the legislature, we
12 do -- we do the same thing for the landfill remediation
13 program, but instead of updating that list, what we do is
14 have to submit an annual report in June. The cease and
15 transfer report is submitted to Minerals in October, and
16 then the landfill remediation is a June report.

17 Because nobody has been dealt with, if you will,
18 to date, that list doesn't change as far as the priority of
19 those facilities, but we do issue a report with the status
20 of the facilities. This next year will be quite a
21 different report. We will have expenditures and money
22 going out the door. Of the \$45 million I mentioned
23 earlier, 17 million has been appropriated to date, and so
24 we have money where these projects can begin to work. The
25 city of Casper, for instance, the department has approved

1 the installation of a gas system and flare to start
2 addressing those concerns.

3 So, yeah, that -- that is -- and one thing,
4 Marge, that I would like to do, because somebody in the top
5 of that facility, Buffalo was one, has recently put an FML
6 cap on, and so, you know, they've addressed what would
7 probably likely be the first step of the ACM to begin with,
8 and so we're going to be wanting to look at that.

9 Additionally, if we -- when we start getting in
10 water classification, I think you might see some shuffling
11 of that list because the list was based on all Class I
12 aquifers, and if that's not the case at some facilities,
13 obviously that would have -- but that's quite an
14 undertaking. So we're working how we're going to do that
15 and how water is going to approach that.

16 CHAIRMAN BEDESSEM: I want to make sure I
17 understand the mechanics. So there's different timing in
18 that you do kind of an annual report on cease and transfer
19 in October --

20 MR. MCOMIE: Yes.

21 CHAIRMAN BEDESSEM: -- and remediation in
22 June.

23 MR. MCOMIE: Yes.

24 CHAIRMAN BEDESSEM: But every year does
25 legislature have to approve the list?

1 MR. MCOMIE: They do. They do.

2 CHAIRMAN BEDESSEM: So when do they get the
3 list to the -- that they approve at their session?

4 MR. MCOMIE: That actually goes into the
5 session, and the list for -- Minerals will get that list in
6 June for remediation. They give it, for lack of a
7 better -- a tentative blessing, if you will, and then it's
8 carried to the full body for the vote during session.

9 CHAIRMAN BEDESSEM: Gotcha. Okay.

10 MR. MCOMIE: And cease and transfer, the
11 same way. They, actually, in a meeting in Cheyenne I was
12 at recently approved the cease and transfer list. There
13 were some errors in it that we're going to have to work
14 through in the session. Some of the revisions on the costs
15 didn't get in, unfortunately, so -- but, yeah, those are
16 both blessed by the entire body in the session.

17 CHAIRMAN BEDESSEM: So basically the lists
18 come from those annual reports and get moved forward
19 through the Minerals Committee.

20 MR. MCOMIE: That's correct. That's
21 correct.

22 CHAIRMAN BEDESSEM: Okay. Thank you.

23 BOARD MEMBER CAHN: And, Craig, when you
24 say you have funding in 2016 on -- five of the seven
25 projects have funding, do the other two entities know that

1 their funding is in jeopardy?

2 MR. MCOMIE: They do. And they've been
3 working with their local legislators to support WSWRA's
4 proposal to shift some of the money over from remediation,
5 if you will. And I think the other entities are engaged as
6 well, because the amount of money, if you recall, it was
7 like 3.6 in grant, 3 in loan. To date I've given out just
8 about 2.5 in loans. So because of that, it would be some
9 of these facilities that do, if there's funding available,
10 they would have to contemplate taking a heavier amount of
11 loan to receive that funding for their project, and that is
12 problematic for some of them that have raised tipping fees
13 considerably, or, you know, in one case they've tried three
14 times to pass a mill levy, as a district can do, and it's
15 failed all three times. So some of them kind of have their
16 back against the wall. And so I think they're all working
17 in concert. It's just being a budget session, as you know,
18 it requires a two-thirds vote instead of next year they
19 could get through on a 50-50. So everybody's working
20 diligently with their legislators, and WSWRA is doing an
21 outstanding job of testifying, but, you know, it's really
22 up to the members to get out there.

23 CHAIRMAN BEDESSEM: Anything else for
24 Mr. McOmie?

25 Thank you very much.

1 MR. MCOMIE: Thank you, guys. I'll
2 probably give you an update after the session, just to let
3 you know how the projects are going, if you'd like.

4 CHAIRMAN BEDESSEM: We'd appreciate that.

5 BOARD MEMBER APPLGATE: Thank you.

6 MS. THOMPSON: Thanks, Craig.

7 CHAIRMAN BEDESSEM: Okay. So according to
8 the agenda, we have proposed revisions of the rules coming
9 up; however, it seems that that would be a more lengthy
10 item, and if no one objects, we prefer to move Item C up,
11 grant requests.

12 MS. THOMPSON: Madam Chairman, we don't
13 have any grant requests to present to you.

14 CHAIRMAN BEDESSEM: So Item C, the grant
15 request for reimbursement, none were received by the board,
16 so I'm glad to hear we don't have any. We didn't miss
17 anything.

18 So, Mr. Jennings you, didn't have anything you
19 wanted to update us on?

20 MR. JENNINGS: No, Madam Chair.

21 CHAIRMAN BEDESSEM: Okay. Let's take a
22 five-minute break, and we'll get into the proposed
23 revisions to Chapters 1, 2 and deletion of 9 and 15.

24 (Meeting proceedings recessed

25 9:53 a.m. to 10:02 a.m.)

1 CHAIRMAN BEDESSEM: Let's reconvene. Bob
2 Doctor with Solid and Hazardous Waste Division is going to
3 be presenting overview of the proposed changes to the waste
4 rules.

5 The order that we're going to do this in is we're
6 going to his own review, and then we're going to take
7 public comments. After that, then we'll go through board
8 comment and maybe get into some more details.

9 So I'm going to turn the floor over to
10 Mr. Doctor.

11 MR. DOCTOR: Good morning. I'm very happy
12 to be here. After many years of wanting to get these rules
13 reorganized, it's nice to finally be sitting here in front
14 of you guys.

15 Let's see. Do it this way or --

16 MS. THOMPSON: I can't do the show because
17 it messes with the Hangout. Sorry.

18 MR. DOCTOR: Figures.

19 MS. THOMPSON: I know.

20 MR. DOCTOR: That takes away all my
21 pizzazz.

22 So really what we're going to do is -- this is
23 the presentation based really on what we did when we did
24 our outreach when we went around the state. So I've just
25 kind of tweaked it just a little bit for you guys today.

1 So this is the basic overview of the basis for the rule
2 changes and some of the key points that -- of changes that
3 we're making.

4 One of the first reasons we're doing this is the
5 governor's directive to reduce the length and number of our
6 rules, eliminate obsolete stuff, and "clear the clutter."
7 And we have our share of that in these rules, which the
8 majority of which date back to the early '90s. There was
9 some odds and ends of changes, but our rules are based on
10 Subtitle D, which we really started adopting in the early
11 '90s. So it was time.

12 Next, please.

13 So we're working on changing Chapter 1, which is
14 the general provisions of the solid waste rules; Chapter 2,
15 which is the municipal landfill rules; eliminating
16 Chapter 9, which suspended permits for commercial
17 facilities pending rules. Well, now that we have rules for
18 commercial facilities, we don't need this chapter anymore.

19 And good old Chapter 15, which dates way back to
20 1975, prior to Subtitle D, has been hanging out there for a
21 long time, and it's time to say good-bye to that one as
22 well. That was the catchall chapter, and pretty much all
23 solid waste facilities were regulated to that chapter
24 before the current rules.

25 So in Chapter 1, we -- you'll notice a lot of

1 text was just deleted that was pretty much unnecessary.
2 The attorneys have advised us that we don't need to have
3 things in rules that are already in statute, and that's
4 throughout these rule changes. Not a lot of us like that,
5 but it's a quick way to reduce the volume of our rules for
6 the governor.

7 And we do have a problem because when a statutory
8 definition changes, it takes forever for us to get it
9 adjusted in our rules. So the attorneys always advise us
10 not to have things in a rule that's already in statute.
11 And you'll see several instances through here where we've
12 removed things from the rule that are in statute.

13 Also, there are definitions added that over the
14 years we've had so many questions, we thought we should add
15 those too. And the Statement of Principal Reasons has a
16 detailed list of those things that have come out and been
17 added.

18 And then what -- we number the definitions, so
19 it's a little easier to reference when we need to for
20 various purposes.

21 A couple of notable things. In the last rule
22 change we really made it a lot easier for communities to
23 provide solid waste services who are closing their
24 landfills. And so it became much easier to run out an
25 exempt or low-volume, low-hazard transfer station. But one

1 of the things we've seen over the last two years of that is
2 that people really need a little bit more room if we're
3 going to start implementing more composting or be able
4 to store scrap metals for a little bit longer, depending
5 on the markets. So what we're doing is going from
6 1 to 3 acres to be exempt, and I believe up to 10 acres for
7 low-volume, low-hazardous facility.

8 So this should give us a little more time to work
9 into a lot better job of recycling. And we kind of had it
10 in mind that also at the time, way back when, when I
11 started making this change, we had some commercial -- large
12 commercial recycling facilities that wanted to come into
13 the state. There was one down in Cheyenne that was talking
14 pretty seriously for a while. And this low-volume,
15 low-hazard size exemption would have really helped them
16 provide services to more citizens, and so we've expanded.

17 When the EPA passed the rule for CRTs, we had
18 recycling opportunities for those. Nobody makes leaded
19 CRTs, the old TV screens, anymore. Everything's going to
20 flat screen. So there's really no place to recycle lead
21 anymore. But our previous rule change, all e-waste was
22 kind of lumped into one big category. So what we've done
23 is separate out the CRTs for the remainder of the e-waste
24 stream to improve recycling of that waste stream, and so
25 that one bad apple, like a CRT in a Dumpster, doesn't

1 contaminate the whole load and cause it to be called
2 hazardous. So it should improve opportunities for
3 recycling.

4 We're still trying to find markets or some way to
5 deal with CRTs, but it's very difficult, especially for a
6 school district that's getting rid of 50 of them at a time.
7 Technically, they're a hazardous waste. So this should
8 hopefully make it easier.

9 A permit amendment process was a little messy.
10 Our Attorney General's Office has made some changes, and
11 also the statute for lifetime permits told us that if you
12 have an amendment to a lifetime permit, you have to go
13 through the same process as you do for a new permit, which
14 is a completeness review with public notice and technical
15 review with public notice. And we didn't think that
16 changing operating hours at a landfill warranted that level
17 of work, so what we've done is narrowed the focus down to
18 major changes and things that really warrant public
19 participation and public notice. So a lot of very simple
20 things now, even if we receive a new design for a liner at
21 a new landfill unit, that that is not going to be
22 considered a major amendment anymore, unless it maybe is
23 reducing the effectiveness or something. So this should
24 make it easier for all of us to change our permits on the
25 fly.

1 Also, in Chapter 1, we removed the classification
2 for Type I and II landfills --

3 MS. LANGSTON: Yay.

4 MR. DOCTOR: -- and regulating all the
5 constituents. Some of this has its basis back in a report
6 to the governor from a citizens advisory group way back in
7 2004.

8 In reality, we really don't have any Type II
9 landfills left anymore anyway, but we can talk more about
10 that later. And this is also in Chapter 2 changes as well.

11 As you know, we have new legislation regarding
12 access for collecting data, and as a result of that, we
13 have built into the solid waste rules in Chapters 1 and 2,
14 both, that the operator needs to specifically allow the
15 DEQ access for inspections. That provision was previously
16 built into our permit letters, but the Attorney General's
17 Office felt that given the new statute, the operator needs
18 to specifically give us written authorization to do that.

19 The variance process has been kind of messy for
20 many years now, and we have a representative from the City
21 of Cheyenne who may be able to elaborate. They just went
22 through their variance process. And the statutory variance
23 process really was never designed for permanent variance
24 that we use for landfills, but we were trying to find a way
25 to make use of that in our variance process. So what we've

1 done is make the variance process very similar to the
2 process of getting a permit. So it should be a lot more
3 easy to follow for everybody, and hopefully take a lot less
4 longer.

5 Also, the public notice text for low-volume,
6 low-hazard permits was essentially duplicated, and the only
7 real difference was one was a mobile facility and one was
8 for a fixed facility. So we got rid of a bunch of language
9 there.

10 We have to terminate operating permits and then
11 issue closure permits, and then some day, God willing, we
12 terminate closure permits. There was nothing in the rule
13 about how to go about doing that, so we've added that in
14 here in order to make it clear how we terminate permits.
15 We had a process for denying them or revoking them, but
16 that's an enforcement action, really. So we put some text
17 in there about doing that.

18 Chapter 2. The majority of the redline you'll
19 see there is reorganization, things were deleted from
20 former Section 2 and put into other sections of the rule to
21 consolidate single topics and single sections of the rule.

22 A real big one I think is this change to the
23 location standards. When statutes talk about location
24 standards, they talk about a facility, so the boundary of
25 the whole facility. When EPA talks about location

1 standards, they talk about a disposal unit within the
2 facility, not the boundary of the facility itself. And as
3 a result, we've got some awfully odd-looking landfill
4 permit boundaries to avoid wells or streams or wetlands,
5 that type of stuff.

6 The changes we're making now get rid of a lot of
7 the extra locations standards that are not in statute or in
8 Subtitle D. And now we've incorporated the Subtitle D
9 process that units cannot be located in some of these
10 areas. And it's new units, lateral expansions, and, of
11 course, new landfills, new facilities. So it should be a
12 lot easier to wade through the location standards now. I
13 think it's simpler. And, again, in Chapter 2 we added that
14 site access agreement. Eventually, we'll need to add that
15 throughout.

16 Again, there were differing regulations for
17 Type I and II landfills, primarily. It was the frequency
18 with which landfills needed to provide daily cover over
19 garbage, and it was groundwater monitoring requirements,
20 and then particular requirement to conduct statistical
21 evaluations of groundwater data. Historically, the
22 department had been doing that work on behalf of Type II
23 landfills. I think our statistical software people kind of
24 look the other way and let us go ahead and do that. But,
25 in fact, we really don't have any Type II landfills left,

1 because in order to be a Type II landfill, you have to have
2 no evidence of a release and receive less than 20 tons of
3 waste a day and have no reasonable place to go with your
4 garbage, and that's just not the case anymore.

5 We went through and looked at this and we found
6 one facility, which is Manville, where we don't have
7 evidence of a release. They could still be considered
8 Type II that would be doing their own statistics as a
9 result of this. And they're planning to excavate and
10 clean-close their landfill in the next couple of years, I
11 think. So it's kind of a nonissue.

12 Another big one is this methane limit. You know,
13 in doing a comparison to Subtitle D, you don't have to take
14 action until the concentration of methane is at the lower
15 explosive limit. In our existing rule, it's much more
16 conservative. You have to take action and do something
17 about it if the methane level is 25 percent of the lower
18 explosive limit. So this should make a pretty big
19 difference when it comes to addressing landfill gas. In
20 particular, I think as we start putting final cover on our
21 landfills, we may start seeing gas that now is being pushed
22 out the sides, and this could make it a lot easier for us
23 to deal with that.

24 There was a requirement in our rule that if you
25 had more than a million cubic yards in a disposal unit, you

1 were required to have leak detection, and that's nowhere in
2 Subtitle D, and we've removed that now. We struggled with
3 that for many years. In fact, when we had -- we were
4 digging little landfill trenches, it wasn't a big deal, but
5 I think the first one to come up against this was the City
6 of Casper, and they're putting in a modern landfill with
7 one big unit, essentially, and this was a big problem to
8 get through this, so we're getting rid of that.

9 Lots of consolidation, in particular the closure
10 standards. The rule used to say your closure permit
11 application has to include pertinent materials, but there
12 really wasn't much definition of what that means, what is
13 pertinent. So we've gone through and said here are the
14 things that should be in the closure permit. You don't
15 need design and operating stuff in a closure permit. So
16 we're eliminating a lot of stuff. And I think one of
17 the -- big things, as a result of a comment, actually, was
18 if you've submitted something to us already, you don't have
19 to resubmit it. You can reference it instead of including
20 it in the permit. But you can also duplicate things that
21 are in your existing permit and recopy those things. So
22 we're trying to make that a little more flexible.

23 Also noticed in the Subtitle D, that in final
24 cover the barrier layer only needs to be 18 inches thick,
25 and our rule said 2 feet. And if we look at that, that's a

1 significant cost increase to go out and put another
2 6 inches of dirt down, or more, when you're putting final
3 cover on a landfill. So we've changed that to match what's
4 going on in Subtitle D, and that should help us with
5 closure costs.

6 I wish somebody from Douglas was here, but
7 there's been other instances of this. And really what
8 Subtitle D calls for is when you close the unit, you need
9 to put that information in the operating record for the
10 facility. And that was because the EPA rules were written
11 such that states may not have permit, and so it's all based
12 on citizen lawsuits and having things in the operating
13 record.

14 But things now need to come into DEQ when
15 facilities are closed. And Douglas is an example. They
16 were going in and putting final cover on, but they really
17 didn't document anything. They had nothing in their files.
18 They had submitted nothing to DEQ. And many years after
19 they finished closure, they realized when their engineer
20 looked and said, "I'm not stamping that," and they had to
21 go out and collect samples to prove that their final cover
22 had been constructed properly. And they were very
23 fortunate in that the compaction was still okay, and they
24 did not have to go back and reconstruct the final cover
25 over a large part of their landfill. So now it makes more

1 sense we're getting this documentation in as it happens,
2 especially when we have 25-year permits.

3 And so now, you know, 10 years after the fact, if
4 an engineer -- a new engineer's coming in to certify
5 closure, there is some documentation that that engineer can
6 look at to say, yeah, I can stamp this, and I can agree
7 they did what they needed to do.

8 Next one. Getting close to the end here, aren't
9 we?

10 So I just thought I'd mention, we, I think,
11 announced our informal outreach about July 21st. We went
12 around the state to Green River, Cody, Gillette, Cheyenne,
13 Casper with our informal outreach. And for the most part,
14 we just sat down and went page-by-page through the rule.
15 We had a lot of positive comments on the reorganization,
16 and we had a lot of just plain questions, not really
17 recommendations for changes.

18 And so I went through and made notes, and then
19 that is the basis for the summary of comments that you'd
20 all received. It was very good, and I thought I was done,
21 and then they say, oh, you get to be the guinea pig for the
22 new electronic comments system. And so we started all over
23 again, and we went back out with an electronic comment
24 system that seems to work effectively, but we've only
25 received two comments; one back in October, on that

1 electronic system, and one yesterday, which I've made
2 copies for you here.

3 But it's nice that I get the comments in
4 electronic form. I can block and copy those in, and I've
5 got them word for word. So that works good.

6 BOARD MEMBER CAHN: Bob, can -- Gina, can
7 you please email me the comments from yesterday about --

8 CHAIRMAN BEDESSEM: Well, can you just --
9 it's short. Can you just read into the record?

10 MS. THOMPSON: Lorie, I'll read it into the
11 record. I don't have access to this one because they split
12 it by division. So the comment --

13 BOARD MEMBER CAHN: We can -- we can do it
14 when it's more appropriate, like maybe in the public
15 comments section or something.

16 CHAIRMAN BEDESSEM: Which will be in about
17 a minute.

18 MS. THOMPSON: I'll just hold on to it,
19 then.

20 CHAIRMAN BEDESSEM: Okay.

21 MR. DOCTOR: Of course, we've got the
22 notice and comment for this meeting. So, you know, we've
23 had informal comments from July really through October, and
24 now this. So it's, I think, maybe unprecedented, but it's
25 been nice. And I really like the informal process. It

1 worked really well, and we had a lot of input and people
2 caught a lot of stuff.

3 So, Lorie, hopefully there won't be so many
4 typographical errors for you to have to find for me. I was
5 counting on you for that.

6 BOARD MEMBER CAHN: I have some for Gina.
7 No worry.

8 MR. DOCTOR: Okay. So this just kind of
9 summarizes the comments we received. We just had some very
10 open discussions, and it wasn't real formal, which was
11 nice. And so I summarized those comments into five related
12 areas for you all in the response to comments. And I think
13 that all came in the email, except for that one comment,
14 which was actually related to comments back in October.

15 And for more details on -- blow-by-blow summary
16 of each change that's made throughout the rule, the draft
17 Statement of Principal Reasons pretty much goes through and
18 you can kind of go through. I have a cheat sheet here, so
19 if we go through and there's questions about specific
20 rules, I've gone through and made notes on each and every
21 change in the rule in case somebody had questions about
22 what happened to this, where did it go, as we're going
23 through this so I can help you with it.

24 So if there are no questions, I didn't see any
25 point in getting into it.

1 CHAIRMAN BEDESSEM: That sounds -- that
2 sounds good. Appreciate the overview.

3 What we'd like to do is, based on this overview,
4 to have Gina read that electronic comment that came, and
5 then have the public come up and provide their comments,
6 and we'll discuss the SOPR and the response to comments
7 you've already done, so...

8 MS. THOMPSON: Okay. So this written
9 comment that came electronically, DEQ received it
10 January 21, 2016. It's concerning Chapter 2 of the Solid
11 Waste Rules and Regulations. The comment reads, "After
12 reviewing others' comments and the DEQ's responses, the
13 City of Laramie would like more time to review Chapter 2.
14 Specifically, one commenter did not feel that the
15 Appendix C parameters should trigger assessment monitoring
16 and the commenter believes that there may be some
17 unintended consequences that could be more stringent than
18 Subtitle D and increase costs for landfill operators. As a
19 landfill operator, the City of Laramie, Solid Waste
20 Division would like more time to evaluate the commenters'
21 concerns."

22 CHAIRMAN BEDESSEM: Thank you.

23 So do we have comments from the audience?
24 Anybody would like to come up and begin?

25 MS. THOMPSON: If you'll go ahead and sit

1 here, you'll be right next to our microphone, and our board
2 member in Jackson will be able to hear you pretty clearly.

3 BOARD MEMBER CAHN: Gina, can you switch
4 back to the camera, please?

5 MS. THOMPSON: Yes.

6 CHAIRMAN BEDESSEM: I don't know how we
7 provide Lorie with a copy of the comments that we are
8 receiving.

9 MS. THOMPSON: So I could take a picture
10 and email it to her. I don't know if that's -- because we
11 don't have a scanner.

12 CHAIRMAN BEDESSEM: Right.

13 MS. THOMPSON: So, Lorie, this gentleman
14 just passed out some comments.

15 BOARD MEMBER APPLGATE: It's two pages.
16 He could probably read through them. It's not that long.

17 MS. THOMPSON: You want to do that?

18 CHAIRMAN BEDESSEM: Then you might want to
19 take a picture of what looks like this too.

20 MS. THOMPSON: The Appendix C? Okay.

21 So there's an appendix in the comment he's
22 handing out, so I'm going to take a photo and email it to
23 your gmail account, and that way when he's referencing
24 Appendix C, you'll have a picture of the table.

25 CHAIRMAN BEDESSEM: Okay. But the rest you

1 may have to go through in detail.

2 BOARD MEMBER APPLGATE: Just read it into
3 the record.

4 MR. FRYE: My name is Andy Frye. I
5 represent Fremont County Solid Waste Disposal District. So
6 we are here today to comment on the proposed changes to
7 Chapters 1 and 2 of the Municipal Solid Waste Landfill
8 Regulations.

9 Would you like for me to read through it and then
10 kind of summarize the comments or summarize and then read
11 through?

12 BOARD MEMBER APPLGATE: Just read it in.

13 CHAIRMAN BEDESSEM: Just read it in so
14 Lorie has everything. And then any other comments you want
15 to make thereafter, you know, getting to the gist of it,
16 you can do it after you read it.

17 MR. FRYE: Yes, ma'am.

18 Okay. So the following comments are provided
19 regarding proposed changes to Chapter 2 -- Chapters 1 and 2
20 Municipal Solid Waste Landfill Regulation (Draft Revision
21 12-8-2015). Our directors, like many publicly operated
22 facilities in Wyoming, are already taking positive steps to
23 improve the environmental performance and efficiency of our
24 facilities. Therefore, we want to make sure that any new
25 regulations that have the potential to further challenge

1 our limited financial resources are reasonable and
2 appropriate.

3 Specifically, there are two issues which are
4 likely to have financial impacts on the district's
5 operations. The issues we'd like you to consider are
6 relative to Comments 4 and 5 (received online) in the
7 Department's Response to Comments.

8 Comment 4 was with regards to indicator
9 parameters. I would like to bring to your attention a
10 number of issues regarding the proposed Appendix C
11 indicator parameters.

12 Bullet 1, stringency. The Department's response
13 to the comment about naturally occurring indicator
14 parameters in proposed Appendix C indicates that this
15 requirement is not more stringent than the Environmental
16 Protection Agency's Resource Conservation and Recovery Act,
17 (RCRA) Subtitle D regulatory language. While it is true
18 that RCRA Subtitle D allows states to approve alternative
19 indicator parameters, the imposition of additional
20 requirements increases the number of parameters. Because
21 these indicator parameters are not required by Subtitle D,
22 adding them to subtitle regulatory language appears to be
23 more stringent than RCRA Subtitle D. The attached table
24 summarizes which of these parameters are and are not
25 included in the existing detection and assessment

1 monitoring requirements in Wyoming Solid Waste Rules and
2 Regulations and EPA RCRA Subtitle D.

3 Bullet 2, scientific/regulatory basis. In
4 regards to the proposed Appendix C parameters, it would be
5 helpful to understand why parameters that have no
6 established groundwater protection standards are included
7 in regulatory language that can be used to trigger
8 additional regulatory requirements, namely assessment
9 monitoring, nature and extent of contamination, and
10 corrective action. As shown on the attached table, only 11
11 of the 18 indicator parameters have Wyoming Water Quality
12 Division Chapter 8 Class of Use Standards, and only 6 of
13 the 18 parameters have drinking water standards such as
14 maximum contamination levels (MCLs) or drinking water
15 equivalent levels. Per the proposed regulatory language,
16 background concentrations would be applicable when no
17 groundwater protection standards exist for these
18 parameters. Under this scenario, an operator could be
19 required to expend money for assessment monitoring, nature
20 and extent of contamination, and corrective action for
21 constituents that have not been identified as hazardous by
22 the scientific or regulatory communities.

