

In Re: Water Quality Division

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WYOMING WATER AND WASTE ADVISORY BOARD

IN RE: WATER QUALITY DIVISION

TRANSCRIPT OF MEETING PROCEEDINGS

Pursuant to notice duly given to all parties in interest, this matter came on for meeting on the 22nd day of September, 2017, at the hour of 9:09 a.m., at Wyoming Game and Fish Department, Jackson Regional Office, 420 North Cache Street, Jackson, Wyoming before the Wyoming Water and Waste Advisory Board, Ms. Marjorie Bedessem, Chairwoman, presiding, with Ms. Lorie Cahn and Mr. Klaus Hanson and Mr. Alan Kirkbride in attendance.

Ms. Gina Thompson, Water Quality Division; Mr. Bill Tillman, Water Quality Division, were also in attendance.

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1 CHAIRMAN BEDESSEM: Thank you. And I look
2 forward to DEQ being further along in their electronic --
3 I know scanning is the worst job in the world, but
4 hopefully it will get mostly done soon. So thank you very
5 much.

6 Okay. We're going to take a lunch break now and
7 then reconvene in about an hour. Okay?

8 (Meeting proceedings recessed
9 12:07 p.m. to 1:24 p.m.)

10 CHAIRMAN BEDESSEM: Thank you. We're now
11 reconvening the Water and Waste Advisory Board. And I
12 believe first on this agenda after lunch is Water Quality
13 Division Chapter 5 changes.

14 And I'll turn it over to Bill Tillman with Water
15 Quality for the presentation.

16 MR. TILLMAN: Thank you, Madam Chair. Bill
17 Tillman, Water Quality Division, water and wastewater
18 section.

19 Again, the changes -- excuse me. What we're
20 presenting here is Chapter 5 deals with operations of
21 certification for publicly owned water distribution systems
22 and wastewater treatment and collection systems. In
23 general, the changes that were made were basically
24 concerning the requirements about operator availability.
25 We added a couple of levels of certification that were

1 removed, I believe, at the last promulgation of this rule
2 in an effort to simplify things, but actually we created
3 some problems that we realized later on that the simpler
4 certifications were necessary.

5 And also we specified -- made it that we need to
6 specify when they have a substitute responsible charge
7 operator, whereas previously they just had to have one but
8 didn't necessarily know who that person was. And also we
9 removed the -- there was a grace period for when the
10 responsible charge operator was terminated. There used to
11 be a grace period. And, again, in the effort of public
12 safety and health, we felt like that was kind of giving a
13 lax time period where they possibly could be at risk and we
14 wanted to make sure they have proper coverage certification
15 at all times.

16 Let's go through -- to go through those changes,
17 I guess section by section, just in general. And, again,
18 if you have any comments or anything, please let me know
19 what those are.

20 In Section 3, we removed the definition of
21 available. And part of that reasoning was because that is
22 a requirement of our operators and not necessarily a
23 definition. It's defined later in the chapter and it's
24 more appropriate there. A couple of the definitions that
25 were removed were basically because they were already

1 contained in statute and not to repeat what was already in
2 statute.

3 So, again, on lines 27, 28, that definition of
4 availability is removed. Line 45, DEQ was removed. And
5 some other grammatical changes that were also in the
6 definition section.

7 One thing that we added in that were lagoon
8 systems and well systems because when we added that
9 certification level, we felt like we needed to define
10 exactly what those -- what those systems were. So those
11 definitions are added to the definitions part. There are
12 no changes in Section 4.

13 BOARD MEMBER HANSON: Before you go on.

14 MR. TILLMAN: Yes.

15 BOARD MEMBER HANSON: You removed public
16 water supply. Is that --

17 MR. TILLMAN: It's defined in statute.

18 BOARD MEMBER HANSON: Oh, so that's why you
19 removed that.

20 MR. TILLMAN: Yes.

21 BOARD MEMBER HANSON: Okay.

22 MR. TILLMAN: Yes, Madam Chair.

23 CHAIRMAN BEDESSEM: So every well system
24 that you're talking about has a disinfection system?

25 MR. TILLMAN: Typically yes. Not every

1 one, but typically they have a disinfection system
2 associated with the well system.

3 CHAIRMAN BEDESSEM: But not necessarily?

4 MR. TILLMAN: Not necessarily. And it
5 depends on the water quality of the well and the need for
6 disinfection. I believe in our Chapter 12, which governs
7 public water systems, I believe we require they have
8 disinfection available, but it's operational as to whether
9 or not they need to use it.

10 CHAIRMAN BEDESSEM: But they do have to
11 have it available.

12 MR. TILLMAN: They have to have it
13 available. Yes.

14 CHAIRMAN BEDESSEM: Okay. Thank you.

15 MR. TILLMAN: Again, as I stated, there are
16 changes in Section 4. In Section 5 on Facility
17 Classification, that's where we added the additional
18 classifications for operators of well system operator or
19 lagoon system operator.

20 BOARD MEMBER HANSON: Should they have --
21 you know, the other ones -- the previous ones all say Level
22 I or Level II, whatever. But the new ones don't specify a
23 level. Is that on purpose?

24 MR. TILLMAN: Yes. That is on purpose,
25 Chairman Hanson.

1 Basically, those systems, the well system and
2 lagoon systems are simple enough where there's not -- we
3 didn't feel there was levels of those systems just by
4 nature of what they are. As in a well system, you have a
5 well, disinfection and distribution system. Typically
6 there's nothing else added to those systems. So there is
7 not -- we didn't see a need to have certification levels
8 for those because they are -- they are what they are and
9 they typically are not improved upon or changed. So we
10 didn't feel there was levels necessary of a lagoon operator
11 or a well system operator, as opposed to a Level I water
12 treatment operator. There's Level I depending on the
13 sophistication of the facility. That's where you have the
14 Level I, Level II, Level III and so on.

