

LQD Meeting

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BEFORE THE LAND QUALITY ADVISORY BOARD
STATE OF WYOMING

IN RE: LQD MEETING

TRANSCRIPT OF MEETING PROCEEDINGS

PURSUANT TO NOTICE duly given to all parties
in interest, this matter came on for meeting
on the 22nd day of March, 2022, at 200 West 17th Street,
Conference Room 211, Cheyenne, Wyoming, before the
Land Quality Advisory Board, Chairman Jim Gampetro
presiding, with Mr. Gene Legerski, Ms. Natalia Macker,
Mr. John Hines, Ms. Dawn Kolkman, advisory board members,
and Mr. Jim Peters, Wyoming Attorney General's Office, all
present by videoconference.

Ms. Nicole Budine, Wyoming Attorney General's
Office, present by videoconference; Mr. James Kaste,
Deputy Wyoming Attorney General; Mr. Kyle Wendtland, Land
Quality Administrator; Mr. Craig Hults, LQD Natural
Resource Program Principal; and Mr. Muthu Kuchanur, LQD
Program Manager, attending in person.

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A P P E A R A N C E S

Also Present: MS. BRANDI O'BRIEN

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

2 (Meeting proceedings commenced

3 10:06 a.m., March 22, 2022.)

4 CHAIRMAN GAMPETRO: Let's consider the
5 meeting open. I am Jim Gampetro. I'm chairman of this
6 Board, and I'm a public representative from Buffalo,
7 Wyoming.

8 We have -- we don't have Natalia yet, that we
9 know of. We've got Gene. John's being worked on, and our
10 new member Dawn. So I'm going to turn it over just for a
11 second here to Craig to give the background, any
12 information he wants to, about our new member Dawn and
13 we'll get going.

14 MR. WENDTLAND: Jim, I'm going to go ahead
15 and take that for Craig while he's working with John here.

16 And, Dawn, first welcome to the Advisory Board.
17 We're very happy to have you on the Board.

18 And Dawn comes to us from the uranium industry,
19 and she has been a longtime Wyoming resident and engaged
20 with the State. She will be the industry representative on
21 the Board.

22 And with that, Dawn, is there anything -- if you
23 would like to add some specifics, I'm sure Gene and Jim
24 would love to know more.

25 BOARD MEMBER KOLKMAN: Well, as an industry

1 member in mining, I have spent the large part of my mining
2 career here in Wyoming with uranium production, both at
3 Cameco and Uranerz, which is now Energy Fuels Resources.

4 Prior to that, I spent quite a bit of time in
5 open pit mining in Nevada, gold mining with Kinross Gold.
6 And so I have done quite a bit. Anything from underground
7 mining, open pit mining and in-situ mining. So -- and I
8 don't seem to want to leave that area. I really enjoy
9 mining and what it brings to our communities and our
10 lifestyles.

11 MR. WENDTLAND: Thanks, Dawn.

12 CHAIRMAN GAMPETRO: Well, thank you, Dawn.

13 And welcome.

14 Gene, are you there?

15 BOARD MEMBER LEGERSKI: Yes, I am.

16 MR. WENDTLAND: And then, Jim, we do have
17 John under -- he's on under Muthu's name, but we do have
18 John on as well.

19 BOARD MEMBER HINES: Yes, I'm here.

20 CHAIRMAN GAMPETRO: Okay. Why don't you
21 each introduce yourselves.

22 BOARD MEMBER HINES: This is John Hines of
23 Gillette, Wyoming.

24 BOARD MEMBER LEGERSKI: Gene Legerski, down
25 in Green River, Wyoming.

1 CHAIRMAN GAMPETRO: Okay. And I assume
2 that Natalia is not on, and we're thinking she might not be
3 on today because she's real close to delivering a baby.

4 So, so much for the introductions. Gene and
5 John, you might let everybody know what kind of
6 representative you are.

7 BOARD MEMBER HINES: This is John. I'm the
8 agriculture.

9 BOARD MEMBER LEGERSKI: Sorry. I'm having
10 problems with my mic here. I'm the political subdivision
11 representative.

12 CHAIRMAN GAMPETRO: Okay. Let's move on to
13 the approval of the December 9 minutes of the meeting. Can
14 we have a motion?

15 BOARD MEMBER LEGERSKI: Mr. Chairman, so
16 moved.

17 CHAIRMAN GAMPETRO: Do we have a second?

18 BOARD MEMBER HINES: Second.

19 CHAIRMAN GAMPETRO: All those in favor of
20 approving the minutes of the December 9th meeting, please
21 signify by saying aye.