23 Bullet point 3, reliability. The Department's
24 response also indicates that Appendix C parameters have
25 been recognized as "reliable indicators of a release from a

1 landfill for decades." While many of these parameters were
2 used pre-RCRA Subtitle D (i.e., over 20 years ago), the
3 current basis for this statement is not clear. EPA did not
4 include these parameters in RCRA Subtitle D, and it is
5 unclear how many other states currently include the
6 specific parameters in Appendix C in their RCRA Subtitle D
7 regulatory language. Furthermore, the Department's
8 suggestion that operators have the option of providing a
9 demonstration that the concentrations of naturally
10 occurring parameters are associated with something other
11 than the landfill is seldom a practical alternative. Many
12 existing landfills had waste in place prior to the
13 establishment of the current groundwater monitoring
14 networks. As such, "pre-waste" groundwater data is not
15 available to try and explain differences in water quality
16 that may be due to long-term climatic trends or subtle
17 variations in the hydrogeologic conditions across the site.

18 While it may be reasonable to require the
19 indicator parameters in Appendix C to better understand the
20 geochemistry of an aquifer, we support the recommendation
21 to not change the regulatory language regarding triggers
22 for assessment, nature and extent of contamination, and
23 corrective action requirements. If concentrations of these
24 parameters are a concern at a specific facility, we would
25 encourage the Department to pursue regulatory action under

1 existing regulatory authority (e.g., Water Quality Rules
2 and Regulation Chapter -- Regulations Chapter 8) in lieu of
3 RCRA Subtitle D regulatory requirements.

4 Also, we would like to note that two of the
5 parameters on the proposed Appendix C are already in the
6 RCRA Subtitle D and Wyoming Solid Waste Rules and
7 Regulations for detection and assessment monitoring (see
8 attached table). Therefore, including them in Appendix C
9 appears to be a duplicate requirement and may not be
10 necessary.

11 With regard to Comment 5, statistical analysis.
12 The proposal to eliminate Type I and Type II landfill
13 classification and require all landfills to provide
14 statistical analysis of groundwater monitoring data will
15 increase monitoring costs for small landfills, which by
16 their nature receive less waste. Less waste received
17 generally equates to less revenue, so the relative cost of
18 statistical analysis is higher than at facilities that
19 receive more waste and generate more revenue. It's not
20 clear which affected facility (one) was being referenced in
21 the Department's Response to Comments, but the Dubois
22 Landfill is currently classified as a Type II facility, and
23 we are not planning to close and excavate wastes. I would
24 encourage the Department, therefore, to further evaluate
25 the number of facilities affected by the proposed change.

1 The proposed alternative language provides flexibility
2 regarding who is required to perform the statistical
3 analysis, and how often it may be required.

4 Thank you for the opportunity to comment on the
5 proposed rules.

6 CHAIRMAN BEDESSEM: Do you have more you
7 want to add?

8 MR. FRYE: I would just like to reiterate a
9 few points made in our letter. The proposed Appendix C is
10 more stringent than federal requirements. The fact remains
11 that if the EPA had primacy and was administering Subtitle
12 D in Wyoming, these would not be included. And that's --
13 that's the truth.

14 Requiring these increased costs -- you know,
15 we've had a goal statewide to work towards maintaining or
16 limiting regulations, so we can close cease and transfer
17 and address remediation. All these do is limit financial
18 reserves to do that.

19 I guess that's -- maybe one more point. Solid
20 and hazardous waste administers solid waste and hazardous
21 waste. Under the hazardous waste rules, there's a statute,
22 it's referenced as 35-11-516. It specifically states, "The
23 rules shall be no more and no less stringent than
24 corresponding rules which have been adopted by the United
25 States Environmental Protection Agency." So a division

1 administering two different programs treats the programs
2 differently. We would propose that Subtitle -- or that
3 Appendix C not be --

4 THE REPORTER: Not be what?

5 MR. FRYE: Not be included.

6 BOARD MEMBER CAHN: Could I -- could you
7 just say your last sentence, Andy? The Appendix C not, and
8 I didn't catch the rest.

9 MR. FRYE: Not be included in the proposed
10 rule change.

11 I guess if we have a few minutes, I wouldn't mind
12 making a few other points.

13 Some of the items that were referenced in there,
14 11 of the indicator parameters on Appendix C have DEQ Water
15 Quality Division Chapter 8 Class Use Standards, meaning 7
16 of these are not even used when classifying the class of
17 use for groundwater. Only 6 of the 18 parameters in
18 Appendix C have drinking water standards, meaning that a
19 facility is required to have a corrective action and they
20 do not have groundwater classification, which most
21 landfills in Wyoming do not. They may be required to clean
22 the groundwater up to drinking water standards when not
23 warranted.

24 CHAIRMAN BEDESSEM: Continue.

25 MR. FRYE: Madam Chairman, that concludes

1 our comment.

2 BOARD MEMBER APPELLEGATE: I have a
3 clarifying question.

4 So when you say you want to eliminate Appendix C,
5 you want to eliminate it in its entirety, or just those
6 constituents that would be in excess of the constituents
7 that are either connected to drinking water standard --
8 help me understand what you're asking there.

9 MR. FRYE: Okay. The parameters included
10 in Appendix C are more than required in Appendix A and B,
11 which A and B are consistent with Subtitle D's Type I and
12 Type II. But a reference on that Type I, Type II, but --
13 Appendix 1 and Appendix 2.

14 CHAIRMAN BEDESSEM: So the third and fourth
15 columns in your table?

16 MR. FRYE: Yes, ma'am.

17 CHAIRMAN BEDESSEM: Except for mercury and
18 sulfates.

19 MR. FRYE: Yeah.

20 CHAIRMAN BEDESSEM: So you're saying --
21 you're suggesting eliminating them except for mercury and
22 sulfate?

23 MR. FRYE: Yes, ma'am.

24 BOARD MEMBER APPELLEGATE: Mercury and
25 sulfate? What about zinc?

1 MR. FRYE: Zinc.

2 CHAIRMAN BEDESSEM: Excuse me. Mercury and
3 zinc.

4 BOARD MEMBER APPLGATE: So let me just ask
5 a follow-up. There are some constituents that at least
6 some argument could be made, because they have a drinking
7 water standard or they have some impact on class of use,
8 meaning do you feel the same -- would you use the same bar
9 for all of these constituents, or do you at least see that
10 some of them -- I'm trying to understand, what, throw out
11 the whole baby or --

12 MR. FRYE: Maybe a better way to state our
13 position is we're comfortable with Appendix A, B -- and B
14 as written, without the inclusion of the changes proposed
15 in C.

16 BOARD MEMBER APPLGATE: Okay.

17 MR. FRYE: The difference is that the --
18 the MCLs and drinking water equivalent levels do not
19 trigger assessment monitoring, nature and extent and
20 potential corrective action. Those are used for varying
21 purposes.

22 BOARD MEMBER APPLGATE: So should we ask
23 Bob?

24 I mean, what's the rationale, Bob, for including
25 the additional constituents? What was the thinking of the

1 department including --

2 MR. DOCTOR: As noted, the majority of
3 these constituents have class of use limits in water
4 quality rule that we can't ignore. And it's common for the
5 department, different divisions, to implement and enforce
6 the rules of another division, or like we permit in a
7 landfill permit activities regulated by multiple other
8 chapters, so --

9 BOARD MEMBER APPELATE: So let me just --

10 MR. DOCTOR: -- we just --

11 BOARD MEMBER APPELATE: -- clarify here,
12 though. You said most of them. So I'm trying to
13 understand. I look at the ones that are in green, like TDS
14 is a class of use standard for groundwater. And some of
15 them have an EPA MCL, so they have a drinking water
16 standard. So help me understand some of the others that
17 you've included that have -- that are in orange, like
18 calcium bicarbonate. What was the rationale for including
19 those?

20 MR. DOCTOR: Those help understand
21 groundwater chemistry and what's going on in groundwater.
22 Is it --

23 BOARD MEMBER APPELATE: I understand.

24 MR. DOCTOR: -- the landfill doing this, or
25 is it Mother Nature doing this. It's all --

1 BOARD MEMBER APPLGATE: But sometimes -- I
2 guess the standard I would use for any sort of data
3 collection is can you see how it would be used at some
4 point? So you see an increase in calcium or carbonate.
5 Would that ever drive you to do any sort of remedial
6 action, and why?

7 MR. DOCTOR: We have not, that I know of --
8 nobody's ever triggered a corrective action for those
9 constituents.

10 BOARD MEMBER APPLGATE: So why can you
11 collect them? If there's no outcome from that particular
12 constituent, why would you collect them?

13 MR. DOCTOR: Those constituents are also
14 used when we're evaluating lab data, to see if it's
15 accurate and correct, when we're doing balance of
16 constituents, to understand whether or not the data's
17 correct.

18 BOARD MEMBER APPLGATE: Yeah, let me just
19 say that, just thinking about it, at least initially, the
20 ones that are in orange that have no connection to class of
21 use or drinking water standards, I have a hard time
22 understanding those and what their use would be because it
23 seems like you just get into an exercise where you have
24 data that will probably -- you probably will see those for
25 reasons that, you know, would be interesting science

1 project, maybe. Okay. I at least --

2 CHAIRMAN BEDESSEM: I think --

3 BOARD MEMBER APPELATE: I understand the
4 comment and I --

5 CHAIRMAN BEDESSEM: I think we will revisit
6 this --

7 BOARD MEMBER APPELATE: -- understand the
8 response. Okay. I just wanted to hear the rationale.

9 CHAIRMAN BEDESSEM: We'll move on to the
10 next public comment --

11 MR. FRYE: Thank you.

12 BOARD MEMBER APPELATE: Thank you.

13 CHAIRMAN BEDESSEM: -- if that's all right.
14 Thank you.

15 MS. LANGSTON: I'm Cindy Langston. I'm
16 with the City of Casper. I'm the solid waste manager for
17 the Casper Regional Landfill.

18 I just wanted to comment on Appendix C real
19 quickly, and what indicator parameters are used for.
20 They're indicator parameters. The word "indicator," the
21 reason the City of Casper uses these outside of the RCRA is
22 those trends, like you saw the bicarbonate, typically when
23 you see high readings of those, when you haven't seen any
24 in the past, it shows a trend that something's going on
25 with the landfill. And those indicator parameters

1 together, when you look at them, show maybe there's going
2 to be a problem with groundwater related to a landfill.

3 And so we probably do need to clarify the
4 rationale on how indicator parameters are used because
5 they're not used to trigger an action, in my opinion. In
6 my opinion, they're used to show, oh, look at this. Things
7 are changing. We're probably going to have a problem in
8 the future, so what should we do about it.

9 So we've used it for trigger points, I guess, to
10 talk to DEQ. My consultants say, Hey, we're seeing trends
11 over on this side of the landfill. We've never seen this
12 before, probably means something going to show up. And
13 we've had data for a couple decades now, and those
14 indicator parameters in our landfill absolutely have
15 shown trends associated with our landfill. And my
16 understanding -- unfortunately, I don't have my consultant
17 here, who's the expert on this. He has told me that this
18 is used throughout the United States and the world as far
19 as showing impacts associated with landfills. So it's just
20 another tool to use for a landfill to look at those
21 indicator parameters to see if maybe you're going to have a
22 problem.

23 BOARD MEMBER APPLGATE: So why wasn't it
24 included in Subtitle D?

25 MS. LANGSTON: You know, that's a very good

1 question because I was thinking the same thing. And my
2 understanding -- and I have no idea if I'm right or not --
3 is that Subtitle D is just not updated to the new
4 technology that's being used right now with landfills. You
5 know, I have to go online and see when they looked at that.
6 But my perception, maybe Bob can correct me, is the EPA
7 doesn't do a really good job of updating rules or RCRA
8 Title C or D.

9 So I actually think the state of Wyoming needs to
10 be more progressive. And I don't think it increases your
11 costs. In long term, I actually think it's helped us
12 because in some areas of the landfill it shows we don't
13 have a problem because we haven't seen those indicator
14 parameters. So it's kind of helped us decide where to put
15 more wells, too, because when we've seen them, we're going,
16 oh, you know, we're seeing that this part of the
17 groundwater is actually being impacted and this part's not,
18 even though volatiles aren't showing up in either. It
19 helped us determine the extent of contamination, too, by
20 looking at some of those indicator parameters.

21 So -- I don't know. My personal opinion is that
22 DEQ needs to maybe explain a better way indicator
23 parameters are used for in the rationale. Because it's
24 really not to cost people more money, it's to help look at
25 the data and determine if you're going to have a problem or

1 not in the future, and so you can try to reduce costs in
2 the future by not putting millions of wells in.

3 BOARD MEMBER APPLGATE: Madam Chair, I'd
4 like two pieces of information that maybe can't be provided
5 today, but one is the assertion that other past landfills,
6 these indicator parameters have been an early indication of
7 a problem. If you could have a consultant -- I'd really be
8 interested in seeing an example of that, how -- I'm not
9 saying I don't believe that. I actually do believe that.
10 I'd just like to see an example of how sudden geochemistry
11 change was an early indicator of a larger problem. I think
12 it'd be interesting to see that, a case study. So if you
13 could ask your consultant --

14 MS. LANGSTON: I would be happy to do that,
15 Bob.

16 BOARD MEMBER APPLGATE: And I'd be curious
17 as to what the cost is for the 10 constituents. I mean --

18 MS. LANGSTON: I can give you that.

19 BOARD MEMBER APPLGATE: -- because that's
20 an assertion that the costs are high. And, to be honest,
21 I'm not sure I believe that either for this particular
22 constituent, so --

23 MS. LANGSTON: They're not.

24 BOARD MEMBER APPLGATE: I don't know.

25 MS. LANGSTON: I know that, because I pay

1 the bills.

2 BOARD MEMBER APPELATE: But if you can at
3 least give that to us, because most of these -- I mean, I
4 have a natural inclination not to do more than we need to.

5 MS. LANGSTON: Absolutely.

6 BOARD MEMBER APPELATE: Sort of start from
7 that perspective. But most of these constituents would
8 probably be kind of a typical cation, anion sampling suite,
9 right?

10 MS. LANGSTON: Exactly.

11 BOARD MEMBER APPELATE: So you probably
12 get them all for kind of the same cost.

13 MS. LANGSTON: Yeah.

14 BOARD MEMBER APPELATE: That helps us kind
15 of evaluate this with the assertion of it's too expensive,
16 and also the assertion that it's really valuable, because
17 I'm not sure how to weigh either one of those assertions,
18 really.

19 MS. LANGSTON: And I agree. I think maybe
20 we should do a little more than one day on the rationale
21 because my personal opinion is it saves you money in the
22 long run, and the lab costs, they're really insignificant.

23 You know, my second point on -- is, you know, I
24 say yay to Title I and Title II are not going to be treated
25 differently. And the City of Casper's opinion, and my

1 personal opinion, if you can't afford to run a landfill,
2 you shouldn't be in the landfill business. Get out.

3 So I have wanted this rule changed since I got
4 the job with the City of Casper. Couldn't believe it,
5 because I worked in numerous other states. If you're in
6 the landfill business, you need to do the work. So I
7 disagree strongly with some of the smaller landfills that
8 cry about money. I'm going, okay, go to the state. WSWRA
9 helps you go get money, close your landfill, take it to a
10 landfill that can afford it. So I have a strong opinion
11 about leaving that in the rule change.

12 BOARD MEMBER APPLGATE: Of course, Casper
13 kind of benefits from that.

14 MS. LANGSTON: Casper does benefit. I will
15 never disagree with that. But, also, other landfills will
16 benefit from it. I will say some of my customers, myself,
17 have reduced their costs by closing their landfills. So --
18 and it's cheaper. My tipping fee's cheaper. Their
19 combination of transport in going to Casper and not having
20 to do some of those things with operating a landfill is
21 cheaper overall.

22 BOARD MEMBER APPLGATE: I would doubt that
23 for Dubois.

24 MS. LANGSTON: I can't speak to Dubois.

25 BOARD MEMBER APPLGATE: So I -- and I'd

1 also -- again, I just -- the thing -- I mean, that's sort
2 of a political statement.

3 MS. LANGSTON: Yeah.

4 BOARD MEMBER APPELATE: So I'll give you a
5 political statement back. We're in a state that has lots
6 of small communities. So to somehow say every community
7 can somehow -- I mean, Casper there's only a handful of
8 communities that have that type of volume and economics of
9 scale that allow Casper to basically manage a landfill like
10 a lot of larger communities. And we have a lot of smaller
11 communities that don't have those economics of scale. So,
12 you know, to me it's about risk, environmental risk, and
13 what are we really trying to manage. And that's the
14 direction I come at it. I'm not convinced that all small
15 landfills necessarily pose a significant environmental
16 risk, given the -- you know, their location and necessarily
17 the volumes of wastes they're putting in the ground. So
18 that's just a counter opinion.

19 MS. LANGSTON: I don't disagree with that,
20 but I -- and Bob's correct, most of these landfills are
21 closing.

22 And I like the provision. I saw one of the
23 comments, I don't know if it was adopted, where it leaves a
24 little bit of flexibility for DEQ to determine who's going
25 to do the statistical analysis. I saw that comment in

1 there that somebody had made, and I go that flexibility I
2 don't have an issue with, for exactly what you said, is
3 that DEQ, if they know that there's some sort of financial
4 issue or that they truly have a sound landfill, is not
5 having problems, they can make that decision. So I like
6 that flexibility in that comment.

7 MR. DOCTOR: I guess, if it's okay, Madam
8 Chairman, to respond to that. And I wish Luke were here to
9 do that. We don't have the staff to keep doing this
10 anymore. We're 25 percent down in our staff right now. We
11 have a vacancy. I think we're going to --

12 BOARD MEMBER CAHN: Bob, I can't -- Bob, I
13 can't hear anything you're saying.

14 MR. DOCTOR: I'm sorry. We're running
15 short on staff, and we don't have the time to continue
16 doing this. We're down two people right now. I think
17 we're going to get to fill one position, but we have
18 another position that's been vacant for a year and a half
19 or more, and we don't think we're going to be able to fill
20 it. And with all the new programs that have been added
21 since 2006, cease and transfer, remediation, performance-
22 based design, financial responsibility, et cetera, we don't
23 have the people to keep doing these statistics on behalf of
24 the landfill operators. And, technically, the statistical
25 software we use to do this, we're not licensed to be doing

1 that. And they have let us do it for a while, but we are
2 running the risk of doing that. And, frankly, it is the
3 State's responsibility to be doing this on behalf of the
4 landfills, and I wish Luke was here to provide that opinion
5 directly. But thank you.

6 CHAIRMAN BEDESSEM: Thank you.

7 MS. LANGSTON: Well, I'm going to put my
8 WSWRA hat on real quick, instead of my City of Casper. I
9 don't know the circumstances of some of these smaller
10 landfills. I do know that the City of Casper strongly
11 believes that you should be paying your own way, but it
12 would be interesting to know how many Duboises, or whatever
13 the one was this morning, that there really are that aren't
14 getting out of the business, that can't actually do this.
15 Because if there's only one or two -- as Bob said, most of
16 them are moving towards that -- maybe we just find a
17 different funding mechanism for those few. I'm certainly
18 willing to talk to the WSWRA board about us going and
19 talking about some funding, because I think the state
20 legislature would actually put maybe some funding, if
21 there's just a few, if that's what we're talking about.

22 But I agree, it's a political issue, because, in
23 my opinion, DEQ shouldn't have to do it, but we're a state
24 of small communities. The state has always supported small
25 communities in funding them, so we may have to look at how

1 to address some of this. I don't have anything else.

2 CHAIRMAN BEDESSEM: Okay. Thank you very
3 much. Thank you.

4 MS. LANGSTON: You bet.

5 CHAIRMAN BEDESSEM: Do we have any
6 additional comments from the public? Any other people who
7 are willing to speak today? We got a pretty good crowd,
8 but I guess most people just want to listen to see what
9 other people got to say. Okay. I can't entice anybody
10 else up here? Okay.

11 BOARD MEMBER APPLGATE: Madam Chair, I
12 have a general question. I guess it's for you or Bob. Are
13 we being asked -- or is the expectation today that we move
14 the rule forward?

15 MR. DOCTOR: Madam Chair. We would hope
16 so, but if -- for example, there's been a couple of
17 questions here that sounds like you would like answered.
18 We may not be able to do that, so I guess that would be up
19 to you.

20 BOARD MEMBER APPLGATE: I just want to be
21 clear from the beginning. I'm not going to feel
22 comfortable moving the rule forward just given the recent
23 discussion on Appendix C. I value the input from both
24 sides. I just think there's a couple questions I'd like to
25 have answered to better understand the value or not of

1 that. We still have to get through all the other comments.

2 I'm just expressing that, from my opinion.

3 CHAIRMAN BEDESSEM: Well, I just want to
4 also say that to put that into perspective, that is normal,
5 that it's a rarity that a rule comes to the board and the
6 public comment period's ending on that day, that we move
7 the rule forward. In fact, most of the time this is
8 perfectly normal. It's unusual, when it does get
9 forwarded, most of the time when that happens it's because
10 you're under the gun with a statutory deadline, and we're
11 just incorporating statutory language, and we're bending
12 over backwards to make sure you don't miss your statutory
13 deadline, or all you're doing is citations, you know,
14 referencing that kind of thing. That's usually when it
15 happens the first time. So this is perfectly normal, to be
16 able to continue this discussion next time.

17 MR. DOCTOR: Sure. Madam Chairman, you
18 were very generous with us the last time we were here
19 because we were in a hurry to get some rules changed and
20 you moved the rule forward, trusting us to make the changes
21 you recommended. Hopefully we did that. But, yes, you're
22 right, that we often -- even if we hope for it, to just do
23 this right off the get-go.

24 CHAIRMAN BEDESSEM: Right. So even though
25 there's a time period of public outreach, I mean, that does

1 make this process much easier, this would be, you know,
2 normal chain of events.

3 So what I'd like to do is talk a little bit, just
4 for a few moments, about the SOPR, the Statement of
5 Principal Reasons, and then talk about the comments. And
6 so I know Lorie said she was going to have some comments
7 for Gina. And I was wondering if there are minor edits on
8 the SOPR. Who do those comments go to? Do they go to you?
9 To Gina? To -- corrections of the SOPR, typos, things like
10 that?

11 MR. DOCTOR: Probably to me, Madam
12 Chairman.

13 CHAIRMAN BEDESSEM: To you? Okay.

14 MR. DOCTOR: Yeah, because this is a draft.
15 You know, the attorneys haven't gone through it in great
16 detail either.

17 CHAIRMAN BEDESSEM: Okay.

18 MR. DOCTOR: So if you have suggestions for
19 fleshing this out, we can bring those -- if we are back
20 again here, we can come back with those changes.

21 CHAIRMAN BEDESSEM: Okay.

22 MR. DOCTOR: So I'll scribble notes on
23 there.

24 CHAIRMAN BEDESSEM: So we can keep it --
25 so, particularly, if there's just, you know, language

1 stuff, we can just --

2 MR. DOCTOR: Absolutely.

3 CHAIRMAN BEDESSEM: -- give you that
4 information and look at it before the next time.

5 MR. DOCTOR: Correct.

6 CHAIRMAN BEDESSEM: So we can do that
7 offline here.

8 MR. DOCTOR: Sure you can do that offline.
9 You want to send me a redline/strikeout of it, if I need to
10 get you a Word version, I can always email that to you.

11 CHAIRMAN BEDESSEM: Okay. I did have, I
12 think, a question because I wanted to make sure that I
13 wasn't misunderstanding something. This is just a minor
14 thing. But on page 8 of 16, Item Number 22, on the last
15 line -- so I was checking to make sure that this typo
16 didn't change the meaning. It says, "The Standard for clay
17 barrier layers for caps in Section 7(g) has been moved to
18 12 (c)(v) because it applies to final cover which is not
19 addressed in the closure section of the rule." Do you mean
20 it is now addressed in the closure? Isn't final cover in
21 the closure?

22 MR. DOCTOR: Madam Chair, I'm pretty sure
23 that means existing rule. That was not specifically in the
24 closure portion of the rule, only to clarify that. It
25 was -- it was --

1 CHAIRMAN BEDESSEM: So you might want to
2 add --

3 MS. LANGSTON: -- located somewhere else.

4 CHAIRMAN BEDESSEM: So you might want to
5 add in the existing closest -- closure section of the rule.

6 MS. LANGSTON: It was in the, I believe,
7 design section that said, you know, layers forming caps
8 and --

9 CHAIRMAN BEDESSEM: Good, gotcha.

10 MR. DOCTOR: But it was not back in
11 closure, so you had to somehow magically know it was
12 somewhere else.

13 CHAIRMAN BEDESSEM: Gotcha.

14 MR. DOCTOR: Cool. Thank you.

15 CHAIRMAN BEDESSEM: So I found that
16 confusing and I wasn't sure what you meant. So if you
17 could clarify that, that would be wonderful.

18 The rest of the things --

19 BOARD MEMBER CAHN: Oh.

20 CHAIRMAN BEDESSEM: Yes?

21 BOARD MEMBER CAHN: That's okay.

22 CHAIRMAN BEDESSEM: I would do all the rest
23 of my on SOPR offline, I think, with you, Bob.

24 MR. DOCTOR: Okay.

25 CHAIRMAN BEDESSEM: Because I think the

1 others aren't questions.

2 BOARD MEMBER APPLGATE: They're all
3 editorial?

4 CHAIRMAN BEDESSEM: Those were editorial.
5 Except for the question about -- Number 20, it says, "Text
6 was moved from Chapter 2 into Section 5 to clarify that
7 one-time or emergency waste management authorizations do
8 not apply to the land disposal of municipal solid waste or
9 mixed waste." On page 5 of 16.

10 BOARD MEMBER CAHN: Marge, where are you?

11 CHAIRMAN BEDESSEM: Page 5 of 16, Item
12 Number 20.

13 So this is just a general question. You said you
14 moved the text to clarify that one-time authorizations
15 don't apply to land disposal of municipal solid waste or
16 mixed waste.