15 The system's become quite sophisticated as far as
16 the processes that they use to treat the water; therefore,
17 the requirement for the different levels of I through IV.
18 But in the well system and the lagoon system, those are
19 not -- typically not going to be enhanced through
20 complication or treatment processes. So, again, they're
21 just simply a well operator or a lagoon operator.

22 BOARD MEMBER HANSON: So just to follow up.
23 Anybody who is certified Level I can do either one of
24 those.

25 MR. TILLMAN: A Level I water treatment

1 operator can also operate, I believe, a well system.

2 Kim?

3 Yes.

4 BOARD MEMBER HANSON: And a lagoon system?

5 MR. TILLMAN: A lagoon system, you need to
6 be a Level I wastewater treatment operator. You could also
7 operate a lagoon system.

8 BOARD MEMBER HANSON: Okay.

9 MR. TILLMAN: But if you're a lagoon system
10 operator, you cannot -- you can't operate a Level I
11 wastewater treatment unless you received that
12 certification. And there's different knowledge that's
13 required to be that Level I wastewater treatment operator,
14 hence the distinction between the two. Because what we
15 found was that through comments and through
16 Kim Parker, who is our -- who manages the operator
17 certification program, you had quite a few people that
18 basically all they operated was lagoon system and they
19 didn't -- had no other use for the additional knowledge
20 that's required for a Level I wastewater treatment
21 operator, so we created -- or recreated that lower, simpler
22 system for those people that operate those systems. And I
23 believe it's probably I'd say on the order of about
24 90 percent of the system -- wastewater treatment systems in
25 the state are these simpler systems. And so we thought

1 that there was definitely a need to fill that void because
2 those people simply would not use the technology other than
3 when it came for testing, they wouldn't use that on daily
4 basis, and that knowledge basically goes out the window.
5 They'll forget that knowledge that's not necessarily in use
6 all the time.

7 BOARD MEMBER HANSON: All right. I'm still
8 unclear. I presume these levels are done so when I apply
9 for a job, I say I have a Level I certification, I have
10 Level II certification and so on. But for those two, how
11 do I apply for a job? Do I simply say I'd like the job? I
12 mean, how -- how do I, as the employer, establish the
13 certification?

14 MR. TILLMAN: No. The certification -- the
15 levels of facility is established through criteria through
16 the organization of A, B, C --

17 BOARD MEMBER HANSON: Yeah.

18 MR. TILLMAN: -- where depending on the
19 complexity of the facility, you get points for certain
20 processes. And so the facility is graded as a Level I or
21 Level IV, or what have you, or even simpler well system.
22 You're defined as that; therefore, the operators that you
23 need are set by the classification of the facility.

24 So if you were, let's say, apply for a job in
25 Mountain View, the fella that was here before, you would

1 need to find out what is the level of that facility.

2 Hence, you would know what certification you would need to
3 apply for that job.

4 BOARD MEMBER HANSON: For a well system?

5 MR. TILLMAN: Or whatever the certification
6 or classification of that facility was.

7 BOARD MEMBER HANSON: Okay. Yeah. Okay.
8 Thank you.

9 MR. TILLMAN: Uh-huh.

10 Any other questions?

11 Okay. I believe we -- that was level -- excuse
12 me, Section 5. Moving on to Section 6. This section
13 basically was reorganized and streamlined. And the
14 previous promulgation, we repeated ourselves several times
15 throughout this section. And just to condense it to make
16 it simpler, we just streamlined and reorganized it. I
17 don't believe there was any additional changes made to this
18 section.

19 Moving on to Section 7 regarding examinations.
20 Subsection (c) was previously in Section 6, but we thought
21 it was more appropriate in Section 7, so we moved it there.
22 Again, there was no changes to the criteria, but just moved
23 where it was located.

24 Section 8 was basically edited for clarity and
25 formatting. There were no changes to Section 8.

1 In Section 9, Operator Responsibilities, this is
2 where we added the requirement of availability as opposed
3 to defining what availability was. And this is basically
4 through experience that we had. The previous definition of
5 available was fairly loose. And for the most part, I think
6 most of the facilities we did not have an issue with
7 availability, but some of the other facilities that are a
8 part of the water or wastewater system, they took -- they
9 can take advantage of that availability, being that you can
10 have an owner that doesn't necessarily live here and can be
11 out of state, but if he's connected to a phone, he
12 considers himself available.

13 But we ran into some problems with that, so we
14 thought we needed to further define exactly what available
15 means and what that requirement is for the operators. And,
16 again, the way it's stated is operators need to be capable
17 of being on site within eight hours, but shall initiate any
18 response that they have to a problem at the facility within
19 an hour of being notified.

20 And that eight hours roughly covers, I believe,
21 most of the state. So if someone's at a training in one
22 corner of the state and they get a call that they have
23 problems at their facility, they can initiate what that
24 response should be from where they're at, but still be able
25 to get back to their -- to their home facility, if

1 necessary, within that defined amount of time.

2 And that's why we tried to make sure that
3 availability, you know, covered that, because, again, like
4 I said, we had people that were calling themselves
5 available, but they were thousands of miles away and
6 couldn't possibly respond to an emergency at the plant if
7 they were in that situation.

