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WYOMING WATER AND WASTE ADVISORY BOARD

RE: Water Quality Rules, Chapter 12

TRANSCRIPT OF WWAB HEARING PROCEEDINGS

Pursuant to notice duly given to all parties in interest, this matter came on for hearing on the 21st day of December, 2021, at the hour of 10:31 a.m., at the Capitol Extension Room 4, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming before the Wyoming Water and Waste Advisory Board. Mr. Alan Kirkbride, Chairman, presiding, with Mr. James Cochran in attendance, and Mr. Brian Deurloo, Ms. Lorie Cahn, and Brian Dickson also in attendance virtually.

Ms. Nicole Budine, Attorney for the Board, present virtually; Ms. Jennifer Zygmunt, Water Quality Administrator; Mr. Bill Tillman, SRF Principal Engineer; Mr. Keenan Hendon, Water and Waste Water Section Manager; and Ms. Gina Thompson, Water Quality Division, were also in attendance, as well as various members of the public.

1 PROCEEDINGS

2 (Hearing proceedings commenced
3 10:31 a.m., December 21, 2021.)

4 CHAIRMAN KIRKBRIDE: I think we're present
5 and accounted for. I don't see anybody else clamoring at
6 the door here, so why don't we start.

7 Would you like to --

8 MS. ZYGMUNT: Thank you, Mr. Chairman,
9 Members of the Board. We are pleased to be here today to
10 present our revised Chapter 12 to you, the Wyoming Water
11 Quality Rules.

12 My name is Jennifer Zygmunt. I'm the
13 Administrator of the Water Quality Division appointed in
14 August. And with me today I have Bill Tillman, who is our
15 SRF Principal Engineer. Bill works primarily in the SRF
16 program, but also extensively with rules and also
17 enforcement actions.

18 I will note that Bill is retiring on
19 December 29th. He's been with us a long time, so we will
20 miss him. I know he's worked with the Board on many rule
21 packages. I just wanted to pass that news on and let you
22 know how much we appreciate Bill and all of his efforts
23 over the years.

24 And I'm also pleased to introduce Keenan Hendon
25 to the Board. Keenan is our new Water and Wastewater

1 Section Manager. He joined us in August, I believe.

2 MR. HENDON: August.

3 MS. ZYGMUNT: He took over for Rich Cripe,
4 who left the DEQ in May. So we're very pleased to have
5 Keenan on board. He brings a lot of great experience from
6 other state agencies, including Water Development and State
7 Lands.

8 So I'll start with a brief overview of why we're
9 here today, the purpose of the rule, the revisions that
10 we've made, and then I'll turn it over to Bill and Keenan
11 to walk through the rule revisions in detail and also
12 through the public comments we received on this rule.

13 Chapter 12 establishes a design and construction
14 standards for public water supplies. Entities that wish to
15 construct, install or modify public water supply need to
16 meet these standards when they're applying for a permit to
17 construct under Chapter 3 of our rules.

18 And as a quick reminder, Wyoming doesn't have
19 primacy for many of the drinking water regulatory programs
20 under the Safe Drinking Water Act. EPA Region 8 directly
21 implements the Public Water System Supervision Program in
22 Wyoming, which includes things such as developing
23 regulations for drinking water protection, managing
24 compliance with those regulations and conducting sanitary
25 surveys. But we, Wyoming DEQ, issues the permits to

1 construct these facilities, so it's important that we work
2 with EPA on these standards to make sure that communities
3 can remain in compliance with both EPA's regulatory
4 programs and our regulatory programs. So there are areas
5 of overlap, and you'll hear some of those later today in
6 our presentation and some of the public comments.

7 So why are we revising Chapter 12 now? First, it
8 hasn't been updated in quite some time. We first
9 promulgated this rule in 1984. It was updated in 2003,
10 2006 and 2012. But those are very minor revisions and only
11 tackle either cross-reference updates or specific
12 subsections. So, in essence, it's about 4 years -- 40
13 years since Chapter 12 has had a complete reevaluation.

14 As you can imagine, in 40 years technology has
15 changed, and it's important to incorporate the modern
16 technologies for drinking water treatment into our rules to
17 make sure that communities have up-to-date options for
18 drinking water protection in the state. In particular,
19 you'll see updates related to ultraviolet treatment and
20 membrane technology.

21 Third, we're going to talk about incorporation by
22 reference. And I appreciate some of the comments that we
23 heard in the previous Division's presentation this morning.
24 But we have done quite a bit of incorporation by reference
25 into this chapter, and that did start under Governor Mead's

1 initiative in 2013 to streamline our rules. So we've
2 incorporated the 10 States Standards into the rule. It's
3 also known as the Recommended Standards for Waterworks.
4 10 States Standards is the short name, which we -- which
5 you'll hear a lot.

6 We do understand that there are pros and cons to
7 incorporation by reference, and we'll look forward to some
8 discussions and questions on that. We'll be happy to
9 provide some more perspective.

10 You know, even though that initiative came out
11 under Governor Mead's administration, I do feel that
12 streamlining and efficiency's important under any
13 administration, so it is my goal as administrator to make
14 as good of a product as we can for the regulatory
15 community. And I do feel incorporation by reference is the
16 way to go. However, it's my responsibility to recommend
17 these rules to our director after consultation with the
18 advisory board. So we will take feedback on that aspect of
19 the rule. And, again, we do recognize that there are pros
20 and cons to going that route.

21 We have been able to reduce this rule by about 10
22 pages from the previous version due to the incorporation by
23 reference. I will note that if we put in the standards --
24 this is a copy of the 10 States Standards. It's 144 pages.
25 So if we incorporated the language back in, we would see

1 significant increases to this rule. So something to
2 consider.

3 Fourth, another major revision to Chapter 12 is
4 that we've added requirements for public water supplies
5 that are proposing acidization to submit detailed
6 information about wells in the area and geologic conditions
7 in the area to make sure that those acidization activities
8 aren't affecting underground sources of drinking water.

9 And this came about due to special -- a special
10 investigation in the state a few years ago. And while
11 acidization didn't end up being the cause of the water
12 quality concerns, it did point out some areas where we
13 could strengthen our rules to make sure groundwater was
14 being protected.

15 And then, finally, this rule has undergone our
16 Attorney General edits for streamlining, consistency and
17 clarity per their directive to review all our rules. I
18 know that you're now becoming familiar with seeing those
19 edits and that they can be quite overwhelming when you're
20 looking at them in a strike and underline version.

21 I think Gina has done a great job trying to
22 digest what the actual changes are, even pointing out where
23 we're just moving information versus where we've actually
24 added language or removed language. So, again, we know
25 that can be a lot to understand and track changes, and we'd

1 be happy to answer questions today to help understand what
2 were Attorney General edits and what were removal of
3 language or addition of language.

4 And I do feel, even though they're challenging,
5 the Attorney General edits are leading to better rules
6 products for our Division, so we've enjoyed working with
7 the Attorney Generals to make those edits.

8 So we do recognize these are extensive updates to
9 this chapter. Again, it's been 40 years -- almost 40 years
10 since we've given this chapter a comprehensive look. It
11 has been a significant undertaking for staff. We have been
12 working on this rule about five to six years.

13 Staff turnover within the Division has also been
14 a challenge. So I would just like to thank the staff who
15 have worked on this chapter over the years to get it to
16 this point where we're ready to present it to you today.

17 I'll also note that we originally brought this
18 rule to you in 2019. At that time we had only proposed
19 revisions for well acidization. The Board proposed -- or
20 advised us to move forward to the EQC at that time.
21 Between the Advisory Board meeting and the EQC meeting, we
22 have further edits through our Attorney General's Office.
23 And understandably that caused quite a bit of concern with
24 our stakeholders, so at that time we opted to withdraw the
25 rulemaking and start over and have incorporated the broader

1 revisions we are bringing before you today.

2 So we know this is an important rule to the
3 state. Many entities are very interested in that rule --
4 our public water systems, municipalities, private
5 engineering firms, the Wyoming Association of Rural Water
6 Systems, also known as WARWS, and other stakeholders. We
7 did informal outreach for this chapter in October of 2020,
8 and worked with WARWS and one private engineering firm to
9 incorporate feedback at that time, and we appreciate their
10 comments.

11 As you saw in your handouts, we had ample public
12 comments on this chapter, again which reflects a high
13 interest from the regulated community and other
14 stakeholders in these standards. We received over a
15 hundred comments from eight different entities. Most of
16 those were received during the 30-day public notice period
17 that started on November 5th. We did also receive two
18 comment letters yesterday on Monday and staff did a great
19 job working very hard yesterday to respond to those
20 comments. So what we're presenting to you today are
21 responses to all hundred-plus comments that we received on
22 this rule.

23 The comments addressed some important aspects
24 that we'll hear you about today. Again, I do look forward
25 to more conversation on incorporation by reference and some

1 other specific topics that are important subjects to
2 discuss when we talk about design and construction
3 standards for public water supplies.

4 So with that, unless anybody has any questions
5 for me, I'll turn it over to Bill.

6 Yes, Mr. Chairman.

7 CHAIRMAN KIRKBRIDE: Yes, I have a question
8 about the 10 States Standards. What are those 10 states?
9 Are they regional? Are they -- and then what -- are they a
10 division of the EPA, or do they have -- what authority do
11 they make decisions? And do we -- does Wyoming have input
12 somewhat on these?

13 MS. ZYGMUNT: Yes, thank you, Mr. Chairman.
14 That's a good question. I'm actually going to defer that
15 to Bill or to Keenan to talk about what the 10 States
16 Standards are.

17 CHAIRMAN KIRKBRIDE: Okay. That's all I
18 had. Anybody else got some general, for Ms. Zygmunt,
19 questions? Okay.

20 BOARD MEMBER DEURLOO: Mr. Chairman, I do
21 have one question, if you don't mind.

22 CHAIRMAN KIRKBRIDE: Yes. Go ahead, Brian.

23 BOARD MEMBER DEURLOO: Thank you.

24 Hi, Jennifer. Thank you for that overview. Just
25 a question for -- what sort of input do -- does your

1 staff -- or the people that have to implement these rules
2 for Chapter 12, what district people, or even in Cheyenne,
3 set up members of the DEQ, what sort of input process do
4 you have as you roll this out to your staff statewide? And
5 what kind of timing do you give them and -- if you can kind
6 of just go through that process and how you get your staff
7 involved, please.

8 MS. ZYGMUNT: Yes. Mr. Chairman. Board
9 Member Deurloo, thank you for the question. It's a good
10 one. Again, this has been a long-term effort for the
11 Division. Again, we've been working on this five to six
12 years. It's gone through ample internal review with our
13 staff, including Bill and other district engineers in the
14 Cheyenne office and across the state.

15 As I mentioned, we did do informal outreach in
16 October 2020, where we sent the scope of revisions that we
17 were thinking about to interested parties, including all of
18 our public water systems, Wyoming Association of Rural
19 Water Systems, and asked for feedback at that time. Again,
20 at that time, we can received comments from WARWS and one
21 private engineering firm.

22 And so while I think folks have been aware that
23 we've been working on Chapter 12, I think this past 30-day
24 public comment period, again that started on November 5th,
25 is really the major public comment opportunity that folks

1 have had to look at the final draft rule and provide
2 comments.

3 After -- or during the public notice period, we
4 did reach out to WARWS and had a targeted conversation with
5 them about some of the revisions that we made and
6 addressing certain subjects. And then also we had a
7 targeted conversation with EPA to gain some of their
8 feedback and go over some of the revisions that we had
9 made.

10 So, again, we have been doing outreach at the
11 beginning of the rule, and now during the public comment
12 period for the rule. And if the Board advises us to move
13 forward to the EQC during this meeting, there would be
14 another public comment opportunity prior to the EQC
15 meeting.

16 Does that answer the question, Board Member
17 Deurloo?

18 BOARD MEMBER DEURLOO: Yes. Thank you,
19 Ms. Zygmunt. I appreciate that.

20 So do you -- yeah, you said that in your
21 introduction. Thanks for repeating some of that
22 information.

23 Do you feel that it's -- people saw this like --
24 and they saw the 2020 -- people had a -- a -- had time to
25 look at 20- -- or 2019 and 2020. Do you feel that from

1 this last month of public comment that people are waking up
2 or getting a lot more comments saying this is real and it's
3 getting close to the end? I don't know. I'm just kind of
4 looking for your feelings for why are we having so many
5 comments in this last 30 days where we hardly had any input
6 in the last two years? If you can speak to that a bit.

7 MS. ZYGMUNT: Yes. Mr. Chairman. Board
8 Member Deurloo, it's a good question. I don't know that I
9 have a good answer to that.

10 However, Mr. Chairman, if I can turn it over to
11 Mr. Tillman, I think he has some more input that may help
12 answer the question.

13 MR. TILLMAN: This is Bill Tillman, again,
14 SRF Principal Engineer, as well as rules and enforcement.

15 And over the past couple years I think part of
16 the reason why we probably didn't get comments is that we
17 were still working on the draft internally.

18 And speaking to some of your questions, Board
19 Member Deurloo. Through the draft process, we -- as we
20 were drafting it, we spent time at each of the district
21 offices in different sections talking about the contents,
22 things they liked, didn't like, things that they weren't
23 getting, as far as when we were receiving applications for
24 particular projects, things that were missing.

25 So throughout the drafting process of all the

1 different sections, we interacted with each of the staff
2 members in their district offices and individually fielded
3 comments from them regarding, you know, changes that we
4 were making. So I guess throughout the last five or six
5 years, we've kind of hashed this out internally, you know,
6 over and over again.

7 Now, the fact that we received quite a few
8 comments over the last 30 days, particularly the last few
9 days, in addition to those, I think that just speaks to
10 people's concerns, people's interests. I don't think that
11 the two years previous had any bearing on that, because
12 they didn't have any product to look at. It wasn't
13 available to them. We were still, I guess, working on it
14 internally. So that speaks to their lack of comments over
15 the last few years. But I believe that the comments we did
16 receive were fairly spread out. Some of them were more on
17 format and content. I believe that the EPA was -- in
18 particular, they had more comments on individual
19 technologies and specifics within the treatment sections.
20 But overall, I believe the comments were fairly spread out
21 across the board as far as different interests, the people
22 exposed, I guess, their concerns with what we were doing.

