

1 WYOMING WATER AND WASTE ADVISORY BOARD

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3 RE: VIRTUAL PUBLIC MEETING PROCEEDING

4 SOLID AND HAZARDOUS WASTE DIVISION:
5 RULEMAKING: SWRR CHAPTERS 1 AND 7

6 -----

7 TRANSCRIPT OF VIRTUAL PUBLIC MEETING PROCEEDINGS

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9 Pursuant to notice duly given to all parties

10 in interest, this matter came on for virtual public

11 meeting on the 23rd day of March, 2021, at the hour of

12 10:17 a.m., before the Wyoming Water and Waste Advisory

13 Board, Mr. Alan Kirkbride, Chairman, presiding, with

14 Mr. Brian Deurloo, Ms. Lorie Cahn, Mr. James Cochran, and

15 Mr. Brian Dickson also in attendance virtually.

16 Mr. Matthew VanWormer, Attorney for the Board

17 appeared virtually; Mr. Luke Esch, Solid & Hazardous Waste

18 Administrator; Ms. Suzanne Engels, Permitting & Corrective

19 Action Manager; Mr. Craig McOmie, Program Manager for the

20 Landfill Cease and Transfer and Remediation Program; Ms.

21 Kimber Wichmann, Management Services Administrator and

22 Bonding Department Head; and Ms. Gina Thompson, Water

23 Quality Division, were also in attendance virtually, as

24 well as various members of DEQ staff and the public.

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

2 (Virtual meeting proceedings reconvened
3 10:17 a.m., March 23, 2021.)

4 CHAIRMAN KIRKBRIDE: There's Luke.

5 Hi, Luke.

6 He must be on mute.

7 MR. ESCH: Sorry about that. Am I up?

8 CHAIRMAN KIRKBRIDE: Just saying hi to you.

9 MR. ESCH: Okay. Good morning, Board.

10 CHAIRMAN KIRKBRIDE: Is anybody absent?

11 Speak up.

12 Okay. Could we have -- perhaps we could have
13 those members of staff or whoever -- who have joined us
14 introduce themselves and let us know that you're here.

15 MR. ESCH: Sure. I'll start. My name is
16 Luke Esch. I'm the Deputy Director and Administrator of
17 the Solid and Hazardous Waste Division. Thanks for your
18 time today.

19 MS. ENGELS: Hi, everyone. I'm Suzanne
20 Engels. I'm the Program Manager for the Solid Waste
21 Permitting and Corrective Action Program, and I'll be going
22 over the two chapters for the Solid Waste Program today in
23 Chapters 1 and 7. And I asked a couple of my coworkers to
24 join me today, because this rule package has really been a
25 team effort, and I'll let them go ahead and introduce

1 themselves.

2 MS. WICHMANN: Hi. I'm Kimber Wichmann.
3 I'm the Management Services Administrator. I also head the
4 bonding department for DEQ. And we have been instrumental
5 in doing the financial assurance rule changes for both Land
6 Quality and Water Quality, and now we've had the
7 opportunity to bring it to Solid and Hazardous Waste.

8 MR. MCOMIE: Good morning. I'm Craig
9 McOmie. I manage the Landfill Cease & Transfer Landfill
10 Remediation Programs. Also, out of Casper here, we send
11 out the invoicing for the financial assurance for the
12 landfills that participate.

13 CHAIRMAN KIRKBRIDE: All right. Is that
14 it? Great. Well, welcome to all of you, and to other
15 members of the public. It does say we have 23 participants
16 on the Zoom, so I presume we have members of the public.
17 And good to have you, and there will be an opportunity for
18 you to participate.

19 All right. I will turn it over to Luke.

20 Gina, would that be appropriate?

21 Okay. Luke, you're on.

22 MR. ESCH: Thank you. Again, Mr. Chairman.
23 Members of the Council, thank you for your time today.
24 Once again, my name is Luke Esch. I'm the Administrator of
25 the Solid & Hazardous Waste Division.

1 Today we have some rule revisions before you with
2 regard to the financial assurance aspect of our programs.
3 We're really trying to be consistent with other programs
4 within DEQ. So we have consistent approval, as well as
5 forms across the -- across the Division and Agency so that
6 the regulated community who operate -- work with us are
7 familiar with what type of bonding systems we have in
8 place, and -- as well as potentially tightening some of the
9 financial restrictions on some of the bonds that we have
10 afforded in the past to provide the most protection for the
11 citizens of Wyoming.

12 And with that, I'm going to turn it over to
13 Suzanne Engels, the program manager for the Solid Waste
14 Permitting Program.

15 MS. ENGELS: Thanks, Luke.

16 Once again, I'm Suzanne Engels, the Program
17 Manager for the Solid Waste Permitting and Corrective
18 Action Program.

19 As Luke mentioned, we have been working on this
20 rule package specific for financial assurance for about a
21 year, maybe a little bit longer. And the main focus was
22 Chapter 7, financial assurance, and it quickly brought in
23 Chapter 1, because all of our revisions that we were doing
24 in Chapter 7 also impacted our Chapter 1.

25 And as Luke mentioned and Kimber mentioned, there

1 was a need to update the rules in Solid Waste or financial
 2 assurance mechanisms because of what was going on in other
 3 divisions. I hate to say that the Solid Waste Program was
 4 not the trailblazer of setting the standard. We are the
 5 slow-moving donkey of the pack, coming in last.

6 Land Quality was the first one to update their
 7 rules. Water Quality brought their rules to you last year.
 8 And here we are today, finally incorporating the changes
 9 and reducing the financial risk to the State and the
 10 taxpayers in the event that a permitted facility goes
 11 bankrupt or they walk away from their facility and DEQ is
 12 left to do the reclamation and the cleanup of the site, the
 13 financial assurance is there to allow the agency to do that
 14 reclamation work.

15 So as Kevin Frederick from Water Quality, the
 16 Administrator of the Water Quality Division, also
 17 highlighted for you, the new rule revision approach from
 18 the Attorney General's Office, we were also subject to that
 19 review process with this rule package of Chapters 1 and 7.
 20 You probably saw some of the similarities where we struck
 21 redundant language from rules and regulations. We removed
 22 the "and regulations" part. We included references to
 23 statute and removed redundant language from statute,
 24 cleaned up some of the grammar, restructured the chapters.

25 The other -- the other big difference with the

1 rule revision is that historically the AG's Office was only
2 looking at the revisions we were making, but they did that
3 complete overhaul. And so when I received these rules back
4 from my wonderful Attorney General -- I'm going on record
5 and saying he's wonderful -- there was a lot of edits that
6 I was not anticipating or expecting. And so similar to
7 Water Quality's Chapter 3, our chapters have a lot of
8 redline and strikeout based on feedback that we received
9 from the Attorney General's Office. So what started with
10 focusing on Chapter 7 quickly ballooned into a larger
11 overhaul of Chapter 7 and a cleanup of Chapter 1.

12 So to give you guys some numbers, the number of
13 facilities that have financial assurance, that we regulate
14 that whole permit, there is 84 different permitted
15 facilities. And there is a total amount of about 25.6
16 million dollars in financial assurance. There's about --
17 well, there are five different mechanisms that are used by
18 the different entities. And, as Kimber mentioned, the
19 bonding program is the program that reviews the actual
20 mechanisms for us. And -- for consistency and making sure
21 they meet all the standards that are outlined in our rule.

22 And as Craig mentioned, he manages the state
23 guaranteed trust account, and if there is more detailed
24 questions on implementation of that financial assurance
25 mechanism, I'm going to lean on him for those questions too

1 during our meeting today.

2 So back in -- I guess it was October -- last
 3 fall, October 2020, we held an informal public comment
 4 period. We put out our draft version of the rule for
 5 public review and comment. And during that time frame, we
 6 did not receive any public comments. We targeted all of
 7 the facilities that have financial assurance, whether it's
 8 a mechanism that is approved by Kimber's group, or a
 9 participating facility in the state guarantee trust
 10 account. We also targeted everyone on our Solid Waste
 11 listserv list, and that includes people that signed up to
 12 receive email notification or hard copy notification on any
 13 solid waste issues or decisions that we are making.

14 So before this meeting with the WWAB, we had
 15 another public comment period notifying everybody we would
 16 be bringing forward Chapters 1 and 7 today. And we did
 17 receive two public comments. We responded to those
 18 comments. Both of them were on Chapter 7, specific on
 19 self-bonding. And when we get to that chapter and section,
 20 I thought I could bring those up at that time and address
 21 them there.

22 Now, prior to this meeting, our group made one
 23 additional change to Chapter 1 and you should have the --
 24 what's called -- what we called the green copy with revised
 25 date of March 19th in the top right corner. And I will

1 point out to you the change that we made when we get to
2 that specific section, since we went out to public comment.
3 So I thought I could walk through -- or I plan on walking
4 through each section, starting with Chapter 1 highlighting
5 the big points of each section and taking Board comments as
6 we go.

7 So, Gina, thank you for pulling up Chapter 1.

8 This is, as you can see in the top right corner,
9 the draft version dated 3/19/21.

10 In Section 1, we reworked the language based on
11 feedback that we received from the AG's Office in the first
12 paragraph for clarity and consistency. And then we jump
13 into our definition paragraph, and it's a really long
14 paragraph of Section 1. And we removed -- ended up
15 removing terms that we're no longer using in Chapter 7. We
16 clarified a couple definitions for consistency throughout
17 the agency.

18 We also added one definition that we are now
19 using in Chapter 7. And based on some feedback we received
20 from the AG's office, we removed some requirements that
21 were found within definitions where requirements simply
22 should not be in a definition.

23 And if we keep scrolling, Gina, you will see that
24 inspection paragraph was moved to a later section of the --
25 yeah, the inspection paragraph was moved to the later

1 paragraph within Section 1, and we added paragraph (h) that
2 requires -- or makes it more clear that financial assurance
3 is required with a permit application.

4 So those are the highlights of Section 1. Are
5 there any questions specific to Section 1?

6 CHAIRMAN KIRKBRIDE: Yes. We have one
7 right here.

8 Mr. Cochran.

9 BOARD MEMBER COCHRAN: This is Jim Cochran.

10 I had a question on line 197. You're referring
11 to large concentrated animal feeding operations and then
12 you struck out CAFOs. So I assume you're -- you're still
13 wanting to refer to CAFOs in that definition. But I think
14 we can take out the word large, since CAFOs are defined as
15 to what size they are. Does that make sense?