22 BOARD MEMBER HINES: Aye.

23 BOARD MEMBER LEGERSKI: Aye.

24 BOARD MEMBER KOLKMAN: Aye.

25 BOARD MEMBER MACKER: Aye.

1 CHAIRMAN GAMPETRO: Any opposed?

2 The minutes are approved.

3 Now we're going to move on to the body of the --
4 what we're dealing with here. And I guess Kyle is going to
5 lead us through that.

6 MR. WENDTLAND: Mr. Chairman, thank you.

7 And I would also note that Ms. Macker has joined
8 us as well, so you have a full board.

9 CHAIRMAN GAMPETRO: Oh, I hope we don't
10 lose her in the middle.

11 How you doing, Natalia?

12 BOARD MEMBER MACKER: I'm good. Two more
13 weeks to go.

14 CHAIRMAN GAMPETRO: Well, God bless you.

15 Go ahead, Kyle.

16 MR. WENDTLAND: Okay, Mr. Chairman.

17 In following the December 9, 2021, meeting, we're
18 going to go back over the comments we received on --
19 regarding the Chapter 7 Noncoal Mine Permit Revisions. And
20 as you guys remember, we had a letter that came in
21 really -- it was on time, but it was very last minute where
22 we really weren't prepared to have solid responses for
23 that.

24 Since that time we have developed those
25 responses. I believe in your -- information that was sent

1 to the Board, that we have outlined that in our response
2 letter to the Wyoming Mining Association.

3 I'm just going to walk through those. We broke
4 the letter out into key points. I'm just going to walk
5 through those key points here and probably pause between
6 each one just to see if there's any further discussion.

7 And so the Board does know, we also have
8 Mr. Kaste here from the Attorney General's Office that
9 supervised some of the review from the AG's Office, if we
10 have questions or further questions along those lines. I'm
11 not anticipating that, but just in the event we do, we do
12 have an individual here that can answer those questions for
13 us.

14 So with that, I will start with the WMA letter
15 with Item 1. First --

16 CHAIRMAN GAMPETRO: Kyle, this is Jim. Is
17 there anyone else in attendance that you'd like to let us
18 know?

19 MR. WENDTLAND: Mr. Chairman, we have
20 Brandi O'Brien from our uranium group that I have online.
21 We have James Peters, which is your Board Attorney General.
22 We also have Nicole Budine, and she is also with the AG's
23 Office, because we'll be talking to some revisions to the
24 Uranium Rules, and she is the AG representative for the
25 Uranium program.

1 I have, as you know, Craig Hults here. I have
2 Mr. Kaste from the Attorney General's Office. And then I
3 also have Muthu Kuchanur from -- my program division
4 services manager here. That is who I -- other than the
5 board members that I'm showing we have online today.

6 CHAIRMAN GAMPETRO: Thank you, Kyle.

7 If anyone has any comments or wants to interject
8 anything, I would just ask that they identify who they are
9 and who they're with, since I did not -- I do not memorize
10 things well anymore.

11 MR. WENDTLAND: And, Mr. Chairman, we do
12 have our court reporter. Kathy's here too, so...

13 CHAIRMAN GAMPETRO: Thank you. Go ahead.

14 MR. WENDTLAND: Okay. So in breaking down
15 the letter, the first comment we got was Wyoming Mining
16 Association, or WMA, recommends adding definitions or
17 clarifying distinctions for various types of permit
18 revisions. The two classes we have are major and minor
19 revisions and nonsignificant, or NSRs, or incidental
20 boundary revision changes.

21 Our response to that comment or question and
22 concern is the proposed changes to the Noncoal Chapter 7
23 that were presented to the Advisory Board were based on
24 comments received from the Attorney General Office review.
25 And if the Board remembers, when we go a rule package now,

1 we send that to the AG's Office, and they do a consistency
2 review with the statutory authorities that we have for
3 those rules, and that is what encompasses the AG's review.

4 Following those -- that review, the comment came
5 back from the AG provided were part of the required
6 statutory compliance review that we just outlined. The
7 statutes do not currently distinguish between the types of
8 revisions requested and those listed in the WMA letter.
9 The use of those terms reflects distinctions in internal
10 record-keeping and tracking for the Land Quality Division,
11 but are not contemplated in the statutory language, and
12 that would be the reference of 35-11-402(x). And,
13 therefore, because we really don't have the statutory
14 authority to do that breakout, we're not proposing any
15 changes to that section of Chapter 7, Section 1.

16 With that, I would open it to any questions the
17 Board may have, Mr. Chairman.

18 BOARD MEMBER KOLKMAN: Mr. Chairman, this
19 is Dawn Kolkman, and I have a question I'd like to ask.

20 CHAIRMAN GAMPETRO: Go ahead, Dawn.

21 BOARD MEMBER KOLKMAN: Kyle, so with
22 regards to putting the terminology in there or definitions
23 into that chapter, while they're not contemplated in
24 statutory language, they are contemplated in the language
25 of Chapter 7. Would it be beneficial to add definitions of

1 what that means in general terms for operators and DEQ
2 personnel alike?