23 Hopefully that answers your question, Board
24 Member Deurloo.

25 BOARD MEMBER DEURLOO: Thank you,

1 Mr. Tillman. I appreciate that.

2 Mr. Chairman, I have no further questions at this
3 time.

4 CHAIRMAN KIRKBRIDE: Anyone else?

5 All right. Ma'am, you may proceed.

6 MS. ZYGMUNT: Thank you, Mr. Chairman.

7 Would you like us to follow up on your question about the
8 10 States Standards first before we go into the rules?

9 CHAIRMAN KIRKBRIDE: Yeah. If you want to.

10 MR. HENDON: Absolutely. Keenan Hendon,
11 Wyoming -- or Wyoming DEQ, the Water/Wastewater Section
12 Manager.

13 So the Great Lakes-Upper Mississippi River Board
14 of State and Provincial Public Health and Environmental
15 Managers, that's -- that is the entity or the group, the
16 board, that works together to provide the recommended
17 standards for waterworks. And they're comprised -- they
18 started off in 1950. Excuse me.

19 BOARD MEMBER CAHN: Excuse me.

20 MR. HENDON: Yes.

21 BOARD MEMBER CAHN: For some reason you're
22 breaking up. So maybe if you could speak closer to the
23 microphone, that might help.

24 MR. HENDON: Is this a little bit better?

25 BOARD MEMBER CAHN: Fantastic.

1 MR. HENDON: All right. Perfect.

2 So the Great Lakes-Upper Mississippi River Board
3 of State and Provincial Health and Environmental Managers
4 started off in 1950. Excuse me. They had met subsequently
5 over the years. Most recently they've prepared this 2018
6 standard. And the states that participate and entities
7 that participate are Illinois, Indiana, Iowa, Michigan,
8 Minnesota, Missouri, New York, Ohio, Ontario, Pennsylvania
9 and Wisconsin. So a number of states that are similar in
10 region and weather and acclimation. Also a number of
11 states incorporated by reference, so they incorporate the
12 same rules as presented for their water systems and for
13 their designs of the well.

14 CHAIRMAN KIRKBRIDE: So we like these
15 standards because we like them, right? Because they're
16 suitable?

17 MR. TILLMAN: Chairman Kirkbride, it's not
18 so much that they're suitable. But, I guess, in the
19 engineering industry, specifically I believe in civil
20 engineering, this has been kind of the Bible, if you will,
21 for designing water treatment systems for municipalities or
22 special districts. It's kind of -- like I said, it's an
23 unwritten document that engineers go by. That's why we
24 typically call it the 10 States Standards and everybody
25 knows what that document is.

1 And so that's why -- unfortunately, when our
2 rules were first promulgated, the consultant that, I guess,
3 put these rules together essentially took the 10 States
4 Standards almost verbatim for large swaths of our rule.
5 And since that was the case, that was kind of our impetus
6 for our incorporation by reference. Because as I went
7 through it, I would find pages, paragraphs, that were
8 identical, and I mean word for word what they were saying.
9 So it just made sense for us to make that incorporation by
10 reference, one, because it was standards that we use, and
11 also to meet the requirement that the governor gave us at
12 that time to reduce our rules. But as you see, our -- the
13 number didn't reduce all that much. But then, again, there
14 was quite a few new technologies and things that we had to
15 add to the chapter that were not spoken to before. So it
16 was kind of a balance, if you will, of subtraction and
17 addition that came to the total number that we're at right
18 now.

19 CHAIRMAN KIRKBRIDE: Thank you.

20 Okay. Anything else on that?

21 All right. Proceed.

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

23 I'll turn it over to Bill now to walk us through the rule
24 and the revisions that we made.

25 MR. TILLMAN: Chairman Kirkbride. I'd like

1 to begin with, as our administrator, Ms. Zygmunt, alluded
2 to, that the Attorney General, they made quite a few
3 changes as far as to layout, orientation, format, and those
4 sorts of things. I'm not going to speak to those for each
5 and every section. It's pervasive throughout the chapter.

6 Additionally, there was grammar and punctuation
7 changes. A lot of rearranging. If you look at the strike
8 and underline version, it makes my head spin. I imagine it
9 did yours as well. It seems like there was a lot going on,
10 but there was a lot that was removed, a lot of things that
11 were -- places were changed as far as where they were for,
12 I guess, readability and for just cohesiveness, as far as
13 we had some things spread out in different sections that
14 really should have been put together, and we tried to
15 accomplish that through part of the rewrite.

16 In addition, in the incorporation by reference,
17 the fact that we had large parts of the chapter that were
18 incorporated by reference, we tried to do that at the
19 beginning of each section, those parts that were
20 incorporated. So in some sections it's not as much, in
21 other sections, as in Section 12, the treatment section, is
22 quite an extensive list of what is incorporated by
23 reference. But we tried to do that up front in each
24 section, and everything that followed that is an exception
25 to those things that were incorporated. So that's kind of

1 format that we followed.

2 I understand that for some folks that may create
3 some -- a bit of a headache because they've got to kind of
4 go back and forth. But speaking as a professional
5 engineer, I spent 20 years in refining before I came to the
6 regulatory side, and I can say that I don't believe I had
7 any design -- and I mean any design -- that I used one book
8 exclusively that I could use to finish a design. I've used
9 several books, several references, looking at materials,
10 different techniques, maybe even different components. So
11 that part of the design incorporating by reference and
12 using multiple documents to me is nothing new and something
13 that is expected as an engineer. Your boss just wants an
14 answer. He doesn't really care how many things you have to
15 look at to get him that answer, he just wants an answer.

16 So I understand that as -- from -- from the
17 public saying that it would be nice to have it all in one
18 spot, but from an engineering perspective, it's never been
19 in one spot. So that's my perspective on that.

20 Moving forward, though, I'd like to go through
21 each section and give you just kind of general summary.
22 I'm not going to go in detail. If you have questions about
23 each section or in a section, please bring those up as
24 we're going along. But I'd like to begin, if you would
25 allow me.

1 CHAIRMAN KIRKBRIDE: Please do.

2 MR. HENDON: Say, Bill.

3 MR. TILLMAN: Yes.

4 MR. HENDON: If I could, I'd just like to
5 also state that the 10 States Standards is available online
6 for purchase. It's \$13 in cost. So it is available. It's
7 out there. We're also looking at options to prepare and
8 provide that online, if we can, through our website. And
9 we're also going to make sure it's available through our
10 satellite offices as well for review and for our design
11 engineers throughout the state to come in and take a look,
12 if they need to.

13 CHAIRMAN KIRKBRIDE: All right.

14 MR. TILLMAN: Beginning with Section 1,
15 which is our Authority. There were minor changes to that,
16 and just restated our statutory authority to promulgate
17 rules.

18 In Section 2, Applicability, again, this is minor
19 changes where we added words to clarify the applicability
20 of the rules that are presented in our chapter.

21 Section 3 is compliance with our new standards.
22 And that's where we had some comments. Some people were
23 concerned that the new changes to the chapter that they had
24 to go through their facility and radically change what they
25 already had or what had been approved prior to that. But

1 in the new section, existing facilities are going to be
2 covered under previous -- or the existing Chapter 12
3 design. Any new construction or modification to existing
4 facilities would then be required to follow the new
5 conditions in the new chapter.

6 In Sections 4, 5 and 6, where we discuss the
7 incorporation by reference, the definitions that were used,
8 some taken out, and also other technologies. There's
9 nothing new in those sections. Those were brought over
10 from the previous Chapter 12. Of course the incorporation
11 by reference, how we're doing that, is discussed in detail.

12 The other technologies section is, again,
13 something that was in the previous Chapter 12, and it just
14 allows for anything that's developed recently or we're not
15 aware of or maybe some unique niche treatment possibility,
16 that people can bring that forward in application and bring
17 us basically information, pilot plant data, maybe full-
18 scale data that supports that the new technology is
19 applicable for a particular treatment issue that they're
20 dealing with. But we still have that as an alternative for
21 folks to present new ideas to us that we're not aware of
22 for application for treatment facilities.

23 In Section 7, under Permits, Applications, and
24 Recordkeeping, again, this -- we added a part there that
25 was not previously in the Chapter 12. It's in our Chapter

1 3, as far as how we accept applications for permits. But
2 we're no longer requiring that application be submitted in
3 triplicate hard copy. We had that same language where they
4 submitted in a form acceptable to our Administrator, but
5 basically that gives our district engineers the flexibility
6 to request only one electronic copy and maybe one hard
7 copy, again, hopefully making it easier for our applicants
8 to submit information, and also for us to deal with that
9 information.

10 Applicants also need to -- we had a section where
11 we put it in the rule that they have to give us secure
12 access to the facility through easements or public road
13 access. Again, this was something that was in the document
14 permit that was issued that spoke to the fact that we need
15 to have access to do inspections and other sorts of things
16 to carry out our regulatory duties, but now we put it in
17 the rules so that they also understand it in the chapter as
18 well as in the paperwork they receive that we will need to
19 have access to the site.

20 We also included in the chapter -- that was also
21 Chapter 3 but not in Chapter 12 -- the requirement that
22 most of the documents that we receive in an engineering
23 application or engineering report needs to be signed and
24 sealed by a registered professional engineer or registered
25 professional geologist, depending on the discipline area

1 that was discussed in the application or the project.

2 Also, in this section we discuss -- or we codify
3 what was previously a procedural way we handled things,
4 namely in water wells and storage tanks. In water wells
5 that were permitted, that was essentially what we call a
6 two-step process, where we issue a permit for them to drill
7 the well, construct it and get data from it. And once we
8 got that data, then we would evaluate the data, the water
9 quality, and then issue another permit to allow them to
10 actually hook that to the distribution system. So, again,
11 that was kind of a two-step process that was understood.

12 One that was not so well understood was when we
13 had water storage tanks that were funded through the Water
14 Development Office, it was kind of -- kind of a mishmash of
15 how we got through that, because Water Development needed
16 to bid the project prior to actually all the engineering
17 being done. But as a part of that bid, they needed to
18 receive a permit from us saying that we would allow the
19 storage facility to be constructed. And so you kind of see
20 we didn't have all the information, so we were reluctant to
21 give them that permit, but they needed that permit in order
22 to get the bids out. So we amended that. We put it in
23 rule to where we understand that when they initially apply
24 for a water storage tank permit, especially one that's
25 funded by Water Development, we know that we're not going

1 to have all the information specifically, the foundation
2 information or the geologic information that supports that,
3 we're not going to have initially. So we'll give them a
4 permit to go out to bid that talks about some more or less
5 the general aspects of the tank. But within those bid
6 documents, we require that they acknowledge that they would
7 come back to us and that the remaining parts of the tank
8 construction and design would be per Chapter 12 and be
9 approved by us and they will receive a second permit to
10 complete construction of that tank.

11 And that was, again, something that was not
12 necessarily codified in rule, but it was a procedural --
13 that was kind of understood when people came to us, and we
14 thought it was important that that in particular was put in
15 the rules so people understood that when you're having a
16 tank funded by Water Development, that it was going to be a
17 two-step process, and that, you know, it's going to take
18 some time, but it was understood by both parties the
19 process that was -- it was going to take.

20 CHAIRMAN KIRKBRIDE: Okay.

21 MR. TILLMAN: In Section 8 and Section 9,
22 we discuss -- in Section 8 is Plans and Specifications and
23 Section 9 is the engineering report. And in both of those
24 sections nothing significant changed there, although we did
25 add a little specificity as to the different types of

1 application that we get, be it from projects that involve
2 distribution systems in particular or a section of a
3 distribution system, as opposed to major changes to a
4 treatment works operation.

5 But what we did there was basically specify what
6 we would want in the engineering report, as well as in the
7 plans and specs for the individual types of projects that
8 we would get so that the applicant would know kind of the
9 information that we needed to have, because sometimes,
10 again, we weren't necessarily getting the specific
11 information we needed for a particular type of project, and
12 it was not spelled out in the previous chapter exactly what
13 we were expecting to receive. So we tried to clarify that.

14 In Section 10, we added a requirement there.
15 It's in the minimum design and construction standards. I
16 believe before it was called just general design
17 considerations. But we wanted to add and have the design
18 engineer, when they were proposing either new treatment
19 works or modification to treatment works, that we added a
20 degree or considered a degree of flexibility in the plant
21 design from anywhere from changes in that water quality to
22 the need to possibly increase the treatment capacity if a
23 service area increased or even adding new treatment
24 technology. We wanted to make sure that the design and how
25 it was constructed made it easier to make those

1 modifications if they were required. And it was something
2 that we wanted to make sure that, again, the design
3 engineer considered at the outset of that application and
4 that project modification.

5 CHAIRMAN KIRKBRIDE: I have a question.

6 MR. TILLMAN: Yes, sir.

7 CHAIRMAN KIRKBRIDE: Backing up just a
8 little on applying for permits. It seems to me like it's
9 so many entities, individuals, and otherwise, apply for
10 permits from governmental agencies. It seems like to me
11 people feel they have encountered an unreasonable delay. I
12 don't know if delay, but it just takes a long time to get
13 the permit back. And I just wonder, what's your experience
14 with this?

15 MR. TILLMAN: Chairman Kirkbride, I
16 understand, and I've heard that same feedback from certain
17 individuals, that they feel like it's taken more time than
18 they felt necessary to receive a permit. Some of that has
19 to do with our staffing issues that we've had over the last
20 three or four years. We've just now, I believe, in the
21 last three or four months come up to a full staff, where I
22 believe the last four or five years previous to that we
23 were short at least two to three engineers. So, you know,
24 from the district engineers that had assistance, they
25 didn't have that assistance. So, again, you have one

1 man -- one person handling all those applications.

2 In addition to that, many times we don't get all
3 the information necessary to review the application and to
4 issue that permit. And it's incumbent upon the applicant
5 to give us that information. And sometimes it's not the
6 applicant, it's the engineering company or people working
7 for the engineering company that don't necessarily -- it's
8 not on the top of their list to get us information that
9 we're missing. They felt like they gave us everything they
10 thought they needed to give us, but we didn't receive it.
11 So there's some back and forth with that as well as far as
12 receiving the proper information.