16 MS. ENGELS: Yes. I'm reading the section
17 now that does not include -- and I think, if that's
18 consistent with the water quality rules, I think that's a
19 reasonable change. And offhand, I'm not sure how it's
20 defined or if it's defined one way or the other in Water
21 Quality Rules.

22 MR. ESCH: Mr. Chairman, too if I may.
23 It's possible, and I'm pretty sure this revision is made
24 because there's not another reference to CAFOs in our
25 regulations. We're basically just referring to the Water

1 Quality Rules for any -- for the definition of large -- or
2 for concentrated animal feeding operations. And the
3 acronym that's in parentheses, you'd use that if you're
4 going to use it repeatedly throughout the rest of the text.

5 And, Suzanne, you can correct me if I'm wrong,
6 but we probably don't use the term -- that acronym for the
7 remainder of our rules, which is why this is probably being
8 taken out.

9 MS. ENGELS: And you're correct, Luke. The
10 abbreviation CAFO, C-A-F-O, is not used again in the rule.

11 BOARD MEMBER COCHRAN: I'm also looking at
12 line 204. It refers to fire lanes. But it's saying that
13 they should be -- vegetation should be removed. So I'm
14 wondering if you're wanting to talk about -- where's my
15 note here -- if you're talking about a fire break where you
16 remove vegetation. So I don't know if you need to have two
17 definitions -- one for fire line, one for fire break --
18 since they may not be in the same place on a property.
19 That I can see instances where a fire lane you would
20 probably want to keep vegetated.

21 MS. ENGELS: Board Member Cochran, I
22 believe the fire lane is used typically as a perimeter of a
23 facility where the operator will drive around their
24 facility. It ends up being more of a road and ends up
25 essentially also being a fire break, where, in the event

1 there is a fire at a facility, it can also help contain --
2 prevent the fire from spreading. Facilities also have the
3 option to have that fire lane around each individual unit,
4 but most facilities have it at their perimeter.

5 BOARD MEMBER COCHRAN: So you don't have a
6 need to have a fire lane anywhere but the perimeter?

7 MS. ENGELS: Well, like I mentioned,
8 there's the option where a facility has it around each
9 individual unit. We just don't typically see it -- see the
10 layout -- the landfill layout done that way, because they
11 have it at the perimeter.

12 BOARD MEMBER COCHRAN: So is it a fire lane
13 or is it a fire break?

14 MS. ENGELS: We've called it a fire lane.
15 I'm not sure if it links back to the federal rules
16 specifically as a fire lane, because I think it serves a
17 dual purpose of allowing vehicles -- access vehicles around
18 the facility, in addition to preventing fires from
19 spreading.

20 BOARD MEMBER COCHRAN: My next line is
21 under line 210, Floodplains. It goes into kind of a long
22 description of offshore islands and a lot of things that
23 really don't exist in this part of the world. And I think
24 really what you're wanting to say is a floodplain is land
25 inundated by hundred-year flood event. And I think you can

1 eliminate a lot of that description.

2 MS. ENGELS: Thank you for that comment.

3 Obviously, we didn't -- or I didn't look closer at every

4 definition, and I think that's something we can consider.

5 But I think -- I think it's something that we can consider.

6 BOARD MEMBER COCHRAN: That's all I have,

7 Mr. Chairman. Thank you.

8 CHAIRMAN KIRKBRIDE: Anyone else have

9 anything for this section?

10 BOARD MEMBER DEURLOO: Mr. Chairman, this

11 is Brian Deurloo.

12 So I'm not sure what -- is it just section -- the

13 whole chapter we're talking about here, or just Section 1?

14 I'm not sure which line Section 1 stops on. Is it just

15 definitions that we're talking about right now?

16 MS. ENGELS: So, Board Member Deurloo,

17 Section 1 stops on line number 1004, and we are just

18 talking about Section 1.

19 BOARD MEMBER DEURLOO: Okay. Mr. Chairman,

20 I have a couple small comments, please.

21 CHAIRMAN KIRKBRIDE: All right.

22 BOARD MEMBER DEURLOO: On line 343 --

23 starting on 342, it reads 150 cubic yards of solid waste

24 containers with animal mortality managed, and it goes on.

25 Mortality usually means death or what have you, but just

1 address what animal mortality managed is supposed to mean.

2 Are you talking about animal parts or what?

3 MS. ENGELS: Board Member Deurloo, simply
4 stated, dead animals. It could be a full animal, parts or
5 pieces. I think it's a word or a phrase used to capture
6 both of those, and really any -- any instance of animal
7 mortality.

8 BOARD MEMBER DEURLOO: Okay. Thank you.
9 And then some of the definitions -- I saw short ton as
10 being described. A short ton.

11 BOARD MEMBER CAHN: Can we talk about the
12 lines? Sorry, Brian.

13 BOARD MEMBER DEURLOO: Yeah, please. Go
14 ahead.

15 BOARD MEMBER CAHN: Yeah. So I have kind
16 of a similar question on that same line, line 343, using
17 the word "with." So when you talk about containers with
18 animal mortality, that doesn't -- it sounds like the
19 animals are dying in the containers. And I think that is
20 not appropriate word. Perhaps "and" is a better word. So
21 we're talking about solid waste stored in containers and
22 animal mortality managed in mixed municipal solid waste for
23 separate containers. So I think the "with" is not the
24 right word there. So "and" might be more precise. Thank
25 you.

1 MS. ENGELS: Thank you, Board Member Cahn.
2 I can make that clarification, because we don't want it to
3 sound like animals are dying in the container.

4 BOARD MEMBER DEURLOO: Correct. And
5 then --

6 Thank you, Lorie. That's a good comment.

7 And then down at 367. You had a definition
8 earlier in here -- I don't remember which line -- but
9 describing short tons as being 2,000 -- short tons as being
10 described as 2,000 tons -- 2,000 pounds for short ton. But
11 on line 367, you have a definition of 500 tons. So I
12 would -- I don't -- that's the only one I've caught. But
13 do you want to make sure that you say 500 short tons each
14 time, define it as short tons, or boil it down into -- what
15 would that be -- 20,000 pounds? Because there are long
16 tons, which are 2200 pounds per ton. There's short tons of
17 2,000 pounds per ton. So I think that would be consistent
18 in calling them short tons or below 2,000 pounds, so
19 there's no ambiguity.

20 MS. ENGELS: Thank you for that
21 recommendation. I think it's good to have that
22 clarification so it's basically more clear.

23 BOARD MEMBER DEURLOO: Thank you.

24 That's my only comments right now, Chairman
25 Kirkbride.

1 CHAIRMAN KIRKBRIDE: Thank you.

2 Ms. Cahn.

3 BOARD MEMBER CAHN: I'd like to just ask
4 kind of a general -- general question about changes made
5 to -- between Solid Waste and Water Quality.

6 So on line 391, we have Department's hazardous
7 waste rules and regulations. So I understand the AG -- and
8 I agree with this -- this trying to get rid of rulings and
9 regulations, the "and regulations" part, because they're
10 one and the same, and it's kind of redundant and I don't
11 understand the difference. So I'm just wondering what your
12 department's policy is with the AG on that. Thank you.

13 MS. ENGELS: Yes. Thank you, Board Member
14 Cahn.

15 We have the same advice from our AGs. And like
16 Water Quality, I think this is one we missed. So we did
17 try to catch all of the "rules and regulations." And I
18 think Hazardous Waste Rules and Regulations, the second
19 part should be struck.

20 CHAIRMAN KIRKBRIDE: Yes. Go ahead.

21 BOARD MEMBER CAHN: Okay. On line -- okay.
22 Line 757, when "inspections" is crossed out -- when there's
23 wholesale sections that are kind of gone, it's just -- so
24 my question is, was all of this moved elsewhere word for
25 word, or were there some changes? It appears as all new

1 text in redline, so I just -- you know, just to help us
 2 keep track of what you're doing, if you can just kind of
 3 explain what's going on there. Thanks.

4 MS. ENGELS: Sure. Board Member Cahn, we
 5 struck that entire paragraph at "inspections" and moved it
 6 after, I believe, the exemption paragraph, because we were
 7 previously talking about recordkeeping, monitoring,
 8 reporting requirements, and inspections just seem to flow
 9 better after exemptions. And so we moved that paragraph to
 10 line 957, and added language in paragraph (g)(i). And then
 11 what was previously in paragraph (f), you can find in
 12 (g)(ii). And the subsequent parts of what was previously
 13 the inspection paragraph are all there.

14 BOARD MEMBER CAHN: Okay. As a reviewer,
 15 it makes it hard then to see the new changes to
 16 inspections, because the whole inspection section got moved
 17 and redlined, and then everything is new in blue. So
 18 perhaps it's possible in the future to give us green or
 19 something that would just indicate the new changes you're
 20 making, would be easier for us to kind of pay attention to
 21 that part. So blue of the new with green in it, that's new
 22 new language. It would just make our jobs as reviewers
 23 easier, I think, if you could do that.

24 So the next question I have is on line 828. Why
 25 was "stormwater shall be properly managed" struck?

1 MS. ENGELS: Board Member Cahn, that was
2 removed because stormwater management is covered by the
3 Water Quality Division, and it wasn't necessary to include
4 it in our rule.

5 BOARD MEMBER CAHN: Okay. The next --
6 thank you.

7 The next line -- or question I have is on
8 number -- line number 886 and 887. So I'm not sure what
9 the connection is between line 886 where it says exemption
10 does not apply to the facilities within one mile of each
11 other, and then the next sentence is "(A), 50 cubic yards
12 of mixed solid wastes stored in containers." So I'm
13 wondering does it need an introductory phrase like,
14 perhaps, "exemptions include" and then the list? So it
15 just seems like the list appears without any kind of
16 introduction. So I would suggest, if we could, after line
17 886, where it ends with "other," maybe it could say
18 something like "exemptions include" and then we go to the
19 list (A), (B), (C).