3 MR. WENDTLAND: Mr. Chairman and Board
4 Member Kolkman. Appreciate that question. And I would
5 just go back to we really don't have the statutory
6 authority to support a definition there. So I don't think
7 we can go there. I guess with that I may ask our counsel.

8 BOARD MEMBER KOLKMAN: Another question I
9 have with regard to that is on the incidental boundary
10 revision. I briefly reviewed the minutes from last
11 December, and according to -- at least my understanding, it
12 wasn't during the meeting, obviously -- but there was a
13 discussion about Chapter 13, a new Section 5, and it speaks
14 to extending boundaries. And I was wondering if that --
15 that would be what an IBR would be, as I understand it.
16 And is that spoken to or allowed in Chapter 7?

17 MR. HULTS: Mr. Wendtland, Mr. Chairman and
18 Board Member Kolkman. The reference to an IBR in Chapter
19 13 is under the Coal program, where that term is used in
20 their regulations. And my understanding or belief is that
21 the reason the term is listed or referenced in the Noncoal
22 Rules was at the time we had our rules all together under
23 the Coal and Noncoal program. There wasn't a split between
24 the two. And so that may be something that got carried
25 over when the Noncoal Rules were split out from the Coal

1 Rules.

2 But, again, there aren't any definitions --
3 regulatory definitions for these. It's more the processing
4 as you get into the 20 percent acreages. That's where sort
5 of the major and minor revisions come in and requests for
6 public notice. But other than that, there aren't any
7 statutory regulatory differences.

8 BOARD MEMBER KOLKMAN: Thank you.

9 MR. WENDTLAND: Do you have any further
10 input, James?

11 MR. KASTE: Just with regard to the request
12 for definitions. The remainder of Chapter 7 doesn't really
13 utilize any of the definitions proposed by the Wyoming
14 Mining Association. So it doesn't really make sense to
15 include definitions or terms that are not used in the
16 remainder of the chapter. And, of course, as the letter
17 pointed out, those terms are really only used internally,
18 and they're not part of the regulatory requirements or the
19 statutory requirements for permit revisions. And so the
20 rule kind of contemplates that revisions will be handled in
21 a uniform manner, with the exception of those that are
22 determined by the administrator to be nonsignificant.

23 MR. WENDTLAND: Mr. Chairman.

24 CHAIRMAN GAMPETRO: Did that answer the
25 question?

1 Go ahead.

2 MR. WENDTLAND: Yeah, I was just going to
3 say, Mr. Chairman, is there follow-up or does that help,
4 Mr. Chairman?

5 BOARD MEMBER KOLKMAN: Mr. Chairman, I am
6 thinking on it, and I'm not sure I understand that answer.
7 I thought I saw the word "nonsignificant" and "significant"
8 revisions in Chapter 7 -- written in Chapter 7, and maybe I
9 misunderstood.

10 MR. KASTE: Well, this is James. The
11 "significant" and "nonsignificant" are in there. "Major"
12 and "minor" are not. And the determination of significant
13 and nonsignificant, there is provision in the rule
14 explaining what is considered a significant deviation,
15 unless otherwise determined. An additional definition I'm
16 not sure would serve a purpose, because that's an
17 application-by-application determination by the
18 administrator, what counts and what doesn't.

19 MR. HULTS: And Mr. Chairman and
20 Administrator Wendtland, Board Member Kolkman, I think what
21 kind of gets lost in this is that the WMA letter, later in
22 the letter is requesting different review times based on
23 the classification. And that's where we really don't have
24 the ability to make those distinctions. So, again, I would
25 say that it really doesn't impact our administration of

1 those or how that would impact other than the public notice
2 requirements, where we do have guidance.

3 BOARD MEMBER KOLKMAN: Thank you, Craig.
4 That helps.

5 MR. WENDTLAND: Mr. Chairman.

6 BOARD MEMBER KOLKMAN: I have no further
7 questions.

8 MR. WENDTLAND: Okay. Mr. Chairman, are
9 there further questions on that item?

10 CHAIRMAN GAMPETRO: Not from me.

11 MR. WENDTLAND: Okay. We'll go to Item 2.
12 The WMA comment is -- recommends leaving in place Sections
13 1(c) and (d) and to include a reasonable completeness
14 review period of 30 days instead of including the 90-day
15 review time frame proposed in Section 2(a).

