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WYOMING WATER AND WASTE ADVISORY BOARD

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IN RE: SOLID AND HAZARDOUS WASTE DIVISION

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TRANSCRIPT OF MEETING PROCEEDINGS

Pursuant to notice duly given to all parties in interest, this matter came on for meeting on the 21st day of June, 2018, at the hour of 9:09 a.m., at the University of Wyoming Biodiversity Institute, Berry Center Room, 10th Street and East Lewis Street, Laramie, Wyoming, before the Wyoming Water and Waste Advisory Board, Ms. Marjorie Bedessem, Chairwoman, presiding, with Ms. Lorie Cahn, Mr. Klaus Hanson, Mr. Alan Kirkbride, and Mr. Brian Deurloo in attendance.

1 ALSO IN ATTENDANCE (ALPHABETICAL ORDER):

2 Dale Anderson  
3 Solid Waste Permitting & Corrective Action Program,  
4 District 3 Supervisor

5 Lily Barkau  
6 Groundwater Section Manager, Water Quality Division

7 Jerry Breed  
8 Hazardous Waste Voluntary Remediation Program Manager

9 Bob Breuer (via videoconference)  
10 Solid and Hazardous Waste Inspection and Enforcement  
11 Program Manager

12 Matt Buchholz (via videoconference)  
13 Hazardous Waste Senior Project Manager

14 Suzanne English  
15 Program Manager For the Solid Waste Program

16 Mr. Luke Esch  
17 Solid and Hazardous Waste Administrator

18 Kevin Frederick  
19 Water Quality Division Administrator

20 James LaRock (via videoconference)  
21 Attorney General's Office

22 Lindsay Patterson  
23 Supervisor For the Water Quality Standards Program

24 John Robitaille  
25 Petroleum Association of Wyoming

Carol Stark  
Hazardous Waste Voluntary Remediation Project Manager

Gina Thompson  
Water Quality Division, Policy and Planning Analyst,

David Waterstreet  
Watershed Protection Section Manager

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

2 (Meeting proceedings commenced at 9:09 a.m.,  
3 Thursday, June 21, 2018.)

4 CHAIRWOMAN BEDESSEM: We'll call to order the  
5 second quarter Water and Waste Advisory Board meeting.

6 First, I'd like to introduce the Water and  
7 Waste Advisory Board members. I'm Marj Bedessem,  
8 representing the public at large.

9 BOARD MEMBER DEURLOO: I'm Brian Deurloo,  
10 representing industry.

11 BOARD MEMBER KIRKBRIDE: Alan Kirkbride,  
12 representing agriculture.

13 BOARD MEMBER CAHN: Lorie Cahn, representing the  
14 public at large.

15 BOARD MEMBER HANSON: Klaus Hanson, elected  
16 official representing municipalities and communities.

17 CHAIRWOMAN BEDESSEM: Okay. And we have a revised  
18 agenda for this morning, and the first item on the  
19 agenda is the Water Quality Division Rulemaking  
20 Briefing, Chapter 1, Wyoming Surface Water Quality  
21 Standards, Triennial Review.

22 MS. PATTERSON: Thank you. Good to see everybody  
23 this morning. I'm Lindsay Patterson. I'm the  
24 supervisor for the Water Quality Standards Program. So  
25 I'm responsible for developing and adopting Wyoming's

1 surface water quality standards.

2 As you remember, last year we worked on a  
3 revision to Chapter 1 of the Water Quality Rules and  
4 Regulations to allow discharger-specific variances. So  
5 that rule package was approved by the council in  
6 February and by the governor in April. We recently  
7 submitted that to the EPA for review under the Clean  
8 Water Act.

9 We wanted to give you an update on our plans  
10 to open Chapter 1 again for a triennial review. So the  
11 triennial review is required under the Clean Water Act,  
12 states that a state should review from time to time but  
13 at least every three years their water quality  
14 standards. So we wanted to make sure that you guys  
15 were aware that we're planning this.

16 It's a slightly different process than other  
17 rule revisions because of the review piece. So we take  
18 that opportunity to solicit comments from the public on  
19 pretty much anything in the rules that they think needs  
20 to be looked at.

21 It doesn't mean that we would be able to  
22 address everything that people bring to us, but it does  
23 give people the opportunity to bring to our attention  
24 things that we might not be aware of and sort of adds  
25 to our to-do list of things, other research or

1 potentially modify during this upcoming rule revision.

2           So since we want to gather as much feedback  
3 as possible, we're planning to have a fairly robust  
4 public process on the front end prior to bringing the  
5 rule to the advisory board. So we're planning  
6 initially to reach out to a lot of the organizations in  
7 the state, lay out some of the things that we have on  
8 our to-do list as part of the triennial but then also  
9 get feedback from them.

10           One of the things that we're looking at is  
11 potentially moving away from our existing  
12 classification system to a system where -- the way the  
13 current classification system is the uses, the  
14 designated uses for surface waters are bundled  
15 together. So something like drinking water is attached  
16 to a cold water or a game fishery is attached to  
17 recreation.

18           So what we would like to do is move to a  
19 system where the designated uses are independent of one  
20 another. So we think this will allow us to reduce  
21 redundancies that are currently in the classification  
22 system and then allow more flexibility for us moving  
23 forward so that we can, in the long run, adopt  
24 different designated uses potentially where water  
25 quality criteria is more accurate than what it is

1 currently.

2           So it's sort of laying the groundwork for  
3 changes in the future, but the intention with this  
4 revision is just to sort of break apart the uses. All  
5 of the same designated uses would be applied to the  
6 same water bodies, and the criteria would be the same.

7           So it really wouldn't result in too many  
8 changes on the ground as the initial step, but it will  
9 allow us more flexibility in the future.

10           And I think it will make the rules more clear  
11 for permit writers and for us in the monitoring program  
12 and, you know, when we go out and assess waters and  
13 their uses since they won't be lumped together when  
14 things aren't really connected necessarily.

15           So in addition to the classification system,  
16 we also have another list of things that we'd like to  
17 address. We have a handful of things from the last  
18 triennial review that EPA didn't act on. So we'd like  
19 to take care of that.

20           There's some new recommendations for human  
21 health criteria from EPA that we'll be looking to  
22 adopt, and I think we'll be looking at our turbidity  
23 criteria. We'll be looking at definitions for primary  
24 contact recreation that came out of some of the work  
25 that we did with modifying designated uses for

1 recreation.

2           We have a site-specific criteria that we're  
3 looking at for selenium on a small stream near Kaycee  
4 and, you know, just do some cleanup.

5           You know, when we first started the last  
6 revision of Chapter 1, it was predated, I think, a lot  
7 of the governor's rule streamlining initiative. And so  
8 we'd be cleaning up some of those things. Like the  
9 definitions from the Environmental Quality Act are  
10 still in Chapter 1, and so we'll do some of that  
11 cleanup as well during this revision.

12           We are currently thinking that we'll have  
13 some follow-up conversations once we do that initial  
14 outreach to the organizations. We'll hold public  
15 hearings is kind of what we're thinking in Casper and  
16 in Cheyenne.

17           We'll also accept written comments just  
18 during this initial scoping period, and that will help  
19 us define the scope of the rule revision.

20           And at that point, we'll put together a draft  
21 statement of reasons, some of the things that you guys  
22 are used to seeing. And we'll determine, I think, at  
23 that point whether it would make sense for us to go  
24 back out to the public prior to coming to the Advisory  
25 Board.

1           But that's essentially the plan. It would be  
2 to take everything in, figure out what we potentially  
3 work on this time. We don't want to bog ourselves down  
4 too much by trying to take on too much because I think  
5 the classifications have changed.

6           It's kind of a big step forward, and it might  
7 take a little while for people to sort of digest what  
8 we're trying to do. So we might not add too many more  
9 things. We'll kind of see what people come up with.

10           And so since, you know, we'll have that  
11 extended public process, we're probably not  
12 anticipating bringing things to the board until  
13 sometimes in 2019.

14           If you have any questions, let me know.

15           CHAIRWOMAN BEDESSEM: Thank you.

16           Any questions from the board?

17           BOARD MEMBER DEURLOO: Chairwoman Bedessem, I do.

18           CHAIRWOMAN BEDESSEM: Uh-huh.

19           BOARD MEMBER DEURLOO: Lindsay, what's your last  
20 name again, please?

21           MS. PATTERSON: Patterson.

22           BOARD MEMBER DEURLOO: Patterson, thank you.

23           So I think it's really good that you're  
24 looking at -- one of my questions was is you're kind of  
25 separating out like wildlife from something else and



1 drinking water from coal rules, coal bed methane maybe.

2 I was happy to hear that you think that it's  
3 going to reduce redundancy. Do you think that that can  
4 actually happen by separating those out?

5 MS. PATTERSON: The way that the -- there's maybe  
6 12 classes, just off the top of my head. I think  
7 there's a lot of the uses are the same. Like our  
8 Class 3 water, there's three Class 3 designations, and  
9 they have all the same uses. So they have all the same  
10 criteria.

11 BOARD MEMBER DEURLOO: Right.

12 MS. PATTERSON: So it doesn't really benefit us to  
13 retain that, if that's what you mean.

14 BOARD MEMBER DEURLOO: Fair enough. Yeah, I think  
15 you can do it.

16 Clean water for your review. So I remember  
17 talking about this just last year. Why are we -- so  
18 you stated that we'd just looked at it last year, and I  
19 remember that. I just came on the board. Is this the  
20 front end of the triennial review?

21 MS. PATTERSON: Yes.

22 BOARD MEMBER DEURLOO: We couldn't stagger it for  
23 another two years? No, I'm just wondering since we  
24 just looked at it.

25 MS. PATTERSON: Yeah.

1 BOARD MEMBER DEURLOO: I like Chapter 1. It's a  
2 good chapter.

3 MS. PATTERSON: Yeah, so we started the previous  
4 triennial in 2011, and then that was completed in  
5 September of 2013. So we haven't opened the rules, you  
6 know, for this -- it's called the review piece -- since  
7 it closed, you know, since we --

8 BOARD MEMBER DEURLOO: Even though we looked at it  
9 last year. Okay.

10 MS. PATTERSON: And, yeah, last year we really  
11 wanted to just focus on the discharge of specific  
12 variances so that we could get that through. If you  
13 remember, there was a small community that had a really  
14 stringent limit for ammonia --

15 BOARD MEMBER DEURLOO: Yes.

16 MS. PATTERSON: -- that was driving that rule  
17 revision.

18 BOARD MEMBER DEURLOO: Right.

19 MS. PATTERSON: So now we're just taking, you  
20 know, the opportunity to open the rules again and sort  
21 of see --

22 BOARD MEMBER DEURLOO: Okay.

23 MS. PATTERSON: -- what people really think need  
24 to be changed since it's been now --

25 BOARD MEMBER DEURLOO: Oh, yeah. Yeah, I remember

1 we couldn't talk about some stuff because it wasn't  
2 part of the -- yeah --

3 MS. PATTERSON: Yes.

4 BOARD MEMBER DEURLOO: -- right, click.

5 And you had mentioned that so this is going  
6 be about a year-long process before this comes before  
7 the Board again, you think?

8 MS. PATTERSON: Potentially. It sort of depends  
9 on the scope of the comments that we get and how long  
10 it will take, you know, for me to sort of digest  
11 everything that we receive and figure out, you know,  
12 what we want to actually include in this package.

13 And then, like I said, we will have some idea  
14 of the things that we want to change. It's not fully  
15 formulated yet, and I think it will be informed by the  
16 feedback that we get during some of these initial  
17 conversations during that initial scoping.

18 BOARD MEMBER DEURLOO: Thank you.

19 Madam Chairwoman, I have one more question.

20 So we'll be looking at storm water pollution  
21 as well? Will that be addressed because last time it  
22 was around ammonia and so forth? We're opening all of  
23 it?

24 MS. PATTERSON: Right. And the water quality,  
25 yeah, everything is kind of open. It will be open all

1 the criteria, theoretically, that we have.

2 BOARD MEMBER DEURLOO: Okay. Thank you,  
3 Madam Chairwoman.

4 CHAIRWOMAN BEDESSEM: I have one quick question.

5 You had mentioned that one of the things that  
6 you would be doing was kind cleaning up the last things  
7 from the last triennial review which EPA didn't act on.  
8 Could you give us an example of something that falls in  
9 that category.

10 MS. PATTERSON: Yeah. So one of them -- so we  
11 apply secondary drinking water standards to surface  
12 waters that have drinking water designated use and add  
13 in -- we added last time a footnote that said we want  
14 these only to apply where drinking water is naturally  
15 used. So that was something that Colorado had done in  
16 their rules.

17 EPA didn't like that because they wanted to  
18 formally apply all the criteria to all the uses. So  
19 they don't like these workarounds embedded in the  
20 rules. So they instead of disapproving that portion of  
21 the rule, they choose not to act on it.

22 So that's one example where they basically  
23 approve of all these changes except "We're not going to  
24 act on this one."

25 CHAIRWOMAN BEDESSEM: When you say you're going

1 to, you know, list things that EPA didn't act on last  
2 time, are you saying then you would try that again, you  
3 know, since they approved it in other states --

4 (Several speaking simultaneously.)

5 MS. PATTERSON: Oh --

6 CHAIRWOMAN BEDESSEM: -- second time around --

7 MS. PATTERSON: Okay. Sorry. It's been on the  
8 books in Colorado for a number of years. I think, you  
9 know, over time their thinking sort of changes on  
10 things like that, and things that they potentially  
11 approved in the past, they may not approve now.

12 So what I'm meaning is that we will probably  
13 remove that from the standards because we can't really  
14 utilize it the way it is intended to be used because  
15 they haven't approved it.

16 MR. WATERSTREET: Madam Chairwoman.

17 CHAIRWOMAN BEDESSEM: Uh-huh.

18 MR. WATERSTREET: I'm David Waterstreet with the  
19 Wyoming Department of Environmental Quality. I'm the  
20 manager of watershed programs.

21 We do think that removing the classification  
22 system will take us back to a portion of that. If you  
23 think about it, the way that I picture these  
24 classifications removals is if you think about the fact  
25 that, for instance, we have cold water fisheries, two

1 AB waters that are listed on a main stream that runs  
2 all the way up to the top of the watershed where it  
3 might only apply to the bottom. The same applies for  
4 our drinking waters.

5 There will be circumstances where we're  
6 laying the groundwork where we can go back and actually  
7 address those types of issues that we have that Lindsay  
8 tried to do through some of these other methods.

9 So we will have the opportunity to come back  
10 and try to correct some of our ineffective rules and  
11 misapplied criteria. So that's the goal of this  
12 exercise.

13 CHAIRWOMAN BEDESSEM: Uh-huh. It sounds like a  
14 combination, and we will be able to get it narrowed  
15 down.

16 MS. PATTERSON: Yes.

17 CHAIRWOMAN BEDESSEM: Okay.

18 MS. PATTERSON: And that's the long-term goal  
19 would be to make sure that they're as accurate as  
20 possible.

21 CHAIRWOMAN BEDESSEM: Okay. Thank you. I was  
22 curious. I didn't remember it from the last triennial  
23 review.

24 MS. PATTERSON: Sure.

25 CHAIRWOMAN BEDESSEM: Okay. Sounds good.

1           Anything else? Thank you very much.

2           MS. PATTERSON: Yeah.

3           CHAIRWOMAN BEDESSEM: We appreciate the update.

4           So the next item on the agenda is Water  
5           Quality Division Rules and Regulations, Chapter 27,  
6           Underground Injection Control Program.

7           MS. BARKAU: Are we all set?

8           Hello, my name is Lily Barkau. I am the  
9           Groundwater Section Manager of the Water Quality  
10          Division.

11          I oversee the groundwater protection control,  
12          pollution control program, federal facilities, special  
13          projects related to groundwater contamination or other  
14          potential issues for groundwater in the state and the  
15          underground injection control program, which brings us  
16          here today to present our rule changes to Chapter 27  
17          for financial assurance of underground injection  
18          control wells, specifically, Class 5 coal bed methane  
19          wells and adding text for Class 1 non-hazardous and  
20          hazardous waste wells.

21          So just an overview of the financial  
22          assurance needs, there are currently 980 wells that are  
23          classified coal bed methane wells in the state that  
24          have been authorized by permit. 491 of those wells  
25          have been constructed, where 318 of those wells are

1 covered under the Oil and Gas Conservation Commission  
2 plug and abandonment program, which leaves 173 wells  
3 not covered by OGCC or the DEQ.

4 We estimate that 75 are currently operating,  
5 and the cost to close and reclaim those would be  
6 approximately \$1.1 million.

7 At the moment, there are approximately  
8 98 orphans which are considered no viable operator  
9 identified. So the estimated cost to close those and  
10 reclaim those is \$1.47 million.

11 So since 2014, the DEQ Water Quality Division  
12 has worked to address the burden of closure,  
13 post-closure, plugging and abandonment and reclamation  
14 of CBM empanelments (phonetic) and wells that were  
15 orphaned due to declining revenues.

16 In order to prevent the state from bearing  
17 the burden of future reclamation and decommissioning  
18 costs in the case of operator default, the Wyoming  
19 legislature enacted Enrolled Act No. 2 or SEA002 in  
20 2018.

21 That act directs the Division to revise  
22 Chapter 27 to include financial responsibility  
23 requirements of the UIC Class 5 coal bed methane  
24 produced water injection facilities that are permitted,  
25 renewed, and/or transferred after July 1, 2018.



1           SEA002 also clarifies the existing financial  
2 responsibility requirements of UIC Class 1 hazardous  
3 and non-hazardous well facilities. The financial  
4 assurance requirement proposed by the Division and  
5 authorized by SEA002 exceed the federal requirements at  
6 40CFR Part 144.

7           So our time line to bring this rule forward,  
8 DEQ met with the Joint Minerals Committee on June 30th  
9 of 2017 in Casper and briefed the committee and offered  
10 recommended statutory language for the DEQ to proceed  
11 with a rule to require financial assurance on existing  
12 and future Class 5C5 injection wells.

13           DEQ then briefed PAW on this issue on  
14 August 15th of 2017 and which led us to the Wyoming  
15 legislature enacted Enrolled Act No. 2 in 2018, which  
16 establishes the applicability to permits issued,  
17 renewed, or transferred after July 1, 2018; directed  
18 DEQ to initiate rulemaking before July 1, 2018; and  
19 makes this act effective July 1, 2018.

