

Proposed Chapter Revisions

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LAND QUALITY DIVISION

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HEARING TO DISCUSS PROPOSED REVISIONS TO CHAPTERS 1, 2,  
3, 4, 5, 6, 7, 8, 9 and 10  
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TRANSCRIPT OF HEARING PROCEEDINGS

Transcript of Hearing Proceedings in the above-  
entitled matter before the Department of Environmental  
Quality, Land Quality Division, commencing on the 27th  
day of September, 2016 at 10:00 a.m. at the Wyoming  
Game & Fish Office, 3030 Energy Lane, Pronghorn Room,  
Casper, Wyoming, Mr. Jim Gampetro presiding, with Board  
Members Mr. Philip Dinsmoor, Ms. Natalia Macker and  
Mr. Michael Shober in attendance.

Also in attendance were Mr. Craig Hults of the  
LQD, Ms. Carol Bilbrough of the LQD and Mr. Ryan  
Schierman of the LQD and Mr. Randy Zurn on behalf of  
Stewart & Stevenson, and Ms. Eva La, Wyoming Attorney  
General's Office appearing telephonically.

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

2 (Hearing proceedings commenced  
3 10:00 a.m., September 27, 2016.)

4 CHAIRMAN GAMPETRO: I'm Jim Gampetro,  
5 public representative from Johnson County. If everyone  
6 would please go around and tell who you are and where  
7 you're from and what you're doing here.

8 MR. DINSMOOR: I'm Phil Dinsmoor. I work  
9 for Peabody Energy. And I'm the industry representative  
10 on the Land Quality Advisory Board. I live in Crook  
11 County.

12 MS. MACKER: I'm Natalia Macker. And I'm  
13 a public representative from Teton County.

14 MS. BILBROUGH: I'm Carol Bilbrough. I'm  
15 a program manager with the Land Quality Division.

16 MR. HULTS: Craig Hults with Land Quality  
17 Division out of Cheyenne.

18 MR. SCHIERMAN: Ryan Schierman. I'm a  
19 program manager with the uranium recovery program out of  
20 Cheyenne.

21 MR. ZURN: I'm Randy Zurn with  
22 Stewart & Stevenson. I'm a vendor that's just interested  
23 in what's going on.

24 CHAIRMAN GAMPETRO: Okay. I guess we can  
25 go forward. Do we have a motion to approve the meeting

1 minutes or any discussion of those minutes before making  
2 a motion?

3 MR. DINSMOOR: I'll move to approve.

4 MS. MACKER: Second.

5 CHAIRMAN GAMPETRO: Been moved and  
6 seconded. All those in favor signify by saying aye.

7 MS. MACKER: Aye.

8 MR. DINSMOOR: Aye.

9 CHAIRMAN GAMPETRO: And those opposed?

10 (No response.)

11 CHAIRMAN GAMPETRO: No opposed. The  
12 minutes are approved.

13 So now we're going to Chapter 1, general  
14 provisions, I guess. And who's going to lead us through  
15 this?

16 MR. SCHIERMAN: I imagine I will,  
17 Chairman. I'm going to actually have Craig -- Eva, our  
18 attorney that usually attends these, is trying to call  
19 in, so I'm going to have Craig do that so she can listen.

20 What we're going to do is we're going to have a  
21 few chapters that are going to be new. So we're going to  
22 actually jump to Chapter 2, if that's okay, which is our  
23 enforcement. And then once we get through those, we'll  
24 go back to the ones we've already seen, which will be  
25 like our Chapter 1.

1           So Chapter 2 is our inspections, enforcement  
2 and penalties. As we go through this chapter, I just  
3 want to point out a few things and then field some  
4 comments. Basically, in essence, what we said with this  
5 chapter is we're going to follow what Land Quality  
6 already has in place for provisions for enforcement,  
7 things of that nature, that we're going to fall in line  
8 with those items. It's more of telling the NRC and other  
9 entities that those enforcement capabilities of Land  
10 Quality Division will extend to this program, as well, if  
11 that makes sense.

12           Some items of note that are in here, if you  
13 look at like Section 3(a), it basically provides that the  
14 licensee and the applicant shall afford and grant access  
15 to the Department at all reasonable times the opportunity  
16 to inspect licensed material, facilities, premises and  
17 records to ensure compliance with these rules. Again,  
18 we're just setting the bounds such that we can go and  
19 inspect these facilities for the material that we're  
20 regulating. Pretty dry stuff.

21           Some of the stuff, if you go down to (b), (i)  
22 through (iii), you see that this is the type of materials  
23 that we can go and perform tests on and inspect, so  
24 source material from extraction and concentration of  
25 uranium and thorium.

1           And what I will say, this language seems a  
2 little wordy there. From our last time we met, we talked  
3 about how we had to send in a draft application, or a  
4 SECY language to the Commission, NRC Commission, to rule  
5 on what category of material we could take. Since that  
6 meeting, they have ruled, and they gave us the language  
7 that they would prefer that we use in our rules and regs.  
8 So, where we used source material from recovery or  
9 milling previously, we are now trying to refer back to  
10 that SECY language. So NRC has already said that's the  
11 category you want. And that's what's reflected in (i).  
12 So you'll start seeing that, the uranium and thorium at  
13 uranium and thorium milling facilities and byproduct  
14 material. It's a little more wordy.

15           And what we did to correct that -- this is kind  
16 of off of Chapter 2 -- is you'll see that we redefined  
17 what licensed material was and just said this is --  
18 licensed material refers to what NRC said the category of  
19 material should be. And then through our rules, instead  
20 of putting a couple sentences to describe the category,  
21 just refer to it as licensed material. So that's just to  
22 catch you up as we go forward with this.

23           In Section 5 there was an item that we did  
24 working with the operators and with other groups. We  
25 wanted to create an environment where, when items of

1 noncompliance are identified by the operator, that they  
2 work with us. We want to work with the operators and  
3 create an environment such that we're both making sure  
4 that we're doing the correct things and that if there is  
5 problems, they can come and consult with the State and  
6 try and get into compliance.

7           So we provided means in here, just general  
8 language talking about self-identification and correction  
9 of problems. You can see in Item (b) where, you know, we  
10 provide that we want to work with the licensees, and we  
11 want them to self-identify those items that maybe are not  
12 in compliance. So we wanted to work with them in those  
13 regards.

14           And then lastly, this chapter just talks about  
15 orders, which is kind of similar to the way that LQD  
16 currently operates. I guess with this, with the  
17 Chapter 2, I know we kind of covered it pretty quickly,  
18 but is there questions that I can field as far as how  
19 we'll enforce or anything of that nature?

20           MR. DINSMOOR: Mr. Chairman, I have two  
21 questions.

22           Ryan, the first is, under the, I guess the  
23 purpose and the scope, it ties inspections, violation,  
24 enforcement to existing and licensed facilities. The  
25 question that I have is, if somebody is -- and I don't

1 know if this is even possible. But if somebody is  
2 messing around with uranium or thorium outside of a  
3 licensed facility, do you have any authority to do your  
4 thing?

5 MR. SCHIERMAN: And we do. If you -- and  
6 I don't have it with me. In our statutes that govern our  
7 program, we have rules that actually make our program  
8 into this. Portions in there allow for the unlawful  
9 or -- unlawful use or possession or transfer of these  
10 materials. So someone like you mentioned that is  
11 unlawfully obtaining these materials, they haven't gone  
12 through the licensing process, et cetera, et cetera, it  
13 may be prudent -- I want to read through this purpose and  
14 scope -- that we potentially put that same language again  
15 in this section again under enforcement. That would be a  
16 potential thing we'd listen to.

17 But I think, through the statutes, we have that  
18 ability. It's a matter of do we want to put that in this  
19 chapter again to re-represent what was already in the  
20 statutes. And that's something I'm willing to listen on.

21 MR. DINSMOOR: I'm not suggesting that we  
22 should. I just think that the Division needs to be  
23 covered in that regard.

24 MR. SCHIERMAN: Yeah. And I think,  
25 through the statutes, we are, definitely. Because that's

1 an item that NRC has questioned us, as well, is how do  
2 you protect from unlawful possession or unlawful use or  
3 transfer, et cetera, et cetera?

4 MR. DINSMOOR: Thank you for that. My  
5 second question, the inspection and enforcement  
6 provisions of this chapter pertain to the licensing of  
7 the milling facilities, which is what this uranium  
8 program is all about. Those milling facilities will  
9 oftentimes, if not always, be located at a mine that is  
10 also permitted through the Land Quality Division and the  
11 State of Wyoming.

12 MR. SCHIERMAN: Correct.

13 MR. DINSMOOR: And my question is, is  
14 there any double jeopardy here for operators? That is,  
15 is it possible they could be in violation of something  
16 here and also something -- and it would also be a  
17 violation of the Land Quality mining program? And what  
18 protects them from being charged twice for the same  
19 infraction?

20 MR. SCHIERMAN: Right. Well, there's two  
21 things that I would say with this. One, you have to  
22 remember that the program falls within Land Quality.  
23 Right? So we are part of Land Quality. We're not  
24 separate from Land Quality. We are Land Quality.

25 Secondly, the whole purpose of this whole why



1 this was brought forward was to remove some of that dual  
2 jurisdiction. So, before, NRC and the State covered  
3 overlapping areas. There's potential, as we go into this  
4 program, where there will be areas that potentially  
5 overlap. But what we're trying to do to prevent against  
6 that is, through guidance, trying to spell out what areas  
7 Land Quality reviews and inspects upon and what areas  
8 that our program does.

9           There will -- unfortunately, I think there  
10 still may be some portions of overlap and concurrence.  
11 I'd call it more concurrence, if you will, that we have  
12 to concur between both parties.

13           Chairman?

14           CHAIRMAN GAMPETRO: I would assume there  
15 would be two separate violations. In other words, there  
16 might be a violation in the mining, and there might be a  
17 violation in the milling. If there are two separate  
18 violations, then we have two separate violations.

19           MR. SCHIERMAN: And, Chairman, I would say  
20 with those two separate violations, they still would have  
21 to feed through the administrator of Land Quality such  
22 that we'd have to be uniform. So I don't think there  
23 would ever be a situation where you would be, like you  
24 said, double-dipped, fined from our program for the same  
25 thing that Land Quality is fining for. I don't think

1 that would occur, because we'd still have to go through  
2 the same organization that we work through.

3 Does that make sense?

4 MR. DINSMOOR: Yeah, although I guess what  
5 Chairman Gampetro talked about is what my concern is.  
6 Let's make something up to make this easy. Let's pretend  
7 that the mining rules prevent painting anything blue at  
8 the mine site. And let's pretend that the uranium rules  
9 prevent painting anything blue at the milling site. And  
10 the company paints something blue. Do they get charged  
11 twice for that same infraction?

12 CHAIRMAN GAMPETRO: I think that's where  
13 you use common sense.

14 MR. DINSMOOR: Okay, if that's what we  
15 want to rely on, I guess.

16 CHAIRMAN GAMPETRO: If it's blue when they  
17 get it, unless they want to reject it, I guess.

18 MR. SCHIERMAN: Chairman and Board Member,  
19 I would say, you know, I understand the concern if we are  
20 separate divisions, like if we were talking we were part  
21 of Water Quality and Land Quality with different  
22 administrative items. I think the saving grace in this  
23 is that, regardless of an NOV or a finding of violation  
24 that we have, we have processes within Land Quality that  
25 we still have to follow through. Right? And as we go

1 forward, we would have to be uniform between Land Quality  
2 and our program when we present those items. And that  
3 would be filtered through our administrator. And I think  
4 some of those commonsense-like items would come into play  
5 there where we could talk with our administrator.

6 MS. BILBROUGH: Chairman Gampetro, can I  
7 make an observation?

8 Using your example, Phil, we would probably --  
9 we would work together to issue a single violation. But  
10 if painting the facility blue and painting everything at  
11 the mine blue was two different statutes, we'd cite both  
12 of those statutes. If it's a single statute, it would  
13 only be cited once.

14 So, if we found a circumstance where there was  
15 a violation existing that crossed over, we would issue a  
16 single violation, but it would list all of the relevant  
17 statutes or rules that were appropriate.

18 MR. DINSMOOR: Does that protect -- is the  
19 operator protected from resolving -- maybe you've just  
20 answered the question. By listing both of the statutes,  
21 once that violation is resolved, the Division cannot come  
22 back and write yet another violation for the same  
23 infraction on another statute because it's already been  
24 listed.

25 MS. BILBROUGH: Right. But you're right

1 that it is common sense. We're all part of LQD. So we  
2 would work together to issue a violation.

3 MR. SCHIERMAN: Chairman and Board  
4 Members, I think that's the -- you know, the violation  
5 would not necessarily be from our program. It would be  
6 from Land Quality as a whole, because that's where we  
7 fall under. It would never be just -- I don't see it  
8 coming from us. We may advise the administrator, and it  
9 comes from LQD. But since we fall within LQD, it's  
10 always going to fall under that umbrella.

11 What other questions do we have with Chapter 2?

12 MR. HULTS: Ryan, here's a quick question.  
13 In Section 5, I just want to confirm, is that a typo that  
14 C is missing or it jumped to --

15 MR. SCHIERMAN: Yes, that is a typo. I  
16 will mark that down. And that brings up a point, too,  
17 that we probably should talk about. And Craig's probably  
18 best at this. Just so you guys know as we go through  
19 this process, there has been changes to the rules on  
20 rules and the formatting component for our regulations.  
21 So, after we get done with these, you may see them  
22 formatted a little bit just because we have to follow  
23 those new rules that have been -- when did they get  
24 published?

25 MR. HULTS: On Monday.

1                   MR. SCHIERMAN: So now we have to go back  
2 through and make sure that we follow all those things  
3 that were published on Monday. So there may be a little  
4 bit of formatting differences you may see going forward.

5                   Okay. With that, can I move to Chapter 6,  
6 financial assurances? A couple items. And I kind of  
7 want to state again that it's pretty similar to the  
8 enforcement in the fact that what we did for financial  
9 assurances is -- the most part is we wanted to establish  
10 that we're going to follow those mechanisms and those  
11 items that are already set forth in the statute for Land  
12 Quality. We want to make sure that those items are  
13 covered.

14                   So the mechanisms you can use as per Land  
15 Quality are already there, with the exception -- and  
16 maybe we'll jump around a little bit. I just want to put  
17 this up at the front before we go into it. If you go to  
18 Section 5, and then I'll come back to the beginning and  
19 walk through, but I just want to point out Section 5,  
20 Item (b), self-insurances. As per 10 CFR 40, Appendix A,  
21 Criterion 9, milling operations are not allowed to be  
22 self-insured.