16 Our response to that is the proposed rule changes
17 treat each type of revision consistently and gives LQD the
18 ability to make a determination as to what type of revision
19 each permit action should be classified. And I would add
20 that this is important to do up front and early in the
21 process for a couple of reasons. One is is if it is a
22 significant revision and we do have some potential bonding
23 action that may go with that, we get that addressed early
24 in the process and that it helps to expedite the overall
25 package getting it through the process.

1 Prior to the proposed rule changes, the NSR
2 determinations were left up to the operator at the time of
3 submission. Sometimes this resulted in determinations that
4 weren't accurate. And, again, if we're accurate with this
5 up front, it helps move the processing times quickly. And
6 that can actually, by an inaccurate determination, add
7 review time to the overall process.

8 I would add that following that too, we did take
9 a look at our review times, because that was a question
10 that came up and wanted to make sure we address that.

11 When we look at the number of -- average number
12 of NSRs over the last couple of years, it's a total of 97.
13 The median review time is 73 days. So under the 90 for
14 sure. When we look at NR -- the NSR processing times
15 without BLM or federal interest involved, which that does
16 add time, it's 66 days. And when we take uranium out of
17 that, because uranium does at times have some additional
18 requirements, it's down to 48 days. So when we look at the
19 processing times across the board, even though it's listing
20 90 days, the metrics that we measure -- and we do monitor
21 this -- indicate that we are definitely well ahead of those
22 kind of processing time frames.

23 So for all of those reasons, at this point, we're
24 not recommending retaining Sections 1(c) or 1(d) or
25 modifying Section 2(a) as part of the rule package.

1 And with that, Mr. Chairman, I would just ask if
2 there are any further questions on that item.

3 I would add one final note on that. In our
4 review of the processing times, we did -- we were able to
5 pinpoint where we get the largest delays are when we have a
6 federal interest, we have an incomplete submittal from the
7 operator or there is a -- as we've outlined before, a
8 potential bonding issue or a delay with some of the more
9 complex bonding instruments like a letter of credit.

10 So with that, we'll move to Item 3, Mr. Chairman.
11 WMA comment is operators need to be able to continue to
12 implement NSRs, or nonsignificant revisions, unless
13 notified by the Administrator to delay. Language in
14 Section 1(b) has been removed.

15 Our response to that is as, again, based on the
16 AG's review, this -- this section allows the LQD the
17 ability to classify the correct type of the revision when
18 it comes in the door. And all components that will be
19 necessary to implement that revision.

20 The operators should be using Guideline 24 in the
21 preapplication process, and we also encourage them to have
22 a meeting with LQD as part of that process to help make
23 sure we got everything we need, and we can move the
24 revision in a timely manner. If we do that again on the
25 front end, as the rules are contemplated here, this allows

1 the operator to begin implementation of an NSR or
2 nonsignificant revision upon receiving that determination
3 from the administrator. And that can happen pretty
4 quickly, provided we have all the correct pieces of the
5 information when they come in the door.

6 So, again, on this one, the LQD is not
7 recommending further changes to the submission that we have
8 for Chapter 7 and Sections 1(b), 1(c) or 2(a). And with
9 that, I would ask if there are any questions.

10 Mr. Chairman, hearing none, I'll move to Item 4.
11 The WMA comment recommends adding a threshold identified in
12 Section 1(b) (vi) (B) and suggests that without such a
13 threshold an operator will lose flexibility to make needed
14 permit changes quickly and that built-in contingencies to
15 the bond calculation are already included.

16 Mr. Chairman, our response to that is the term
17 "significant" -- and this was the question that really this
18 addresses as the significant term -- was removed, again,
19 based on the AG's review comment, as the term "significant"
20 is difficult to accurately define. Section 1(b) (vi) (B) is
21 part of the internal application materials required. The
22 operator will know best in this case how the proposed
23 change in operations may impact the amount of the bond
24 required, and if we have a significant change in that bond,
25 again, it was very important to know that upfront, because

1 that bond can -- adjustment in that bond, depending on the
2 instrument we're dealing with, can cause some delay. So
3 the sooner we have that accurately defined, the better.

4 If an initial review reveals that change is
5 necessary, it's just best to coordinate that on the front
6 end to reduce the overall submittal and approval times. If
7 we have that, and we have it accurate upfront, it should
8 actually improve those times.

9 So, again, we're not proposing changes in Chapter
10 7, Section 1(b)(vi)(B). And I would say on this a couple
11 of the key -- the second part of that in the key points is
12 we have had cases where the bond approvals, because the
13 complexity of the instrument have caused some delays. So
14 really getting that pinned down early is really, really
15 important here. And we believe that the rule as written
16 contemplates getting that action done and getting it
17 incorporated into the process on the front end.