20           And that brings us here today to present our  
21 modified -- or modifications to Chapter 27, Section 19.  
22 I will turn it over to Gina Thompson to discuss those  
23 particular changes.

24           We hope to do this in two different steps.  
25 Discussing the changes that were provided to you and

1 that went through public notice, at which time during  
2 the public notice period, we felt that there were some  
3 clarifications that were needed in the rule.

4 So we'll discuss those as a second step after  
5 we've discussed the public notice portion and any  
6 questions you may have.

7 CHAIRWOMAN BEDESSEM: Thank you.

8 BOARD MEMBER HANSON: I do have a question. I  
9 read the act here, and what occurred to me under  
10 35-11-302, it says, "Administrator's authority to  
11 recommend standards." Is that the common language  
12 because I thought it would be "required certain  
13 standards"?

14 And I was surprised because "recommend" was  
15 kind of wishy-washy, you know. It says "recommend,"  
16 and they can say, "Okay. Fly a kite."

17 And so how does this work?

18 MS. THOMPSON: Madam Chairwoman, Mr. Hanson --  
19 Dr. Hanson.

20 BOARD MEMBER HANSON: That's fine. Dispense with  
21 the doctor.

22 MR. FREDERICK: Kevin Frederick, Water Quality  
23 Administrator.

24 Dr. Hanson, to the question, I believe the  
25 language recognizes that there is a process for rule

1 development that has to be --

2 BOARD MEMBER CAHN: Excuse me. Can you speak up?  
3 Sorry.

4 MR. FREDERICK: Sure. There's a process for rule  
5 development such as taking a proposed rule before this  
6 advisory board, moving it through the Environment  
7 Quality Council, the AG's office, and finally signed  
8 off by the governor.

9 So this case, I think it recognizes that our  
10 role here with the agency is to essentially recommend  
11 these rules and regulations for final adoption.

12 BOARD MEMBER HANSON: Okay. That makes some  
13 sense. Thank you.

14 MS. THOMPSON: All right. Gina Thompson with the  
15 Water Quality Division.

16 If you would all turn to the strike and  
17 underlined copy in your packages, all of the proposed  
18 changes that we're recommending today are in  
19 Section 19.

20 So the copy that we sent to you in May and a  
21 copy that was out for notice in May, we have added a  
22 new paragraph at paragraph A to kind of identify the  
23 applicability and to cross-reference that new bit of  
24 the statute which authorizes us to do rulemaking for  
25 Class 5 coal bed methane produced water injection

1 facilities.

2           With that, then we made some adjustments. We  
3 moved the old paragraph A down to paragraph B. We  
4 added the Class 5 coal bed methane produced water  
5 injections facilities. And then in the list of  
6 activities that they needed to demonstrate financial  
7 assurance, we added reclamation and did some small  
8 formatting updates.

9           We added new language at paragraph C. We  
10 wanted -- in addition to just putting in the classified  
11 facilities as part of this section, we also wanted to  
12 expand and clarify what we were expecting as far as  
13 financial assurance and what kind of activities needed  
14 to be covered in those estimates.

15           When we -- if we move on to paragraph D, we  
16 also added some language as to what kind of estimate  
17 information they would need to keep at their facility.

18           We renumbered paragraph E, renumbered  
19 paragraph F, and cleaned up a verb issue there.

20           And then we have a list of instruments at  
21 paragraph G, and I'd like to point out that the  
22 instruments we've listed for qualifying for financial  
23 assurance, these are consistent with other instruments  
24 of financial assurance that the agency uses. So we  
25 used a list from our Industrial Siting Division.

1           Paragraph H, we cleaned up the language a  
2 little bit there and fixed a formatting issue. And  
3 then we corrected the reference to the CFR at  
4 paragraph I. So those are the changes that we did that  
5 we sent out for notice.

6           And as Lily explained, when we were preparing  
7 to come before you today, we were -- we went through  
8 the section again and identified some areas that we  
9 thought we could do a little bit better.

10           And so we'd like to present -- we've brought  
11 copies for you to look at and to hand out to any  
12 members of the public that would like to review them,  
13 but we think that we could do some pieces a little bit  
14 better to be even more clear than the version that we  
15 sent out for notice. So we'd like to potentially  
16 discuss tweaking this a little from what we had sent  
17 out for notice in May.

18           So if you don't mind, I'll go ahead and pass  
19 out a copy that kind of demonstrates -- two copies, if  
20 you'll hold for just a moment.

21           BOARD MEMBER HANSON: That supersedes the version  
22 that we see?

23           MS. THOMPSON: Yeah.

24           BOARD MEMBER HANSON: Okay.

25           MS. THOMPSON: That's what we --

1 BOARD MEMBER HANSON: Yeah.

2 MS. THOMPSON: -- compare, but that would be the  
3 strike.

4 BOARD MEMBER HANSON: Okay.

5 BOARD MEMBER DEURLOO: Remind me here. This one  
6 here is the one we should be looking at? I was reading  
7 while you were talking.

8 MS. THOMPSON: That's okay.

9 CHAIRWOMAN BEDESSEM: Explain the difference  
10 between the two sets.

11 MS. THOMPSON: So we have two sets. We have one  
12 which would be pure strike-and-underline. So what I'll  
13 reference is the one that says "green" at the top, and  
14 it's going to compare the two strike-and-underline  
15 copies together so you could see how we are proposing  
16 to be different from what we sent you in May.

17 In the past, the Board had found it helpful,  
18 when we are giving you multiple versions of the same  
19 chapter, to show what we had changed since the last  
20 time we gave you something.

21 BOARD MEMBER DEURLOO: Oh, right. Yeah, okay.

22 BOARD MEMBER CAHN: I'm sorry. I'm confused.

23 So the difference between what was put out  
24 for public comment and given -- put in our board packet  
25 is different from the red version here?

1 MS. THOMPSON: Correct. So we have considered  
2 some additional changes that we would like to make.  
3 And so the changes that we'd like to propose from our  
4 May draft, we've compared them to the -- we've compared  
5 our June -- so our comments today to the May draft, and  
6 that's in the green version so you could see how is it  
7 different from what we sent you in May.

8 Do you have a green one?

9 BOARD MEMBER CAHN: I do. I'm still --

10 BOARD MEMBER HANSON: So -- I'm sorry.

11 BOARD MEMBER CAHN: I'm still confused because  
12 mine starts out, the one we had, with "A. This section  
13 applies to all Class 1 and Class 5." And I don't see  
14 that anywhere in either the green or the --

15 MS. THOMPSON: Right. And I can explain. It's  
16 because we moved the paragraph.

17 BOARD MEMBER CAHN: Okay.

18 MS. THOMPSON: So the layout is a little bit  
19 different. We didn't cut the paragraph. We just moved  
20 it to a different place.

21 BOARD MEMBER DEURLOO: Lorie, what she did is she  
22 explained the moves and the changes before she handed  
23 it out. So we -- so you moved paragraph A around, and  
24 you -- maybe if you want to do a really quick overview  
25 of how you did that again.

1 MS. THOMPSON: Yes.

2 CHAIRWOMAN BEDESSEM: I think it's paragraph A had  
3 been in the original document and not an addition, it  
4 would have shown up here. But because it was an  
5 addition and it was moved, then it just shows up later.

6 MS. THOMPSON: So I made a list of the things  
7 that -- so if it pleases the Board, I'll go through  
8 what I've given you here so hopefully it will alleviate  
9 your confusion, if that's helpful.

10 BOARD MEMBER CAHN: So just another question.

11 MS. THOMPSON: Yes, ma'am.

12 BOARD MEMBER CAHN: So all -- there's no  
13 substantive changes between these? This is just to  
14 clarify -- am I correct in saying this is to clarify  
15 the language rather than to make a substantive change?

16 MS. THOMPSON: We believe so, but we will leave  
17 that up to the Board's discretion, and we can discuss  
18 that as soon as we're done going through the actual  
19 individual changes.

20 MR. FREDERICK: Madam Chair, Kevin Frederick.

21 Perhaps what might be considered a  
22 substantive change would be clarifying the effective  
23 date or requiring financial assurance. That was one  
24 thing that occurred to us after the proposed revision  
25 had already been sent to the board and out for public



1 comment.

2 On review, it occurred to us that it wasn't  
3 clear when the financial requirements would essentially  
4 kick in. So that was perhaps the most significant  
5 change that we'll review with you here.

6 Other than that, it's essentially been  
7 revised to recognize a couple of things. One being  
8 that we've always required financial assurance on  
9 Class 1 wells according to this regulation.

10 We have approximately 50 to 60 Class 1  
11 non-hazardous injection wells statewide now. Many of  
12 those are for oil field waste disposal. Many of those  
13 are associated with in situ uranium mining operations  
14 where they essentially dispose of the process  
15 wastewater.

16 Many are industrial waste disposal wells such  
17 as the Diamond & Bell (phonetic) facility in Casper or  
18 Cheyenne as an example.

19 The recognition is that we have many of these  
20 already under existing permits, and the permits have a  
21 duration of ten years, at which time they can be  
22 renewed and normally are.

23 So we wanted to make it clear, more clear  
24 that, given what the statute required us to do was to  
25 look forward from July 1st of this year on at newly

1 permitted facilities and it really didn't speak to  
2 facilities that were already under permit unless they  
3 were renewed or transferred after July 1st.

4           So we wanted to make sure that our  
5 regulations continued to recognize that, for Class 1  
6 wells that were already permitted before July 1st of  
7 this year, that the financial assurance requirement  
8 remained in place under that existing permit. Even  
9 though it wouldn't be renewed or transferred, it would  
10 still be in effect. So that was one realization that  
11 we had after the original rule had gone out.

12           And the same requirements applied to the  
13 Class 5 coal bed methane produced water injection  
14 wells. We have many of those under permit already, and  
15 the statute essentially dealt with those the same way  
16 it does with the Class 1 wells. In other words, after  
17 July 1st for new permits, renewals, or transfers,  
18 financial assurance is required.

19           So we wanted to recognize in the regulation  
20 an effective date for financial assurance for these  
21 Class 5 wells also when it kicks in. So those were the  
22 two significant changes that were made.

23           BOARD MEMBER KIRKBRIDE: Excuse me. It seems to  
24 me that how has this been overlooked?

25           MR. FREDERICK: Madam Chair.

1 BOARD MEMBER KIRKBRIDE: I'm talking about  
2 financial assurance on such wells.

3 MR. FREDERICK: Sure. The Wyoming DEQ rules and  
4 regulations, when they're adopted for the purpose of  
5 obtaining primacy or being delegated a program from EPA  
6 as a federal program under the Safe Drinking Water Act,  
7 normally, during that process of rule development that  
8 we have to provide to EPA for approval in order to be  
9 delegated the authority to implement the program --

10 BOARD MEMBER KIRKBRIDE: Uh-huh.

11 MR. FREDERICK: -- our rules and regulations or  
12 draft rules and regulations that we put together pretty  
13 much mirror the federal requirements.

14 For Class 5 wells in particular, there are no  
15 financial assurance requirements in the federal rules.  
16 The subset of Class 5 wells, 5C5 are coal bed methane  
17 produced water injection wells aren't even recognized  
18 in the federal regulations as a Class 5 facility  
19 because the federal regulations were developed before  
20 the concept of recognizing coal bed methane produced  
21 water injection wells that inject into an underground  
22 source of drinking water.

23 I'm not going to go into a lot of detail.  
24 But that's part of the requirement of a Class 5 well is  
25 that it injects into an underground source of drinking

1 water.

2           They weren't even recognized at the time. So  
3 the State of Wyoming had to modify its program to pull  
4 those in under Class 5 permitting requirements, which  
5 is what we did.

6           We certainly didn't, I think, at the time,  
7 foresee the demise of the CBM industry in the Powder  
8 River Basin that caused a lot of operators to go into  
9 default and essentially orphan many of the produced  
10 water injection wells that they were using. We simply  
11 couldn't foresee that.

12           So this, I think unfortunately, is what  
13 brought us to this point now to where, as a Lily  
14 mentioned in her presentation, we're actually going to  
15 be a little bit more stringent than the federal rules  
16 because the legislature has directed us to develop  
17 rules moving forward to require financial assurance on  
18 these.

19           BOARD MEMBER KIRKBRIDE: Well, Kevin, not to  
20 belabor this very long, but it seems like to me if they  
21 have some liability to do things right that, you know,  
22 that obviously they've got -- somehow they've got to be  
23 held accountable. And guys vanish, companies vanish  
24 that are abdicating their responsibility.

25           So anyway, just kind of I'm glad we're

1 getting it tightened up. It obviously needs to be.

2 MR. FREDERICK: Sure. Thank you.

3 MS. THOMPSON: Okay.

4 BOARD MEMBER HANSON: Oh, me next?

5 Now that you've taken out paragraph A because  
6 that had listed Class 1 and Class 5 together and you've  
7 bracketed them out and from what I understand for  
8 Class 1, you're continuing what was there before, and  
9 so my suggestion would be to make this clear because  
10 now I'm beginning to faintly understand this.

11 In this first paragraph, the operator or the  
12 now permittee of any Class 1 well shall -- and I would  
13 suggest to add words like "continue to demonstrate"  
14 because that's been there before.

15 And then that makes it clear that, in the  
16 paragraph of the Class 5 well, you add something new.  
17 That wasn't clear to me at all what you're changing  
18 there.

19 MS. THOMPSON: Okay.

20 BOARD MEMBER HANSON: So that would be my  
21 suggestion to add something, for one, because it's  
22 not -- you're not doing anything new. That's  
23 continuing what was there before. So just a suggestion  
24 to clarify that.

25 MS. THOMPSON: If I might, Madam Chair?

1 CHAIRWOMAN BEDESSEM: Please.

2 MS. THOMPSON: So I'll go through what we did, and  
3 that might clear up some of the confusion you're  
4 having. I understand when you get a new draft at the  
5 last minute that it can be a little confusing, and the  
6 strike-and-underline with comparing the two can be  
7 confusing.

8 So when we look at subsection A --

9 BOARD MEMBER CAHN: Before you start, can you tell  
10 me again the final language you're proposing to the  
11 board. Is it the blue and red, not the green?

12 MS. THOMPSON: So the final language is in the  
13 strike-underlined draft 6/14/18. The green is a  
14 reference that was intended to be helpful.

15 CHAIRWOMAN BEDESSEM: Shows the difference between  
16 the first proposal and your second proposal.

17 BOARD MEMBER HANSON: This is the one --

18 BOARD MEMBER CAHN: Okay.

19 BOARD MEMBER HANSON: No, this is the one.

20 CHAIRWOMAN BEDESSEM: This is the final --

21 BOARD MEMBER CAHN: The red and blue --

22 BOARD MEMBER KIRKBRIDE: Thank you.

23 BOARD MEMBER HANSON: Red and blue --

24 BOARD MEMBER CAHN: -- without the green, okay.

25 BOARD MEMBER HANSON: I looked at them wrong.

1 MS. THOMPSON: This is the one.

2 BOARD MEMBER HANSON: Okay.

3 CHAIRWOMAN BEDESSEM: Right.

4 MS. THOMPSON: All right.

5 CHAIRWOMAN BEDESSEM: Go ahead.

6 MS. THOMPSON: So what we've done is we've gone  
7 back to Section A, and we restored a number of the  
8 changes that we had initially proposed to you.

9 And we took out the classified piece because,  
10 as Kevin mentioned, we did want to make it clear that  
11 the Class 1 facility did need to continue to maintain  
12 financial assurance and that the existing Class 1s  
13 would -- wouldn't be held to some different standard.  
14 They're a continuation of what they're held to now.

15 And the changes to the term "operator" to  
16 "permittee," we noticed throughout the section that we  
17 were using both.

18 And so we felt that since -- we evaluated it,  
19 and we chose "permittee." We felt like that was the  
20 clearest because there can be some differences between  
21 who operates a facility and who, you know, is handling  
22 the permitting for the facility. So we wanted to make  
23 sure that we were holding the right individual or the  
24 right entity accountable.

25 So with that being said, we cut the last

1 passage in that subsection because it was redundant  
2 through a list of materials or the list of qualifying  
3 instruments that we expanded later on in the section.  
4 And we were trying to -- we were being cognitive of  
5 duplication and consistency.

6           So we cut those so that we could keep our  
7 list later on and make sure that that was complete and  
8 it's the most up-to-date list of qualifying  
9 instruments.

10           Then if we move to paragraph B, this is where  
11 we put the change in to give our permittees a deadline  
12 of when we want to have that financial assurance  
13 submitted to us.

14           So in the previous version, we didn't outline  
15 when they needed to put -- when they needed to submit  
16 it. And we felt that could potentially be a problem  
17 and potentially be confusing for permittees since this  
18 is for the Class 5 facilities that will be coming  
19 onboard as they renew and transfer and apply for new  
20 permits.

21           We wanted to make sure that they understood  
22 that, going forward, if they have a new facility, we  
23 want that financial assurance in place at least 30 days  
24 prior to drilling. And for permit renewals and permit  
25 transfers, we would like that demonstration made before



1 we authorize those.

2           So we will not -- we would propose to not  
3 authorize any permit transfer or permit renewal until  
4 the financial assurance is demonstrated for the  
5 facilities that are covered under this section.

6           MR. FREDERICK: Madam Chair, I would like to point  
7 out too -- and I'm looking at the strikeout,  
8 redline-blue strikeout version of what we're proposing  
9 the final would look like.

10           BOARD MEMBER CAHN: The green strikeout or the  
11 red --

12           MR. FREDERICK: No. (Inaudible.) (Several speaking  
13 simultaneously.)

14           CHAIRWOMAN BEDESSEM: Yeah.

15           MR. FREDERICK: Then on line 2352, clarify an  
16 effective date to actually implement the requirements  
17 that we're talking about for financial assurance.

18                   And in conversations that we had with the  
19 Attorney General's Office, they felt that we had the  
20 opportunity to either require the effective date to be  
21 July 1st of this year or the effective date of the  
22 regulation when it's actually promulgated. So we had  
23 an opportunity to go either way.

24                   From our conversations, we feel that it's  
25 much more clear to tie the effective date to the

1 effective date of the regulation and that the small  
2 subset of Class 1 or Class 5 facilities that may be  
3 permitted or renewed or transferred between July 1st  
4 and what we anticipate the effective date of this rule  
5 to be, which will hopefully be around January 1st.