17 MR. DOCTOR: Uh-huh.

18 CHAIRMAN BEDESSEM: So Chapter 2 -- well,
19 doesn't it apply to Chapter 2's municipal solid waste
20 chapter?

21 MR. DOCTOR: Right.

22 CHAIRMAN BEDESSEM: So what -- I'm
23 confused.

24 MR. DOCTOR: The problem was, Madam Chair,
25 Chapter 1 has this discussion here of one-time or emergency

1 waste management. It talks all about how to do that. But
2 then you have to go to Chapter 2 for the part of the rule
3 that says, oh, by the way, one-times don't apply to
4 municipal solid waste. So it wasn't clear that, oh, by the
5 way, one-times -- you had to somehow know it was in Chapter
6 2. So what I did was pull that text from Chapter 2 and
7 moved it into Chapter 1, Section 5, so that people are
8 reading about one-time understand that it applies there.
9 It was just missing in Chapter 1 for some reason.

10 CHAIRMAN BEDESSEM: So what does it apply
11 to?

12 MR. DOCTOR: We've dealt with -- oh,
13 building construction. We've dealt with maybe petroleum-
14 contaminated soil on occasion years ago, CD waste, farms
15 and ranches, where we've had demolition of schools that
16 were very remote that would get a one-time to dispose of
17 CD waste, that type of stuff is really what it would apply
18 to.

19 CHAIRMAN BEDESSEM: So what happens like
20 when we had the fish kill at the hatchery?

21 MR. DOCTOR: That could apply to that,
22 yeah, potentially.

23 CHAIRMAN BEDESSEM: Because --

24 MR. DOCTOR: That's first time I've heard
25 of that. That could be an emergency or one-time

1 occurrence.

2 CHAIRMAN BEDESSEM: But that's not
3 considered municipal or mixed.

4 MS. LANGSTON: That's not considered
5 municipal or mixed. Mixed is the industrial waste.

6 CHAIRMAN BEDESSEM: When it's mixed with
7 municipal.

8 MS. LANGSTON: Yeah.

9 CHAIRMAN BEDESSEM: But you consider -- so
10 you consider -- so what -- what are the dead fish? What
11 are they?

12 BOARD MEMBER APPELLEGATE: What type of
13 waste?

14 CHAIRMAN BEDESSEM: What type are waste are
15 they?

16 MR. DOCTOR: They might be industrial. No
17 one's approached us with that one. We've had I think on
18 occasion a semi turn over on the highway, and, you know,
19 for safety sake, it was better to dispose of things on the
20 spot, I believe, occasions like that.

21 CHAIRMAN BEDESSEM: You never know, because
22 I know in South Dakota they had to euthanize, you know,
23 millions of chickens --

24 MR. DOCTOR: Uh-huh.

25 CHAIRMAN BEDESSEM: -- you know, because of

1 the bird flu, and that would be a perfect case of a one-
2 time emergency.

3 MR. DOCTOR: Yeah, we have -- and that's a
4 good one. We don't have specific emergency rules for --
5 some states do -- for mass mortality, to be polite about
6 it --

7 CHAIRMAN BEDESSEM: Uh-huh.

8 MR. DOCTOR: -- and we could use the
9 one-time offset to do that.

10 CHAIRMAN BEDESSEM: So you could use the
11 one-time for this?

12 MR. DOCTOR: Correct.

13 CHAIRMAN BEDESSEM: Thank you.

14 MR. DOCTOR: So basically --

15 CHAIRMAN BEDESSEM: I was confused --

16 MS. LANGSTON: -- this was moved from
17 Chapter 2 here.

18 CHAIRMAN BEDESSEM: -- right -- as to what
19 this did apply to. So you just combined it so that someone
20 reading it in Chapter 1 understood that it wasn't going to
21 apply in Chapter 2.

22 MR. DOCTOR: Correct. All the one-time
23 information we need to know is now right there.

24 CHAIRMAN BEDESSEM: In one place.

25 MS. LANGSTON: Right.

1 CHAIRMAN BEDESSEM: Got it. Thank you for
2 clarifying that for me.

3 MR. DOCTOR: I'm sorry. Were we loud
4 enough, Lorie?

5 CHAIRMAN BEDESSEM: She said yes.

6 Okay. So those were just some general questions
7 on the SOPR. And I will -- if you send me a Word version,
8 I can send you whatever. And then Lorie might want to do
9 that as well.

10 MR. DOCTOR: I will email it to all of
11 you --

12 CHAIRMAN BEDESSEM: Okay.

13 MR. DOCTOR: -- so you can --

14 CHAIRMAN BEDESSEM: It helps to know your
15 lawyers haven't looked at it yet either, so --

16 MR. DOCTOR: Uh-huh.

17 BOARD MEMBER HANSON: Madam Chair, just one
18 on Item Number 10, page 4 of 16, this is a typo. The
19 definition of time is necessary -- is unnecessary. It says
20 "in." But the --

21 THE REPORTER: I can't hear you, Klaus.

22 MR. DOCTOR: I'm sorry. What page?

23 BOARD MEMBER HANSON: Pardon me?

24 THE REPORTER: I can't hear you.

25 BOARD MEMBER HANSON: Oh, you can't hear

1 me? Oh, I thought my voice was carrying.

2 Number 10, on page 4 of 16, it's just a typo that
3 the definition of time "is unnecessary" instead of "in
4 unnecessary."

5 But I have more substantial question about
6 Number 21 on 5 of 16. You are extending the time from
7 20 to 45 days. Is there any danger involved with that
8 because of the request -- the next one after yours,
9 after -- page 5 of 16, the time allowed for the Department
10 to review a one-time waste management request is extended.
11 I could imagine that there is an enhanced danger involved
12 with that because of extending the time period. Is that
13 really wise to do?

14 MR. DOCTOR: Madam Chairman. Klaus, on the
15 other hand, some of these, like a bunch of dead critters,
16 we have to take a pretty hard look at that site to make
17 sure we're not going to be dumping something in
18 groundwater. And with our resources, trying to get
19 something like that out in 20 days was just getting almost
20 impossible. And some of them are fairly routine, but they
21 can involve a lot of back and forth with the applicants on
22 the incomplete data and information. So we just wanted
23 more time to be able to look at these. That's all it is.
24 It's really a matter of staffing and our ability to keep up
25 with our workloads.

1 CHAIRMAN BEDESSEM: Well, I'm sure if there
2 was a safety hazard, then you would do it closer to the
3 20 days.

4 MR. DOCTOR: Correct. We drop everything
5 when it becomes an emergency like that. This just buys us
6 time. When something comes -- I think an accurate example
7 may be in Fremont County they tore a school down, kind of
8 off somewhere, and it wasn't a big hurry. They just wanted
9 to be able to bury things there instead of hauling it to
10 the landfill. There's not a big emergency there, but we
11 had to drop everything so we could review it within 20
12 days. So that's why, so we just have a little more time on
13 these.

14 BOARD MEMBER HANSON: Could you add the
15 "maximally 45 days" so that you know it might be -- you
16 could do it quicker, but if it's not an emergency, you
17 could go to 45 days?

18 MR. DOCTOR: Something like no more
19 than --

20 BOARD MEMBER HANSON: No more than 45 days
21 or something like that.

22 CHAIRMAN BEDESSEM: So from the board, is
23 there anything additional in SOPR before we move to the
24 response to comments?

25 BOARD MEMBER HANSON: I have one word

1 change in the document itself.

2 CHAIRMAN BEDESSEM: We'll be going back.

3 BOARD MEMBER HANSON: Are you going back to
4 that?

5 CHAIRMAN BEDESSEM: Likely.

6 BOARD MEMBER HANSON: I can do it very
7 quickly. On page 1 of 14 and 1 of 33 of the document
8 Chapter 1 --

9 CHAIRMAN BEDESSEM: Is this the -- the
10 strike-through line?

11 BOARD MEMBER HANSON: The strike/underlined
12 version, yes. And that version, the word "dissemble"
13 appears. And I think --

14 BOARD MEMBER CAHN: Klaus? Klaus? Could
15 you please say where you are? I understand you're in
16 Chapter 1 strike underline version, but I missed the page.

17 BOARD MEMBER HANSON: Page 1 of 14 and page
18 1 of -- I'm sorry. Page 1-14 and page 1-33, the word
19 "dissemble" appears. Dissemble means to lie, to obfuscate,
20 but I think the word that is meant is disassemble, which is
21 simply to --

22 CHAIRMAN BEDESSEM: Take apart.

23 BOARD MEMBER HANSON: -- take apart. It's
24 just a word change.

25 CHAIRMAN BEDESSEM: This is another --

1 another thing that's really kind of helpful, if we have
2 line numbers, because now we're looking through trying to
3 figure out what line that is.

4 BOARD MEMBER HANSON: Let me see.

5 CHAIRMAN BEDESSEM: So on 1-14.

6 BOARD MEMBER HANSON: 1-14. I can find it
7 for you. It's in the section number --

8 CHAIRMAN BEDESSEM: Right.

9 BOARD MEMBER HANSON: -- new section number
10 (XI) above the fifth line, disassemble.

11 CHAIRMAN BEDESSEM: So it's in the blue.

12 BOARD MEMBER HANSON: Blue section.

13 CHAIRMAN BEDESSEM: And it should say
14 disassemble.

15 BOARD MEMBER HANSON: Yes. Disassemble.

16 CHAIRMAN BEDESSEM: And then on 1-33?

17 BOARD MEMBER HANSON: 1-33.

18 CHAIRMAN BEDESSEM: Very last line of the
19 page.

20 BOARD MEMBER HANSON: That's it.

21 CHAIRMAN BEDESSEM: Should be disassemble.

22 BOARD MEMBER HANSON: Yes. Very last line
23 of the page, it should, again, be disassemble. There may
24 be more that I didn't catch, but that word, simply, you can
25 do a word --

1 CHAIRMAN BEDESSEM: A word search.

2 BOARD MEMBER HANSON: -- a word search and
3 change it. It's easy to do.

4 CHAIRMAN BEDESSEM: I said -- so just
5 dissemble means to lie. We learned a new --

6 BOARD MEMBER HANSON: Dissembled means to
7 lie, to obfuscate.

8 MR. DOCTOR: Spell checker catches
9 spelling, but not meaning.

10 BOARD MEMBER HANSON: Right.

11 MR. DOCTOR: Thank you.

12 CHAIRMAN BEDESSEM: Anything else before we
13 go to the response to comments? Okay.

14 BOARD MEMBER CAHN: Um.

15 CHAIRMAN BEDESSEM: Yeah.

16 BOARD MEMBER CAHN: Are you asking for
17 board comments on Chapter 1?

18 CHAIRMAN BEDESSEM: No, I'm not asking for
19 anything on the rule documents yet. I wanted to talk about
20 how the response to comments is done, and then we'll go to
21 the rules, if that's all right. We can just hold off just
22 for -- just for a few moments.

23 BOARD MEMBER HANSON: I'm sorry, Madam
24 Chair. I moved ahead.

25 CHAIRMAN BEDESSEM: That's fine.

1 Okay. So in the response to comments -- so this
2 is just kind of a general thing. And there's some
3 clarification and a general request. This is not your
4 typical response to comments because it's sort of a
5 response to comments about what you assemble from your
6 informal comment period.

7 So the first issue I had with this was in the
8 second paragraph that says, "To date, no written comments
9 have been received." There's no date on this. So what is
10 "to date"? So I -- it's -- I don't know what that means.
11 Does that mean as of October 15th?

12 MR. DOCTOR: Correct.

13 CHAIRMAN BEDESSEM: Okay.

14 MR. DOCTOR: But it's not clear.

15 CHAIRMAN BEDESSEM: It's not clear.

16 And then it says, "No written comments have been
17 received," and then it says during the online comment
18 period, we got a commenter responded with comments
19 regarding indicator parameters. So is an online comment
20 not a written comment?

21 MR. DOCTOR: I see what you mean.

22 CHAIRMAN BEDESSEM: I just found it very
23 confusing. To me, an online comment is a written comment.

24 MR. DOCTOR: I don't know the answer to
25 that.

1 CHAIRMAN BEDESSEM: It's just written
2 electronically.

3 MR. DOCTOR: Madam Chair, I suspect when
4 our attorney gets ahold of this, she'll have some of the
5 same things.

6 CHAIRMAN BEDESSEM: Okay. I just found
7 this kind of summary confusing, because then, you know, the
8 online comments, they came during that time period or
9 after, I wasn't sure what date, and then what was in what
10 category.

11 And then as we go through, just kind of future
12 advice is that when you have a comment and a response -- I
13 understand this is difficult because a lot of it you are
14 taking from people's verbal comments -- most of it was from
15 people's verbal comments. But if you have a comment and a
16 response, try to put the content of the comment in the
17 comment section. So like in Comment 3, it says that you
18 received three comments, but what the comment is in the
19 response are all married together in your response section.
20 So it's hard to pick -- pull apart.

21 MR. DOCTOR: Madam Chair, you recommend
22 breaking these out into three separate comments?

23 CHAIRMAN BEDESSEM: If they're about the
24 same topic, you can put them all in one comment section,
25 but just put the description in the comment section --

1 MR. DOCTOR: I see.

2 CHAIRMAN BEDESSEM: -- and the response
3 separate.

4 MR. DOCTOR: Okay.

5 CHAIRMAN BEDESSEM: They're all about the
6 same thing, just stick them together.

7 So -- and then in Comment 4 that's received
8 online, I was confused because this said a commenter asked
9 about deleting a constituent because it's not likely to be
10 present in the waste, and how can we possibly know that.
11 It said comment 4 was received online, but that question
12 isn't in the online. So is that something somebody said?
13 It's -- you see the confusion?

14 MR. DOCTOR: I have to read the electronic
15 comment.

16 CHAIRMAN BEDESSEM: Because I don't think
17 that's actually in the actual comment, so I don't --
18 perhaps it's -- maybe it was in the verbal, I don't know,
19 but I was -- and so if you have an online comment, too, it
20 would be good for it not to be anonymous because it's not
21 anonymous when it's submitted, but there's no indication --
22 that we have a copy here of a comment, and there's no
23 author. So we don't know if it's a solid waste operator or
24 whom, where normally we have, you know, people provide
25 written comments, they're identified.

1 BOARD MEMBER CAHN: And we also get a copy
2 of the comments. So in this case they submitted the online
3 form, then we should get the online form that would
4 identify who they were, and if it was a written comment,
5 which I know it's not in this case, but if it was, we would
6 get a copy on their letterhead of their actual comments,
7 so...

8 CHAIRMAN BEDESSEM: You have this, but it's
9 missing -- so I don't know if it's just the text box from
10 the electric comments.

11 MR. DOCTOR: That's just the text --

12 CHAIRMAN BEDESSEM: Right. So there's got
13 to be a better way to include it in our packets where we
14 can get the rest of the information. So we know who's
15 providing the comment. And so this might just be a
16 learning thing because we haven't really done electronic
17 comments before.

18 MR. DOCTOR: Yes, ma'am. We're the guinea
19 pigs.

20 CHAIRMAN BEDESSEM: Right. You're the
21 guinea pigs, and we apologize for that, but then it will be
22 easier from here on in. We know how to -- how to include
23 them, so then we won't have that question.

24 Then this is just kind of a general thing where
25 there was a number of comments where the response to

1 comment would say, you know, well, it's already in the
2 rule. If -- as the board is going through it, we need a
3 response that's far more specific. If you say these
4 indicator parameters are already in the rule, then we want
5 you to say look at Chapter 2, Section da-da, this is where
6 it is, this is how it's applied, okay? Because that's part
7 of your -- you know, how you're substantiating your
8 position. And if you don't have those details, it really
9 doesn't help us.

10 So, you know, it says, "The Appendix C indicator
11 parameters have historically been a requirement for Type II
12 landfills in Wyoming's Solid Waste Rules." So where
13 exactly is that? Is it being deleted? Where, you know,
14 what are -- so we can discuss it more easily, we all can
15 look at the same section of the rule. So just like it
16 says, "Subtitle D and Wyoming Solid Waste Rules both state
17 that elevated Appendix A constituents can trigger
18 assessment monitoring," then it should say where because
19 there's a difference between can and must, and we might
20 want to look at that section and say does it say must, or
21 does it say can. Because those are all relevant, because I
22 believe -- because I don't know where that is, because I
23 know Appendix D must, where does appendix say can? Those
24 details are important for our discussion.

25 So when you go through these, that type of

1 information is appreciated. Or if you say, you know, these
2 parameters are used by, for example, other agencies in the
3 region, then having that information, like a table that
4 says Colorado uses these 20, Nebraska uses these, this is,
5 you know, reasonable for what's going on in our region, so
6 we have some perspective there, when, you know, people are
7 saying they don't want this list or they do want this list
8 and so forth.

9 So that kind of information is very helpful in
10 our response to comments or statements that they recognize
11 as reliable indicators, you know, basis for those is just
12 really helpful, so -- that's the only comments. This is
13 just kind of a learning thing for the -- for the response
14 to comments.

15 MR. DOCTOR: Thank you.

16 CHAIRMAN BEDESSEM: So...

17 Anybody else want to say anything about response
18 to comments, and then we just kind of go through stuff so
19 we can -- we can get back to the -- if there's more
20 discussion about indicator parameters.

21 I'm tired of talking. I'd be happy to hand it
22 over to Lorie. I'm not sure if that was an agreement or
23 not.

24 BOARD MEMBER APPLGATE: So as Lorie
25 looks -- Lorie, maybe you can frame up what comments you

1 have.

2 I'd like to talk about more about the -- looking
3 at the -- I'd like to talk more about the assessment and I
4 want to better understand that process.

5 CHAIRMAN BEDESSEM: Uh-huh.

6 BOARD MEMBER APPELATE: I'm thinking more
7 about the comments that we received. So I have a few
8 questions on that.

9 CHAIRMAN BEDESSEM: And --

10 BOARD MEMBER APPELATE: And Lorie probably
11 has comments that go from beginning to end, so --

12 CHAIRMAN BEDESSEM: And, actually, you
13 know, one thing I think that would be really helpful, and,
14 of course, you can say not if you don't think so. One of
15 the difficulties I think with understanding this chapter is
16 understanding the basis for how that groundwater monitoring
17 program works, and that -- for example, for example,
18 Appendix A is a subset of Appendix B. You know everything
19 in Appendix A is repeated in Appendix B. They're not
20 really separate lists. Okay?

21 BOARD MEMBER APPELATE: Yeah, and that's
22 kind of where you and I both kind of probably go into past
23 consulting -- or your current and my past consulting --

24 CHAIRMAN BEDESSEM: Uh-huh.

25 BOARD MEMBER APPELATE: -- experience.

1 So why don't we ask Lorie.

2 Lorie, do you want to talk -- do you want to talk
3 more about this assessment stuff, or do you kind of want to
4 start going through your comments?

5 BOARD MEMBER CAHN: No, I think you should
6 go ahead, Dave, and I'll chime in.

7 CHAIRMAN BEDESSEM: I think that would be a
8 great discussion.

9 BOARD MEMBER APPLGATE: So let me just
10 pose to you a couple more questions. I'm trying to
11 understand kind of the -- I actually appreciate both of
12 them, the more I think about it. I won't try to put words
13 into people's mouth, but there's just this desire -- you
14 know, there should be some minimum wellbore monitoring for
15 all landfills. They should all have some degree of risk
16 management. That cost should be manageable.

17 So when I look at the addition of those
18 geochemical constituents, I'm not convinced that when we
19 get cost of those, those are going to see a significant
20 increase over the stuff we're already doing that's required
21 by Appendix A, which is the metals and the volatiles. They
22 probably, from a total cost standpoint, exceed that.

23 But when I look at the assessment monitoring
24 trigger, it raises a question for me, if I look on page
25 2-50 in Chapter 2, in the redline version, and it talks

1 about what triggers assessment monitoring -- and I'm -- I'm
2 assuming that once you go to assessment monitoring, that
3 could be a significant increase in cost. Is that a fair
4 assumption for those that are familiar with the monitoring?

5 CHAIRMAN BEDESSEM: Yes.

6 MR. DOCTOR: Uh-huh.

7 BOARD MEMBER APPELATE: So under
8 assessment monitoring -- so one of the subtle changes you
9 made to the document, you said, okay, detection monitoring
10 now includes Appendix C, right? And then you have further
11 on in the rule, whenever a statistically significant
12 increase is observed, it triggers automatically detection
13 monitoring. And the question I have is would you
14 necessarily want those geochemical constituents to
15 trigger --

16 BOARD MEMBER CAHN: Wait a minute. Did you
17 mean detection monitoring --

18 CHAIRMAN BEDESSEM: You mean assessment
19 monitoring.

20 BOARD MEMBER CAHN: -- or assessment?

21 BOARD MEMBER APPELATE: The detection --

22 THE REPORTER: One at a time.

23 BOARD MEMBER APPELATE: Detection triggers
24 assessment, as I understand it on page 2-50. It says,
25 "Assessment monitoring is required whenever a statistically

1 significant increase over background water quality has been
2 detected."

3 So I want to make sure I understand the process.
4 You're doing this monitoring. You have to monitor
5 Appendix A. Now you've added -- you're also doing
6 Appendix C. You have statistically significant observance.
7 This paragraph E-I suggests that you would automatically
8 trigger now the assessment monitoring. I can understand
9 you wanting to trigger assessment monitoring if you had an
10 exceedance of a heavy metal or a VOC constituent. I'm not
11 sure you would want to trigger that assessment monitoring
12 simply if you had a statistical increase in geochemical.

13 So you see what I'm trying to say? I'm not
14 trying to say it's not valuable to do the geochemical
15 monitoring, but I'm not sure statistical changes in TDS or
16 bicarbonate should automatically trigger sampling that
17 larger list of VOCs and metals.

18 So my question to you, Bob, is am I reading
19 this correctly, that the way it's been written now, that
20 a statistical increase in TDS or some other -- one of
21 these geochemical parameters would, indeed, trigger this
22 larger --

23 MR. DOCTOR: It could do that. And I note
24 it's -- Madam Chair -- it's not automatic.

25 BOARD MEMBER APPLGATE: But when I read

1 the language --

2 MR. DOCTOR: There's a provision for the
3 operator to make a demonstration that any change or
4 difference is not related to the landfill. Now, absent
5 that, could these trigger -- assessment is a more detailed
6 look.

7 BOARD MEMBER APPELATE: That's a more
8 expensive look.

9 MR. DOCTOR: Right.

10 BOARD MEMBER APPELATE: So what I'm trying
11 to frame up for you is -- and I really want to understand
12 that case study, because I can see where you can have
13 geochemical changes. I'm just thinking back to experiences
14 that are not waste related. But water flux through certain
15 horizons can cause increases in TDS, salt and -- so you
16 could have a landfill that has maybe not heavily
17 contaminated leachate, but water that's moving through it
18 that causes some geochemical changes in the groundwater
19 system, that maybe are not an indicator of a real severe
20 problem, but you could see changes in TDS. And it can even
21 be statistically significant.

22 CHAIRMAN BEDESSEM: And it's very hard to
23 provide a demonstration --

24 BOARD MEMBER APPELATE: That they're
25 not --

1 CHAIRMAN BEDESSEM: -- that they're not.
2 It's like guilty until proven innocent, as opposed to
3 innocent until proven guilty.

4 BOARD MEMBER APPLGATE: Yeah. And so I
5 think that addition of Appendix C, while it may not be --
6 maybe it's value, right, in term of collecting that data,
7 and probably not that expensive in and of itself, I'm not
8 sure it should automatically be tied to a trigger of
9 assessment monitoring. That's what I'm asking you to maybe
10 go back and think about.

11 MR. DOCTOR: Madam Chair, it would take
12 some digging around to see if this is really an issue. We
13 did go back and look especially at the data up to 2010, and
14 we found that 78 percent of those landfills where we said
15 we have an indication of a release, it was VOCs or nitrate.

16 CHAIRMAN BEDESSEM: Yeah.

17 MR. DOCTOR: So there was maybe 20 percent
18 of the time that it was only one of the indicator
19 parameters. But of those, I'm not sure how many of those
20 were -- were --

21 BOARD MEMBER APPLGATE: So you're sort of
22 supporting my argument.

23 MR. DOCTOR: -- things that are not in the
24 water quality rules.

25 BOARD MEMBER APPLGATE: See, you're

1 supporting --

2 MR. DOCTOR: I don't have --

3 THE REPORTER: I'm sorry. One at a time.

4 MR. DOCTOR: I'm sorry.

5 BOARD MEMBER APPLGATE: I'm sorry too.

6 But I think you're supporting my argument by
7 saying that usually what triggers assessment monitoring is
8 a VOC or metal, hence, let's not have the regulation
9 trigger assessment monitoring if we have a rise in
10 bicarbonate or TDS. Maybe it's worthwhile to monitor for
11 those, maybe as -- as it was mentioned, those could be a
12 valuable indicator of a future problem. I'm not going to
13 discount that because I think that could be the case.
14 Maybe it increases the frequency of which you're monitoring
15 those Appendix C constituents, but I wouldn't want it to
16 trigger this whole Appendix 9 or whatever that is.

17 CHAIRMAN BEDESSEM: And there's another
18 important point here on page 2-52, Item VIII.

19 BOARD MEMBER CAHN: 2-50 what? Somebody
20 was coughing when you said it.

21 CHAIRMAN BEDESSEM: 2-52. And that was
22 Dave coughing.

23 If one or more constituents are detected at
24 statistically significant levels above the groundwater
25 protection standard -- and so, you know, most of these

1 don't have a groundwater protection standard. So that's
2 fortunate, okay? Because otherwise, this would trigger
3 having to notify all appropriate local government officials
4 in writing, where, previously, it was Appendix B where you
5 pretty much -- these are the VOCs and metals and pesticides
6 and herbicides that, you know, are clearly a man-made
7 pollution event and --

8 BOARD MEMBER APPLGATE: Not TDS.

9 CHAIRMAN BEDESSEM: Yeah. And, you know,
10 here we've got groundwater protection standard for things
11 for class of use, you know, that we shouldn't have to
12 notify and cause alarm for all sorts of people because TDS
13 is out of the --

14 BOARD MEMBER APPLGATE: Significant issue.

15 CHAIRMAN BEDESSEM: Yeah. It just -- it
16 just seems to lump this in.

17 So I guess what I'd like you to show us is, yes,
18 most of the facilities currently now do do some indicator
19 parameters, and the reason they did this previously was
20 because you have a section in here -- which, of course, is
21 now deleted because you moved that -- was the section on
22 baseline monitoring, which was on -- it's on 2-54. That's
23 the last paragraph on 2-54, that was your baseline
24 monitoring list.