23                   And so, since that is a mechanism within the  
24 state, we wanted to clearly point out within the rules  
25 that, for these operations to maintain the federal

1 compliance, they would not be allowed to do this  
2 self-insurance. And I can pull up that CFR if people are  
3 interested, or we can just leave it at that. I just want  
4 to make sure you're aware of that before we start moving  
5 forward.

6           So, again, Section 1 and Section 2 are  
7 basically just our purpose and scope. Section 3 defines  
8 some terms that are unique to the financial assurance  
9 chapter that we have. It is important to point out --  
10 and I know you guys understand this. But it was  
11 important to set forth in our rules that those financial  
12 assurances are reviewed on an annual basis and looked at  
13 on an annual basis by the Department. So you have terms  
14 such as "annual review." You have terms such as "cost  
15 estimate" and "facility," which shouldn't be -- they're  
16 in line with what LQD has already asked for. It's more  
17 of a demonstration that our programs would fall within  
18 the same thing as LQD. We don't want to deviate from  
19 what they have done.

20           Other items as we move forward that are  
21 different than maybe what you're used to is there is the  
22 requirement -- so the federal requirement for the  
23 financial assurances is mostly going to be contained  
24 within 10 CFR 40, Appendix A, Criteria 9 and 10, which  
25 kind of lists out those financial obligations federally.

1           Within the state, how this kind of works is,  
2 for most operations, the State has been holding the  
3 financial assurances in behalf of the NRC. So it wasn't  
4 as NRC holds financial assurances and we hold them. We  
5 basically held them, and then they reviewed those  
6 financial instruments to make sure it was covered and the  
7 State was the holder.

8           We wanted to make sure that those requirements  
9 that are federally in 10 CFR 40 are still there. So, if  
10 you look at like Section 4 (c), you'll see items such  
11 as -- so "Licensees shall provide the Department with  
12 cost estimates that are reasonably accurate, and these  
13 estimates shall include the following." And as you go  
14 down to like (iii), for example, it says "Reclamation of  
15 byproduct material disposal areas in accordance with the  
16 technical criteria detailed in 10 CFR 40, Appendix A."  
17 So, again, we're referencing back to that federal  
18 standard that governs those.

19           If you look at like (iv), for example, on the  
20 aquifer restoration, we refer back to 10 CFR 40,  
21 Appendix A, Criterion 5(b)(v) and our rules as noncoal  
22 Chapter 11 regulations. So, again, throughout this  
23 financial assurance, we're trying to tie back to those  
24 federal financial components. So you will see those  
25 referenced throughout. When we say 10 CFR 40 A, it is

1 mostly what we're referring to.

2           Other items that we have, when they're  
3 detailing financial assurances -- which I'm just trying  
4 to point out the items that may be different than what we  
5 currently operate under DEQ, if that's okay. (Vi), I do  
6 want to point out that they do have to have a contingency  
7 factor with their financial assurance. That's kind of  
8 set in guidance as far as what that contingency factor  
9 is.

10           The other item that comes up is in (vii).  
11 There is the -- for sites that have byproduct -- and for  
12 you guys, probably what you understand, it's more like  
13 tailings. You would understand byproduct. We need to  
14 define it as -- there's a specific definition for  
15 byproduct. But it's basically the tailings from  
16 conventional mills, if you will. So, as they take ore  
17 and they process it, they left back with tailings, if you  
18 will.

19           Back in -- and I forget the date when the --  
20 it's referred to as UMTRCA was passed. Basically, it  
21 provided that those tailings had to be cared for in  
22 long-term care and maintenance. So, if you look at  
23 conventional mills, what happens in the process is they  
24 basically undergo the decommissioning and get released,  
25 but they're not released from their financial assurance



1 obligations until they transfer that site to the  
2 Department of Energy for long-term care and maintenance.  
3 So, in essence, what happens at those places where  
4 tailings are disposed of is DOE takes control at that  
5 point, and they monitor the site for endless periods  
6 afterwards. DOE owns it. And the licensee is removed  
7 from that liability financially.

8 As part of that, with that federal requirement,  
9 they are required, at a minimum, to put up \$250,000 as of  
10 1978 dollars. So you have to basically bring that up to  
11 today's cost with inflation. But the federal rules refer  
12 to it as 250 as 1978 dollars, as a minimum to cover that  
13 long-term care and maintenance fund.

14 Does that make sense?

15 CHAIRMAN GAMPETRO: 952,000.

16 MS. MACKER: '78 must have been a good  
17 year.

18 MR. SCHIERMAN: So I think 1978 is when  
19 UMTRCA was actually passed. So I think that's what  
20 they're referring to. So you'd have to take into  
21 consideration inflation for that.

22 MS. MACKER: Is there a reason why it's a  
23 set amount and not like percentage-based off of size or  
24 some other factor?

25 MR. SCHIERMAN: Chairman, Board Member, it

1 basically lays out what is the minimum. So, at a  
2 minimum, you have to pay this as your baseline. But then  
3 as you have maybe site-specific areas -- maybe the site  
4 is going to be a little harder to manage. Maybe they  
5 have more issues, things like that. When they develop  
6 what is referred to as a long-term surveillance plan,  
7 which they submit in to NRC at this point, and then DOE  
8 basically concurs with, those additional costs may be  
9 reflected, and then they say, instead of 250,000, we're  
10 going to actually be at 700,000 based on this site. But  
11 at a minimum, we're only going to be at 250.

12 So then as you go through here -- so that was  
13 that item for (vi). So, if you look at like (e), for  
14 example, they plan for that long-term care and  
15 maintenance in their assurances. Right? In their  
16 financial assurance, they cover the long-term care fund  
17 that they would have. At the time of transfer of the  
18 site and transfer of liability, basically, in essence,  
19 they provide a cash fund to the DOE, and then that is  
20 dropped from their financial assurance and they're  
21 removed from that liability. But as long as they have  
22 that financial assurance, they still have to plan for  
23 that long-term care and maintenance.

24 Does that make sense?

25 So, at some point, when they have this

1 transfer, there's a switch from going to cash and  
2 dropping off of their financial assurance.

3           Again, Section 5, acceptable financial methods,  
4 we just refer you back to the statutes that govern what  
5 are the acceptable instruments, so 35-11-417 and 18.  
6 Also, we wanted to make sure that, as those financial  
7 assurances go, that they're renewed. If a financial  
8 assurance company says, "We're ending this policy," you  
9 want to make sure it's renewable, and if it's not  
10 renewable, that you have a certain time frame to get  
11 financial assurance into place. There should be a  
12 notification.

13           Section 6 deals with the periodic review of  
14 that financial assurance. It does lay out some items.  
15 It says, at a minimum, we'll review those financial  
16 assurances on a yearly basis. In (c) we say that you can  
17 account for increases. You can increase and decrease the  
18 cost estimates in your financial assurance from inflation  
19 or deflation, changes in engineering plans, activities  
20 performed or changes in any other condition affecting  
21 disposal, decontamination and decommissioning costs. And  
22 that is solely based on the approval of the Department.  
23 So, if you propose changes to your financial assurance  
24 for these items, you can submit to the Department. We  
25 can look at those items and potentially approve those and

1 change that financial assurance amount.

2           Then in Section 7, we move back into the  
3 long-term care and maintenance fund. So this is  
4 solely -- and just so you guys understand who this  
5 affects, the ISR facilities -- and maybe I should make  
6 this point. I didn't make this before. So the in situ  
7 recovery operations, they have what is referred to as  
8 byproduct material. But they do not dispose of byproduct  
9 material on their site. Those go to a conventional mill,  
10 if you will, that has the ability to dispose of those  
11 tailings or byproduct material. The difference being  
12 those sites that accept the waste, remember, are going to  
13 go to a long-term care and maintenance, so they're  
14 basically DOE controlled forever and always, whereas the  
15 in situ recovery operations, once they prove their  
16 reclamation and decommissioning, are going to be, in  
17 essence, released back for use usually back to the  
18 landowner for his use. So there is a difference between  
19 those two.

20           Does that make sense? Because they're not  
21 disposing on site of that material. They're actually  
22 shipping it off. And that's why, where you have areas  
23 that are accepting this waste, they have to have that  
24 long-term care and maintenance set up. And so this is  
25 only governing those sites that accept those wastes.

1 Currently in the state of Wyoming, there's only one site  
2 that accepts these tailings and byproducts from other  
3 facilities, and that's the Pathfinder site in the Shirley  
4 Basin area.

5           So long-term care and maintenance, it kind of  
6 just talks about this. It also talks about that you have  
7 to basically bring it up to inflation to current dollars  
8 using -- we said in here all urban consumers from the  
9 Consumer Price Index, we set forth that's an acceptable  
10 method. If you want to use another method, it basically  
11 has to be approved by the Department. But we set forth  
12 what methods are acceptable to calculate inflation and  
13 which are not -- or, which would need approval, all other  
14 ones.

15           And then it goes through and just talks about  
16 what goes through with long-term care and maintenance.  
17 If you look at like (iv) in Section 7, we talk about  
18 perform periodic site inspections at least every five  
19 years, assure the continuation of institutional controls  
20 and assume responsibilities and carry out any necessary  
21 control and maintenance of the site. That's what's kind  
22 of going into that estimate. You were asking what  
23 increases your base amount. These are the items that  
24 they're looking into, is do you need more site visits?  
25 Do you need more care? Do you need things like that?

1                   And then lastly, just the recordkeeping. We  
2 basically state that, for the financial assurance  
3 component, that those records are kept through the life  
4 of the license, including, but not limited to, the  
5 records of cost estimate performed for the  
6 decommissioning, the amount certified for decommissioning  
7 and records of the funding method used for assuring  
8 funds.

9                   So, with that, I mean, I kind of went through  
10 it fairly quickly, again, I realize. But I think what's  
11 most beneficial to you guys is answering questions and  
12 how we would handle situations. And that's what I want  
13 to provide for. So do you guys have questions in regards  
14 to Chapter 6?

15                   MR. DINSMOOR: Yep.

16                   MR. SCHIERMAN: Thank you, Phil.

17                   MR. DINSMOOR: Okay. First of all, how  
18 does this financial assurance instrument relate to the  
19 bond that is required for the mining operation? Are they  
20 two separate instruments calculated and approved  
21 separately, or are they combined in any way?

22                   MR. SCHIERMAN: Chairman and Board Member  
23 Dinsmoor, I'm going to probably consult with Carol here  
24 in a bit, but I'll say what I think, and she can correct  
25 me if I'm wrong, if that's okay.

1           I think what will happen and what currently  
2 happens is those mechanisms usually are one mechanism  
3 that cover both the NRC component and the current LQD  
4 component. What happens is both entities, so NRC and  
5 Land Quality, review those cost estimates to make sure  
6 that that financial amount in that mechanism is accurate.

7           Now, moving forward, when the LQD assumes that  
8 role as far as regulating these entities, I would assume  
9 that process would be the same, such that the instrument  
10 would still be one instrument, but as cost estimates,  
11 depending on what area it is, may be reviewed by our  
12 program versus Land Quality.

13           Carol, I don't know if you'd add anything to  
14 that.

15           MS. BILBROUGH: That's what we do now. We  
16 hold a single -- we set a single bond amount based on  
17 both of those estimates, and we hold a single bond. We  
18 don't split them out.

19           MR. DINSMOOR: Just for my curiosity, that  
20 single bond is payable only to Land Quality Division,  
21 DEQ --

22           MS. BILBROUGH: Oh, no.

23           MR. DINSMOOR: -- or is it also payable to  
24 NRC?

25           MS. BILBROUGH: Yes.

1                   MR. DINSMOOR: So we don't have a danger  
2 that another agency's going to come and say, "Oh, I want  
3 a bond too," the NRC. It's a single bond payable to  
4 both?

5                   MS. BILBROUGH: Right now. That would  
6 change. When we took that piece of the program, the NRC  
7 would no longer be on the bond.

8                   MR. SCHIERMAN: It would be Land Quality,  
9 the only person on the bond.

10                  MS. BILBROUGH: Well, unless there's a BLM  
11 ownership, surface ownership. Then they will be on the  
12 bond also. So we have cases where we have the NRC and  
13 the BLM and LQD all as potential payees on the bond right  
14 now.

15                  MR. DINSMOOR: And does Land Quality  
16 Division have first claim on that? Does it matter? I  
17 don't know.

18                  MS. BILBROUGH: We have the reclamation  
19 responsibility. We have not had to sort that out. So I  
20 can't really answer that question.

21                  MR. DINSMOOR: I should retract the  
22 question. Let's not even ask it.

23                  MS. BILBROUGH: We hope that we don't have  
24 to ever ask it.

25                  MR. SCHIERMAN: Chairman, Board Member,



1 I'd also bring up something, too, because I think this is  
2 important for the board members to understand. At some  
3 point when this licensee -- and I mentioned this  
4 before -- wants to be removed of their liabilities, let's  
5 say turn this over to DOE, they will, in essence, pay a  
6 cash amount or a cash bond -- whatever that financial  
7 mechanism is. I think it pretty much has to be cash at  
8 this point -- to DOE, at which point that financial  
9 assurance component that's held by us would be then  
10 released. And so there would be that component where we  
11 talk. There's another entity, DOE, in this process at  
12 the end of a long-term care and maintenance facility.

13 MR. DINSMOOR: And that cash payment is  
14 the equivalent of the financial instrument or at least a  
15 portion of the financial instrument that was applicable  
16 to whatever is requiring long-term care and maintenance?

17 MR. SCHIERMAN: So, Chairman, Board  
18 Member, they would have had in their financial assurance  
19 some component to bond for long-term care and  
20 maintenance. In essence, if they were to go insolvent or  
21 default or the State would take ownership, we would have  
22 funds in there to transfer to DOE such that they could  
23 take the long-term care and maintenance. They have to  
24 plan for that in their financial assurance. But at some  
25 point, once they fulfill that obligation to DOE, that

1 would be released from our financial assurance component.

2 MR. DINSMOOR: What I'm trying to get at  
3 is, it's clear what those dollars are to cover when  
4 they're -- both today and at the time that the payment is  
5 made to the DOE?

6 MR. SCHIERMAN: Chairman, Board Member,  
7 I've seen in the past on others that it's itemized in  
8 their cost estimate that this amount is for long-term  
9 care and maintenance. It itemized those items for that.  
10 And I would expect that practice to continue when we take  
11 the program, is we want to itemize what component of this  
12 overall assurance is for that component.