6           So we have a window of essentially six months  
7 that we're looking at. But that subset of new  
8 permittees or transfers or renewals is going to be  
9 very, very small. We can deal with that  
10 administratively when those permits, if there are any,  
11 do come up for transfer. We're not concerned about  
12 that.

13           CHAIRWOMAN BEDESSEM: So I have a question. So  
14 is --

15           BOARD MEMBER DEURLOO: I have several questions  
16 through it. Are you going to -- are we going to go  
17 through this line by line like we sometimes do? Or is  
18 this overall on the questions?

19           CHAIRWOMAN BEDESSEM: Let me ask this one question  
20 because it's related to what Kevin just spoke about.

21           BOARD MEMBER DEURLOO: My apologies. Thank you.

22           CHAIRWOMAN BEDESSEM: In little Subsection I at  
23 the very end of Section 19, line 2412, that little  
24 section has it in effect as of July 1st. Is that  
25 referring to when the 40CFR rule was in effect?

1 MS. THOMPSON: Yes, ma'am.

2 CHAIRWOMAN BEDESSEM: Okay.

3 MS. THOMPSON: Our attorney general noticed that  
4 we didn't have an effective date tied to our  
5 cross-reference to the CFR, which can be problematic if  
6 it's been revised a number of times.

7 So we put July 1st because it's a current  
8 date. And so if they revise that CFR after July 1st,  
9 then we will need to review that and evaluate whether  
10 or not we need to adjust the date.

11 We're not allowed to incorporate or reference  
12 materials in the future, which is why they made us put  
13 a firm date in there. So the CFR that is in effect as  
14 of July 1st, which will be in the past once this rule  
15 is signed into effect --

16 CHAIRWOMAN BEDESSEM: So that's a date you just  
17 picked --

18 MS. THOMPSON: Yes.

19 CHAIRWOMAN BEDESSEM: -- because, you know, this  
20 rule won't get promulgated until after that. But it's  
21 not the date that that section of the CFR was last  
22 revised.

23 MS. THOMPSON: No. They generally revise them in  
24 July, but we want everything that's in effect in  
25 144 Subpart F in effect as of July 1st. That's what

1 the operator can look for as they're reviewing the  
2 financial assurance requirements.

3 BOARD MEMBER CAHN: I think the confusing part is  
4 having a comma after Subpart F because then it's not  
5 clear it's in effect as of July 1st whether it's  
6 requirements of the section or it's the CFR.

7 So I think if the comma was removed, then it  
8 would be clear we're talking about CFR --

9 CHAIRWOMAN BEDESSEM: I think that would be  
10 helpful.

11 BOARD MEMBER CAHN: -- Subpart F in effect as --  
12 or, comma, "which were in effect" --

13 CHAIRWOMAN BEDESSEM: Because that --

14 BOARD MEMBER CAHN: -- which would be the right --

15 MS. THOMPSON: Sure.

16 CHAIRWOMAN BEDESSEM: -- because that lifts the  
17 confusion about whether anything in your Subsection I  
18 is -- excuse me -- CI, double I, which talks about --  
19 oh, no. Excuse me -- B-I that talks about the  
20 different days of when it goes into effect and "no  
21 later than such" and make sure that that didn't  
22 conflict with this but it actually isn't related to  
23 that. It's just a reference related to the 40CFR. So  
24 take the comma out would help me. So thank you.

25 MS. THOMPSON: So the additional changes made

1 throughout this section, the only other thing we  
2 changed was to change "operator" to "permittee." So  
3 everything, all of the other wordings were the same in  
4 Subsection C through --

5 CHAIRWOMAN BEDESSEM: (Inaudible.)

6 MS. THOMPSON: Yes, ma'am.

7 CHAIRWOMAN BEDESSEM: So I have an additional  
8 question for a word to me that does look different.

9 MS. THOMPSON: Okay.

10 CHAIRWOMAN BEDESSEM: So in Section 19A, looking  
11 at the green copy, we have the word "reclaim" crossed  
12 out. So what happened with the "reclaim" part?

13 MS. THOMPSON: What we did was we restored a  
14 number of proposed changes in that section because  
15 we're going to talk later, or we do talk later in  
16 paragraph in Subsection C that starts on 2366 --

17 CHAIRWOMAN BEDESSEM: Of the green?

18 MS. THOMPSON: Of the green or of the -- either  
19 one. Subsection C talks about the activities that  
20 they're expected to provide financial assurance for.  
21 So we were just trying to keep it as tidy as possible,  
22 and we covered reclamation later on in the section.

23 CHAIRWOMAN BEDESSEM: So the only thing I'm  
24 concerned about is did you feel like Subsection C, when  
25 it says "post-closure care," I'm concerned it talks

1 about removing the physical materials, plugging and  
2 abandonment. But, you know, if you are going to  
3 restore the ground surface and reclaim and seed it,  
4 make sure that it's not a scar on the landscape, what  
5 words here tell me that that's going to happen?

6 MR. FREDERICK: Madam Chair, I understand what  
7 you're saying there. I think you're looking for  
8 consistency between what we're saying in paragraph A  
9 and paragraph C.

10 CHAIRWOMAN BEDESSEM: Yes, thank you.

11 MR. FREDERICK: And I certainly see some value in  
12 that, and we could simply reference to that particular  
13 section.

14 CHAIRWOMAN BEDESSEM: Do you think -- you're  
15 saying -- I mean, reference to Section C in Section A?  
16 I guess I just didn't see what the harm was with  
17 leaving "reclaim" in there if there was any concern  
18 about making sure, you know, that because I said that  
19 things were maintained, that it was seeded and that the  
20 ground surface was reclaimed. I just wasn't sure where  
21 it specifically said that if we did not have "reclaim"  
22 in there.

23 MR. FREDERICK: Madam Chair, we can certainly add  
24 that.

25 MS. THOMPSON: Or un-restore it. There's many

1 layers of change here, but we will put it in the  
2 proposed chapter as we move forward.

3 MR. FREDERICK: That was a proposed addition.

4 MS. THOMPSON: And then we un-proposed it.

5 CHAIRWOMAN BEDESSEM: Yeah, we proposed it, and  
6 then un-proposed it. But I think you proposed it  
7 originally to make sure it covered what they were  
8 trying to cover in this statute.

9 And so I wasn't sure that all -- even though  
10 it's more detailed language that it actually covered  
11 all aspects of reclamation of a well pad, for example.

12 So my next question is do we go through these  
13 lines, or should we just go through each board member  
14 with their questions? How would you prefer to handle  
15 it?

16 MS. THOMPSON: Let's go through the board members'  
17 questions since we've covered the changes, we've  
18 discovered additional changes. Like I said, the only  
19 additional changes we made were we changed "operator"  
20 to "permittee," and then I noticed on Subsection G on  
21 line 2393 that we were -- we wanted to make sure that  
22 we're consistently calling out these facility types.

23 So we have Class 1 hazardous waste or  
24 non-hazardous waste underground injection facility.  
25 Because sometimes we will abbreviate, and we wanted to

1 make sure that everyone knew that they were covered  
2 every time that we were intending to cover them. So  
3 that's the extent of our changes.

4 CHAIRWOMAN BEDESSEM: So I did want to comment  
5 that, when I reviewed the original proposal, I was  
6 concerned about when Class 1 and Class 5 descriptions  
7 were put together in the same sentences, I had marks  
8 all those over these because there were issues with the  
9 grammar where I wasn't sure if Class 1 and Class 5 was  
10 a modifier for coal bed methane produced water. You  
11 know, it was hard to make sure that it was  
12 understandable when there was an "and" or when there  
13 was an "or" and so forth.

14 So I like it that you've separated them out  
15 for understanding. I think it's a lot better in this  
16 second version.

17 The one other question I had was this wasn't  
18 e-mailed to the board members, was it?

19 MS. THOMPSON: This was not e-mailed to you. We  
20 were still working on it as of yesterday, Madam Chair.

21 CHAIRWOMAN BEDESSEM: Okay. I just wasn't sure  
22 since it has the 6/14 date on it.

23 BOARD MEMBER CAHN: To clarify, you're now  
24 proposing to put "reclaim" back in paragraph A?

25 MS. THOMPSON: That's correct.



1 CHAIRWOMAN BEDESSEM: Okay. So pertinent  
2 comments, then we'll just go around to the board  
3 members, and everyone can go through and ask their  
4 specific questions.

5 So we'll start with Mr. Deurloo.

6 BOARD MEMBER DEURLOO: Thank you, Chairwoman  
7 Bedessem.

8 I had the same point as you about "restore"  
9 and "reclaim" because I remember having that comment.  
10 I know from experience that they're two entirely  
11 different words, I think, sometimes -- exactly the same  
12 but only different. "Restore" and "reclaim" mean  
13 different things in the DEQ's and in EPA's eyes;  
14 correct?

15 MS. THOMPSON: So let me clarify what I meant by  
16 "restore." So from an administrative perspective, I  
17 had crossed that out. So what I meant by "restore" was  
18 I will uncross that out. We will include that word of  
19 "reclaim" in our proposal so --

20 BOARD MEMBER DEURLOO: I understand that. But so  
21 there's certain regulations that I've seen before, and  
22 there's language in -- and not necessarily in this one  
23 but the words "reclaim" and "restore" mean two  
24 different things sometimes; right?

25 "Reclaim" is I think where is you get it back

1 to a certain percentage of seed cover or grass cover,  
2 and "restore" is where it needs to look almost exactly  
3 like it did before you got there maybe.

4 But I think it would be valuable to add the  
5 word "reclaim" in there. So I agree with your  
6 sentiments, Chairwoman.

7 And I'm looking at sheet, the green, it's  
8 called the "Strike Underline Draft 6/14/18." And then  
9 I go down to -- let's see -- yeah, so to your point,  
10 Chairwoman Bedessem, again not to belabor the point or  
11 anything like that where we're talking about  
12 reclaiming, because I hear that you want to put it in  
13 Section 19C, starts on line 2363. So you're going to  
14 put it on there.

15 Because what I see right there that you're  
16 talking about is only the removal of infrastructure.  
17 All we're talking about is cost of plugging and  
18 abandonment, removal of infrastructure not including  
19 pipe, tanks, buildings, empanelments, (unintelligible),  
20 fencing, and so forth. Nowhere does it say to reclaim.  
21 So with that, I'll leave it at that.

22 Down to line 2369 Romanette "ici," it reads:  
23 "The permittee shall adjust the cost estimate  
24 for inflation within 30 days after each  
25 anniversary at the date on which the first

1 cost estimate was prepared."

2 I feel it can -- it may be too often I've had  
3 to do cost estimates for a structure that I put in, and  
4 then it seems like nine months later I have to start  
5 the cost estimate again.

6 I know we've talked about this as a board  
7 before, but then you go out to your fencing contractor  
8 and plugging contractor, all these people, and you have  
9 to make them go through and do a bunch of free work for  
10 you just to get a cost estimate that you can give to  
11 the DEQ.

12 Now, I think now we absolutely have to update  
13 the cost estimates within a time frame. I would put it  
14 back to Mr. Frederick or your team, saying, "What is a  
15 reasonable time frame? Is it two, three years? Or is  
16 it -- will be maybe put a maximum limit on there."

17 But I just feel, as an industry  
18 representative, it's a little bit onerous on the  
19 company and especially the three -- because you require  
20 three bids -- correct? -- for each, like if you're  
21 going remove the fence? Mr. Frederick, if you're going  
22 to move the fence, do you need three bids to remove  
23 that fence?

24 MR. FREDERICK: Normally, an engineering, one  
25 engineering cost estimate is sufficient. We do on

1 occasion receive cost estimates that we feel need some  
2 additional confirmations with a second or third  
3 estimate.

4 BOARD MEMBER DEURLOO: Uh-huh, I understand.

5 So I would just ask that we consider  
6 stretching that time line out just a -- I never saw  
7 things changing within a year except for when like  
8 2014-15 when things were hitting the tank, and all of a  
9 sudden people were leaving the state and leaving wells  
10 behind and everything like that.

11 And it's always nice to know that you have a  
12 good estimate for the last 12 months. Maybe it's 18;  
13 maybe it's 24 or something like that.

14 And definitely during -- I don't see a  
15 reference to -- and maybe this is already covered under  
16 different rules that you have or the CFR, but that  
17 maybe the cost estimate is updated before a transfer of  
18 ownership or renewal or something like that?

19 So if you stretch out the time line a little  
20 bit and then -- but then you know they're going to sell  
21 it. So between transfer from company A to company B,  
22 you have to update your cost estimate so this new  
23 company is comfortable with the cost estimates and the  
24 reclamation amounts and so forth like that.

25 MR. FREDERICK: Madam Chair, Mr. Deurloo, when a

1 permit is transferred, the transfer is not authorized  
2 until the new owner has financial assurance in place.

3 BOARD MEMBER DEURLOO: Oh.

4 MR. FREDERICK: I think, since we're recognizing  
5 here that the financial assurance estimate is updated  
6 every year, that during the permit transfer, I wouldn't  
7 expect to see a drastic change that would require  
8 another financial estimate.

9 BOARD MEMBER DEURLOO: Madam Chair, Mr. Frederick,  
10 can that company B use company A's cost estimate? Or  
11 do they have to go get their own?

12 MR. FREDERICK: Madam Chair, Mr. Deurloo, normally  
13 the transfer requires that an equivalent amount that's  
14 held by the seller be provided for financial assurance  
15 by the new owner.

16 BOARD MEMBER DEURLOO: So they can use the old  
17 cost or the dated one within the last year?

18 MR. FREDERICK: Yeah.

19 BOARD MEMBER DEURLOO: Okay. What do you think  
20 about stretching that time line out, Mr. Frederick?

21 MR. FREDERICK: I have no problem with that.

22 BOARD MEMBER DEURLOO: What time line do you think  
23 would be appropriate?

24 MR. FREDERICK: I don't believe that we have a  
25 time line in other regulations. Water Quality Division

1 requires financial assurance on commercial oil field  
2 waste disposal facilities under a separate set of rules  
3 and regulations, Chapter 14.

4 I would like to see if there's a stipulated  
5 deadline for doing the annual update in that regulation  
6 just for the sake of consistency. If there is, then I  
7 would suggest we recognize the same time frame in this  
8 rule. I could check that fairly quickly.

9 BOARD MEMBER DEURLOO: Thank you. You said that's  
10 Chapter 14?

11 MR. FREDERICK: Yes.

12 BOARD MEMBER DEURLOO: Thank you.

13 Madam Chair, another question please.

14 On line 2372, Romanette "i," it reads:

15 "The permittee shall revise the cost estimate  
16 whenever a change in the plan increases the  
17 cost. The revised cost estimate shall be  
18 adjusted for inflation."

19 I agree. And that rolls right into Romanette  
20 "i." But I think maybe giving them 180 days? Do you  
21 want to specify a time line there? That, say, they go  
22 out there and add a new office space or something like  
23 that on the site, you don't really have a stipulation  
24 in there of how quickly they get that revision back to  
25 you?

1 MR. FREDERICK: Again, I think that's a good  
2 recommendation, and I'll consult with Chapter 14 to see  
3 if we have anything similar.

4 BOARD MEMBER DEURLOO: Thank you.

5 So moving down to page 27-53, Madam Chair,  
6 starting at line 2408, Romanette -- it's not  
7 Romanette -- but 8:

8 "Upon completion of any of the activities  
9 identified in the cost estimate, the amount  
10 of the financial surety required may be  
11 reduced by the administrator may be reduced."

12 So that's very nice. I think it's very good  
13 that you kind of give -- there's always going to be  
14 some exceptions out there.

15 Do you want -- this is kind of just grammar  
16 and everything like that. Is it worth putting the --  
17 first of all, my first question was on what basis? We  
18 listed out what basis can you make an exception to  
19 this? We could add about 12 pages to this whole thing,  
20 which we don't want to do.

21 But is it worth stating at the end of that on  
22 a case-by-case basis or not and just leaving it open?

23 CHAIRWOMAN BEDESSEM: I think it's okay.

24 BOARD MEMBER DEURLOO: It's fine?

25 CHAIRWOMAN BEDESSEM: Yeah.

1 BOARD MEMBER DEURLOO: Okay. And then, finally,  
2 show the last part -- or letter I, it begins with:

3 "In addition to the other requirements of  
4 this section, the well shall comply with the  
5 financial responsibilities of 40CFR144  
6 part -- Subpart F."

7 But initially you were just saying 20 minutes  
8 ago that there is no -- and I actually, in full  
9 disclosure, I haven't read CFR144, Subpart F, but why  
10 are we referring back to a federal rule when they don't  
11 cover classified injection wells anyhow? What reason  
12 is that?

13 MS. THOMPSON: Mr. Deurloo, the reason we left  
14 that reference in is because it does -- that portion of  
15 the CFR does cover Class 1 facilities. So Class 1  
16 facilities at the federal level are required to have  
17 financial assurance, but we wanted to maintain that  
18 consistency for those facilities with that federal  
19 expectation.

20 BOARD MEMBER DEURLOO: So do we want to say -- do  
21 we want to say that this relates to Class 1 wells only,  
22 or just leave it open when we have more rules around?  
23 Looks like we've got a question or comment in the back.

24 UNIDENTIFIED SPEAKER: (Inaudible.)

25 THE REPORTER: I cannot hear the speaker.



1 MR. FREDERICK: The reference is specific to  
2 hazardous waste injection wells, Class 1 hazardous  
3 waste injection wells.

4 BOARD MEMBER DEURLOO: Got it. Thank you.

5 CHAIRWOMAN BEDESSEM: So maybe for clarity, we  
6 could just say "the permittee of a Class 1 well  
7 injecting hazardous waste" so that it's really obvious.  
8 Put the word Class 1 in Romanette "i."

9 MS. THOMPSON: Uh-huh.

10 BOARD MEMBER DEURLOO: Madam Chair, that's all the  
11 questions I have. Thank you.

12 Thank you, Mr. Frederick.

13 CHAIRWOMAN BEDESSEM: (Indicating.)

14 BOARD MEMBER KIRKBRIDE: I'm okay, Madam Chair.

15 CHAIRWOMAN BEDESSEM: (Indicating.)

16 BOARD MEMBER CAHN: On line -- I'm having a hard  
17 time finding where I had comments before.

18 Okay. Line 2373, we talked about the  
19 permittee revising cost estimates, but then there's a  
20 second sentence that says: "The revised cost estimate  
21 shall be adjusted for inflation," but it doesn't say  
22 who is going to do that.