8 CHAIRMAN BEDESSEM: So, Bill, I do have a
9 comment on this section. Is it all right if I mention that
10 at this point?

11 MR. TILLMAN: Absolutely. Uh-huh.

12 CHAIRMAN BEDESSEM: So reading through it,
13 I felt like it was written in a contradictory manner, and
14 so would potentially like you consider adding a couple of
15 words here. And I'll show you where I find contradiction.

16 MR. TILLMAN: Okay.

17 CHAIRMAN BEDESSEM: So Section 9(b), it
18 says operators shall be available to any system for which
19 they are designated.

20 MR. TILLMAN: Uh-huh.

21 CHAIRMAN BEDESSEM: And then (ii) under
22 that it says if the operator is not available...

23 Well, you just said they have to be available.
24 Okay? So to me what I think you should have in (b), where
25 it says "operator shall be available to any system for

1 which they are designated, unless as provided in (ii)
2 below." Because otherwise you've got two contradictory
3 statements. You say you have to be available, but, hey, if
4 you're not, you've got to -- do you see what I mean?

5 MR. TILLMAN: I understand what you're
6 saying. I guess when we developed that, being that we --
7 we're basically saying you need to be available, but if
8 you're not -- and there are cases when you cannot be
9 available for whatever reason, be it --

10 CHAIRMAN BEDESSEM: But it says you shall.
11 That is an edict. You shall. So if you say you shall,
12 then you should modify the sentence by saying "unless as
13 provided in (ii) below."

14 MR. TILLMAN: Oh.

15 CHAIRMAN BEDESSEM: Okay? All you have --
16 it doesn't change the meaning. It's just clearer and it
17 doesn't sound contradictory.

18 MR. TILLMAN: Okay, Madam Chair.

19 CHAIRMAN BEDESSEM: So then the person is
20 complying, unless if they're not available, they'll notify
21 the substitute responsible in charge operator. So, again,
22 that suggestion (b) was at the end of -- designate instead
23 of a period write a comma, and say "unless it's provided
24 in" and it would be (ii) below. And I don't know if that's
25 how you cite whether you have to include the rest of the

1 citation, but that is the suggestion, because otherwise to
2 me it reads contradictory.

3 MR. TILLMAN: Okay.

4 MR. CRIPE: Madam Chair, this is
5 Rich Cripe. I would agree with your comment.

6 CHAIRMAN BEDESSEM: Okay. Thank you. I
7 appreciate that.

8 MS. THOMPSON: So, Madam Chairman, we'll
9 make that edit. And then we'll make that cross-reference
10 consistent.

11 CHAIRMAN BEDESSEM: Right. The way it's
12 supposed to be to be consistent.

13 MS. THOMPSON: Correct.

14 BOARD MEMBER CAHN: I have a suggestion on
15 number (ii). Maybe we could say "if the operator cannot be
16 available," rather than "is not available." So, I mean,
17 there's got some reason that they're not available. I
18 don't know if that helps any.

19 CHAIRMAN BEDESSEM: Yeah, well, I don't --
20 I don't know that it matters. Can is a -- he's going on
21 vacation.

22 MS. THOMPSON: And I think that's why we
23 wrote it in that manner, if I might address that.

24 BOARD MEMBER CAHN: Is not available?

25 MS. THOMPSON: I believe we wanted to be

1 flexible to where it wasn't -- it wasn't a reflection of
2 their ability, like their --

3 BOARD MEMBER CAHN: Oh, okay.

4 CHAIRMAN BEDESSEM: Right.

5 MS. THOMPSON: You know, because they do
6 schedule things, we just wanted to make sure there was a
7 process in place where if you're the responsible person and
8 you're out of town, you don't meet this definition of
9 available, then we want that substitute responsible charge
10 to know that --

11 CHAIRMAN BEDESSEM: They're on duty.

12 MS. THOMPSON: -- they're responsible while
13 this other person's out of town or whatever.

14 BOARD MEMBER CAHN: I'll retract that,
15 then.

16 MS. THOMPSON: Thank you.

17 CHAIRMAN BEDESSEM: Thank you.

18 Continue.

19 MR. TILLMAN: The other change in that
20 section is Part C. Again we moved that into the operator's
21 responsibilities. As part of that is to make sure they're
22 responsible for their information and to make sure that
23 their -- his employment history is accurate and current.
24 And that's just for their benefit, because, again, there's
25 time requirements for levels of certification. And if they

1 miss times where they're employed at certain places for a
2 certain level, then they can be delayed in their
3 certification, that they might try to achieve higher level
4 of certification where they're currently at. So it's
5 important for them to make sure their information is
6 accurate and current, you know, at all times.

7 I guess to go through the next part fairly
8 quickly. Sections 10 through 14, basically those were
9 changes that were made for clarity and formatting for the
10 most part. I believe in Section 11, lines 487 through 491,
11 those are no longer applicable. They were made when the
12 rule was last promulgated, and those time constraints and
13 whatnot just don't apply anymore, so they were removed.

14 In Section 12, again, we corrected the way the
15 rule was promulgated before. We did not have some of the
16 electronic information that we currently have on our
17 website wasn't available. It was in paper copy. So,
18 again, with the advent of technology, we decided some of
19 those things were no longer pertinent.