13 MR. DINSMOOR: Don't let me dominate, but  
14 I still have more questions.

15 MS. MACKER: No. I like your questions.

16 MR. DINSMOOR: Let me continue on, then.

17 Section 4(c), Roman Numeral (iv), it talks  
18 about aquifer restoration. And aquifer restoration is  
19 also, I believe, covered in the bond calculation for the  
20 mining operation. And so my question goes to the  
21 duplication.

22 MR. SCHIERMAN: Yep.

23 MR. DINSMOOR: I guess your first answer  
24 that it's one financial instrument, therefore, one  
25 review, an aquifer restoration would be covered only

1 once?

2 MR. SCHIERMAN: Chairman, Board Member,  
3 what currently happens -- and correct me again, Carol, if  
4 I misspeak on this -- is that those items that would be  
5 involved in aquifer restoration would be itemized in  
6 their cost estimates, and they would say this is for this  
7 activity, and this is for this activity, at which point  
8 both NRC and Land Quality are looking at those items  
9 currently to make sure that they are sufficient and they  
10 agree with those items. And so, when that transfers to  
11 us, there may be a concurrence process, whether both  
12 programs look at it and concur that it's good. I think  
13 that's yet to be fleshed out, really. But, in essence,  
14 it would be a similar process.

15 MS. BILBROUGH: Yeah. We do not double  
16 bond.

17 MR. DINSMOOR: Now, on the other side of  
18 the coin, if you drop down the page a little bit to  
19 Section 4, Item Roman Numeral (vi), is the -- I'm sorry.  
20 (C), Roman Numeral (vi) is the contingency factor issue.  
21 And my question there is "contingency" is an often-used  
22 and often-misunderstood term. Is it defined anywhere?  
23 And what do you mean by "contingency"?

24 MR. SCHIERMAN: So, typically, Chairman  
25 and Board Member, typically, how we saw this, we took

1 this from the federal rules as is. The way I understand  
2 how it's applied is, at the end of the day, there's some  
3 cost estimate of your activities. Right? Based on, if  
4 the State were to assume those liabilities, there may be  
5 fluctuation in the actual amounts. You're never going to  
6 adequately describe all of your cost estimates. You have  
7 to have a way of -- a buffer, if you will.

8 We were a little hesitant to put an actual  
9 fraction in the rule such that, you know, a four percent  
10 contingency factor. I think currently -- and correct me  
11 if I'm wrong, Carol -- there's already contingency  
12 factors that are applied in Guideline 12 which allows the  
13 operator to set -- how they set forth their financial  
14 assurances. And that's how we would do it. We just want  
15 to make sure that it's known that those contingency  
16 factors, we have that ability to do so and that they're  
17 contained within that Guideline 12 item.

18 So, as far as how it's applied, it would be  
19 consistent with the way that LQD currently is doing it  
20 with their Guideline 12 items.

21 MR. DINSMOOR: So the statutory  
22 requirement that the administrator has to assure that  
23 there's plenty of money for the State to come in and do  
24 the work is protected through that contingency?

25 MR. SCHIERMAN: Right. And, Chairman,

1 Board Member, we didn't want to set a value because, like  
2 I said, we wanted to make sure that that was flexible  
3 enough in guidelines such that we could adapt if needed.  
4 We don't want to say, in the rules, four and a half  
5 percent on your total. We want to make sure we have a  
6 process already in place that kind of covers that  
7 contingency. We just want to make sure that it's clear  
8 that we do have that ability in the program to have that  
9 to the operator, those that are using these rules.

10 MR. DINSMOOR: At the bottom of that same  
11 page in Item (c), Roman Numeral (vi), it -- I think it's  
12 the first time. I didn't have a chance to cross-check  
13 this. But the very last sentence talks about the  
14 \$250,000 in 1978 dollars to be included in the financial  
15 assurance established by the licensee to cover the costs  
16 of long-term surveillance.

17 Now, before this, we were talking about  
18 long-term care and monitoring, I believe is the term.

19 MR. SCHIERMAN: Right.

20 MR. DINSMOOR: Now it talks about  
21 long-term surveillance. And I just wonder whether we  
22 should use the same term to ensure consistency.

23 MR. SCHIERMAN: Chairman, Board Member, I  
24 will go back and I will look at that on a break and make  
25 sure that we use the same language. And if that's

1 something that we -- I agree with you. We should use the  
2 same terminology. So I will go back and make sure we're  
3 using similar terms.

4 MR. DINSMOOR: Now, in that regard,  
5 long-term care and monitoring -- this is a question.  
6 Long-term care and monitoring are not the same as  
7 reclamation and disposal. Is that true?

8 MR. SCHIERMAN: Chairman, Board Member,  
9 that is correct. So what usually happens -- and we have  
10 a couple sites that have been turned over to DOE that we  
11 can look at, for example. There's the Riverton site, and  
12 then there's a Smoot, Wyoming, site, both of which have  
13 been transferred to the DOE. Basically, what occurs  
14 there is they're fenced off. Access is limited to who  
15 can get onto that property. DOE maintains it. They have  
16 a periodic review or a periodic site visit where they go  
17 and check the site. They'll check the tailing  
18 impoundments, make sure they're holding, that the cover  
19 on top of the tailings is good, that there's no major  
20 erosion control issues.

21 And it may even -- based on the site's  
22 characteristics, there also may be like a sampling  
23 component, too, sampling the groundwater, things like  
24 that. Those are the type of activities that they're  
25 doing in this long-term care and maintenance, is making

1 sure the site is maintaining its integrity, that there's  
2 not a health hazard to the public. It's not, you know,  
3 that a major rain event caused half of our cover of our  
4 tailings to be taken out. You know what I'm saying?  
5 Those are the type of things.

6 MR. DINSMOOR: And that long-term care and  
7 maintenance, financial assurance only goes to traditional  
8 tailings or disposal -- not even disposal. Tailing  
9 sites?

10 MR. SCHIERMAN: Uh-huh. Chairman and  
11 Board Member, only for sites that dispose of tailings on  
12 site. And that is why you will see ISR facilities that  
13 do not dispose of -- they either dispose of their  
14 wastewater with either evaporation ponds and eventually  
15 dispose of those ponds or deep injection wells. They'll  
16 dispose that way. Or they'll ship it off to another  
17 facility for disposal.

18 MR. DINSMOOR: The sense of humor in me  
19 wants to make a comment about long-term care, as I'm  
20 approaching that magic age, but I won't.

21 MR. SCHIERMAN: You're good.

22 MR. DINSMOOR: That's all I have. Thank  
23 you.

24 MR. SCHIERMAN: Other questions with  
25 Chapter 6?

1 (No response.)

2 MR. SCHIERMAN: And as an action item, I  
3 will check on that. When I get a break here, I'll just  
4 run through it. So, if you give me two seconds, I want  
5 to make that note.

6 So the last chapter, and this is a very brief  
7 chapter, provides for what is referred to as general  
8 licenses. And this may be an interesting topic. I'm  
9 just going to kind of give a narrative on this so you  
10 guys can understand what are general licenses.

11 In essence, a general license is the ability to  
12 have radioactive material, if you will, without applying  
13 for a license with the NRC. You guys have typical  
14 devices in your home that you potentially don't apply to  
15 NRC for a license. Smoke detectors are a great example  
16 of such. Smoke detectors have radioactive material in  
17 them. You don't apply for a license to have a smoke  
18 detector in your home. Basically, NRC has said that that  
19 material is safe and contained and doesn't present a  
20 hazard. So that's, in essence, what general licenses do.

21 How it applies to our program is there's two  
22 items where general licenses come into play that I see.  
23 One is when a site -- we've been talking a lot about this  
24 long-term care and surveillance with DOE. When a site  
25 licensee is removed of its liabilities from a site, so



1 they've met all the reclamation standards,  
2 decommissioning standards and they go to transfer a site  
3 to DOE, in essence, their license is terminated. Their  
4 license with the State, it's terminated.

5           They then move into what is referred to as a  
6 general license to have residual material on site. So  
7 they have the tailings. They're covered. They're  
8 stable. But there's potential for that to -- you know,  
9 there may be some type of residual within that  
10 DOE-controlled area. As such, federal requirement for us  
11 and compatibility requirement for us is that, at that  
12 time of transfer, basically, that site has a general  
13 license. We're not typically -- we're not issuing a  
14 license to the DOE. They basically control and maintain  
15 that site and can provide us updates. But we're not  
16 necessarily regulating them at that point.

17           The other item that this comes into play is, in  
18 10 CFR 40, under these general licenses, there's  
19 provisions for small quantities of material. Where this  
20 comes into play, you can potentially have small  
21 quantities of uranium, for example that has to be  
22 under -- I just kind of wrote this down -- 1.5 kilograms,  
23 which is roughly about three pounds of material. A  
24 member of the public can have that material. It's in the  
25 NRC regulations. It's a compatibility requirement that

1 we have to maintain.

2           So, in essence, all we're doing by this is  
3 maintaining the federal entities for those two items, the  
4 small quantities of material and for the transfer of  
5 long-term care and maintenance facilities such that they  
6 don't have to apply for a license to have those  
7 materials. It would fall under a general license.

8           Hopefully, I made that clear enough.

9           Question, Chairman?

10                   CHAIRMAN GAMPETRO: 1.5 kilograms of  
11 uranium. You mean yellowcake?

12                   MR. SCHIERMAN: Potentially. The rules --  
13 let me pull that up real quick -- I think say just  
14 uranium. So then you have to take yellowcake and  
15 determine what your actual uranium content of yellowcake  
16 would be. And from what I see just in my industry  
17 experience is it roughly is about five pounds of  
18 yellowcake, depending on what your concentration and  
19 your -- whatever your grades are as far as your recovery  
20 operations. But from what I've practically experienced,  
21 roughly about five pounds of yellowcake would be the  
22 equivalent of the 1.5 kilograms of uranium.

23                   MR. DINSMOOR: Does that mean that when  
24 our chairman goes and digs up or somehow acquires five  
25 pounds of yellowcake, that he needs to apply for a

1 general license from the Division or that there's -- is  
2 it more like there's this exemption out there for this  
3 de minimis amount?

4 MR. SCHIERMAN: Chairman, Board Members,  
5 it's kind of a provision such that it's like you said.  
6 It's almost like an exemption, if you will. The whole  
7 purpose of a general license is they don't apply to the  
8 Department to have this material.

9 Does that make sense?

10 MR. DINSMOOR: It does.

11 MR. SCHIERMAN: So it's, in essence -- the  
12 best way -- it makes sense -- so I guess we have to back  
13 up a little bit. Their general licenses, typically how  
14 NRC has handled those is through devices and things of  
15 that nature. So there may be like manufacturers -- we  
16 talked about like smoke detectors. There's other devices  
17 that potentially people can have, like x-ray, fluorescent  
18 devices or other material that may have radioactive  
19 material, but they deemed that it's safe and doesn't  
20 create a major hazard to the public. Those devices  
21 they've listed, and it's specific to each device, they  
22 have to register those. They don't have to file for an  
23 application, but they have to register with NRC for those  
24 devices.

25 Now, what they have done for these items is

1 they've taken the uranium industry for these two little  
2 items that we've talked about here and kind of fit it  
3 within that program that they already had in place.

4           Now, the registration, you do not have to  
5 register for small amounts or de minimis these exempt  
6 quantities. So, in essence -- it falls within this  
7 program. But, in essence, per our understanding, I think  
8 it's easier to look at them as more of exemptions, if you  
9 will, that basically you can have this material, but you  
10 don't have to apply for a license to the Department.

11           MR. DINSMOOR: Where my question is  
12 leading, it goes to, at each of my coal mines, my company  
13 has ash analyzers. It's a portable laboratory automated  
14 unit. It's over a conveyor belt and evaluates how much  
15 ash is in the coal as it comes down the belt. And we're  
16 required to have a radiation safety officer and to  
17 actually get some kind of a license from NRC to possess  
18 and operate those things. How does that relate to this  
19 chapter?

20           MR. SCHIERMAN: Chairman, Board Member,  
21 I'll talk briefly on this. And without seeing the  
22 specifics, I would have to say -- but there's two items  
23 at play here. One is you probably have some -- in that  
24 fly ash analyzer, you probably have some kind of fixed  
25 gauge. Is that correct? Some kind of radioactive source

1 that's either telling you how much stuff is flowing  
2 through or something of that nature. Right?

3 MR. DINSMOOR: Correct.

4 MR. SCHIERMAN: So that fixed gauge is  
5 still going to be governed by NRC. So a fixed gauge is  
6 another component that states can assume regulatory  
7 control over. But we're not assuming that control. That  
8 would retain with NRC. So you have to license for that  
9 fixed gauge. That's separate from the general licenses.

10 Now, the other component is -- and I don't  
11 know. I'm just speaking off the cuff here because I  
12 don't know your exact situation. In a fly ash, you  
13 potentially could have the -- basically, you're going to  
14 be concentrating impurities as you go through. Right?  
15 That's, in essence, the ash. As you take coal or  
16 whatever and you go through the processes, you can have  
17 residuals that may build up over time.

18 MR. DINSMOOR: Actually, what we're doing  
19 is we're evaluating the amount of impurity in the coal.  
20 We're not extracting it. We're simply evaluating it.

21 MR. SCHIERMAN: So, at this point, if you  
22 had impurities in your coal, let's say your coal had  
23 uranium content within it, which it probably in some  
24 quantity does, so your coal has some -- if it raises  
25 above a concern component or concentration of uranium,

1    which we define as source material, in essence, you would  
2    potentially have to apply for a license with the NRC  
3    because your material has a certain concentration of  
4    uranium. I don't think you do. It's going to be smaller  
5    than that. But I think it's more the fixed-gauge issue  
6    that we're talking about here.

7                    But, regardless, that type of scenario would  
8    still reside with NRC. We are solely governing the  
9    uranium recovery operations in this state, so only  
10   activities that create this 11(e)(2) byproduct material.  
11   Even though that uranium, in de minimis quantities, maybe  
12   with that coal or another product, a fertilizer or things  
13   like that, those items would still remain with the NRC.

14                   MR. DINSMOOR: So this chapter only goes  
15   to those who obtain licenses under this uranium program  
16   with the State of Wyoming?

17                   MR. SCHIERMAN: Yes.

18                   MR. DINSMOOR: And anybody else that has a  
19   uranium source, for whatever reason, if it's not  
20   associated with these licenses, the general license  
21   provision doesn't apply to them. So laboratories, for  
22   example, and what they may have, smoke detectors or  
23   special kinds of analyzers like that fall outside the  
24   coverage of this rule?