25 MR. DOCTOR: Uh-huh.

1 CHAIRMAN BEDESSEM: And some of those --
2 you know, there's metals lumped in there, but some of those
3 other indicative parameters were in there. At the time
4 this was done, did this only apply to Type I facilities?

5 MR. DOCTOR: Madam Chair, initially this
6 was the list that was applied to small Type II landfills.

7 CHAIRMAN BEDESSEM: Type II. And Type I,
8 there was no list for -- this was for Type II. Thank you
9 for correcting me.

10 MR. DOCTOR: Yeah.

11 CHAIRMAN BEDESSEM: The Type I list was
12 what was developed when you had to approve their
13 groundwater monitoring plan.

14 MR. DOCTOR: Correct. And that would
15 have -- that was primarily the Appendix A list, ceased
16 metals from that waste for large landfills.

17 CHAIRMAN BEDESSEM: But there's a lot of
18 landfills that do do indicate Type I indicator
19 parameters --

20 MR. DOCTOR: Uh-huh.

21 CHAIRMAN BEDESSEM: -- because they worked
22 with the agency to put that into their groundwater
23 monitoring plan because it's valuable information, but it's
24 not any kind of trigger and relied on setting up those
25 plans with the Type I landfills to include those indicator

1 parameters. Type II included it in here, okay, but in
2 neither -- the way these -- the rules are now, neither
3 Type I nor Type II landfills had any indicative parameters
4 triggering any kind of assessment monitoring. So this --
5 that is a significant change from what the rules are now.
6 And so I think there's, you know, value in indicator
7 parameters, certainly, but saying -- putting the onus on
8 the operator to prove that it's not a problem, and,
9 therefore, you don't have to go into assessment monitoring
10 is not reasonable or practical. That would cost a lot of
11 money, even if they could even prove it, which may not be
12 possible.

13 MR. DOCTOR: Correct.

14 CHAIRMAN BEDESSEM: So it's just --

15 MR. DOCTOR: That's how Subtitle D is
16 written. It's written to be protective of the public. And
17 we -- Subtitle D would err on the side of protectiveness.
18 We -- if we have upgradient wells and downgradient wells
19 and we see a difference, we don't discount the fact that
20 there's a huge landfill full of garbage there and
21 automatically blame Mother Nature, but the rules do err on
22 the side of blaming landfills --

23 CHAIRMAN BEDESSEM: Right. True. VOCs --

24 MR. DOCTOR: -- until proven otherwise.

25 CHAIRMAN BEDESSEM: -- and metals, but not

1 for inorganic geochemical parameters, because we have
2 wonderful Water Quality Division rules and regulations that
3 can assess whether there's, you know, any problem with
4 degradation of water quality.

5 BOARD MEMBER APPELATE: Let me just give a
6 real pragmatic example. You can have a low TDS groundwater
7 that has some impact from landfill from TDS. It can be
8 statistically significant, but it could not be the class of
9 use for TDS. Let's say it is -- is the 500 -- under 500,
10 maybe, the drinking water standard for class of use for
11 Class I groundwater. So you have 200 ppm TDS, you have
12 statistical significant change, goes up to 300, do you
13 really want that to trigger assessment monitoring?

14 CHAIRMAN BEDESSEM: Which is a lot more
15 expensive.

16 BOARD MEMBER APPELATE: Yeah. You have
17 some impact. That impact might have been from the
18 landfill. I would consider that impact insignificant in
19 terms of water quality. And that's -- that's what we're
20 driving to with this indicator list, that trying to maybe
21 find the balance between the two ideas here that maybe you
22 do include it. It probably has some value. There's smart
23 consultants out there that probably look at that data and
24 understand that is a trend to some sort of larger problem,
25 but it's also possible it isn't in some cases. And the way

1 you've written it makes it almost hardwired that those type
2 of changes are going to -- you know, I'm not saying it
3 would be implemented that way, but that's --

4 CHAIRMAN BEDESSEM: But there's no
5 guarantee it's not.

6 BOARD MEMBER APPLGATE: -- that's the way
7 it's written.

8 And so I think you should think -- and you
9 created all that when you added that (a) in Appendix C, in
10 that little paragraph up there where you said you're going
11 to have to do Appendix A and Appendix C sampling, because
12 everything else after that triggers assessment monitoring
13 if you have any --

14 MR. DOCTOR: Technically, the way this was
15 written -- and, of course, this goes back to when EPA first
16 imposed these Appendix A, the volatiles and everything in
17 the cost. So the thought being these poor little landfill
18 operators can't afford all that, so we'll have a separate
19 list of constituents to go into Type II landfills. But
20 this list could have conceivably triggered assessment
21 monitoring for Type II landfill all along. That -- there's
22 no real difference in what we're doing now compared to just
23 moving these things back to an appendix.

24 So for all these years, potentially, bicarbonate
25 cover triggered if it was statistically significant, could

1 have potentially triggered it.

2 CHAIRMAN BEDESSEM: Could have. Has it
3 ever?

4 MR. DOCTOR: No.

5 CHAIRMAN BEDESSEM: No.

6 MR. DOCTOR: No. We've not taken anybody
7 into cleanup for --

8 BOARD MEMBER APPELLEGATE: I think that's all
9 we're saying is the language should reflect that.

10 MR. DOCTOR: Well, just throwing -- tossing
11 something out there. You know, if it's a constituent where
12 we don't have a class of use limit or a groundwater
13 protection standard, maybe that would be to say, hey, if we
14 don't have a class of use limit or we don't have
15 groundwater protection for a constituent would we trigger
16 monitoring for that?

17 CHAIRMAN BEDESSEM: That doesn't take care
18 of the case that Dave just mentioned about TDS, where there
19 is a class of use, but, you know, it's really not that
20 important, okay? If your TDS --

21 MR. DOCTOR: Well, it's important to
22 somebody.

23 CHAIRMAN BEDESSEM: No, if your TDS is --

24 MR. DOCTOR: That's the rule.

25 CHAIRMAN BEDESSEM: -- statistically

1 significant --

2 BOARD MEMBER APPELATE: Well, that's

3 what we're --

4 THE REPORTER: One at a time. One at a
5 time.

6 BOARD MEMBER APPELATE: We are suggesting
7 not being the rule. I think we're asking you to go back
8 and think about maybe another step or a less, you know,
9 definitive step that says if you have a statistically
10 significant change in Appendix C, that it necessarily
11 triggers assessment monitoring. That's my request.
12 Currently, as written, it seemed hardwired to move you
13 automatically, and all of a sudden the burden is on the
14 regulating community to try to come up with an argument
15 that could be almost impossible to --

16 CHAIRMAN BEDESSEM: To refute.

17 BOARD MEMBER APPELATE: -- to develop.
18 That's, I think, what.

19 CHAIRMAN BEDESSEM: I think that's a good
20 request.

21 MR. DOCTOR: Madam Chair, by all means, if
22 people have suggestions or ideas, fire me an email so we
23 can work on this.

24 BOARD MEMBER CAHN: My --

25 BOARD MEMBER APPELATE: Yeah.

1 Go ahead, Lorie.

2 BOARD MEMBER CAHN: Yeah, I agree with the
3 commenter, Andy, and the discussion that's going on. And
4 the way I look at Appendix C is that this might be
5 information that's of interest to indicate, you know, for
6 indications of where -- you know, for you to do your
7 cation/anion balance, you know, to give you confidence in
8 the data, to let you know what's going on geochemically,
9 but it's not the kind of thing -- a lot of these are not
10 the kind of thing that should trigger assessment
11 monitoring, in my opinion. And so I think part of the
12 problem is calling Appendix C constituents for detection
13 monitoring, and then saying that they then -- they then
14 trigger assessment, so -- I'm not making myself clear. I'm
15 sorry. Let me try it again.

16 To me there's definitely indicator parameters
17 that indicate a leak, that if you look at them
18 statistically, and those are Appendix A, that would trigger
19 assessment monitoring. Appendix C might be something that
20 is of interest to DEQ, and the consultants and the
21 entities, but not something that should trigger assessment
22 monitoring. So it gives you more confidence in the data.
23 It gives you more information, but trying to look
24 statistically at some of these is -- is -- I think it's --
25 and then trying to -- if they do statistically increase,

1 trying to prove that they're not part of a naturally
2 occurring event.

3 I have had to do that for bicarbonate at a
4 landfill, and it is really difficult, and I wouldn't want
5 anybody else to have to go through the frustrations that I
6 have had over 10 years of trying to show that the -- that
7 things that statistically increase in bicarbonate is not
8 related to the landfill, and I would not wish that on
9 anybody. It's in a different state, but --

10 Anyway, so I guess I'm thinking if you want to
11 require the information in Appendix C, that's one thing.
12 What we do with the data is something different. And I
13 don't think a lot of those things in there that are
14 naturally occurring and change, you know, as groundwater
15 flows, irregardless of whether a landfill might be there,
16 should be -- should be statistically analyzed. It's simple
17 to, you know, just show trends, plot the data as trends.
18 It's a lot cheaper. I don't know why you want to be
19 looking at the statistical analysis of these. You know,
20 they could be doing -- you know, they can be giving you
21 geochemical diagrams that tell you whether or not the
22 cations and anions, what kind of regimes this is coming
23 from, you know, whether or not you can look and see whether
24 or not they've got a good balance, ion balance. So,
25 anyways, I don't know if that helps, but that -- that's my

1 2 cents.

2 CHAIRMAN BEDESSEM: I want to follow up and
3 say that I think the reason these parameters are not
4 included in Subtitle D is because Subtitle D is set up for
5 this detection and assessment scenario, which this group of
6 parameters doesn't fall into very well. So I don't think
7 it's because they're out of date, because these indicator
8 parameters are oldest -- older than most of this stuff.
9 It's more that it doesn't fit into this kind of triggering
10 and, you know, corrective measures, you know, assessments,
11 nature and extent. It's more informational, so -- because
12 a lot of -- for example, a lot of this information is
13 valuable for determining if your remediation might, for
14 example, be related to the readout situation in the
15 subsurface, and you're looking at bioremediation options.
16 A lot of this information is very valuable, but it doesn't
17 fit in the Subtitle D scheme of things very well.

18 MR. DOCTOR: Madam Chair, I suspect some of
19 these -- I didn't go back and read all the examples of
20 Subtitle D -- probably the same suggestions, so...

21 CHAIRMAN BEDESSEM: Could be.

22 BOARD MEMBER HANSON: Madam Chair, I'm
23 hanging onto my bootstraps here, because I don't understand
24 all this.

25 I think part of the problem, as I understand it,

1 is in the paragraph above the assessment monitoring --

2 CHAIRMAN BEDESSEM: What page?

3 BOARD MEMBER HANSON: Paragraph -- on page
4 2 of 50 -- page 50 of 2, I'm sorry. In the paragraph, you
5 know, "Demonstrate to the Administrator in writing that the
6 statistically significant increase over background is not
7 due to the solid waste disposal unit, but that the
8 difference is due to another..." that's something that --

9 CHAIRMAN BEDESSEM: You can't do for --

10 BOARD MEMBER HANSON: You can't do this
11 because the person hasn't assessed that. It probably
12 should read something like maybe due or might be due
13 because there are three things listed, another source of
14 pollution, error in sampling, analysis or statistical
15 evaluation, or a natural variation in groundwater quality.
16 But that's not provable. It's an assumption that it might
17 be one of those factors, but the operator then has to -- or
18 the administrator then has to -- no, the operator then has
19 to say it is that or that or that.

20 CHAIRMAN BEDESSEM: Uh-huh.

21 BOARD MEMBER HANSON: The operator can't do
22 that because the operator is simply -- hasn't done that.
23 It would have to go out to sample these things or that
24 isn't under his or her purview.

25 CHAIRMAN BEDESSEM: Whether it's even

1 possible or the cost associated with it might be
2 prohibitive.

3 BOARD MEMBER HANSON: Yeah.

4 BOARD MEMBER CAHN: One other point that I
5 want to make, from my experience, is that when you first
6 start monitoring in the landfill -- and let's say you get
7 quarterly data for the first year, whatever, in order to
8 set up your background, and you do statistical analysis on
9 that, the more parameters you have, the higher your false
10 positive rate is going to be. And so you end up with only,
11 let's say, four parameters or eight -- four monitoring
12 events or eight monitoring events to set your baseline.
13 You're going to end up with a significant -- really high
14 false positive rate.

15 And so looking at that list, the more parameters
16 you have, the higher incidence you're going to have of
17 false positive rates. So you're going to end up with false
18 positive rates that have -- be having -- you know, and your
19 false positive rate will come down as you reevaluate your
20 data, if you don't have a leak and you get more and more
21 data, if you're going to allow them to include the
22 additional data without leakage into a -- into the baseline
23 again, you can reduce the false positive rate. But it's a
24 real problem, having a very high false positive rate. I
25 can guarantee you that everybody will trig -- go through

1 that list, will see -- they'll trigger it. They'll trigger
2 something, the way you have it written, into assessment
3 monitoring, the way you have it written right now. And I
4 don't think really that's your intent. So that's just
5 based on my personal experience.

6 CHAIRMAN BEDESSEM: Thank you, Lorie.
7 Were --

8 MR. DOCTOR: Madam Chair, I've got some of
9 the Subtitle --

10 THE REPORTER: I'm sorry. I can't hear.

11 MR. DOCTOR: I'm sorry. A lot of that must
12 come directly out of Subtitle D language. The owner/
13 operator may demonstrate the source of the --

14 THE REPORTER: I'm sorry.

15 MR. DOCTOR: But if you don't, you must go
16 into the assessment monitoring. So -- and I can understand
17 your concern, that you don't think it's necessary to go
18 into assessment monitoring if the only problem is
19 bicarbonate, you know, something of that nature.

20 CHAIRMAN BEDESSEM: This is written for
21 VOCs and metals and herbicides and pesticides, the Subtitle
22 D language.

23 MR. DOCTOR: Even the Appendix D --
24 Subtitle D Part 258, assessment monitoring is required
25 whenever a statistically significant increase over

1 background has been detected for one or more of the
2 constituents listed in Appendix 1, which is our
3 Appendix A, to this part, or, in the alternative, the list
4 is approved in accordance with the other. So if the
5 director establishes an alternative list, that alternative
6 list, under Subtitle D, can trigger Assessment 1.

7 BOARD MEMBER APPLGATE: So I'm going to
8 give you an actual suggestion that's in line with Lorie,
9 because we probably beat this dead horse. If you go 2-48,
10 you have under paragraph D, detection monitoring. And
11 right at the top of the next page you added this small
12 addition "and C," and Appendix C, which is what I believe
13 is what's created all the problem.

14 So I'm suggesting you not include Appendix C, as
15 Lorie suggested, under detection monitoring. I'm, instead,
16 suggesting that you add a paragraph and you suggest
17 Appendix C monitoring is required, but it's not required
18 under "detection monitoring." You can say it's just part
19 of a -- the landfill monitoring program; therefore, it does
20 not trigger the assessment monitoring. So you don't have
21 to include that. You can just think about that. But
22 that's my suggested change, that you take it out of -- and
23 I think that's consistent with what you were saying, Lorie,
24 that you take it out of the detection monitoring framework,
25 and you simply add another -- you know, maybe it's after --

1 well, I would suggest it's before detection monitoring that
2 you have something that just says geochemistry monitoring.

3 CHAIRMAN BEDESSEM: Yeah, geochemical
4 parameters.

5 BOARD MEMBER APPLGATE: Geochemical
6 parameters that you require of landfills, but it does not
7 have any of these triggers associated with it.

8 MR. DOCTOR: One of the other -- I was
9 batting this around. I wanted to see what people thought.
10 And a commenter suggested another alternative would simply
11 to be to go here in (III), would be another page or so down
12 from where you just were. If there is a statistically
13 significant increase over background for one or more
14 Appendix A constituents, then you go into assessment.

15 BOARD MEMBER CAHN: Bob, can you tell me
16 where you are? Which page? I'm sorry.

17 MR. DOCTOR: I'm working off my cheat
18 sheet, so it's about a page and a half in front of where
19 you're at. I don't have my redline/strikeout sitting here.
20 It's that trigger that you just read. It says a minimum of
21 four individual samples, and (III) says if there is a
22 statistically significant difference.

23 BOARD MEMBER CAHN: Does anybody know where
24 Bob is reading from?

25 MR. DOCTOR: I'll find my redline/strikeout

1 version.

2 CHAIRMAN BEDESSEM: You might. That's what
3 we're all looking at.

4 BOARD MEMBER HANSON: I read it before, but
5 I can't find it either.

6 MR. DOCTOR: I'll go get it.

7 BOARD MEMBER CAHN: It might be on page
8 2-50, (III), "If there is a statistically significant
9 increase over background..."

10 MR. DOCTOR: You found it.

11 BOARD MEMBER CAHN: Okay.

12 MR. DOCTOR: That was the other option. It
13 would simply -- it would say you only go into assessment
14 monitoring if you bust on one of the Appendix A. And I
15 think that was the recommendation in the comment we
16 received, page 2-50.

17 CHAIRMAN BEDESSEM: But then when you go --
18 the first paragraph in assessment monitoring, it's
19 repeated, so --

20 MR. DOCTOR: It would have to be repaired
21 there, also, then.

22 BOARD MEMBER APPELLEGATE: That's why I'm
23 suggesting --

24 CHAIRMAN BEDESSEM: Yeah, he was just
25 picking --

1 BOARD MEMBER APPLGATE: I think a
2 simpler --

3 CHAIRMAN BEDESSEM: -- a simpler --

4 BOARD MEMBER APPLGATE: -- simpler
5 response, which is just to add something that clarifies
6 it's not detection monitoring.

7 I think we should move on. We've --

8 CHAIRMAN BEDESSEM: Uh-huh. Well, it's an
9 important issue.

10 MR. DOCTOR: It is.

11 CHAIRMAN BEDESSEM: So we agreed we'd talk
12 about this issue in general and then go back --

13 BOARD MEMBER APPLGATE: To Lorie.

14 CHAIRMAN BEDESSEM: So, Lorie, would you be
15 willing to start with your comments?

16 BOARD MEMBER CAHN: Sure.

17 CHAIRMAN BEDESSEM: So are we looking at
18 Chapter 1 or Chapter 2 right now?

19 BOARD MEMBER CAHN: I'm just trying to go
20 back to the -- well, we should start with Chapter 1.

21 CHAIRMAN BEDESSEM: Okay. I have one other
22 question for you.

23 BOARD MEMBER CAHN: Go ahead. I'm going to
24 go on mute and let you talk about Chapter 1.

25 CHAIRMAN BEDESSEM: Well, I'm just asking

1 Bob a question while you were looking for your stuff.

2 So the two chapters that you want to eliminate,
3 they're not referenced anywhere else except 1 and 2?

4 MR. DOCTOR: I didn't find any other
5 references in 1 and 2 to Chapters 9 and 15 or any other --

6 CHAIRMAN BEDESSEM: But none of the other
7 chapters. So nothing else has to be changed to eliminate
8 those two?

9 MR. DOCTOR: No. The same thing. And I
10 had a concern about some of that, in talking to the AG's
11 office. You know, there may be a temporary time period
12 where there are some bad references to things that don't
13 add up, but that's the nature of the beast when we do
14 rulemaking, unless you're doing them all at once.

15 CHAIRMAN BEDESSEM: Okay.

16 MR. DOCTOR: They said some of that may
17 happen, and that's okay.

18 CHAIRMAN BEDESSEM: Okay. So another
19 question on page 104 of Chapter 1. It seems to me --

20 BOARD MEMBER CAHN: Marge, can you say
21 where you are again because somebody sneezed.

22 CHAIRMAN BEDESSEM: I'm on page 1-4 of the
23 redline/strikeout version. And the question I had was I
24 understand that you've -- you know, you presented the
25 rationale well as far as why the AG's office recommends

1 that you eliminate, you know, definitions and other
2 language that is already in statute because if they changed
3 it again, then you don't have to go back and change the
4 rule and so forth. But looking from the perspective of,
5 you know, the regulating community and people have to use
6 these rules, okay, we want to make sure that then doesn't
7 hamstring them as far as not knowing where to find all the
8 information in the definitions and so forth.

9 So it seemed to me at one point in time that
10 there may have been like two statutory definitions from --
11 for aquifer, one that was related to some solid waste
12 rulemaking and another one that was somehow in the water
13 quality purview. And so what I'm concerned about is I want
14 an operator to be able to say I've got my solid waste rules
15 here. I know what they relate to, and these are the
16 statutes that I have to check for anything that applies to
17 them. Okay?

18 So on page 1-4, under definitions, it says, "In
19 addition to the definitions in statute," to me that's every
20 statute in Wyoming? What is that? I mean, is that the
21 solid waste article of the Environmental Quality Act? I
22 guess I want where we're pulling things from statute to be
23 narrow so that the operator knows if I looked at Article 3
24 and my solid waste rules, I'm covered, okay, as opposed to
25 thinking it can be anywhere in the state of Wyoming

1 statutes. So can we like narrow that up so it's more
2 specific than just in statute?

3 BOARD MEMBER HANSON: Chapter and verse.

4 BOARD MEMBER APPELATE: Well, it says
5 35-11-101.

6 CHAIRMAN BEDESSEM: That's the
7 Environmental Quality Act. That's the act. What I'm
8 concerned about is that if we have -- we sometimes had
9 conflicting definitions between some things that passed for
10 water quality and something that was passed for solid
11 waste. We've actually had -- my recollection is we had a
12 statute pass --

13 BOARD MEMBER APPELATE: Well, aquifer does
14 have more than one definition. I agree with you.

15 CHAIRMAN BEDESSEM: Right. So how do we
16 know it applies here? I want to know which ones apply to
17 these rules.

18 MR. DOCTOR: This one did go to the AG's
19 office this way, but I will definitely bring that up again.
20 There's so many different places --

21 CHAIRMAN BEDESSEM: Yeah, because I think
22 aquifer is defined two separate places.

23 MR. DOCTOR: Right. So when you read the
24 one, yeah, how do you know --

25 CHAIRMAN BEDESSEM: How do you know --

1 MR. DOCTOR: -- that one doesn't apply to
2 you, that the one for municipal landfills apply to you or
3 vice versa.

4 CHAIRMAN BEDESSEM: Right. So if, you
5 know -- so that's the act, but when you're saying statute,
6 are you -- is there a priority within the act? Is it only
7 the act? What are they saying there? So that's just a
8 question I have because I can see there's confusion, and I
9 just want to know that our operators will know, you know,
10 if I have these articles in my rules, I got everything, and
11 nothing will be misinterpreted. So that was -- that was
12 just a question I had when I came down to that.

13 And then on page 1-14, in the redline/strikeout.
14 So was there like a problem with this, with the
15 redline/strikeout version? Because there's 15,000 empty
16 used -- so that was -- that was just part -- supposed to be
17 part of (VI), the 15,000 empty used drums?

18 BOARD MEMBER HANSON: They're hanging there
19 by themselves.

20 BOARD MEMBER APPLGATE: You see --

21 MR. DOCTOR: Oh, yeah, that was -- that
22 was -- years ago apparently there was a drum reconditioning
23 facility that caused no end of problems, so in the rule
24 change, maybe before I even started with DEQ, they limited
25 how many drums could be stored someplace and still be

1 considered exempt or low-volume, low-hazard. It doesn't
2 apply anymore. If it went in here, it was included in here
3 before this renumbering. So this used to be a list where
4 it said a thousand scrap tires, green waste, compost piles,
5 15,000 drums, household hazardous waste, et cetera. And so
6 I didn't renumber and strike it. I just struck it. This
7 was a list of what you can or -- you know, in a facility.
8 So in this case --

9 CHAIRMAN BEDESSEM: So it said constitute a
10 nuisance or attract vectors, and it would have been a
11 separate line --

12 MR. DOCTOR: There was a separate line.

13 CHAIRMAN BEDESSEM: -- 15,000 empty used
14 drums, would have been a separate line.

15 MR. DOCTOR: It was a separate line in
16 here. It was essentially a bullet. This would have
17 bullets in the --

18 CHAIRMAN BEDESSEM: Okay. So you -- so the
19 strikeout should have been a strikeout of the former.

20 MR. DOCTOR: Correct. Strikeout of the
21 former --

22 CHAIRMAN BEDESSEM: But you left out the
23 strikeouts of the former notations.

24 MR. DOCTOR: Oh, it did not have the
25 notation before.

1 CHAIRMAN BEDESSEM: Oh, there was no
2 notation?

3 MR. DOCTOR: There was nothing.

4 BOARD MEMBER CAHN: Marge, that's why --
5 that's why all the other ones are in blue ahead of them.

6 CHAIRMAN BEDESSEM: Gotcha.

7 BOARD MEMBER CAHN: He's added in Roman
8 numerals ahead of them, since it was an unnumbered list.

9 CHAIRMAN BEDESSEM: Yes, it was just an
10 unbulleted, unnumbered list. Okay.

11 BOARD MEMBER HANSON: Madam Chair, if you
12 have something before that you want to question -- for
13 example, I have something on 1-11 -- should we wait or
14 should we do that now?

15 CHAIRMAN BEDESSEM: Let me just go through
16 the couple of mine, and then we'll switch -- how about we
17 just switch people, and then --

18 BOARD MEMBER HANSON: That's fine.

19 BOARD MEMBER CAHN: Or -- or --

20 CHAIRMAN BEDESSEM: Because this way I
21 think, then, if one of us mentions something that somebody
22 else has on their list, then we don't have to visit it
23 again, and the other person's list will get shorter.

24 BOARD MEMBER HANSON: Good.

25 CHAIRMAN BEDESSEM: Thank you for

1 explaining that to me.

2 I don't remember -- and I don't remember where
3 this is in here. Oh, okay. I got where it is.

4 So I don't have very many questions on this.
5 the page 1-19, and this was -- again, maybe you can
6 just educate me here. The whole passenger tire --
7 passenger tire equivalent, I think I was confused with the
8 definition -- the added information on scrap tire. So I
9 understand that if you're trying to size a pile by
10 passenger tire equivalence, it's like a unit, that you
11 don't want to, you know, use mining-sized tires because
12 that would be whole another ball of wax, but in a scrap
13 tire definition on page 1-21, after the first line, it
14 starts talking about a used tire. And I didn't understand
15 if that was a different item or -- the definition for scrap
16 tires, tires no longer used for its original purpose. Then
17 it spends several para -- I mean, sentences about what a
18 used tire is, and then it goes to one scrap tires equals
19 one passenger tire equivalent. So what is the purpose of
20 the sentences on used tires? Is that different than scrap?
21 I didn't understand that.