23 So you want the permittee to do it, not DEQ.  
24 So I think you need to get rid -- make it one sentence  
25 and just say at the end of "increases the cost,"

1 instead of a period, say "and adjust the estimate for  
2 inflation."

3 CHAIRWOMAN BEDESSEM: What line?

4 BOARD MEMBER CAHN: I'm on line -- I'm on the  
5 non-green version ~~strikeout~~ underline on line 2373, and  
6 it starts on 2732. So we're Romanette "ii," and  
7 there's two sentences, and I would like to see it as  
8 one.

9 So remove the period and remove "the revised  
10 cost estimate shall be adjusted" and replace it with  
11 "and adjust for inflation" -- "and adjust the estimate  
12 for inflation." So it now reads "the permittee shall  
13 revise the cost estimate whenever a change in the plan  
14 increases the cost and adjust the estimate for  
15 inflation."

16 That's all that I have for this new revision  
17 for that section.

18 I did find some typos and "which's" and  
19 "thats" that are "which's" that are used wrong in the  
20 whole rest of the thing. So when we're done, we'll get  
21 back to the editorials if that's --

22 MS. THOMPSON: If I can speak to --

23 (Several speaking simultaneously.)

24 CHAIRWOMAN BEDESSEM: (Inaudible.)

25 BOARD MEMBER CAHN: Yes.

1 MS. THOMPSON: If I can speak to changes outside  
2 of the section.

3 Because we had the legislative deadline to do  
4 the financial assurance section and we had to initiate  
5 our rulemaking by July 1st, we did not have a chance to  
6 go through and consider all of the other areas of the  
7 chapter.

8 But that is on the Division's radar, and we  
9 would like to be able to consider those at a later  
10 rulemaking because we would like to make some  
11 corrections that our staff have also noticed and the  
12 "which's" and "thats" do appear a number of times  
13 throughout the rest of the chapter.

14 And we also have some passages that were  
15 worded in a confusing manner or that our staff feel  
16 that we could clarify in a better way.

17 So what I would ask is that we could consider  
18 editorials in the rest of the chapter as a rulemaking  
19 that we will be initiating later this year or early in  
20 2019 because it is a large chapter and we wanted to go  
21 through it in a thorough way but we didn't have enough  
22 time to do a good job and get the financial assurance  
23 changes in by July 1st.

24 BOARD MEMBER CAHN: Okay. I guess I was thinking  
25 I could just hand you the typos and the "which's" that

1 should be "that" and just hand it to you and just have  
2 you do those just and go ahead and with the staff  
3 continue this.

4 MS. THOMPSON: Right. The way the process would  
5 work -- and I'm probably not conveying this very  
6 clearly. What we would like to move forward with to  
7 the Council would just be changes to Section 19 and  
8 keep our scope and our statement of reasons just to  
9 Section 19.

10 However, if you have already gone through all  
11 that work, I could include those with the additional  
12 staff changes. You just wouldn't see the fruits of  
13 your labor until next year.

14 BOARD MEMBER CAHN: So if you have problems with,  
15 you know, grammar that are incorrect or words that are  
16 missing, you don't want to get those now?

17 MS. THOMPSON: Because I would have to re-notice  
18 the entire chapter.

19 BOARD MEMBER CAHN: Okay. Because I would say  
20 that those are editorial and we wouldn't have to  
21 re-notice it but if you --

22 MS. THOMPSON: According to statute --

23 BOARD MEMBER CAHN: Okay. I will give -- I will  
24 leave you --

25 MS. THOMPSON: Okay.

1 BOARD MEMBER CAHN: -- all my changes.

2 MS. THOMPSON: Yes, I would love to have those. I  
3 imagine that you found things that I did not find in my  
4 quick look, but I wanted to prepare you to not see  
5 those results of that --

6 BOARD MEMBER CAHN: I will hand them to you.

7 MS. THOMPSON: Okay. Great. Thank you very much.

8 CHAIRWOMAN BEDESSEM: Okay. I'll hand it over to  
9 Klaus for any comments?

10 BOARD MEMBER HANSON: No.

11 CHAIRWOMAN BEDESSEM: I have one last thing just  
12 to sort of revisit this.

13 I appreciate you putting the word "reclaim"  
14 back in Section 19, Subsection A. I'm wondering, if  
15 Mr. Frederick commented on consistency between  
16 Subsection A and Subsection C, whether in Subsection C  
17 it might be worth your while to include "after the cost  
18 of plugging and abandonment of the well," "surface  
19 reclamation"?

20 MR. FREDERICK: Madam Chair, I was thinking that  
21 Mr. Deurloo's recommendation was to include  
22 "reclamation and restoration."

23 BOARD MEMBER DEURLOO: I think we're going to get  
24 into -- Madam Chair, we're going to get into a war of  
25 words on this stuff.

1 CHAIRWOMAN BEDESSEM: Yeah.

2 BOARD MEMBER DEURLOO: I don't know. Whatever  
3 everybody thinks is best, what's the best -- what's the  
4 easiest way for you guys to enforce it and that things  
5 ARE done right. And it's also a company -- the  
6 industry can live with it as well, what's the best way  
7 to do it?

8 MR. FREDERICK: I think I don't foresee a  
9 situation where we'd be niggling with someone over what  
10 is meant by "reclamation" or what's meant by  
11 "restoration." So I'm comfortable it.

12 CHAIRWOMAN BEDESSEM: So we have "reclaim" in  
13 Subsection A, and in Subsection C, what are you  
14 suggesting? Are you suggesting to include in the items  
15 "reclamation" or "surface reclamation and restoration"?

16 MR. FREDERICK: Again, Madam Chair, Mr. Deurloo's  
17 recommendation is to add after "abandonment of the  
18 well" in C --

19 CHAIRWOMAN BEDESSEM: Yes.

20 MR. FREDERICK: -- "reclamation, comma,  
21 restoration." So it's the board's pleasure if you want  
22 to further clarify that it's surface reclamation.

23 CHAIRWOMAN BEDESSEM: I think that's --

24 BOARD MEMBER DEURLOO: Actually, I say I think it  
25 does matter, Chairwoman Bedessem, because what -- if

1 you're talking about surface reclamation, you're  
2 talking about re-seeding, you're talking about the top  
3 ten inches.

4 But if you're talking about, if this is a  
5 Class 5 injection well and if you say "restore," you  
6 have to -- well, what does restore mean? Is it restore  
7 you brought the water back to the original?

8 I mean, if you've been injecting stuff in  
9 there for ten years and you're required restore it  
10 back, what are you trying to solve with this? Is it  
11 just the surface? Or are talking about the aquifer  
12 itself or...

13 CHAIRWOMAN BEDESSEM: We don't want to open a  
14 larger can of worms than our intent here.

15 MR. FREDERICK: This regulation applies to  
16 essentially providing financial assurance to reclaim  
17 and close the site, not to deal with any contamination  
18 or pollution.

19 BOARD MEMBER DEURLOO: So to your point surface  
20 reclamation...

21 CHAIRWOMAN BEDESSEM: Yeah. I'm fine with having  
22 it say "reclaim and (unintelligible) surface  
23 reclamation."

24 I view reclamation as if you have a denuded  
25 landscape for an activity like mining or oil and gas

1 that we are reclaiming it while we may have negatively  
2 impacted adjacent habitat but it's not that we've, you  
3 know, cleared the landscape. So I think using  
4 "reclamation, surface reclamation" is fine here.

5 MR. FREDERICK: Let me speak a little bit more  
6 about your comment, I think, with respect to pollution  
7 that might exist on the site.

8 In the event that that's identified or  
9 discovered during an inspection or reported by the  
10 operator to the Department, we have other rules and  
11 regulations that require that to be addressed under  
12 some sort of corrective action.

13 I can't foresee that we would be interested  
14 in someone providing financial assurance to say more or  
15 less, "Don't worry about it. We'll deal with it when  
16 we close the site." That's not what we're interested  
17 in. We want that taken care of.

18 BOARD MEMBER DEURLOO: Got you.

19 CHAIRWOMAN BEDESSEM: So I think if you have  
20 "reclaim" in Subsection A and have "surface  
21 reclamation" as well as keeping "post-closure care,"  
22 you're covered. That would be sufficient. I don't  
23 think you need to have "additional restoration" in  
24 there.

25 BOARD MEMBER KIRKBRIDE: Madam Chair, I just want



1 to go back into something real basic here.

2 If we -- if somebody is operating a well, not  
3 applying for a new permit, just operating one, they  
4 need -- what triggers that they have to have this  
5 financial assurance? What is the trigger?

6 MR. FREDERICK: Sure.

7 BOARD MEMBER KIRKBRIDE: It may be in there. I'm  
8 just trying to dig it out.

9 MR. FREDERICK: So Class 1 wells are already  
10 covered. So what you're essentially asking is about  
11 those wells that aren't covered, those existing Class 5  
12 wells that aren't covered.

13 BOARD MEMBER KIRKBRIDE: Right.

14 MR. FREDERICK: Okay. So the way the statute  
15 reads, what we try to incorporate in the rules after  
16 July 1st, if an existing permit is renewed and they're  
17 good for a term of ten years under an individual  
18 permit. Under a general permit, they're essentially  
19 authorized until we renew the general permit. Okay?

20 BOARD MEMBER KIRKBRIDE: Okay.

21 MR. FREDERICK: Or transferred to a different  
22 operator. Either one of those two actions would kick  
23 in the financial assurance requirement.

24 BOARD MEMBER DEURLOO: How often is a general  
25 renewal?

1 MR. FREDERICK: How often is the general renewal?

2 BOARD MEMBER DEURLOO: Yeah.

3 MR. FREDERICK: The general renewal is at the  
4 discretion of the Department. Normally, they're for a  
5 term of ten years, but we have the ability to  
6 essentially renew at any time before or after ten  
7 years.

8 In this case, for those Class 5 facilities  
9 we're talking about and we have covered under a general  
10 permit now, we intend to renew that permit at about the  
11 same time this rule goes into effect.

12 BOARD MEMBER DEURLOO: Oh.

13 MR. FREDERICK: The renewal then will require them  
14 to essentially obtain --

15 BOARD MEMBER DEURLOO: That's a trigger.

16 MR. FREDERICK: -- authorization under a new  
17 permit and kick in the financial assurance requirement.

18 BOARD MEMBER KIRKBRIDE: So you're going to pick  
19 up everybody?

20 MR. FREDERICK: We'll pick up all of those after  
21 July 1st that are permitted, renewed, or transferred,  
22 yes.

23 Our intention is to essentially see that all  
24 the existing operators have financial assurance in  
25 place shortly after the rule is promulgated. Not to

1 say anything about the orphans that are out there, so  
2 it won't cover those.

3 BOARD MEMBER HANSON: Madam Chair, paragraph C has  
4 something in it which is a catchall one because it  
5 starts off with the statement "at a minimum." So you  
6 can really hound them forever and ever and say, "That's  
7 just the minimum. Here is what else we require" or  
8 whatever.

9 And it doesn't occur in paragraph A. I  
10 noticed that. It's just in this paragraph. Okay.  
11 It's paragraph A, it simply says shall do such and  
12 such, but that was kind of interesting.

13 CHAIRWOMAN BEDESSEM: I'm happy, though, with the  
14 changes with respect to reclaim and surface reclamation  
15 because restoration, for example, with sage brush  
16 habitat, you can't -- you might not be able to restore  
17 the habitat for 50 or 100 years, and we're not going to  
18 do a cost estimate to reflect that. So I think it's  
19 fine. So I appreciate that.

20 Any more questions from the board?

21 BOARD MEMBER CAHN: Any public comments?

22 MS. THOMPSON: A gentleman.

23 CHAIRWOMAN BEDESSEM: Anybody from the public who  
24 would like to speak with respect to comments on this  
25 rule? So come have a seat (indicating).

1 MR. ROBITAILLE: John Robitaille, Petroleum  
2 Association of Wyoming.

3 As you were told, we've been involved in this  
4 for a while. We were involved with it legislatively  
5 and also through this rulemaking.

6 We are supportive of this rulemaking, and  
7 agree entirely with the concept behind it. We think  
8 they should all be bonded, wish it had happened sooner  
9 but better now than never.

10 CHAIRWOMAN BEDESSEM: Well, thank you, because the  
11 facilities that are abandoned give the industry a bad  
12 name when they're out there. So I understand  
13 completely the PAW's support of these type of rules.

14 MR. ROBITAILLE: We're working on that too.

15 CHAIRWOMAN BEDESSEM: Thank you.

16 MR. ROBITAILLE: You bet.

17 MS. THOMPSON: Madam Chair, I'd also like to point  
18 out for the record we have not received any written  
19 comments or electronic comments before today's meeting.  
20 So at this time we do not -- we're not aware of any  
21 other public comments.

22 CHAIRWOMAN BEDESSEM: Thank you very much.

23 So I think the -- any other comments or  
24 additions from anyone attending?

25 So I think the only thing we have out there

1 is the changing of Chapter 14.

2 BOARD MEMBER DEURLOO: Right.

3 MR. FREDERICK: Madam Chair, I haven't had enough  
4 time to go through the entire rule, but I have found  
5 references again in looking at the financial assurance  
6 requirements in the rule for commercial oil field waste  
7 disposal facilities. The requirement is that, under  
8 certain types of bonding situations in providing a  
9 replacement, the operator is provided 60 days.

10 It's a little different than what we're  
11 talking about here with respect to adjusting the cost  
12 estimate for inflation which, quite honestly, I don't  
13 think is a very time-consuming effort. But  
14 nevertheless for the sake of consistency, I think there  
15 is some parallel, I guess, to what we're seeing in  
16 Chapter 14.

17 And unless I go home and read a rule and find  
18 out that Chapter 14 allows only 30 days for an  
19 adjustment, I'm willing to go with 60.

20 BOARD MEMBER DEURLOO: Deal.

21 MR. FREDERICK: However, again with the caveat  
22 that I'll check Chapter 14 and see if there is some  
23 specific language.

24 BOARD MEMBER DEURLOO: Thank you.

25 MR. FREDERICK: If there is, I'll inform the

1 board, and we'll go from there.

2 CHAIRWOMAN BEDESSEM: So that was the 60 days for  
3 the adjustment.

4 But there was also I believe the issue of  
5 doing the annual, whether it was annual or every couple  
6 of years, I believe. Mr. Esch, the financial assurance  
7 for solid and hazardous waste facilities I think the  
8 municipal facilities is that it's an annual update, is  
9 it not?

10 MR. ESCH: That is correct, Madam Chair.

11 BOARD MEMBER HANSON: Madam Chair, this refers to  
12 line 2355; is that correct?

13 BOARD MEMBER DEURLOO: No. No, it refers to  
14 line --

15 BOARD MEMBER HANSON: No.

16 BOARD MEMBER DEURLOO: -- 2373.

17 BOARD MEMBER HANSON: 2373.

18 BOARD MEMBER DEURLOO: Somewhere around there.

19 CHAIRWOMAN BEDESSEM: That was the six days we  
20 talked about?

21 BOARD MEMBER DEURLOO: Yeah.

22 CHAIRWOMAN BEDESSEM: But how often do you  
23 update --

24 BOARD MEMBER DEURLOO: Are you talking about  
25 Romanette "i" starting 2369, Madam Chair?

1 CHAIRWOMAN BEDESSEM: Yeah, where it says after  
2 each anniversary date.

3 And there is a precedent through other  
4 financial assurance rules to update that annually, and  
5 it doesn't usually require a whole new --

6 BOARD MEMBER DEURLOO: Madam Chair, Mr. Frederick  
7 actually just pointed something out that I hadn't  
8 thought about.

9 Is this yearly thing, is this yearly cost  
10 estimate renewal update to the DEQ is mainly just a  
11 cost of change to the inflation or looking at  
12 inflation? It's not -- you don't have to go up --

13 CHAIRWOMAN BEDESSEM: New estimate.

14 BOARD MEMBER DEURLOO: -- you're not requiring  
15 them to go out there and get a new bid on PNA fencing  
16 and stuff like that, are you?

17 CHAIRWOMAN BEDESSEM: That's not the way I read  
18 it. I read it as you're adjusting for inflation.

19 BOARD MEMBER DEURLOO: Yeah.

20 CHAIRWOMAN BEDESSEM: So I don't think it's  
21 onerous. And so if we have -- if we leave it at one  
22 year, and that's the other line, the 60 days, I think  
23 we will have covered the issues about the timing.

24 BOARD MEMBER DEURLOO: I think you're right.

25 So how long -- how old are some of these cost

1 estimates, Mr. Frederick?

2 CHAIRWOMAN BEDESSEM: I just wanted to make sure  
3 we had covered all the different time lines. So we  
4 have the opportunity and nothing was left hanging out  
5 there, we have the opportunity to make a decision  
6 whether to, you know, send this forward to --

7 BOARD MEMBER DEURLOO: Right.

8 CHAIRWOMAN BEDESSEM: -- kind of wrap those up.

9 MR. FREDERICK: Sure. Question again?

10 BOARD MEMBER DEURLOO: So if I drilled -- so  
11 starting today, I drill a well, a Class 1 or Class 5  
12 injection well, and I get a cost estimate to do that  
13 and it's today's dollars, everything is a million  
14 dollars. And then for the next -- some of these things  
15 are around for decades; right?

16 So in 20 years, it's just been climbing it up  
17 and down -- hardly see inflation go down -- but it's up  
18 and down. Is there a certain point where you do have  
19 to go out there because it's always adjusted for  
20 inflation?

21 Because if you don't ever transfer it, is  
22 there ever a time you have to go out and get new  
23 estimates on PNA reclamation and stuff like that?

24 MR. FREDERICK: Yes. As stated in the rule,  
25 whenever a change in the plan increases the cost, in



1 other words, there's a new facility, a new tank,  
2 storage tank, something like that, that type of a  
3 change would trigger --

4 BOARD MEMBER DEURLOO: But if it's just an  
5 injection well, it's back up and you don't do it or  
6 inject into it for 15 years and you don't ever make a  
7 change, it's working just fine, you're good with your  
8 cost; right?