25                   MR. SCHIERMAN: Chairman, Board Member, I

1 would say these rules mimic the federal requirements. So  
2 we have it for our program. But those other entities  
3 would have similar rules from a federal component,  
4 whereas this is on a state level. Does that make sense?

5 MR. DINSMOOR: Yes.

6 MR. SCHIERMAN: So it's not like we're  
7 excluding them, per se. It's just more of a  
8 jurisdictional item. We have jurisdiction over these  
9 items, so we need to make sure we have a similar control  
10 for these general licenses, whereas those items fall  
11 completely under the federal.

12 And one other item just to bring up -- and this  
13 is just for clarity, I think, for everyone too -- you  
14 know, we've been talking about other processes that may  
15 have uranium. You have to remember the NRC does not  
16 govern mining of uranium. So, if you were to go dig a  
17 hole and start mining ore in your backyard, the NRC does  
18 not currently require that you have a license for that.  
19 It's once you start processing and milling that material,  
20 that's where they come into play.

21 MS. MACKER: On Letter A, where it says  
22 the rules don't include later amendments, if the rules  
23 that are being incorporated have amendments to them, is  
24 that something that the Department is monitoring, or does  
25 the NRC say, "We've updated this rule. You need to go

1 through your process to update your rules also"?

2 MR. SCHIERMAN: Chairman, Board Member,  
3 that's kind of the processes. Unfortunately, it differs  
4 from state to state. Some states can just incorporate by  
5 reference, and as those federal rules are changed, their  
6 state rules, in essence, are changed. We're required by  
7 the State when we incorporate by reference to actually  
8 put the revision date, so the date of the rule at the  
9 time of incorporation. If it does change, we would have  
10 to change our rules.

11 And how NRC monitors that is they have -- they  
12 track their rule changes. They would let you know, "Hey,  
13 look, we're going through rule changing on this item.  
14 Make sure and see if it affects your program." They give  
15 you three years from the time of their enacting their  
16 regulation to a point where your regulations need to be  
17 basically in compatibility with their regulations.

18 The way they enforce this is it's referred to  
19 as an IMPEP review. So, basically, what happens is the  
20 NRC plus other agreement states will come and audit you  
21 on a three-year basis, and they'll look at your rules,  
22 and they already know the changes that have occurred, and  
23 say, "Hey, how have you changed your rules in accordance  
24 with this?"

25 A good example of how this has happened, so you



1 can understand, with the 9/11 attacks that occurred and  
2 some of those threats that occurred, there was concern  
3 over some of our radiological material, some of the  
4 higher radiological material, the security of those.  
5 They, in essence, changed the requirements in the  
6 10 CFR Part 37 as far as security. And they set those  
7 requirements, and then the states had so many time frames  
8 to come back and say, "Here's how we're going to meet  
9 those requirements. These are the changes that we made,"  
10 et cetera, et cetera.

11 And that's been kind of an ongoing process.  
12 They've made some recent changes again to the 37. And I  
13 think at this point, all the states have come into  
14 compliance. But it's kind of this lag effect, federal  
15 changes, and then it takes a little bit for the states to  
16 come back in compliance.

17 MR. DINSMOOR: Natalia, the Air Quality  
18 Division and I presume the Solid and Hazardous Waste  
19 Division go through this already because they're  
20 restricted by the state rule that says you can't do it  
21 forever. And it's a time-consuming and a rather  
22 cumbersome process. If you watch the publications by the  
23 DEQ, the public notices, probably a third of the Air  
24 Quality Division notices are simply updates to those  
25 incorporations by reference.

1 MS. MACKER: Okay.

2 MR. SCHIERMAN: It's something you have to  
3 do. But it's unique to Wyoming and our requirements for  
4 incorporation by reference. Some states, they just  
5 incorporate, and they believe that it just automatically  
6 updates.

7 MS. MACKER: Is that governed by the  
8 legislature, that it's not automatically incorporated?

9 MR. SCHIERMAN: Yes.

10 MS. MACKER: Thank you.

11 MR. SCHIERMAN: So those are the -- what  
12 other questions do we have with Chapter 10? I'm sorry.  
13 I totally -- I should have gave you copies. I have  
14 copies for you all on these items.

15 MS. MACKER: Have them all here. We're  
16 good.

17 MR. SCHIERMAN: I apologize. You should  
18 have slapped me and told me to bring copies to put in  
19 front of you.

20 All right. So, with that, those are the new  
21 chapters. I guess at this point, Chairman, I would -- I  
22 would like to -- and Craig and Carol, is discuss how you  
23 want to move forward, if we're free to move forward  
24 discussing the other rules at this point.

25 CHAIRMAN GAMPETRO: Okay with me.

1 MR. SCHIERMAN: Are we okay doing that?

2 MR. HULTS: Yes, absolutely.

3 MS. MACKER: Can I ask you a question  
4 about it? Our goal is to take all ten chapters, now that  
5 we've been through them line by line, and have this board  
6 approve them so they can go to the EQC?

7 MR. SCHIERMAN: Potentially, that is an  
8 outcome that could occur from today. We basically want  
9 to present the whole bundle of rules to the advisory  
10 board, and then at that point, we'll let you guys decide  
11 which way you want to go. If you guys want to rule on  
12 them and move forward to the EQC, that's great. If  
13 there's potentially other items, holdups, things like  
14 that, we can talk about it. I don't want to diminish  
15 that role from you guys. Does that make sense?

16 MS. MACKER: Sure. But is it the other  
17 chapters that we've already been through?

18 MR. SCHIERMAN: Yep. You've seen all  
19 these chapters. So I will be in Chapter 1, is where we  
20 are going to move first. And would you guys like me to  
21 bring you copies of those?

22 MS. MACKER: I have it.

23 MR. SCHIERMAN: You have it? Do you want  
24 a paper copy of it?

25 MR. DINSMOOR: I've got it.

1                   MR. SCHIERMAN: Got it? Okay. I will  
2 hand out this, because this is going to be -- this will  
3 be a change that we made in accordance with this. And it  
4 will be easier to understand if we have this in front of  
5 us.

6                   So we will go through Chapter 1. Actually, I  
7 am going to give you guys these. There is the one item  
8 that you may not have seen.

9                   MR. DINSMOOR: Can I ask a question before  
10 we get started here? Ryan, when we reviewed these rules  
11 the first time, in some cases we said, "Here's a change  
12 you ought to make." In some cases we asked the question,  
13 and you may not have had the answers. You were going to  
14 check into it, and then you were going to take care of  
15 adjustments or whatever that might be necessary. Is  
16 where we're headed now is you're telling us about those  
17 things?

18                   MR. SCHIERMAN: Yeah.

19                   MR. DINSMOOR: So you've recorded all of  
20 those instances, we hope, and you're going to tell us  
21 about them now?

22                   MR. SCHIERMAN: Right. Chairman, we have  
23 noted those comments, I hope. We've made those as we've  
24 gone along in the process. And so we've highlighted  
25 additions from those last time that we've seen so we know

1 what changes we've made. Hopefully, I can capture all of  
2 them. I think we can. I think, in going through this  
3 process, we'll be able to do that.

4           So, as you'll see, a lot of the revisions that  
5 you're going to see today is highlighted by Section 2 in  
6 our purpose. Originally we had "source material from  
7 recovery or milling and the byproduct material from such  
8 recovery or milling activities." Now we will be using  
9 "source material involved in the extraction and  
10 concentration of uranium and thorium in source material  
11 and ores at uranium and thorium milling facilities,  
12 referred throughout these rules as licensed material."

13           So, in essence, we're taking -- and I need to  
14 remind you guys where this came from. When you take a  
15 limited scope of material from the NRC, we basically had  
16 to have approval by the NRC that we could take this and  
17 that it would need an orderly regulatory scheme and that  
18 it may basically fit in these criteria.

19           In essence, what they did at that point is  
20 said, "This is the category of material that you have to  
21 use." Do we necessarily agree with the language? It is  
22 wordy. We thought we covered it before pretty  
23 adequately. But because we -- we don't have much of a  
24 say as far as what the Commission comes down and says.  
25 "This is the material you will use."

1           And to do that, instead of putting this whole  
2 three lines every time we said "source material from  
3 recovery or milling," in essence, we're saying referred  
4 throughout these rules as licensed material. So, when we  
5 say licensed material, we're meaning this NRC language  
6 that came from the Commission. So you'll see that  
7 throughout. And we got rid of those.

8           In Section 3, as part of the meetings that we  
9 had here, it was made -- the observation was made that we  
10 may need to just flatly state out that these rules do not  
11 govern the mining or removal of source material in its  
12 natural state. That's going to be LQD. That's what we  
13 do through our mining processes. Basically, that's not  
14 our jurisdiction. Because, from that rule or from that  
15 item that -- and I'm sorry. It wasn't in this meeting.  
16 It was discussions with NRC. We had concerns with the  
17 language that they provided, "source material involved in  
18 the extraction and concentration of uranium and thorium  
19 in source material and ores." It implied, potentially,  
20 that NRC was trying to enter into the government of  
21 natural traditional mining where they're not milling.

22           So, to clarify that and to make sure down the  
23 road a member of the public or someone reading these  
24 rules understands, it's the milling component. So we  
25 added that last little clause on that item.

1           And I would state, as we go through this, I  
2 think it's more beneficial for you guys, too, if you have  
3 questions, feel free to interrupt me and say, "Hey,  
4 explain this more fully." Sometimes I talk fast.  
5 Sometimes I get excited about things. And I may blow  
6 over something that maybe doesn't make complete sense.  
7 So please stop me if I need to talk more carefully.

8           Section 4, we had -- in the original item, we  
9 had a table that we were going to provide that basically  
10 said where we were more stringent. We kind of moved away  
11 from that in the fact that, as we reviewed our program  
12 and as we reviewed our rules, in essence, what we tried  
13 to do, instead of setting more stringent standards than  
14 the NRC at this point, is, for purposes of getting an  
15 agreement, we would maintain the same stringency as the  
16 federal requirements. So we didn't go above the federal  
17 requirements. We wanted to set up a program that was  
18 equal to the federal program.

19           So, as we went through these rules, we couldn't  
20 really identify anywhere that we were really more  
21 stringent, per se. So, in essence, that's why we deleted  
22 this section.

23           Going forward, as we start regulating and as we  
24 start coming to terms with this program, how it operates  
25 as we work with operators, there may be items where we

1 become more stringent, but we wanted to make it as we  
2 moved into the program, not at the beginning, if that  
3 makes sense.

4           As we move to Section 5, under (f), there was  
5 an addition. Basically, we wanted "as per NRC  
6 requirements or NRC language." They require that we put  
7 "Nonagreement state means any other state." So, in here,  
8 we define what an agreement state is, those that have  
9 entered an agreement with the Nuclear Regulatory  
10 Commission. Nonagreement is other states that don't have  
11 this agreement. It's a nuance, I know, but I want to  
12 make sure I cover any changes that we did.

13           Other things that we did -- I guess I'll get  
14 there when we go to there.

15           So next changes would be -- we're going to move  
16 forward a little bit. I believe we're going to move to  
17 1.6. We had conversations -- and this is where the  
18 handout that I gave you guys will be helpful.  
19 Originally, in working with the operators, they wanted to  
20 set those fixed limits for contamination releases,  
21 et cetera, et cetera. One of the items of discussions  
22 that we had with the group here was the inclusion of  
23 alpha versus the inclusion of beta limits. We discussed  
24 that with the group.

25           Originally, we went back and put the betas in



1 there. But the concern that I had as we went forward,  
2 and this is what I want to explain to you, is most  
3 operators in this table -- this is the table that we  
4 reference in this definition. Okay? We reference this  
5 table. For release limits, most operations and most  
6 items are going to be following the first item, which is  
7 the U-nat, U-235, U-238 release limits, that first  
8 column, which was in line with what we did. That made  
9 sense.

10           The other, if you realize, if you go down to  
11 the very bottom, it says beta and gamma emitters. Their  
12 release criteria are the same as for the alpha. So, in  
13 essence, per Chairman's comment, yes, we put both those  
14 back in. The concern I have and I'm willing to change on  
15 this is there is potential operations where they may  
16 separate out radium either for discharge or for other  
17 processes. They're purposely separating out the radium  
18 component.

19           If you go to the second item in the table, you  
20 can see the release limits for radium are much, much,  
21 much, much lower than the release limits for uranium or  
22 for any beta or gamma emitters. So I took an executive  
23 decision upon me and said, at this point, if you'll look  
24 at your rules, instead of listing out those release  
25 criterias for 5,000 and 100, I basically said we will

1 refer to this table as far as what release criteria you  
2 have to meet, instead of trying to specify uranium for  
3 1,000, radium for this, et cetera, et cetera. So I went  
4 through and I actually just said we're going to refer to  
5 the table. I'm not going to put the limits in the rules.

6 Does that make sense? I want to make sure that  
7 that's clear to everyone.

8 MR. DINSMOOR: Where is that reference to  
9 the table?

10 MR. SCHIERMAN: If you look up in (ac) of  
11 that definition, 1-6 (ac), so Regulatory Guide 8.30,  
12 Section 2.5, Table 2. And this table is actually  
13 taken -- I apologize. This says Table 1. That says  
14 Table 2. You asked why. If you go to 8.30, this is  
15 actually labeled as Table 2. When I was doing this and  
16 printing these off for you last night, I took it from  
17 Regulatory Guide 1.46, which, basically, Regulatory Guide  
18 8.30, long story short, references the table from 1.46.  
19 So I grabbed it from the original source. I probably  
20 should have grabbed it from 8.30. It's the same table  
21 but changed the numbers. But thank you for catching  
22 that.

23 So I think -- as far as a safety item, I think  
24 it's safer to -- I would hate for someone to come back to  
25 the Department and say, "Your definitions say these are

1 the limits," and hold us to those, when, actually, it  
2 could be those radium limits are the ones that they  
3 should be following. And that's why I made that  
4 executive decision just to cross those, because I want to  
5 have that flexibility to put the correct limits with the  
6 correct mode of operations, if that makes sense, so we're  
7 not causing any health and safety concerns.

8 MR. DINSMOOR: One question. For purposes  
9 of incorporation by reference, you've essentially done  
10 that here.

11 MR. SCHIERMAN: And we probably didn't put  
12 a date.

13 MR. DINSMOOR: Well, if the table  
14 changes -- that's my question. If the table changes, so  
15 does the state regulation in terms of what it governs.  
16 And is that okay?