22 MR. DOCTOR: Correct. We wanted to keep it
23 all in one place. We're struggling with some of our tire
24 facilities. They got a gob of tires piled up and they're
25 saying, Oh, those are used tires. We're going to sell

1 those to somebody. And our inspectors are going out and
2 saying, Wait a minute. There's no way that -- that is not
3 a used tire. That's a scrap tire.

4 So we wanted to keep that all in one place in
5 order to help our enforcement guys go to a site and say,
6 no, that's -- here's what a scrap tire is. It can't be you
7 know, used for an unintended purpose, conversely a used
8 tire. So that's why all that was put in. You know, we can
9 change it, have the definition somewhere else of what's a
10 used tire.

11 BOARD MEMBER CAHN: How about if we -- how
12 about if we say scrap tire means a used tire that is no
13 longer -- or it means a tire -- well, yeah, a used -- well,
14 that doesn't work either, sorry. Okay.

15 MR. DOCTOR: That can still be a brand-new
16 tire that's scrapped.

17 BOARD MEMBER APPLGATE: I think it's
18 clear.

19 CHAIRMAN BEDESSEM: You think it's clear?

20 BOARD MEMBER APPLGATE: I think it's
21 clear. It's basically -- now, maybe you have used tire as
22 its own definition.

23 CHAIRMAN BEDESSEM: Well, it's just that
24 you have a definition imbedded within another definition,
25 which is confusing.

1 BOARD MEMBER APPELATE: So maybe used tire
2 has its own definition.

3 MR. DOCTOR: We can pull that out.

4 CHAIRMAN BEDESSEM: Then you understand
5 that a used tire is not a scrap tire. They're two separate
6 things. But when they're in one definition, I was like,
7 well, is a scrap tire a used tire, is a used tire a scrap
8 tire?

9 BOARD MEMBER HANSON: Madam Chair, the
10 problem is the title is scrap tire, but you are defining
11 used tires in it, and you're not defining scrap tires at
12 all in it.

13 CHAIRMAN BEDESSEM: Yeah, I just -- if
14 they're two separate things, can we make two separate
15 definitions, if we could.

16 MR. DOCTOR: We can do that.

17 CHAIRMAN BEDESSEM: I understand the value
18 of putting things in one place, but when one is imbedded in
19 the other, I wasn't sure if one was a subset of the other
20 or not.

21 MR. DOCTOR: Okay.

22 MR. SMITH: I have a question on that.

23 THE REPORTER: Can you state your name?

24 MS. THOMPSON: Can you come forward and
25 state your name for the record, please? Thank you. Sorry

1 to make you come all the way up there. It doesn't pick up.

2 MR. SMITH: The question I have is on -- is
3 1-19.

4 THE REPORTER: Can you state your name?

5 MR. SMITH: 19.

6 THE REPORTER: State your name.

7 MR. SMITH: Toby Smith, from the High
8 Plains Joint Powers Board.

9 You've limited me. You've hobbled me. Passenger
10 tire means that the tire with less than an 18-inch rim.
11 Now, there's several automobiles -- Chrysler's got one.
12 Cadillac has got one. They run 20-inch tires. They're an
13 automobile tire. By this definition I have to put those
14 20-inch tires in with my tractor tires, right?

15 CHAIRMAN BEDESSEM: I agree.

16 MR. SMITH: They're hard to rid of.

17 MR. DOCTOR: I have to ask -- I'm sorry,
18 Madam Chairman.

19 What type of facility are you operating?

20 MR. SMITH: The landfill in Hanna.

21 MR. DOCTOR: Yeah, it wouldn't affect you.

22 MR. SMITH: It doesn't affect me because we
23 did separate our tires, automobile tires and our big
24 construction tires that we take in, and then they're
25 dispersed to different people, taking them, selling them,

1 get rid of them. But putting an 18-inch and down in one
2 pile, we'd have to take some of those other ones and put
3 them in with our big tires.

4 CHAIRMAN BEDESSEM: What's the harm of it
5 being --

6 MR. SMITH: Or does 20 20 -- I mean, does
7 one 20 passenger tire equivalent mean 20 pounds of scrap
8 tire or less?

9 MR. DOCTOR: Madam Chair, this is
10 nationally used definition of these things, so we put that
11 in our rule. But as a transfer facility operating in
12 Hanna, this shouldn't have any affect. What gets to this
13 would be if there's a limit for total tire storage, it's
14 based on passenger tire equivalents. But all those tires
15 can be in the same pile when you're looking at doing that.
16 The problem that we have, and I think you mentioned it,
17 Madam Chairman, was our rule used to say retail facility
18 can store up to a thousand scrap tires.

19 MR. SMITH: Uh-huh.

20 MR. DOCTOR: Well, they probably meant mine
21 tires when they did that, so we're trying to narrow it
22 down. But for you, in your facility, you don't have to
23 separate the tires.

24 MR. SMITH: Oh, we don't?

25 MR. DOCTOR: No, not at all.

1 MR. SMITH: We just load the tires all in
2 a --

3 MR. DOCTOR: Put them all in as --

4 MR. SMITH: -- dump -- in a shipping
5 container and ship them off.

6 MR. DOCTOR: Ship them off. Because it
7 doesn't matter how you're getting them somewhere.

8 MR. SMITH: Okay.

9 MR. DOCTOR: And one of the reasons we used
10 this 20 pounds, everything gets billed by the ton, and so
11 we use these numbers to estimate pile sizes and how many
12 tons are in there. And there's ways to do that, but for
13 your operation as a transfer station --

14 MR. SMITH: That's my question.

15 MR. DOCTOR: -- you're good.

16 MR. SMITH: Okay.

17 BOARD MEMBER CAHN: Bob.

18 MR. DOCTOR: Glad you asked.

19 MR. SMITH: Thank you.

20 BOARD MEMBER CAHN: Bob, but he brings up a
21 good point, if there's -- there's passenger cars that have
22 20-inch tires, then maybe the definition on page 1-19
23 (lxix), where it defines passenger tire, maybe we need to
24 change that from passenger tire means a tire with less than
25 an 18-inch rim diameter intended for use of passenger cars

1 and light trucks to a 20-inch rim diameter.

2 MR. DOCTOR: Madam Chair, this is a
3 national definition that we've adopted, and that's a
4 standard industry standard practice. So it may be on a
5 car, but by definition it's not a passenger tire. But it
6 doesn't effect what these guys are attempting to do. It
7 helps us limit quantities --

8 CHAIRMAN BEDESSEM: Yeah, but if
9 somebody's --

10 MR. DOCTOR: -- at dealerships.

11 CHAIRMAN BEDESSEM: -- storing, you know,
12 tires, don't they -- aren't they still in a position if
13 they have a whole bunch of 20 inches, they're going to be
14 worried about it?

15 MR. DOCTOR: It affects their total limit
16 because the limit is based on passenger tire equivalents.
17 So 20 pounds -- so it all adds up to weight when it's all
18 said and done. So some of them may be 40-inch tires, some
19 of them may be 16-inch tires, but it all adds up to this
20 passenger tire equivalents.

21 BOARD MEMBER APPLGATE: So let me ask --
22 let me maybe phrase it in a different direction. How is
23 the passenger tire definition used --

24 CHAIRMAN BEDESSEM: Yeah.

25 MR. DOCTOR: -- and is it needed in

1 definitions if everything is --

2 CHAIRMAN BEDESSEM: Is based on weight.

3 BOARD MEMBER APPLGATE: -- based on
4 passenger tire equivalent, which is not related back to
5 size but weight. It almost seems like it'd be better to
6 say a passenger means a tire that weighs 20 pounds, because
7 a passenger tire equivalent is 20 pounds.

8 CHAIRMAN BEDESSEM: So what do we need that
9 for --

10 BOARD MEMBER APPLGATE: So to some degree,
11 I appreciate what you're saying, it's a national
12 definition. It's problematic to change it. But it also
13 suggests that it is sort of confusing because it doesn't
14 mean anything.

15 CHAIRMAN BEDESSEM: Yeah, and obviously led
16 to confusion about what we can and can't do. So what do we
17 actually use the passenger tire definition for?

18 MR. DOCTOR: When we talk about limits,
19 storage limits at retail facilities, they can store up to a
20 thousand passenger tires. A passenger tire is this, but we
21 also tie it to -- normally I think it's scrap tires.

22 BOARD MEMBER APPLGATE: I thought you just
23 said that the storage requirements were based on passenger
24 tire equivalents, not passenger tires.

25 CHAIRMAN BEDESSEM: Maybe --

1 BOARD MEMBER APPLGATE: Don't you love
2 this, Bob? It's like having --

3 MR. DOCTOR: No.

4 BOARD MEMBER APPLGATE: It's like the
5 inquisition or something.

6 MR. DOCTOR: Do you know how long it's been
7 since I thought this through?

8 CHAIRMAN BEDESSEM: And maybe tires sizes
9 got bigger, you know, you need to update.

10 MR. DOCTOR: It's true, they have.

11 You know, they look at limits are based on how
12 many scrap tires you can store.

13 CHAIRMAN BEDESSEM: Uh-huh.

14 MR. DOCTOR: 500 scrap tires. So we said a
15 scrap tire is one of these that can only be used, but we're
16 talking about storage limits, we're taking it back to, you
17 know, PTEs. So in total, you know, we're trying to -- I'm
18 going to have to spend a lot more time digging into this
19 one.

20 BOARD MEMBER APPLGATE: I take it --

21 MR. DOCTOR: Now I'm confused.

22 BOARD MEMBER APPLGATE: A suggested change
23 might be delete the passenger tire definition. It it never
24 comes up in the regulatory framework, don't confuse people
25 with it, because you have an operator that drove some

1 distance today --

2 CHAIRMAN BEDESSEM: Right. Yeah.

3 BOARD MEMBER APPLGATE: -- because of the
4 confusion it caused them on storage requirements.

5 CHAIRMAN BEDESSEM: So see if --

6 MR. DOCTOR: Let me take a re-run at this.

7 CHAIRMAN BEDESSEM: Yeah.

8 MR. DOCTOR: It makes my head hurt.

9 BOARD MEMBER CAHN: To get back to the
10 scrap versus used tire, back on 1-21, I think in this case
11 the definition you have of used tire is one that is not
12 considered a scrap tire. So I think that needs to be part
13 of that definition. So you would say a used tire is one
14 that cannot be described as new, but which is structurally
15 intact, and for passenger tires has a tread depth greater
16 than 2/32 of an inch. A used tire can be mounted on a
17 vehicle's rim without repair. And then I think we need to
18 add something that says a used tire is not a scrap tire for
19 the purposes of -- you know, if it meets this definition
20 it's not a scrap tire, so I think that would help tie those
21 two together why we are -- even though some scrap tires --
22 scrap tires could have been new or used, a used tire cannot
23 be a scrap tire.

24 BOARD MEMBER APPLGATE: I'll let you --

25 CHAIRMAN BEDESSEM: I thought previously we

1 agreed to separate those two definitions, but you can
2 clarify that a used tire is not a scrap tire in that
3 definition, should you so desire.

4 MR. DOCTOR: It gets messy, because a used
5 tire can be a scrap tire, but a used tire can also be
6 reusable. And what we've tried to work with on our tire
7 dealerships is to say, you know, if that tire is usable,
8 put it over there, segregate it from all this stuff we know
9 is waste, and we're not going to count that toward your
10 limit so we're not nailing guys who are storing tires that
11 they can resell, because I bought lots of used tires
12 personally myself. So we're trying to make it easier for
13 these guys to do business, but we're also trying to make it
14 easier for inspectors to go, yeah, right. Nobody's going
15 to be using that. That counts toward that thousand-tire
16 limit.

17 BOARD MEMBER CAHN: Okay. So here's a
18 suggestion. At the end of the definition for used tires
19 say used tires can be segregated from scrap tires. So
20 you're just giving them that option. It's not telling them
21 they have to, it's just telling them they can. Would that
22 work?

23 MR. DOCTOR: Yeah, how about should?

24 CHAIRMAN BEDESSEM: No, just put may.

25 MR. DOCTOR: May. That's right. Our

1 parliamentarian.

2 CHAIRMAN BEDESSEM: Right. Just put may.

3 Yeah, I've had a break request. I think for 1 I
4 was done. I was done for 1. So let's take a break. Can
5 you answer to the rest of 1?

6 MR. DOCTOR: Yeah.

7 BOARD MEMBER APPELLEGATE: So Madam Chair,
8 can we ask Lorie --

9 Lorie, should we take a lunch break, or how long
10 will it take to get through your comments?

11 BOARD MEMBER CAHN: Oh.

12 CHAIRMAN BEDESSEM: Love that smile.

13 BOARD MEMBER CAHN: Are you just assuming
14 I'm the only one that has additional comments?

15 BOARD MEMBER APPELLEGATE: I'm assuming that
16 you have read this and have lots of additional comments.

17 BOARD MEMBER CAHN: I have -- I'll count
18 them. I have 1, 2, 3 -- I have about 10 additional
19 comments.

20 CHAIRMAN BEDESSEM: Is that just in
21 Chapter 1?

22 BOARD MEMBER CAHN: No. No. Chapter 1, I
23 only have one comment. So maybe we can finish Chapter 1
24 and then take a lunch break.

25 CHAIRMAN BEDESSEM: If you only have 10,

1 maybe we only need a short break, not a lunch.

2 BOARD MEMBER APPELATE: If we get it done
3 in an hour or hour and a half, I'm willing to stay. If
4 it's two or three hours, we should take a lunch break.

5 CHAIRMAN BEDESSEM: Uh-huh.

6 BOARD MEMBER APPELATE: If it's an hour --
7 if it's an hour, Lorie, we should take a short break and
8 get done in another hour. If you think you have two hours
9 of comments, maybe we should take a lunch break.

10 BOARD MEMBER CAHN: I'm fine with taking a
11 short break. Let's finish Chapter 1, and then take a short
12 break, and then start on Chapter 2. How does that sound?

13 CHAIRMAN BEDESSEM: That sounds like a
14 plan. Thank you, Lorie.

15 Okay. I'm done with my ones for Chapter 1.

16 BOARD MEMBER HANSON: Are we going to go
17 page by page, or how do you want to go?

18 CHAIRMAN BEDESSEM: We're going person by
19 person, so...

20 BOARD MEMBER HANSON: Going person by
21 person.

22 CHAIRMAN BEDESSEM: So you can be the next
23 person.

24 BOARD MEMBER HANSON: Who's first?

25 CHAIRMAN BEDESSEM: I was first, then you.

1 BOARD MEMBER HANSON: Me go?

2 CHAIRMAN BEDESSEM: Chapter 1.

3 BOARD MEMBER HANSON: Chapter 1. Okay.

4 Very briefly, 1-7, if that's clear to everybody what's
5 listed under Collateral, then I will not say anything
6 further. To me, it makes no sense whatsoever, this
7 collateral sanction, "...means as related to self bonding
8 the actual or constructive deposit, as appropriate, with
9 the Director of one or more of the following kinds of
10 property to support a self bond." You could have written
11 this in Chinese and I could have understood it probably
12 better. It makes no sense. I mean, somebody just
13 probably -- may look at it and say it makes sense, and I'm
14 fine with it.

15 MR. DOCTOR: Madam Chair. This, I think,
16 is probably based on -- somewhat on Subtitle C rules and
17 regulations. But it, also, I think, is somewhat put back
18 on financial assurance chapter, Chapter 7. This is why we
19 have bonding people who review this stuff.

20 I had actually suggested to our Attorney
21 General's Office that we pull this out of here, and they
22 said why don't you leave that one, because it's kind of
23 complicated. So that's the only reason it's still in
24 there.

25 BOARD MEMBER HANSON: They have four

1 paragraphs that hang together, and they -- and mean nothing
2 to me. But, again, you know, this is my second language,
3 it may be that's my problem.

4 MR. DOCTOR: Nobody understands it clear --

5 BOARD MEMBER HANSON: All right. Good. If
6 we --

7 CHAIRMAN BEDESSEM: Um.

8 BOARD MEMBER HANSON: Go on. I just wanted
9 to -- oh, I'm sorry.

10 CHAIRMAN BEDESSEM: Just since you brought
11 up that section. Dave asked why those weren't bulleted or
12 have a subheading --

13 MR. DOCTOR: Oh.

14 CHAIRMAN BEDESSEM: -- those underneath
15 them, since they are separate ideas. They probably need to
16 be --

17 MR. DOCTOR: Okay.

18 CHAIRMAN BEDESSEM: So good catch, Dave.

19 Because otherwise we run into the same problem we
20 had earlier, where I had the hanging piece and I didn't
21 know where it came from.

22 MR. DOCTOR: Madam Chair, just so you're
23 aware, I have taped to my computer monitor the list of
24 Roman numerals because I couldn't get up that high.

25 What's next? I didn't even know what Super Bowl 50 is, as

1 far as I know.

2 BOARD MEMBER HANSON: 50 is L.

3 MR. DOCTOR: There you go.

4 CHAIRMAN BEDESSEM: Okay. Go ahead.

5 BOARD MEMBER HANSON: Okay. The next one,
6 just -- if I'm understanding this correctly, on 1-8, there
7 is a strikethrough section, composite liner section has
8 been struck. Is that because it appears on page 1-9 as
9 Roman numeral whatever -- (xxiv) -- "Cover material means
10 soil or other suitable material..." is that the way it
11 goes?

12 CHAIRMAN BEDESSEM: No.

13 MR. DOCTOR: Madam Chair. It's because
14 that is defined in statute.

15 BOARD MEMBER HANSON: Oh, okay.

16 MR. DOCTOR: That's why that is there.

17 BOARD MEMBER HANSON: Good. Thank you.

18 Then the next question I have is on page 1-11. It says
19 groundwater, and this is (xl), that would be -- wait a
20 minute. That would be 11. "Groundwater means, in relation
21 to all solid waste facilities except municipal solid waste
22 landfills, water below the land surface..." I thought
23 groundwater is groundwater, whether it's a -- a municipal
24 facility or any other facility, groundwater is groundwater.
25 That doesn't make any sense to me.

1 MR. DOCTOR: Madam Chair. The best way to
2 answer that is not if you're a legislator. And if you'll
3 notice, the definition of aquifer is written the same way,
4 but the legislature says when it comes to a landfill, we
5 have different definitions of aquifer and groundwater than
6 we do for other facilities.

7 BOARD MEMBER HANSON: So what is
8 groundwater, then, for a landfill?

9 MR. DOCTOR: For geologists, it's water
10 under the ground. If it's a legislator, it's this.

11 BOARD MEMBER HANSON: All right. All
12 right. It's just didn't make any sense to me. Okay.
13 Still doesn't make any sense.

14 Let me see.

15 BOARD MEMBER CAHN: Wait, wait, wait. I
16 need a little more discussion on that. I agree with Klaus
17 that it's confusing.

18 So this -- this -- we're talking about what's
19 not -- now it's not defined for, I mean, solid waste
20 landfill?

21 BOARD MEMBER APPELEGATE: First, I think
22 there should be some clarification. Is this statutory
23 language?

24 MR. DOCTOR: Correct.

25 BOARD MEMBER APPELEGATE: So I thought we

1 were taking statutory language out of the --

2 MS. LANGSTON: This one and the aquifer
3 one, the AG's office asked me to put back in and leave in
4 here, just because it is so critical.

5 CHAIRMAN BEDESSEM: Because there's two
6 definitions.

7 BOARD MEMBER APPLGATE: I'm okay with
8 that. So just so you -- I didn't know if you heard that,
9 Lorie, but it is statutory language, so we can get
10 clarification but we can't change it.

11 BOARD MEMBER CAHN: But we're saying except
12 municipal solid waste landfills, and we're talking about
13 municipal solid waste landfills, so...

14 CHAIRMAN BEDESSEM: We're just saying
15 Chapter 1 applies to everything.

16 MR. DOCTOR: Chapter 1 applies to all of
17 our facilities.

18 BOARD MEMBER CAHN: Oh, okay.

19 MR. DOCTOR: Not just the industrial
20 landfill stuff.

21 BOARD MEMBER CAHN: So this definition does
22 not apply to Chapter 2, but applies to all the other
23 chapters.

24 And do we have a separate definition for what
25 groundwater means when it applies to Chapter 2?

1 CHAIRMAN BEDESSEM: Yeah. It's the second
2 part of that paragraph.

3 BOARD MEMBER CAHN: Oh, right. Right.
4 Okay. Sorry.

5 BOARD MEMBER HANSON: Should it then maybe
6 make a statement like defined later or defined in Chapter
7 2?

8 BOARD MEMBER APPLGATE: It's defined in
9 the same paragraph.

10 BOARD MEMBER HANSON: All right. Fine.

11 Let's see. I already did 1-14, disassemble. I
12 took care of that already.

13 CHAIRMAN BEDESSEM: Thank you.

14 BOARD MEMBER HANSON: Let me see. I may
15 have more. 1-33 was another one, did that.

16 Oh, on page 1-36, just to sort of editorial
17 question. Under the Section 2(a), application
18 requirements, you cut something in the middle there. Is
19 that because it's redundant, because it repeats itself in
20 the next sentence? Was it twice in the original?

21 MR. DOCTOR: Correct. It was in twice.

22 BOARD MEMBER HANSON: It's taken care of.

23 MR. DOCTOR: I think during the last rule
24 change, they'd taken it out.

25 CHAIRMAN BEDESSEM: Uh-huh.

1 BOARD MEMBER HANSON: And on the next page,
2 1-37, there's a paragraph (II), Provide written notice to
3 each member of the interested parties mailing list
4 maintained, et cetera, within 50 miles. Geez zooey, does
5 it have an effect that far?

6 MR. DOCTOR: That's -- Madam Chair. That's
7 another statutory requirement. Thank goodness we're in
8 Wyoming.

9 BOARD MEMBER HANSON: Uh-huh.

10 MR. DOCTOR: What we do, just so you know,
11 is our secretary in Cheyenne maintains that list, and we
12 send to the operator stamped labels and hand it to them so
13 they can stick them on the envelopes to make it easier for
14 them. But it's a statutory requirement.

15 BOARD MEMBER HANSON: Okay. It just seemed
16 overkill to me. And it shows up on the next page again, of
17 course, in -- on page 1-38(A)(I), there's, again, within
18 50 miles. Okay. That takes care of that.

19 And -- oh, page 1-41, right in the middle, the
20 definition, Environmental Quality Council, "Environmental
21 Quality" was taken out, because on one prior -- on 1-39, it
22 is -- it was added in.

23 CHAIRMAN BEDESSEM: Klaus, it's because --
24 it's sort of like an acronym, where Environmental Quality
25 Council, and you put in there now referred to hereafter as

1 Council. So you see what I mean?

2 BOARD MEMBER HANSON: Yes. Yes.

3 CHAIRMAN BEDESSEM: And so because they
4 added it there in parentheses, they're implying later on in
5 the document they're just going to say "Council" and you
6 know what they mean.

7 MR. DOCTOR: Madam Chair, we were talking
8 the first time you use it is when you define it, and then
9 from there on.

10 BOARD MEMBER HANSON: And then there on
11 it -- because that's why it shows up in brackets. Okay.
12 And you don't need to write it anymore.

13 CHAIRMAN BEDESSEM: Uh-huh.

14 BOARD MEMBER HANSON: There's so many
15 councils.

16 CHAIRMAN BEDESSEM: Right. It would be
17 confusing.

18 BOARD MEMBER HANSON: On page 1-42 -- I'm
19 almost at the end -- the first paragraph, (iii), about
20 eight lines down or so, "Municipal solid waste landfills
21 with lifetime permits shall submit a renewal prediction no
22 later than three years prior to the expiration of the
23 lifetime municipal solid waste landfill permit." I thought
24 it was a lifetime one. So does it have a limit? They --

25 MR. DOCTOR: That's another legislative --

1 they defined a lifetime permit for municipal landfill as
2 having a 25-year term.

3 BOARD MEMBER HANSON: Ah.

4 MR. DOCTOR: Again, to a legislator,
5 lifetime is 25 years, but it only applies to municipal
6 solid waste.

7 BOARD MEMBER HANSON: Thank God I lived
8 longer than that.

9 MR. DOCTOR: Yeah.

10 BOARD MEMBER HANSON: I thought the two
11 were mutually exclusive.

12 MR. DOCTOR: It's directly out of statute
13 again.

14 BOARD MEMBER HANSON: Okay. Fine. I'll
15 live with that.

16 I think -- wait a minute. I see one more on -- I
17 think I just have a meaning definition. On page 1-56,
18 towards the bottom, it says Section 5, "Authorization
19 application procedure," and then it says, "This section
20 applies to emergency situations, spilled solid wastes and
21 residues from uncontrolled releases. This section does not
22 apply to the land disposal of municipal solid wastes, mixed
23 wastes," et cetera. So my question is what does it apply
24 to?

25 MR. DOCTOR: I can't say, Madam Chair, but

1 this is the question we talked about before that I just
2 moved this text from Chapter 2 --

3 BOARD MEMBER HANSON: Uh-huh.

4 MR. DOCTOR: -- and included it in here so
5 it could apply to industrial waste; the dead animals that
6 we talked about.

7 BOARD MEMBER HANSON: Okay. Uh-huh.

8 MR. DOCTOR: If we have an emergency and
9 just need to get something in the ground in a hurry, it
10 applies to those. But you can get a one-time to avoid
11 putting municipal waste in a municipal landfill.