13 Additionally, and one they don't like to hear, is
14 that statutorily we do have 60 days to complete a permit,
15 to issue a permit. And many times consultants, engineers
16 will think that theirs is fairly simple and they submit it
17 to us, and then we get a call literally within a couple of
18 days of receiving the application asking us if we started
19 working on it yet, or if we could move that up a little bit
20 in the list. And absolutely we cannot do that. We work on
21 them and review them as they come in. Unfortunately, if
22 there's 15 ahead of you, you're number 16 and we can't
23 start working on that until we kind of plow through rest of
24 them.

25 And so there's a combination of things that

1 contribute to that perceived delay. Again, part of it is,
2 again, lack of staff at one point. But, again, many times
3 it's information that we're requesting going back and
4 forth, you know, trying to get that information to make
5 sure it's complete so we can do that review.

6 CHAIRMAN KIRKBRIDE: All right. And then
7 I'm not the only one that complains to you guys, but that's
8 just a general statement.

9 Is there -- are they -- is the demand for -- I
10 assume it's mostly modifications in the state here; is that
11 right?

12 MR. TILLMAN: Primarily. You don't get a
13 lot of brand-new treatment works that are being
14 constructed. You get many modifications to existing
15 treatment works. There's some emergent contaminants that
16 are coming up, peat moss, peat humus, some of those types
17 of things.

18 So, yeah, you're correct, Chairman Kirkbride,
19 that most of them are modifications, you know, to an
20 existing system.

21 CHAIRMAN KIRKBRIDE: And the workload is --
22 is fairly heavy?

23 MR. TILLMAN: It's increasing. There are
24 certain districts that get a significant more applications
25 than others, particularly this district, the southwest

1 district and the northeast district, which is -- northeast
2 is Casper, kind of run up to Sheridan and then go to the
3 border there.

4 The Sheridan-Gillette area is doing a lot of
5 work. In addition to down here, we're getting not only
6 subdivisions, but a lot of modifications to existing
7 system. Maybe not so much in the southwest district, but I
8 believe that the northwest is all starting to pick up as
9 far as the number of applications they're getting for other
10 entities, kind of mobile home parks, trailer parks, things
11 like that. So there are some that have more activity than
12 others, so that kind of contributes to some of the delays
13 that they might be seeing.

14 CHAIRMAN KIRKBRIDE: Uh-huh.

15 MR. HENDON: Yes, Chairman Kirkbride, if I
16 can also add to that. A number of our districts are seeing
17 increased subdivision applications. And so that is a
18 number of folks moving into our state, which is good, but
19 it's creating an increased workload for all of us, so...

20 CHAIRMAN KIRKBRIDE: Uh-huh. Thank you.

21 BOARD MEMBER CAHN: Chairman Kirkbride.

22 CHAIRMAN KIRKBRIDE: Yes.

23 BOARD MEMBER CAHN: Bill, I wanted to ask
24 you. You mentioned that you guys weren't getting what you
25 needed for Sections 8 and 9. Can you give an example --

1 and why you had to make these changes to the rule. Can you
2 give us some examples of what you felt were deficiencies
3 and submittals that the rule is addressing?

4 MR. TILLMAN: The rule really -- excuse me,
5 Board Member Cahn. I don't think that we've added
6 significantly to, I guess, the detail, but I would say
7 that, you know, for instance, they would give us a plan and
8 profile and then not give us existing utilities that were
9 in the ground. And so you can't make an evaluation as to
10 whether or not they're going to have issues with crossing,
11 with distance separation, or anything like that.

12 We also don't receive information strictly on --
13 from a design standpoint, from the design engineer
14 sometimes on particulars about technologies that they are
15 proposing. I can't give you specifics right now, but,
16 again, those are things that we're looking forward to make
17 our evaluation. And, again, we have to go back to them to
18 receive that information. And right now, I'd say over the
19 last couple of years -- and it's going to get worse -- the
20 consultants that we're dealing with are exceptionally busy.
21 With the infrastructure money that's coming out and people
22 trying to get projects on the board, we're -- we're getting
23 not necessarily delayed from them on purpose, but I think
24 their -- their being busy to the extent that when we ask
25 questions, they don't get back to us right away, and we

1 wait until we get that information, because, again, we're
2 receiving other applicants. We try to move on and come
3 back to it as we receive that information.

4 And this goes to not only just treatment works.
5 I believe it also extends -- I've seen it on septic systems
6 as well to where folks feel like they've given us
7 information that we've asked for distance separations,
8 photos, contact with the installers, and we just don't get
9 that. They felt like they had given us everything. And so
10 we wait until we get that to where we have enough
11 information to where we can issue that permit with
12 confidence that we don't have any environmental issue or
13 construction problems with what's being proposed.

14 I don't know if that answers your question, Board
15 Member Cahn.

16 BOARD MEMBER CAHN: Thank you.

17 CHAIRMAN KIRKBRIDE: Okay. Go ahead.

18 MR. TILLMAN: Moving on to Section 11.

19 CHAIRMAN KIRKBRIDE: Would you give us --
20 where is 11, more or less?

21 MS. THOMPSON: You're going to start --

22 CHAIRMAN KIRKBRIDE: What page?

23 MS. THOMPSON: It starts on page 32 -- or
24 line 3284 --

25 CHAIRMAN KIRKBRIDE: There we go.

1 MS. THOMPSON: -- page 12-73 of that green
2 version. And paragraph (a) is going to start on line 3530,
3 page 12-79.

4 CHAIRMAN KIRKBRIDE: Okay. Thank you. Go
5 ahead.

6 MR. TILLMAN: Sorry, Chairman Kirkbride.
7 Part of my summary, I didn't get specific on where I was
8 starting.

9 CHAIRMAN KIRKBRIDE: Happens to us all a
10 little bit.

11 MR. TILLMAN: My apologies.

12 Again, Section 11, which is Source Development,
13 we added some of the isolation distances that we had
14 changed in the Chapter 25, which had to do with septic
15 systems. We added those in the chapter.

16 We included some additional standards for
17 incorporation by reference for piping materials. We also
18 added, as our -- Administrator Zygmunt has previously
19 talked about, those requirements for water wells that are
20 going to be stimulated by acid and acidization. We added
21 requirements for that.

22 In addition, we did not have previously any
23 design consideration for spring development, and that's
24 something that many of our communities have springs as a
25 source of their drinking water, and they're good, viable --

1 good water quality, and so we needed to have some
2 conditions for that, and we've added that to the section as
3 well.

4 In Section 12, on Treatment, again, I think that
5 was to me kind of the meat of the matter. We added
6 additional technologies regarding UV light disinfection
7 membranes, specifically as it speaks to reverse osmosis
8 membranes, RO membranes.

9 We added technology as far as bag and cartridge
10 filtration. And, in addition, we added conditions for
11 pre-engineered skid-mounted units at treatment plants for,
12 you know, folks that have a smaller application, that that
13 would be something that would be applicable to their
14 problem.

15 Additionally, we added a table for contact time
16 for chlorine residuals for specific types of filtration.
17 And we added that with the help of EPA Region 8.

18 In Section 13, we have really no substantive
19 changes there. That was the Clinical Application, that
20 people do within water treatment. Nothing really to note
21 there, any changes.

22 In Section 14, regarding Pumping Facilities, we
23 added requirements for booster pumps that are going to be
24 added or going to be proposed for firefighting -- fire
25 suppression that wasn't previously there.

1 In Section 15, we discuss Finished Water Storage.
2 And this is where I believe our unique position with the
3 EPA in regards to the Safe Drinking Water Act and primacy
4 is a problem at times, mainly because, as Zygmunt --
5 Administrator Zygmunt mentioned, we issue the construction
6 requirements for treatment plants. The EPA Region 8 does
7 the monitoring, and -- I guess monitoring for those plants.
8 And they do their sanitary surveys for the installations.

9 And that's where we kind of hit a disconnect, if
10 you will, because we, from a construction standpoint, look
11 at things differently, maybe, than they do from a
12 monitoring standpoint. And so we run into problems quite
13 often with 24 mesh screens. 24 mesh is a -- the higher the
14 number, the tighter the opening. So it's tighter than a
15 bug screen on your house, probably.

16 And EPA -- and this is my opinion -- they're
17 looking at 24 mesh from the standpoint of biological
18 contamination. We look at it from an engineering
19 perspective, from, you know, how is it applicable and how
20 does it work? And we kind of have a disconnect there.

21 24 mesh is prescribed for overflows and for vents
22 on water storage tanks. And there can be issues with that.
23 In overflows, 24 mesh can cause problems with being able to
24 discharge enough water in an overflow situation.
25 Additionally, 24 mesh, when you come to vents on the top of

1 tanks, being that that mesh is fairly tight, it can have a
2 tendency to get frost, moisture, freeze over and cause some
3 issues as far as operations there.

4 Within the section we've offered, I guess,
5 alternatives to the strict use of 24 mesh. That was vetted
6 by Region 8 EPA. If you noted, they had no comments in
7 regards to that section in our alternatives to 24 mesh, so
8 on overflow situations, rather than strictly putting 24
9 mesh on the end of an overflow pipe, we offer mechanical
10 device, duckbill or flapper valve, backed by a 4 mesh
11 screen, which has a much larger opening, but doesn't tend
12 to obstruct the flow that a 24 mesh would. And, again,
13 we've had acceptance and concurrence from Region 8 with
14 those alternatives, so we feel good that not only do we
15 offer what they're looking for in their sanitary survey
16 strictly from a 24 mesh being on the end of a piece of
17 pipe, but we also give the entity an alternative to some of
18 the issues that may be raised by adding -- simply adding 24
19 mesh to a piece of pipe from an operational standpoint.
20 And we feel like, again, the fact the EPA did not comment
21 on that, that they're in support of our recommendations and
22 conditions.

23 CHAIRMAN KIRKBRIDE: Well, 4 mesh sounds
24 like it was very different from a 24.

25 MR. TILLMAN: Yeah.

1 CHAIRMAN KIRKBRIDE: Will a baby mouse
2 float through a 4?

3 MR. TILLMAN: 4 mesh won't allow a baby
4 mouse to float through. You will get bit by a mosquito.
5 But, again, what it's backed by, again, that mechanical --
6 that duckbill, if you will -- is a rubber device that
7 basically -- it closes pretty darn tight. But if something
8 were to try to squeeze through that, then we would provide
9 that screen as a backup in the flange that supports that to
10 try to mitigate any entrants from that perspective. So
11 it's the best we can do -- or we feel to offer protection
12 as well as not impede its intended use.

13 In Section 16, on Distribution Systems, again, we
14 added additional standards for materials and distribution
15 pipe. Additionally, we added a condition to allow the use
16 of flow-fill when we cannot achieve --

17 BOARD MEMBER DEURLOO: Mr. Chairman, I'm
18 sorry. This is Brian Deurloo. I have to -- if I can just
19 come back to that 24 mesh just for a moment, if you don't
20 mind. So -- Mr. Chairman, do you mind if I ask a question?

21 CHAIRMAN KIRKBRIDE: No. Please go ahead,
22 Brian.

23 BOARD MEMBER DEURLOO: Thank you.

24 Mr. Tillman -- is Tillman or Tiller? Sorry.

25 MR. TILLMAN: Tillman.

1 BOARD MEMBER DEURLOO: Tillman. Hi,
2 Mr. Tillman.

3 So with this mesh size, are -- I've not actually
4 seen a picture of one of these. I deal with meshes a lot
5 with water filtration, so forth like that. But it seems to
6 me -- I've heard that there are cases within Wyoming where
7 that kind of mesh has caused problems, and, actually,
8 potentially quite costly damage to some water treatment
9 plants. I think maybe down in the southeast corner of the
10 state. I'm not positive about that.

11 But would size 16 mesh be okay? It's slightly
12 larger, allows a little more debris to go through. Because
13 24 mesh is on the outlet; is that correct? You're talking
14 about 24 mesh at the outlet to prevent things from coming
15 in?

16 MR. TILLMAN: That is correct. And what
17 you're alluding to is -- is very near and dear. That one
18 happened in the town of Pine Bluffs. There was some other
19 circumstances that caused the problem -- I guess the
20 situation that caused the overflow incident. But, yes,
21 they had a problem where they had 24 mesh. They were
22 instructed to put 24 mesh over the end of their overflow
23 pipe retroactively from the design. So understanding that
24 the design pipe was sized for a particular flow, and when
25 you put 24 mesh, a tight mesh screen, on the end of it, now

1 you've impeded the ability of that pipe to flow the
2 required amount of water.

3 And what happened was they accidentally filled
4 the wrong tank when they thought they were filling a new
5 tank. And subsequently they were watching it, thinking it
6 was filling up. And it filled up, overflowed, could not
7 release the amount of water that it needed to, and
8 subsequently broke the roof of that concrete tank, lifted
9 it up. When the operator realized that he wasn't seeing
10 flow out, the overflow that he should, he remembered what
11 he had put over that end. He immediately loosened that. I
12 believe that screen shot roughly 20, 30 yards out to the
13 yard, relieved a bunch of water. And then he heard the
14 thud of the roof as it settled back down on the tank.

15 So, yes, it was quite extensive damage. And it
16 was, in my opinion -- you might find others that will
17 disagree -- that was directly related to adding the 24 mesh
18 screen on the end of the overflow pipe without doing enough
19 engineering to understand what implications you were
20 imposing on yourself from an operational standpoint.

21 Would 16 mesh be better? Yes, it would. But
22 then understand that when the EPA performs their sanitary
23 survey, their surveyor's not an engineer. He's looking at
24 the requirements. He says 24 mesh. If he doesn't see
25 24 mesh, he dings it as not being in compliance. So that's

1 why we opted for what we put in our -- what we're proposing
2 in the chapter, so that, you know, we have an alternative
3 to the 24. And, again, it's not something that the EPA is
4 advertising, but they're in support of our alternatives.

5 And if you were to put 16 mesh, again, that would
6 be better, but you run the risk of being in noncompliance
7 of the sanitary survey.

8 MS. ZYGMUNT: And Mr. Chairman and board
9 Deurloo, if I can add to that. So we do absolutely
10 recognize the concerns with 24 mesh, particularly when it
11 may be used on a retrofitted system. So it is something
12 that we will be keeping an eye on from an engineering
13 perspective very closely to make sure that there are the
14 appropriate designs to prevent the situation like what
15 happened in town -- in the town of Pine Bluffs from
16 happening again in the state.