17 MR. SCHIERMAN: What I would say what we  
18 do -- and I contemplated this last night, and I was going  
19 to make that change, but I didn't. We will put a date,  
20 an effective date, on those, as we do with IBR. And at  
21 that point, the State has a decision whether they want to  
22 accept the revisions or not. So we'll put a date in that  
23 item. Does that work? Can we flag that? Is that all  
24 right if we put a flag there to come back? Because we'll  
25 probably want to try to do that today. Right?

1 MR. HULTS: Sure.

2 MR. DINSMOOR: Ryan, let me say I'm not  
3 sure that I -- that I agree with that approach. But it  
4 seems to me that these rules could get all the way to the  
5 Secretary of State, and they could find that, oh, you  
6 can't do that, and they're sent back. So I'm doing it  
7 more in terms of trying to save you the step.

8 MR. SCHIERMAN: I had the same thought  
9 process. I was planning to do it. It was a miss on my  
10 part. I'm okay with the change. I think it's prudent.

11 Moving on. Sorry, guys. Need to regroup where  
12 I'm at. 1.7. As we went through the rules, we realized,  
13 as we wrote rules, one of the definitions that we  
14 omitted, we were kind of on the fence on, that we felt  
15 like we needed to include was the definition for discrete  
16 source. And what you'll have, it's actually in the  
17 versions that I gave you guys there. So, on 1.7, it's  
18 going to be (ao). So, (ao), and it's going to be  
19 "discrete source."

20 And basically what it says, for those that are  
21 following along with the projector, it means a  
22 radionuclide -- oh, you do have it. I thought you did.  
23 I was concerned you didn't. Basically, for intents and  
24 purposes, it's just setting up the knowledge base when we  
25 discuss the rules. It doesn't have a whole lot of effect

1 on the rules. It's more of a clarifier. When they say  
2 "discrete source," this is what they're talking about.

3 In (ay) there's the discussion on equivalent  
4 feed. We have brought this -- this isn't the first time  
5 you've seen this definition. We brought this to the  
6 advisory board before. But, again, we're just capturing  
7 all the changes we made since the beginning of this  
8 process.

9 Equivalent feed. Basically, what equivalent  
10 feed is, is you can think of it as water treatment  
11 facilities. So, if you have a water softener at home,  
12 right, basically you're filtering the water before you  
13 drink it. You're going to basically build up material on  
14 that filtering medium. And what's happening at  
15 municipalities is they use resin, which they're doing the  
16 same thing. Right? They're filtering the water before  
17 they provide it to the public. They use resin that is  
18 similar to what is at ISR facilities, or in situ recovery  
19 facilities.

20 As that water flows through that, there may be  
21 areas where there's high uranium content in the natural  
22 drinking water. And over time, this resin builds up  
23 uranium. How that has been disposed of is basically,  
24 before, it was treated as a waste. And they'd have to  
25 pay for disposal of that material at a low-level

1 radioactive waste disposal area, pay very much, a lot of  
2 money to dispose of that uranium. And the other thing is  
3 that a resin may be still good. It still is useful. It  
4 just has a bunch of uranium built up on it.

5           So NRC came out a few years ago, in 2006, and  
6 said four facilities that -- these water treatment  
7 facilities where they have resin that is similar or like  
8 resin of ISR facilities, they can transfer that material  
9 to an ISR facility for them to strip because it's already  
10 the same material. They can strip the uranium off for  
11 them and then potentially either -- some facilities  
12 are -- nobody really does it on a large scale right now.  
13 But, potentially, they'll release that resin back to the  
14 municipality or just dispose at the facility.

15           So, in essence, long story short, we're  
16 preserving those rights per this equivalent feed.

17           Does anyone have questions on that process that  
18 I just explained?

19   (No response.)

20           MR. SCHIERMAN: Okay. All right. Go to  
21 1-10 (bt). Again, this was what I was talking about  
22 earlier. We redefined what licensed material is based on  
23 that NRC SECY paper. You can read the language. I'm not  
24 going to reread it. I've read it twice already. So just  
25 know that that's where that language is coming from.

1                   MS. BILBROUGH: Mr. Gampetro, may I ask a  
2 quick question of Ryan?

3                   SECY?

4                   MR. SCHIERMAN: SECY. I'm sorry.  
5 Basically, think of it as NRC commission ruling. They  
6 have -- you'll hear their vernacular for SECY. I'm not  
7 even going to guess what it stands for.

8                   MS. BILBROUGH: Is it an acronym?

9                   MR. SCHIERMAN: It's an acronym. When I  
10 say SECY, it's a commission -- NRC commission ruling.  
11 And maybe I'll try from here on to say NRC commission  
12 ruling.

13                   MR. DINSMOOR: I think, if I can, it's  
14 probably the equivalent of an IBLA decision for the  
15 Interior Department.

16                   MR. SCHIERMAN: Yes. That's how their  
17 numeric device -- and it has a name, and I can't pull it  
18 off the top of my head right now.

19                   MS. BILBROUGH: That's okay. I just  
20 wondered.

21                   MR. SCHIERMAN: Thank you for clarifying  
22 that.

23                   In (bx) on 1-11, we reordered our chapters. As  
24 you know, we reordered kind of the numbering, so we just  
25 had to reflect that change in the rules.

1                   Okay. Moving forward, 1-13. Here's a comment  
2 that was brought to us, Phil, that we did do and I want  
3 to report back on. Some of the definitions that we had,  
4 we wanted -- the idea was brought that we need to make  
5 sure that it follows statutes that have already been  
6 established, Land Quality definitions that have already  
7 been established, things of that nature.

8                   As you see with "person," there is some slight  
9 differences between what we had and what the statutes  
10 had, and so we went back and changed those items.

11                   CHAIRMAN GAMPETRO: Why "person" instead  
12 of "entity" or something like that?

13                   MR. SCHIERMAN: I'm not sure. I mean,  
14 that's what the federal regulations have. That's what  
15 the State had. We mirrored what they had. But I agree.  
16 Why not "entity"? Why not --

17                   CHAIRMAN GAMPETRO: Sorry I asked.

18                   MR. SCHIERMAN: No. You're good.

19                   So we did make that change. But that's  
20 something that we can report on a discussion item that we  
21 have here in the advisory board, was we went back and we  
22 made sure that there was consistency. This is one item  
23 where we found inconsistencies.

24                   "Program," we added "State of Wyoming's." So,  
25 if you go down to (cl), we just added "the State of



1 Wyoming's." It used to read "means the uranium  
2 recovery." We wanted to make sure that it was specific  
3 to us. Kind of a nuance.

4 All right. This one is -- again, you realize  
5 there's a lot of just definitional items.

6 One item that wasn't marked but you've seen  
7 before is you go to (dt). There was some language in the  
8 uranium fuel cycle that was introduced kind of by  
9 accident. As we were reviewing things, we added some  
10 language. But this language was a Compatibility A, so we  
11 had to have word for word with NRC's. So the first  
12 version that we sent to you guys had some language. We  
13 basically just changed it back to -- and we talked to the  
14 group about the changes we made. But I guess, in this  
15 version, it did not make it, and that's my fault.

16 Just so you know, this uranium fuel cycle now  
17 mirrors exactly what the federal says and what they're  
18 required to do for compatibility, whereas before, it  
19 wasn't in line with compatibility because we had two or  
20 three clarifying items in there that we added to make it  
21 more clear, but it didn't meet the NRC's compatibility  
22 requirements.

23 MR. DINSMOOR: And compatibility in this  
24 is -- you shared this at our first meeting. Is that  
25 right?

1 MR. SCHIERMAN: Yes.

2 MR. DINSMOOR: And that's word for word?

3 MR. SCHIERMAN: Yeah. So different  
4 versions of compatibility. There's A through D. It was  
5 a Compatibility A, which means word for word. And we  
6 went word for word. They said, "You guys aren't  
7 compatible with this definition." So we said, "Fine.  
8 We'll make it word for word."

9 Moving forward, I think that's going to cover  
10 most of the changes that have been made. Let me just  
11 make sure.

12 CHAIRMAN GAMPETRO: 23 was the next one I  
13 found.

14 MR. SCHIERMAN: 23, we just changed the  
15 language back to the commission language. We're getting  
16 rid of the "source material from milling" and basically  
17 providing the language there. It didn't make sense,  
18 potentially, with that one to put "licensed material," so  
19 we put the actual version of that, rather than just  
20 "licensed material."

21 So that is Chapter 1. I guess, going forward,  
22 I'm going to write on my copy to make changes to that  
23 date. Is there other questions or changes or items to  
24 discuss with Chapter 1, the general provision?

25 MS. BILBROUGH: Table number.

1                   MR. SCHIERMAN: Well, that table will be  
2 referenced. I got to put a date with it. And the  
3 reference we have says Table 2. This is just from the  
4 original source that they referenced and pulled back into  
5 this. I know that's confusing. But that's how we'll go  
6 forward with that.

7                   Any other changes or comments?

8   (No response.)

9                   MR. SCHIERMAN: Chapter 2 we already  
10 talked about, so I'm going to skip. Are we okay doing  
11 that, or do I need to go back through Chapter 2?

12                   CHAIRMAN GAMPETRO: I have a question.  
13 These are all hole-punched. Do you want us to put these  
14 in our books, or are we going to get finals that don't  
15 have red and crossed-out and stuff?

16                   MR. SCHIERMAN: Would you guys prefer --  
17 Chairman, I'd leave it to you as a board. What would be  
18 the best for you guys?

19                   CHAIRMAN GAMPETRO: You don't have to do  
20 it for me.

21                   MR. SCHIERMAN: Would you like to see just  
22 the redline versions like that, a final like that? Is it  
23 okay with you guys? Or would you like to see a clean  
24 version presented to the group?

25                   MR. DINSMOOR: What purpose will that --

1 presumably, we're going to pass on these today.

2 CHAIRMAN GAMPETRO: Yes.

3 MR. DINSMOOR: Frankly, I don't want a  
4 copy.

5 MR. SCHIERMAN: Okay. I'm trying to  
6 appease you. If you want it as a memento of all the time  
7 that we've spent together, you can.

8 CHAIRMAN GAMPETRO: No. That's fine.

9 MR. SCHIERMAN: All right. We're going to  
10 move to Chapter 3. I am going to give these to you guys.  
11 And if you want to give them back to me, you can, too, as  
12 well. I'm going to give you these just so you guys have  
13 them. Make sure -- I know you guys pulled it up on the  
14 Internet. I want to make sure we have the same version  
15 that we're all working on. I'll give you that to share  
16 between the two of you.

17 Same changes in Chapter 1. We had to change,  
18 per NRC's approved language, back to "licensed material."  
19 That's the first change you'll see there. We changed  
20 from "regulations." This is more just to be consistent  
21 with Section 2. The regulations we just changed to this  
22 chapter. It was more just to be consistent with what our  
23 other chapters were saying as we reviewed them. We saw  
24 this may be a little inconsistent. Grammatical is all it  
25 is at this point, and again, changing that material.

1           The one thing that we were done -- that we had  
2 to do, I'm going to go -- so, originally, in 10 CFR 20 --  
3 and I'm going to try and explain this. And please stop  
4 me if I'm not explaining it well, because it may be a  
5 technical item. In 10 CFR 20, there's a table that talks  
6 about neutron fluence rates to dose. So you basically  
7 can take a neutron fluence rate and say, if I have this  
8 rate, I can determine a dose, meaning dose is, in the  
9 radiological scheme, how we measure harm to the body,  
10 et cetera, et cetera. Okay?

11           So, in uranium recovery operations, the type of  
12 scope of material that we see, there is really no neutron  
13 generators that they'll be encountering. Neutrons will  
14 be coming naturally from background, et cetera, et  
15 cetera. But there's not really going to be a neutron  
16 source. Neutron sources you're going to see,  
17 potentially, at nuclear power plants, research, things of  
18 that nature.

19           Originally, we left this out of our regulations  
20 on the -- on the basis that we do not want operators --  
21 in viewing this table, it has no applicability,  
22 et cetera, et cetera. After review with NRC for  
23 consistency to make sure that the regulatory scheme from  
24 state to state is the same, they have come back and said  
25 that this is a compatibility issue and that you must

1 include it.

2           So, as you look at (b), only -- you see that  
3 change, that it was 20.1004 originally? We had to --  
4 basically, instead of excluding the whole section, we  
5 only excluded the one item, and that was because we had  
6 to include this table that talks about neutron fluence to  
7 dose.

8           Do people understand that? Do I need to dive  
9 any further in that, or am I good moving on from there?

10   (No response.)

11           MR. SCHIERMAN: Okay. I just don't  
12 know -- like I said, sometimes I'm not sure how that --  
13 that's the changes with Chapter 3. Next would be Chapter  
14 4. This is going to have quite a bit of stuff.

15           MS. MACKER: Might we take like a  
16 three-minute break?

17   (Hearing proceedings recessed  
18 11:26 a.m. to 11:35 a.m.)

19           MR. SCHIERMAN: Chairman, may I proceed?

20           CHAIRMAN GAMPETRO: Go for it.

21           MR. SCHIERMAN: So, moving through this,  
22 there's going to be some grammatical cleanup of this  
23 chapter similar to before. I'm going to try to move  
24 through those a little quicker this time.

25           In the "purpose" section, you'll see that we

1 had to get rid of "source material from recovery or  
2 milling." We changed it to "licensed material," so  
3 changing the NRC language back to "licensed material,"  
4 cleaning up the chapter in that regard. We also added,  
5 just again, to make the provisions -- because this is  
6 something that we haven't done historically in the past,  
7 it was felt, as we reviewed these, that we needed to  
8 outline that this chapter "provides requirements for  
9 decommissioning in the long-term care and custody of  
10 byproduct material." And I'm going to change that to  
11 "long-term care and maintenance" to be consistent with  
12 what we were doing before. And I will put that up on the  
13 board once we get done with the chapter.

14 "This chapter establishes performance  
15 objectives." Again, we're just cleaning up that language  
16 to reflect the NRC's. In Chapter -- Section 2, "scope,"  
17 (c), we basically wanted to make sure that this applied  
18 to both general and specific licenses. One of the  
19 comments we got back from NRC when we sent these rules is  
20 they wanted for us to put that term "general" in there,  
21 which is the chapter we covered in Chapter 10 earlier  
22 today. So we just added that per NRC suggestions.

23 Going forward, if we go to 4-2 in Section  
24 3(d), it was a formatting item. We basically took (d)  
25 and what was (e) and combined them and made it into one

1 item for clarity. As I went through the AG's review, we  
2 basically combined the two for that portion.