20 Any comments on any of those sections?

21 BOARD MEMBER CAHN: I have a comment on
22 Section 10. And this is related to the comments from Clear
23 View, that Section 10(b), where they had a problem with the
24 contractor operators shall make a physical inspection of
25 each contracted facility at least once per week. And I

1 think the confusion comes in does each of the operators
2 have to do that, or does only one? I think you mean only
3 one. So perhaps we can change that to say "a contract
4 operator shall make a physical inspection" rather than
5 contract operators?

6 MR. TILLMAN: Well, I guess our intent in
7 that case was we don't know how many operators are at a
8 particular facility. And if you were a contract operator
9 working at a facility -- typically a lot of these contract
10 operators work in multiple facilities. We want them to be
11 familiar with any changes that are going on at that
12 facility, each operator. And to have one guy be the guy to
13 go around and do that inspection, you have other operators
14 that are operating facility potentially, so we want all of
15 them to be aware of any potential changes that were from
16 the last time they were there, because they may not be
17 there every day. It might be once a week, depending on the
18 complexity and whatnot of the facility. So each one needs
19 to be aware of any changes at the facility. So we'd like
20 each of them, if they're working at a place, to make rounds
21 and see if there's anything changed from the last time that
22 they were there.

23 BOARD MEMBER CAHN: Could they be reviewing
24 the inspection reports rather? You know, the --

25 MR. TILLMAN: Well, the inspection reports

1 are fine to look at, but a physical look at the facility is
2 what's necessary, because, again, the last inspection may
3 not incorporate a change that might have been made after
4 that last inspection. So, again, if they haven't been at
5 the facility for a week or two, they need to kind of
6 just -- we want them to walk around and just take a look
7 and see if anything's changed from the last time that they
8 were there.

9 Any other questions under those sections?

10 BOARD MEMBER HANSON: Which section are we
11 on now? 12?

12 MR. TILLMAN: We're on -- I was moving to
13 Section 15.

14 BOARD MEMBER HANSON: Oh, I had --

15 CHAIRMAN BEDESSEM: Oh, you haven't done 12
16 yet.

17 BOARD MEMBER CAHN: You haven't done 12.

18 MR. TILLMAN: Okay. I thought I talked
19 through 12.

20 CHAIRMAN BEDESSEM: No. That's Continuing
21 Ed. We talked --

22 MR. TILLMAN: Okay. I thought I had said
23 Sections 10 through 14, but --

24 BOARD MEMBER HANSON: Okay.

25 CHAIRMAN BEDESSEM: Okay.

1 MR. TILLMAN: -- in Section 12, basically
2 we corrected language from the prior promulgation based on
3 electronic information that's now available on our website.
4 Because before we had courses listed on our program, we
5 have core topic areas now that we've defined. We also have
6 a list of those core topic areas on our website as opposed
7 to just listing what other areas were previously.

8 BOARD MEMBER HANSON: I have one question,
9 and that is Section (b)(i).

10 CHAIRMAN BEDESSEM: Which -- which numeric
11 section? 12?

12 BOARD MEMBER HANSON: In 12. Yeah, in 12.

13 MR. TILLMAN: 12(b)(i).

14 BOARD MEMBER HANSON: (b)(i) -- oh, it's
15 (c).

16 BOARD MEMBER CAHN: (c)(i).

17 BOARD MEMBER HANSON: I'm sorry.

18 MR. TILLMAN: Okay.

19 BOARD MEMBER HANSON: (c)(i).

20 MR. TILLMAN: Uh-huh.

21 BOARD MEMBER HANSON: On the top of
22 page 12. The last words "into the operator's unlined
23 account." Is this a financial account? Or is this -- I
24 thought you meant record or something like that, but --

25 MR. TILLMAN: That's what it is.

1 Basically, each operator when they're -- when they become a
2 certified operator in the state of Wyoming --

3 BOARD MEMBER HANSON: Yeah.

4 MR. TILLMAN: -- we ask they open an
5 account in our database, and that's the account that we're
6 talking about. It's their employment history, training
7 history, and so on. That's their account. And so
8 basically any time they have training or whatnot, it's
9 entered --

10 BOARD MEMBER HANSON: And it's called
11 account?

12 MR. TILLMAN: It's called an account, yes.

13 BOARD MEMBER HANSON: I read this and I
14 thought to myself this has something to do with money. But
15 it's the official term?

16 MR. TILLMAN: It's data, training,
17 employment.

18 MS. THOMPSON: Madam Chair. Mr. Hanson,
19 there is a -- so it's not a financial account in that
20 manner.

21 BOARD MEMBER HANSON: I get that.

22 MS. THOMPSON: But they're sort of
23 depositing their credits. And while it's not a financial
24 review that we're looking for, there's fluctuations in the
25 credits that they're kind of depositing or uploading. So

1 I -- I don't know if that clarifies it for you.

2 BOARD MEMBER HANSON: I would prefer to see
3 term like "online data account" or something like that,
4 but...

5 BOARD MEMBER CAHN: Or database.

6 BOARD MEMBER HANSON: Database or something
7 like that.

8 MR. TILLMAN: I guess the term database, to
9 me, is more an umbrella. And it's the individual's
10 information. So that's -- it's his account or his account.
11 Not necessarily just operator stuff, so...