9 MS. BARKAU: You would -- you would have to at  
10 your permit renewal because --

11 BOARD MEMBER DEURLOO: Oh, right --

12 MS. BARKAU: -- Class 1 wells are --

13 BOARD MEMBER DEURLOO: -- every ten years.

14 MS. BARKAU: -- for every ten years.

15 BOARD MEMBER DEURLOO: Got you, okay. Thank you,  
16 Madam Chair.

17 CHAIRWOMAN BEDESSEM: Thank you.

18 So I believe it was the Water Quality  
19 Division's interest in having the Advisory Board  
20 consider whether to approve the revisions and recommend  
21 adoption by the EQC.

22 MR. FREDERICK: Yes.

23 CHAIRWOMAN BEDESSEM: I'm looking for a motion by  
24 the board.

25 BOARD MEMBER KIRKBRIDE: I will move to approve

1 what's been presented and amended here.

2 CHAIRWOMAN BEDESSEM: Uh-huh.

3 BOARD MEMBER CAHN: With the caveat of what --

4 CHAIRWOMAN BEDESSEM: The changes that we  
5 discussed here.

6 BOARD MEMBER HANSON: This is the version we're  
7 talking about?

8 CHAIRWOMAN BEDESSEM: Yes.

9 BOARD MEMBER DEURLOO: I'll second that motion.

10 CHAIRWOMAN BEDESSEM: Thank you. I have a motion  
11 and a second.

12 All those in favor.

13 BOARD MEMBER DEURLOO: Discussion?

14 CHAIRWOMAN BEDESSEM: Oh, discussion?

15 BOARD MEMBER DEURLOO: Madam Chair?

16 CHAIRWOMAN BEDESSEM: Uh-huh.

17 BOARD MEMBER DEURLOO: So to your point, they --  
18 so we'll look at Chapter 14 on the time line for  
19 notifying the DEQ of any changes and then adding words  
20 around Part A and Part C with surface reclamation and  
21 reclamation just so it's in the motion and discussion.

22 CHAIRWOMAN BEDESSEM: Okay. Any other discussion?

23 All those in favor say aye.

24 SEVERAL: Aye.

25 CHAIRWOMAN BEDESSEM: Opposed?

1 (No audible response.)

2 CHAIRWOMAN BEDESSEM: Abstentions?

3 (No audible response.)

4 CHAIRWOMAN BEDESSEM: Motion passes.

5 We'll move on to the EQC.

6 MS. THOMPSON: Madam Chair, we'd like to ask for a  
7 short break. We've been meeting for about an hour and  
8 a half, and we need to go ahead and get our next  
9 division up for presentation.

10 CHAIRWOMAN BEDESSEM: Before we conclude, I just  
11 want to thank the Water Quality Division for putting --  
12 even though we had this last-minute ruffle, the  
13 explanations were good enough that we all figured that  
14 out in the time period, but that initially we put  
15 together a very good packet, meaning that we're  
16 appreciative of you including the SPR and the statute  
17 so that we knew what we were referencing. That was  
18 very helpful.

19 Do you guys have this done outside as far as  
20 the copies made outside, you know, like a Kinkos or  
21 something?

22 MS. THOMPSON: That particular one, we did have it  
23 made at Kinkos. I had some unexpected leave. So I  
24 sent that one out to have it done. So it was maybe not  
25 done -- I believe they weren't double-sided for some

1 reason and --

2 CHAIRWOMAN BEDESSEM: We are the environmental  
3 quality.

4 MS. THOMPSON: On the record, I just want to say  
5 that the director's assistant helped with that in my  
6 absence, and she had to actually return it to them at  
7 least once to redo. So the fact that you got a package  
8 at all is a testament to Jody's miracle-working, and we  
9 will be --

10 CHAIRWOMAN BEDESSEM: We'll be double-sided next  
11 time.

12 MS. THOMPSON: That is correct.

13 CHAIRWOMAN BEDESSEM: The content and putting all  
14 the necessary pieces of information in there, we  
15 greatly appreciate it. Thank you.

16 MS. THOMPSON: Good. Glad to help.

17 CHAIRWOMAN BEDESSEM: Thanks.

18 BOARD MEMBER CAHN: So the next pass will be up to  
19 your high standards.

20 MS. THOMPSON: That's right.

21 CHAIRWOMAN BEDESSEM: I handed you them. They're  
22 artisanal.

23 Okay. We'll take a 15-minute break, and we  
24 will reconvene at 5 minutes to 11:00.

25 (A break was taken.)

1 CHAIRWOMAN BEDESSEM: We'll reconvene the Water  
2 and Waste Advisory Board meeting.

3 Next on the agenda is Solid and Hazardous  
4 Waste Division, Hazardous Waste Rules and Regulations,  
5 Chapter 1.

6 MR. ESCH: Madam Chair, members of the board,  
7 thank you for having us today. My name is Luke Esch.  
8 I'm the administrator of the Solid and Hazardous Waste  
9 Division.

10 With me today is Carol Stark and Jerry Breed  
11 and Matt Buchholz with the Hazardous Waste Program  
12 within the Solid and Hazardous Waste Division.

13 We are here today to present some updates to  
14 our hazardous waste rules. As a bit of background, the  
15 State of Wyoming has primacy for RCRA Subtitle C  
16 program from the EPA, and that Subtitle C obviously  
17 addresses hazardous waste.

18 In 2014 or '15, we did a significant  
19 rulemaking where, instead of having to put new rules of  
20 our rules having everything word for word from the  
21 federal rules, we did what was called an incorporation  
22 by reference where we incorporated the federal rules  
23 into our rules by some shortened references, which  
24 reduced the number of pages that we had in our  
25 hazardous waste rules by, I think, a thousand pages.

1           So it was a significant reduction as well as  
2 it was better for the industry as well. We had a lot  
3 of conversation with industry at the time saying, "If  
4 you're doing something in Wyoming, which rules do you  
5 look to find what the requirements are?"

6           And we kept hearing back, "We look at the  
7 federal rules anyway because that's what -- we have to  
8 be at least as stringent as the federal rules."

9           So in that incorporation by reference  
10 exercise, we really got to reduce the number of  
11 regulations, at least the pages of regulations and also  
12 make it easier for the industry to understand what the  
13 regulations were. So that was three or four years ago.

14           We're coming back before you today to update  
15 our hazardous waste rules with rules that have kind of  
16 come into existence in that interim period. We need to  
17 do this to maintain our rules to be at least as  
18 stringent as the federal rules. And so that is kind of  
19 the big-picture step that we're presenting before you  
20 today.

21           And with that, I'll turn it over to Carol.

22           MS. STARK: Good morning. I am Carol Stark. I  
23 work in the Hazardous Waste Program as kind of I do  
24 have a couple of jobs -- hazardous waste rules  
25 coordinator and then voluntary remediation project

1 manager. And thank you for hearing our presentation  
2 and our proposed updates to these regulations.

3 I am going to -- as I go through this, you  
4 have paper copies because I couldn't get our connection  
5 made. We have our hazardous waste program manager for  
6 inspection and compliance listening in because some of  
7 the rules he may be providing input for, and I just  
8 wanted to let you know that.

9 But as I go through the slides, I'll try to  
10 mention which slide I'm at for you and also for our  
11 programmer who is listening in remotely in Casper.

12 BOARD MEMBER DEURLOO: Who is that, Carol?

13 MS. STARK: It's Bob Breuer with our Inspection  
14 and Compliance. He's our program manager for  
15 Inspection and Compliance. And Dale Anderson, who is  
16 our Solid Waste program supervisor.

17 MS. THOMPSON: Also James LaRock who is with our  
18 Attorney General's Office and he advises the Solid and  
19 Hazardous Waste Division.

20 BOARD MEMBER DEURLOO: What was the last name?

21 MS. THOMPSON: James LaRock.

22 BOARD MEMBER DEURLOO: Thank you.

23 MS. STARK: Okay. So I'm going to move on to  
24 slide two and go over -- I really wish I had my  
25 slides -- but I have just a quick rules roadmap of the

1 updates to go over, what I'm going to go through before  
2 I go through it.

3           And I'm going to go over an overview of the  
4 rules, quick overview of the rules, incorporation by  
5 reference, and the RCRA which is kind of why we're  
6 doing this.

7           I also have a list of rules to be updated,  
8 and you'll see those qualifications and exceptions to  
9 those rules, highlights of each rule. And then we did  
10 some outreach. So I want to tell you about that.

11           And we have a time line, and I'll go over  
12 that, that we're trying to roughly meet, and my contact  
13 information.

14           BOARD MEMBER HANSON: Would you tell me what RCRA  
15 stands for.

16           MS. STARK: I will in about one or two slides.

17           First, I'm going to go over what we're going  
18 to be adopting by IBR update. This is the first update  
19 as incorporation by reference, the first -- they went  
20 from 14 chapters to 1. So now my task was to take  
21 those rules and update those as EPA sent in new  
22 mandatory regulations and one optional.

23           So 2015, as Luke mentioned, we had our last  
24 RCRA rule changes, and that's when we converted to IBR.  
25 IBR is incorporating the terms of other documents, say,



1 the 40 CFR into our hazardous waste rules. So I  
2 thought I -- I think you guys went over that when they  
3 incorporated last time.

4 So RCRA hazardous waste rules on page 4, RCRA  
5 was enacted by Congress in 1976. It regulates the  
6 management of solid and hazardous waste. And the RCRA  
7 goals are to protect human health and the environment  
8 from the potential hazards of waste disposal and to  
9 conserve energy and natural resources and also  
10 hopefully, when we can, reduce the amount of waste  
11 generated.

12 BOARD MEMBER KIRKBRIDE: Excuse me.

13 MS. STARK: Yes, sir.

14 BOARD MEMBER KIRKBRIDE: Can I just ask you a  
15 question? It's obviously much larger in scope than  
16 just hazardous waste, RCRA.

17 MS. STARK: These are the hazardous waste rules  
18 for Wyoming.

19 BOARD MEMBER KIRKBRIDE: Oh, good. That's what it  
20 is.

21 MS. STARK: Yes.

22 BOARD MEMBER KIRKBRIDE: There's one conserving  
23 energy and natural resources, that's a big deal.

24 MS. STARK: Yeah, but it's part of what RCRA wants  
25 us to do.

1 MR. ESCH: Madam Chair, so RCRA has several  
2 different subparts, and I mentioned Subpart C which is  
3 really the focus of the hazardous waste. It also has a  
4 Subpart D which we address with our landfills.

5 So that's the municipal solid waste landfill,  
6 and that's regulated in a separate subpart of RCRA  
7 which we also have primacy for.

8 BOARD MEMBER KIRKBRIDE: Okay.

9 BOARD MEMBER CAHN: That includes treatment  
10 storage and --

11 MS. STARK: Treatment storage.

12 BOARD MEMBER CAHN: -- disposal facilities, the  
13 operating facilities that has hazardous waste. It  
14 isn't just the waste itself. It's also facilities.

15 BOARD MEMBER KIRKBRIDE: Okay. Thank you.

16 MS. STARK: The next slide is slide five. These  
17 are the rules we are adopting by reference, and these  
18 are the eight that we are adopting. All of these, save  
19 one, are mandatory regulations that the EPA is -- that  
20 we are updating to meet EPA standards.

21 BOARD MEMBER DEURLOO: Madam Chair, Carol?

22 MS. STARK: Yes.

23 BOARD MEMBER DEURLOO: Is that all eight bullet  
24 points are mandatory that we reference these?

25 MS. STARK: All but one.

1 BOARD MEMBER DEURLOO: All but one. Okay. That's  
2 what I didn't hear you say. Okay.

3 MS. STARK: Now, one thing I want to mention is  
4 the checklist numbers. If you noticed on the packet  
5 that you received, the checklist numbers correspond  
6 with the rule. Those come out in the order from the  
7 EPA. So just to let you know that that's how those  
8 match up.

9 BOARD MEMBER DEURLOO: Thank you.

10 MS. STARK: You're welcome.

11 We're on slide six. All the rules and  
12 revisions being adopted during this period are  
13 mandatory except for the coal combustion residuals rule  
14 which is checklist 235 and also the definition of a  
15 solid waste rule which we will go over in a moment and  
16 why it's been in litigation until very recently.

17 And the reason -- so we're not going to be  
18 adopting it at this time. And I'll go over that in the  
19 next slide and a brief summary and highlights of each  
20 rule.

21 So the definition of solid waste in 2008,  
22 Wyoming was among the many states that did not adopt  
23 these revisions regarding whether or not hazardous  
24 secondary materials are being legitimately recycled.

25 In 2008 they included new updates, and then

1 in 2000 -- 2015, sorry, there were more updates.

2 So there was a lot of litigation that went  
3 into the courts, and so on this slide, which is slide  
4 seven, the DSW rule has been in litigation since '08  
5 and '15. We did not adopt either 2008 or 2015 because  
6 of the litigation it was in.

7 And then the U.S. appeals court issued a  
8 final decision, and the EPA administrator signed on  
9 that decision in May, just now on May 23rd of 2018. So  
10 there wasn't time to get that.

11 So basically what I wanted to let you know is  
12 that, because of the contentious nature of this rule,  
13 we're going to wait until the next rule change to go  
14 ahead and adopt that. Basically, EPA could still  
15 enforce this rule without our adoption.

16 I guess in the -- I'm going to go over the  
17 disposal of the coal combustion residuals rule first.  
18 That's checklist 235, which talks about all the  
19 previous rules and revisions are mandatory except the  
20 coal combustion rule.

21 What this rule does is it codifies a list of  
22 waste generated from coal or fossil fuels. And this is  
23 the optional one, remember. They're not subject to  
24 hazardous waste rules. It establishes a national  
25 minimum criteria that essentially kicks it into the

1 Subtitle D court. It's no longer the hazardous rules.  
2 They're now Subtitle D rules.

3           So although this rule is optional, it would  
4 be more stringent than the current rule if we didn't  
5 revise it. So the CCR rule revision is being adopted.

6           The next rule is the electronic manifest  
7 rules that I'd like to talk about. Just a brief  
8 introduction. Some of us may be familiar with a  
9 manifest, but a manifest is a shipping document so that  
10 you can ship material normally.

11           And an EPA hazardous waste manifest tracks  
12 hazardous waste from one point -- the point of  
13 generation of that waste to off-site waste management  
14 facility for storage, treatment, or disposal of the  
15 hazardous waste.

16           So slide ten. The manifest can now be filed  
17 electronically with the EPA for shipping or  
18 transporting of hazardous waste. This affects  
19 generators, transporters, owners and operators of  
20 hazardous waste treatment storage or disposal  
21 facilities that are required to manifest to track the  
22 shipments of hazardous waste.

23           There's going to be reasonable user fees, and  
24 there's going to be another rule I'll discuss that EPA  
25 has put in place. The fees will be charged to the

1 disposal facility per manifest, and the users can  
2 choose to use electronic manifests or paper although  
3 the user fees are higher for paper.

4 The E-manifests are the legal equivalent of  
5 the paper manifests, and the EPA, for a period of time,  
6 will allow a transition to the electronic manifest.

7 So slide 11, the user fees regarding the  
8 manifest rule. It establishes a methodology for the  
9 EPA to set revised fees. They want to try and recover  
10 costs of operating the national electronic manifest  
11 system.

12 So the fees will be charged to the disposal  
13 facility as mentioned, and many requirements of the  
14 user fees rule can only be administered and enforced by  
15 the EPA, not by the states. You'll see that statement  
16 in some of the other slides.

17 Oh, I thought I had a question.

18 Slide 12. The hazardous waste generator rule  
19 improvement is pretty -- there's a lot of things in it.  
20 But the EPA, what they did was they reorganized these  
21 rules by generator type or size so that, if you're a  
22 small conditionally -- let's see. It helps if I use  
23 the right terminology.

24 If you are a very small quantity generator or  
25 a small or large quantity generator, you can find your

1 regulations now in the CFR very easily, where before  
2 there was a little here and a little there. So they  
3 did that kind of reorganization.

4 They addressed gaps and errors and took out  
5 obsolete references. As I just now mentioned or kind  
6 of mentioned, they renamed the conditionally exempt  
7 small quantity generator. It's now called a very small  
8 quantity generator.

9 They made provisions for episodic generation.  
10 So if someone generates waste, they do a tank clean-out  
11 every third year, there are some provisions that work  
12 with them there.

13 Marketing and labeling changes, they can use  
14 national fire protection association, USDOT, or OSHA  
15 with hazards labelling. They still have to call it a  
16 hazardous waste, but they can -- the actual, some of  
17 that labeling they can pick from those three.

18 Mixing changes they have to characterize at  
19 the point of generation, and there are some newer  
20 requirements that include notification for biennial  
21 recordkeeping and emergency preparedness and  
22 preparation so that, when the EMT guys show up on site,  
23 they can find where all the satellite accumulation  
24 areas are where there may be problems so they can  
25 address that ahead of time.

1           Slide 13 is a confidentiality determination  
2 rule. And basically what this rule says is that no  
3 person can assert business confidentiality for  
4 documents related to the import and export of a  
5 hazardous waste. Again, this is one of those ones that  
6 the requirement will be administered by the EPA, not  
7 the states.

8           Vacatur, which is a little fancier name for  
9 removal and revision, of comparable fuels rules and  
10 gasification rule, at 234.

11           This rule has sort of two parts within one  
12 checklist within one rule from the EPA. The comparable  
13 fuels rules previously allowed hazardous waste of  
14 refineries to be excluded from certain hazardous waste  
15 from the definition of a hazardous waste.

16           The comparable fuels rules was removed in the  
17 federal appeals court, and the exclusion was rescinded.  
18 So we had to remove that one.

19           On to slide 15. The other part of that  
20 checklist or rule is the gasification rule. It was  
21 also removed in court. EPA removed the gasification as  
22 an outlet from refining process into which oil-bearing  
23 hazardous secondary materials could be inserted, and  
24 all hazardous waste inserted into a gasification unit  
25 remain subject to RCRA regulations as a hazardous



1 waste.

2           And the gasification rule, again, is one --  
3 the gasification rules may not affect Wyoming  
4 facilities initially, but it may affect petroleum  
5 refineries in the future that desire to send oily  
6 hazardous waste to gasification facilities, say, in  
7 other states. We don't have any here currently.

8           The export provisions of the cathode ray  
9 tube, a cathode ray tube is also known as the picture  
10 tube that's in older television sets and some older  
11 computer monitors, and it may be considered a hazardous  
12 waste when discarded.

13           The CRT rule revises some export provisions  
14 they had of that rule in the final rule that was back  
15 in 2006. So they're just updating that. And the  
16 requirements of this rule would be administered again  
17 by the EPA not by the states.