3 Moving on, for 3, there wasn't really any  
4 substantive changes. Section 7 in 4.4, again, we changed  
5 the language to reflect the NRC language, changing it to  
6 "licensed material." Section 8, we took off, again, per  
7 NRC requirements, "for source material" -- we got rid of,  
8 in the header, if you look at Section 8, the "for source  
9 material recovery or milling," and just left it for  
10 "General requirements for issuance of specific licenses."  
11 That was done per the NRC commission language.

12 Items that we added is in (iii) under (a). It  
13 is basically the applicant for a license has to meet the  
14 requirements of the chapter. We just threw in that  
15 general provision. I think it was inferred, but we just  
16 wanted to make sure that you have to meet these  
17 requirements. We realized it's a minor thing, but we  
18 wanted to make sure that was in there.

19 So (b) is -- when we're talking about this,  
20 what we wanted to do is, in an application or in an  
21 amendment or things of that nature, that the State has  
22 the ability to ask for additional information, if  
23 something's presented, that we can ask for additional  
24 information to clarify, to provide more information,  
25 things of that nature. We didn't have that before. We



1 needed that provision put in.

2 Any questions with that?

3 MR. DINSMOOR: I have a question. On the  
4 Roman Numeral (iii) under Part (a), is it only this  
5 chapter that you want to reference? Actually, let me ask  
6 a different question. Does the Department have to put  
7 together a findings document -- and, Carol, I'm going to  
8 look at you -- a state decision document, sort of  
9 document on the issue of license under this program? And  
10 if so, it would seem to me that Item (iii) becomes one of  
11 the items the Department will have to address. And so  
12 the question becomes is it just this chapter, or is it  
13 all chapters?

14 MR. SCHIERMAN: Chairman, Board Member,  
15 can I answer that?

16 MS. BILBROUGH: Yes.

17 MR. SCHIERMAN: NRC issues what is  
18 referred to as a safety evaluation report when they issue  
19 a license. Basically, they issue that, which basically  
20 outlines, as you said, a state decision document that  
21 this is why we're justified in issuing this license.  
22 They met this requirement and this requirement and this  
23 requirement.

24 We will do a similar approach to our licenses.  
25 We'll have to have some kind of justification, even

1 potentially a preliminary decision document saying this  
2 is where we are here. And then, potentially, as you look  
3 through this chapter, we have to go through that public  
4 process. People can actually challenge, before it gets  
5 to the hearings under the EQC, our decision. We have to  
6 basically justify that if someone can demonstrate, as we  
7 lay out in this chapter, harm, et cetera, et cetera.

8 But, to make the matter short, we do have to  
9 issue a decision document justifying our actions, which  
10 would be, in essence, kind of looking at (iii) and making  
11 sure that it meets all these requirements.

12 MR. DINSMOOR: But only Chapter 4 contains  
13 license requirements?

14 MR. SCHIERMAN: And Chapter 4 is what is  
15 required when you apply for a license. So, if you apply,  
16 what is needed for the application? And so, when we get  
17 those in, we'll basically say they meet all these  
18 technical requirements which are laid out in this  
19 chapter, and this is why we're issuing them a license.

20 MR. DINSMOOR: I don't recall our review  
21 of Chapter 4. But, for example, does the financial  
22 assurance requirement get mentioned in Chapter 4?

23 MR. SCHIERMAN: Yes.

24 MR. DINSMOOR: And that's the reason for  
25 my question, to make sure you cover all your --

1                   MR. SCHIERMAN: Right. Well, keep that in  
2 mind. Why don't we, as we go forward, make sure  
3 financial assurance, things like that, I'll try and  
4 highlight where we document those items.

5                   MR. DINSMOOR: Good. Thank you.

6                   MR. SCHIERMAN: So, moving to 4-6,  
7 grammatical changes, page 4-6, there's not really much of  
8 a difference on 4-6, grammatical. We can review those if  
9 we want. But it's just cleaning up the language.

10                  Section 9, this is where we're going to have  
11 the specific requirements, Board Member Dinsmoor, is  
12 where we're going to list what they need in here. So, as  
13 we go through this, I'll try and point out where we say  
14 financial assurances and things of that nature. First  
15 change in (a) is solely to make sure we cover the NRC  
16 language.

17                  And then as we move to 4-8, I want to make  
18 sure -- so, if you go to (xiv), here's where we talk  
19 about -- in one instance where we talk about financial  
20 assurance. "Proposal of an acceptable form and amount of  
21 financial assurance in accordance with 10 CFR 40,  
22 Criterion 9 of Appendix A, and the Department's rules."

23                  CHAIRMAN GAMPETRO: One of the  
24 requirements of the chapter.

25                  MR. SCHIERMAN: Right. So that's what we

1 put there. We can go back and, as I go through, I'll try  
2 and find any other financial assurance items or things  
3 like that that may be covered in other chapters.

4 Are we okay to move forward?

5 MR. DINSMOOR: Yeah. I just wanted to  
6 make sure that -- you know, one of the worst positions  
7 the Department can be in is to be on the verge of an  
8 approval of something and you find that they've missed a  
9 point because of the way the regulation was constructed.

10 MR. SCHIERMAN: Yeah. We appreciate it.  
11 We do.

12 In (ii), in (c) (ii), if you scroll down a  
13 little more, "Decommissioning by the Department funded by  
14 a surety." At first we had just "a surety." The surety  
15 doesn't do the decommissioning. We realized -- someone  
16 pointed this out to us. We needed to make sure it was  
17 "funded by," not "a surety." So we just added those,  
18 that grammatical item, as well.

19 If you go to 4-9, (e), dash, (i) [sic],  
20 originally -- so this is for an amendment to a license  
21 application -- or, mostly, to just the license. They may  
22 have had environmental -- or, significant environmental  
23 impacts already analyzed, and this is just a continuation  
24 or a slight change, and those same environmental impacts  
25 can apply.

1           What this provision is saying is that an  
2 applicant, when those are the case, may provide those  
3 original -- that original assessment and say these items  
4 would be contained within this amendment. And the change  
5 in (i) is that, basically, when they propose those, the  
6 environmental impacts, we as a department can ask for  
7 additional information such that if the Department  
8 doesn't feel that those adequately cover, we can say we  
9 don't think this adequately covers, and therefore, we  
10 want additional information. That was the only change  
11 that was part of that. So the Department has that  
12 flexibility.

13           The rest of 4-9 is just grammatical items.

14           CHAIRMAN GAMPETRO: In (c), why did we  
15 remove the construction phase? That would include boring  
16 the holes for the in situ. Right?

17           MR. SCHIERMAN: Right. So the operation  
18 phase, what this has to deal with is there is a  
19 requirement for the operation to -- so, when you look at  
20 a uranium recovery operation, there's an environmental  
21 monitoring program that's dealing with the  
22 preconstruction, so like establishing baseline, setting  
23 all your baseline values, et cetera, et cetera,  
24 operational and then post operational.

25           What we were realizing with (c) is that it was

1 solely -- it was solely directed towards when they were  
2 operating, the environmental monitoring program of when  
3 they're operating.

4 CHAIRMAN GAMPETRO: Why would that be? If  
5 you're boring into a yellowcake deposit, why wouldn't you  
6 be concerned about monitoring what's going on there in  
7 terms of this is the construction phase?

8 MR. SCHIERMAN: Right. So, if you look at  
9 (g), if you go up one, (g) deals with the preoperational  
10 monitoring program. Basically, we're divvying it up by  
11 item. And I'll let you read that.

12 CHAIRMAN GAMPETRO: It still looks to me  
13 like you're skipping the construction phase. So this  
14 one, (g), talks about prior.

15 MR. SCHIERMAN: Yes.

16 CHAIRMAN GAMPETRO: And (c) down here  
17 talks about during the operating phase.

18 MR. SCHIERMAN: Right. Right. And so I  
19 guess the nuance with that is if we consider construction  
20 part of the preoperational. And that's what we'd have to  
21 decide.

22 CHAIRMAN GAMPETRO: Why don't you put  
23 "including construction"?

24 MR. SCHIERMAN: We could do that. So we  
25 can do that because we wanted to make sure --

1                   CHAIRMAN GAMPETRO: Radioactive nuclides  
2 are bad stuff. And during the construction, we don't  
3 want to see those spread around or contaminating water  
4 supplies or whatever.

5                   MR. SCHIERMAN: Agreed. I think the  
6 intent of these is, if you look at the requirements,  
7 they're separate. So like when you're preoperational,  
8 you may have certain requirements that you have to do.  
9 Right? Whereas if you're operational, you may have  
10 additional certain items that you have to do. There's  
11 phases. Right?

12                   So we can put "including construction." That  
13 will be another note that I'll put for this chapter in  
14 the preoperational, if that's okay. And I think that  
15 would suffice your comment.

16                   CHAIRMAN GAMPETRO: Thank you.

17                   MS. BILBROUGH: Is that in (g)?

18                   MR. SCHIERMAN: In (g), yes.

19                   MR. DINSMOOR: Ryan, maybe I'm missing  
20 something, but how come it goes (f), (g), (c)?

21                   MS. MACKER: They're out of order.

22                   MR. DINSMOOR: I learned the alphabet  
23 differently.

24                   CHAIRMAN GAMPETRO: We're working on a  
25 different alphabet, the Greek alphabet.

1                   MR. SCHIERMAN: There is a formatting  
2 issue that we'll have to take care of there.

3                   CHAIRMAN GAMPETRO: Or possibly Russian.  
4 I'm not sure.

5                   MR. SCHIERMAN: Thank you. And I noticed  
6 them, as well. We have a couple other formatting. As I  
7 went through here, I realized it wasn't indented the way  
8 it was supposed to. So I'm still trying to catch a few  
9 of those items. And we're going to have to redo it  
10 because of the rules that were just passed. So we'll  
11 reformat as we can.

12                   Section 10, again, changing the language per  
13 NRC, language that was passed. And (b), we put  
14 "biannual," and this was a mistake on our -- we wanted  
15 "semiannual." We don't want "biannual." We don't want  
16 every other year. We wanted twice a year. And that was  
17 a mistake on my part.

18                   Moving onward, 4-13, what we did is we tried  
19 to -- one, we changed for NRC language. But then in (d),  
20 we took what was -- we took what was in (d) and just kind  
21 of reordered the way that it was structured. We added  
22 actual federal documents to it and criteria. It was a  
23 little ambiguous as far as what were those unrestricted  
24 release limits? And we just wanted to clarify. And so  
25 we deleted the whole item of (d) and rewrote (v) just to



1 make it clear. So it was trying to make it more clear  
2 for the public to read where those criteria would be,  
3 what the actual technical basis is for a release.

4 And, again, in (C) -- in 4-14, in (C),  
5 basically, we wanted to put that if they're going to  
6 release material, where are those criteria that they can  
7 release to? Just not saying that they release to the  
8 criteria. Actually stating where those can be found for  
9 people that are reading this.

10 If you move to 4 -- oh, Phil?

11 MR. DINSMOOR: Is that referring to the  
12 Table 2 that's really Table 1?

13 MR. SCHIERMAN: It's actually -- these are  
14 for a site, whereas that was for like material. So  
15 they're separate tables. This is going to be for when a  
16 site goes to release for final release of the entire  
17 site, what they have to do as far as where those criteria  
18 are listed. In essence, that table is incorporated into  
19 that criteria of that other place, but it's not solely  
20 just that table. It's not all you have to do when you're  
21 releasing a site. But for a piece of equipment, if you  
22 want to try and release that, that's where you go to that  
23 table and you make sure it meets those criteria.

24 4-15, the change in (b) right there, just (a),  
25 (b), is basically, for an amendment, we'll use the same

1 criteria that we used for evaluating the application.  
2 So, if there's an amendment, we're going to treat it  
3 almost as an application. We're just going to make sure  
4 that they meet those same criteria, whereas before, we  
5 didn't really state. It was kind of implied that we do  
6 that. We just wanted to make sure it was clear that  
7 that's how we're processing an amendment to a license.

8           In (b) it was recommended from comments that we  
9 received that it be a significant noncompliance to the  
10 Act. Before, it was just a noncompliance, and we could  
11 basically suspend or revoke a license. It was suggested  
12 we put "significant," such that a minor NOV doesn't give  
13 us the right to suspend a license or revoke a license.  
14 Has to be a significant.

15           Public notices, there's been a few changes to  
16 this. In (a) -- and this is mostly to become compliant  
17 with NRC requirements. So, before, we had "environmental  
18 impact analysis." We decided to change similar to what  
19 Board Member Dinsmoor was talking about as far as a state  
20 decision document that discusses how we -- how the  
21 licensee or operator is meeting those environmental  
22 impacts and the requirements that we have set forth.  
23 That's what our environmental analysis is going to be, is  
24 that state decision document, providing justification of  
25 how the operator or licensee met our technical

1 requirements. Does that make sense? So the way that  
2 this works -- and, Eva, are you still on the line?

3 MS. LA: Yes, I'm here.

4 MR. SCHIERMAN: You may want to pay  
5 attention to this and make sure I don't misspeak, because  
6 this is something that you are more well versed than I am  
7 in this as far as public involvement and hearings and  
8 things like that. Okay?

9 MS. LA: Okay.

10 MR. SCHIERMAN: So just feel free to jump  
11 in and correct me if I'm wrong.

12 So, when issuing an 11(e)(2) -- or, issuing one  
13 of these licenses that we're going to assume material  
14 over, there is a requirement per NRC regulation that an  
15 opportunity for a hearing is given. This is beyond the  
16 EQC hearing, things of that nature. So an actual  
17 hearing. There has to be that opportunity.

18 Now, that being said, is -- and that's why we  
19 have the state decision document, justifying our actions  
20 and interim decision, and then an aggrieved party can  
21 basically request a hearing, at which point we would have  
22 a hearing with the Department. And how that would  
23 function is either Kyle would sit as the head of that  
24 hearing, or we would lobby out to -- there's groups  
25 within the state that handle -- and, Eva, what's the name

1 of the group again?

2 MS. LA: OAH, Office of Administrative  
3 Hearings.

4 MR. SCHIERMAN: And they would basically  
5 administer that type of hearing. So that's a little  
6 different than what the State is usually typically used  
7 to. But we had to provide for that to be in compliance  
8 with NRC. So that's what we're dealing with here. And,  
9 again, it's an opportunity for hearing. It's not always  
10 a hearing.

11 Board Member Dinsmoor?

12 MR. DINSMOOR: Two questions. That issue  
13 came up at the joint meeting between the advisory boards  
14 in June where we talked about hearings and such. And I  
15 just want to ask the question, and Eva may have the  
16 answer to this. Is this consistent with the changes that  
17 were made to the rules of practice and procedure in June?