20 MS. ENGELS: Board Member Cahn, I struggled
21 with this paragraph too. And I went back and forth on
22 this, and I had to step back and, I guess, separate out the
23 sentences in the paragraph. And the introduction or the
24 introductory sentence to the list of items, it ends on line
25 884. So it reads -- it's a rather long sentence, "Solid

1 waste transfer, treatment, storage, and processing
2 facilities," et cetera, "...in combination manage no more
3 than the quantities of wastes specified in this
4 subsection," which would then imply items, (A) through (K)
5 of this subsection. And then we have that sentence about
6 facility owners within one mile.

7 So it's there. It's -- it has that introductory
8 sentence. But if you have a different suggestion for a
9 layout, I'm happy to hear it.

10 BOARD MEMBER CAHN: The only thing that
11 I -- I see what you're saying, and I agree with these long
12 sentences, you end up -- I ended up getting lost and --
13 lost that there was an introductory sentence before the
14 exemptions sentence. So I guess I don't know if -- if you
15 could add at the end of "others," say "exemptions include."
16 But I see that it's there, so I'm -- I'm okay, if that's
17 the instructions you've gotten from your AG is to leave it.
18 I'm okay. I just -- thank you.

19 CHAIRMAN KIRKBRIDE: Yes. We have another
20 question here. Mr. Cochran.

21 BOARD MEMBER COCHRAN: This is Jim Cochran
22 again. On line 944, you guys have a definition for
23 beneficial use. And you're talking about different types
24 of reuse of waste. The State Engineer also has a
25 definition for beneficial use when he's talking about uses

1 of water. And I know you guys use this definition or the
2 term "beneficial use" on line 238, where you're talking
3 about water and how it's put to beneficial use. I don't
4 know where you're using the term beneficial use in the rest
5 of this chapter. I really didn't notice it. But I know
6 you use the State Engineer's definition on like 238, so
7 it's kind of confusing when you define it later as
8 something else.

9 MS. ENGELS: Board Member Cochran, I'm just
10 looking back to line -- you said 238?

11 BOARD MEMBER COCHRAN: Yeah.

12 MS. ENGELS: To beneficial use. Oh, the
13 term "groundwater" is found in the term "groundwater," and
14 our definition, where groundwater comes out of statute.
15 It's one of the -- and I can see where it has beneficial
16 use. And I think it's a separate term when defined here,
17 specific to any -- any waste, like soils or any other
18 material that could be reused in a different manner.

19 BOARD MEMBER COCHRAN: Well, aren't you
20 defining beneficial use as used in this chapter? So if
21 that's the case, you're talking about a waste use here on
22 238, and that's not true.

23 MS. ENGELS: I'm sorry. Would you repeat
24 that?

25 BOARD MEMBER COCHRAN: The way it's used in

1 238 is talking about the State Engineer's definition where
 2 waters put to beneficial use for permitting or adjudication
 3 process. And then you define it different later on in this
 4 chapter. It's kind of confusing which definition you're
 5 supposed to use, you use the state engineer's definition or
 6 the one you guys defined in this chapter?

7 MS. ENGELS: So Board Member Cochran, any
 8 definition that in our rules for Solid Waste, it would
 9 apply to solid waste facility. And our groundwater
 10 definition is based on statutory language. And -- of how
 11 that is defined. So when we talk about wastes later,
 12 within the definition of beneficial use, we're talking
 13 about a solid waste, not groundwater, not what the State
 14 Engineer's Office is defining, but specific to solid waste
 15 and how they can be beneficially used.

16 BOARD MEMBER COCHRAN: So how's the reader
 17 supposed to know that?

18 MS. ENGELS: Well, I think the reader would
 19 know that from the terms that are being defined. Earlier
 20 in the chapter groundwater is defined where that is -- is
 21 used. And then beneficial use has the word waste, reuse of
 22 waste.

23 BOARD MEMBER COCHRAN: Right. But you're
 24 using beneficial use as a -- as part of the definition of
 25 groundwater, where it has a specific meaning. And then

1 you're changing that meaning in your definitions as far as
2 I read it. Am I wrong?

3 MS. ENGELS: Um, honestly Chairman -- or,
4 I'm sorry, Board Member Cochran, I haven't read those two
5 terms the way you are reading them. And I might ask Craig
6 McOmie, since he also works a lot with beneficial use
7 approvals, if there's something I'm missing or if there's a
8 concern or if additional clarification is needed. But it's
9 something we can reevaluate and take a closer look at if
10 it's causing some confusion.

11 MR. MCOMIE: You know, unless we add
12 something -- and I think because it's a definition right
13 behind beneficial use, which it does talk about waste very
14 shortly after it in that sentence, but I -- I -- I've just
15 not encountered that as an issue because of the definitions
16 and what we do with the beneficial use with respect to
17 waste specific.

18 Did you have thoughts, Luke?

19 MS. ENGELS: I'm sorry. Before, Luke, you
20 chime in, I have one other thought here. Looking at this
21 and just going back to where we are in the rule, we're in
22 paragraph (F), which is the exceptions. We're no longer in
23 the definitions. So we're not defining beneficial use
24 here. And maybe that's where the confusion is coming from.
25 It's just a beneficial use is an exception from needing a

1 permit.

2 MR. ESCH: Mr. Chairman. Yeah, I guess I
3 would agree with Suzanne on the -- on the -- in terms of
4 how the beneficial use is being used in this context. It's
5 exempting -- we're talking about if somebody wants to use
6 some sort of material beneficially on a property, that
7 would not be -- not be subject to our rules.

8 In terms of Board Member Cochran's question
9 regarding, well, could it impact the beneficial use
10 groundwater, the Solid and Hazardous Waste Division, we
11 have no jurisdiction over the use of any kind of
12 groundwater or anything of that sort. So the -- our
13 ability to define that is, well, statutorily prohibited, as
14 well as the -- in terms of the way it's used, you know,
15 we're referring to the beneficial use of waste, not the use
16 of water.

17 So we would hope that that would provide enough
18 separation that it would not lead to confusion amongst the
19 public. But if you have some suggestions, we would
20 certainly be open to considering them.

21 BOARD MEMBER COCHRAN: I guess my question
22 is where is beneficial use used in this chapter other than
23 on line, whatever it was, 238 or whatever?

24 MS. ENGELS: I can -- Board Member Cochran,
25 I can do a quick word search for beneficial use. It looks

1 like the term is used on line 54 in the definition of
 2 aquifer. It is also used on line 238, which is in the
 3 definition of groundwater. And then -- let me just scroll
 4 back up. And then it is used in the exemption section
 5 Clean Fill on line 821, and then again on line 944.

6 BOARD MEMBER COCHRAN: So on 821 is a
 7 different use of beneficial -- I mean, a different
 8 definition of beneficial use than what's on 944?

9 MS. ENGELS: Board Member Cochran, the
 10 paragraph that beneficial use is used where this is used in
 11 the chapter on lines 821 and 944. They're in the exemption
 12 paragraph. They're a subsection of exemptions, not
 13 definitions. So we're not defining beneficial use in the
 14 later two uses of the term.

15 BOARD MEMBER COCHRAN: But I'm saying
 16 beneficial use is defined by the State of Wyoming -- State
 17 Engineer's Office as a specific term, and then you're using
 18 that term and it's confusing.

19 MR. ESCH: Mr. Chairman, Councilman
 20 Cochran, if you have a suggestion for how we can modify
 21 that and not make it confusing -- I mean, the term
 22 "beneficial use" is used, you know, across to the -- the
 23 use, I think, beneficially, you know, I think it's -- that
 24 has the potential to be used outside just the water
 25 context. But if there's some clarification that you would

1 recommend -- I mean, that's the value of the Wastewater
 2 Advisory Board, is we have the opportunity to -- we get so
 3 immersed in the details, sometimes we've got our blinders
 4 on.

5 So, yeah, if you can provide some clarification
 6 or some suggestions, we can certainly consider those. But,
 7 yeah, we -- the beneficial use of waste -- we get a lot of
 8 beneficial use requests under our permit exemptions each
 9 year. So then they range from, you know, farmers and
 10 ranchers wanting to use tires to construct windbreaks for
 11 their livestock, all the way to all sorts of creative ideas
 12 for utilizing waste. And we want to still retain that
 13 ability to make sure that folks have that ability to use
 14 that. We don't want to write that out of this permit
 15 exemption process.

16 And you're right. I totally agree with you. The
 17 beneficial use is one of the foundational priorities -- our
 18 foundation of our water use system. And we certainly are
 19 not trying to impede on the State Engineer's authority
 20 there. So we would -- yeah, we would appreciate any advice
 21 or recommendations you would provide.

22 BOARD MEMBER COCHRAN: You can see on line
 23 944, just take out beneficial use, and just have the reuse
 24 of waste in a manner which is both beneficial and
 25 protective of human health and the environment. I mean,

1 unless you have a list of beneficial uses somewhere.

2 MR. ESCH: I don't know that we do.

3 Do we have a guideline that addresses beneficial
4 use, Suzanne?

5 MS. ENGELS: No, we don't. We don't have a
6 specific guideline beneficial use. We've always talked
7 about one, but we just haven't been able to get around to
8 developing it.

9 I can see on line 944 where it -- the term
10 "beneficial use" is more of an introductory phrase and
11 that's something that could be removed there. I think,
12 like Luke said, we're pretty immersed in the rule and
13 common terms that are used in solid waste world, and we're
14 pretty comfortable with beneficial use, knowing that we're
15 not imposing on -- or trying to regulate Water Quality
16 Standards or requirements -- implement water quality
17 requirements because we're just so focused on the waste.

18 So it's a common term and phrase used for us, but
19 if it's confusing, I think we're willing to address it with
20 the suggestion.

21 MR. ESCH: Mr. Chairman. How about --

22 MS. ENGELS: Go ahead.

23 MR. ESCH: How about we take this under
24 consideration, since, you know, this mod -- I think this
25 modification was supposed to be more of a -- a grammatic

1 change, or not a significant change that we hadn't really
2 thought about the use of beneficial use in terms of this.
3 So we can take -- we can kind of take the comment back and
4 evaluate it in regard to the larger rule package, the
5 entire rule package, not necessarily, you know, 1 and 7.
6 And we can see if there's some other options that we have.