12 BOARD MEMBER HANSON: I won't quibble if
13 everybody understands it.

14 MR. TILLMAN: I believe that's an
15 understood term by most of the folks that use it.

16 BOARD MEMBER HANSON: Good.

17 CHAIRMAN BEDESSEM: Continue.

18 BOARD MEMBER CAHN: I have a --

19 CHAIRMAN BEDESSEM: Go ahead.

20 BOARD MEMBER CAHN: I have a question
21 about -- again, it's a comment brought up -- it's actually
22 brought up both by Clear View and Gillette about the last
23 item, (d), a single training unit may be applied to no more
24 than one certificate. And I guess, you know, they brought
25 up -- maybe I'm misunderstanding it, but if you work for a

1 bunch of different -- if you're responsible charge operator
2 for a bunch of different places and you take the
3 qualification, why doesn't that qualification, that credit,
4 count towards your other -- the other places that you work?
5 Why would you have to say, well, I have --

6 CHAIRMAN BEDESSEM: It's not other places.
7 So it's -- it's other certificates. So --

8 MR. TILLMAN: Yes.

9 CHAIRMAN BEDESSEM: -- the certificate is
10 not is based on the place. It's based on the level. So
11 you have a -- you know, a Level I water treatment
12 certificate, you might also have a well systems
13 certificate.

14 BOARD MEMBER CAHN: Okay. Okay.

15 CHAIRMAN BEDESSEM: So they're different
16 certificates, but just not different places.

17 BOARD MEMBER CAHN: So those credits
18 transfer to other places you work.

19 MR. TILLMAN: Oh, yes.

20 BOARD MEMBER CAHN: They just don't to
21 different --

22 MR. TILLMAN: Oh, yes. So --

23 BOARD MEMBER CAHN: -- levels of
24 qualification.

25 CHAIRMAN BEDESSEM: Yeah.

1 MR. TILLMAN: As Madam Chair stated, your
2 certification carries with you no matter where you might
3 work at.

4 BOARD MEMBER CAHN: Okay. I misunderstood.
5 Sorry.

6 MR. TILLMAN: But we do apply the training
7 of hours per certificate. You know, you can't use one --
8 one training hour and apply to all your certifications.
9 And the reason for that is basically to make sure that
10 their knowledge base for the areas that they work in is
11 kept up to date, if you will. And sometimes you may not
12 get all the knowledge that you -- let's say if you just
13 took one class, that might not be enough for some of the
14 other areas that you work in. Yet if you were use -- to
15 use that one class and apply it across the board, we feel
16 like you might be missing some new information, new
17 technology that would make you a better operator --

18 BOARD MEMBER CAHN: Okay.

19 MR. TILLMAN: -- in the long run.

20 Other questions from the board?

21 CHAIRMAN BEDESSEM: I mean, I can
22 understand -- I certainly understand the perspective, you
23 know, of applicant wanting to be able to double count --

24 MR. TILLMAN: Absolutely.

25 CHAIRMAN BEDESSEM: -- especially if topic

1 area does apply to each of those certificates.

2 But then, again, I also understand DEQ's
3 perspective in that 24 hours over three years is not a
4 hugely onerous continuing education requirement. And
5 hopefully it's becoming I would like to think that it's
6 becoming less expensive with the advent of webinars and
7 online training opportunities. But certainly, you know, I
8 understand the concern because of the cost that, from
9 operator's perspective, it would like to --

10 MR. TILLMAN: I'd like to add also that
11 when they take a class -- let's say they take an eight-hour
12 pump class. You can split those hours of credits amongst
13 various licenses. It doesn't have to all go to one
14 license. So, again, if you carry multiple licenses and
15 applicable to other certifications that you carry, you can
16 spread those hours out.

17 CHAIRMAN BEDESSEM: Just not re-counting
18 the eight.

19 MR. TILLMAN: Exactly.

20 CHAIRMAN BEDESSEM: Okay. Thank you.

21 Anyone else?

22 Okay. Go ahead and continue.

23 MR. TILLMAN: Okay. Any other questions on
24 Sections 13 or 14?

25 Okay. Moving on to Section 15. This section was

1 reorganized basically to hopefully put all the owner's
2 responsibilities into one section. One of the changes that
3 was made also was adding (a)(ii), which, again, it's the
4 owner's -- facility owner's responsibility to also ensure
5 that they have coverage availability of their responsible
6 charge operator.

7 The other major change would be in Part B, where
8 before they had a 45-day grace period when they terminated
9 a responsible charge operator to where now it reads that
10 the facility owner shall immediately replace that
11 responsible charge operator upon his termination.

12 And, again, that's in light of some of the other
13 situations that's happened around the country, that to make
14 sure there's no gap in coverage or responsible operation of
15 the facility, that ensures public health and safety.

16 BOARD MEMBER CAHN: What does immediately
17 mean? Days? Hours?

18 MR. TILLMAN: Immediately. If you fire
19 him, you should have a -- a backup responsible charge
20 operator for your facility. Our thinking was that being
21 the case, your backup responsible charge can now be
22 responsible charge operator. And then you have some time
23 to replace your backup, but you always have a responsible
24 charge operator that's working at the facility.

25 BOARD MEMBER CAHN: Okay. Thank you.

1 MR. TILLMAN: I believe those -- that's
2 majority of the changes in that section. There were some
3 other things that were deleted that were no longer
4 applicable.

5 Another one to note is Part H that was added, and
6 the facility owner is responsible to make sure that he has
7 adequately certified operators working in his facility as
8 opposed to someone that's not certified, or, in some cases,
9 you'll get some small towns that the mayor will fire the
10 responsible charge operator and think they can operate the
11 system better themselves, and they're not certified at all.
12 So just to make sure it's clear that you need to have
13 people running the facility that are certified to run the
14 facility.

15 Section 16, basically was made to accommodate the
16 rules of practice and procedure, but also to give the
17 administrator, when it came to revocation/suspension of an
18 operator certification, more flexibility and how that was
19 applied. So, again, that's just wording to give him that
20 flexibility.