18 With that, Mr. Chairman, I would open it to any
19 questions.

20 BOARD MEMBER KOLKMAN: Mr. Chairman, this
21 is Dawn Kolkman, and I have a question, please.

22 CHAIRMAN GAMPETRO: Go ahead.

23 BOARD MEMBER KOLKMAN: Kyle, with the
24 response given here, will an operator be able to make the
25 case that they have enough funds or enough contingency in

1 place to allow activity to move forward?

2 MR. WENDTLAND: Mr. Chairman, they
3 certainly can. And if we have that information when this
4 comes in, that allows us to make that evaluation, you know,
5 and do that.

6 I will say that we -- in a lot of cases that
7 we've seen where there's significant expansion is those
8 contingencies aren't sufficient, and it does require a
9 change in the bond. Sometimes even in a nonsignificant
10 revision that can have a pretty big impact on the bond.

11 And, Mr. Chairman, it can be an up-or-down
12 scenario in the bond. And to Ms. Kolkman's -- Board Member
13 Kolkman's point, I would say just a good example would be
14 using the change in plugging technology that we went
15 through recently for Noncoal. We can see that in
16 substantial dollars either up or down in those instruments.

17 CHAIRMAN GAMPETRO: This is Jim again. It
18 would seem to me that the most important thing in those
19 instances would be good communication between the operator
20 and the Land Quality Division.

21 MR. WENDTLAND: Mr. Chairman, in response
22 to that I would say we encourage the operators to use the
23 guideline and then schedule a meeting when they come in the
24 door, or do a call with us, because sometimes we do have
25 questions because we may not understand completely what is

1 being asked, and those meetings and upfront discussion is
2 key, and we encourage that.

3 BOARD MEMBER KOLKMAN: Mr. Chairman, I
4 would very much concur with Mr. Wendtland's comment.

5 MR. WENDTLAND: Mr. Chairman, did we
6 address Board Member Kolkman's question completely too?

7 BOARD MEMBER KOLKMAN: Yes.

8 MR. WENDTLAND: Okay.

9 BOARD MEMBER KOLKMAN: Thank you.

10 MR. WENDTLAND: Mr. Chairman, if there
11 aren't further questions, we'll go to Item 5.

12 In this comment, the WMA membership recommends
13 that Section 2(a) include time frames for the type of
14 revision versus all revisions requiring the 90-day review,
15 and incorporate a time frame for subsequent reviews and/or
16 submittals by the agency and operator. By moving all types
17 of revisions to a 90-day review, the overall permitting
18 time frame is lengthened, even for simple changes such as a
19 nonsignificant revision.

20 Our response to that, Mr. Chairman, is the LQD
21 does not have the statutory authority, as we outlined
22 earlier, to define the review times in the various types of
23 revisions. The statute does not distinguish the revision
24 type based on its complexity.

25 Further, there's really no statutory basis that

1 would provide for a response time frame from a requirement
2 of the operator. And, frankly, I don't think most
3 operators would really like to have a set time frame on
4 them, because it removes their flexibility. So we, as
5 we -- in the December meeting we simply don't support a
6 time frame for the operators on this.

7 So when we look at that in context, again, we're
8 not proposing that we make changes to Chapter 7, 2(a), that
9 we go forward with the rule package as written.

10 And I would ask if there's questions,
11 Mr. Chairman, on that point.

12 Hearing none, Mr. Chairman, we'll move to Item 6.
13 On this one, the WMA membership believes the use of the
14 nonsignificant revision in Section 2(a) and Section 3(a)
15 seems confusing and contradictory. We question how an NSR
16 is defined and completeness review done in 30 days or 90
17 days since Section 2(a) provides for 90 days.

18 So really what we're getting at here is the
19 membership of the WMA seems to -- at this point in their
20 reading of the rules believes there's some confusion around
21 what days apply to what parameters here.

22 Our response to this is is LQD does not see the
23 rules as conflicting. Each revision is given 90 days for
24 completeness review. If the review determines that the
25 revision does not require public notice, the LQD must make

1 a final decision on the application within 30 days.
2 Current work flow metrics show that the full 90 days is not
3 used, as we discussed earlier and outlined what those
4 approval time frames look like in reality.

5 So, again, we would recommend that the
6 preapplication guideline be used by the operators, they
7 engage us with a discussion when they come in, and we can
8 then really detail and outline what is the correct path,
9 and thereby also improve the approval time frames for the
10 operators.

11 I would ask, Craig, if there might be anything
12 you'd want to add to that.

13 MR. HULTS: I will say, Mr. Chairman
14 and Administrator Wendtland, when you presented those
15 numbers -- the approval numbers, those numbers were for the
16 actual approval of the revision, not just the completeness
17 review. So they're well under 120 days that were given for
18 all NSRs.