7 BOARD MEMBER CAHN: I have a suggestion,
8 Mr. Chair.

9 CHAIRMAN KIRKBRIDE: Yes. Go ahead.

10 BOARD MEMBER CAHN: On that line 944,
11 instead of saying beneficial use, could we -- to keep it
12 in -- consistent with having a list of items, it may be
13 the -- instead of saying beneficial use, say "reuse of
14 wastes:" and then the -- and then the sentence, the reuse
15 of waste in the manner which is both beneficial and
16 protective. So it keeps it having a list, but gets at the
17 board member's concerns. So that's a suggestion.

18 MS. ENGELS: Thank you, Board Member Cahn.
19 I think that's a good suggestion, if we remove the term
20 "beneficial use" to maintain that consistency, especially
21 in that paragraph. So -- and I think what Luke just
22 suggested is a good way to keep moving forward.

23 BOARD MEMBER COCHRAN: Mr. Chairman. I
24 would be happy even if it said beneficial reuse.

25 MS. ENGELS: Great. Another good

1 suggestion. Thank you.

2 So, Mr. Chairman, if there aren't any additional
3 comments or questions, that's just Section 1 of Chapter 1.
4 If everyone on the Board is okay with moving into Section
5 2, I'm happy to do that.

6 CHAIRMAN KIRKBRIDE: Why don't we do that.

7 MS. ENGELS: Okay. So in Section 2, the
8 change that was done here was from -- it was based on a
9 great suggestion from our AG's Office. They took a higher
10 level look at Chapter 1 and realized we had what is found
11 in Section 2(b), paragraph (b), spread out throughout the
12 chapter and suggested that we combine the permit
13 application format into one paragraph and we were able to
14 shorten the overall number of pages of the chapter. And I
15 have permit application format found in just one location
16 instead of multiple changes.

17 Now if you're looking at the screen, Gina has up
18 the version of the rule where I told you we made one
19 additional change. You can see it in green. Our Chapter 1
20 we were proposing to reduce down the number of hard copies
21 of permit applications. We are requiring from three down
22 to one, and one electronic copy. Well, over the last year
23 we have moved to more electronic submittals, and we have
24 become a lot more comfortable with that. And talking with
25 Water Quality, we realized we could simplify the format

1 wording in the rule a little bit more and completely remove
2 the hard copy language that we were previously proposing.
3 So this is in line with what you just saw in Water Quality
4 Chapter 3, where we are now just saying that the permit
5 application needs to be submitted in a format approved by
6 the administrator. That gives us a little bit more
7 flexibility on how we are accepting electronic
8 applications, and we've been able to move away from the
9 hard copy submittals. So that's the -- the change that was
10 made since this rule went out to public notice last month.

11 The other change -- thank you.

12 The other change that we did in here moves into
13 paragraph (C), I believe, on public notice and public
14 comment procedures. We removed this --

15 Yep, you're good right here, Gina. Can you
16 scroll back up just a little bit? Thank you.

17 We removed the requirement for a copy of the
18 application to be provided on -- at the public library and
19 county clerk's office.

20 And then further down, in this section, we
21 removed the statutory language for the public comment
22 procedures, because it's found in statute and our rule was
23 repeating that. So those were the -- the big changes that
24 we did in Section 2.

25 And, Gina, if you just scroll down a little bit

1 more.

2 This permit application procedure was also
3 removed because that is all found in statute that's
4 referenced earlier in this section, and just including the
5 reference to 35-11-502.

6 BOARD MEMBER DEURLOO: Mr. Chairman, if I
7 could interrupt for a moment, please.

8 Going back up to line 1122. So it states at
9 5:00. It must be submitted by 5 p.m. and I didn't see that
10 in the definitions. Is there a definition that 5 p.m. is
11 not local -- it's not -- it's Wyoming time, Mountain Time,
12 did you feel that it's necessary -- have you had anybody
13 argue, say, well, I sent it 5:00 California time and it's
14 late. 5:00 Hawaii time. Do you want to, or is that just
15 nitpicking?

16 MS. ENGELS: Thank you, Board Member
17 Deurloo. I believe that is a good comment, because
18 there -- I'm sure someone will have that opinion, and I
19 know in our public notice we do make that clarification
20 that it is Mountain Standard Time. And so I think that is
21 a good addition to this sentence.

22 CHAIRMAN KIRKBRIDE: Or sometimes Mountain
23 Daylight Time.

24 BOARD MEMBER DEURLOO: Yeah. I'd just say
25 Mountain Time, if I were you.

1 MS. ENGELS: Okay.

2 BOARD MEMBER DEURLOO: Because it changes.

3 Can we back up, just -- if you don't mind,
4 Mr. Chairman. Suzanne is very thorough. She kind of moves
5 along here. But if I can go back to line 959, please.

6 Gina, if you could scroll up there, please.

7 I have to congratulate whoever wrote this,
8 because this is the longest run-on sentence I've ever seen.
9 But, you know, I'm not going to read it back for the
10 audience, but it, to me, what it basically says is it's
11 giving -- whoever wants a permit from the DEQ is giving
12 full authorization to the Department's authorized
13 representative to enter the premises, any premises, that
14 have anything to do whatsoever with a permit or operation
15 or facility at any time to inspect or copy records. That's
16 paraphrasing dramatically. But in this day of COVID, that
17 could include just stormwater manager, some sort of permit
18 manager at their house. And so would this include -- and
19 this may be a question for Mr. Esch. Does that include
20 private property, households and stuff like that, where the
21 department representative could go into anybody's residence
22 or business at any time to copy or inspect records? It
23 just seems like overreach. And I'll put myself on mute, if
24 you can help explain that, Mr. Esch. Thank you.

25 MR. ESCH: Chairman. Councilman Deurloo,

1 this was a product of -- I don't know if -- several years
 2 ago the legislature passed a data trespass law, which
 3 provided criminal penalties for any -- I think it was
 4 pretty much any State employee -- State official or State
 5 employee who would at any point cross private property and
 6 collect data to -- in the course -- even in the course of
 7 their normal job duties. And so at that time, there was
 8 an increased focus on all of our permitted activities and
 9 all of our permitted facilities to take a look and see if
 10 we had -- so in order for us to issue a permit, we had to
 11 have the authority to go in and inspect those facilities
 12 and review records and all that goes along with having an
 13 authority of permitted facility within our program.

14 So there was an increased focus on making sure
 15 that the permit provided that authority for that employee
 16 to safely go to that facility, inspect it, and, if
 17 necessary, collect the necessary documentation records.

18 So that is why this is so long. And, as you
 19 know, any time you work with lawyers, things can get -- get
 20 drawn out, and you want to belt and suspender everything.
 21 So this is what was developed. Arguably, yeah, if -- so
 22 that -- in order for us to issue a permit, it has to
 23 describe the facilities. We don't normally issue permits
 24 for the -- the private households. It would be -- and for
 25 our solid waste facilities, those records need to be kept

1 at the facility itself. So under -- under this we would
 2 not be potentially going to somebody's house and trying to
 3 walk in and, you know, inspect records. They shouldn't be
 4 at their house. They should be at the permitted facility
 5 itself.

6 So -- but, yes, I mean, if -- if anybody had
 7 records at their house, I think it would be a stretch that
 8 this would be able to open their private residence for
 9 DEQ's access, as well as, you know, that authorization for
 10 the State to enter can always be revoked. Now, there's a
 11 downside to that. So if somebody revokes their
 12 authorization for us to inspect a permitted facility, that
 13 becomes a violation of the permit itself. They have the
 14 potential to lose that permit.

15 So, yeah, Mr. Chairman, that's kind of a
 16 long-winded discussion of language regarding our
 17 inspections.

18 BOARD MEMBER DEURLOO: Mr. Chairman.
 19 Mr. Esch, so this is just basically, lack of a better term,
 20 a regurgitation of a state law. I remember when that
 21 was -- that trespass came from sampling from adjacent
 22 properties, I believe, was when this rule was really
 23 considered by the legislature.

24 So it's kind of just reiterating a law in state
 25 law that you're writing in the rules, is that what I

1 understand?

2 MR. ESCH: Mr. Chairman. That's correct.
3 I mean, if you look at line 967 there, you can see the --
4 the remains of that state law. It says collect resource
5 data. So that's kind of the trigger that goes back to that
6 initial legislation, as well as, you know, their
7 restrictions that we put on this. It says on 968 "at
8 reasonable times." Obviously bursting into somebody's home
9 is not reasonable times.

10 So this is -- is the Department's work with the
11 AG's Office to try to develop something we can include in
12 our permits to provide us access at reasonable times to the
13 records in order to satisfy, you know, the federal
14 requirements that we access our permitted facilities.

15 BOARD MEMBER DEURLOO: Okay. If it's
16 passed by the legislature and in state rules, I have no
17 objection to this.

18 Thank you, Mr. Esch, for the description.

19 Thank you, Mr. Chairman.

20 CHAIRMAN KIRKBRIDE: All right. Where are
21 we now?

22 MS. ENGELS: So, Mr. Chairman, I summarized
23 our changes in Section 2, and I am able to move into
24 Section 3, if you like, if there were no comments within
25 Section 2.

1 CHAIRMAN KIRKBRIDE: Well, it appears that
2 we can move on.

3 MS. ENGELS: Okay. Thank you. I am just
4 going to find my Section 3, which starts on line 1531.

5 In addition to all of the other grammatical
6 edits, we removed redundant language in Section 3. We
7 removed the permit application format from this section,
8 since it's now in Section 2. We clarified the review
9 process for permit amendments for minor and major
10 amendments. And we added language that was previously in
11 Chapter 7 to clarify that financial assurance is required
12 for permit transfers. And you can see that in paragraph
13 (d), little bit further down. There we go.

14 Are there any questions on Section 3?

15 The last two sections, Section 4 and 5, we again
16 removed the redundant and unnecessary language, and, again,
17 moved to permit application format further up in the rule
18 in Section 2(b).

19 CHAIRMAN KIRKBRIDE: Mr. Cochran has a
20 comment, perhaps, on 3. Jim?

21 BOARD MEMBER COCHRAN: Yeah. Well, it
22 applies to 3 anyway. One of the places I was looking, like
23 line 1609, it's referring to Chapter 7 -- Chapter 7 of
24 these rules. To me that implies Chapter 7 is within this
25 chapter, rather than a stand-alone chapter. I think we

1 need to remove "of these rules," because they're not within
2 these rules, not within this chapter.