12 BOARD MEMBER HANSON: Okay. Should it
13 include just a statement as to what it applies to and then
14 say that's not applied to --

15 BOARD MEMBER APPELATE: So it says it
16 applies to emergency situations, spills, solid wastes and
17 residues. So when it says spilled solid wastes -- I agree
18 with Klaus, there is a part of this that sort of confuses
19 me. So if you have a spilled solid waste --

20 BOARD MEMBER HANSON: Yeah.

21 BOARD MEMBER APPELATE: You're saying
22 those are the three things it applies to, right?

23 MR. DOCTOR: Yes.

24 BOARD MEMBER APPELATE: So can you give us
25 an example of how this section works? I mean give us -- I

1 mean --

2 MR. DOCTOR: Essentially, what -- spilled
3 wastes means it's not hazardous. So we've had spills or
4 releases of mineral oil. People want to know what can we
5 do. Well, given that situation, where it is, it's an
6 emergency, let's just go ahead and bury that. It's been
7 applied to the petroleum contaminated soil --

8 BOARD MEMBER APPLGATE: You're saying --
9 wait a second. Your statement, "Let's just bury that,"
10 does this section allow you to take it to a landfill or you
11 dispose of it --

12 MR. DOCTOR: You can dispose of it on-site,
13 at the site of the spill or --

14 BOARD MEMBER APPLGATE: At the site of the
15 solid waste --

16 MR. DOCTOR: Yeah.

17 BOARD MEMBER APPLGATE: So in the next
18 paragraph, the costs highlighted --

19 MR. DOCTOR: I think that --

20 THE REPORTER: One at a time.

21 BOARD MEMBER APPLGATE: I think we're on
22 the same page here.

23 This section does not apply to the land disposal.
24 Why do you use the term there, "the land disposal of"
25 rather than just this section does not apply to municipal

1 solid waste? What are you trying to say with the blue that
2 you added?

3 MR. DOCTOR: That text is just copied
4 directly out of --

5 BOARD MEMBER APPELATE: I understand.

6 MR. DOCTOR: -- the --

7 BOARD MEMBER APPELATE: Maybe it was
8 flawed previously. I'm trying to understand, what is it
9 actually saying?

10 BOARD MEMBER HANSON: That's my question,
11 what does it say?

12 MR. DOCTOR: You can't take municipal solid
13 waste garbage and get a one-time to dispose of that --

14 BOARD MEMBER APPELATE: So why do you use
15 the word --

16 MR. DOCTOR: -- not in a landfill.

17 BOARD MEMBER APPELATE: Why don't you just
18 say this section does not apply to municipal solid waste
19 rather than -- what's the phrase "the land disposal of" add
20 to this? I'm trying -- maybe I'm just not --

21 MR. DOCTOR: It does allow us certain
22 freedoms for beneficial use of certain waste types.
23 There's a difference between land disposal and land
24 application or land use. The --

25 BOARD MEMBER APPELATE: Let me just say --

1 MR. DOCTOR: I don't know why it's written
2 that way, but --

3 BOARD MEMBER APPLGATE: So, Bob, let me
4 just ask you this --

5 CHAIRMAN BEDESSEM: It doesn't work to --

6 BOARD MEMBER APPLGATE: I know. I think
7 it's confusing, because I think -- if it's just municipal
8 solid waste, then why don't you say municipal solid waste.
9 This section does not apply to municipal solid waste, mixed
10 waste, hazardous waste, blah, blah, blah. I don't
11 understand what that phrase means.

12 CHAIRMAN BEDESSEM: Well, it means if
13 you -- if you have to have an emergency of disposal of
14 construction demolition waste or industrial waste, you can
15 do it.

16 MR. DOCTOR: If you have CD or
17 industrial --

18 CHAIRMAN BEDESSEM: CD or industrial, you
19 can do it. You just can't do it for municipal solid waste,
20 mixed waste or hazardous waste.

21 BOARD MEMBER HANSON: So what --

22 THE REPORTER: I can't hear you.

23 CHAIRMAN BEDESSEM: You can't get emergency
24 authorization to dig a hole and bury municipal solid waste
25 or mixed waste or hazardous waste. You can get an

1 emergency authorization if, you know, circumstances, you
2 know, warrant it, to dig a hole and bury through land
3 disposal of industrial wastes or construction demolition
4 wastes.

5 BOARD MEMBER APPELATE: Okay. I think I
6 understand it. Worded --

7 THE REPORTER: I can't hear you.

8 BOARD MEMBER APPELATE: I think I
9 understand it. It's not worded the way I would have worded
10 it, but --

11 CHAIRMAN BEDESSEM: And we decided that
12 dead fish and dead chickens are industrial.

13 BOARD MEMBER APPELATE: Do you still have
14 your concern?

15 BOARD MEMBER HANSON: Well, if you all
16 understand it, that's fine with me, then.

17 MR. DOCTOR: I have to say it's not given
18 us a problem in the past.

19 BOARD MEMBER HANSON: Okay.

20 BOARD MEMBER CAHN: I'm wondering on that
21 first sentence, whether the "and" should be replaced with
22 "or." So it would read, "This section applies to emergency
23 situations, spilled solid waste or residues from
24 uncontrolled releases." Because if it says "and," it's not
25 clear if it means it has to be all of those things. If it

1 has to be all of them, then "and" is correct. If it's some
2 of them, we should make it "or," I think. That's just a
3 suggestion.

4 CHAIRMAN BEDESSEM: I think it applies to
5 all of them, doesn't it?

6 BOARD MEMBER CAHN: All at the same time?
7 Has to be -- it has to be all those things? It has to be
8 three things. It has to be an emergency, it has to be
9 spilled, and it has to be a residue from an uncontrolled
10 release. So it has to be all these things. Has to meet
11 all three criteria, or it has to meet one of those
12 criteria?

13 MR. DOCTOR: Madam Chair, I'll check with
14 the AG's office and see what --

15 CHAIRMAN BEDESSEM: She has a point. This
16 is an education experience. This is a section of these
17 rules we've never used.

18 BOARD MEMBER HANSON: I think --

19 MR. DOCTOR: I told you you don't want to
20 know.

21 BOARD MEMBER HANSON: You know, it's -- if
22 we have trouble understanding it, I would assume that
23 landfill operators --

24 CHAIRMAN BEDESSEM: Would have trouble.

25 BOARD MEMBER HANSON: I don't think they're

1 much smarter than we are.

2 MR. DOCTOR: That's what we're for. But we
3 try to, on some of these, frankly, to leave some
4 flexibility for oddball cases, and so we don't want to
5 overly limit the administrator's ability to say, yeah, go
6 ahead. So that's why some of these are not maybe as tight
7 as they could be, but there's a good reason for that.

8 CHAIRMAN BEDESSEM: So are there any more?

9 BOARD MEMBER HANSON: No. Maybe I -- my
10 trouble may also be with land disposal. What does land
11 disposal -- is there any other disposal than land disposal?

12 MR. DOCTOR: That's an EPA term.

13 CHAIRMAN BEDESSEM: Can be incineration.

14 MR. DOCTOR: They use the word "land
15 disposal." If you can't bury, you know, it may be able
16 to -- like you say, you may be able to burn it, may be able
17 to treat it or manage it in some other way. You just can't
18 bury it. That that's a --

19 BOARD MEMBER HANSON: Okay. EPA term.

20 Okay.

21 Thank you. That's all I have.

22 CHAIRMAN BEDESSEM: Okay. Now Lorie has
23 additional comment.

24 BOARD MEMBER CAHN: Okay. On page -- and I
25 only have one, and it's on page 1-28. And it's (v), and it

1 refers to a subsection (h), and I couldn't find subsection
2 (h).

3 MR. DOCTOR: So far neither can I. Boy,
4 you're good. Good catch. I don't see it either. I'll
5 have to figure out what that's in reference to. Thank you.

6 BOARD MEMBER CAHN: Actually, I have one
7 more. Yes, so you're going to have to fix that reference.

8 The other one I have is on page 1-33. And
9 underneath the first paragraph of Roman numeral 12, (xii),
10 there's a list that, again, doesn't have any --

11 MR. DOCTOR: Oh, yeah.

12 BOARD MEMBER CAHN: A, B, Cs or Roman
13 numerals or whatever. And that list goes on to page 1-34.

14 MR. DOCTOR: Thank you.

15 BOARD MEMBER CAHN: And the next question I
16 have is is the intention here -- it sounded like the
17 intention here on this chapter is to go forward with the
18 next board meeting, we have all of the -- all of the boards
19 together, so I might just quickly give you my three
20 editorial comments that will just take two minutes.

21 CHAIRMAN BEDESSEM: What? What are you
22 talking about? Are you talking about Chapter 1?

23 BOARD MEMBER APPLGATE: This isn't --

24 BOARD MEMBER CAHN: Yeah. Oh, this is
25 different from what -- okay.

1 CHAIRMAN BEDESSEM: From what?

2 BOARD MEMBER APPELATE: This isn't
3 connected to the stuff that we're doing as a shared board.

4 BOARD MEMBER CAHN: Oh. He kept talking
5 about Chapter 1.

6 MS. THOMPSON: So, Lorie, I think -- I
7 think that there was some confusion. I don't know that we
8 would exclusively discuss the rules of practice and
9 procedure at that next meeting. I believe that that would
10 be like a subset. So we will go back at some point and
11 look at Bob's chapters again so that you can formally vote
12 to move them forward, but it won't necessarily be at the --

13 CHAIRMAN BEDESSEM: Not a joint meeting.

14 MS. THOMPSON: -- same joint meeting.

15 Yeah. And we'll have to -- we'll have to finesse
16 that a little bit and figure out if we can combine that
17 meeting with -- with an additional meeting, or if we just
18 need to schedule a separate one for you later to discuss
19 Bob's stuff again, so -- but, yeah, I'm sorry that was
20 confusing.

21 BOARD MEMBER CAHN: Wait a minute. I'm
22 still confused. So David talked about Chapter 1 this
23 morning.

24 MS. THOMPSON: Right. It's --

25 BOARD MEMBER CAHN: Was he talking about

1 this Chapter 1?

2 MS. THOMPSON: No. It's Chapter 1 of rules
3 of practice and procedure.

4 BOARD MEMBER CAHN: Oh.

5 MS. THOMPSON: It's like the overrule DEQ
6 rule. And this is the solid waste rules Chapter 1.

7 BOARD MEMBER CAHN: Okay. Thank you.

8 MS. THOMPSON: We actually have about 10
9 Chapter 1's for DEQ. So that's pretty impressive and not
10 confusing. But, yeah, he was talking about Chapter 1 of
11 rules of practice and procedure. This is solid and
12 hazardous waste rules Chapter 1, so --

13 BOARD MEMBER CAHN: Okay. No wonder I was
14 confused.

15 MS. THOMPSON: I'm sorry.

16 BOARD MEMBER CAHN: I was wondering why
17 everybody else would care about this Chapter 1 but us, not
18 the other boards.

19 MS. THOMPSON: Right.

20 BOARD MEMBER CAHN: Okay. Thank you.

21 MR. DOCTOR: We have enough people talking
22 about this chapter. Thank you.

23 CHAIRMAN BEDESSEM: And so before --

24 BOARD MEMBER CAHN: Let me -- let me just
25 really quick. I have so few editorial comments. Can we

1 just take them? They're very short.

2 CHAIRMAN BEDESSEM: Yeah.

3 BOARD MEMBER CAHN: That way I don't --
4 okay.

5 CHAIRMAN BEDESSEM: Are these on Chapter 1,
6 then?

7 BOARD MEMBER CAHN: Yeah.

8 CHAIRMAN BEDESSEM: Okay. Thank you.

9 This is the last bit on Chapter 1 before we take
10 a little break.

11 BOARD MEMBER CAHN: I'm on 1-50, (viii),
12 third line down. In blue it says, "...unless and
13 alternative" and it should be an alternative.

14 MR. DOCTOR: Lorie, I swear to you, I don't
15 do this to you on purpose, but thank you for finding this
16 stuff.

17 BOARD MEMBER CAHN: On -- I think that's
18 actually it. I think Klaus got my other ones. So I think
19 we're good. That's it for me on Chapter 1.

20 CHAIRMAN BEDESSEM: Okay.

21 BOARD MEMBER HANSON: Great minds.

22 CHAIRMAN BEDESSEM: So we are going to
23 reconvene at a quarter to 1:00. That's 10 minutes. Okay?
24 So we're going to put you on mute, okay, for 10 minutes.

25 (Meeting proceedings recessed

1 12:35 p.m. to 12:55 p.m.)

2 CHAIRMAN BEDESSEM: We're going to
3 reconvene.

4 So, Lorie, thanks for holding on.

5 And we're going to start with comments on Chapter
6 2. I was going to defer to Klaus first, since he may have
7 to depart here.

8 BOARD MEMBER HANSON: I have to go to
9 another meeting.

10 CHAIRMAN BEDESSEM: Right. And since we
11 were deferring voting on this rule today, that if he had to
12 depart, we didn't have a problem with quorum and so for.

13 BOARD MEMBER HANSON: Thank you. If I may
14 go quickly. The first is just informational question on
15 2-20. There's talk about not constructing municipal
16 landfills close to airports and 10,000 feet away, or
17 whatever. And there, by the way, it lists meters and feet,
18 which I find very commendable. In some places it's now
19 only meters and not feet. And so it probably should be,
20 wherever these things come up, in both. But is it because
21 of bird hazards? Because you -- you are distinguishing
22 between piston airplanes and other airplanes, and I didn't
23 understand what the danger is.

24 MR. DOCTOR: It's a bird hazard, correct.

25 BOARD MEMBER HANSON: It's a bird hazard,

1 right.

2 MR. DOCTOR: And that actually comes from a
3 separate aviation act --

4 BOARD MEMBER HANSON: Yes.

5 MR. DOCTOR: -- that was applied to
6 municipal landfills, and I believe a legislator had a
7 landfill somewhere near his house, and he was a pilot, and
8 so he enacted this national legislation because he wasn't
9 happy with the birds near his airport. But it is about
10 birds.

11 BOARD MEMBER HANSON: Thank you. That's
12 all.

13 2-29, I just need a definition because I tried my
14 trusty thing to find definitions, but I could not find a
15 definition for what lifts are. In paragraph Roman -- (i),
16 so one, there's "Compacted soil barrier layers shall be
17 constructed in lifts..." and I just didn't know what that
18 meant.

19 MR. DOCTOR: Madam Chair. They'll lay down
20 6 inches of dirt, and then compact it, and then another
21 6 inches and compact it, because the compactors won't go
22 any deeper than that. So they lay things down --

23 BOARD MEMBER HANSON: So lift means layer?

24 MR. DOCTOR: Layer.

25 BOARD MEMBER HANSON: Okay. Thank you.

1 MR. DOCTOR: Yes.

2 BOARD MEMBER HANSON: Thank you. Very
3 quickly. And on page 2-36, we're talking about mosquitos
4 at the bottom, vectors. And because we are discussing this
5 in Laramie, "On-site populations of disease vectors shall
6 be prevented or controlled." That's a flat statement.
7 What are they going to do? Shoot them? What are they --
8 how -- it should, to my mind, say something how it's done.

9 MR. DOCTOR: Madam Chair. It could be any
10 number of things. Applying cover more frequently. You
11 know, so it's pretty open on how you do that. And it's not
12 just mosquitos. It's flies, it's skunks, it's raccoons.

13 BOARD MEMBER HANSON: Whatever.

14 MR. DOCTOR: We had somebody very
15 creatively at one of our small landfills chain their coon
16 dog up beside the landfill pit to keep the coons and skunks
17 out of it. It was pretty creative, but it worked.

18 CHAIRMAN BEDESSEM: Well, so the question
19 is so why do we delete using techniques appropriate for the
20 protection of human health and the environment?

21 BOARD MEMBER HANSON: Yeah.

22 MR. DOCTOR: Just to make it shorter.

23 CHAIRMAN BEDESSEM: Yeah, but --

24 MR. DOCTOR: That's all. Somebody
25 suggested, oh, you can get rid of that.

1 BOARD MEMBER HANSON: I would put it back
2 in.

3 CHAIRMAN BEDESSEM: Yeah, you say like
4 toxic poison. We're going to poison all the grass in the
5 landfill. I don't understand, I guess --

6 MR. DOCTOR: Oh, I see what you mean.

7 CHAIRMAN BEDESSEM: -- why --

8 MR. DOCTOR: Be better just leave that in?
9 Would that --

10 BOARD MEMBER HANSON: Yeah, I would leave
11 it in, you know, because otherwise it's sort of open.

12 2-38, again the definition which I don't know
13 what a balefill is. It's under (B), towards the bottom of
14 the page, 2-38, "balefills, no less than six inches of
15 compacted soils." What are balefills?

16 CHAIRMAN BEDESSEM: Well, so like in
17 Laramie, if they bale the waste, you know --

18 BOARD MEMBER HANSON: Oh, they --

19 CHAIRMAN BEDESSEM: Right, make bales.

20 BOARD MEMBER HANSON: The cubes, yeah.

21 CHAIRMAN BEDESSEM: They stack the bales --

22 BOARD MEMBER HANSON: Okay.

23 CHAIRMAN BEDESSEM: -- at landfills is
24 called a balefill.

25 BOARD MEMBER HANSON: All right. Thank

1 you. See, I can go very quickly.

2 The next one is a more substantial one. On
3 page 2-44, under Applicability on top of the page. They
4 are talking about a qualified scientist. I would say it
5 should be a hydrologist, because of what we're dealing with
6 here. Scientist says nothing to me. You know, this
7 demonstration must be by a qualified -- should be a
8 specialist.

9 MR. DOCTOR: Madam Chair. I'm pretty sure
10 that's right out of Subtitle D.

11 BOARD MEMBER HANSON: Oh, really?

12 MR. DOCTOR: Uh-huh.

13 BOARD MEMBER HANSON: But it means nothing,
14 you know.

15 CHAIRMAN BEDESSEM: Well, but see --
16 oftentimes, you know, if you say qualified for the task at
17 hand, so --

18 BOARD MEMBER HANSON: Yeah.

19 CHAIRMAN BEDESSEM: -- so if you -- if it's
20 something, you know, related to, you know, chemical
21 engineering or --

22 BOARD MEMBER HANSON: But I think it has to
23 do with --

24 CHAIRMAN BEDESSEM: -- scientists.

25 BOARD MEMBER HANSON: -- water in here.

1 I'm not sure.

2 CHAIRMAN BEDESSEM: Uh-huh.

3 BOARD MEMBER HANSON: No, it's landfill
4 operators.

5 CHAIRMAN BEDESSEM: But you could have a
6 geochemist or a hydrologist, depending on what the issue
7 is --

8 BOARD MEMBER HANSON: Okay.

9 CHAIRMAN BEDESSEM: -- so...

10 MR. DOCTOR: But the facility secretary
11 probably wouldn't be considered qualified.

12 CHAIRMAN BEDESSEM: Yeah.

13 BOARD MEMBER HANSON: Okay. 2-45, just
14 observation. It -- just about the middle of the page,
15 you're talking about 150 meters. Here you have it only in
16 one measurement. Everywhere else you usually have it in
17 yards and meters or whatever. You know, have the two
18 definitions. And here you went to just one. And I
19 thought, for consistency's sake, you might want to use the
20 two.

21 MR. DOCTOR: I believe, Madam Chair, that
22 some of that's based on the statute, and Subtitle D, which
23 limits -- says you can't exceed at --

24 BOARD MEMBER HANSON: I'm not arguing with
25 it. I'm just saying you should have yards in there or

1 something like that --

2 CHAIRMAN BEDESSEM: Doesn't change the
3 meaning.

4 BOARD MEMBER HANSON: -- you know, since
5 you have it in all the other places you have it double.

6 MR. DOCTOR: I'm with you. I think in
7 feet.

8 BOARD MEMBER HANSON: Yeah. It's
9 (B)(1) -- (B)(I).

10 On the next page, I have one again, and -- 2-47,
11 the second paragraph, on the top of the page is one of
12 those paragraphs that, again, could have been written in
13 Chinese. "A parametric analysis of variance followed by
14 multiple comparisons procedures to identify statistically
15 significant evidence of contamination. The method," et
16 cetera.

17 CHAIRMAN BEDESSEM: That's --

18 THE REPORTER: I'm sorry?

19 BOARD MEMBER HANSON: Do people understand
20 that?

21 CHAIRMAN BEDESSEM: A statistician will
22 understand that.

23 BOARD MEMBER HANSON: Okay. Thank you.

24 MR. DOCTOR: At least they claim they
25 understand that.

1 BOARD MEMBER HANSON: That's solved.

2 I'm coming back to the question --

3 BOARD MEMBER CAHN: Let's go back to that
4 parametric analysis.

5 BOARD MEMBER HANSON: Yeah.

6 BOARD MEMBER CAHN: Is it correct to say
7 multiple comparisons procedures? Is comparison -- or --
8 can you check the -- the subtitle -- check the EPA
9 language, make sure that's correct, multiple comparisons
10 plural.

11 MR. DOCTOR: Yes, I'll do that right now.
12 I think I can find it.

13 BOARD MEMBER CAHN: Thank you.

14 BOARD MEMBER HANSON: Thank you, Lorie.

15 THE REPORTER: Can I go off the record for
16 one moment?

17 BOARD MEMBER HANSON: It should be
18 comparison procedures.

19 BOARD MEMBER CAHN: Are we missing a word?

20 MR. DOCTOR: Well, it's multiple
21 comparisons procedures.

22 THE REPORTER: Hold on. Hold on.

23 MR. DOCTOR: I'm sorry.

24 (Off-the-record discussion.)

25 BOARD MEMBER HANSON: I think I'm not going

1 to just say anything beyond -- 2-50, in that Section 2,
2 "Demonstrate to the Administrator in writing," that it
3 probably would be more adequate to say but that the
4 difference may be due, or something like that, to another
5 source of pollution, because this is not provable, the
6 way -- but we hammered this before, so...

7 CHAIRMAN BEDESSEM: You want it to say,
8 basically, a reasonable doubt.

9 BOARD MEMBER HANSON: Yeah, might be due,
10 may be due. Because the administrator cannot prove it
11 nor -- nor the operator. This is something purely
12 speculative.

13 See if I have anything else. And I think just a
14 suggestion on -- I think that's all I have in between.

15 2-69, the first -- first full paragraph on the
16 top, "The post-closure period for municipal solid waste
17 landfills which exceeds -- which ceased -- ceased receipt
18 of waste prior to October 9, 1997 shall extend for the
19 period specified in rules in place May 28" -- why not give
20 the date to -- "and any closure permit issued for this
21 facility." It doesn't give you the date as to what -- to
22 which it can be extended, and it would be so much easier to
23 give that date.

24 MR. DOCTOR: Madam Chair. I don't know if
25 you'll recall, this section, if you look above, it's a

1 nightmare. If you cease receipt of waste by this time, but
2 got final cover on by this time, but if you didn't, then
3 you did it by this, and didn't do by -- it just got to be a
4 disaster. I don't think this actually applies to anybody.
5 And the attorney said it's easier if you just reference old
6 rules and somebody needs it, we can go back and find it
7 later.

8 BOARD MEMBER HANSON: Okay.

9 MR. DOCTOR: And that's why we did it. It
10 just saved -- basically above there, all that deleted text
11 was replaced by this little --

12 BOARD MEMBER HANSON: By that line. Good.

13 MR. DOCTOR: It's mostly a foregone
14 conclusion; however, once in a while we're looking at what
15 would they have been required to do or were they subject to
16 this at the time --

17 BOARD MEMBER HANSON: Yeah, when --

18 MR. DOCTOR: And we can look back and say,
19 you know, we can't retroactively apply that, because didn't
20 apply at that time.

21 BOARD MEMBER HANSON: Good.

22 MR. DOCTOR: That would be the case,
23 perhaps, in landfill that has multiple disposal units. And
24 some of them were closed under old rules and had cover that
25 was less stringent than we have now. We aren't going to go

1 back and force them to retroactively cover that thing using
2 current --

3 BOARD MEMBER HANSON: Well, it doesn't
4 apply, most likely. Leave it that way.

5 MR. DOCTOR: Hopefully.

6 BOARD MEMBER HANSON: It was just a
7 suggestion to put it directly in there. Thank you.

8 MR. DOCTOR: Sure.

9 BOARD MEMBER HANSON: But it's not
10 necessary. Thank you. That's all I have, Madam Chair.
11 Basically, then I was exhausted.

12 CHAIRMAN BEDESSEM: Thank you.

13 Okay. I'm going to, if it's okay with you, Dave,
14 switch over to Lorie. Is that all right?

15 Is that a yes? I can't hear. Are you still on
16 mute, maybe?

17 BOARD MEMBER HANSON: She's mute.

18 BOARD MEMBER CAHN: Okay. I just had to
19 unmute.

20 CHAIRMAN BEDESSEM: Okay. Thank you.

21 BOARD MEMBER CAHN: Okay. So one of the
22 questions I have is on this difference between unit and
23 facility. And I understand that a facility can be composed
24 of a number of units, and so when we go into where these
25 rules apply -- and -- and let me ask specifically. Let's

1 just take Teton County Landfill as an example, Bob.

2 So there we got a transfer station. We're no
3 longer accepting waste. We haven't done closure yet, but
4 we haven't -- we do collect animals from the highway
5 department, you know, roadkill. So it's unclear to me
6 where an existing landfill where -- an existing landfill
7 via Teton County fits in -- within the page 2-2, (I), (II)
8 and (III). You know, depending on the dates of closure or
9 when you're accepting waste. So they're still accepting --
10 they're still taking in highway animals for incineration,
11 but they're not -- you know, all the rest of the municipal
12 waste is going for -- going to transfer stations. So could
13 you just kind of take Teton County, as an example, and,
14 one, tell me where it fits within (I), (II) and (III) in
15 these rules -- proposed rules.

16 MR. DOCTOR: I'll try to. Teton County
17 had -- Madam Chair -- had been maintaining their Chapter 2
18 municipal landfill permit. And all they were disposing was
19 dead animals, because they had not ceased disposal of
20 waste. They were still an operating landfill. Now, I
21 think, if they haven't, they're awful close. They may have
22 stopped now with that disposal. And I think we've issued
23 them a closure permit.

24 And a lot of this applies to the implementation
25 of the lifetime permitting requirements, and when we did

1 the rule the last time, we said people should be able to
2 get these in by July 21, 2017. Then we had the cease and
3 transfer program and the limitation of funding. So what we
4 did was take this previous rule and allow the administrator
5 the flexibility to give people some more time.