17 So it is on our radar. We will be keeping a
18 close eye on it. But as Bill just described, it is
19 important that we don't put our communities in a spot where
20 they're out of compliance with either us or the EPA. And
21 we do feel that this is a viable solution to give our
22 communities options while ensuring that they have the
23 proper engineering designs to, again, prevent a situation
24 like the town of Pine Bluffs.

25 BOARD MEMBER DEURLOO: Okay. Thank you.

1 Are we -- if -- we've already recognized there's
2 an issue with -- with the 5,900 lines we've gone through at
3 blazing speed, it's kind of funny we're sitting here
4 discussing 24 mesh or 16 mesh, but that's what we've chosen
5 to do.

6 So the -- are we pushing back on those standards?
7 We in Wyoming have found that that is an issue. If
8 somebody puts 24 mesh at the end of an outlet pipe or
9 overflow lines, some debris is caught, that has caused
10 massive damage for a municipality, they may have a
11 difficult time paying for it. What steps are we taking --
12 I know that's a little bit maybe outside the bounds of the
13 discussion today, but I'd like to know what steps are we
14 taking to push back to say, hey, this isn't working for us.
15 We got to -- how does the DEQ -- how does the DEQ do that
16 in regards to the EPA?

17 MS. ZYGMUNT: Mr. Chairman. Board Member
18 Deurloo, it's a good question. And this will be an ongoing
19 discussion we'll have with EPA to make sure we're working
20 with them. And, you know, at the end of the day we do need
21 to be working with EPA because of the overlap between our
22 two programs.

23 So recognizing the differences, again, I think
24 there are viable options, given the options that
25 Mr. Tillman described and situations where 24 mesh can work

1 provided, you know, a solid engineering design is done on
2 the system to make sure that there's a proper airflow and
3 other factors to consider.

4 I will point out that other western states of
5 very cold climates such as Wyoming use 24 mesh screen, and
6 we're not seeing issues consistently with 24 mesh. So it
7 can work, provided that the proper engineering design
8 accompanies use of 24 mesh.

9 I had indicated to EPA that if we run into a
10 situation where they're requiring 24 mesh as part of a
11 sanitary survey, and we don't feel it can work from
12 engineering design, we will address those on a case-by-case
13 basis and have that conversation with our EPA Region 8
14 counterparts.

15 BOARD MEMBER DEURLOO: Thank you,
16 Ms. Zygmunt.

17 Thank you, Chairman.

18 CHAIRMAN KIRKBRIDE: Uh-huh. Okay. Go
19 ahead.

20 MR. TILLMAN: Again, moving on to Section
21 16, Distribution Systems. I believe I mentioned that we've
22 added additional standards for materials for distribution
23 pipe. Also, we added a section where our conditions for
24 flow-fill when we can't achieve pipe separation distances
25 that we need, specifically between usually water and sewer

1 pipe, require that they have a conduit and then fill that
2 with kind of a slurry concrete just so we can mitigate
3 possibility of cross-contamination if we happen to get some
4 leaking -- leaking joints or connections within those
5 pipes.

6 Additionally, we added a condition for accepting
7 hazard classifications for by -- by people that are
8 certified in another state. Many times that hazard
9 classification, that that person is certified to make that
10 evaluation, and we just allowed for acceptance of people
11 that are certified in other states.

12 In Section 17, as far as Laboratory Equipment,
13 again, there's no substantive changes there in that
14 section.

15 And Section 18, regarding Operation and
16 Maintenance, we've added provisions to the O&M manual that
17 we require. Specifically we added a description of
18 facility and all of its processes. We want details of the
19 emergency operations of the facility. And also we'd like
20 additional information or more information than we
21 currently get about the safety systems within a facility
22 and all its components. And that's for the people
23 occupying and operating that facility so that they
24 understand how they're supposed to operate in emergency
25 situations and all the safety parameters that are designed

1 into their facility.

2 And with that, I've quickly summarized what we've
3 done in Chapter 12. Like I said, the majority of what we
4 did, I believe, was through the reorganization that was
5 authored and helped by the Attorney General, in addition to
6 the incorporation by reference eliminated and moved quite a
7 bit of materials. So that was the bulk of what was done.

8 But also we did add what we feel are needed
9 changes, conditions that were added to the chapter to
10 hopefully get a better product when we were processing or
11 reviewing applications for modifications to treatment
12 plants and distribution systems.

13 CHAIRMAN KIRKBRIDE: All right.

14 MS. ZYGMUNT: So, Mr. Chairman, we do know
15 this was a high-level overview. I think Bill did a great
16 job going through the sections to give you a sense of what
17 we changed. We would be happy to go through the sections
18 in detail, if you'd like, or just open it up to high-level
19 questions that you'd like to discuss, again, recognizing
20 this is the first time we've presented this extensive
21 revision to the Board.

22 CHAIRMAN KIRKBRIDE: All right. Questions
23 or comments for the Board at this time? Thoughts?

24 BOARD MEMBER CAHN: This is Lorie. I'll
25 have a lot of questions that are real specific, so I think

1 the -- I'm not sure how DEQ wants to proceed. If they want
2 to go through the specifics and then take public comment
3 and then Board discussion, or how -- how -- how -- how DEQ
4 plans on addressing the specifics.

5 MS. ZYGMUNT: Mr. Chairman. Board Member
6 Cahn, we are open to how the Board would like to proceed.
7 We'd be happy to go section by section and take specific
8 comments, if that's your pleasure.

9 CHAIRMAN KIRKBRIDE: Well, if we're working
10 toward ultimately approving, I suppose we need to go and
11 deal with the comments we have.

12 Lorie, perhaps you want to -- I mean, do we need
13 to go section by section or can we go to -- well, can we go
14 to your comments? Well, maybe -- maybe I guess that can
15 be -- we can go section by section, I guess.

16 Would that be -- is that all right? Would that
17 suit you, Lorie?

18 BOARD MEMBER CAHN: Well, there's a lot of
19 people on -- listening in that are from the public. So
20 maybe we could take public comments and then go through --
21 and then do the specifics with DEQ. Just because there's a
22 lot of people online, I'm sure they're busy and can go to
23 them first. That would be just a suggestion.

24 BOARD MEMBER DEURLOO: Chairman Kirkbride,
25 I would second that. I don't know if I can second that.

1 But what Board Member Cahn is speaking about, it may be --
2 is that she's a thorough individual when it comes to
3 changes, and it may be good to have public comment first,
4 would be my recommendation.

5 CHAIRMAN KIRKBRIDE: I would think that's
6 fine.

7 That's fine, Gina? Either way?

8 All right. Well, if that's okay with you guys,
9 let's do -- we're going to open it up to public comment
10 now.

11 MS. THOMPSON: Okay. So we do not have any
12 members of the public in the room with us, but we have
13 quite a few of you online. So what I'd like to invite you
14 to do is if you're interested in speaking on the record
15 today, go ahead and use your reactions button and raise
16 your hand, and we will just work through the list and call
17 on you to provide your comment.

18 Just a reminder, when it's your turn, please
19 introduce yourself, speak clearly, make sure you introduce
20 the organization you represent, and -- yeah, go ahead. If
21 there's any of you interested -- I don't see anyone raising
22 their hand -- but go ahead and do that at this time.

23 CHAIRMAN KIRKBRIDE: Do they end up at the
24 top of the list there?

25 MS. THOMPSON: It looks like we have a

1 Lenz. So if you want to go ahead and introduce yourself.

2 MR. LENZ: Hello. Yes. This is Brian
3 Lenz, Town Engineer for Jackson. Thanks for having the
4 meeting and working on these regulation updates.

5 I had been going through it, and I had one --
6 probably have a few questions -- but where you incorporate
7 the 10 States Standards by reference, I could not easily
8 find those -- the 2018 version of those standards on a
9 Google search. And so I guess I would -- from utilizing it
10 on a permitting side for our projects, but also others,
11 it's like the more specific what those standard -- the
12 title of the standards, the version of the standards, who
13 wrote the standards, and where you can get the specific
14 standards that you're incorporating would be helpful.

15 And I did see there was -- I don't have the
16 reference right now which line, but there was a reference
17 to them further down in the document after they were
18 adopted that was different than the language used in the
19 adoption. And -- sorry, I don't have more to comment on it
20 than that, but I think that's an important -- something
21 that's important to be clear and make sure that when people
22 are -- when consultants and the public are using a
23 document, that they are referencing the correct document.
24 Thank you.

25 MR. HENDON: Hello, Brian. Keenan Hendon

1 here. I think that's something that we can definitely look
2 into and provide a section for clarity for all of our
3 entities to have a quick reference to find these standards
4 and move forward in a quickly and concise matter. So I
5 think it's something we can look into further.

6 CHAIRMAN KIRKBRIDE: Well, Mr. Hendon, you
7 did have a -- you said there was a -- it was really fairly
8 accessible to get those; is that correct?

9 MR. HENDON: It is accessible, perhaps,
10 depending on how you're doing a Google search. If you're
11 doing a Google search for the 10 States Standards, you may
12 not come up with the -- I guess, perhaps you might -- might
13 not land on the right location to access it.

14 MS. THOMPSON: Additionally, Mr. Kirkbride,
15 we have the complete publication information listed in
16 Section 19. However, Section 19 has grown quite lengthy.
17 And it is the end of the chapter. One of the comments we
18 received yesterday requested that we maybe put that
19 information earlier in the chapter. That's something that
20 we will be following up with our Attorney General's Office,
21 to make sure that if we do that, that we do it in a way
22 that doesn't make more work on their end to defend our
23 rule. But we think we might be able to provide that
24 publication information earlier so that people aren't
25 struggling to find the document. Because Mr. Hendon is

1 correct, if you search 10 States Standards, not going to
2 find it as easily as if you searched the complete title.
3 And it actually is routed through the State of Minnesota.
4 They are kind of the stewards of the rule.

5 MR. HENDON: So perhaps it's something we
6 can just address on the front end of the documents to make
7 it easy and concise for our entities and applicants to find
8 the information directly and in a timely manner.

9 CHAIRMAN KIRKBRIDE: Mr. Lenz, does this
10 address your -- or have we addressed your concern?

11 MR. LENZ: Yeah, I think that that would
12 address it. I haven't had a chance to look at Section 19.
13 I did try -- I tried searching the title that it was listed
14 as where it was incorporated, and I think it's Broward --
15 Broward, Minnesota or -- broward.org that I can get the
16 2012 version, but I did not see the 2018 version that was
17 listed in the document.

18 And I'm not a millennial, but I'm -- I do pretty
19 well with Google, so -- but, yeah, it was just -- it was
20 not straightforward, just based on that if you searched for
21 the document right where it was adopted, that language.

22 CHAIRMAN KIRKBRIDE: Well, okay.

23 BOARD MEMBER CAHN: Chairman Kirkbride.

24 CHAIRMAN KIRKBRIDE: Yes.

25 BOARD MEMBER CAHN: Yeah, this is Lorie.

1 I would just like to say that I think Brian's
2 comment brings up kind of a big picture issue for me, and
3 that is that it's the first time the public's really had a
4 chance to look at these, all these changes. And, you know,
5 Brian is an implementing engineer -- county engineer for --
6 or, excuse me, Jackson engineer, for the town. And so he's
7 not the only person we're hearing from had a problem
8 finding these standards.

9 And so my point is that the 30-day public comment
10 period, I don't think -- may not have been enough time for
11 people to review it, all these changes, if they couldn't
12 even get -- it's mostly incorporation by reference, and
13 then people haven't been able to find the reference
14 material. That, to me, just brings up an issue that I
15 think we need more time on this. But I'll get to those
16 comments later, but I just wanted to throw in my 2 cents.
17 Thank you.

18 MS. ZYGMUNT: Mr. Chairman and Board Member
19 Cahn, we certainly understand the concern, and we
20 absolutely want to make sure there's ample public comment
21 opportunity for this rule. So we welcome more discussion
22 on that.

23 I do want to point out that we did post the 10
24 States Standards on our website, along with the material
25 for the advisory board meeting, including the draft rule.

1 We apologize to the constituents if they weren't able to
2 locate it.

3 We are looking into copyright issues to see if we
4 can permanently post the 201810 States Standards on our
5 website. I don't think we have an answer on that, but,
6 absolutely, if we can post that on our website, we will.
7 Otherwise, as Mr. Hendon said, we will make it very clear
8 where people can access the standards online.

9 CHAIRMAN KIRKBRIDE: All right. Sounds
10 like a good effort is intended here.

11 Do we have another member of the public who would
12 like to --

13 BOARD MEMBER DEURLOO: Chairman Kirkbride,
14 can I make one more comment on that, please, if you don't
15 mind?

16 CHAIRMAN KIRKBRIDE: Sure. Sure, you can.

17 BOARD MEMBER DEURLOO: So I heard earlier
18 that this 10 States -- sorry. This is Chairman -- or not
19 chairman -- Brian Deurloo.

20 I heard that you can get these online for \$13.95
21 or something earlier. How many public -- how many
22 regulated public water treatment plants are in the state of
23 Wyoming, out of curiosity? Does anybody have a plus or
24 minus number?

25 MR. TILLMAN: Roughly -- excuse me, Board

1 Member Deurloo. I believe there are roughly 400 and some
2 odd water -- public water systems within the state.

3 BOARD MEMBER DEURLOO: Okay.

4 MR. TILLMAN: No. I take that. I take
5 that back. It's 200-something community and noncommunity,
6 nontransient -- I believe there's 400 transient. So I
7 believe the number's closer to 700.

8 BOARD MEMBER DEURLOO: Uh-huh.

9 Have you ever -- thank you.

10 Have you ever distributed -- like when we have
11 a -- an incorporated by reference, like what we're doing
12 here with the 10 States Standards, have you ever provided
13 like the pamphlets or the documents to the regulated
14 entities that are government owned? Like, for example,
15 have you ever sent out something like the pamphlet that
16 we're talking about here to all the regulated entities so
17 they can review it, because it will be part of the
18 standards coming up, have it in paper form?