3 MS. ENGELS: Board Member -- whoops.
4 Sorry. Go ahead.

5 BOARD MEMBER COCHRAN: Well, it appears
6 several places.

7 MS. ENGELS: Yes. Thank you, Board Member
8 Cochran. I was going to point that out that you'll see
9 that language of these rules anywhere that a chapter is
10 referenced, whether it's in Chapter 1 or Chapter 7. Our
11 solid waste rules are a set of rules, and each -- there's
12 individual chapters within our set. And based on feedback
13 from our Attorney General's Office, there is that
14 clarifying language of these rules added to imply we are
15 talking about the Solid Waste Rules Chapter 7.

16 BOARD MEMBER CAHN: Could we add in "of
17 these solid waste" -- add in "solid waste" -- add in "Solid
18 Waste Rules"? So -- it says "...of Chapter 7 of the Solid
19 Waste Rules" -- or "of these Solid Waste Rules."

20 MS. ENGELS: Board Member Cahn, would you
21 repeat that? What I heard is "financial assurance
22 requirements of these Chapter 7 rules," is that the
23 suggestion?

24 BOARD MEMBER CAHN: No. Yeah, "of chapter
25 7 of these Solid Waste Rules" or something.

1 MS. ENGELS: I think the proposed language
 2 requirements of Chapter 7 of these rules is a little bit
 3 more succinct, instead of adding Solid Waste Rules.

4 I think with all the other rule packages that
 5 we've been working on, that we have not yet presented to
 6 you that have gone through the Attorney General's Office,
 7 you will see the use Chapter 7 or Chapter 2 of these rules,
 8 chapter whatever of these rules, will become a lot more
 9 apparent. And all of the chapters will be referenced this
 10 way moving forward.

11 So although we don't have all of our chapters
 12 today, we are working on three or four others -- chapters
 13 of ours where they all have this same reference structure.

14 BOARD MEMBER DEURLOO: Mr. Chairman, this
 15 is Brian Deurloo. I see the same reference structure on
 16 line 42, "of Chapter 7," which we'll be going over. And I
 17 think it's just kind of one of those terms that is -- is
 18 used as a regulator to write stuff like this. So I think I
 19 see what you're saying, Board Member, but maybe we just
 20 leave it as it is, if you're okay with that.

21 BOARD MEMBER COCHRAN: Yeah, I just find it
 22 confusing, but it's not the first time I've been confused.

23 BOARD MEMBER CAHN: I don't know if this
 24 will help, but, you know, they won't get confused with
 25 Section 7 of this rule, because there's no -- there's only

1 one chapter, and it's Chapter 1 in this rule. And -- and
2 so when it says Chapter 7, it can't be in this particular
3 rule, Chapter 1, that we're looking at, if that helps.

4 BOARD MEMBER COCHRAN: But there's other
5 places where it refers to sections of this rule, which is
6 in this rule.

7 BOARD MEMBER DEURLOO: Yes. Mr. Chairman.
8 That's -- you know, you're absolutely right, there is some
9 ambi -- it is maybe a little bit confusing, but it's just
10 like a book, there's paragraphs and there's chapters and
11 there's sections, and it clearly refers to chapter of these
12 rules rather than section of these rules. So there's
13 multiples chapters of the DEQ rules, and they're referring
14 to the chapter rather than the section.

15 CHAIRMAN KIRKBRIDE: What I think we should
16 do is go on, and if we -- back to you, Suzanne. And if we
17 have -- if we decide to do an approval, why, there will be
18 time there for discussion or amendment of anything that is
19 still undigestible to someone.

20 MS. ENGELS: Okay. Thank you,
21 Mr. Chairman.

22 CHAIRMAN KIRKBRIDE: Uh-huh.

23 MS. ENGELS: So Chapter 1 just has the five
24 sections. And those are all of the significant major
25 changes that we are making. The remainder, as Gina is

1 scrolling through, is the grammatical redundant language
2 that is being removed.

3 And that concludes my Chapter 1.

4 CHAIRMAN KIRKBRIDE: What would the board
5 like to do with this presentation?

6 BOARD MEMBER CAHN: I move -- would like to
7 make a motion, unless we want to have further discussion.
8 And I would move that we advise DEQ to do -- make the
9 changes as discussed and -- or as agreed to, and forward it
10 on to EQC for their review.

11 CHAIRMAN KIRKBRIDE: Is there a second?

12 BOARD MEMBER DEURLOO: Brian Deurloo would
13 like to second that motion.

14 CHAIRMAN KIRKBRIDE: All right. Is there
15 discussion? And we'll be okay to have a minority opinion
16 expressed on any point, if it's -- I think that could be
17 part of our motion -- decision, if anyone chooses. But the
18 motion before us is to approve it as we discussed.

19 MS. THOMPSON: Mr. Chairman, I have a
20 question. We have several members of the public on with
21 us, and I'm not sure --

22 CHAIRMAN KIRKBRIDE: Oh, yes.

23 MS. THOMPSON: I'm not sure if we asked if
24 they wanted to have any input on this chapter.

25 CHAIRMAN KIRKBRIDE: I'm sure we haven't

1 asked. Good point.

2 Well, we've got a motion on the floor, but I'm
3 going to suspend that for a moment and see if there's
4 public comment.

5 MS. THOMPSON: If anyone wants to make a
6 comment that's on with us, if you could, you know, raise
7 your hand in the -- or unmute yourself and pipe up, because
8 I'm not seeing anything on this, but I don't want to
9 proceed with -- and not give somebody a chance, so...

10 Okay. It looks like I'm not seeing anything,
11 Mr. Chairman, so -- not seeing any public comment, you may
12 be able to proceed.

13 CHAIRMAN KIRKBRIDE: All right. If there's
14 no further discussion, we'll proceed to vote. All in favor
15 of the motion, say aye.

16 BOARD MEMBER DEURLOO: Aye.

17 BOARD MEMBER DICKSON: Aye.

18 BOARD MEMBER COCHRAN: Aye.

19 BOARD MEMBER CAHN: Aye.

20 CHAIRMAN KIRKBRIDE: Aye.

21 Opposed. Nobody's left. It passes.

22 MS. ENGELS: Thank you, Mr. Chairman.

23 Thank you, Board Members.

24 And I think with that, I am ready to move into
25 our Chapter 7 revisions.

1 CHAIRMAN KIRKBRIDE: Okay. Does anybody
2 need a break? Anybody prefer that? All right.

3 BOARD MEMBER CAHN: I could -- I would love
4 a five-minute break, if we could.

5 CHAIRMAN KIRKBRIDE: I think that's easy to
6 do. Let's have that. Five-minute break. How about
7 eight minutes?

8 BOARD MEMBER DEURLOO: You're so kind,
9 Mr. Chairman.

10 CHAIRMAN KIRKBRIDE: Any time.

11 (Virtual meeting proceedings recessed
12 11:30 a.m. to 11:37 a.m.)

13 CHAIRMAN KIRKBRIDE: If we're all -- then I
14 think let's start in again. And do we go back to -- do we
15 go back to where we were?

16 BOARD MEMBER CAHN: Mr. Chair, I think we
17 have everybody here.

18 CHAIRMAN KIRKBRIDE: Yeah. Okay. Suzanne,
19 are you still on board on Chapter 7?

20 MS. ENGELS: Yes, I am, Mr. Chairman. I
21 will take the reins, if that's okay.

22 CHAIRMAN KIRKBRIDE: Yes. Please do.

23 MS. ENGELS: Thank you. So the second
24 chapter that we are here to discuss with the Board is
25 Chapter 7, Financial Assurance Requirements. This rule was

1 originally promulgated back in 1995, and there have been
 2 minor edits along the way, but it's never been a chapter up
 3 for a major overhaul or revision. And so this is the first
 4 major revision update that this chapter is seeing. We're
 5 breathing new life into it. And in my introduction, if you
 6 recall, we are following the trail that has already been
 7 blazed by Land Quality and Water Quality for modernizing
 8 and bringing our financial assurance standards up to
 9 current implementation standards by the agency with this
 10 rule revision.

11 Now similar to Chapter 1, a lot of -- there's a
 12 lot of redline in Chapter 7, and a lot of it is for that
 13 modernization effort, as well as removing the redundant
 14 language, removing statutory language, removing language
 15 that's found in other chapters.

16 And then we also had some uses of and/or in
 17 Chapter 7, and that leads to a lot of ambiguity. And so we
 18 worked with the AG's Office of clarifying those uses too.

19 So I'll start right in with Section 1. You can
 20 see -- or if you recall Chapter 1, Section 1, both of these
 21 introductory -- or introductory paragraphs are the same.
 22 So we're really going for consistency within the agency and
 23 within our own chapter.

24 And, Gina, if you scroll down a little bit
 25 further, you'll see this chunk that's been removed. These

1 facilities are exempt from financial assurance according to
2 statutes. So we included the statutory reference, and
3 we're removing that redundant language.

4 And if we scroll down a little bit further, you
5 will see that we also added an exemption for municipal
6 solid waste facilities there in paragraph (c), that
7 participate in the landfill remediation program, that
8 they're exempt from the corrective action portion of
9 financial assurance.

10 And then we also included a paragraph
11 referencing -- keep scrolling. Referencing what
12 definitions apply to the chapter, because I think that was
13 some feedback that we received from the Board when we were
14 working on other chapters and just linking all of our
15 chapters together with definitions.

16 Those are the big highlights, the big changes,
17 Section 1. And as Gina is scrolling, you'll see that
18 Section 2 and 3, what was previously Section 2 and 3, have
19 been removed. There was redundant language. There were
20 standards for closure and post-closure requirements. Those
21 are found in the specific chapters of the facilities that
22 we regulate and that we permit. So it's all redundant
23 language.

24 In Section 3, there was an inspection
25 subparagraph. We moved that later in the chapter. And I

1 think those -- those were the reasons why we were able to
2 remove what was previously Section 2 and Section 3.

3 So with that, if there are any questions, I'm
4 happy to take them.

5 CHAIRMAN KIRKBRIDE: Okay. Questions on
6 what were formerly Sections 1, 2 and 3? I hear none.

7 MS. ENGELS: Great.

8 BOARD MEMBER DEURLOO: I have one. I have
9 one, Mr. Chairman.

10 So I know we've talked about this in several past
11 meetings. I see reference to the Director, but aren't we
12 using the word Administrator? Is it -- like Chapter 3
13 prior to it, we were referring to the Administrator. Or do
14 I have that wrong? Because here it looks like we use
15 Director, other places we use Administrator. What are we
16 using?