6 So like in the case of Teton County, we could
7 allow them some more time to give us a closure permit and
8 get into the -- and make up their mind if they're going to
9 close or keep going. So the whole thing was people can't
10 sit on their hands forever because we went for years of,
11 well, we might stay open, we might close, we might stay
12 open, we might close. We said you need to make a decision
13 by July 1st of 2017, and then the cease and transfer
14 program came, and we knew that they want to close but just
15 can't financially. So we tried to make this flexibility,
16 and that's really what we're trying to do.

17 Sooner or later you got to make up your mind, but
18 we need to give some flexibility to match that. So I think
19 Teton County -- boy, if I had to pick, I think they'd be
20 the last one, maybe? This is renewals. The next two are
21 renewal. So it applies to the closure permits on number
22 (I). Well, wait. They may be number (II). That's because
23 we give them more time, yeah. We didn't want somebody to
24 submit a renewal application if they're only going to be
25 operating for three or four more years. It's a waste of

1 money. So --

2 CHAIRMAN BEDESSEM: It's expensive.

3 MR. DOCTOR: And it's very expensive.

4 And so what we've done is -- and we've done a lot
5 of this, also, Lorie, through the administrative orders on
6 consent in these programs, which I have replaced permits in
7 many cases, where we've had permits expire. And,
8 technically, people were out of compliance with permitting
9 requirements. So we're doing anything we can to try to buy
10 time for people that are really trying to make things
11 happen.

12 CHAIRMAN BEDESSEM: Are you still on mute?
13 Because you look like you're talking, but we can't hear
14 you.

15 THE REPORTER: She is.

16 BOARD MEMBER CAHN: Sorry. Thank you.

17 So assuming that Teton County is going to cease
18 disposal of animals by July 1, 2017 --

19 CHAIRMAN BEDESSEM: I think you hit the
20 mute button by accident.

21 BOARD MEMBER CAHN: Okay. I'll start over
22 again. I'm sorry. I'm going to move my mouse really far
23 away from me. I talk with my hands, then I bump the mouse,
24 so...

25 So, Bob, I'm assuming that if Teton County is

1 going to cease disposal of animals by July 1, 2017, then
2 they would fit under number (II).

3 MR. DOCTOR: Correct.

4 BOARD MEMBER CAHN: Okay. Is this any --
5 are there any landfills in the -- in the state that -- are
6 we going to continue with just the animal disposal after
7 2017 that would normally -- I mean, I'm just trying to
8 think, does this (I), (II) and (III) we have here, that all
9 landfills in the state fall clearly into one of those
10 three, or do we have some that are falling through the
11 cracks?

12 MR. DOCTOR: Madam Chair. I believe
13 they'll all fit in there one way or another. I think Teton
14 County was an anomaly as far as only disposing of dead
15 animals. Almost everybody else it was the whole
16 nine yards, but everybody should fit in one of these three
17 categories, except some need more time, which is why we're
18 wanting to add this caveat that we can give you more time
19 and not force you to comply with this necessarily.

20 BOARD MEMBER CAHN: Okay. And that also
21 might take into account if the legislature doesn't approve
22 funding.

23 MR. DOCTOR: Correct.

24 BOARD MEMBER CAHN: Okay.

25 MR. DOCTOR: I think we discussed it a

1 little bit earlier that, you know, we may need to -- like
2 Craig mentioned, the vertical expansion or something. If
3 the legislature has not provided the money necessary, we
4 got to help somehow. And this should give us the ability
5 to do that.

6 BOARD MEMBER CAHN: Okay. And then
7 looking -- so they would -- so they would fit under an
8 existing facility, number (II), and not a closing facility,
9 number -- it's very confusing to me. So there's --

10 MR. DOCTOR: Yeah, Madam Chair --

11 BOARD MEMBER CAHN: -- closing facilities,
12 then, under (B), under existing -- oh, but those are ones
13 that haven't received waste since 1989.

14 MR. DOCTOR: Correct.

15 BOARD MEMBER CAHN: Thank you. Oh, wait.
16 Now there's new -- okay. I'm really -- it's confusing.
17 So existing facilities -- or would they fall under (III),
18 closing facilities, or disposal of all waste is anticipated
19 to cease before 2017? So it -- what's unclear to me is do
20 they fall under both (III) and -- and a -- or (I), (II),
21 does that make sense? So (III) is a closing facility, and
22 (I) is an existing facility that's going to be closing. So
23 I don't understand where the different --

24 MR. DOCTOR: The initial part of that has
25 to do with obtaining lifetime permits, and that's really

1 what it's directed at. They're a facility that intends to
2 cease disposal, and, therefore, they needed to get that
3 closure permit in, unless let them have more time.

4 But, on the other hand, we have some of these in
5 (iii) down there, for facilities where disposal will cease
6 before that, that would assume they have a permit. The one
7 was your permit may be expired and you need to give us a
8 renewal. So what we're trying to do is account for the
9 landfills that don't even have a permit. And they -- if
10 you have a permit, you might fall under one of these. But
11 if your permit's expired, you don't even have a permit that
12 we can give you. But I'm not going to force you to do a
13 lifetime renewal when we know you're planning to close. So
14 a lot of it has to do with whether or not they are a
15 permitted facility or if they're operating, in fact,
16 without a permit at the time we do this.

17 BOARD MEMBER CAHN: So do we need to,
18 instead of calling it closing facilities, do we call it
19 facilities operating without a permit that will be -- I
20 mean, is that what (III) really is?

21 MR. DOCTOR: No. The sad part about this
22 is in Subtitle D, EPA has this definition of what's an
23 existing facility, and it's -- it's -- this one, if they
24 didn't take waste after September 13, 1989. And that
25 triggers all kinds of closure and monitoring and a lot of

1 things, and we just couldn't mess with that, so we had to
2 fudge around on this in order to make this work for people.

3 BOARD MEMBER CAHN: Okay. So let's go back
4 to Teton County. Since Teton County did accept waste after
5 1989, they don't fall under (II). They don't fall under
6 this at all, because they were still -- they aren't an
7 existing -- they're existing facility, but they accepted
8 waste after 1989.

9 MR. DOCTOR: Uh-huh.

10 BOARD MEMBER CAHN: So they don't fall --
11 what you told me before isn't correct. They don't fall at
12 all under (I), exist -- they're not what's considered an
13 existing facility here. So they're --

14 MR. DOCTOR: That may be true, yeah.

15 BOARD MEMBER CAHN: -- really a closing
16 facility. Is that correct now?

17 MR. DOCTOR: I believe so. Well, I think
18 we're okay.

19 Bottom line here, Teton County is on track and in
20 compliance.

21 BOARD MEMBER CAHN: Well, but my point is I
22 found reading this extremely confusing, and I thought it
23 would be helpful maybe to -- for you to have an exercise
24 where you go through every landfill in the state and figure
25 out where they fit on these to make sure nothing falls

1 through the crack or that they -- that -- under two places.
2 I mean, it's almost like closing facilities are ones that
3 accepted waste after September 13, 1989.

4 MR. DOCTOR: Madam Chair. I don't know of
5 anybody that this is going to cause a problem for. It's
6 working out well. The main thing is we wanted to allow
7 people time to continue to operate without having to submit
8 that lifetime renewal permit. Part of that is because the
9 statute says the next time they renew, it has to be a
10 lifetime, and we didn't want to put people through that.
11 So I don't know of anybody that falls outside of this, and
12 I don't know anyplace where we're having problems with
13 this. The only thing we wanted to do was allow the
14 administrator to make exceptions for good cause, like the
15 legislature didn't appropriate the money. So there's not
16 any problems with it. The only problem I had with it
17 initially was it's cut in stone here, and we've got to be
18 able to make an exception on occasion. That's really all
19 it's about. We're not hurting anybody. It's all helped.

20 BOARD MEMBER CAHN: I guess for me,
21 thinking about this, at the next time we meet, if it would
22 be -- you know, if you could make a table that just says
23 all the landfills in the state, this is where they're
24 regulated, under which part of this. Just -- I mean, if
25 you think it's -- it's all there. I found it very

1 confusing, but...

2 Okay. I don't know what the resolution to that
3 is, but I guess just consider whether -- if it wouldn't be
4 a lot of work to just make a quick table that says where
5 each landfill fell, just to make sure everything's covered,
6 but...

7 MR. DOCTOR: One thing I'd mention is this
8 is the EPA definition of existing facility that is in
9 Chapter 1. And existing facility means any facility that
10 was receiving solid waste on or before September 13, 1989.
11 And that was the trigger for all kinds of the new
12 Subtitle D regulations. So they -- they were taking waste
13 before that date. They're considered existing, even if
14 they close in 1995, they would still be considered an
15 existing facility underneath -- under Subtitle D. So
16 that's where all of this gets so messy.

17 BOARD MEMBER CAHN: Okay. Now I'm confused
18 again because it says -- I think -- I think Teton County
19 falls under two of these, because it's an existing facility
20 that received waste after September 13, and then that
21 would -- and they intend to cease by July 1, 2017, so that
22 puts them under (II) -- (II), so that puts them under
23 (A)(I), (A)(II), but they also are a closing facility.

24 MR. DOCTOR: Oh, but -- Madam Chair. But
25 the same date applies. So if you're an existing facility

1 and you're going to cease disposal before July 1st of 2017,
2 that's Jackson, you don't need to submit a renewal
3 application, but you can give a closure permit 12 months
4 ahead of that. On the other hand, we have some other
5 facilities that are actually permitted under closing
6 facilities, and if you're planning to cease by then, you
7 need to give us a closure permit. It's pretty much -- it's
8 a lot of the same thing. And some of this is probably some
9 overlap.

10 BOARD MEMBER CAHN: I think there's
11 overlap. I think they're under both. But I suppose it's
12 better to have overlap than have them fall through the
13 cracks.

14 MR. DOCTOR: And the other part of this is
15 there are facilities whose permits expire well after 2017
16 and are permitted to keep going, who may be planning to
17 close. And then for those guys, you need to give us
18 this -- this closure permit at least 12 months before you
19 anticipate. So we had a problem with this date in the
20 statute and trying to work our way around it and still buy
21 time for people without running afoul of our statutory
22 requirements.

23 BOARD MEMBER CAHN: Okay. I just found it
24 very confusing to figure out where a landfill would be
25 regulated, which part of this applies. But if it's clear

1 as mud to you -- am I the only one that's confused here?

2 BOARD MEMBER APPLGATE: This is Dave.

3 I think that two paragraphs you mentioned both seem to have
4 the very same requirements, and perhaps there is some
5 overlap. So I think your suggestion to Bob is a good one,
6 to put together a table for him to then say in that table
7 to list the landfill, and have a column to say which
8 section, you know, by paragraph identification that
9 landfill falls into, and maybe by going through that
10 exercise, he could -- it might end up that this closing
11 facilities subsection could be deleted. So I share your
12 confusion, but I don't think we can solve it without
13 looking at all the landfills, because there's so many
14 dates. And it's possible it was constructed with that set
15 of information in front of someone, and it's hard for us to
16 look at all the scenarios just by reading through the
17 language as it's written.

18 BOARD MEMBER CAHN: Thank you, Dave.

19 My next comment -- so, Bob -- so, Bob, I'm
20 assuming that's okay with you to do that for the next
21 meeting?

22 MR. DOCTOR: Yes. I have a note.

23 BOARD MEMBER CAHN: Okay. So the next
24 question that I have -- and I'm -- I don't know where -- if
25 you can understand where the animals are going in Teton

1 County. Are they going to a contiguous unit so that
2 it's -- this -- I'm getting back to my question about
3 facility versus unit. Do you know, in Teton County, where
4 the --

5 MR. DOCTOR: I'm not positive --

6 BOARD MEMBER CAHN: -- dead animals.

7 MR. DOCTOR: Lorie, I believe the dead
8 animals will now all be shipped off to the landfill in --
9 is it Utah or Idaho where they're -- they're going to be
10 shipping them off with the municipal solid waste, I
11 believe. I don't think they're planning to compost them.
12 I think they're just going to ship them off to the other
13 landfill.

14 BOARD MEMBER CAHN: Okay. So I get
15 confused with the language change for facility and unit.
16 So if we go to page 2-44.

17 Bye, Klaus.

18 BOARD MEMBER HANSON: Bye. Thank you.

19 MR. DOCTOR: Thank you. Drive safely.

20 BOARD MEMBER HANSON: Better be there
21 before the council does untoward things.

22 BOARD MEMBER CAHN: So when we're talking
23 about here, page 2-44, applicability, (A)(I), the first
24 part of the page, we're talking about groundwater
25 monitoring. You've changed it from monitoring from the

1 facility to unit. And one of the things that EPA allows us
2 to do is if you have contiguous units, you can have a
3 monitoring program for the entire facility. So you have
4 one upgradient well and three downgradient wells, as
5 opposed to having one up and three down from every single
6 unit.

7 MR. DOCTOR: Correct.

8 BOARD MEMBER CAHN: So I'm wondering why
9 this language change, because, in my mind, to go from
10 groundwater monitoring at each unit instead of at the
11 facility, now has really increased the burden on some of
12 these landfills, so...

13 MR. DOCTOR: Madam Chair. We still have
14 the ability, and as we always have. In fact, all -- I
15 think all of our landfills are monitoring the whole
16 facility. And our rules say that the administrator can
17 allow that to happen, and that's been pretty standard
18 practice.

19 But the new statutes are designed -- a unit-based
20 design. And the way the Subtitle D is written, it assumes
21 individual units are going to be monitored and designed and
22 constructed.

23 In addition to that, we also would like the
24 freedom to be able to monitor, with different constituents,
25 a unit that only buries construction demolition waste as

1 opposed to municipal solid waste. And so if we're looking
2 at unit monitoring, we can customize the monitoring plan to
3 match that. And the word "facility" is inconsistent with
4 Subtitle D.

5 CHAIRMAN BEDESSEM: Can you change this to
6 say facility or unit? Because the way you run your system
7 is all based on facility. You want the option to do
8 something similar to Subtitle D, or if you have a
9 particular situation with a C and D unit to change things,
10 but changing it from facility unit is very confusing when
11 most facilities, their entire groundwater monitoring
12 network is for the entire facility, and their closure
13 permit is for whole facility, not per unit, okay? Your
14 closure permit is that landfill is shutting down. That
15 facility is closing, not the four trenches or, you know,
16 four units.

17 MR. DOCTOR: Well, Madam Chair, we've
18 eliminated that intermediate closure, and now we've closed
19 units, but we may also then eventually close the entire
20 facility. So we've got two different things going on. So
21 we're designing units, monitoring units and closing units
22 over the -- over the life of the entire facility.

23 CHAIRMAN BEDESSEM: But your closure
24 permit, okay, you still have a lifetime permit. You may
25 have closed units within it, but the closure permit starts

1 when that lifetime permit -- the operating permit is done.

2 MR. DOCTOR: Uh-huh.

3 CHAIRMAN BEDESSEM: Okay? So your sentence
4 says once established at a facility --

5 THE REPORTER: You're going to have to slow
6 down.

7 CHAIRMAN BEDESSEM: -- once established at
8 a facility the groundwater monitoring program shall be
9 conducted throughout the active life and post-closure care
10 period.

11 MR. DOCTOR: Correct.

12 CHAIRMAN BEDESSEM: So you may have a
13 closed unit on your facility, but the whole facility is
14 going to get a closure permit and go into post-closure care
15 at such and such time. You don't have a little spot within
16 your facility that is now under post-closure care.

17 MR. DOCTOR: Correct.

18 CHAIRMAN BEDESSEM: So for this to make
19 sense, you need to have it say "facility" not "unit." You
20 could have it say "facility or unit" if you want to cover
21 everything, but otherwise, to me, the last line on 2-44
22 doesn't make sense to me with the term "unit" in it. And
23 there's three places on the page, so --

24 MR. DOCTOR: It's all through here.

25 Problem is we can't allow -- and we can't say it's okay to

1 leak as long as it doesn't get out of the facility, and you
2 have a facility boundary -- you just expand your facility
3 boundary and you can leak all you want. That's contrary to
4 EPA requirements.

5 CHAIRMAN BEDESSEM: Where does it say that?

6 MR. DOCTOR: This is how it's written in
7 Subtitle D.

8 CHAIRMAN BEDESSEM: No. What I'm --
9 changing to facility -- I mean, this always said facility,
10 and it's never said "unit."

11 MR. DOCTOR: It's always been "unit" in
12 Subtitle D, and our rules have said "facility" --

13 CHAIRMAN BEDESSEM: That's never allowed.

14 MR. DOCTOR: -- which is wrong.

15 But we have looked at facility-based monitoring.

16 CHAIRMAN BEDESSEM: I think you should say
17 facility or unit.

18 MR. DOCTOR: Let me check with AG's office,
19 see what --

20 CHAIRMAN BEDESSEM: Yeah, because,
21 honestly, in particular, this is three times on the page.
22 In particular the last one does not make sense, if it's
23 just as unit, because a unit doesn't have a post-closure
24 care period. That starts when your closure permit for your
25 facility happens. So it doesn't make sense with "unit" in

1 there. So that one in particular. So if you want to cover
2 all your bases, my suggestion is do facility or unit, and
3 then you can use what term makes sense for your given
4 permit and what applies.

5 So that's just my suggestion, because otherwise I
6 think we're going to continually run into this problem.

7 MR. DOCTOR: I can see how -- and once
8 established at a -- yeah, we're not talking about unit
9 closure, we're talking about facility closure.

10 CHAIRMAN BEDESSEM: Right.

11 MR. DOCTOR: Yeah.

12 CHAIRMAN BEDESSEM: So, anyway, consider
13 that for those three. Take a look at it.

14 MR. DOCTOR: Cool. Thank you.

15 CHAIRMAN BEDESSEM: Did you have more on
16 that same unit and facility? I know it was very hard when
17 you had to transition, you know, a previous --

18 MR. DOCTOR: It's a performance-based
19 design --

20 CHAIRMAN BEDESSEM: Right.

21 MR. DOCTOR: -- in the unit.

22 CHAIRMAN BEDESSEM: Right. And it was very
23 confusing, and there was a lot of concern about what -- how
24 it was going to be applied. And, you know, there's still
25 some carryover from that, and sometimes it's hard to get

1 the old language to work with that.

2 MR. DOCTOR: Yeah. EPA uses the word
3 "unit" throughout. They don't use the word "facility."

4 CHAIRMAN BEDESSEM: Right. But the way you
5 operate your program has been, for the most part, facility
6 based.

7 MR. DOCTOR: Facility.

8 CHAIRMAN BEDESSEM: So you have to come up
9 with some sort of compromise.

10 MR. DOCTOR: Yeah.

11 BOARD MEMBER CAHN: And for groundwater
12 monitoring, EPA allows one monitoring program for a
13 facility.

14 CHAIRMAN BEDESSEM: Facility.

15 MR. DOCTOR: Uh-huh.

16 BOARD MEMBER CAHN: On page 2-46, about
17 midway down the page under (II), it says, "Groundwater
18 samples shall not be field filtered prior to laboratory
19 analysis." And since we are looking at a lot of naturally
20 occurring metals, I would like some more flexibility in
21 there, perhaps, to say except by approval of the
22 administrator
23 or -- I mean, there are times when somebody's going to say,
24 you know, based on the sediment in the samples this
25 naturally occurring metal is really not representative, and

1 I want to collect a filtered sample to -- you know, to see
2 whether or not it's sediment based or something that's
3 dissolved in groundwater, and this doesn't really allow
4 them to do that.

5 MR. DOCTOR: Correct. And that's -- that's
6 directly out of Subtitle D, groundwater samples shall not
7 be field filtered prior to laboratory analysis. And that's
8 been a national discussion of debate, and the EPA has not
9 been willing to change that.

10 CHAIRMAN BEDESSEM: You know, one thing
11 that could happen is that, for example, you take
12 groundwater samples that aren't field filtered, but then if
13 you're making a case to explain why it is the way it is,
14 you could take additional samples. I'm sure you're not
15 forbidden from doing that --

16 MR. DOCTOR: Oh, no.

17 CHAIRMAN BEDESSEM: -- as long as you
18 provide the samples that the program requires that are not
19 field filtered.

20 BOARD MEMBER CAHN: That was my point
21 exactly, is that this language makes it sound like --

22 CHAIRMAN BEDESSEM: It's a violation.

23 BOARD MEMBER CAHN: -- you can allow them
24 to take an additional unfiltered sample. And I don't think
25 you want to be that restrictive because that can be part of

1 their case that they're making, that, you know, why this is
2 not from the landfill or something. So it's an important
3 piece of evidence.

4 MR. DOCTOR: And these are minimum
5 standards. We have had people do that. One of the things
6 we try to advise people, you know, when you're purging that
7 well, be careful how you do that. When you're collecting
8 those samples, be sure not to agitate that sample before it
9 goes -- you know, use good sampling protocol so you're not
10 getting a bunch of mud in your bottle, and that really
11 helps address this.

12 BOARD MEMBER CAHN: It's just that wording
13 doesn't give any flexibility to, in addition, take an
14 unfiltered sample. And I know that you are okay with that.
15 I just don't think this wording allows it.

16 BOARD MEMBER APPLGATE: So, Lorie, do you
17 have a suggested sentence there that might add the
18 flexibility that you think is needed?

19 BOARD MEMBER CAHN: I would say a
20 groundwater sample shall -- or, you know, at least -- one
21 groundwater sample should be -- I'm not wording it very
22 well.

23 BOARD MEMBER APPLGATE: So let me --

24 BOARD MEMBER CAHN: Field filtered and an
25 additional, you know, unfiltered sample may be collected

1 at --

2 BOARD MEMBER APPELATE: Well, let me
3 suggest --

4 BOARD MEMBER CAHN: -- you know, or
5 something that --

6 BOARD MEMBER APPELATE: Let me suggest
7 that you work on it and submit it to Gina rather than us
8 try to necessarily create it from scratch. But I think if
9 you were to put something together, I think your comment's
10 a really good one, and maybe you can just craft a sentence
11 that Bob could evaluate.

12 MR. DOCTOR: However, additional samples --
13 samples may be collected or something. Yeah, let me know,
14 please.

15 BOARD MEMBER CAHN: Well, I can just do it
16 right now, instead of -- I have a family emergency going
17 on, so I don't want to commit to me doing extra work after
18 today right now, so I would prefer to just work on it now.

19 BOARD MEMBER APPELATE: I'm okay with
20 that.

21 BOARD MEMBER CAHN: I'm trying to --

22 BOARD MEMBER APPELATE: I'm just trying to
23 save our -- I'm trying to save our court reporter. And so
24 as you keep changing how you're saying it, it makes it
25 difficult for her. So write it and then share it with us.

1 BOARD MEMBER CAHN: How about groundwater
2 samples shall typically not be field filtered prior to
3 laboratory analysis, but an additional filtered sample may
4 be collected, something -- you guys can wordsmith it, but
5 something along those lines or -- and --

6 CHAIRMAN BEDESSEM: You could just say
7 additional unfiltered samples may be collected. It
8 basically says that what you need for this program, you
9 have to filter it, but it's not a violation if you collect
10 extra ones that are filtered.

11 BOARD MEMBER CAHN: Yeah. Okay. The next
12 question -- comment I have is on page 2-48. And it's on
13 how you handle nondetects statistically, and it's on
14 Roman -- or number 5. So any data reported as below
15 detects shall be entered into the analysis as a value equal
16 to one-half of the PQL. And the problem I have on that is
17 what if they're all nondetects? Why would you -- but let's
18 say you had carbon tet or something, and you had all
19 nondetects, why would you do statistical analysis on all
20 nondetects? And if your -- if your PQL changed because you
21 changed over your history, you know, over your monitoring
22 program over time, you change your laboratory analysis and
23 get a different PQL, you would -- can we take a five-
24 minute -- five-minute break, because I need -- as I said, I
25 have a family emergency going on.

1 CHAIRMAN BEDESSEM: Yeah.

2 BOARD MEMBER CAHN: Thanks.

3 (Meeting proceedings recessed

4 1:42 p.m. to 1:43 p.m.)

5 CHAIRMAN BEDESSEM: Lorie, Dave mentioned
6 that he thought perhaps that your concern might be
7 addressed in Item Number -- the added words under Item
8 Number 5, where it says, "...unless the Administrator
9 approves alternate statistical procedures."

10 BOARD MEMBER CAHN: I don't think that
11 would solve my problem, because I really don't think there
12 should be any statistical procedure if it was all
13 nondetects.

14 MR. DOCTOR: Correct. We don't require --
15 if it's all the nondetects, you're not even doing
16 statistics. So we're not even -- we tell people if it's
17 nondetect, don't run statistics on it.

18 BOARD MEMBER CAHN: But it says, "Any
19 data reported as below detection limits..." Where does it
20 say -- maybe I missed it. Where do you say if it's all
21 nondetects, you don't have to do statistics? Where does it
22 say that?

23 CHAIRMAN BEDESSEM: Perhaps it -- maybe
24 it's just advice you give people and it might be --

25 MR. DOCTOR: General policy.

1 CHAIRMAN BEDESSEM: Maybe you should have
2 it in there.

3 MR. DOCTOR: What we do is they will submit
4 all the data to us in a spreadsheet, whether it's nondetect
5 or not. But it gets entered into the data set as half the
6 PQL when it comes to running statistics, but we don't
7 require anybody to run statistics if there's nothing
8 detected.

9 BOARD MEMBER APPLGATE: So I think Lorie
10 is suggesting that the rules, as written, don't reflect
11 that policy position, and that if someone were to replace
12 you, they may not --

13 CHAIRMAN BEDESSEM: View it the same way.

14 BOARD MEMBER APPLGATE: -- have at their
15 disposal that policy position and would possibly apply the
16 rule as written. And so that suggests that you should
17 think about how to address that, which might mean adding it
18 to the rule.

19 MR. DOCTOR: I just made a note there to
20 get the statistics for none -- all -- all the
21 concentrations for constituents that are below the
22 detection limit.

23 BOARD MEMBER CAHN: The next question I
24 have is on page 2-50. And it's a -- it's the very top of
25 the page (II). I would think there needs to be some -- it

1 would be nice if there was some flexibility if somebody
2 goes out to do their sampling, for some of these small
3 municipalities, and a pump fails -- and I've had this
4 happen a number of times on sampling -- and so we have the
5 ability to say, you know, you have to get 75 percent of
6 your samples or some number. And -- because a sample might
7 break on the way to the lab or whatever, and that -- if you
8 have a failure, whether the bottle breaks or, you know, the
9 pump is broken and it's going to take some time to get that
10 pump replaced, that they can go in and make sure they get
11 those samples in on a sampling round. So I would like some
12 kind of language that would say, you know, if unforeseen
13 event prevents the sample, i.e., you know -- for
14 completeness. I mean, it's basically talking about
15 completeness. If it's not for good cause, it wasn't
16 75 percent complete or something. They don't have to run
17 right out there right then and there and try to get it for
18 that quarterly sample. They can wait until the next
19 quarterly sample to make sure they get the missing results.