18           Slide 17. The imports and exports of the  
19 hazardous waste rule provides for consistency with  
20 current requirements regarding the importing or  
21 exporting of hazardous waste.

22           The RCRA-permitted facilities that we had  
23 present in our outreach meetings that I heard from said  
24 they do not import or export hazardous waste so -- and,  
25 again, the rule is administered by the EPA not the

1 states.

2 Slide 18. All right. This is regarding our  
3 outreach. We had outreach meetings starting in, I  
4 think, September of 2017 and ending in early 2018. We  
5 did outreach with larger generators. We worked with  
6 some refineries and permit holders and railroads.  
7 There were about eight different entities there.

8 Larger voluntary mediation program  
9 volunteers, there was one of those. And some 14  
10 consulting, different consulting firms, many of them  
11 represented those permit holders I mentioned above and  
12 special interests, one of which was the Wyoming Outdoor  
13 Council.

14 We briefly highlighted, I briefly highlighted  
15 the hazardous waste rule revisions and then the  
16 generator rule improvements because it was kind of a  
17 larger one with these entities, and some of them were  
18 tailored into existing rules so that way we didn't --  
19 you know, we didn't want -- we wanted to try and  
20 maximize or minimize the time that they had. And  
21 they thought it was great. Some of them were in our  
22 offices; some, we went out to a meeting they were  
23 already having.

24 Slide 19. Our general time line. We've been  
25 sort of drafting rules, writing -- not sort of. We've

1 been writing the statement of principal reasons and  
2 doing outreach since really September of 2017 to March  
3 of 2018. And then public notice and this WAB meeting  
4 here in June, going to go forward to the QC -- as you  
5 guys probably all already know this kind of general  
6 time line, but I was giving this to our stakeholders  
7 and then the director -- and the governor hopefully  
8 will sign that the rule and the package will be going  
9 to the EPA somewhere in spring of 2019 is what I've  
10 been telling consultants that have called and asked.

11           There are some minor edits that I would like  
12 to mention. I know you guys received a clean copy and  
13 a redline copy similar to what Gina had. I have a  
14 redline copy that I have highlighted the changes that  
15 we made. Many of them were typographical edits, and we  
16 just wanted to make sure that you understood many of  
17 them were commas, but they were -- we hope that they  
18 would be considered unsubstantial changes. They were  
19 just mainly commas.

20           And one regulation was 40CFR270.51 that  
21 should have been 270.51D, and I have that on these.  
22 And I highlighted the changes that we made that you  
23 guys don't have -- in yellow, so yellow highlighter.

24           CHAIRWOMAN BEDESSEM: She's handing them out.

25           BOARD MEMBER HANSON: Okay.

1 CHAIRWOMAN BEDESSEM: I just wanted to say, Carol,  
2 thank you for sending us a copy with the comments on  
3 the side so we'd know --

4 (Several speaking simultaneously.)

5 MS. STARK: Yeah, that --

6 CHAIRWOMAN BEDESSEM: -- that does help.

7 MS. STARK: -- does help.

8 Madam Chairwoman, I left those same comments  
9 on these. I only added the new ones and highlighted  
10 them so that you could tell the difference.

11 And we will be requesting EQC's approval  
12 regarding these unsubstantial changes, just to let you  
13 know. And then I have my contact information on the  
14 back of the presentation.

15 But I can go over -- we can go over the  
16 changes if you'd like. I have them also on my USB key.

17 BOARD MEMBER DEURLOO: So we're looking at this  
18 one then?

19 CHAIRWOMAN BEDESSEM: Yeah, the new one with the  
20 yellow highlights.

21 BOARD MEMBER DEURLOO: Okay. Thank you.

22 CHAIRWOMAN BEDESSEM: If anybody has notes on  
23 their own copy, just go through this.

24 MS. STARK: Yeah, it's the same, and so it shows  
25 what's added.

1 CHAIRWOMAN BEDESSEM: I am trying to figure out  
2 what the best way to do this would be.

3 MS. STARK: There's really one, two, three, well,  
4 six basic changes, and they're regarding commas and one  
5 typo. A word phrase should have been "phrased" in the  
6 2015, but it came out as "phased." That one should  
7 have been "phrased." And then we had one, the 27.51  
8 that I mentioned.

9 So I can read over each one of those, or we  
10 can just go over the two that are not commas.

11 BOARD MEMBER CAHN: Extra space (inaudible).

12 MS. STARK: Or extra space.

13 CHAIRWOMAN BEDESSEM: My thought is, if we're all  
14 okay with this, if you can just say, "Do you have any  
15 comments in Section 1, Section 2, Section 3, Section 4,  
16 Section 5," you know, go through the sections and say  
17 if there was any -- any highlighted change in there and  
18 if any of the board members have anything, notes or  
19 anything they wanted to discuss in those sections.

20 MS. STARK: Okay.

21 CHAIRWOMAN BEDESSEM: Is that all right?

22 MS. STARK: Sure.

23 CHAIRWOMAN BEDESSEM: So in Section 1, that's just  
24 on --

25 MS. STARK: Romanette "i."

1 CHAIRWOMAN BEDESSEM: -- page 1, it's only half of  
2 page 1, there's no additional yellow highlighting.

3 BOARD MEMBER HANSON: No.

4 CHAIRWOMAN BEDESSEM: So are there any comments  
5 from any of the board members in Section 1?

6 I have one. I'm sorry. Usually when you put  
7 something in and then you put the acronym or  
8 abbreviation next to it --

9 MS. STARK: Okay.

10 CHAIRWOMAN BEDESSEM: -- we usually have the  
11 acronym in parentheses kind of like in Section 2, the  
12 fourth line -- well, no, the second line. The second  
13 line, it says "Code of Federal Regulations," and then  
14 it says "CFR" in parenthesis. So here where we're  
15 adding Wyoming Statute, can we have "WS" in parentheses  
16 in that first?

17 MS. STARK: Yes, ma'am.

18 CHAIRWOMAN BEDESSEM: So all there is to do there  
19 is add parentheses so it looks like all the other ones,  
20 not a substantive change, but just then it's  
21 consistent.

22 MS. STARK: And that's just throughout the whole  
23 thing?

24 CHAIRWOMAN BEDESSEM: No, it's only done once.

25 MS. STARK: Just that one. All right.

1 CHAIRWOMAN BEDESSEM: Just that one.

2 MS. STARK: Awesome.

3 CHAIRWOMAN BEDESSEM: So I don't have line numbers  
4 on this. So we'll reference by page numbers. So that  
5 was on page 1-1.

6 (Several speaking simultaneously.)

7 BOARD MEMBER KIRKBRIDE: Second line of --

8 CHAIRWOMAN BEDESSEM: Yes.

9 BOARD MEMBER KIRKBRIDE: -- what she said.

10 CHAIRWOMAN BEDESSEM: Okay. So then if you'd just  
11 call for anything, Carol -- well, I guess the next  
12 section, Section 2.

13 MS. STARK: Did you want me to call out the commas  
14 as well?

15 CHAIRWOMAN BEDESSEM: Yeah, in anything  
16 highlighted.

17 MS. STARK: All right. So I'm sorry in -- I  
18 didn't know how to do this. In Romanette "i" at the  
19 very beginning, it would be in the table of contents,  
20 we just -- that's really just where I called out that  
21 we were going to be doing this section. It's just the  
22 edit up at the top.

23 CHAIRWOMAN BEDESSEM: Oh, okay.

24 MS. STARK: Just wanted to mention that to you.

25 CHAIRWOMAN BEDESSEM: Yeah, uh-huh.

1 MS. STARK: All right.

2 CHAIRWOMAN BEDESSEM: So is there anything, I  
3 guess, in Section 2?

4 MS. STARK: 1-6 on page 6.

5 (Several speaking simultaneously.)

6 CHAIRWOMAN BEDESSEM: Section 2 goes from --

7 MS. STARK: Yeah, yeah. All right. Well --

8 CHAIRWOMAN BEDESSEM: -- don't have anything  
9 circled. So I thought it was interesting that the --  
10 which just shows the status of moving at the State of  
11 Wyoming, that the physical address is considered more  
12 temporary than the e-mail address.

13 MS. STARK: No control over that. Good comment.

14 CHAIRWOMAN BEDESSEM: Anyway so I just had a  
15 comment on the side that this is kind of amusing that  
16 we have these -- these electronic citations later on in  
17 the rule which seems like we eliminated electronic  
18 citations because they've changed.

19 So what's the likelihood of these changes? I  
20 mean, do we have to -- basically, you don't revise the  
21 rule when the electronic citations change. You just  
22 deal with it until the next time you revise the rule.

23 MS. STARK: That was the thought.

24 Madam Chairwoman, do you guys -- regarding -- all  
25 right. The electronic citations for the rule we had --



1 Gina.

2 MS. THOMPSON: So there's actually a minor  
3 correction. They call it non-substantive correction.  
4 And I believe that Wyoming addresses are considered one  
5 of those non-substantive changes where the Secretary of  
6 State has a simple internal process -- fill out some  
7 paperwork, the AG reviews it for us. And then we  
8 submit the revised address to the Secretary of State so  
9 they can --

10 CHAIRWOMAN BEDESSEM: Update it on the website.

11 MS. THOMPSON: Exactly. We don't have to go  
12 through formal rulemaking for --

13 CHAIRWOMAN BEDESSEM: That's what I wanted to know  
14 because it seems odd, you know, just putting in these  
15 obviously temporary --

16 MS. THOMPSON: The attorney general recommends  
17 that you take care of those if you have a number of  
18 them and you're going through rulemaking, you kind of  
19 do it all together.

20 But if next year the hazardous waste rules  
21 didn't require a major update but had a new address, we  
22 could file that form and it would be very simple, and  
23 we wouldn't have to require time on your schedule.

24 CHAIRWOMAN BEDESSEM: Great. We would just deal  
25 with it at the Secretary of State so what is pulled off

1 the permit website would be correct.

2 MS. THOMPSON: Yes.

3 MR. BREED: Madam Chairwoman, we have that our  
4 website address hasn't changed in a long --

5 CHAIRWOMAN BEDESSEM: Years --

6 MR. BREED: -- long time. For those other  
7 references like the EPA website --

8 (Several speaking simultaneously.)

9 CHAIRWOMAN BEDESSEM: No control over.

10 MR. BREED: -- no control over and they keep  
11 changing. So would be better to --

12 CHAIRWOMAN BEDESSEM: Okay.

13 MR. BREED: -- (inaudible).

14 CHAIRWOMAN BEDESSEM: Thank you. I appreciate  
15 hearing that there's a mechanism for updating those  
16 website addresses because, you know, they seem to  
17 change daily. You go look something up, it's not there  
18 anymore.

19 MS. STARK: Correct.

20 CHAIRWOMAN BEDESSEM: So thank you. Glad to hear  
21 that.

22 So I didn't have anything else in Section 2.

23 Anybody else on that?

24 MS. STARK: Section 3.

25 BOARD MEMBER CAHN: Madam Chair?

1 CHAIRWOMAN BEDESSEM: Yes.

2 BOARD MEMBER CAHN: On Section 3, since we don't  
3 have line numbers, it's A Romanette "ii," third line,  
4 we have "his designee for the director," and I would  
5 like to see that as "their designee," third line down.  
6 Do you see that, on page 1-2?

7 MS. STARK: I'm getting there.

8 BOARD MEMBER CAHN: Are you with me?

9 MS. STARK: I'm on 1-3.

10 CHAIRWOMAN BEDESSEM: 1-2.

11 BOARD MEMBER CAHN: 1-2, and it's Section 3A  
12 Romanette "ii," third line down, it says: "The  
13 director of the Wyoming DEQ or his designee."

14 MS. STARK: Okay.

15 BOARD MEMBER CAHN: To make that gender neutral,  
16 it should be "their designee."

17 BOARD MEMBER HANSON: (Inaudible) and  
18 administrator; right?

19 MR. BREED: (Indicating.)

20 BOARD MEMBER HANSON: Yes, okay.

21 MS. STARK: Okay.

22 CHAIRWOMAN BEDESSEM: Anybody else with anything  
23 else in Section 3?

24 So Section 4 starts on 1-3.

25 BOARD MEMBER CAHN: I have a number of "which's"

1 that should be "that," and I am okay with just giving  
2 you the highlights and not going through every one of  
3 them, if that's okay with the rest of the board.

4 CHAIRWOMAN BEDESSEM: Thank you. That would be  
5 appreciated.

6 BOARD MEMBER DEURLOO: We can always count on you,  
7 Lorie. We appreciate it.

8 BOARD MEMBER CAHN: So I won't bring those up in  
9 other sections. I'll just give this to you unless  
10 there's confusion about the meaning.

11 MS. STARK: Okay.

12 CHAIRWOMAN BEDESSEM: Fantastic. Okay. Then we  
13 can go to Section 5. Which is on -- it starts on  
14 page 1-5, and what page does that actually end on?

15 BOARD MEMBER DEURLOO: It looks like 1-10, but I'm  
16 not sure.

17 MS. STARK: Yeah.

18 BOARD MEMBER DEURLOO: I think --

19 MS. STARK: I think it's --

20 BOARD MEMBER DEURLOO: Is it the bottom of 1-10,  
21 Madam Chairwoman?

22 CHAIRWOMAN BEDESSEM: Okay. Thank you.

23 BOARD MEMBER CAHN: I don't see it.

24 MS. STARK: The bottom of page 1-5, is that what  
25 you're looking at, or do you want to go to the bottom

1 of it?

2 CHAIRWOMAN BEDESSEM: He was saying Section 6 or  
3 Section 5.

4 MS. THOMPSON: From the chapter, it looks like  
5 Section 5 through 123 are reserved. And then 124  
6 starts at the bottom of 1-5.

7 MR. BREED: Madam Chair, we did that numbering  
8 system that way so we would be consistent with the CFR.  
9 So when we start the 260s, Section 260, those are  
10 consistent with the CFR, where the other ones are  
11 really for our rules. Those don't line up with the  
12 CFR. So that was how we initially did that to make it  
13 separate from the 40CFR. That's something we added.

14 CHAIRWOMAN BEDESSEM: I see in the table of  
15 contents, 123 is reserved, and then 124 starts on 1-5.  
16 So Section 5 is just reserved so there's nothing in  
17 there, nothing on the definitions.

18 MS. STARK: But just to mention to you within that  
19 section, I guess it's probably --

20 CHAIRWOMAN BEDESSEM: Four --

21 MS. STARK: -- on page 1-6 is the start of the  
22 commas, and there's a comment off to the side that  
23 elaborates, discusses why we did what we did and how we  
24 did it, basically, the commas that we inserted and how  
25 we inserted them. Some were commas, and then the next

1 start of the explanation was a capital and some  
2 weren't. So we made it all the same.

3 CHAIRWOMAN BEDESSEM: Great.

4 MS. STARK: So those were the commas.

5 MR. ESCH: Looks like 125 through 259 are also  
6 reserved on page 1-10. So the next section we'll be  
7 discussing -- there's no comments on 124 -- would be  
8 Section 260.

9 CHAIRWOMAN BEDESSEM: So none on 124, we'll go  
10 through 260.

11 BOARD MEMBER KIRKBRIDE: Madam Chairwoman?

12 CHAIRWOMAN BEDESSEM: Uh-huh.

13 BOARD MEMBER KIRKBRIDE: Very briefly, what are  
14 the issues on the definition of solid waste?

15 CHAIRWOMAN BEDESSEM: Good question.

16 MR. ESCH: Madam Chair, Councilman Kirkbride, I  
17 can briefly touch on some of those bigger issues on the  
18 definition of solid waste. We can then maybe patch in  
19 Bob Breuer to provide a more detailed explanation.

20 But the definition of solid waste there was a  
21 concern regarding what materials were truly being used  
22 for recycling and what materials people were just  
23 accumulating speculatively and you'd have these piles  
24 of material lying on their property that they would  
25 say, "No, this is not solid waste. This is a material

1 that we plan on using for a secondary use."

2 And because there was no clarification on  
3 what exactly is a solid waste, the EPA went forward  
4 with providing additional clarification on what is the  
5 definition of the speculative accumulation.

6 So what you were putting, gathering on your  
7 site trying to bet that you're going to be able to find  
8 a secondary market for, they kind of put some more  
9 restrictions on that so you can't just accumulate  
10 random, for instance, maybe rubber chips sitting on  
11 your property indefinitely. That there's more  
12 restrictions on the type of material that can sit on  
13 your property for extended amounts of time.

14 CHAIRWOMAN BEDESSEM: So the question is -- I  
15 mean, that describes what the rule is, but what was the  
16 basis of the litigation? Why was it so contentious?

17 MR. ESCH: Madam Chair, I do not have an answer  
18 for you regarding the underlying litigation.

19 Can we try to open up Bob? Bob Breuer, are  
20 you still on the phone?

21 BOARD MEMBER DEURLOO: Hopefully they're not  
22 tractors and (inaudible).

23 MS. THOMPSON: Bob, if you're speaking, can you  
24 unmute yourself?

25 MR. ESCH: James LaRock, are you -- do you

1 understand the basis behind the litigation for the  
2 solid waste rule?

3 MR. LAROCK (VIA VIDEOCONFERENCE): Can you hear  
4 me?

5 MR. ESCH: Yes.

6 MR. LAROCK (VIA VIDEOCONFERENCE): Hey, all right.  
7 This is James LaRock. Luke, I think you basically  
8 explained it. I mean, if you were an industry group,  
9 an industry or a generator and you don't want your  
10 piles to be considered hazardous waste, you can  
11 challenge the rule and just (unintelligible).

12 I mean, the relevant decisions from the DC  
13 Circuit Court of Appeals came out very recently. So  
14 that's the -- it's just economics, frankly.

15 BOARD MEMBER DEURLOO: That doesn't answer the  
16 question.

17 BOARD MEMBER CAHN: No.

18 MR. BREED: I think -- may I?

19 CHAIRWOMAN BEDESSEM: Uh-huh.

20 MR. BREED: So in the hazardous waste rules, the  
21 catalyst in a petroleum refinery is considered a  
22 hazardous waste. So they have to manage the catalyst  
23 as a hazardous waste, no matter what. They can't treat  
24 it. They can't do anything with it. It's obviously  
25 hazardous waste and have to dispose of it that way.



1           So the definition, this new one, this new DSW  
2 rule, that made it a spent catalyst. If they could  
3 recycle it and put it back into their refining process  
4 without disposing of it as hazardous waste, they used  
5 it in the same facility, then they would be exempt from  
6 that hazardous waste status.