19 MR. TILLMAN: No, we haven't. And, Gina,
20 correct me if I'm wrong, but I thought that there was an
21 issue with being able to copy it and just distribute it for
22 copyright rules. And I don't know if we have the authority
23 to buy enough copies for all entities that were interested
24 in -- and just off the record -- or, excuse me, as another
25 aside, we've never had -- in our 30-day comment period,

1 we've never had anyone contact us regarding being able to
2 get a copy of that or wondered where they could get a copy
3 or anything of that nature.

4 MS. THOMPSON: So just to clarify. We had
5 an individual out of Sheridan that asked where they could
6 get a copy. And the organization that publishes the 10
7 States made that digital copy available to us at no charge.
8 But as far as making a printed copy available, we -- we --
9 that is not our normal practice for any reference material.
10 The Administrative Procedures Act kind of governs how we
11 handle these incorporation by reference. And it requires
12 that we keep a copy of the reference material and that we
13 note where individuals who need a hard copy can get that
14 information. And that information is contained in Section
15 19.

16 So we're required to have one at least in the
17 Cheyenne office, which is what we include in the chapter.
18 And then DEQ is committed to providing a hard copy to all
19 of our field offices. Additionally, we can clarify that
20 Section 19 entry to make sure that the Web address is
21 included for that material so that people can just click on
22 it. I believe that that is an acceptable inclusion at the
23 Secretary of State level when they review the rules. You
24 know, that's a piece that they would look for is does
25 that -- you know, did the format of our incorporation by

1 reference meet the standard.

2 So potentially, while we wouldn't purchase a hard
3 copy and mail it to every public water supply, we would
4 make sure that there was one available at the main office
5 and the four field offices.

6 BOARD MEMBER DEURLOO: Thank you, Gina.

7 Yeah, I finally did find the reference on like
8 third from -- fourth from the bottom or something like
9 that. On line 2885 on the clean version is where you do
10 that. So I'd probably, like you said earlier, move that up
11 in the importance -- or the list under those things in
12 Section 19. Thank you for that discussion.

13 Mr. Chairman, I have no more comments on that.

14 CHAIRMAN KIRKBRIDE: All right. If not, is
15 there another member of the public who would like to --

16 BOARD MEMBER CAHN: Excuse me. I had one
17 more thing on that.

18 CHAIRMAN KIRKBRIDE: Okay, Lorie. Sorry.

19 BOARD MEMBER CAHN: So I guess I just
20 wanted to clarify what Mr. Hendon said. If somebody
21 googles the standards and decides to order their \$13 copy,
22 I just want to clarify they have to wait to get that copy
23 in the mail. They're not just going to get an instant
24 digital copy online; is that correct?

25 MS. THOMPSON: No, that is incorrect. So

1 the digital copy is \$13.95. That is an instant download, I
2 believe. And then there's a hard copy that if someone
3 wishes to receive a paper copy, they can purchase one
4 through the same Web page. And it's 19.95 to cover the
5 State of Minnesota's publishing costs. And I'm not
6 entirely sure if there's shipping, but it is a difference
7 in price to cover the publishing -- the cost of publishing
8 a hard copy versus an electronic download.

9 BOARD MEMBER CAHN: Thank you, Gina, for
10 clarifying that.

11 CHAIRMAN KIRKBRIDE: I'm sorry. I can't do
12 chat very well. Is there somebody else with a hand raised?

13 MS. THOMPSON: Mr. Lenz, if you were -- if
14 your comment has been addressed, if you could lower your
15 hand.

16 And then we would like to recall that in the
17 Chapter 18 presentation earlier, there was a gentleman from
18 the Board of Public Utilities that noted that he would like
19 to make a comment.

20 So, Mr. Bassett, if you were interested in making
21 a comment, this would be the time to raise your hand so we
22 could call on you.

23 MR. BASSETT: My comment has been
24 addressed. Thank you.

25 MS. THOMPSON: Oh, okay.

1 And so it looks like a Mr. -- it looks like
2 Mr. Strong has a comment potentially.

3 MR. STRONG: Yes. This is Frank Strong. I
4 am the Engineering and Water Resource Division manager for
5 the Cheyenne Board of Public Utilities. I just want to
6 comment on glad to see these regulations are being updated.
7 I know we provided quite a few comments for your
8 consideration. We'd be happy to help you guys work through
9 any of those to make it clear what we were getting at.
10 Hopefully we can have a good product when we're done.
11 Thank you.

12 CHAIRMAN KIRKBRIDE: Are we going to go
13 over public -- those comments?

14 MR. TILLMAN: At your discretion, Chairman
15 Kirkbride.

16 CHAIRMAN KIRKBRIDE: Yeah, okay. Well, if
17 we have more live comments, let's take them now.

18 MS. THOMPSON: Mr. Chairman, I'm not seeing
19 any other hands raised. So we're at the speak now or
20 forever hold your peace or at least hold your peace until
21 the next comment period. So if there are any other
22 interested parties, please raise your hand, otherwise we'll
23 return it to the Board's discussion.

24 CHAIRMAN KIRKBRIDE: Okay.

25 MS. THOMPSON: I'm just not seeing any,

1 sir.

2 CHAIRMAN KIRKBRIDE: And we'll try to keep
3 our eyes peeled in case there's another hand that comes up
4 on the chat.

5 BOARD MEMBER CAHN: Chairman Kirkbride.

6 CHAIRMAN KIRKBRIDE: Yes, Lorie.

7 BOARD MEMBER CAHN: I guess I'd like to
8 suggest maybe now we start going through -- start going
9 through section by section with responses to comments, to
10 the public comments, EPA comments, and then Board
11 discussion. And then I think at some point maybe members
12 of the public, if something comes up, that they thought,
13 oh, geez, I want to comment or something on that, maybe
14 they can use the chat feature, raised hand, so we can see
15 what their concerns might be. Thank you.

16 CHAIRMAN KIRKBRIDE: I think that's fine.
17 If there's no -- no problem with that, let's -- we'll go --
18 start chapter by chapter -- or I mean section by section.
19 Yes.

20 MS. ZYGMUNT: Thank you, Mr. Chairman. So
21 my understanding is you'd like us to go section by section
22 and work in the comments we received on each section as
23 well?

24 CHAIRMAN KIRKBRIDE: Yes. Yes.

25 MS. ZYGMUNT: All right.

1 CHAIRMAN KIRKBRIDE: Also, it's 11:45.
2 Let's kind of get an idea of what -- whether we going to
3 need a lunch break. If we're going to go solidly until
4 3:00, we probably need a lunch break. If we're going to --
5 I don't know how to project it. This could take a while,
6 though, so --

7 BOARD MEMBER CAHN: Mr. Chairman.

8 CHAIRMAN KIRKBRIDE: Yes.

9 BOARD MEMBER CAHN: I would like to suggest
10 that we take a lunch break now, and then we can continue in
11 the afternoon sort of uninterrupted or whatever. So that
12 would be my suggestion. So it's 11:45.

13 CHAIRMAN KIRKBRIDE: Anybody have a problem
14 with that? Okay. How much time do we need? What
15 traditionally -- do we need an hour? 45 minutes? What?

16 MS. THOMPSON: It is nearly noon, and we
17 are in the Capitol Complex, and so all the other kiddos are
18 going to be clearing out for lunch as well. So potentially
19 an hour would give you enough time to -- for the folks in
20 the room to grab some lunch. And these folks that are --
21 you know, are joining us remotely from their offices or
22 from home, that we give them a chance to go and gather
23 lunch, if they need to, at the busy noon hour. So an hour
24 I feel, would be appropriate, sir.

25 CHAIRMAN KIRKBRIDE: Okay. All right.

1 Let's -- how about 12:50 we'll ring the gavel. How about
2 that? Yes? All right. Good. Everybody? Okay. See you
3 then.

4 (Meeting proceedings recessed
5 11:46 a.m. to 12:51 p.m.)

6 CHAIRMAN KIRKBRIDE: We're going to resume
7 the meeting of the Water and Waste Advisory Board. All the
8 board members are on, as well as our presenters.

9 And welcome to any of the public who is joining
10 us on Zoom or otherwise. We're glad to have you.

11 We're about to proceed now to go through Chapter
12 12, as presented, kind of section by section, and take
13 comments. We're also going to -- as we go along, we've had
14 a number of comments from the public and deal with them --
15 if they haven't been dealt with otherwise -- deal with
16 responses to those questions.

17 And we wanted to make it available for the
18 members of the public and to be able to -- if you have
19 something that is timely, to interject, please raise your
20 hand, and we'll try to note that and pick it up. I can't
21 see really well from where I'm sitting. I've got a glare.
22 And if we don't get your hand for a while, we'll try to get
23 you. But the intent is that we kind of deal with each of
24 these areas and try to deal with them as they come up.

25 Yes, Gina.

1 MS. THOMPSON: Mr. Chairman, I will note
2 that we did receive a written comment in the electronic
3 portal while we were at lunch, and so at your leisure, sir,
4 I can read -- it's two pages, but I can read it into the
5 record, since you won't have access to it during the
6 meeting for a printed-out version. I don't have print
7 capabilities in the building.

8 CHAIRMAN KIRKBRIDE: All right. Is it
9 appropriate now?

10 MS. THOMPSON: It looks like it covers
11 multiple topics. There's a general statement, a statement
12 on Section 12, Treatment, some comments on Pumping
13 Facilities, and then some comments on Distribution Systems
14 in Section 16.

15 CHAIRMAN KIRKBRIDE: I suppose you should
16 just go ahead with it now.

17 MS. THOMPSON: Okay. I'll go ahead and
18 read that in.

19 So this comment is from Mr. Brian Sepe, and
20 Mr. Sepe states generally due to the size and complexity,
21 the format of the proposed rules is challenging to use.
22 Consider adding a table of contents illustrating each
23 section and the associated page numbers. Because many
24 sections have major subsections, these could be labeled as
25 subheading and included in the table of contents. The

1 partial inclusion of specific 10 States Standards by
2 reference only may lead to issues when interpreting and
3 enforcing the standards. The user must cross-reference
4 back to specific sections of the TSS. In several instances
5 only select portions of the TSS are referenced. Consider
6 incorporating the full text, with permission, of each
7 included sections of the TSS directly into the appropriate
8 subsections of Chapter 12. The verbiage will need to be
9 modified to merge with the contents of the proposed rule.
10 As the rule is proposed now, that merging will need to be
11 made by users and/or the reviewer, which may cause a
12 confusion.

13 Water treatment process design is very specific
14 to the waters being treated. The use of pilot or
15 demonstration plants is essential to most all surface water
16 treatment plants of sufficient size. The cost and time
17 associated with successful pilot studies must yield
18 benefits to the design permitting process. Consider
19 bolstering Section 6 so that once a study has provided
20 proven results those findings are the basis for compliance
21 with potential conflicting requirements that may be more
22 generally written.

23 Concerning Section 12, Treatment, for paragraph
24 12(h), proprietary treatment systems often incorporate tube
25 settlers. These systems may or may not require routine

1 cleaning beyond normal blowdowns, as tube cleaning may be
2 only an annual occurrence. These types of systems would
3 not comply with 12(h)(iv) as written.

4 On paragraph 12(m)(ii), is it missing or is there
5 misnumbering?

6 On 12(m)(iii), the use of ozone may be driven by
7 several factors, depending on the process or design goals.
8 Taste and odor may be secondary or incident benefit. When
9 used as a pre-oxidant, the dosage and contact time
10 presented in (iii) is excessive and may be detrimental.

11 Concerning paragraph (r) and (s), Section 93.3(b)
12 of the TSS has not been included by reference. Without the
13 inclusion of 93.3(b), the proposed Chapter 12 rules do not
14 address land application of dewatered sludge except for the
15 liquid lime softening sludge in paragraph (r)(iv).

16 Alum sludge is specifically addressed in
17 subsection (s), but sludge from ferric sulfate or ferric
18 chloride is not. Consider including TSS Section 93.3(b).
19 It is an appropriate method to be considered depending on
20 site-specific conditions.

21 Concerning Section 14, Pumping Facilities.
22 Paragraph (d)(iii), six air changes an hour is excessive in
23 a pump station where sensitive electrical gear is in a
24 segregated or isolated room. Consider allowing exceptions
25 where applicable.

1 And in paragraph (g)(iii), pump and pipeline
2 design must consider surge. Pressure relief valves may
3 provide the appropriate level of protection for some
4 designs. Categorically excluding relief valves should be
5 reconsidered.

6 For Section 16, Distribution Systems. At
7 paragraph (a), the proposed Chapter 12 does not include TSS
8 8.5, which provided a method to address inflow prevention
9 via AWWA C514. Consider inclusion of this section of the
10 TSS.

11 And at paragraph (f), air relief and vacuum
12 breakers are essential in most large transmission systems.
13 It is not always practical to provide a segregated depth
14 piping to the surface, such as within paved areas.
15 Alternate designs to drain the vaults or add inflow
16 preventers need to be considered.

17 And that concludes Mr. Sepe's comments, sir.

18 CHAIRMAN KIRKBRIDE: All right. Just
19 briefly, do things -- are these things you've considered
20 otherwise? Did you hear something that -- I mean, I assume
21 you'll want to analyze all that, but --

22 MS. ZYGMUNT: Yes, Mr. Chairman. I think
23 we might need some time to analyze those comments. Some of
24 the issues, such as numbering, we can double-check to make
25 sure we haven't misnumbered sections. In regards to the

1 technical comments, I think we would be challenged to
2 respond to all those today, but I'll let Mr. Tillman and
3 Mr. Hendon speak if they feel differently.

4 MR. TILLMAN: Chairman Kirkbride. Oh,
5 sorry about that.

6 Chairman Kirkbride, yes, we probably need to look
7 at those. I was listening as Gina was reading those off,
8 and I believe that some of the other comments that we
9 received are similar in nature that we may have addressed.

10 Just off the top of my head, the one on ozone, I
11 think we changed the fee rate on ozone that another
12 commenter thought the rate that we had previously had
13 presented issues with DDPs and some other operational
14 considerations that may occur in some facilities. So I
15 think we've addressed that one.

16 And I think a couple others we may have addressed
17 in other comments similar, but off the top of my head, I'd
18 definitely want some time to look at that in detail before
19 we reply to those.

20 CHAIRMAN KIRKBRIDE: Sure.

21 MR. HENDON: Mr. Chairman, I could concur
22 with Bill and Jennifer's sentiments with taking time to go
23 back and review those comments and provide an in-depth
24 review from the necessary comments with regards to his
25 concerns.