17 MS. ENGELS: Thank you, Board Member
18 Deurloo. You are right. There are the two different
19 positions, two different people, the Director and the
20 Administrator. And each of those have different duties and
21 roles that are spelled out in statute, and that is really
22 the driving factor of when we use each term.

23 So I think later -- I'm not sure where you saw
24 Director in Section 1.

25 BOARD MEMBER DEURLOO: Section -- I've got

1 one at line 352 and one at line 320.

2 MS. ENGELS: Let me --

3 BOARD MEMBER DEURLOO: 352 and 320.

4 MS. ENGELS: Oh, yes. Okay. Okay. So I
5 think the first use is in Section 2, and it's -- it's tied
6 back to those responsibilities and duties that are outlined
7 in statute.

8 BOARD MEMBER DEURLOO: Thank you, Suzanne.

9 Thank you, Chairman.

10 CHAIRMAN KIRKBRIDE: Okay. I don't think
11 there's anything else.

12 MS. ENGELS: Okay. So moving -- thank you,
13 Mr. Chairman. Moving into Section 2. This outlines
14 closure and post-closure cost estimates.

15 If you can remember Water Quality's rules, the
16 layout for cost estimates mirror that rule, and so we
17 worked closely with our Attorney General on the structure
18 of these -- the -- or of this section, and making sure that
19 we are capturing the standards for each of those estimates,
20 because they're two separate estimates. We've simplified
21 the language. It -- that the cost estimates are based on a
22 third party doing the work at the most productive or most
23 expensive point of the facility, the worst-case scenario in
24 the event of a bankruptcy or the operator of their
25 facility.

1 So this -- this section outlines the requirements
2 for each cost estimate. It gives a laundry list of items
3 that are typical, that we see in the cost estimates that we
4 are reviewing, and -- I'm trying to think what else I want
5 to tell you on this. And then it also clarifies that the
6 recalculations for the cost estimate is updated with a
7 section later in the rule or recalculations.

8 And that's Section 2. Are there any questions?

9 CHAIRMAN KIRKBRIDE: I'm not hearing them.

10 MS. ENGELS: Okay. Moving into Section 3,
11 it's the Corrective Action Cost Estimates. This is broken
12 out because corrective action cost estimates are only
13 needed when there's corrective action going on at a
14 facility. And so we restructured this, and it also
15 outlines what is needed in this estimate, and also
16 clarifies the procedure or the recalculation is done in
17 accordance with that recalculation section here in the
18 rule.

19 Are there any questions on this section, Section
20 3?

21 CHAIRMAN KIRKBRIDE: I don't see any. Go
22 ahead and continue, I guess.

23 BOARD MEMBER CAHN: Just a minor editorial
24 on line 408. This sentence has -- that starts on 407 has
25 three to's in it, T-O. And I think the third one, which is

1 the first one on line 408, can be removed. So it would
2 read "order the regulated facility to take correction
3 action -- excuse me, to take corrective action to remedy or
4 abate the violation and provide financial assurance.

5 MS. ENGELS: Thank you, Board Member Cahn.
6 We can definitely make that change. I just made a note of
7 it. Thank you.

8 CHAIRMAN KIRKBRIDE: I don't see anything
9 else.

10 MS. ENGELS: Mr. Chairman, moving into
11 Section 4. This section is a new section. It's language
12 similar to Water Quality and language that the AG advised
13 that we include in our rule, and it sets that -- it
14 establishes the requirements for financial assurance, just
15 as the section title is called.

16 And it also requires an operator to use forms
17 that's provided by DEQ. And this allows the bonding
18 program to have that consistency throughout the agency that
19 everyone is using the same forms. And then it also
20 outlines the process to approve the cost estimate for the
21 steps needed if the cost estimate needs to be revised.

22 And then the following section, Section 5, simply
23 lists all the acceptable forms of financial assurance, and
24 that also mirrors what is allowed in statute for solid
25 waste facilities.

1 Are there any questions on these two sections?

2 CHAIRMAN KIRKBRIDE: I think not. Go
3 ahead.

4 MS. ENGELS: Okay. Thank you.

5 Moving into Section 6, this is the first section
6 of mechanisms. There -- I moved it up in order of the --
7 of the rule. The language is very similar to previous
8 wording, with the exception of some grammatical edits and
9 removing some statutory language and including the
10 statutory reference.

11 And I think that's the highlights of this
12 section. Are there any questions on those surety bonds?

13 CHAIRMAN KIRKBRIDE: I think you can go on.

14 MS. ENGELS: Mr. Chair, it looks like Board
15 Member Cahn has a question.

16 CHAIRMAN KIRKBRIDE: Oh, sorry. Lorie.

17 BOARD MEMBER CAHN: On line 524, I don't
18 understand why the word "or" is in the sentence, and it
19 makes it not clear to me what's meant. So if we took out
20 the "or" and it read "a corporate surety company shall not
21 be considered good and sufficient for purposes of Wyoming
22 Statute 35-11-504 unless," rather than "or unless." So...

23 MS. ENGELS: I think, Board Member Cahn,
24 that edit makes sense to remove the "or."

25 BOARD MEMBER CAHN: Thank you.

1 CHAIRMAN KIRKBRIDE: All right.

2 MS. ENGELS: Okay. Moving into the next
 3 section, Section 7 -- lots of S's -- for Self-Bonds. We
 4 did some grammatical updates, restructured some of the
 5 paragraphs, a lot of the updates found in this section were
 6 done for consistency across the agency. If you recall, we
 7 did receive two public comments on self-bonds. One of them
 8 was appreciating the edits that we were making for
 9 consistency. However, encouraged us to consider removing
 10 the option for self-bonds. And the other public comment
 11 that we received was requesting clarification on the new
 12 requirements for self-bonding and the limitation of the
 13 amount a facility could self-bond, and the requirement for
 14 a rating.

15 The Department considered both of those comments,
 16 and we are not proposing to make any changes to this
 17 section. The Department believes that having self-bonds --
 18 self-bonding as an option is -- should be an option to
 19 facilities, and with the additional requirements that we
 20 are proposing today, that it will also reduce the financial
 21 liability and risks associated with self-bonds to the
 22 state. So that -- that's also why we have that limit -- or
 23 including the limits that a facility can self-bond. And it
 24 also allows for diverse financial assurance mechanisms, as
 25 well as requiring that credit rating, we would be able to

1 know if there are any concerns for that permitted facility
2 of not meeting that credit rating anymore. We would know
3 about it sooner than later.

4 And the other item that we did add to this
5 section is a reporting requirement, and that is also
6 consistent with the updates that were done with Land
7 Quality. Are there any questions on self-bonds?

8 CHAIRMAN KIRKBRIDE: I don't think there
9 are. Thank you.

10 MS. ENGELS: Thank you.

11 Just looking over my notes, Mr. Chairman. The
12 next section, Section --

13 BOARD MEMBER CAHN: Sorry. Could I just
14 ask a question about self-bonds? Is it a requirement in
15 Wyoming statute that -- or that DEQ offer the self-bonds?

16 MS. ENGELS: Board Member Cahn, that's a
17 good question. The statute in 35-11-504 lists options for
18 an operator in a way of other mechanisms that they can
19 provide financial assurance. I'm not -- simply because
20 it's listed in the statute, it's -- you know, and I'm
21 reading it as I'm answering your question. I should
22 probably read it before I answer and talk.

23 So the section that I'm looking at specifically
24 is 35-11-504(d), paragraph (d). So the sentence that I
25 believe that we are following reads "The council shall

1 provide rules for the establishment of a self-bonding
 2 program to be used if such a program will provide
 3 protection consistent with the objectives and purposes of
 4 article 5 of the act." And so that's the -- the paragraph
 5 that allows the agency to implement self-bonds for solid
 6 waste facilities.

7 BOARD MEMBER CAHN: Thank you for that. I
 8 just feel that, you know, as a board member who represents
 9 the public at large, I was -- I felt -- you know, started
 10 looking into -- because I -- you know, because both the
 11 public comments coming from two different perspectives, one
 12 from industry and one from the public, I felt like it was
 13 important to look into that, and I -- it was sort of a
 14 rhetorical question, but that's why I asked you to read
 15 that statute, because that informed my own opinion on this,
 16 and so I guess, you know, whether or not we might think
 17 personally the self-bonding is a good idea or not a good
 18 idea, or has some, you know, definite disadvantages or
 19 advantages, my opinion was informed by the statute, and so
 20 I feel that as a board member, we are bound by that
 21 statute. So that's just kind of to explain what my
 22 position -- where my position is coming from. So thank
 23 you.

24 MS. ENGELS: Thank you, Board Member Cahn.

25 And I was excited -- I'd like to go on the record

1 I was excited to receive public comment on our rule,
2 because, as you know, it's always better to have more eyes
3 looking at these and providing feedback and things to
4 consider and evaluate to make the rules better.

5 BOARD MEMBER CAHN: Yes. I really
6 appreciate the public comments. So thank you.

7 MS. ENGELS: So Mr. Chairman, I will move
8 into Section 8, and that starts on line -- I'm finding it,
9 because the self-bonding section is rather large. It
10 starts on line 1060.

11 Thank you, Gina. I should actually just look at
12 the screen.

13 So in Section 8 -- and -- well, let's -- I'll
14 focus on Section 8. We removed some redundant language,
15 built in a little bit more flexibility for facilities that
16 have a certificate of deposit. As you can see, we struck
17 the maximum dollar amount because that's already out of
18 date with banking regulations and standards.

19 And we just I think cleaned up some of this
20 language in this section. The next couple sections,
21 Section 9 and Section 10 -- Section 9, the Cash option.
22 It's a simple one-sentence section that allows an operator
23 to submit cash as their mechanism. And Section 10 was
24 mirrored after Land Quality to have that consistency
25 throughout the agency.

1 Are there any questions on 8, 9 and 10? I don't
2 want to get too far ahead within these mechanisms.

3 BOARD MEMBER CAHN: Mr. Chair.

4 CHAIRMAN KIRKBRIDE: Sorry. Lorie, go
5 ahead. Mute problem.

6 BOARD MEMBER CAHN: On line 1090, we have
7 operations is, and it seems like it ought to be operations
8 are or operation, singular, is.