7           So there are similar things with other  
8 industries. That's the only one, reading through that  
9 rule, that I can find that applies to any Wyoming  
10 industry is the spent catalyst for the petroleum  
11 refineries.

12           But you'll have other ones out there that  
13 were opposites, you know, and that might hurt an  
14 industry. This one, I would imagine -- I don't know  
15 the litigation either offhand, but this is just an  
16 example. But you could have environmental groups out  
17 there not wanting that material to be done something  
18 with, treated on site and reused because, obviously,  
19 it's handled appropriately since it's a listed  
20 hazardous waste.

21           But I think there was litigation from both  
22 industry and environmental, but it runs the gamut of  
23 hazardous waste in different industries, like Luke was  
24 talking about, recycling and reclaiming materials  
25 versus secondary hazardous materials.

1           BOARD MEMBER KIRKBRIDE: Madam Chairwoman, so I  
2     assume that, in some cases, it's pretty specific. I  
3     mean, one man's hazardous waste is the other guy's  
4     treasure. So you kind of need a -- someone needs to be  
5     the referee; right? And that is EPA or what?

6           MR. ESCH: Madam Chairwoman, Councilman Kirkbride,  
7     the EPA, that's correct. Once again, we're not  
8     adopting the restrictions of that definition of solid  
9     waste right now. We're kind of letting things play  
10    out.

11           So there are additional restrictions that are  
12    within that rule that are not becoming part of our  
13    program yet. So we're giving it some time to let  
14    things get settled for the referees to be determined to  
15    find out what are the rules of the playground. Then we  
16    can just take a step forward and bring that into our  
17    program in one of the future rulemakings but for  
18    Wyoming.

19           BOARD MEMBER HANSON: Madam Chair, I don't know  
20    whether it's germane to the discussion, but our  
21    landfill here has a special section for all the  
22    computer waste that the university creates, and it's a  
23    huge section because of this institution, of course,  
24    redoing computers at a fairly regular interval.

25           And I guess there's something in here about

1 the cathodes especially and those things that are  
2 hazardous waste. So I guess my question is is this  
3 addressed with this document since this is taken out or  
4 whatever? And do they need to be aware of something at  
5 the landfill that they are not doing right now? I just  
6 want to inform them if they are.

7 MR. ESCH: Madam Chair and Councilman Hanson, the  
8 rules that we're proposing to incorporate here  
9 specifically regarding exporting those CRTs, the  
10 provisions of RCRA that would determine whether those  
11 CRTs out there are hazardous are already in place,  
12 they're already part of our program.

13 Fortunately, we do have our solid waste  
14 program manager with us here today too if there's  
15 questions regarding the management of those monitors  
16 out there in the landfill.

17 It's kind of an interesting thing with those  
18 monitors. If it comes from everybody's -- you know,  
19 everybody's got a TV or a computer at home. If we take  
20 our waste to the landfill and dispose of it, it  
21 definitely comes under hazardous waste regulation. So  
22 they don't get crossways with RCRA for those if they're  
23 coming from a household generation.

24 BOARD MEMBER HANSON: Okay. It's basically older  
25 model TVs; right? With what are they called cathodes?

1 MR. ESCH: Cathode ray tubes, yes.

2 BOARD MEMBER HANSON: Our new computers don't have  
3 that stuff.

4 CHAIRWOMAN BEDESSEM: And most of that stuff at  
5 the landfill collects for recycling, so...

6 BOARD MEMBER HANSON: Yeah, I've seen the stacks  
7 there.

8 CHAIRWOMAN BEDESSEM: Uh-huh.

9 BOARD MEMBER HANSON: That's a problem in Laramie  
10 because of this particular institution, of course.

11 CHAIRWOMAN BEDESSEM: And it costs them money to  
12 recycle.

13 BOARD MEMBER HANSON: Yeah.

14 MR. ESCH: E-waste is a big ticket issue  
15 throughout the country that we're still struggling  
16 with, frankly.

17 BOARD MEMBER HANSON: Yeah, and there was  
18 something about an inspection that was done that we  
19 were told, they were told that it had to be sorted out  
20 and stored separately and whatever, and I think they  
21 are following the rules.

22 CHAIRWOMAN BEDESSEM: Uh-huh.

23 BOARD MEMBER HANSON: Thank you.

24 CHAIRWOMAN BEDESSEM: So since we were kind of  
25 discussing some overarching questions here before we

1 got down to if there any nitty-gritty, it looks like a  
2 lot of the little items that I caught and you caught in  
3 your yellow, very good.

4           So this is with respect to the new CCR rules.  
5 So I understand that adopting, you know, via the  
6 checklist the CCR rule because then it wouldn't be more  
7 stringent than what the federal regulation is.

8           So some of that makes sense, but one thing  
9 that I thought was interesting was that, in the  
10 response to comments to the outdoor council, it talks  
11 about how the -- that the State -- well, that right now  
12 you regulate those kinds of waste, you know, through  
13 the industrial rules and solid waste program, you know,  
14 because we have flash landfills and so forth. And the  
15 empowerment's through Water Quality.

16           But that it says:

17           "The new wind act directs the EPA to approve  
18 any state program that requires each coal  
19 combustion residual units located in the  
20 state to achieve compliance with either the  
21 federal CCR requirements or other state  
22 criteria that the Administrator, after  
23 consultation with the State, determines to be  
24 at least as protective as the federal  
25 requirements."

1           Then it goes on to say that you're going to  
2 consider further rulemaking for these CCRs.

3           So the way it's been handled in the past  
4 through the Industrial Waste regulations and through  
5 Water Quality's regulations for empanelments  
6 (phonetic), are the existing regulations not as at  
7 least protective as the federal requirements? Is there  
8 a real reason to go ahead and do the whole -- or are  
9 you required to do a whole separate CCR package?  
10 That's the question.

11           MR. ESCH: Madam Chair, we're basically required.  
12 We're going to need move forward to do a new rule  
13 package for the CCR. The feds did come out with some  
14 specific criteria relating to just CCR landfills and  
15 service empanelments (phonetic). We reviewed their  
16 regulations; we reviewed our regulations. And there's  
17 very minor differences.

18           We have construction requirements, you know.  
19 For those surface empanelments (phonetic), you need to  
20 have dam sizes and slope requirements to make sure that  
21 they're safe.

22           Our regulations and the federal regulations  
23 are very, very similar. However, there's additional  
24 requirements in the federal regulations regarding  
25 recordkeeping by all of these CCR facilities. They're

1 required to maintain a publicly available website where  
2 they post their monitoring information.

3           There's additional requirements for  
4 inspections for all the CCR units. So those are things  
5 that we're going to need to move forward and  
6 incorporate into ours so we can apply to the EPA for a  
7 program.

8           We've done some outreach with some of the  
9 regulated units out there. They've expressed a strong  
10 desire for the State to develop its own program and  
11 receive primacy for that in the CCR program.

12           We have developed some internal regulations  
13 currently. We are probably going to go out to do some  
14 more outreach with the regulated industries this --  
15 well, it's summer now. But it's very, very soon that  
16 we're going to be moving forward with those.

17           And those incorporate the additional  
18 monitoring requirements of the federal regulations and  
19 we all -- we have that under Subtitle D, which is  
20 allowed by the adoption of this, the CCR provision  
21 before us today.

22           CHAIRWOMAN BEDESSEM: So you say it's housed under  
23 Subtitle D. So that is meaning that are these going to  
24 be revisions to the Industrial Waste Chapter? Or is it  
25 going to be a separate chapter just dealing with the

1 CCR?

2 MR. ESCH: Madam Chair, what we anticipate now is  
3 a separate chapter dealing solely with CCR because  
4 we'll have to go in and exclude surface empanelments  
5 (phonetic) that contain CCR under Water Quality's rules  
6 and then basically house them both under a chapter in  
7 the Solid and Hazardous Waste Division. We'll oversee  
8 that program since it is in Subtitle D now.

9 CHAIRWOMAN BEDESSEM: Okay. So you're going to be  
10 taking over that responsibility from the Water Quality  
11 Division.

12 MR. ESCH: Yes, we will be taking over that  
13 responsibility from the Water Quality Division, but  
14 we'll still be utilizing their expertise in the  
15 evaluation of the surface empanelments (phonetic)  
16 basically just trying to --

17 (Several speaking simultaneously.)

18 ACHAIRWOMAN BEDESSEM: Housed under --

19 MR. ESCH: (Unintelligible.)

20 CHAIRWOMAN BEDESSEM: Just make it easier --

21 MR. ESCH: Yeah --

22 CHAIRWOMAN BEDESSEM: -- for the update --

23 MR. ESCH: -- for permitting --

24 CHAIRWOMAN BEDESSEM: -- have to have comparable  
25 rulemaking on every single time you want to change



1 anything both with the Solid Waste Program and Water  
2 Quality. Okay. Thank you.

3 Because I was, you know, interested when it  
4 talked about how you were going to be developing that,  
5 how that was going to be handled, and what the  
6 specifics were because it's been managed for years and  
7 years and years through this combination of Water  
8 Quality and Solid Waste. Be interesting to see what  
9 the actual detail of changes turn out to be.

10 Thank you. That was my last overarching  
11 question.

12 Anybody else have any overarching ones?

13 Then we can go back to the minutia.

14 BOARD MEMBER DEURLOO: I have a few questions on  
15 the first initial presentation, if that's okay.

16 CHAIRWOMAN BEDESSEM: Uh-huh.

17 BOARD MEMBER DEURLOO: If I can just --

18 CHAIRWOMAN BEDESSEM: Yes. I was wanting to wrap  
19 up the minutia really quick --

20 BOARD MEMBER DEURLOO: All right. Cool. That  
21 sounds good --

22 CHAIRWOMAN BEDESSEM: -- get out the door.

23 BOARD MEMBER DEURLOO: That sounds like a heck of  
24 a plan. So out of curiosity -- and my fellow board  
25 members probably know why I'm asking this. I'm asking

1 out of curiosity.

2           So if you were to collect a pollution that's  
3 normally -- I'll be more specific. If you've got storm  
4 water pollution, you've got all this stuff on the  
5 streets -- tire tread, cigarette butts, heavy metals,  
6 hydrocarbons -- and normally it goes to the river --  
7 right? -- when it rains and stuff like that.

8           And if you're actually to collect that in a  
9 single spot, non-point-source pollutant into a single  
10 spot and then collect that and then take that to the  
11 dump or whatever, at that point, is it a hazardous  
12 waste when it's just -- and maybe this is not the forum  
13 for that question, but I'm going to give you a call  
14 separately.

15           MR. BREED: Madam Chair, it's not considered  
16 hazardous waste. Under RCRA Subtitle C, there's  
17 exemptions to different industries and different types  
18 of wastes. So that type of material would fall under a  
19 storm water permit and some city regulations and those  
20 kind of things.

21           So really for Subtitle C, it's industries  
22 that create hazardous waste based on their processes,  
23 but there's exemptions from those like fly ash is an  
24 exemption, for example, mining waste. There's a lot of  
25 exemptions.

1 BOARD MEMBER DEURLOO: A generator. Not a  
2 collector but a generator.

3 MR. BREED: Well, a collector is a disposal  
4 facility. For someone who treats hazardous waste  
5 facility, they would have to have a permit under  
6 Subtitle C or a hazardous waste program to conduct that  
7 activity.

8 So we don't have any commercial hazardous  
9 waste disposal facilities, treatment facilities in the  
10 state and --

11 BOARD MEMBER DEURLOO: Right.

12 MR. BREED: -- there's two refineries that have --  
13 they treat their waste water, which is a hazardous  
14 waste. They have to have a permit to treat that waste  
15 water from us, certain treatment level, and then they  
16 discharge it to evaporation ponds. But they're  
17 creating that waste from their refining process --

18 BOARD MEMBER DEURLOO: Okay.

19 MR. BREED: -- generally.

20 BOARD MEMBER DEURLOO: Thank you. Let's see, we  
21 already covered litigation. We don't really know what  
22 that is.

23 Page 8, I had a question. Okay. So, Carol,  
24 you had mentioned bullet point 1, CCR, codify the list  
25 of waste generated from a coal or fossil fuels that

1 when co-disposed are not subject to HW regulations.

2 How do you -- what do you mean by co-dispose?

3 So you're talking about fly ash right there. If you  
4 guys mix it with something else, it's no longer a  
5 hazardous waste or what?

6 MR. BREED: No. That co-disposes is waste that  
7 these facilities generate to -- say, they're producing  
8 electricity. They're burning this coal. They're going  
9 to produce other wastes that are not hazardous waste  
10 that they can co-dispose of. That's if they had -- I'm  
11 trying to think -- I don't know, electricity --

12 BOARD MEMBER DEURLOO: Oh --

13 MR. BREED: -- very good so if, through that  
14 process, they're generating some water or some -- can't  
15 be water but some material or waste out of there, that  
16 they can co-dispose of it in that landfill with the CCR  
17 rather than dispose of it someplace else that's a  
18 hazardous waste potentially or whatever happens to --

19 BOARD MEMBER DEURLOO: I understand. I had it  
20 backwards there.

21 Page 15, do we have any gasification  
22 facilities?

23 MR. BREED: No.

24 BOARD MEMBER DEURLOO: I didn't think so.

25 Where is the nearest gasification facility?

1 MS. STARK: I believe Bob mentioned -- oh,  
2 Madam Chair, I believe the nearest one he mentioned was  
3 in North Dakota.

4 BOARD MEMBER DEURLOO: North Dakota. I think  
5 there's one in Kansas too if I remember right. Okay.  
6 I just was curious.

7 And then page 19, another one. So do you see  
8 as you -- when you have an authorized package for the  
9 EPA for the second quarter next year, do you foresee  
10 any problems with getting your rules and regulations  
11 passed through the EPA?

12 MR. ESCH: Madam Chair, I think I'd probably defer  
13 to Jerry on that.

14 MR. BREED: Sure. Madam Chair, we have a good  
15 working relationship with Region 8 and the hazardous  
16 waste program. We have worked with them through the  
17 process so they know what we're doing.

18 We just don't give them the package at the  
19 end of the day and ask them to approve it. They know  
20 exactly what we're doing, and they'll give us feedback  
21 occasionally if they don't think we're doing what we  
22 need to do.

23 Since we just went through the process  
24 recently with IBR, incorporation by reference, and we  
25 ended up with a process that we can understand what

1 theirs is, I don't think there will be any comments  
2 (inaudible) like everybody else have to put in the  
3 Federal Register and all those kinds of things.

4           They've lost a lot of people, and their  
5 rulemaking expert is one that they lost in Region 8.  
6 So they're kind of building up to speed. So it's just  
7 an opportunity for people to work together, I think,  
8 through the process.

9           BOARD MEMBER DEURLOO: Okay. Thank you, Jerry.

10           MR. ESCH: Madam Chairwoman, (unintelligible) that  
11 Jerry expressed. EPA is very much focused on the  
12 cooperative federalism right now, one of the tenets  
13 that the administration is pushing forward. So there's  
14 a strong desire to work with states and these programs  
15 that are designed to be run by states through the  
16 delegated process to be done so. So the delegation or  
17 the approval of the primacy is certainly high on their  
18 priority right now.

19           BOARD MEMBER DEURLOO: Approval of the primacy, do  
20 we have primacy over --

21           MR. ESCH: We do have primacy currently but just  
22 the re-adoption or the re-approval of the rule packages  
23 as we incorporate those rules that they push out.

24           BOARD MEMBER DEURLOO: Okay. Thanks.  
25 Madam Chair, that's all I had.

1 CHAIRWOMAN BEDESSEM: Any other overarching  
2 comments or questions? Presentation? Okay.

3 So maybe the easiest with what's left is to  
4 just go around and just address the minutia and we'll  
5 just -- rather than go through sections.

6 So do you have any --

7 BOARD MEMBER KIRKBRIDE: No.

8 CHAIRWOMAN BEDESSEM: Lorie?

9 BOARD MEMBER CAHN: I'm going to give you these,  
10 and they also include where "which" is the correct word  
11 but it's missing a comma.

12 MS. STARK: Okay.

13 BOARD MEMBER CAHN: And maybe you caught those. I  
14 haven't checked. And then gender neutral not to  
15 specify a gender, I've got at least one of those.

16 Sometimes let me just bring up on page 1-36,  
17 it's under the health risk assessment -- wait a minute.  
18 No, it's not. I'm going to have to go -- there's no  
19 line numbers.

20 I'm going to have to say on my page 1-56, it  
21 starts with an A. Does yours?

22 MS. STARK: Madam Chairwoman, are you talking  
23 about under Romanette ii(a) --

24 CHAIRWOMAN BEDESSEM: Is it the clean copy?

25 BOARD MEMBER CAHN: I'm in the clean copy. It's

1 where we're talking about applicant being convicted of  
2 felonies.

3 MS. STARK: I've got it, Lorie.

4 CHAIRWOMAN BEDESSEM: And you have the clean copy.

5 MS. STARK: I do.

6 CHAIRWOMAN BEDESSEM: She has a clean copy. So  
7 just go for it.

8 BOARD MEMBER CAHN: So on page 1-56, it starts  
9 with capital A under "N": "The applicant shall  
10 demonstrate fitness to comply with the act under these  
11 rules," and it's Romanette "i" and then it's capital C.

12 CHAIRWOMAN BEDESSEM: Just the third paragraph  
13 down?

14 BOARD MEMBER CAHN: Yeah, it's the third paragraph  
15 down. So the third line down in that paragraph, it has  
16 a "which," and whether or not "which" needs to be  
17 replaced with "that" depends on whether it's defining  
18 or not restrictive.

19 So if they've been convicted of any felony or  
20 pleaded guilty, or is it only ones in which the  
21 judgment of the director constitutes evidence that the  
22 applicant cannot be relied upon to conduct? So that, I  
23 don't know what you mean.

24 So depending on what you mean, I can't tell  
25 you, you need to change that to "that" without



1 understanding the meaning.

2 MS. STARK: Madam Chair and Board Member Cahn, I  
3 defer to -- we will check into that --

4 BOARD MEMBER CAHN: Okay.

5 MS. STARK: -- and we'll make sure which --

6 BOARD MEMBER CAHN: Okay.

7 MR. ESCH: Madam Chair, I believe it's the latter.  
8 I believe it's restricting the instances in which the  
9 judgment is the director is focused. So that kind of  
10 brings it into this. So I think it's more restrictive  
11 in nature. So if the --

12 (Several speaking simultaneously.)