1 CHAIRMAN KIRKBRIDE: Surely that's --
2 Mr. Sepe isn't, by any chance, on the call, is he?

3 MS. THOMPSON: I don't see him included on
4 the participant list, sir.

5 CHAIRMAN KIRKBRIDE: Okay. All right.
6 Therefore, I think we can go and proceed with what our plan
7 was.

8 Bill, go ahead.

9 MR. TILLMAN: Chairman Kirkbride, we'd like
10 to address the comments, as Board Member Cahn suggested. I
11 think the way we'd like to go about that is to go through
12 at least the general comments that we received. And then I
13 would like to, I guess, engage Ms. Cahn and ask her if
14 there were specific parts of each section as we get to them
15 that were of concern to her, or if there were comments that
16 she noted that were of concern, rather than kind of reading
17 through the list, because I think some of them tended to
18 overlap. But if she could provide those areas she was
19 concerned with and those specific comments, we can get to
20 those and address those in this format. Think that would
21 be acceptable?

22 CHAIRMAN KIRKBRIDE: How about that, Lorie?
23 What did you have -- how do you think it would be best to
24 go about it?

25 BOARD MEMBER CAHN: Well, I'm not sure the

1 members of the public that are -- made comments that are in
2 here. Have they had access to the responses to the
3 comments?

4 MS. THOMPSON: We posted -- we did post the
5 responses to the comments to the website yesterday, but
6 obviously not everyone may have read them. We can screen
7 share as we go through.

8 MS. ZYGMUNT: And, Mr. Chairman, let me
9 clarify. So most of the responses to comments we've had on
10 the website for about a week, I believe, because there were
11 two sets of responses to comments. And I'm going to look
12 at Gina for help here.

13 MS. THOMPSON: I believe we sent the
14 initial responses to the Board on Friday, and then we
15 received additional comments on Monday. And we made sure
16 everything was posted yesterday, which was Monday. So the
17 public did not have the weekend to look at that responses
18 to comments, I don't believe.

19 MS. ZYGMUNT: Yes. Thank you, Gina.

20 I retract my comment. Gina's correct. They were
21 posted yesterday.

22 And, again, we do accept comments -- just to
23 clarify for people who are not familiar with the process.
24 So prior to the advisory board meeting we request comments
25 by a certain time to allow us to provide responses in a

1 timely manner. Again, we received more comments than we
2 were expecting. And then we do also allow comments right
3 up to the advisory board meeting so we can receive comments
4 at any point during that time. And I'd just like to
5 acknowledge it can be a challenge to turn those around in a
6 timely manner.

7 CHAIRMAN KIRKBRIDE: Sure.

8 BOARD MEMBER CAHN: I want to thank you
9 guys for a quick -- the quick turnaround that you did. I
10 was very impressed with how quickly you got the comments
11 up. So I think people from the public who are listening in
12 can go to the website and see how their comments were
13 respond -- those that made comments or those that didn't
14 but are interested can see what others have said and how
15 responded.

16 And, Bill, to -- I want to clarify. It's not
17 just me, necessarily, that's going to have comments. So I
18 think we would -- what we typically do, we'll open it up to
19 anybody on the Board that wants to comment on a section.
20 And maybe to help speed things along, because I know we
21 only have two hours left to get a lot of stuff covered, if
22 you guys -- you and Keenan can focus on more important
23 issues, technical issues, and maybe things that either were
24 big issues that somebody brought to your attention that you
25 agreed with and you're going to make the change or

1 something that they brought up but you didn't agree with
2 and why you wouldn't be making the change I think would be
3 helpful, so -- and maybe we want to start -- I don't know
4 if we want to start with general comments or if we want to
5 end with the general comments, but maybe -- maybe we start
6 with them.

7 MS. ZYGMUNT: Yes. Mr. Chairman. I
8 recommend we start with the general comments, and then we
9 can just highlight each section again, note the major
10 changes and associated comments with each section.

11 CHAIRMAN KIRKBRIDE: We'll accept that
12 plan. Go ahead.

13 MR. TILLMAN: Okay. Chairman Kirkbride,
14 I'd like to begin with just the general comments.
15 Beginning with Cheyenne BOPU. Cheyenne BOPU asked do plant
16 mods or upgrades require the entire plant to meet these
17 requirements? How will new standards be applied to
18 existing plant modifications and expansions?

19 I believe we addressed that in the chapter where
20 we suggest that any existing facility is under the purview
21 of the existing Chapter 12. It's not until they perform
22 modifications or build something new that we would impose
23 the new requirements of the chapter on that part being
24 modified. And, obviously, with -- being that it's not a
25 black and white integration of new parts to old parts, we

1 would obviously work with an entity to try to figure out
2 what was the best place to make that break, that separation
3 of new to old, and make sure that it's not an undue burden
4 for the compliance with the new set of rules that we've
5 imposed.

6 MR. HENDON: Mr. Chairman, I'd also just
7 like to add that this comment was probably one of the more
8 common comments that we got with regards to questions and
9 the outreach to the community.

10 MR. TILLMAN: Let's see. Next Mr. Dayton
11 Alsaker. Mr. Alsaker commented, and I quote, I previously
12 provided some specific comments about the draft Chapter 12,
13 but I'd like to provide a more general comment. Why is
14 this being done? Wyoming's version of Chapter 12 has
15 served the state and its water systems worked well for many
16 years. Why now incorporate other standards? I don't see
17 this as a benefit -- as benefitting Wyoming, its water
18 system for those that work with the water systems, even on
19 the regulatory side. I'd like to see us stay with the
20 State's version of these standards that have served us
21 well. Maybe some minor revising/updating is needed, but I
22 don't see a benefit to basically rewriting them or doubling
23 their length.

24 Also, the major federal ARPA and infrastructure
25 funding coming our way in 2022, everyone involved will be

1 working overtime to keep up with the projects and spending
2 these additional funds wisely to maximize the benefit to
3 our water systems. Now does not appear to be the time to
4 take on additional duties that can slow down more important
5 tasks.

6 And our response to Mr. Alsaker, as Administrator
7 Zygmunt mentioned earlier, these revisions to Chapter 12
8 didn't just start recently. We started them several years
9 ago. I believe 2014, 2015. And we've been working on them
10 as staff and as time has allowed. It's taken us quite a
11 bit of time to get to this point where we're at. Didn't
12 foresee, I guess, the COVID and all the infrastructure and
13 different things that have come along since then. And
14 absolutely that's going to impact the municipalities as
15 well as government agencies that deal with those
16 municipalities, in addition to the funding that they're
17 looking at. It's going to be a tremendous burden on
18 everyone involved. But we don't feel that modifying these
19 rules impacts that in any way -- in any way or form, and
20 that those activities are kind of independent of our
21 revising of this chapter.

22 And it's necessary to update this. As we've
23 demonstrated, new technology, things that were procedural
24 that were not codified that we had to talk people through,
25 now we've tried to put into the rules so we can see them

1 beforehand.

2 So we understand his concern and kind of
3 frustration that when you get used to something, then it
4 changes on you, that it's something to get used to. But we
5 feel that the new version of Chapter 12 will be a better
6 product for him to work with.

7 Let's see. Another comment from Darwin Dick of
8 Tetra Tech. Mr. Dick commented this subject matter is
9 primarily related to the type of wells allowed by Chapter
10 12.

11 MR. HENDON: It's in the --

12 MR. TILLMAN: Excuse me. I was making sure
13 it was still in general comments. It seemed to be somewhat
14 specific. But continuing on. Related to type of wells
15 allowed by Chapter 12, and if dug wells should still be
16 permitted. Chapter 12 makes reference to dug wells that
17 should be constructed according to the State Engineer's
18 Office. Chapter 12 also includes concrete pipe or well
19 casing materials which is assumed to be for dug wells. Dug
20 wells are older technology and would typically deliver
21 groundwater under direct influence of surface water.
22 Subsequently, how and where are procedures for classifying
23 wells or groundwater wells or groundwater wells under
24 direct influence of surface water? Are there microscopic
25 particular analysis requirements covered that confirm

1 classification of shallower water wells? Also, are shallow
2 horizontal infiltration galleries or in-bank filtration
3 options available as options for well water intakes?
4 Appropriate classification of wells will dictate the level
5 of treatment required for results of MPAs.

6 Our response, we considered the comment. Dug
7 wells would be individual wells that are proposed to be
8 converted to a public well -- water well. These wells
9 would need to meet all public water system construction
10 requirements for Water Quality permitting review and would
11 need to demonstrate to the agency that with primacy for
12 drinking water, which is Environmental -- Environmental
13 Protection Agency Region 8, that the well meets the EPA
14 requirements, and that wells are not under the direct
15 influence of surface water.

16 And, unfortunately, this is where we kind of
17 overlap, because we do not have the authority to make that
18 designation of the water source. Region 8 EPA does. So
19 although we have regulations considering how to construct
20 the well, how the well is analyzed in its classification is
21 dictated by Region 8. So we have complementary
22 responsibilities in that regard.

23 Those were all the general -- those were the only
24 couple of general comments that we have.

25 MS. ZYGMUNT: One more. Mr. Hooten's.

1 MR. TILLMAN: Oh, sorry. My mistake. One
2 more. From Mr. Andy Hooten.

3 Mr. Hooten commented rather than incorporating
4 the 10 States Standards you want and excluding other at the
5 beginning of the section, I would recommend placing the
6 applicable 10 States Standards in the section where it
7 makes sense. The proposed format was difficult to follow
8 and did not provide clear intent.

9 And we considered his comment, and we tested the
10 suggested format earlier in our drafting process, and
11 internally we found that to be more cumbersome than the way
12 we ended up now with stating the parts of the 10 States
13 Standards that are included at the beginning of the
14 section. So we've kind of gone both gamuts, and we feel
15 that where we're at now, putting the inclusion of the 10
16 States Standards, those sections at the beginning of each
17 section, is more appropriate and seemed to be a better read
18 than the way we had it before.

19 Okay. And that concludes the general comments.

20 The next set of comments are in Section 4. I
21 didn't know if any of the board members had any concerns in
22 Sections 1, 2, 3 that we need to address.

23 BOARD MEMBER CAHN: I think maybe we can
24 have a Board discussion on general comments.

25 MR. TILLMAN: Okay.

1 BOARD MEMBER CAHN: And if -- Mr. Chair,
2 may I start?

3 CHAIRMAN KIRKBRIDE: You certainly may.

4 BOARD MEMBER CAHN: Okay. I guess, you
5 know, one of my concerns -- or things that I need to
6 understand is what -- what happened or what -- I mean,
7 obviously you're saying there's some new technologies that
8 aren't being addressed because the standards are 40 years
9 old. What's driving this -- you know, driving you to redo
10 the standards besides that? What's the direction from the
11 current governor in terms of, you know, reducing
12 regulations or incorporation by reference? That sounds
13 like that doesn't come from the governor's office, so I
14 guess what's current -- I think we address that a little
15 bit, but just kind of what's the current -- what's the word
16 I'm looking for -- you know, path that the DEQ wants to
17 take on this?

18 Let me just -- and then, you know, just kind of a
19 general concern that we have a huge number of political --
20 of public comments being made on this, bigger than I've
21 seen on anything for quite a while. And so I appreciate
22 the fact that you need more time to go over what people are
23 bringing up. But I'm a little concerned about, you know,
24 how we got to -- and I don't know if there's an answer, but
25 how do we get to a place where we have a lot of unhappiness

1 with this when we're close to -- you know, this far along.
2 And so I have some concerns about kind of process and how
3 we could maybe do -- what we can learn from this and how it
4 can be done better, maybe, next time.

5 And then just kind of a general comment about the
6 difficulty that people are -- who have to -- are the
7 practitioners we're hearing from in the state that have to
8 implement this, the difficulty of going back and forth
9 between the incorporation by reference. And so I guess it
10 just still brings up the question for me do we really have
11 to do incorporation by referencing? What's -- if what
12 we're really referencing is 150 pages long, or whatever,
13 and would increase the regulation by that, why aren't we
14 just taking those sections we want instead of incorporating
15 by reference, putting them in, and then seeing how much --
16 does it improve the readability.

17 And I understand from your response to comment
18 you guys started on that path but then changed your mind to
19 do incorporation by reference because it wasn't working. I
20 think that's what I read.

21 I don't know. I guess I've given you enough
22 things to -- I'll forget where I started. So maybe you can
23 answer those, and then I'll continue my general comments.
24 Sorry.

25 MS. ZYGMUNT: Yes. Mr. Chairman. Board

1 Member Cahn, yeah, there's a lot packed into that question,
2 so let me see if I can take it part by part.

3 I'll start off, and then I'm sure Bill and Keenan
4 will have things to add. I'll speak to the incorporation
5 by reference. And, again, to answer your question, I
6 cannot speak for any directives from the governor's office
7 about rules at this time, but we did start down this
8 process -- we started working on Chapter 12 when Governor
9 Mead was in office with the streamlining initiative in
10 effect.

11 Even after his administration ended -- again, as
12 I stated earlier this morning, I do think it's in the
13 interest of any agency to look for opportunities to
14 streamline and increase efficiency when we can. And I do
15 support incorporation by reference as a way to do that in
16 regulatory documents.

17 Again, we recognize the pros and cons. And, you
18 know, we did hear feedback that it is challenging to look
19 through multiple references, but I also will repeat Bill's
20 comment that that is a bit of a standard in the engineering
21 field, that you commonly have multiple references that
22 you're working from. So I don't think that we're departing
23 from, you know, what the standard is in the field or what
24 other agencies do.

25 I would like to continue down the incorporation

1 by reference, but, of course, we'll take the public
2 feedback that we heard and feedback from the Board, and if
3 it's the Board directive that we need to reconsider some
4 feedback, that's something I'll discuss with Director
5 Parfitt.

6 I will, excuse me, reemphasize, though, that if
7 we added back all the 10 States Standards sections that we
8 referenced, it would significantly increase the length of
9 this rule. I think we're talking around a hundred pages
10 would be added since we refer to it pretty extensively.

11 We did hear some challenging feedback about the
12 incorporation by reference, but there's other people that
13 feel it can work too. So I would just acknowledge both,
14 that I do think incorporation by reference has challenges,
15 but it can be a workable solution.