18 MR. SCHIERMAN: Chairman, Board Member  
19 Dinsmoor -- Eva, these would be -- we are in compliance  
20 with the changes made to the Administrative Procedure  
21 Act. Correct?

22 MS. LA: Yes. So the changes that are  
23 being made to -- I'm sorry, Ryan. I didn't hear Board  
24 Member Dinsmoor's question clearly. It's kind of cutting  
25 out.

1                   MR. SCHIERMAN: So the question was there  
2 was changes made at the joint advisory board made in  
3 regards to public hearings. The question that day is,  
4 are we still in line with the State requirements as far  
5 as public hearings and that process?

6                   Does that adequately describe it, Board Member  
7 Dinsmoor?

8                   MS. LA: At the joint advisory board  
9 meeting, we discussed provisions to the rules of practice  
10 and procedures, and the rule of practice and procedures  
11 govern not only hearings before the advisory board, the  
12 EQC, but also hearings before the Department. There is a  
13 section in there on hearings before the Department. So,  
14 yes, those are -- those will be, ideally, utilized in any  
15 licensing action hearing, which would fall under this  
16 chapter. So it's actually an additional tool for the  
17 Department to use.

18                   MR. SCHIERMAN: Right. And so the way I  
19 understand it, Board Member Dinsmoor, is that we are  
20 basically, in essence, more stringent than other  
21 departments. We're not less stringent. We've basically  
22 added an additional requirement to our program that says  
23 they have this ability to have a hearing before it  
24 actually even gets to the EQC.

25                   MR. DINSMOOR: Right. As I recall, we

1 actually had discussion about whether that was before the  
2 director or the administrator. We had talks about that.  
3 And I just want to make sure we're consistent there.

4           The second part of my question is that the  
5 phrase or the term "aggrieved parties" in quotation  
6 marks, I don't recall that that's in the definitions  
7 anywhere unless it's in the rules of practice and  
8 procedure, which I also don't recall. And so that's  
9 something that --

10           MR. SCHIERMAN: The statute's right there,  
11 so let's check it out. Do we have a reference there?  
12 I'm not sure. I'm not going to say yes or no.

13           MS. LA: Ryan, was that question with  
14 regard to the term "aggrieved party"?

15           MR. DINSMOOR: It does reference 103(a).

16           MS. LA: "Aggrieved party" is defined in  
17 the Environmental Quality Act.

18           MR. DINSMOOR: Thanks.

19           MR. SCHIERMAN: Moving on to 1-16 [sic],  
20 again, in (iv), kind of the same thing that you were  
21 talking about, Board Member Dinsmoor, is those  
22 inconsistencies that may exist between this and the rules  
23 of practice and procedures, these will govern. Because  
24 there's additional requirements in these rules that are  
25 not in the administrative procedure rules. It's just a

1 clarifying act that there is this extra opportunity for a  
2 hearing. Does that make sense?

3 MR. DINSMOOR: It does. And actually, my  
4 question should have been not are we consistent with, but  
5 are we not inconsistent with because of that stringency  
6 concern?

7 MR. SCHIERMAN: Right. Yeah. But as long  
8 as we're more stringent, we're okay. If we're less,  
9 that's the issue that we have.

10 Moving to 4-18, again, a grammatical change  
11 from "source" to "licensed." We then move into the  
12 decommissioning plans. And then as we move forward,  
13 those are the changes that we had.

14 In recap, there's a couple changes that we need  
15 to make to these sections. We need to add "construction"  
16 to the item, and then we also have to add -- and I'll put  
17 those on the board here in a second. And then we also  
18 have to add "maintenance" instead of "custody."

19 Was there other changes that I missed?

20 MS. BILBROUGH: Do you want to put those  
21 on the board?

22 MR. SCHIERMAN: Is that okay? So we'll  
23 put those on the board, those items to change for these  
24 chapters. Does that work?

25 CHAIRMAN GAMPETRO: Works for me.

1 MR. SCHIERMAN: Any other questions?

2 (No response.)

3 MR. SCHIERMAN: Moving to Chapter 5.

4 Chapter 5 is pretty short. Chapter 5 -- only change in  
5 Chapter 5 that we made is there was one reference that we  
6 forgot to exclude that is an NRC action, 19.14(a). We  
7 just added that exclusion. That's the only change in  
8 4 -- or, I mean, 5, in Chapter 5.

9 Any other questions with Chapter 5?

10 (No response.)

11 MR. SCHIERMAN: Okay. Chapter 6 we talked  
12 about earlier, which was the financial assurance. Are we  
13 okay to move to Chapter 7, fees?

14 MS. MACKER: Yes.

15 MR. DINSMOOR: Chapter 6 we had --

16 MS. MACKER: Earlier today.

17 MR. DINSMOOR: Yeah. We had a change to  
18 that.

19 MR. SCHIERMAN: Yeah. And we got it on  
20 the board already.

21 Chapter 7 is our fees chapter. Changes to our  
22 fee structure was pretty minimal, grammatical items.  
23 Instead of "a specific license" or "a specific license,"  
24 we said "assignable to the program." That was a comment  
25 made from our accounting department just to make sure



1 that we cover that.

2 So other questions with Chapter 7? I know  
3 we're moving quick at this point. Any questions that you  
4 guys have with our fee structure or lingering questions  
5 from when we discussed about it last time?

6 MR. DINSMOOR: Does that change to the  
7 program -- never mind.

8 MR. SCHIERMAN: I think I know where  
9 you're going, and I have the same question. Throughout  
10 these rules, we talked about the individual licensee, but  
11 then in this we talk about the program, which is the  
12 grouping of all the licensees. But according to my  
13 limited knowledge in accounting, it makes more sense to  
14 put it in the program, I guess, from our accountants that  
15 have looked at this and said it needs to be in the  
16 program. I'm relying on their expertise in that regard.

17 MR. DINSMOOR: Well, we've just put it on  
18 the public record that we talked about it.

19 MR. SCHIERMAN: Yes.

20 CHAIRMAN GAMPETRO: We had a question that  
21 wasn't asked answered.

22 MR. DINSMOOR: Yes. Thank you.

23 MR. SCHIERMAN: Chapter 8 is our  
24 performance-based -- risk-informed, performance-based --  
25 we just changed the numbering on this. Again, major

1 changes to this were items of grammatical nature. It was  
2 really minimal at best. We changed the number. We added  
3 "regulated by the program." We also added in the "scope"  
4 section, just to make it more uniform with the rest of  
5 the chapters, added some verbiage to say "transfer" and  
6 "or dispose of." And those were really the changes that  
7 were made to Chapter 8.

8 CHAIRMAN GAMPETRO: There's one more in  
9 the back.

10 MR. SCHIERMAN: Oh, is there?

11 MS. MACKER: 8-3.

12 CHAIRMAN GAMPETRO: 8-3, at the bottom,  
13 "but would not be limited to."

14 MR. SCHIERMAN: Yes. And so, when  
15 referring to -- let me just make sure I'm up to speed  
16 with this. So we list a bunch of -- so, when we get  
17 licenses transferred to us from the NRC, there's a lot of  
18 documents that govern that license. There's the NRC  
19 technical evaluation. There's the safety evaluation  
20 report. There may be an EA or EIS that was tied to the  
21 NRC licensing.

22 What we did is we tried to identify some of  
23 those documents in here and said, if we get a license  
24 transferred up to us from NRC, those documents are still  
25 going to retain weight. And we just wanted to make sure

1 that we weren't handicapping ourselves by not listing  
2 something. So we wanted to make sure we capture anything  
3 that might be tied to that.

4 CHAIRMAN GAMPETRO: I hate to ask this.  
5 But, in your definitions, do you define "program," since  
6 now we're using "program"? Carol says yes, we do.

7 MS. BILBROUGH: I think we talked about  
8 that because it was one that was modified to meet  
9 Wyoming.

10 MR. SCHIERMAN: Let me check real quick.  
11 Got to find my Chapter 1. That's a good point to bring  
12 up.

13 MS. BILBROUGH: Yes. (C1).

14 CHAIRMAN GAMPETRO: As long as we're  
15 picking nits.

16 MS. MACKER: Yes. "Program means the  
17 State of Wyoming's uranium recovery program."

18 MR. SCHIERMAN: It's defined. Good. I  
19 like when we actually did something right.

20 Any other questions with Chapter 8?

21 (No response.)

22 MR. SCHIERMAN: Chapter 9. This is the  
23 last one, guys. So this one, again, is an incorporation  
24 by reference. So it looks marked up because we had to  
25 change some items that we did. So here's -- I have to

1 tell you a story for you to understand why we did the  
2 changes that we did. Sorry. I'm going to back off from  
3 the rules and give you a narrative.

4           Originally, this -- this chapter governs the  
5 transportation of radioactive material. Our program does  
6 not govern the material that's on the road. Our program  
7 governs what the operator does to prepare a package to go  
8 on the road and what they do to receive a package when  
9 they go on the road.

10           The equivalent of this is 10 CFR 71, which,  
11 again, for all radioactive material, lines out a bunch of  
12 terms and requirements for any type of material. Some of  
13 those requirements, for example, are material we won't  
14 regulate, spent nuclear -- well, I won't even say spent  
15 nuclear fuel, but fissile material, which is material  
16 that may undergo fission. And that's what's used in  
17 nuclear reactors.

18           At first, what we did is there's some types of  
19 material that we did not want to include. I'm not  
20 talking the fissile material. I'm talking -- it's called  
21 the Type B package, which is basically material that has  
22 enough radioactivity in it that you have to meet these  
23 certain requirements for Type B. The State will never --  
24 our operators will not ship those types of packages.

25           So, at first, we tried to exclude those out

1 from our regulations. NRC came back and said, from a  
2 compatibility component, even though we do not use those  
3 packages to stay consistent between state boundaries so  
4 people understand, we needed to have those within our  
5 regulations. Even though our operators will never use  
6 one of those packages, they want to make sure that it's  
7 consistent from boundary to boundary in that case.

8           And so what we had to do to become compliant --  
9 we argued this with the NRC -- is we had to add those  
10 terms back into our chapter just to make sure that we're  
11 compliant and meet their expectations. And so that was  
12 the motivation for our change in these statutes.

13           As you'll see, we -- there's certain items that  
14 were excluded that we had to delete and say now they're  
15 included. And there's a couple items to facilitate that,  
16 and we had to put -- instead of excluding a whole  
17 section, we just excluded one little item, rather than  
18 the entire section. And those were the motivation for  
19 the changes that we did.

20           Do you have questions?

21           MR. DINSMOOR: Yes, sir. I appreciate the  
22 fact that you argued with NRC on it. But I think we got  
23 to ask the question, by including something that isn't  
24 going to happen, are we creating an opportunity for  
25 someone to claim to be an aggrieved party for something

1 that wasn't addressed, even though -- you know what I'm  
2 saying? I don't know how to ask the question.

3 MR. SCHIERMAN: Chairman, Board Member  
4 Dinsmoor, let me put it in this light. Our operators  
5 could potentially ship a Type B package. It would not be  
6 economical and prudent for them to do such. This is what  
7 I'm saying, is the requirements around the Type B, an  
8 operator would just as soon not to ship that type of  
9 package.

10 In all reality, they could. They could try and  
11 have some conceivable way of doing it. But, in  
12 practicality, it's a practical item. They would never  
13 meet those requirements. It's much easier to do other  
14 items, such as an exclusive U shipment or a Type A  
15 package or things of that nature. There's other avenues  
16 that are easier for them to use. They're not forced to  
17 move up into the escalated Type B material. They could,  
18 potentially, but it's a matter of -- and so as far as  
19 aggrieved parties, I don't -- because it's allowable for  
20 federal requirements, so, in the state of Wyoming, we'll  
21 still have Type B packages being transported. It's just  
22 not by the entity that we're regulating.

23 As you look at like hospitals shipping their  
24 radioactive waste, things like that, they may be using  
25 Type B packages. It's just, feasibility and practically

1 speaking, the operators would not choose that route.  
2 There's nothing that limits them from doing it, but  
3 economically speaking, they would go Type A, or they  
4 would go exclusive use.

5 MR. DINSMOOR: So it actually makes some  
6 sense to have that provision in the rule, because if they  
7 should, for whatever reason, choose to go that way,  
8 they've got to address it through you.

9 MR. SCHIERMAN: Right. So, technically  
10 speaking, it doesn't hurt us. It doesn't cripple us as  
11 far as any of our abilities as a program. It's more of  
12 that we don't think this applies, but NRC, for  
13 transboundary effects, to make sure that there's a  
14 uniform program across all 50 states, that's why we're  
15 doing it, is to make sure that there's not  
16 inconsistencies between us and Louisiana. When we say  
17 Type B, we, even in the state of Wyoming, know what a  
18 Type B package is.

19 Other questions in regards to this?

20 (No response.)

21 MR. SCHIERMAN: So we had to delete some  
22 of the items to make sure that we get those the  
23 definitions. We had only in our -- the definition of  
24 package, we were going to change it just to include the  
25 Type A and those items, so we deleted that. We now have

1 all types of packages allowable to us. And those are the  
2 changes that we made to Chapter 9.

3 So what questions, other questions, do you have  
4 from that standpoint?

5 CHAIRMAN GAMPETRO: I have a question.  
6 With what we dealt with with neutron radiation, alpha  
7 particles could be stopped with a piece of paper; beta  
8 particles, a thin plate of wood or aluminum; x-rays,  
9 lead; gamma, lead. And you're talking significant lead.  
10 Neutron radiation goes through all that. You need water  
11 to stop it. With what we've done with neutron radiation,  
12 are we safe with our employees? With whatever changes --  
13 we made some changes. What did we do with neutron  
14 radiation?

15 MR. SCHIERMAN: You want me to go back to  
16 the previous example what we talked about with neutron?

17 CHAIRMAN GAMPETRO: Yeah.

18 MR. SCHIERMAN: Let me pull up the table  
19 so I can show you too. So this is the codified  
20 regulations. There's a table in here that talks about  
21 neutron fluence rates.