19 MR. WENDTLAND: Mr. Chairman, with that,
20 I'd open it up for any questions on that particular point.

21 Mr. Chairman, hearing none. We'll move to the
22 last item. Sorry this is a little long, but wanted to make
23 sure we addressed all of the concerns that the industry
24 brought to us in this forum.

25 The WMA membership recommended that there should

1 also be reasonable time frames established in the rules for
2 an operator to submit a required application for a permit
3 or license.

4 Again, Mr. Chairman, we really don't feel we have
5 the authority to require an operator time frame, and we
6 don't think it's in the industry's best interest by -- for
7 doing that, because we believe it would remove flexibility
8 that we think the industry would like in this case. So
9 we're, again, not proposing any changes on this item to
10 Chapter 7 as well.

11 And with that, Mr. Chairman, that was the last
12 point, and I certainly would address any questions on it or
13 any of the prior points out there.

14 Hearing none, Mr. Chairman, it is your pleasure
15 as to how you would like to proceed with the Chapter 7 rule
16 package.

17 CHAIRMAN GAMPETRO: Well, are we looking
18 for any advice -- legal advice here yet or not?

19 MR. WENDTLAND: Mr. Chairman, I think we
20 were able to answer the one question that came up, unless
21 there are further questions on this.

22 MR. HULTS: Mr. Chairman, if I might.
23 Administrator Wendtland. The way we left it at the last
24 meeting, we had four chapters that we presented. We held
25 back Chapter 7. So I think what we'd be looking for here

1 is a motion to move the Chapter 7 Noncoal Rules to formal
2 rulemaking.

3 CHAIRMAN GAMPETRO: Yeah, I understand
4 that. But in the agenda it just indicated that the LQD
5 would be seeking AB's advice on whether the Noncoal and URP
6 proposed rules should proceed to formal rulemaking, and
7 what you're telling me is we're ready to vote on whether
8 we're going to pass this on to formal rulemaking.

9 MR. WENDTLAND: Mr. Chairman, that would be
10 correct, unless there are further questions for the AG
11 regarding the rule package for Chapter 7. We'll address
12 the uranium chapter separately.

13 CHAIRMAN GAMPETRO: Yeah. I'm still
14 confused on what an AB is. I think it meant AG.

15 MR. HULTS: Mr. Chairman, this is Craig.
16 AB stands for advisory board.

17 CHAIRMAN GAMPETRO: Oh, okay. Any other
18 issues from the AB, advisory board, which is us?

19 If not, then we would entertain a motion to pass
20 this on to formal rulemaking.

21 BOARD MEMBER HINES: I would so move. John
22 Hines.

23 CHAIRMAN GAMPETRO: Is there a second?

24 BOARD MEMBER LEGERSKI: I'll second that.
25 This is Gene.

1 CHAIRMAN GAMPETRO: All those in favor,
2 please signify by saying aye.

3 BOARD MEMBER HINES: Aye.

4 BOARD MEMBER LEGERSKI: Aye.

5 BOARD MEMBER KOLKMAN: Aye.

6 CHAIRMAN GAMPETRO: Any opposed?

7 Seeing none, it passes.

8 Any other items for discussion?

9 MR. WENDTLAND: Mr. Chairman, we do have
10 four chapters with the uranium program, and I would like to
11 turn that over to Craig.

12 MR. HULTS: Mr. Chairman, we do have four
13 chapters from the Uranium Recovery Program. The revisions
14 in this instance were related to updating the dates of
15 incorporation by reference. There's been some federal
16 regulation changes. By moving the date to this year, that
17 would incorporate those changes into the rules. And these
18 were brought before us from the Uranium Recovery Program at
19 their direction.

20 The Attorney General's Office has done an initial
21 review for statutory authority, not a formal review. And
22 includes a couple of comments from their office as well.
23 But if you would like, I can just walk through these.
24 They're pretty easy to discuss, I think. And if it's your
25 pleasure, I will just step through the individual chapters

1 quickly.

2 CHAIRMAN GAMPETRO: Let's go for it.

3 MR. HULTS: All right. Mr. Chairman, Board
4 Members, in Chapter 3, this is our Radiation Protection
5 Standards.

6 In Section 4, there were two incorporation by
7 reference dates that were added, from 2017 to 2022. Those
8 revisions were proposed in sections (a) and (b).

9 There is also a revision to (c) that added the
10 term "headquarters" when referencing an NRC. Apparently
11 the full name is the NRC Headquarters Operations Center.

12 And also proposed for deletion was the phone
13 number that was included there.

14 And that is the extent of the revisions in
15 Chapter 3. If you have any questions on that chapter, I
16 would be happy to answer them, if I can.