16 Let's see. Board Member Cahn, I'm trying to
17 think of the other parts of your question there. And,
18 again, the driver of this rule, yes, it is nearly 40 years
19 old. Again, we need to have updated modern technology in
20 those rules so that our communities have the appropriate
21 standards to design these facilities, construct these
22 facilities so that we are protecting public health by
23 having quality drinking water.

24 Let me stop there and see if Bill or Keenan would
25 like to add anything.

1 MR. TILLMAN: No, I -- Board Member Cahn,
2 just to echo sentiments of Administrator Zygmunt. I don't
3 think that, you know -- it's six of one, half a dozen of
4 the other whether or not you try to put all of what we've
5 incorporated by reference from the 10 States Standards into
6 our chapter. There are still other standards, as we refer
7 to, AWWA, NSF, several others entities that we reference in
8 the document as well. So we wouldn't just be incorporating
9 the 10 States Standards and putting in their words. We
10 would -- would also have to include everything else that
11 we've incorporated.

12 So I think, again it's six of one, half a dozen
13 the other, whether or not you have one or two documents or
14 you have a single one that's the size of an encyclopedia.
15 I still think that you're going to reference other
16 documents in order to make sure that that design's
17 complete.

18 So, again, I don't feel that that's a pervasive
19 argument. I think we've had a couple of people say that.
20 We've had also people say to the contrary that they can
21 work with what we've got. There are other people that had
22 no comment on the incorporation by reference. So it's a --
23 I understand the personal nature that some people feel it's
24 difficult to get through, but I think in general, as an
25 industry, that is not -- I would not consider that to be

1 cumbersome.

2 MS. ZYGMUNT: And, Mr. Chairman, Board
3 Member Cahn, I remember the second part of the question,
4 and I'll speak more to the process and the public notice.
5 And certainly understand the question and the concerns.
6 And we were a bit surprised by the number of public
7 comments on this as well.

8 In terms of what we could do differently, I think
9 in the future, for this rule and others that are similar to
10 it, we would likely rethink our initial public outreach and
11 consider having a draft document to start from at that
12 point, which might give people, you know, more concrete
13 target to start providing comments on.

14 Again, we did do informal outreach in October of
15 2020. Only garnered two comments. So perhaps during that
16 informal outreach, when we have a better tentative draft,
17 I'll say, might be a better way to better give people an
18 idea of what we're proposing. So we're very open to
19 looking at that process and seeing how we can make
20 improvements in the future, and, you know, complete
21 outreach up front to, you know, reduce the public comments
22 at this point.

23 Again, it has been challenging to receive
24 comments for this up to the point of the board meeting. I
25 think that is something else that we could consider in

1 coordination with Administrator Engels, if that is the best
2 way to go about it. We want to make sure that people who
3 are commenting have a clear idea of how we'll be able to
4 respond to their comments and make sure that the board
5 members have complete information by the time that we meet.

6 So those are just some of my initial thoughts.
7 And we were open to looking at how to do our processes
8 better. And, again, if it's the Board's direction that we
9 need to take more time to look at the public comments and
10 feedback from the Board, we certainly understand that
11 perspective.

12 CHAIRMAN KIRKBRIDE: One of my thoughts is
13 that I think most of us have had the experience of having a
14 problem and calling somebody at some office for help, and
15 they say, oh, no, you got to call Person B. You call
16 Person B, and they say, oh, no, you got to call Person F.
17 Well, when -- and it's very frustrating. And I think if
18 you -- I would favor the incorporation by reference to
19 simplify things. But you want to have it accurate. You
20 want -- that needs to be user friendly too so that you go
21 to the right place, it seems to me. And I think as long as
22 you're careful in doing that, I would think that's a
23 preferable way. That's personal opinion from a distance.

24 BOARD MEMBER CAHN: Yeah. I guess another
25 part of my comments about the incorporation by reference,

1 if I may, Mr. Chair.

2 CHAIRMAN KIRKBRIDE: Yes.

3 BOARD MEMBER CAHN: You know, when I worked
4 for the -- for most of my career I worked in Idaho. And
5 Idaho has a regulation that -- I can't remember -- it might
6 be 135 pages or so. Somewhere along what we're talking
7 about this might become. But I remember it being very,
8 very easy to use and having everything in one place. And I
9 didn't find it cumbersome to use something, and it was --
10 you could click on -- you know, when you looked at it
11 online, you could click on a section from the beginning and
12 it'd take you right to where -- you know, where you were
13 going. So that's -- that's one of the things.

14 Another thing -- so I -- I would prefer that to
15 incorporation by reference. And I think we're hearing, you
16 know, a split where some members of the public like it and
17 some members don't. But I think, you know, if the goal is
18 to increase efficiency and streamline, I think we have to
19 look at whose perspective is that from, because if it's
20 from the perspective of DEQ, maybe it's streamlined or
21 efficient to have incorporation by reference. But from
22 user perspective, practicing engineers in the state, it's
23 less efficient and less streamlined.

24 And I think -- so -- so I guess I'll just leave
25 it at that, other than to say I think if -- if you were to

1 write out everything that you want instead of incorporating
2 by reference, I think we could differentiate between things
3 that are AWWA, or, you know, things that are always in
4 regulations not all spelled out. We've always referred to
5 things like that.

6 And, you know, whereas referring to the 10 States
7 Standards, they're really not standards. The title of it
8 is recommend -- something like recommend -- I'll have to
9 pull it up again, but it's something like recommended
10 practice. And so, you know, in my mind, it's one thing to
11 incorporate EPA requirements when -- by reference, when
12 everybody can pull those up, or -- yeah, so it's
13 recommended standards for waterworks is the title.

14 So in my mind, there's some -- there's a bunch of
15 questions. One is, you know, if we're doing something --
16 like when we do RCRA or HMLA, you know, citing EPA makes
17 sense, because everybody can look those up. And no matter
18 which state you work at, the EPA rules aren't going to
19 change. But anyways -- so one of my questions has to
20 do with is this recommended standards from midwestern
21 states -- and provinces, Ontario -- is that even
22 appropriate for Wyoming, and should -- maybe we should be
23 looking at states closer to us that are in the Rocky
24 Mountains, you know, maybe some of the issues that people
25 bringing up have to do with -- maybe they're not at issue

1 in the midwestern states.

2 So I guess I would recommend that DEQ look at the
3 Idaho standards and see if maybe -- you know, that would be
4 one suggestion, to see if maybe that looks user friendly to
5 them. And the second is, I guess I would like to see --
6 and obviously I'm just one person -- but I would want to
7 see going back to a stakeholder group. And we certainly
8 have a number of people now that have -- around the state,
9 from all parts of the state, that are saying we're
10 concerned about the usability of this, and we have some
11 concerns about technical things, put together user group,
12 stakeholder group that includes not just users but
13 obviously the practitioners -- the people who are -- who are
14 out in the field looking at these sites and helping people
15 who are regulating, you know, like the district engineers
16 that we have within Wyoming -- within DEQ, and having --
17 going back kind of to the drawing board to -- to rethink
18 this.

19 And, you know, perhaps maybe -- 10 States
20 Standards -- I'm not sure why that was chosen. Maybe
21 that's not the -- and that was chosen -- I mean, Bill -- I
22 appreciate what you said, Bill. I think you said it was
23 chosen like 40 years ago to -- to start with, and that's
24 kind of what we're stuck with. Well, if we're redoing the
25 regulations, maybe we're not stuck with it. Maybe, you

1 know, we should -- we should, you know, not use 10 States
2 Standards. So I'm kind of -- I think there was enough
3 concerns about it that maybe -- maybe that's not the
4 appropriate -- and, as I said, it's recommended practice.

5 So I'm concerned about referencing --
6 incorporating by reference things that are not a regulation
7 by something like the EPA. And, you know, if it's a
8 procedure that AWWA has, or whatever, those -- those are
9 typically -- I don't think -- I don't think -- if you -- I
10 don't think we have to say, if we do an incorporation by
11 reference for AWWA, that, therefore, we have to do
12 everything else incorporation by reference. Or if we spell
13 out what we want, that we can't refer to an AWWA and
14 incorporate that by reference. So I think there could be a
15 mix and match of what makes sense and what makes it most
16 user friendly.

17 And then -- and then another thing I'll say, you
18 know, when Bill talks about engineers needing to refer to a
19 bunch of different references. Well, yeah, we all do that
20 when we're, you know, putting things together. But it's
21 different, in my mind, when we're looking at a regulation.
22 You know, what -- what do we have to -- what do we have to
23 fit -- you know, what we're building, what does it have to
24 fit? And in my mind it's easier to know where you're going
25 if you know -- if you have it all in one spot, whereas how

1 do I get there? Yes, I'll refer to a whole bunch of
2 different manuals and references to get there. So I'll
3 just leave that on the table.

4 MS. ZYGMUNT: Mr. Chairman. Board Member
5 Cahn, let me start with some initial thoughts on how to
6 respond to those comments, which we certainly understand.
7 And I think I might not go exactly in order here.

8 But first, you know, the 10 States Standards are
9 robust. Again, they're used widely in the engineering
10 field, so I have absolute confidence that we're referring
11 to appropriate standards to incorporate into our
12 regulations.

13 This is different than you've seen in our other
14 rule packages, that this is not a primacy program. So
15 there are not corresponding EPA regulations we would point
16 to like we would for some of our Clean Water Act, Safe
17 Drinking Water Act programs. So there's a difference there
18 that we're -- it's not apples and apples to some of the
19 other rules that you've seen where we are pointing back to
20 EPA regulations.

21 You know, and, again, recognizing your concerns,
22 Board Member Cahn, about public outreach. I feel -- you
23 know, again, there were a lot of comments, but I don't feel
24 like they're anything that we can't work through with the
25 commenting entities. I'm not seeing any deal breakers.

1 And so, you know, given your request to take this back to
2 square one with the stakeholder group, I'll consider that,
3 but I don't feel like that would be an appropriate step at
4 this time, given the work that has been done. And, again,
5 I think we have received some very good comments, but after
6 people have time to digest our responses, we can work with
7 those commenting entities further, but I don't think we
8 need to roll it back to square one of the stakeholder
9 group.

10 I think that answers a few of your questions,
11 Board Member Cahn. And let me turn it over to Bill for his
12 thoughts.

13 MR. TILLMAN: I guess to echo the
14 sentiments of Administrator Zygmunt, the 10 States
15 Standards or recommended practices for waterworks is
16 something that's used all across the country. It's not
17 just the Great Lakes. It's used from California to New
18 York, down to Florida, up to Washington. Just about
19 everyone in the civil engineering field is familiar with
20 those standards, and they use those exclusively.

21 As a matter of fact, I believe it's Montana
22 paraphrases the 10 States Standards, and they say so right
23 up front. The 10 States Standards are not -- you can, I
24 guess, incorporated fully, but they basically paraphrased
25 them.

1 North Dakota uses 10 States Standards
2 exclusively. Colorado has also paraphrased the 10 States
3 Standards. They just didn't mention that up front. So to
4 shed any, I guess, concern about the 10 States Standards
5 and their ability to design water treatment systems is a
6 misnomer. They're used exclusively, extensively, and will
7 be used in the future.

8 They're regulated by engineers, by boards. They
9 review those regularly. Yes, they were initially part of
10 our standards, our rules 40 years ago. They've been
11 updated every five to six years since, hence the 2012
12 standards, the 2018 standards. There will be other
13 standards. So they're reviewed constantly by engineers, by
14 entities for their appropriateness, for their content.

15 And I think there's a significant difference
16 between engineering design standards that we're calling
17 regulations and other types of regulations for Air -- Air,
18 Solid and Hazardous Waste, things like that. So to mix
19 those two together, I don't think that is appropriate as
20 far as an analysis of how they look.

21 Secondly, and, again, I'll reiterate, you will
22 never find all the things you need in a single document.
23 Even if we have all the 10 States Standards written out in
24 Chapter 12, someone's still going to pull out a pump
25 manual, a materials manual, some other pamphlet, an

1 individual component manual to try to figure out does this
2 work for me? Is this appropriate for this application?

3 So to try to -- I guess, to give the incentive
4 that we can have everything in one spot and it can be done
5 and be efficient in one spot, I don't think that's
6 appropriate. I don't think that would be relative for an
7 engineer or the regulated communities who are going to be
8 doing the engineering, that's not what they would be --
9 something they would look at.

10 BOARD MEMBER CAHN: I see that Brian has
11 his hand up.

12 CHAIRMAN KIRKBRIDE: Mr. Deurloo.

13 MR. HENDON: I'm not sure his mic's on.

14 MS. THOMPSON: Brian, it looks like you're
15 muted. Oops.

16 BOARD MEMBER DEURLOO: How now brown cow.

17 MS. THOMPSON: We can hear you. Oh, there
18 you are. Okay. Yeah, this technology...

19 BOARD MEMBER DEURLOO: Okay. Very good.
20 Yeah. Great. Well, I really appreciate -- thank you,
21 Mr. Chairman.

22 I really appreciate what the DEQ is saying right
23 there in the last comment by Mr. Tillman. And it finally
24 hit me how much time is saved by referencing by
25 incorporation, especially with the 10 States Standards,

1 which it seems appears they're updated every three to five
2 years, recently. And I can see why it would be an
3 advantage to do that, because it also saves us on the Board
4 time every three to five years. If we reference those,
5 rather than writing our own in that we thought was the end
6 all and be all as a good reference for standards, I think
7 it would save us all time if we did allow that. I mean,
8 it's not like -- that way that we went ahead with reference
9 by incorporation. So, yeah, you sold me on that.

10 As we were -- it's all really good comments on
11 this. And I have to say it's good work. You guys have
12 done a tremendous amount of work on Chapter 12. And water
13 is a touchy subject, especially clean water, drinking
14 water. It's going to become even more of a deal. Every
15 day water's becoming more valuable, and we need to make
16 sure that we have good standards for its protection.

17 I had to remind myself -- as you guys were
18 talking, I walked and went to the wall map. And I just
19 tried to discover and remind myself how many rivers from
20 Wyoming go to the Mississippi River. We have the
21 Yellowstone River, the Bighorn River, the Powder River, the
22 Belle Fourche, the North Platte, which includes Crow Creek,
23 all flow to the Missouri River Basin into the Mississippi
24 Basin. So more than half the water probably leaving the
25 state of Wyoming is feeding the Mississippi River in the

1 long run.