21 CHAIRMAN BEDESSEM: I have a quick -- just
22 this is a nonsubstantive item that just has to do with, I
23 think, housekeeping as far as consistency in changes.

24 In the Section 16(a), change the wording to say
25 "or revoke an operator's certificate," not revoke an

1 operator's certification -- certification. So you change
2 it from certification to certificate. Then in Section (b),
3 we have the same -- pretty much the same sentence and it
4 says "operator's certification."

5 MS. THOMPSON: Ah. Good catch.

6 CHAIRMAN BEDESSEM: I don't know which one
7 you want, but whatever, they should be the same.

8 MR. TILLMAN: Yes.

9 MS. THOMPSON: Madam Chair, I believe it's
10 supposed to be A, and I believe that I'm going to blame
11 Kelly and Kevin on this one, because they're not here. And
12 they're so clever and, you know, renowned in the world
13 compared to myself. But, yes, ma'am, I will -- all joking
14 aside, for my record, I will make that change so that those
15 are consistent.

16 MR. TILLMAN: Any other questions on
17 Section 16?

18 No changes in Section 17, other than a was/were
19 suspended on line 644.

20 In Section 18, basically (a)(i), used to be
21 policy, but we felt it needed to be codified. We have had
22 operators that have questioned whether or not we were there
23 at the time. Namely on December 31st at 11:00 at night.
24 They thought it was still time to change their training
25 record when there's nobody around to physically do that

1 because when they renew, someone actually -- Kim Parker --
2 has to actually physically do that. And they were upset
3 that we weren't there 11:30 at night to do that, so we
4 wanted to make it clear as to when that was due.

5 In Section 19, basically those are no longer
6 applicable. They were necessary when the last promulgation
7 of the rule came about. So, again, they're no longer
8 applicable, so we decided -- we deleted those.

9 And those are the changes to the chapter. Any
10 further questions?

11 MR. MOLDER: Can I speak?

12 CHAIRMAN BEDESSEM: So, yeah, let's hear --
13 if you would come up and state your name and provide us
14 your comments.

15 MS. THOMPSON: Point your voice towards the
16 box. You know the drill.

17 BOARD MEMBER HANSON: He's been waiting
18 this whole time.

19 CHAIRMAN BEDESSEM: Thank you for your
20 patience.

21 MR. MOLDER: Hey, no problem.

22 I'm Bob Molder, City of Gillette. I wanted to
23 make sure everybody did see the mail-in -- we sent quite an
24 extensive list in.

25 The major concern with us, and I've talked quite

1 a bit with Kim about it, is we're getting into a stage
2 we're a Level IV plant and we're going to get a lot of
3 retirement. My supervisor's goals are to make sure we stay
4 in compliance and meet all the needs of the state and DEQ,
5 you know, all the regulations. And we're at a stage now
6 bringing up brand-new operators. And with that, it takes
7 three, four, possibly five years. A little disagreement
8 with Kim on some of these lengths of terms of what some of
9 these operators should be doing. She's smiling up there.

10 BOARD MEMBER HANSON: She says three.

11 MR. MOLDER: We've had this discussion.

12 But what I stated in one of those questions here was on the
13 length of time, giving some of these operators a little bit
14 more of time, three, four, five years to get to a Level IV,
15 is that reasonable? Are we out of line, expecting
16 operators to take that long to get to a Level IV, because
17 it does take more education, more testing, more experience.

18 We want to stay in compliance and we want to
19 bring these operators up. So we just want to know if we
20 should try to push DEQ to change or if we need to change on
21 that, because in our case we have 13 operators. We're a
22 Level IV plant. Do all 13 operators need to be a Level IV
23 or can we stay with just a responsible charge operator
24 being the IV and have the lesser licensed below that
25 operator -- these are some of the different questions that

1 we have on here -- and still be in compliance with all the
2 rules?

3 MR. TILLMAN: Well, I think our rule states
4 you have to have at least one responsible charge operator
5 certified at the level of the facility.

6 MR. MOLDER: Physically on every shift?

7 MR. TILLMAN: Not physically on every
8 shift. Available.

9 MR. MOLDER: Available part's easy.

10 MR. TILLMAN: Right.

11 MR. MOLDER: But physically is what we
12 needed to know to make sure.

13 MR. TILLMAN: No, he doesn't physically
14 need to be there on every shift.

15 MR. MOLDER: Okay.

16 MR. TILLMAN: And I think Kim's probably
17 stated that before as well. But some of the other thinking
18 is that I understand from an economic standpoint, it's
19 easier to have one Level IV operator --

20 MR. MOLDER: Right.

21 MR. TILLMAN: -- as opposed to all of them.

22 MR. MOLDER: Uh-huh.

23 MR. TILLMAN: Also, I think from
24 operability and flexibility, if everyone aspired to be a
25 Level IV and pushing to be a Level IV, then there is no

1 issue with having someone back up or when you have people
2 retire. But when you set up that tier, you're almost
3 setting yourself up for at some point who's going to be the
4 next one to take over. And that's a management --

5 MR. MOLDER: Well, in --

6 MR. TILLMAN: -- decision, I guess, from
7 the facility.

8 MR. MOLDER: From our situation, we're
9 trying to cross everyone collection and wastewater. That's
10 just the way we've operated. I've been there 28 years, and
11 that's the way we've been doing it, trying to bring
12 everybody up to cover any position that may be needed so
13 you cover collection system, this guy goes on vacation;
14 cover the lab, whatever the case may be. And we're just
15 trying to be compliant, make sure we're doing it correctly.