17 Not hearing any, I would move to Chapter 4 of the
18 URP program. This is our Licensing Requirements for Source
19 and Byproduct Material. Again, in this instance it's
20 Section 3. There are four dates that were revised to 2022
21 in (a), (b), (c), and (d).

22 And there are also some further revisions
23 throughout the chapter. The next one is on page 4-4 of the
24 strike and underline chapter you received. In (e), we're
25 correcting an editing error, and it changes a grammatical

1 context as well. We added in to a sentence that "the
2 extent that any transport or store source, and byproduct
3 materials," just to clarify that section from our previous
4 editing error.

5 And then on page 4-11, again, here's another
6 minor revision that was made. We capitalized the word
7 "section" in (iv). And then also in that same subsection,
8 (a)(I), we removed the kind of strange reference to a
9 telephone number. Instead of "call back telephone number,"
10 it's just "telephone number." So we deleted "call back."

11 And then, finally, on page 4-15, there was a
12 revision to -- suggested revision to remove some redundant
13 language in (iv). Here I am going to propose one change to
14 what was submitted to the board members. The sentence as
15 written reads "The Rules of Practice and Procedure
16 applicable to hearings before the Department shall," and
17 based on the edit we had proposed, it stopped there. What
18 I would propose is that we include the next word, which is
19 "apply." So the rules in that section would read "the
20 rules of practice and procedure applicable to hearings
21 before the Department shall apply." So that is one little
22 instance or it was a little bit different than what we sent
23 you. And I believe that was the end of the suggested
24 changes.

25 So if you have any questions on Chapter 4, I'm

1 happy to answer them.

2 CHAIRMAN GAMPETRO: With what you have just
3 indicated, are we going to need to vote on those revisions?

4 MR. HULTS: Yes, Mr. Chairman.

5 CHAIRMAN GAMPETRO: Would it be best to do
6 it one at a time or in general or --

7 MR. HULTS: Mr. Chairman, what I would
8 recommend is grouping the four uranium chapters together.

9 CHAIRMAN GAMPETRO: Okay.

10 MR. HULTS: And if there aren't any further
11 questions on Chapter 4, I would move to Chapter 5. This is
12 our Notices, Instructions, and Reports to Workers chapters
13 for the Uranium Recovery Program. In this instance, the
14 only changes that were proposed were to include the revised
15 dates for the incorporation by reference. And that was in
16 Section 3(a) and (b).

17 And no further changes were proposed for that
18 chapter. If anyone has any questions on that chapter, I
19 would be happy to answer them.

20 And then, finally, in Chapter 9, this is our
21 Transportation of Radioactive Material Chapter. In this
22 instance, there were three -- four references that were
23 updated to the incorporation by reference to the date 2022.
24 In addition, during the AG's review of this chapter, it was
25 discovered in (f) we had an incorrect reference to 49 CFR,

1 parts 171 to 180. Those have been corrected in both (f)
2 and (g). And that was the extent of the revisions for
3 Chapter 9.

4 If anybody has any questions, feel free. Not
5 hearing any, that would be the full suite of proposed
6 changes we had to the uranium program in the four chapters.

7 CHAIRMAN GAMPETRO: Well, given we don't
8 have any questions on that, we would entertain a motion to
9 approve these changes, if anyone out there would like to do
10 that.

11 BOARD MEMBER LEGERSKI: Mr. Chairman, I
12 make a motion to approve the changes as presented by staff
13 in the Uranium Chapters, Chapter 3, Chapter 4, Chapter 5,
14 and Chapter 9.

15 BOARD MEMBER HINES: I'll second. John
16 Hines.

17 CHAIRMAN GAMPETRO: It's been moved and
18 seconded to approve the changes in the uranium section we
19 just discussed. All those in favor, please signify by
20 saying aye.

21 BOARD MEMBER HINES: Aye.

22 BOARD MEMBER LEGERSKI: Aye.

23 BOARD MEMBER KOLKMAN: Aye.

24 BOARD MEMBER MACKER: Aye.

25 CHAIRMAN GAMPETRO: Any opposed? Seeing

1 none, it has passed.

2 Other items for discussion?

3 MR. WENDTLAND: Mr. Chairman, I do have --
4 this is Kyle, and I do have a couple of items for
5 discussion on this portion of the agenda. If you were
6 following the legislative session -- and I know some might
7 and some might not -- but in following up with what
8 transpired during the session. We had House Bill 45 was
9 run through the legislature and the governor has signed
10 that bill. And it establishes the assigned trust for Coal
11 and Noncoal.