9 MS. ENGELS: I'm sorry, Board Member Cahn.
10 Would you repeat that line number?

11 BOARD MEMBER CAHN: On line 1090.

12 MS. ENGELS: Okay. Gotcha. Okay.

13 BOARD MEMBER CAHN: And then also -- so it
14 doesn't matter to me whether we've got trust operations are
15 or we have trust operation is. Whatever works best for you
16 guys.

17 MS. ENGELS: We will keep it as is. I
18 believe that is referencing the trustee. The trustee is --

19 BOARD MEMBER CAHN: I don't think that
20 works, because the "is" is referring to operations, so
21 it -- okay. So we have the trustee has the authority to
22 act as a trustee and whose trust operations is not -- is
23 regulated, would be are regulated. Either way. Or --
24 so singular or plural.

25 MS. ENGELS: We'll look at it matching up.

1 BOARD MEMBER CAHN: Okay. Okay. And then
2 next romanette -- next (iii), the line 1094 where it says
3 "...except as this amount is reduced..." I think it should
4 say "except for the amount reduced" rather than "except as
5 this amount is reduced." It just -- so change "as this" to
6 for -- change "as this amount is," change to "for the
7 amount." So it would read "except for the bond amount
8 reduced by other approved bond instruments or financial
9 assurances," and I think that would read better.

10 MS. ENGELS: And thank you, Board Member
11 Cahn. We can make that read better with your suggestion.

12 BOARD MEMBER CAHN: Thank you. That's all
13 I have in this section.

14 CHAIRMAN KIRKBRIDE: I think we're okay.

15 MS. ENGELS: Okay. Great. I will move
16 into Section 11, the Letters of Credit. We restructured
17 the formatting in this section, and the language found here
18 is consistent for -- within the agency and agency
19 implementation. And it was I think easier to strike the
20 entire paragraph and update it to the current standards
21 that the agency is asking and implemented in the other
22 programs. So that's why you see it all struck and just
23 re -- completely reworked.

24 BOARD MEMBER CAHN: Mr. Chair.

25 CHAIRMAN KIRKBRIDE: Yes.

1 BOARD MEMBER CAHN: So I, again, want to
2 state that I do not feel language that refers to the
3 Director as his or him is appropriate at this day and age,
4 so I would ask that on line 1199 we change "the Director or
5 his designated representative" to "the Director or their
6 designated representative." And then also on line 1219,
7 where it says "or demands" -- so we're talking about the
8 Director again, and it says "or demands served upon him,"
9 if that could say "or the demands served upon them."

10 And then next line 1220, where it says "of such
11 service or his action," we could say "of such service and
12 their action."

13 MS. ENGELS: Thank you, Board Member Cahn.
14 We'll make those updates.

15 BOARD MEMBER CAHN: And then another --
16 line 1216, it -- so it reads "may be" -- or "demand may be
17 served." Let me read the sentence. I wanted to change
18 "may" to potentially "to," T-O. Okay. "...the Director
19 shall immediately cause one copy of such process, notice or
20 demand may be served..." and I think it might be better to
21 say "the Director shall immediately cause one copy of such
22 process, notice or demand to be served for the purpose."
23 I'm not sure you really want it may. I think it's not
24 strong enough. So it's just a -- but that's up to you
25 guys. Depends how strong you want to be on it.

1 MS. ENGELS: And, Board Member Cahn, I'm
 2 just reading this again, and I can see the difference of
 3 using those two words of how it would read. And I think
 4 that's something that I would probably consult with Kimber
 5 on and see if it's important one way or the other.

6 BOARD MEMBER CAHN: Yeah, because the
 7 sentence above is "may," and so it's saying if we're
 8 getting into this event, then -- so -- so the first thing
 9 is it may happen, and then next sentence I think is it is
 10 happening. So I don't think we're any longer in may now.
 11 We're saying this shall happen. So -- anyways. Just look
 12 at -- just look with your AG which is appropriate, "mays"
 13 or "to," whatever. Thank you.

14 MS. ENGELS: Okay. Thank you.

15 Okay. So I think we will -- we'll take a closer
 16 look at that. And I'm not sure that we have a strong
 17 preference one way or the other, but we'll reevaluate that
 18 wording there.

19 And I think, if there are no other comments on
 20 Letters of Credit, I will move into the next section, which
 21 is the Release of Financial Assurance. You'll see that we
 22 retitled this section. We really -- I mean, as I mentioned
 23 Chapter 7, this is a major overhaul and updates for
 24 readability to make sure that we're giving it a major
 25 facelift with wording.

1 We've removed the statutory language. We also
 2 revised the wording in this section that covered the
 3 release of financial assurance for closure and for
 4 post-closure. That's all in that first paragraph there.

5 And then the procedure for release of financial
 6 assurance for corrective action is in a separate paragraph
 7 here. The language has just been simplified. Are there
 8 any questions on this section?

9 CHAIRMAN KIRKBRIDE: Yes. Lorie.

10 BOARD MEMBER CAHN: So on -- it's the same
 11 comment on line 1238, 1240, 1279 and 1280, and it's use
 12 after the word "operator of its responsibility," and I'm
 13 wondering an operator could be a company or a person. I
 14 just think "their operator of their responsibility," or --
 15 rather than "its responsibility" in those four instances.

16 So the first one is on line 1238, "...does not
 17 relieve the operator of" it should be "their
 18 responsibility," instead of "its." Line 1240, "relieve the
 19 operator of their responsibility," rather than "its." Line
 20 1279, "relieve the operator of their" rather than "its
 21 responsibility." And same thing on line 1280, replace
 22 "its" with "their." Thank you.

23 MS. ENGELS: Thank you, Board Member Cahn.
 24 And I think we can make those updates. And then also I'll
 25 make a note to myself to look at other places in the rule

1 for consistency of the use of that phrase anywhere else.

2 BOARD MEMBER CAHN: Thank you.

3 MS. ENGELS: Okay. So moving into Section
4 13, the Recalculation of Financial Assurance. This section
5 was -- clarified that the financial assurance cost estimate
6 be revised on an annual basis within 30 days after the
7 permit is issued.

8 Our permits are now issued for the life of the
9 facility. And, historically, we were revising cost
10 estimates with permit renewals. And since we're no longer
11 doing permit renewals, this part of the rule has always
12 been here, that it's recalculated on a yearly basis, but we
13 thought it was important to point out when. And our
14 municipal solid waste landfills are submitting annual
15 reports to us tied back to the permit issuance date, and so
16 we thought that was another good time frame to have with
17 the financial assurance tying it back to the permit
18 issuance date.

19 And because there are so many solid waste
20 facilities that have financial assurance, we didn't really
21 want to set one date for everybody across the board, just
22 trying to manage workload with the bonding program, so that
23 they wouldn't have all of these facilities and us having
24 all these facilities coming in on the same time frame. So
25 they're scattered throughout the year.

1 Are there any questions on this section?

2 BOARD MEMBER DEURLOO: Just one comment,
3 Mr. Chairman. Suzanne, there's a double "shall" at line
4 1287. "Corrective action shall be recalculated" and at the
5 end it says "and shall account for inflation." I think you
6 only need the first one.

7 MS. ENGELS: Okay. Thank you, Board Member
8 Deurloo. I see that use there. So thank you.

9 The next section, the Forfeiture of Financial
10 Assurance was really slimmed down when we removed the
11 statutory language and included the references there. So
12 that was the big update.

13 The next section that you see was previously
14 Section 8, the Incapacity of Institution Issuing Financial
15 Assurance. This was one of those sections that's redundant
16 and was not necessary because a permitted facility would
17 have to provide financial assurance, whether or not this
18 section is in our rule. So they would still be required to
19 maintain financial assurance, whether the institution
20 issuing their mechanism is able to do that or not. If
21 they're no longer able to do that, the facility would still
22 have to find a replacement mechanism, which is why we
23 struck it.

24 Are there any comments or questions on these two
25 sections?

1 CHAIRMAN KIRKBRIDE: I think you're okay.

2 MS. ENGELS: Okay. Great. That means,
3 Mr. Chairman, I am moving into the last section of Chapter
4 7. This is the state guarantee trust account section. It
5 is the mechanism that is an option to municipally own
6 landfills, the disposal facilities.

7 And the big changes in this section are
8 grammatical edits, removing the redundant language,
9 including statutory references, and clarifying the
10 compliance date for facilities that choose to use the state
11 guarantee trust account.

12 Thank you, Gina, for scrolling down.

13 Previously there were Type I and Type II
14 facilities. We no longer use those terms in rule. And we
15 have the compliance date, as you can see here, as July 1 of
16 every year with some built-in flexibility unless an
17 alternate date is approved by the Administrator.

18 BOARD MEMBER DICKSON: Mr. Char --
19 Mr. Chairman?

20 CHAIRMAN KIRKBRIDE: Yes.

21 BOARD MEMBER DICKSON: Can we go back to
22 line 1331, 32? I'm trying to understand that sentence. I
23 think there's something left out, but I don't know what it
24 is.

25 MS. ENGELS: Board Member Dickson, that

1 sentence is, I guess, a leader into two options that are
2 found below. It reads each facility participating in the
3 account upon their initial election to participate and
4 every four years after -- so they have to do the following
5 when they first become -- when they first enter into the
6 state trustee account, and then every four years after that
7 they have to do the following items, where you can see in
8 (i), either prepare a closure or post-closure plan. And
9 (ii) is calculate -- do some calculations without rereading
10 you the chapter.

11 BOARD MEMBER DICKSON: Thank you. I didn't
12 see line 1338. If I had seen that, I would have known.
13 Thank you.

14 MS. ENGELS: You're welcome.

15 BOARD MEMBER DEURLOO: Mr. Chairman, I've
16 got --

17 MS. ENGELS: And, Gina, if you --

18 BOARD MEMBER DEURLOO: Sorry, Suzanne.

19 MS. ENGELS: Sorry. I was just going to
20 ask Gina to scroll down a little bit more so everyone can
21 see some of the edits, what we removed, because we're
22 including the references to statute, just how much of the
23 language is actually written.