22 CHAIRMAN GAMPETRO: You're going to have  
23 to translate that to English.

24 MR. SCHIERMAN: Yeah.

25 Do you have Internet?



1 MR. HULTS: Yeah.

2 MR. SCHIERMAN: Can you type in 10 CFR 20,  
3 Table 1000(b).2 [sic]?

4 MR. HULTS: What was it? Sorry.

5 MR. SCHIERMAN: 10 CFR --

6 CHAIRMAN GAMPETRO: That's why I'm asking.  
7 I didn't understand the --

8 MR. SCHIERMAN: Yeah. We'll talk about  
9 20, Table 1004(b).2.

10 MS. BILBROUGH: Is it (b) dot?

11 MR. SCHIERMAN: Parentheses on the (b) and  
12 then .2, I think. See if I can pull this up for  
13 everyone. Go to that first reference. Now scroll down  
14 to (b).2. Right there. So, basically, what you're doing  
15 for this is you're taking a neutron energy, so this is  
16 for thermal neutrons. Basically, when we're talking  
17 thermal neutrons, things of that nature, we're talking  
18 that this is specific kind of to nuclear power plants  
19 when we talk about thermal neutrons hitting -- or,  
20 absorbed by a uranium target or something of that nature  
21 that causes fission. Right?

22 CHAIRMAN GAMPETRO: Is there a difference  
23 between thermal neutrons and just naturally occurring  
24 neutrons when you have enriched uranium? And I know  
25 we're not dealing with --

1 MR. SCHIERMAN: Yeah.

2 CHAIRMAN GAMPETRO: You have natural  
3 neutrons. Is that the same as thermal neutrons?

4 MR. SCHIERMAN: Thermal neutrons -- and,  
5 again, I'm not a nuclear engineer, so this is my version  
6 of it. When you talk about like with fission, things  
7 like that, you need slow neutrons. It's like an  
8 energywise. It gives a better probability --

9 CHAIRMAN GAMPERO: Of striking.

10 MR. SCHIERMAN: -- of striking, et cetera,  
11 et cetera. Natural neutrons, you're going to be -- you  
12 have to slow that down. That's why they use water a lot  
13 of times. They'll slow the neutrons and things of that  
14 nature to make that probability of interaction greater.

15 So, when they talk about it here, they're  
16 talking about thermal versus -- and I'd have to go back.  
17 And I'm striking on the definition of thermal. There's a  
18 cutoff where it's considered thermal neutron and where  
19 it's below.

20 But, anyways, what they're doing from this is  
21 they're taking their neutron energy, and by a quality  
22 factor which they empirically derive -- so these are  
23 numbers they test, and they come up with a number. You  
24 can basically, from that number, from your fluence -- and  
25 when I say "fluence," you think of like almost like a

1 source, if you will, something that's just constantly  
2 emitting something, so the measure of those neutrons  
3 coming out, so fluence moving through like water. Think  
4 of like neutrons.

5           And what they're doing is they're taking from  
6 that neutron fluence and basically equating it to a dose.  
7 So, if I have a field of neutrons, what is that dose to a  
8 person? And that dose is reflected as hazard to a  
9 person. So, in this essence, we're talking about REMs,  
10 right, Roentgen equivalent men? And, basically, that's  
11 how we're regulated, is we derive what a dose -- what  
12 limits are safe as a dose, and then we measure that risk  
13 based on a dose.

14           So what we decided is, in a uranium recovery  
15 operation, you are not going to have material -- in  
16 essence, I think we're covered for the worker,  
17 regardless, because we ended up including this table, and  
18 NRC asked us to include this table. But they agree with  
19 us in the fact, in a uranium recovery operation, your  
20 only source of neutrons, the only thing that's going to  
21 be generating neutrons is your natural sources as we get  
22 hit from cosmic radiation, et cetera, et cetera. We  
23 don't have a neutron source that you can make, such like  
24 if you have --

25           CHAIRMAN GAMPETRO: Yellowcake would emit

1 neutrons.

2 MR. SCHIERMAN: Would it emit neutrons? I  
3 don't know if it would, per se.

4 CHAIRMAN GAMPETRO: Uranium -- nonenriched  
5 uranium.

6 MR. SCHIERMAN: If you hit it with a  
7 neutron, it would undergo fission. So enriched uranium  
8 itself, if you hit it with --

9 CHAIRMAN GAMPETRO: Yes. I understand.  
10 I'm just thinking that yellowcake would also emit  
11 neutrons. And what you're saying is it's covered by the  
12 dose?

13 MR. SCHIERMAN: What I'm saying is we  
14 would never want an operator to try and measure dose  
15 based on neutron fluence at our operations because  
16 there's no real fluence of neutrons at our uranium  
17 recovery operations. Does that make sense?

18 MR. DINSMOOR: They would err on the side  
19 of --

20 MR. SCHIERMAN: So, in essence, we would  
21 never want an operator to use this table. But, again,  
22 from that transboundary issue, is NRC -- because this is  
23 required for other entities that may have neutron-  
24 generating sources, that they want us at the State to  
25 basically have it in our regulations so that we're

1 equivalent to other states.

2 MR. DINSMOOR: And that's this table?

3 MR. SCHIERMAN: And that's this table. So  
4 we do have this table in our rules now, and we had to  
5 make that change to include this table in our rules.

6 MS. MACKER: But we are using other  
7 methods to measure --

8 MR. SCHIERMAN: Dose.

9 MS. MACKER: -- to measure dose because  
10 that is what we are more concerned about?

11 MR. SCHIERMAN: Yes. So I'm more  
12 concerned with an employee and air concentration, so an  
13 employee breathing an air concentration, knowing what  
14 that uranium content is in the air and then equating it  
15 to a dose, what the gamma component is from the  
16 yellowcake.

17 CHAIRMAN GAMPETRO: The alpha particles  
18 are the big problem there.

19 MR. SCHIERMAN: Right. And so alpha  
20 particles there, the gamma component, getting dosed from  
21 that, all the other different methods. The neutron --  
22 getting a dose from a neutron would be problematic in the  
23 fact that you don't have a good fluence. You don't have  
24 a good stream of neutrons.

25 MR. DINSMOOR: So you could conclude that

1 there's not a problem, when, in fact, there is.

2 MS. MACKER: If you were using this chart.

3 MR. SCHIERMAN: I think if you went with  
4 this, basically with this chart, you could basically say,  
5 because I'm not measuring a fluence rate, that dose is  
6 minimal. And, in essence, you would have it from -- as  
7 you mentioned, the alpha particles, the beta, the gamma,  
8 and that's where we are actually going to base that dose  
9 off. No one's going to be basing it off --

10 CHAIRMAN GAMPETRO: What I found is it's  
11 usually enriched to some degree in order to get a neutron  
12 flow.

13 MR. SCHIERMAN: Right. And then once it's  
14 activated by neutrons, then you're going to start getting  
15 neutrons. Once you enrich it, you're basically causing  
16 it to be activated, and you're going to have neutrons  
17 going. You have a gamma and neutron reaction. But  
18 that's beyond this scope.

19 What I guess the short answer to all this is,  
20 regardless, we are required to put this in our rules per  
21 NRC for compatibility, and we would encourage as a  
22 program that operators not use this to equate dose to  
23 employees. So we have it in our regulations, but we  
24 would encourage people not to use this to reflect the  
25 dose component.

1           Does that make sense? Sorry for that long-  
2           winded conversation.

3           With that, guys, I think I have covered all the  
4           chapters and the changes we made. I would counsel you  
5           that, as we move forward, there may be slight changes due  
6           to formatting that we have here. The other items, there  
7           may be slight changes as we release these to EQC for  
8           public comments. There may be comments that have come in  
9           that we may have to address and change, just so you guys  
10          understand that process.

11          So far, I will tell you, through this process,  
12          we've had zero public comment on the rules. I don't  
13          anticipate that to be the case as we move forward with  
14          EQC.

15                         CHAIRMAN GAMPETRO: Any other questions on  
16          this topic?

17   (No response.)

18                         CHAIRMAN GAMPETRO: I suspect, then, that  
19          we're ready and would accept a motion to approve the  
20          package.

21                         MR. DINSMOOR: Okay. I'll make a motion  
22          that we approve Chapters 1 through 10 substantially as  
23          presented today with, it looks like four changes as  
24          listed on the board. Do I need to read that into the  
25          record? I'll read it. Chapter 1 -- I'm going to ask

1 Carol to read it.

2 MS. BILBROUGH: I did not write 1, so I  
3 don't know what it says either.

4 MR. SCHIERMAN: I can. So the first one  
5 in Chapter 1 is, for the definition of contamination, we  
6 will put a date to the incorporated table of Reg Guide  
7 8.30. For Chapter 6 -- or, 4. I guess we'll go to  
8 Chapter 4. On page 4-1, Section 1(a), add "maintenance"  
9 to --

10 MS. BILBROUGH: Make the sentence  
11 "long-term care and maintenance."

12 MR. SCHIERMAN: Perfect. So, basically,  
13 it would be consistent with the rest of the regulations.  
14 And then page 4-9 (g), add "including construction."  
15 Adding "construction" to the preoperational plan. And  
16 then Chapter 6, again, we're going to change "long-term  
17 surveillance" to "long-term care and maintenance."

18 MR. DINSMOOR: So my motion would have  
19 this package approvable with those changes made. And I  
20 would also make the motion that -- or, add to the motion  
21 that formatting is not substance that I would necessarily  
22 be concerned about. And I don't think it's necessary to  
23 come back to us with formatting changes.

24 MS. MACKER: Second.

25 CHAIRMAN GAMPETRO: It's been moved and



1 seconded. All those in favor, please signify by saying  
2 aye.

3 MR. DINSMOOR: Aye.

4 MS. MACKER: Aye.

5 CHAIRMAN GAMPETRO: The motion passes.

6 I did not ask for discussion, since you two  
7 were the motioners, the movers.

8 Are there other business topics that we need to  
9 discuss?

10 MR. HULTS: Yeah. Mr. Chairman, just kind  
11 of a newsy thing, or something that's new. The Secretary  
12 of State has introduced a new database of all agencies'  
13 rules. As a part of that, they have a public interface  
14 now that you can go to. I will send all the board  
15 members a link to this, as well.

16 But what's kind of cool about this is, in the  
17 past, these documents that were posted on the Secretary  
18 of State's website were not searchable unless you opened  
19 up each individual chapter. Now what you're able to do,  
20 in just using the term "groundwater," for example, on  
21 this front page -- and this would be the landing page  
22 that everybody would see -- if you do a search for the  
23 term "groundwater" now, what will happen is you'll get  
24 every single agency that deals with that term in their  
25 regulations.

1           Diving a little bit further into it, if we pull  
2 up the environmental quality regs, you can see that each  
3 division there has some discussion about groundwater,  
4 which will be really helpful if you don't necessarily  
5 know. I know I've gotten a complaint from people. If  
6 you don't know specifically what division you're talking  
7 about or whose rules that is, you can now just go out to  
8 that front page and do a search for that term and narrow  
9 it down that way.

10           The other thing you can do here is, all the  
11 proposed rules are going to be listed here. They were a  
12 little bit, but it was a little tougher to ferret out.  
13 The proposed rules, when you're clicking on that, you  
14 will get a list of everybody's rules that are out there.  
15 And just opening up this ag department, you'll see that  
16 when you do these, you can open up the chapters that they  
17 have proposed.

18           They also have a component -- and this one must  
19 have been closed -- that you can actually do your public  
20 comments through this system. However, the Department,  
21 we already have a public comment system. So we will  
22 have -- there will be a link provided right here that  
23 will link people back to the Department's commenting  
24 system. These other departments that don't have that,  
25 you'll be able to comment directly through the Secretary

1 of State's site. So, just quickly, I encourage you to  
2 check it out. It's kind of cool.

3           And another thing that we'll be doing is, as  
4 the state agency, we'll actually be forwarding our  
5 documents through this system. As part of our filing  
6 when we go to formal rulemaking at the EQC level, we  
7 do -- we're filing things with the governor's office, the  
8 Legislative Service Office, Secretary of State, the  
9 Attorney General's Office. All of that will happen  
10 through this portal now. So we don't have to go running  
11 around town to each individual agency. So it's a pretty  
12 cool system. So, just FYI.

13           MR. DINSMOOR: Question, Craig.

14           MR. HULTS: Yeah.

15           MR. DINSMOOR: When does the rule become  
16 proposed for the purposes of this website? Are these  
17 uranium rules out there?

18           MR. HULTS: No. This will only involve  
19 the formal rule-making stage. So, once we're past the  
20 advisory board, we will be filing these documents with  
21 the Secretary of State. So any kind of advisory board  
22 activity would not be reflected in these. It would  
23 actually have to be on our web page.

24           CHAIRMAN GAMPETRO: I would like to thank  
25 you for all of your work, all of you.

1 MS. MACKER: Thank you.

2 MS. BILBROUGH: Well, we would like to  
3 thank you for all of the time and effort you put into  
4 reviewing the rules.

5 CHAIRMAN GAMPETRO: I'm still trying to  
6 figure out how long it's been.

7 MR. SCHIERMAN: Chairman, I would ask, as  
8 we go forward, though, is there things that worked well  
9 with this that we want to continue or things we can take  
10 away from this or improve upon as we bring other rules to  
11 you guys in the future?

12 CHAIRMAN GAMPETRO: I can think of no way  
13 to improve it, but I might later.

14 Anything else?

15 MS. MACKER: So are we back on quarterly  
16 meetings after this?

17 MR. HULTS: We should be, yes. The next  
18 rules that I think we would probably be addressing would  
19 be our in situ coal, Chapter 11 in situ, and that will be  
20 a ways out at this point.

21 MR. SCHIERMAN: I think at least probably  
22 first quarter at the earliest.

23 MS. BILBROUGH: So you may be off the hook  
24 next quarter.

25 MR. SCHIERMAN: Maybe get a good vacation.

1 MS. MACKER: Move to adjourn.

2 MR. DINSMOOR: Second.

3 CHAIRMAN GAMPETRO: Are we ready to have a  
4 motion to --

5 MS. MACKER: Move to adjourn.

6 MR. DINSMOOR: Second.

7 CHAIRMAN GAMPETRO: Moved and seconded.

8 Any discussion?

9 (No response.)

10 CHAIRMAN GAMPETRO: All those in favor of  
11 departing, please indicate by saying aye.

12 MS. MACKER: Aye.

13 MR. DINSMOOR: Aye.

14 CHAIRMAN GAMPETRO: The meeting is  
15 adjourned.

16 (Hearing proceedings concluded  
17 12:30 p.m., September 27, 2016.)

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C E R T I F I C A T E

I, RANDY A. HATLESTAD, a Registered Merit Reporter, do hereby certify that I reported by machine shorthand the proceedings contained herein constituting a full, true and correct transcript.

Dated this 12th day of October, 2016.

  
*Randy a Hatlestad*  
RANDY A. HATLESTAD  
Registered Merit Reporter