13 BOARD MEMBER CAHN: Okay. So if -- then that --

14 MR. ESCH: -- which may be appropriate.

15 BOARD MEMBER CAHN: -- would be then that  
16 appropriate --

17 MR. ESCH: -- then that would be appropriate, that  
18 in the nature of the judgment.

19 BOARD MEMBER CAHN: Okay. So if --

20 CHAIRWOMAN BEDESSEM: Want "that" there.

21 BOARD MEMBER CAHN: -- it's felony that in the  
22 judgment of the director constitutes evidence, then  
23 that's that. But if it's any felony, then the way you  
24 have it worded "which in the judgment," I think -- let  
25 me look at that.

1 MR. BREED: Madam Chair, that came from our  
2 original rulemaking in 1997 when we had those  
3 14 chapters and --

4 CHAIRWOMAN BEDESSEM: Yeah.

5 MR. BREED: -- the more stringent requirement than  
6 the federal rules. That's why it's in here, broader in  
7 scope, whatever you want to call it, got into our IBR.

8 But I think basically (unintelligible) at the  
9 time of our original rules. I think we want to make it  
10 more consistent with all these rules too.

11 But we just wanted to make sure that, within  
12 a five-year period, that there wasn't -- somebody  
13 didn't have a felony or doing something bad so we  
14 wouldn't issue them a permit. That's what I recall.

15 BOARD MEMBER CAHN: Whether it's "that" or "which"  
16 depends on if --

17 MR. BREED: Right.

18 BOARD MEMBER CAHN: -- any felony whatsoever.  
19 Only those felonies that in the judgment of the  
20 director constitutes evidence that they cannot be  
21 relied --

22 (Several speaking simultaneously.)

23 MR. BREED: -- there would --

24 BOARD MEMBER CAHN: -- maybe have a felony --

25 CHAIRWOMAN BEDESSEM: You put that --

1 BOARD MEMBER CAHN: Okay.

2 MR. BREED: Yeah, and --

3 CHAIRWOMAN BEDESSEM: -- there's got to be  
4 judgment involved there.

5 MR. BREED: Yeah --

6 BOARD MEMBER CAHN: Okay.

7 MR. BREED: -- and (unintelligible) --

8 CHAIRWOMAN BEDESSEM: That's that.

9 BOARD MEMBER CAHN: Okay. That's -- and then just  
10 changing his findings to their findings. So I will  
11 just give you this. Or if "which" is correct, it's  
12 missing a comma. So I'm going to hand you this whole  
13 package.

14 CHAIRWOMAN BEDESSEM: Awesome.

15 MS. STARK: Thank you.

16 CHAIRWOMAN BEDESSEM: I have one little  
17 correction. It's on the redline strikeout copy on 115  
18 and also on 121. It's, you know, where you change that  
19 the notice is going to be given to the director, his  
20 address can be found at such and such instead of the  
21 address. I don't think you need the word letters "DEQ"  
22 in there because that's left over from the address.

23 Do you know what I mean?

24 Before it used to say, "Shall be given to the  
25 director, DEQ, 122 West 25th Street, as part of the

1 address because we mention "Director" throughout the  
2 rules and it refers to the DEQ Director. So you don't  
3 need DEQ there.

4 And it's the same one on page -- so that's on  
5 Romanette "iv," second line. It's the same on 121  
6 Romanette "iv," one, two, three, fourth line down.

7 MS. STARK: Madam Chair, what was the second page  
8 reference?

9 CHAIRWOMAN BEDESSEM: Page 121, section 265,  
10 Romanette -- well, A Romanette "iv," the fourth line --  
11 one, two, three -- fourth line down on page 1 of  
12 Romanette "iv."

13 The only other one that I have was a  
14 question, and maybe Jerry can answer this one. Where  
15 we're now taking out those website citations for the  
16 guidelines and the risk assessment guidelines and the  
17 guidelines for limited exposure assessment, the other  
18 ones A, B, D, and, you know, F, G, whatever, have a  
19 date. But C says "guidelines for human exposure  
20 assessment, US EPA," no document date.

21 And the same thing for E, "Risk assessment  
22 guidelines US EPA," no document date.

23 Don't you usually have to reference the year  
24 of the document so that it's not, you know, like a  
25 changing requirement?

1 MS. STARK: Madam Chair, I checked into those  
2 references, and they didn't have a date on the ones  
3 that I went to, but I can double-check.

4 MR. BREED: Well, we'll check it again. It should  
5 have a date.

6 CHAIRWOMAN BEDESSEM: Yeah, guidelines for human  
7 exposure assessment should have a date on them.

8 MS. STARK: Sure.

9 MR. BREED: Yes.

10 CHAIRWOMAN BEDESSEM: So that's my only comment on  
11 C and E was that, if we can find some reference date or  
12 document number, that would be helpful. Fortunately,  
13 they're there for every other one on that list except  
14 for C and E.

15 I didn't have anything else.

16 Klaus, did you have --

17 BOARD MEMBER HANSON: I just noticed on page 114  
18 of that section, there's really something of substance,  
19 you know, that was added there which comment is added,  
20 which is the owner-operator shall apply to the DEQ for  
21 EPA identification number.

22 Whether you want to highlight it in some  
23 fashion because it's something new and so that the  
24 people who need to apply are aware of that (indicating)  
25 this is something you added, and I just -- so they find

1 it more easily. You know, that occurred to me since  
2 it's something new.

3 Then I had one other thing I didn't  
4 understand, and that was -- but I have to find it back  
5 on --

6 CHAIRWOMAN BEDESSEM: I think really that  
7 Romanette "iii" is just clarifying that they get their  
8 number from DEQ --

9 BOARD MEMBER HANSON: Yeah.

10 CHAIRWOMAN BEDESSEM: -- rather than EPA. They're  
11 required to get a number is not new. It's just who  
12 they're getting it from.

13 BOARD MEMBER HANSON: I just thought for emphasis  
14 in saying that might be something that you want to  
15 highlight in some fashion.

16 I can't find the other part. Oh, yeah. On  
17 page 1-27, there is a comment, the first one. "We move  
18 and reserve paragraph I and the entries under OI in the  
19 table of Appendix I," et cetera, et cetera.

20 Does this simply say you took it out and put  
21 it in the appendix?

22 MS. STARK: This was an EPA -- oh, Madam Chair --

23 CHAIRWOMAN BEDESSEM: Uh-huh.

24 BOARD MEMBER HANSON: Yes.

25 MS. STARK: -- and Mr. Hanson.

1 CHAIRWOMAN BEDESSEM: Yes, please.

2 MS. STARK: I believe that was part of the changes  
3 that were made in the EPA regulations --

4 BOARD MEMBER HANSON: Uh-huh.

5 MS. STARK: -- and that was just one of the  
6 changes when we had the -- that they asked us to remove  
7 and reserve and put them under --

8 BOARD MEMBER HANSON: And put it in the appendix.

9 MS. STARK: Correct.

10 BOARD MEMBER HANSON: Okay. Thank you. I just  
11 wanted to be sure that I understood what it meant.

12 MS. STARK: Correct.

13 BOARD MEMBER HANSON: Thank you.

14 CHAIRWOMAN BEDESSEM: So I think, from listening  
15 to the remarks here, there's lots of small changes, but  
16 there was nothing substantive so that, in the SOPR, I  
17 saw that you kind of reserved a spot for, you know,  
18 changes from the WAB. But I don't think you -- you can  
19 probably delete that. I don't think there's anything  
20 that you have to put in the SOPR from this conversation  
21 today.

22 MS. STARK: Thank you, Madam Chair.

23 CHAIRWOMAN BEDESSEM: The other question I have is  
24 this is the first time I've seen a tank analysis in the  
25 document package. Is that something we're going to see

1 going forward, or was it just --

2 BOARD MEMBER CAHN: We've seen that one before  
3 another time, yeah.

4 MS. STARK: Madam Chairwoman, I believe this was a  
5 copy of this package from the tank program.

6 CHAIRWOMAN BEDESSEM: Okay.

7 MS. STARK: And --

8 CHAIRWOMAN BEDESSEM: So it's the second time I've  
9 seen the tank analysis.

10 MS. THOMPSON: So Madam Chair, if I might speak to  
11 that in general.

12 CHAIRWOMAN BEDESSEM: Uh-huh.

13 MS. THOMPSON: I think we've been inconsistent  
14 with bringing them before the board. We're required to  
15 do it. We're required to have that piece in place for  
16 the Environmental Quality Council and for the Notice of  
17 Intent to Adopt Rules. That's the way --

18 CHAIRWOMAN BEDESSEM: So you do this for all your  
19 rules.

20 MS. THOMPSON: Right. We're required to do it for  
21 each rulemaking, but it hasn't been part of the  
22 standard material.

23 But as you're aware, the rules of practice  
24 and procedure, if the board wishes to have that as part  
25 of your rule package, we can be more consistent with



1 that, with both divisions.

2 CHAIRWOMAN BEDESSEM: Okay. Thank you. I thought  
3 it was interesting but --

4 MS. THOMPSON: It's a somewhat new requirement.  
5 I believe it came up -- the analysis part where we have  
6 to do a physical analysis and make it available to the  
7 public, I believe that came online in 2013. And we  
8 worked with our AG to make sure that we kind of  
9 narrated how we got to the conclusion.

10 But if the Board wishes to see that as part  
11 of the materials, we can make sure that that's  
12 available for you. But it is available for the public  
13 and for the council at --

14 CHAIRWOMAN BEDESSEM: Personally, I don't know  
15 that we need to do that. So probably it will only come  
16 up if the public comment addresses that prior to the  
17 EQC.

18 MS. THOMPSON: Okay.

19 CHAIRWOMAN BEDESSEM: Again, I just want to say I  
20 do appreciate the set of comments on the side of the  
21 redline strikeout. It's a great package. Maybe it  
22 might have been handy for Lorie, as you're traveling on  
23 a plane, to have everything in a packet.

24 But I had to go read -- put holes in all my  
25 stuff so I could flip through and not get the stack of

1 pages mixed up. So if you're going to put it in the  
2 three-ring binder, just I don't think you need the  
3 sheets of these (indicating). If you've got a map or  
4 something, yeah. I don't know.

5 BOARD MEMBER CAHN: That was part of the step that  
6 you weren't here for. Actually, somebody else --

7 MS. THOMPSON: I might clarify. I did not assist  
8 the Solid and Hazardous Waste Division with their  
9 materials since I was moving mine along.

10 CHAIRWOMAN BEDESSEM: Uh-huh.

11 MS. THOMPSON: But we're always happy to get that  
12 feedback so we can go through the package going  
13 forward.

14 MR. ESCH: Madam Chair, we want to make it the  
15 easiest for you to perform your responsibilities.  
16 However you would like it presented and packaged, we're  
17 happy to do it.

18 CHAIRWOMAN BEDESSEM: No, it was pretty, but it's  
19 easier for me not to get the piles mixed up if they're  
20 in a three-ring binder and they have holes in them.

21 BOARD MEMBER CAHN: Yeah, I didn't find it -- I  
22 mean, I agree with Marj that it would be better to have  
23 them not inside sleeves and everything.

24 CHAIRWOMAN BEDESSEM: But in general, you guys did  
25 a great job putting together a very good packet which

1 explained everything and the reasons why you're doing  
2 everything. So it's very much appreciated all the work  
3 that went into it.

4 MS. STARK: Madam Chair and the Board, thank you  
5 very much. That sounds good.

6 CHAIRWOMAN BEDESSEM: And I am assuming that Solid  
7 and Hazardous Waste Division like the Water Quality  
8 Division would like the WAB to vote on whether to move  
9 this forward to the EQC at this time.

10 MR. ESCH: Madam Chair, that's correct.

11 BOARD MEMBER DEURLOO: Madam Chair --

12 CHAIRWOMAN BEDESSEM: Okay.

13 BOARD MEMBER DEURLOO: -- I move that we approve  
14 the changes as discussed to the Hazardous Waste Rules  
15 and Regulations Chapter 1 to the Wyoming Environmental  
16 Quality Council.

17 BOARD MEMBER CAHN: And I'd add to that with  
18 additional editorials.

19 BOARD MEMBER DEURLOO: Additional editorials from  
20 the board members.

21 BOARD MEMBER KIRKBRIDE: Second.

22 CHAIRWOMAN BEDESSEM: Thank you. I have a motion  
23 and second.

24 Any further discussion?

25 Hearing none, all those in favor?

1 SEVERAL: Aye.

2 CHAIRWOMAN BEDESSEM: Opposed?

3 (No audible response.)

4 CHAIRWOMAN BEDESSEM: Abstentions?

5 (No audible response.)

6 CHAIRWOMAN BEDESSEM: Congratulations. You can  
7 move forward to the DEQ.

8 MR. ESCH: Madam Chair, thank you.

9 CHAIRWOMAN BEDESSEM: And only 12 minutes behind  
10 noon.

11 BOARD MEMBER KIRKBRIDE: Madam Chairman, you know,  
12 I raised three children, and my son was kind of an  
13 irascible little fellow and always hassling his  
14 sisters.

15 So the family rule was, if you can't say  
16 something good, don't say anything. And which I  
17 finally got so tired of saying I decided to designate  
18 it as rule five. And I'd state, "Rule five," and I  
19 didn't have to go on.

20 And I realize now that I was doing IBR. I  
21 just didn't know the acronym.

22 CHAIRWOMAN BEDESSEM: I love it.

23 So I think the last thing on the agenda was  
24 scheduling and location of our next meeting.

25 MS. THOMPSON: Yes, ma'am. So I was just

1 discussing with Suzanne English, the Solid Waste  
2 Program is anticipating doing rules of the Board.

3 And depending on some projects that we're  
4 working on in the Water Quality Division, we may or may  
5 not have a rule. So we would definitely -- most likely  
6 definitely have a briefing. So we would, each division  
7 would need time in front of you. So you have at least  
8 one rulemaking and then some other briefing items.

9 And so I believe the Agency would take  
10 recommendations for location, and I would anticipate  
11 that your meeting would be scheduled in September  
12 probably in the last half of the month, but as we've  
13 done previously, we can send out a poll to see what  
14 your schedules are looking like.

15 CHAIRWOMAN BEDESSEM: So would it be more  
16 convenient for the Solid and Hazardous Waste Division  
17 if we have that in Casper next time?

18 MR. ESCH: Madam Chair, it's really up to whatever  
19 is convenient for the Council.

20 And I'd like to take this opportunity to  
21 introduce Suzanne English. She's the new program  
22 manager for the Solid Waste Program. We're both  
23 located in Cheyenne now. So it really doesn't matter  
24 for us.

25 The Casper field office, they certainly are a

1 part of the program, and they're contributing to the  
2 rules, but it's really whatever is easiest for the  
3 Council.

4 MS. THOMPSON: Casper is a nice location for a lot  
5 of the public because it's a nice central location. So  
6 if they're coming from Gillette or Sheridan or  
7 something, you know, if we know that we have a specific  
8 industry that's located in that central part, we  
9 generally try to cater to Casper so that they can get  
10 to us easily. But I don't know that we need that as a  
11 specific location.

12 CHAIRWOMAN BEDESSEM: I would be fine with Casper  
13 or Cheyenne.

14 BOARD MEMBER CAHN: Were we in Jackson a year ago?

15 MS. THOMPSON: We were.

16 BOARD MEMBER CAHN: So another year from now in  
17 Jackson?

18 MS. THOMPSON: So if we would skip that at least a  
19 year to recover from the expense.

20 CHAIRWOMAN BEDESSEM: So any preference, Casper or  
21 Cheyenne?

22 BOARD MEMBER CAHN: Casper is fine.

23 CHAIRWOMAN BEDESSEM: Casper?

24 MS. THOMPSON: So, Madam Chair, in a week or so,  
25 I'll send out a poll to get your exact dates, and we'll

1 plan on having the meeting in Casper.

2           And as always, if for some reason one of you  
3 is unable to attend in person, you can still join us  
4 remotely. We'll bring the conferencing equipment, and  
5 we'll make sure that you can still input and -- yes,  
6 ma'am.

7           BOARD MEMBER CAHN: I would just like to say that  
8 I'm going to be somewhere where there's no Internet for  
9 quite a lot of September.

10          MS. THOMPSON: Okay.

11          BOARD MEMBER CAHN: So the last possible dates in  
12 September would be the best for me.

13          MS. THOMPSON: For the last week of September.

14          BOARD MEMBER CAHN: Yeah, like the 28th, Friday  
15 the 28th --

16          MS. THOMPSON: Okay.

17          BOARD MEMBER CAHN: -- or something to make sure  
18 I'm out of the area and back in someplace where there's  
19 communication.

20          MS. THOMPSON: And we'll definitely target that,  
21 and we'll double-check Administrator Esch's calendar  
22 and also Mr. Frederick's to make sure --

23          BOARD MEMBER CAHN: The latest possible date in  
24 September.

25          MS. THOMPSON: Okay. Thanks for checking. I

1 appreciate that.

2 CHAIRWOMAN BEDESSEM: And then perhaps we can have  
3 the first quarter meeting, you know, whether it's  
4 January or whatever, perhaps have that in Cheyenne.  
5 There's a number of us who won't have to travel quite  
6 as far. That's harder for you.

7 BOARD MEMBER DEURLOO: It's okay. I do it all the  
8 time.

9 CHAIRWOMAN BEDESSEM: When the weather is not  
10 quite as good, we'll have our meeting in Cheyenne.

11 MS. THOMPSON: Okay. We'll put that down for  
12 consideration too.

13 CHAIRWOMAN BEDESSEM: Wonderful. Okay.

14 MS. THOMPSON: Thank you. I don't believe we have  
15 any other business to carry out today.

16 CHAIRWOMAN BEDESSEM: Then I think we will now  
17 adjourn the quarterly Water and Waste Advisory Board  
18 meeting. Thank you.

19 (Meeting proceedings adjourned at 12:18 p.m.)

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C E R T I F I C A T E

I, SUSAN EDWARDS, a Registered Professional Reporter, Certified Shorthand Reporter do hereby certify that I reported by machine shorthand the proceedings contained herein constituting a full, true, and correct transcript.

Dated this 6th day of July, 2018.

  
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SUSAN EDWARDS  
Registered Professional Reporter  
Certified Shorthand Reporter