24 Thank you, Gina.

25 BOARD MEMBER DEURLOO: Mr. Chair, this is

1 Brian Deurloo. I have a couple of questions for Suzanne,
2 please.

3 CHAIRMAN KIRKBRIDE: Yes. Go ahead.

4 BOARD MEMBER DEURLOO: Okay. So first of
5 all, coming back to that -- or line 327 and 328, "Such
6 facilities shall be known as participating facilities."
7 Anywhere in here that facilities, do -- the facilities have
8 to be owned by the same operating entity, or can they be
9 owned by separate entities?

10 MS. ENGELS: Board Member Deurloo, for a
11 facility to participate in this state guarantee trust
12 account, they have to be owned by a municipality. So a --
13 and be a disposal facility.

14 BOARD MEMBER DEURLOO: Okay.

15 MS. ENGELS: So, for example, I'm going to
16 pick on the city of Cheyenne, because that's where I am.
17 They're a municipality. They're a municipally owned
18 landfill. They can participate in the state guarantee
19 trust account for their closure and post-closure financial
20 assurance.

21 BOARD MEMBER DEURLOO: Yeah. It comes down
22 to line 1425. 1-4-2-5. So it starts less any expenditures
23 from the account made on behalf of a facility under state
24 statute. So on behalf of the facilities, like is -- I
25 guess the problem I have with that language right there,

1 facility to me just seems like it's a hole in the ground,
 2 it's a landfill, whatever it might be. It's not actually
 3 an entity. So the entity is actually the one participating
 4 in this program. It's not the dump, you know. So that's
 5 kind of come back to my original comment there, is it the
 6 City participating in this, or is it the facility? So
 7 facility is a separately wholly owned -- do you understand
 8 what I'm saying? It's not its own entity.

9 MS. ENGELS: Board Member Deurloo, I think
 10 I do. From my understanding, it's the municipality that is
 11 participating in the account, because they have the
 12 specific facility type, the disposal facility. But it's
 13 not the actual landfill being able to provide financial
 14 assurance because it comes back to that, the participating
 15 entity, the City.

16 BOARD MEMBER DEURLOO: Well, if Mr. Esch is
 17 okay with the nomenclature using "facility," rather than
 18 "entity," then we are tying this back to the proper person.
 19 Because there you're saying line 1423 to 1425 basically the
 20 Director's authorizing refund on behalf of the facility.
 21 So does the facility own the bank account or does the
 22 municipality own the bank account? You know what I mean?
 23 So it's really a legal question, who is the authorized
 24 person to take funds out of --

25 MS. ENGELS: Right. And because -- because

1 in most instances it is the entity making the payments, the
2 operator of the municipality who is validly making the
3 payments on behalf -- for the facility. We can take a
4 closer look at that term that's being used there of
5 "entity" versus "facility."

6 BOARD MEMBER DEURLOO: Yes, please. If you
7 don't mind. It's really a question I don't know enough
8 about.

9 And, finally, I've got a comment on 1375. So
10 even back to where we just were, you talked about the
11 Director back there. But come back up to 1375, and it
12 refers to "approved by the Administrator." Is that
13 correct, that you want Administrator there? Because
14 everywhere else you refer to director in this chapter.
15 Pretty much everywhere else.

16 MS. ENGELS: I believe it is the
17 Administrator, because we're using the authority --
18 authority delegated from the director to the administrator
19 in this instance with the state guarantee trust account --
20 account and providing that flexibility for the compliance
21 date with the facilities. So instead of having to go all
22 the way up to the Director to say we've been working with
23 this facility, we -- they need a couple extra months to
24 make their payment, we can go directly to Luke, who has
25 that authority delegated to him.

1 BOARD MEMBER DEURLOO: Okay. I just --
2 Ms. Engels, if you could just confirm that that is
3 Administrator that you want there, or Director. If you do
4 it after our meeting here today, that's fine.

5 MS. ENGELS: Sure.

6 BOARD MEMBER DEURLOO: Come back around
7 with your colleagues, please.

8 MS. ENGELS: Yes. Will do.

9 BOARD MEMBER DEURLOO: Thank you. That's
10 all. Thanks, Mr. Chairman. Ms. Engels.

11 CHAIRMAN KIRKBRIDE: Anything else from the
12 Board? I'm hearing none. Would it be appropriate to ask
13 if there's anything from the public, any comments on this
14 rule?

15 I'm not hearing any. Would the -- is there any
16 action the Board would take relative to this?

17 BOARD MEMBER CAHN: I would like to make a
18 motion. I move that we advise DEQ to make the changes as
19 discussed at the meeting today and move this forward on to
20 EQC for their consideration.

21 CHAIRMAN KIRKBRIDE: Do I hear a second?

22 BOARD MEMBER COCHRAN: Mr. Chairman, this
23 is Jim Cochran. I would second.

24 CHAIRMAN KIRKBRIDE: All right. Is there
25 discussion upon this motion? Hearing none, we'll proceed

1 to vote.

2 All in favor say aye.

3 BOARD MEMBER COCHRAN: Aye.

4 BOARD MEMBER CAHN: Aye.

5 BOARD MEMBER DEURLOO: Aye.

6 BOARD MEMBER DICKSON: Aye.

7 CHAIRMAN KIRKBRIDE: All opposed? It
8 passes. Thank you.

9 MS. ENGELS: Thank you, Chairman, Board
10 Members, for your time and feedback on this rule. Thank
11 you.

12 BOARD MEMBER DEURLOO: Good job.

13 CHAIRMAN KIRKBRIDE: Are we -- are we
14 moving out of the next item on the agenda, Gina?

15 MS. THOMPSON: Yes, sir. I believe that
16 the last item is just discussion of the schedule and
17 location for the next meeting. I believe both Water
18 Quality and Solid & Hazardous Waste Division are making
19 preparations to bring you additional rules at the next
20 quarter. And so I guess maybe we should probably discuss
21 whether there's preference to stay virtual or go -- that's
22 a consideration. And also if there's any time in June
23 where any members of the Board are not available so that
24 we -- we take those out before we send you a poll to find
25 the best date.

1 Let me ask, anyone already has vacation planned
2 and you know the last half of June isn't great for you,
3 then let me know. And then also if -- if you'd like to
4 continue doing these virtually, we can do that, or if
5 there's a strong preference, if you think, oh, by June we
6 should meet in person, then, you know, let's discuss that.
7 But I'm happy to make arrangements either way.

8 BOARD MEMBER DICKSON: Mr. Chairman, this
9 is Brian Dickson. I have a conflict with meetings on the
10 2nd and 3rd, and I love the virtual meetings.

11 MS. THOMPSON: Okay. Yeah, we can always
12 make the virtual happen. It's the in-person where, if
13 we're doing both, I just have to have a heads-up so I bring
14 equipment so we can see you. So that's not a problem,
15 Mr. Dickson.

16 Anyone else besides Brian have date issues?

17 BOARD MEMBER CAHN: I don't have any date
18 issues. And, you know, I think whether we meet in-person
19 or not, with the options of virtual, for sure, I think is
20 really going to depend on where we're at on the pandemic
21 and vaccinations and variants, and so at this point it
22 seems kind of premature to kind of plan for which way the
23 meeting will be, but --

24 MS. THOMPSON: Okay. So I think maybe for
25 this quarter, since we do need to start making plans, let's

1 just hold it the way we have done this one today. We'll
2 keep it virtual. And then we'll kind of touch base on --
3 for the next quarter, as that one approaches, to see what
4 the Board's preference is.

5 But if anyone -- if you all don't have an issue
6 with meeting virtually, we'll prepare dates in June for
7 virtual meetings similar to today, and we'll look at the
8 internal schedules of the administrators, and we'll send
9 those polls out late this week, early next week, if that
10 works for all of you.

11 BOARD MEMBER CAHN: Yeah. And -- and for
12 me, I think the earlier in June the better, if possible.
13 But I can always attend virtually, so...

14 MS. THOMPSON: Okay. Okay. I think that
15 was -- that was the only business I needed to make sure we
16 tended to. Does the Board have any questions for me or
17 have any administrative requests or anything before the
18 chairman adjourns?

19 BOARD MEMBER CAHN: I would just like to
20 say if Suzanne could pass on to her AG that I really
21 appreciate all the attention to language and the
22 simplification. I think these rules are in really good
23 shape that we've seen today, languagewise, and just really
24 appreciate the attention to that. But -- so thanks.

25 MS. ENGELS: I will pass along that

1 message. And the language, it's -- I think we're still on
2 record, but it's been a love-hate relationship, because
3 when you start, you don't think about all the other things,
4 and thankfully we have him to do that for us. So he puts
5 in a lot of time and effort, and it's much appreciated, and
6 I'm glad you noticed. So I will pass along the message.

7 BOARD MEMBER CAHN: And it makes my job
8 easier.

9 CHAIRMAN KIRKBRIDE: I have one thought
10 that -- it seemed like to me that the virtual option has
11 certainly gotten convenience and savings, but it seemed
12 like to me that if we met at least once a year in person,
13 it would be -- it would be something to be gained, and we
14 might shoot for that somehow.

15 MS. THOMPSON: I agree. Hopefully we'll
16 all get our vaccines, and we'll just wipe this thing out
17 over the summer, right? And maybe in the fall we can meet
18 in person again. So you guys can smack me about for
19 sending you so much paperwork to read through, or
20 something, I'm not sure.

21 But, anyway, if we don't have any other items, I
22 know that the chairman and Mr. Deurloo had other
23 engagements to get to. So I'm -- I'm all done taking your
24 time, and I don't have any other items.

25 CHAIRMAN KIRKBRIDE: Anyone else? I'm

1 going to declare the meeting adjourned.

2 MS. THOMPSON: Thank you.

3 CHAIRMAN KIRKBRIDE: Thank you, all, for
4 your coming and your participation.

5 MS. ENGELS: Thank you. Take care.

6 BOARD MEMBER DEURLOO: Bye.

7 (Virtual meeting proceedings concluded
8 12:34 p.m., March 23, 2021.)

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C E R T I F I C A T E

I, KATHY J. KENDRICK, a Registered Professional Reporter, do hereby certify that I reported by machine shorthand the foregoing proceedings contained herein, constituting a full, true and correct transcript.

Dated this 11th day of April, 2021.


KATHY J. KENDRICK
Registered Professional Reporter