20 MR. DOCTOR: I don't know how to do that.
21 I mean, I remember a few instances where it was too muddy
22 and they couldn't get it.

23 CHAIRMAN BEDESSEM: You can just put where
24 possible.

25 MR. DOCTOR: But then everybody's going to

1 come up with an excuse why they couldn't go collect their
2 samples. And usually, you know, if it's too muddy, you go
3 out a week later, when it dries up, and collect the sample.
4 You know, a sample model, that kind of stuff happens, but
5 we also have landfills that are sampling annually. We
6 don't want to wait a whole year to get that well sampled.
7 Boy, it's a sticky wicket. We make exceptions by policy.
8 You know, we've done that, but there's nothing being
9 detected in the well, and you couldn't get into it this
10 time, okay, don't worry about it, we'll get it next time.
11 But I hate to put that in here, because I don't know that I
12 can cover every circumstance.

13 CHAIRMAN BEDESSEM: Yeah, I can understand
14 if --

15 BOARD MEMBER CAHN: Okay.

16 CHAIRMAN BEDESSEM: -- there's damage to
17 the wells, someone might call you and say, Hey, we couldn't
18 get into Such-and-such. It's going to be spring before we
19 can get that repaired. Are we okay with that? And you'll
20 say we're okay with that, and they'll document having
21 spoken to you.

22 MR. DOCTOR: That goes in -- we keep track
23 of that. We've had some where once in a while the well
24 will shift, can't get the bailer down the well, and,
25 obviously, they can't collect that sample, and it may be

1 quite a while before -- and they may make a decision they
2 may not need that well anymore, or it takes time to replace
3 it. So we do make those exceptions when there's good
4 cause. And it hasn't been a problem, so -- anyway --

5 BOARD MEMBER CAHN: Do we just need -- do
6 we need something that says, you know, if good cause
7 exists, DEQ will be contacted -- you know, if they -- I'm
8 not talking about the four background samples. I'm talking
9 about the next part of it, where it says, "At least one
10 sample must be collected and analyzed from each well during
11 subsequent sampling events." So I'm -- that's actually the
12 part that I'm talking about. And could we say if -- you
13 know, if -- if good cause exists --

14 MR. DOCTOR: We can add unless the
15 administrator makes an exception for good cause, something
16 like that.

17 BOARD MEMBER CAHN: Yeah, exactly.
18 Exactly. That suits it perfectly.

19 CHAIRMAN BEDESSEM: But does calling you
20 and having you say, Oh, yeah, that's okay. Don't worry
21 about it, constitute --

22 MR. DOCTOR: I don't want a letter --

23 CHAIRMAN BEDESSEM: -- the administrator --

24 THE REPORTER: One at a time.

25 MR. DOCTOR: -- any administrator signing a

1 letter.

2 Yeah, we don't want to make -- it has to happen
3 pretty fast, like right then. And so we've not had a
4 problem, but I hate to have, okay, you need to send me a
5 letter, and I need to send that to the administrator, and
6 then the administrator needs to write a letter back, you
7 know?

8 BOARD MEMBER CAHN: Yeah.

9 MR. DOCTOR: It's not been an issue, I have
10 to say, in all these years, but...

11 BOARD MEMBER CAHN: I mean, obviously, if
12 you're sampling only once a year, you've got a whole year
13 to get another sample. I guess I was thinking more about
14 semi-annual or quarterly.

15 CHAIRMAN BEDESSEM: I think --

16 BOARD MEMBER CAHN: Maybe as practical.

17 Go ahead, Marge.

18 CHAIRMAN BEDESSEM: I think they've been
19 pretty practical, you know. I mean, sometimes the well's
20 dry, whatever. And it is what it is.

21 BOARD MEMBER CAHN: Yes.

22 CHAIRMAN BEDESSEM: And, you know, if
23 there's something where, you know, you can conceivably go
24 out in the next week, you can call and say is it worth --
25 you know, saying is it worth doing this? We're going to

1 have mobilization for one sample. Can we just do it next
2 quarter? Usually contact with DEQ is pretty reasonable,
3 and you can work with that. I don't know that enforcing
4 that reasonableness with changing the words in the rules is
5 really necessary. I mean, I'm okay with it the way it is.

6 BOARD MEMBER CAHN: Okay. I did have --

7 CHAIRMAN BEDESSEM: I wanted to say
8 something, Lorie, though, that I didn't. I didn't really
9 have a ton of comments, but you had skipped by page 2-49,
10 and I didn't -- and, you know, maybe this will come up when
11 you have this discussion about, you know, when you look at
12 again the Appendix C business.

13 But in Item Number 2, on the -- you know, the
14 third paragraph on the top. I find this -- if you're going
15 to look at taking Appendix C list and calling them
16 indicator parameters kind of separately from your A and B,
17 then it would be very confusing to say indicator parameters
18 here in lieu of some of the heavy metals, because most of
19 those indicator parameters are not heavy metals. In fact,
20 the two that are on there are ones that are repetitive for
21 Appendix A, I believe.

22 And so I just want to point out that paragraph
23 needs to be adjusted depending on what you have decided to
24 do. Particularly because it's very weird, I think, what
25 you say -- you can do an alternate list in lieu of some or

1 all the heavy metals, but that's the only stuff you're
2 allowed to change, and I really don't know why.

3 MR. DOCTOR: The EPA was pretty insistent
4 on you got to do the VOCs, period.

5 CHAIRMAN BEDESSEM: Uh-huh. But your list
6 of indicator parameters is really not the heavy metals. So
7 this doesn't -- I mean, I'm looking at this table here. I
8 got, what, mercury and zinc, and those were ones that are
9 on the other list. The other things aren't heavy metals.
10 So the name of indicator parameters -- just -- just relook
11 at this.

12 MR. DOCTOR: The EPA used that word and
13 they impressed -- they say constituents 1 through 15, like
14 they're all heavy metals on the Appendix A list. And I
15 didn't -- I'm like you, I didn't really think that was all
16 heavy metals.

17 CHAIRMAN BEDESSEM: Listen, the way this
18 was written here, you're including what is now, in your
19 proposal, Appendix C. So it doesn't --

20 MR. DOCTOR: When we are pulling Appendix C
21 out, we have to include this section as well.

22 CHAIRMAN BEDESSEM: Yeah, you need to fix
23 this is, I guess, what I'm saying.

24 BOARD MEMBER CAHN: Yeah.

25 CHAIRMAN BEDESSEM: I think --

1 MR. DOCTOR: In lieu of some or all the
2 heavy metals, constituents 1 through 15 in Appendix -- they
3 list like all 15 of those are heavy metals.

4 CHAIRMAN BEDESSEM: I mean, we can --

5 BOARD MEMBER CAHN: I think it's confusing
6 when we're throwing around the term "indicator parameters."
7 I think we need to think of something to call the
8 Appendix C. And maybe we just always refer to them as
9 Appendix C and not use the word -- obviously, we don't want
10 to use detection monitoring because they're not part of the
11 detection monitoring. Doing them during the time that
12 you're doing the detection monitoring, but they're not
13 going to be -- we're proposing they're not statistically
14 analyzed or not, so -- and they could be indicators of
15 something, but we're not using them in the sense that EPA
16 uses indicator parameters. So in EPA's detection
17 monitoring, they use indicator parameters to allow you to
18 look at a subset of the constituents as indicators of
19 your -- you know, your land -- leakage from your landfill.
20 And we're not really looking at Appendix C in the way that
21 indicator parameters were used by EPA. So I think we need
22 to try to be clear, if we just call them Appendix C
23 parameters that are collected during detection monitoring,
24 but Appendix A are the -- either the indicator parameters
25 or the detection monitoring parameters or something. We

1 just need to be clear.

2 CHAIRMAN BEDESSEM: Yeah, so we just can't
3 mix terminology up here, so if you just relook at that when
4 we go through them, that would be great.

5 So sorry I injected because I knew we had one
6 page ahead. My comment was on the page before. So I'll
7 back off now, and you can go back to your stream.

8 BOARD MEMBER CAHN: Well, and I'm not
9 mentioning everywhere that I found problems with the
10 Appendix C, because I'm assuming you're going -- you're
11 going to go looking for all that, and I don't have to keep
12 repeating the comments.

13 CHAIRMAN BEDESSEM: No.

14 BOARD MEMBER CAHN: So it's throughout
15 here. You're just going to have to do searches to find it
16 all.

17 So then on 2-50, at the very bottom of the page,
18 if it says, "If any Appendix B constituent is detected, in
19 any downgradient well," and are we now no longer -- this is
20 under assessment of monitoring -- are we looking at
21 detections of those, or are we looking at an
22 instatistically [sic] significant increase?

23 MR. DOCTOR: Oh, Madam Chair. This is if
24 they're detected. And what this means is you're normally
25 sampling for all the Appendix A stuff, and now you're doing

1 all this B, which is whole bunch of new things. If you
2 detect something that you've not found before, you now need
3 to add that to your routine monitoring network --

4 BOARD MEMBER CAHN: Okay. That's why --

5 MR. DOCTOR: Yeah.

6 BOARD MEMBER CAHN: That's specifically
7 why I said I think you need more language than if any
8 Appendix B constituent is detected. I think now you're
9 talking about if any Appendix B is statistically --
10 significantly different from what you found before --

11 MR. DOCTOR: No.

12 BOARD MEMBER CAHN: -- then you must
13 promptly collect the minimum of four individual --

14 MR. DOCTOR: It's if detected, period,
15 because it's something new you've not been looking at
16 before. But if you find something new, you have to go out
17 and establish --

18 CHAIRMAN BEDESSEM: But the -- but I
19 think the question here is that Appendix A is one list,
20 Appendix B has everything from Appendix A in it.

21 MR. DOCTOR: Plus.

22 CHAIRMAN BEDESSEM: Plus.

23 So you may have found this before because you've
24 been testing for Appendix A. This is not the new parts
25 only of Appendix B. You may have a history of Appendix A

1 ones. So --

2 MR. DOCTOR: You would already have
3 established background for that one, if you detected --

4 BOARD MEMBER CAHN: But that's not how this
5 is worded.

6 CHAIRMAN BEDESSEM: It's not worded this
7 way.

8 BOARD MEMBER CAHN: It's worded detected,
9 not above a statistically significant increase. I think
10 you mean a statistically significant increase here.

11 MR. DOCTOR: No. No. If you detect it --
12 if you detect any Appendix B constituent -- and maybe the
13 word should be any additional --

14 CHAIRMAN BEDESSEM: It's the new part,
15 though.

16 BOARD MEMBER APPLGATE: What you said --

17 MR. DOCTOR: -- or something that's not
18 been detected.

19 CHAIRMAN BEDESSEM: It's not in A.

20 BOARD MEMBER APPLGATE: What if you said
21 if any Appendix B constituent is detected for the first
22 time in any downgradient well, the owner/operator -- does
23 that cover the concern, Lorie?

24 BOARD MEMBER CAHN: Yes, it does. Thank
25 you, Dave.

1 BOARD MEMBER APPELATE: Awesome.

2 CHAIRMAN BEDESSEM: Because we have to
3 cover the fact that, you know, there's kind of two groups
4 with -- in Appendix B. There's that first group that
5 you've already been collecting information on, and then the
6 new stuff. So for the first time covers that. That would
7 be my suggestion.

8 MR. DOCTOR: Very good. Not in Subtitle D,
9 but that's how we've been applying it, but it's not clear
10 in the rule.

11 CHAIRMAN BEDESSEM: It doesn't say that.

12 BOARD MEMBER CAHN: Okay. My next comment
13 is on 2-52. And under -- at the top of the page, numerical
14 number 4. The word "standards" is used. So it says,
15 "Request in writing that the Administrator establish
16 groundwater protection standards for all constituents
17 detected," and I think you're talking limits there and not
18 standards.

19 MR. DOCTOR: I think standards is the -- is
20 the term that's used.

21 BOARD MEMBER CAHN: I would ask you to
22 check that because -- I mean, to me the groundwater
23 standards are, you know, the MCLs, or, you know, secondary
24 or whatever. And a limit is something that's a limit for
25 your -- that triggers assessment monitoring.

1 MR. DOCTOR: Oh, I just -- I'm sorry, Madam
2 Chair. It just dawned on me why they use this term and not
3 a limit. Because in some cases, the protection standard
4 could be background, and the background concentration is a
5 distribution, not a single number. And so that -- that
6 limit may be a mean value or one standard deviation from
7 the mean, depending on the statistical method. It's not a
8 single value in some cases. In most cases it will be a
9 limit, like an MCL, but in some cases, for example, if we
10 have a landfill where the upgradient concentration exceeds
11 the MCL, the background concentration or distribution of
12 data becomes the groundwater protection standard, and I
13 think that's where they use that word.

14 BOARD MEMBER CAHN: And I would say the
15 same thing you're saying, only every place you use limit, I
16 would use standard, and every place you use standard, I
17 would say limit. To me the standard is the groundwater
18 protection standards, is a -- is a statewide federal and
19 federal MCL, even though limit is part of MCL. And for
20 your landfill, if you have an upgradient well that --
21 you're establishing detection monitoring limits, and that's
22 the language EPA uses. And I think you're referring to the
23 detection monitoring limits here and not the groundwater
24 protection standards of MCL, or -- that's why --

25 BOARD MEMBER APPLGATE: Lorie -- I have a

1 question for you, Lorie. When you use the word "standard"
2 and "limit," help me understand, is that a level -- is that
3 a -- is that a level at which you can monitor with
4 analytical method, or is it -- is it a value that can you
5 not exceed, what -- tell me what action -- because I'm not
6 understanding that term in either usage.

7 BOARD MEMBER CAHN: So it's -- it's a
8 number -- it's a value you cannot exceed. And the way I --
9 the way I think of it is that you have groundwater
10 protection standards for the state, you have groundwater
11 protection for the standards for the federal government,
12 and those are what we think of as MCLs. And that's what I
13 refer to as standards, groundwater protection standards.

14 Then when you have a landfill and you have a
15 preexisting contamination -- so your upgradient well
16 already has some contaminant in it -- you -- there is that
17 limit -- that you statistically figure out a limit that
18 cannot be exceeded. And that -- so that becomes your
19 detection monitoring limit for the landfill. And you
20 report against those limits when you submit your reports
21 whether they're annual or quarterly or semi-annual. And
22 you say, okay, here's the detection monitoring limit that
23 was established using statistics for the background. And
24 you -- if there's statistics -- then you look at what your
25 next event -- sampling event result is, and if it exceeds

1 that detection monitoring limit, you've got a problem, and
2 you're going into assessment monitoring -- or, potentially,
3 if you're in assessment monitoring, which I think we are in
4 this part, you may have to do some corrective action or
5 something. So to me --

6 MR. DOCTOR: Madam Chair. You know, I just
7 can say we are consistent with Subtitle D, and they use the
8 word groundwater protection standards throughout. And the
9 standard is the MCL or the standard is an alternate
10 groundwater protection standard for constituents when there
11 is no MCL. So the groundwater protection standards shall
12 be appropriate health-based levels that satisfy following
13 criteria.

14 So we use the words "standards" and "limit"
15 consistent with EPA Subtitle D throughout this section.
16 I'd be a little reluctant to mess with that.

17 BOARD MEMBER CAHN: Okay. So you do mean
18 standards here in the way that I'm using them. So you're
19 saying if you don't -- if there is no MCL --

20 MR. DOCTOR: Correct.

21 BOARD MEMBER CAHN: -- we're asking the
22 administrator to establish something equivalent to an MCL,
23 it has nothing to do with this landfill. It's just -- I've
24 got 1-diethyl methyl DEP, and there is no known health
25 protection standards, so I'm saying, okay, you guys need to

1 tell me what's a health protection standard for it.

2 MR. DOCTOR: What is that, yeah.

3 BOARD MEMBER CAHN: Okay. So you do mean
4 standards, then that's fine. No change is needed.

5 Okay. The next one I have is further down the
6 page in (VII). The second line from the bottom starts out,
7 "...notify all appropriate local government officials..."
8 And my question is where do we define all appropriate local
9 government officials? So how do they know who they have to
10 notify, and how do they know they got all of them?

11 MR. DOCTOR: I'm sorry. Where are we at?

12 BOARD MEMBER CAHN: On page 2-52, (VII).

13 MR. DOCTOR: 2-52. Sorry.

14 BOARD MEMBER CAHN: Second line bottom of
15 that (VII). Starts in blue, "...notify all appropriate
16 local government officials..." And I'm just wondering if
17 that's clear who the appropriate local government officials
18 are, and how do you -- and how do you know you got all of
19 them? Where does -- where is it defined? Who defines who
20 you have to notify?

21 MR. DOCTOR: I assume, Madam Chair, that's
22 up to the discretion of the administrator.

23 CHAIRMAN BEDESSEM: When do they tell the
24 permittee who they're supposed to notify?

25 MR. DOCTOR: That's when we're working

1 through the assessment monitoring and making these
2 decisions. Some of this will happen in our remediation
3 program, potentially. For clarification --

4 BOARD MEMBER CAHN: So it should say all
5 appropriate local government officials as determined by the
6 administrator, or something like that.

7 MR. DOCTOR: Got it. Frankly, we actually
8 haven't done it much. It's not come up.

9 BOARD MEMBER CAHN: Okay. On page 2-55 --

10 CHAIRMAN BEDESSEM: That's because the
11 landfill operator is usually local government.

12 BOARD MEMBER CAHN: -- under the redline --
13 Roman -- or in black it's letter B, starting out operators,
14 and it mentions magnetic media. Does any -- I don't even
15 know what magnetic media is. What does it refer to, and is
16 anybody using it anymore?

17 BOARD MEMBER APPELLEGATE: That would be like
18 hard disk.

19 BOARD MEMBER CAHN: Yeah. Like a CD of it?

20 BOARD MEMBER APPELLEGATE: So I have a
21 suggested change, rather than trying to define what
22 probably no one knows what it means anymore. Operator
23 shall also submit groundwater monitoring data
24 electronically in a format specified by the administrator.

25 BOARD MEMBER CAHN: That works for me,

1 Dave.

2 CHAIRMAN BEDESSEM: Yeah, that sounds good.

3 MR. DOCTOR: Yeah, we used to use floppy
4 disks.

5 BOARD MEMBER CAHN: Yeah, I haven't seen a
6 floppy disk for a few years, and I must be dating myself to
7 say I even know what one is.

8 Okay. That's it for me in terms of
9 noneditorials. I really don't have very many editorials.
10 I only have five. And since I'm not -- I'm going to be out
11 of pocket for a while, would the board be okay if I quickly
12 go through them or --

13 CHAIRMAN BEDESSEM: Yeah, just go do them,
14 and I'll send mine to you later.

15 BOARD MEMBER CAHN: 2-17, under the
16 second -- in the big blue paragraph, second (i), four lines
17 from the bottom, it says "assuring compliance," and you
18 can't assure -- the only thing you can assure is a person.
19 If you're referring to compliance, it has to be either
20 insuring or ensuring, and I don't care which one you guys
21 use.

22 MR. DOCTOR: With an E? Okay.

23 BOARD MEMBER CAHN: E is fine. E or I. It
24 can't be an A. The only thing you can assure is a person.
25 Even though there is such a thing as quality assurance.

1 MR. DOCTOR: It's always good to catch an
2 attorney. That's where this came from. This is elsewhere
3 in Chapter 1, also, I'm pretty sure. So I'll need to watch
4 that.

5 BOARD MEMBER CAHN: Yeah, just do a global
6 search for A, assurance, or A-S-S-U-R.

7 On page 2-21, (ii), floodplains.

8 CHAIRMAN BEDESSEM: I got that one.

9 BOARD MEMBER CAHN: Okay. Floodplains --
10 second floodplain -- third line down, floodplains should be
11 singular.

12 MR. DOCTOR: Oh, yeah.

13 BOARD MEMBER CAHN: Okay. On 2-30,
14 Roman -- the big -- the big blue section.

15 MR. DOCTOR: Oh, there we go, assure.

16 BOARD MEMBER CAHN: Yeah, there is assure
17 again. Even though we're talking about quality assurance,
18 you can only insure adequate construction or ensure.

19 On page 2-36, under number 1 [sic], litter, the
20 first blue thing is "which," and that "which" should be
21 "that." And the reason you know it has to be that is if
22 you took out what followed which, your sentence would not
23 be correct. You couldn't say each facility shall maintain
24 an effective routine litter collection program as well as
25 off-site. It just wouldn't make sense. So it has to be

1 that shall take place both within the landfill perimeter.

2 MR. DOCTOR: Got it.

3 BOARD MEMBER CAHN: Following below that,
4 in blue, immediately below it, about fourth line down, the
5 sentence is very confusing. It starts out with "The
6 application." Because there's so many commas and ands, so
7 I think we should break up each idea with a semicolon. So
8 after "and off-site areas," I would replace the comma with
9 a semicolon, and I would add in the word and. And then
10 after the word "wind" -- "high wind" I would replace the
11 comma with a semicolon. Oh, wait a minute. I'll read the
12 sentence, "Litter control structure shall control
13 litter" -- I'm sorry. "The application shall specify for
14 frequency -- the frequency for litter collection for
15 internal fences, perimeter roads, and off-site areas; and
16 special operating procedures to be used during periods of
17 high wind."

18 MR. DOCTOR: Oh, period.

19 BOARD MEMBER CAHN: Then I would say, "The
20 application shall note the average local wind speed and
21 direction." Did I go too fast?

22 MR. DOCTOR: I got it.

23 BOARD MEMBER CAHN: Okay. Page 2-54. At
24 the top, the third line down, MCLs does not have an
25 apostrophe S.

1 MR. DOCTOR: Oh.

2 BOARD MEMBER CAHN: On page 2-58, bottom of
3 the page, after Roman -- or (xii), I think there's a
4 missing space. It seems like it's moved -- it's -- it
5 needs to move over or something. I'm not sure the
6 indenting is proper.

7 On page 2-60, middle of the page where the red A
8 is crossed out and there's a blue (i), second line down,
9 meters cubed, the 3 for M3 should be superscripted.

10 MR. DOCTOR: Oh.

11 BOARD MEMBER CAHN: And three lines below
12 that, the 3 should be superscripted.

13 MR. DOCTOR: Thank you. I think that's an
14 artifact of these rules being ancient.

15 BOARD MEMBER CAHN: Okay. Page 2-61,
16 middle of the page in blue, under letter B -- (b), the
17 sentence that follows the red in blue, starting with,
18 "Following closure," again, I think some changing commas
19 would be helpful. I would do, "Following closure of each
20 unit and facility, the operator shall submit a
21 certification with supporting documentation" -- I would
22 remove the comma there -- "signed by an engineer licensed
23 to practice in Wyoming" -- remove the comma and then
24 complete the sentence.

25 MR. DOCTOR: Got it.

1 BOARD MEMBER CAHN: Okay. Going down to
2 the next paragraph in black, on the right-hand side, fourth
3 line from the bottom of the black, assure, again, should be
4 "en" or "in."

5 One more. Hang in there with me. Page 2-69, top
6 of the page, (ii), the "which" there should be a "that."
7 The post-closure period for municipal solid waste landfills
8 that ceased receipt of waste.

9 I think that brings me to the end of my -- yeah.

10 MR. DOCTOR: Thank you.

11 BOARD MEMBER APPLGATE: Lorie, we hope
12 your family emergency turns out okay.

13 BOARD MEMBER CAHN: It's not going to, but
14 that's all right.

15 CHAIRMAN BEDESSEM: Well, you travel safe.
16 I think --

17 BOARD MEMBER CAHN: Thank you.

18 CHAIRMAN BEDESSEM: -- the rest of us -- I
19 think we're done with our comments.

20 MR. DOCTOR: I'll put all this together,
21 and I'll wait for your stuff also so I can read through
22 some of this. I scribbled notes all over the place, so --

23 CHAIRMAN BEDESSEM: Send me a Word SOPR.

24 MR. DOCTOR: SOPR.

25 CHAIRMAN BEDESSEM: Yeah.

1 MR. DOCTOR: I'll just email to everybody,
2 if that's all right.

3 CHAIRMAN BEDESSEM: Uh-huh. And I'll look
4 through if there's any more little editorial ones.

5 BOARD MEMBER APPLGATE: We're finished, I
6 think, Lorie. We need to adjourn, right?

7 CHAIRMAN BEDESSEM: Right.

8 MR. DOCTOR: For the record, thank you to
9 our reporter, whose fingers must be terribly sore.

10 BOARD MEMBER APPLGATE: I'll make a motion
11 to adjourn.

12 BOARD MEMBER CAHN: Wait, before we
13 adjourn, I want to thank Gina for all her hard work to set
14 this up.

15 MS. THOMPSON: Thank Mike too. He helped
16 too.

17 BOARD MEMBER CAHN: Mike? Okay. Thanks,
18 everybody. Mike too. And I imagine that Cheyenne was
19 thankful, too, because they could hear as well. So thank
20 you very much.

21 BOARD MEMBER APPLGATE: I make a motion to
22 adjourn.

23 BOARD MEMBER CAHN: I'll second.

24 BOARD MEMBER APPLGATE: Aye.

25 CHAIRMAN BEDESSEM: Meeting is adjourned.

1 Yes. Aye. All those in favor. Aye, aye, aye.

2 BOARD MEMBER CAHN: Aye, aye.

3 CHAIRMAN BEDESSEM: Meeting is adjourned.

4 Thank you very much.

5 (Meeting proceedings concluded

6 2:18 p.m., January 22, 2016.)

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C E R T I F I C A T E

I, KATHY J. KENDRICK, a Registered Professional Reporter, do hereby certify that I reported by machine shorthand the foregoing proceedings contained herein, constituting a full, true and correct transcript.

Dated this 19th day of February, 2016.


KATHY J. KENDRICK
Registered Professional Reporter