16 But as I said, my supervisor, knowing that I'm
17 going to retire probably in about two years or so, he's
18 looking forward and I -- there's three other guys that are
19 probably going to retire at the same time as me. And then
20 two years down the road a couple more. So we're going to
21 lose all of our upper end, and that's what our major
22 concerns are in that we can bring this new group of people
23 in and fit all the needs.

24 MR. TILLMAN: And I understand your
25 concern, again, but ideally we want -- if it's a Level III

1 or IV, what have you, that everyone working there is at
2 that level of certification. Now, again, I understand to
3 have one, to have the rest subordinate to that, maybe is
4 better.

5 MR. MOLDER: So you are saying that every
6 one of my operators should be a IV?

7 MR. TILLMAN: No, no. Ideally.

8 MR. MOLDER: Okay.

9 MR. TILLMAN: Ideally they should be a IV.
10 Some people may not have the aptitude to get to a Level IV.
11 But if everyone is not striving to get to that at least or
12 at least trying to attain that level, then you run into
13 situations, as you describe, where at some point there's
14 going to be an issue where we're not going to have a
15 properly certified operator.

16 MR. MOLDER: Correct.

17 MR. TILLMAN: Supervising the rest of the
18 lesser -- lesser trained folks. And I'm not sure how to
19 address that. I don't think we can address that in rule,
20 as much as that's a facility management decision, if you
21 will.

22 MR. MOLDER: Okay.

23 MS. THOMPSON: I would like to point out
24 too. One of the reasons we kind of fleshed out what we are
25 expecting out of an available operator is to kind of

1 clarify questions of, well, does available mean I have to
2 be there all the time or does available just mean I can
3 call in and, you know, when I'm in Florida on vacation.

4 MR. MOLDER: I got a pretty good answer
5 there, listening to --

6 MS. THOMPSON: Exactly. So we were hoping
7 that adding that -- those nuances to available would help
8 folks in your same situation.

9 MR. MOLDER: Uh-huh.

10 MS. THOMPSON: That we would maintain some
11 flexibility for you, but also maintain that protectiveness
12 where if you're in Florida and there's no one around,
13 you're not actually available. And we have had situations
14 where, you know, folks were paying to be part of a system
15 so they could have clean water, and the operator was
16 "available" in another part of the country, not get -- and
17 they didn't have water. And that's -- you know, we -- it
18 made it very hard for us to enforce our rule. But we also
19 didn't want to make it so stringent that, by golly, you
20 better be there all the time, because, you know, you do
21 have people in your situation. So hopefully that
22 availability cleared some of your concern up.

23 MR. MOLDER: Another major concern was
24 since we're bringing up newer operators and we do have on
25 call personnel, both collection and at the wastewater plant

1 itself, are we technically following the rules by having a
2 lesser operator take the on-call responsibility, even
3 though he's a phone call away from getting more help -- but
4 say a Level II operator comes to our plant, which is a
5 Level IV --

6 MR. TILLMAN: Uh-huh.

7 MR. MOLDER: -- for whatever the alarm
8 called him out for, are we -- in our mind we're doing it
9 right, but we want to make sure with DEQ that we're
10 covering all of our bases here with the lower-level license
11 coming out to the plant and taking care of problems. Is
12 that --

13 MR. TILLMAN: A lower-level person -- a
14 lower-certification person can be the on call. We're not
15 dictating who needs to be the person receiving that
16 emergency call.

17 MR. MOLDER: Okay.

18 MR. TILLMAN: But the person that makes the
19 decision what needs to be done --

20 MR. MOLDER: Is done.

21 MR. TILLMAN: -- based on that call --

22 MR. MOLDER: Correct.

23 MR. TILLMAN: -- is still responsible in
24 charge that's available via phone call, if necessary. Yes.

25 MR. MOLDER: Well, different

1 interpretations has brought up a lot of fear.

2 MR. TILLMAN: Not a problem. I understand.

3 MR. MOLDER: That's why I'm asking.

4 MR. TILLMAN: What you're doing I don't
5 think you're out of compliance at all, as long as that
6 responsible charge is a phone call away and can help the
7 guy know what his next move should be.

8 MR. MOLDER: Okay. Well, I think that
9 pretty much covers everything. Except one more thing, if
10 you don't mind.

11 MR. TILLMAN: Uh-huh.

12 MR. MOLDER: The chart Kim made up for the
13 certification.

14 MR. TILLMAN: Yes.

15 MR. MOLDER: That's a lot simpler than some
16 of the wording used in some of these documents. It's been
17 a large discussion.

18 MS. THOMPSON: Right. So if I might speak
19 to that, Madam Chair.

20 We agree that that is a helpful tool, and that's
21 where we put it on our website. However, when we look at
22 how that chart is formatted -- and I believe it was
23 included in the -- in the comment that you sent. You sent
24 us an example, which was helpful so we knew exactly what
25 you were talking about. That chart is helpful, but we have

1 some nuances and some shalls and musts that we felt that if
2 we just dropped the chart into the rule, that it would be
3 hard to maintain the formatting in the rest of the rule.
4 And we have rules we abide by on how the rule is formatted,
5 and that it might actually make it more confusing.
6 However, we're to the proposing to remove the chart. We
7 feel like it's a guidance tool and that we'll just -- our
8 plan is to update that in any other related graphics or
9 tools that we provide for you folks on our website. We
10 will update those at the time this is promulgated so that
11 it's consistent. And you can still use that as a helpful
12 tool. But this is enforceable in the -- in the manner that
13 it's written, and I'm afraid if I put things in a chart
14 that I have to cut language, because charts are -- it's a
15 box and we have to fit it in there.