12 There were some revisions to the language through
13 the committee process along the way, but we have been
14 directed now to start rulemaking with that. We do
15 recognize that the date of -- effective date of the bill is
16 July 1. But because of the complexities of these rules --
17 and they are going to be complex -- we would like to be
18 able to come to the Board with at least a scoping of a
19 preliminary draft.

20 We did this when we did the bond rules, because
21 those bond rules were similar. They were pretty complex.
22 And we felt it was good to get an initial scoping and some
23 preliminary review and that helps us guide the Division to
24 more of a final draft that we would then bring to the board
25 in the August meeting. But if it's the Board's pleasure,

1 we would like to work on those rules and at least have some
2 level of scoping in the June meeting.

3 With that, House Bill 123 also went through. It
4 was an inert materials bill. And the governor has -- it's
5 my understanding he signed that bill late last week or
6 possibly yesterday. I haven't looked at this site yet this
7 morning to verify that. I was out yesterday. But it's my
8 understanding the intent is to make sure that is -- to have
9 that bill signed.

10 That one allows for disposal of inert materials
11 in Noncoal sites similar to the wind turbine blade disposal
12 in Coal. The example we were given would be maybe the
13 threaded tires would be suitable to be disposed of in a dry
14 bentonite pit, for example. So, again, we would like to
15 start developing these rules and come to the Board with a
16 scoping of some preliminary draft rules to get the Board
17 and public and industry feedback early in the process to
18 help guide us in developing a more final draft rule package
19 for the August meeting.

20 So Mr. Chairman, we did want to bring those items
21 to the attention of the Board at this time and let them
22 know that would be our intent, if the Board is in agreement
23 to that.

24 CHAIRMAN GAMPETRO: Any questions or
25 comments on that?

1 Kyle, do you have a time frame schedule or
2 anything for -- in order to do these additional reviews,
3 what kind of meeting schedule we would have to have to
4 preliminarily go over these issues?

5 MR. WENDTLAND: Mr. Chairman, that's a
6 reason to get it to the Board early and scope them early
7 this year. We believe if we can get you that preliminary
8 draft for the June meeting, we will get pretty significant
9 feedback like we did on the bond rules, when we worked
10 those.

11 And then we would come with a more formal final
12 draft in August and that would give us a chance to work out
13 any of the remaining concerns or kinks we might have or
14 things we might not have somehow incorporated or become
15 more clear with a more finalized draft. And then when the
16 December meeting we would be looking to approve those rules
17 with the Board, such that we can move them to the EQC in
18 the first quarter of 2023. So that's the schedule we have
19 for them, and that's why we would like to get moving
20 forward with them and scoping them early by the June
21 meeting with the advisory board.

22 CHAIRMAN GAMPETRO: So where do we go from
23 here? How about our next meeting?

24 MR. WENDTLAND: That would be our June
25 meeting, Mr. Chairman.

1 MR. HULTS: And Mr. Chairman, that's --

2 CHAIRMAN GAMPETRO: What I meant was our
3 next meeting after the June meeting.

4 MR. WENDTLAND: That would be our --

5 CHAIRMAN GAMPETRO: Are you going to go all
6 the way to December or have an interim one?

7 MR. WENDTLAND: Mr. Chairman, the August
8 meeting would be when we would come forward with a -- with
9 a draft, a final draft, within a concept of the December
10 meeting being able to vote on a final rule package.

11 CHAIRMAN GAMPETRO: Okay. June, August and
12 December. Do we have dates?

13 MR. HULTS: Mr. Chairman, the December
14 meeting we had tentatively agreed to June 23rd, August 25th
15 and December 15th.

16 CHAIRMAN GAMPETRO: I would just request
17 that -- I think you put that out previously, but I'm not
18 sure I have a copy of that. If you just could send us a
19 schedule like that.

20 MR. HULTS: Absolutely, Mr. Chairman.

21 CHAIRMAN GAMPETRO: Any other items we need
22 to discuss here?

23 MR. WENDTLAND: Mr. Chairman, the Division
24 does not have any further items.

25 CHAIRMAN GAMPETRO: Does the Board have any

1 questions or comments, anything else that we need to talk
2 about or discuss?

3 Well, hearing none, I will terminate the meeting.

4 MR. HULTS: Thank you, Mr. Chairman, for
5 your time, and Board Members.

6 MR. WENDTLAND: Mr. Chairman, we appreciate
7 the Board's time and helping to move these items through
8 the process. And I guarantee you, we will be giving you
9 something to look at in June.

10 BOARD MEMBER MACKER: Thank you.

11 CHAIRMAN GAMPETRO: Okey-doke. Thank you
12 all.

13 (Meeting proceedings concluded
14 10:59 a.m., March 22, 2022.)

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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 29th day of March, 2022.


KATHY J. KENDRICK
Registered Professional Reporter