16 MR. MOLDER: Sure.

17 MS. THOMPSON: And I was just concerned
18 about losing some of the really nice language that we've
19 put in to make this rule enforceable and kind of worded in
20 a manner that's consistent with our other rules and worded
21 in a manner that will not give our AG indigestion, because
22 we do rely heavily on her input. And she was very helpful
23 in putting -- in giving us guidance on some of these
24 pieces, and I'm just very concerned that I wouldn't be able
25 to maintain the helpfulness or the integrity of the rule if

1 I combined the two.

2 MR. MOLDER: Uh-huh. Sure.

3 MS. THOMPSON: But we did consider -- I did
4 look at how could I do that. And --

5 MR. TILLMAN: It's just an unwieldy beast
6 to try to get all that information --

7 MR. MOLDER: Right.

8 MR. TILLMAN: -- into these confines,
9 but --

10 MR. MOLDER: These were just things we went
11 through as we were going through.

12 MS. THOMPSON: Right.

13 MR. TILLMAN: But we'll definitely have
14 that on our website for you guys to definitely use because
15 it -- definitely for cross-reference and to see where
16 you're at, it's definitely helpful.

17 MR. MOLDER: Okay. Well, I think that
18 pretty much covered it, and everybody's seen the comments.
19 Everybody's seen those?

20 CHAIRMAN BEDESSEM: Yes. Thank you.

21 MR. MOLDER: Well, I appreciate your time.
22 Thank you.

23 CHAIRMAN BEDESSEM: Anyone else who would
24 like to come up and submit public comment?

25 I read in the last minutes that Klaus said going

1 once, going twice.

2 BOARD MEMBER HANSON: Going twice.

3 CHAIRMAN BEDESSEM: Standard procedure of
4 city council.

5 Okay. So any additional comments from the board?
6 Discussion? Nothing? Okay.

7 BOARD MEMBER HANSON: I'll make a
8 cautionary note down here, where it is possible, the
9 proposed action will be taken if you answer no -- if you
10 answer yes to any of those questions.

11 MS. THOMPSON: Yeah. Yeah.

12 CHAIRMAN BEDESSEM: Well, then, at this
13 point in the agenda, then -- this is the, I believe, the
14 first time we're looking at Chapter 5.

15 MS. THOMPSON: That is correct, ma'am.

16 MR. TILLMAN: Yes.

17 CHAIRMAN BEDESSEM: But due to our
18 technological abilities now, we're up to date on responses
19 to comment through the comment period which ends at this
20 meeting.

21 So I am looking for a motion as to whether we
22 would like to move this rule forward.

23 BOARD MEMBER CAHN: I move that the Water
24 and Waste Advisory Board recommend moving this Chapter 5
25 forward to EQC for their review and adoption.

1 BOARD MEMBER HANSON: Second.

2 CHAIRMAN BEDESSEM: Any discussion?

3 All those in favor say aye.

4 BOARD MEMBER KIRKBRIDE: Aye.

5 BOARD MEMBER CAHN: Aye.

6 BOARD MEMBER HANSON: Aye.

7 CHAIRMAN BEDESSEM: Aye.

8 Opposed, same sign. Motion carries.

9 MS. THOMPSON: Thank you, Madam Chairman.

10 BOARD MEMBER CAHN: I'm sorry. With the
11 changes.

12 MR. TILLMAN: Yes. Yes.

13 CHAIRMAN BEDESSEM: Yes, with the two minor
14 changes that have been agreed upon.

15 Okay. Well, congratulations, Water Quality. We
16 moved two rules forward today.

17 MS. THOMPSON: Thank you. We appreciate
18 you --

19 MR. TILLMAN: That's not one fist. That's
20 two fists in the air.

21 MS. THOMPSON: Bill, that's going in the
22 record, just --

23 MR. TILLMAN: That's why I said it.

24 MS. THOMPSON: Okay. Okay. Madam Chair,
25 next on agenda I believe we were expecting a briefing from

1 the Solid & Hazardous Waste Division. And I'm not sure --
2 I will -- I will contact Mr. Doctor to see if he is
3 available to call in to us. And then I believe we had some
4 water quality housekeeping and just general scheduling of
5 the next meeting --

6 CHAIRMAN BEDESSEM: Meeting and so forth.

7 MS. THOMPSON: -- and stuff.

8 So if I might have a short break to contact
9 Mr. Doctor to see if he can brief us. And I believe -- I
10 don't believe anyone from the Cheyenne office was going to
11 sit in on that one, so...

12 CHAIRMAN BEDESSEM: Okay. So 10 minutes or
13 just 5?

14 MS. THOMPSON: Oh, just 5 minutes.

15 CHAIRMAN BEDESSEM: 5 minutes. So we're
16 closing now for 5 minutes. We'll reconvene when hopefully
17 we'll have solid waste division present.

18 (Meeting proceedings recessed

19 2:09 p.m. to 2:15 p.m.)

20 CHAIRMAN BEDESSEM: So we're restarting our
21 board meeting. And first up is Luke Esch, administrator of
22 the Solid & Hazardous Waste Division.

23 The floor is yours, Luke.

24 MR. ESCH: Good afternoon, members of the
25 board. Thanks for letting me jump in like this. I just