2 So we are actually a part of the upper river --
3 or at least could be. And so my question to the staff --
4 or for discussion is would it be -- have we considered
5 joining the 10 States Standards, seeing how we're part of
6 the Upper Mississippi? Or to Lorie's point -- I mean,
7 wouldn't there be an advantage to joining that, that we can
8 have a seat at the table, because as a board, each state
9 gets one vote.

10 And, let's see -- or, you know, as Lorie was
11 speaking about, is there a western states, because we also,
12 you know, feed into the Colorado River. And then also feed
13 into the Columbia River. There's major watersheds we feed
14 in all over the place. So we're at a pretty pivotal point
15 with our regulations, and people may look up to us if we do
16 a good job on these.

17 So also I'd like to finally -- it is 1:38 right
18 now, by my standards -- or by my clock. We are -- I'm
19 happy to go to however late it takes with you guys, but
20 we're going to have to figure out some way to kind of, you
21 know, more hastily either answer these questions or address
22 them or set up a second meeting or something like that.
23 I'm saying it's still 1:30. We've got some time, but I
24 wanted to bring this to everybody's attention. Thank you,
25 Mr. Chairman, for the time.

1 CHAIRMAN KIRKBRIDE: Thank you.

2 MS. ZYGMUNT: Board Member Deurloo, yeah,
3 thanks for the comments. I don't have enough historical
4 knowledge to tell you if we have considered joining the
5 10 States Standards or what would be involved there. We
6 will absolutely look into it for you. It's a good
7 question.

8 And we're not currently aware of any other
9 comparable western state manuals. And, again, that's a
10 question that we can keep on our radar.

11 I'm going to look at Bill and see if he has
12 anything to correct me with there.

13 MR. TILLMAN: No, I'm not aware of any
14 other guidance manual for designing water treatment systems
15 other than this recommended practice of 10 States
16 Standards. That's what -- pretty much across the country.
17 Even at national conventions with SRF, people are
18 referencing that document as something that they look to
19 for designing systems or for new treatment options, things
20 like that. So I don't think there's another document
21 similar to that in nature for designing water treatment
22 systems or distribution systems for drinking water.

23 BOARD MEMBER CAHN: Mr. Chair.

24 CHAIRMAN KIRKBRIDE: Yes.

25 BOARD MEMBER CAHN: I just wanted to

1 clarify something that Brian said. I just wanted to make
2 sure everybody understands that -- or my understanding,
3 just to make sure -- want to make sure I'm correct -- is
4 that even if we adopt the 10 States Standards and they go
5 through in three years or five years and they make an
6 upgrade, they change it, we're locking in time the 2018
7 standards if we approve -- if this regulation goes forward
8 until such time as we go through another rulemaking. So
9 even if they come up with a 2022 change, we're locked in at
10 2018 until we go through rulemaking again, and then we can
11 incorporate the most current of the TSS at that time.

12 Thank you.

13 MS. ZYGMUNT: Mr. Chairman. Board Member
14 Cahn, that is correct. When we reference the 10 States
15 Standards, we will be referencing the current manual, which
16 is 2018. We would -- if that manual is updated in 2022, we
17 would have to go through rulemaking again to reference the
18 2022 standards. But at that point, the incorporation by
19 reference makes the rules revisions easier by just changing
20 the manual that we're referencing at that point.

21 MR. TILLMAN: Also, Chairman Kirkbride, if
22 I remember correctly -- Gina, correct me if I'm wrong -- I
23 believe that we were given direction from our Attorney
24 General that we could not say future references or future
25 editions of this document. We have to cite a specific

1 document that we're referring to when we're referring to
2 any type of information that we're inferring from. So we
3 cannot just say every future edition of the 10 States
4 Standards we'll adopt. We have to wait until it comes out,
5 see what they change, and then adopt certain aspects of it,
6 just as we have done now. So, unfortunately, that's not
7 legally one of the things we're allowed to do.

8 MS. THOMPSON: That's correct, Bill. It's
9 actually spelled out in the Administrative Procedures Act.
10 And we have to include a statement that includes the date
11 that we are adopting. And then we also have to include a
12 statement that says we are not adopting any future
13 iterations. And that language is really specific. And any
14 time you have a rule that's promulgated in any DEQ rule
15 right now where we're doing incorporation by reference,
16 you'll see that statement at some point in the chapter,
17 because, otherwise, it's ambiguous and we don't want to be
18 in violation of any part of the act, so...

19 CHAIRMAN KIRKBRIDE: Thanks for that
20 clarification.

21 All right. Well, are we back to -- Lorie, do you
22 have some things -- any more on Section 1, 2 and 3, or does
23 any other board member?

24 BOARD MEMBER CAHN: I do not.

25 BOARD MEMBER DEURLOO: No, sir.

1 CHAIRMAN KIRKBRIDE: All right. Why don't
2 you guys go on.

3 MR. TILLMAN: Chairman Kirkbride, the next
4 comment was regarding Section 4(a) from Mr. Alsaker. I'll
5 read his comment. Mr. Alsaker recommended removing the
6 statement that '18 TSS applies unless noted, instead
7 referencing the relevant TSS section for each WQD Chapter
8 12 section. Mr. Alsaker asked are there any places where
9 it's noted that sections of '18 TSS do not apply?

10 Our comment, DEQ/WQD has considered comments.
11 Section 4(a) states that chapters incorporating by
12 reference all sections of the 2018 TSS, except Section 1.0,
13 the first paragraph of each subsequent section of proposed
14 revisions of Chapter 12 states that the 2018 TSS sections
15 apply to the material within, and we will try to keep the
16 passage as written.

17 So we felt like we've done our best to tell which
18 sections it applies to and where it's applicable, as
19 opposed to not applicable, as he recommended. It just
20 seemed to make more sense of what applies as opposed to
21 what doesn't apply.

22 Do we have any of comments from the Board as far
23 as that section goes, Section 4?

24 BOARD MEMBER CAHN: Mr. Chair, I do.

25 CHAIRMAN KIRKBRIDE: All right. Lorie, go

1 ahead.

2 BOARD MEMBER CAHN: Yeah. So this is
3 confusing the way this is written, because as I go through
4 the 10 States Standards and I write out all the things you
5 guys have referenced of the way you say, you know, this
6 Section .1.1 and Section .1.3, and whatever, and you're
7 skipping sections, to me that doesn't mean you're
8 incorporating the whole thing. You're specifically
9 incorporating sections that you call out.

10 So I agree with -- I agree with Mr. Alsaker's
11 comment that this could be better worded. It would almost
12 be this -- this chapter refers to sections of the
13 recommended standards for water, and -- you know, and --
14 because we're not incorporating the whole thing by
15 reference. Otherwise why would we go through in each
16 section and say this section, this section, this section,
17 this section?

18 So I think maybe DEQ either misunderstood the
19 comment or didn't really address it in the response.

20 MR. TILLMAN: Chairman Kirkbride. Board
21 Member Cahn, I felt that we addressed it, because you can
22 say either what's included or what's excluded. And either
23 way, you're going to have someone that's going to read it
24 and say why didn't you tell me about the parts -- the other
25 parts. So we've opted for, I guess, on the positive, on

1 the affirmative, of what's included as opposed to what you
2 can include. And absolutely we did not incorporate by
3 reference the entire document, and that is on purpose,
4 because there are lots of sections where we disagree with
5 what they propose. And so, therefore, we have to
6 incorporate by reference specific parts of the standard.
7 And I guess it's -- you know, is your glass half full or
8 half empty, depends on how you look at it, whether or not
9 you include or exclude in that opening statement.

10 BOARD MEMBER CAHN: Bill, I think we're in
11 violent agreement with each other about how we're doing it.
12 I think it's how it's being explained. So I think, like
13 when it says "unless otherwise noted," I don't think
14 there's anywhere in here where we say we're not
15 incorporating X, Y and Z. I think we're incorporating --
16 we're saying we're incorporating A and not B and C and not
17 D. So I think -- I think it's -- I think you and I are
18 saying the same thing. It's just that I don't think this
19 statement on line 203, 204 is saying what you're saying.
20 That's what I'm trying to say.

21 MS. ZYGMUNT: Yes. Mr. Chairman. Board
22 Member Cahn, I understand what you're asking. And I think
23 it is just how we presented our response and response to
24 comments document, but we are on the same page with Bill's
25 explanation of how we're incorporating sections of the 10

1 States Standards. So we'll take a look at that language.

2 And we can also work with our Attorney Generals
3 to rewrite 4(a) to meet the intent of the Administrative
4 Procedures Act and make that a little bit clearer for you.

5 BOARD MEMBER CAHN: Thank you.

6 MR. TILLMAN: Continuing on --

7 CHAIRMAN KIRKBRIDE: Go ahead.

8 MR. TILLMAN: -- Chairman Kirkbride.

9 CHAIRMAN KIRKBRIDE: Yes, please.

10 MR. TILLMAN: We don't have any comments in
11 Section 5.

12 The next section we have comments from the public
13 is Section 6(b)(iii) through (iv). And the comment -- the
14 Region 8 comment, this section appears to allow the use of
15 alternative treatment --

16 THE REPORTER: You're going to have slow
17 down, please. Slow down.

18 MR. HENDON: Not so fast.

19 MR. TILLMAN: This section appears to allow
20 the use of alternative treatment technologies not directly
21 covered under Chapter 12 regulations based on theoretical
22 evaluation of the design that demonstrates a reasonable
23 probability that the technology meets -- will meet the
24 design objectives.

25 Says why this is of concern, it seems like a

1 fairly old standard for use of new or novel treatment
2 technologies. These technologies could be used for
3 microbial reduction credit under surface water treatment
4 rules. Suggests for facilities producing finish water for
5 consumption, that data for a full-scale comparable
6 installation or pilot plant be required instead of only a
7 theoretical evaluation.

8 Our response, we considered the comment. The
9 passage in this section allows for systems that propose new
10 and innovative technologies. District engineers evaluate
11 these types of applications under this section for
12 compliance with the chapter and for other water quality
13 considerations. These applications go through a thorough
14 review and approval process before we issue them. And so
15 we understand that adding a pilot plant or operating
16 facility that incorporates new technology for information
17 for data to see how well it works is one thing, but that's
18 not always possible or practical. And the way we wrote the
19 section, it allows for folks to give us theoretical
20 information based on other evaluations of new technology
21 that gives us a sense of whether or not it can work or
22 can't work. And to exclude that would limit -- limit the
23 possibility of new innovative technology. So we feel that
24 leaving it the way it is gives a wider acceptance of new
25 treatment technologies that could be available to us.

1 Any comments from the board members on that
2 comment and passage?

3 BOARD MEMBER CAHN: Mr. Chair.

4 CHAIRMAN KIRKBRIDE: Yes.

5 BOARD MEMBER CAHN: We blew past the
6 definitions, and I had some comments on the definitions.
7 So after we take this Section 6, maybe we can go back to
8 the definitions.

9 CHAIRMAN KIRKBRIDE: Was that in a
10 different section, Lorie? Am I --

11 BOARD MEMBER CAHN: Yes.

12 CHAIRMAN KIRKBRIDE: Okay. Since we're on
13 6, and -- we got anything on 6?

14 Okay. Let's go back to 5, then.

15 MR. TILLMAN: Chairman Kirkbride, we did
16 not have any comments on the definition in Section 5, so
17 that's why I did not comment.

18 CHAIRMAN KIRKBRIDE: That's fine.

19 MR. TILLMAN: But, Board Member Cahn, if
20 you have comments or questions on the definitions, please
21 proceed.

22 BOARD MEMBER CAHN: Yeah. I have comments
23 on Section 5.

24 So on line 348 it says this may include
25 mechanically driven drives, and it just seems like driven

1 drives is -- could probably be better worded to just
2 include mechanical drives. So that's just a minor comment,
3 but...

4 And then on line 359 to 361, I think they were
5 talking about offstream reservoirs. And I think there was
6 a public comment -- I guess there wasn't. I'm sorry.

7 Offstream reservoir is a term that's not used in
8 the rest of the document, unless it's in the 10 States
9 Standards. And then if it's in the 10 States Standards,
10 this brings up kind of a procedural question. Do we have
11 to have in our definitions everything that's in the 10
12 States Standards for definitions?

13 MR. TILLMAN: Board Member Cahn, we tried
14 to make sure any definition that we put in Section 5 is
15 used in the chapter. Apparently we missed one. And if
16 that is not used in the chapter at all, we will delete that
17 one. We do not include definitions that are strictly in
18 the 10 States Standards. That's not part of our direction
19 from the AG as far as what we need to include from a
20 definition standpoint.

21 BOARD MEMBER CAHN: Okay. And then I would
22 just ask, since I didn't see it referred to at all in here,
23 I wonder how -- I guess I have a question about how
24 often -- how many of those are there in Wyoming, offstream
25 reservoirs. Is it a setting that occurs or not? Do we

1 have lots of them or none of them or one?

2 MR. TILLMAN: Board Member Cahn, I cannot
3 answer that question. I don't know. I did not -- I can't
4 remember. I think this came -- this definition came in
5 when we were in a discussion, I believe, on wells and some
6 other things. I'm not sure we have any offstream
7 reservoirs, at least in my world.

8 MS. ZYGMUNT: Mr. Chairman. Board Member
9 Cahn, we can look into that question and get back to you.

10 BOARD MEMBER CAHN: Okay. And then I just
11 have a -- just kind of a general English usage term -- or
12 thing that would apply in other places potentially. On
13 line 38, we talk about utilized water provided by the
14 public water supply. And typically "utilize" refers to a
15 use other than which that thing is designed for. So I
16 think just to simplify language, you can just use the word
17 "use." So just to watch for when you use utilize, and if
18 it really means just use, use "use." So that's all I have
19 on Section 5.

20 MS. ZYGMUNT: Board Member Cahn, can you
21 clarify where that is? I do not see it immediately.

22 BOARD MEMBER CAHN: Yeah. It's on line
23 381.

24 MS. ZYGMUNT: Oh, thank you.

25 BOARD MEMBER CAHN: And then I have

1 comments on Section 6.

2 MR. TILLMAN: Board Member Cahn, if you
3 have your comments on Section 6, please continue.

4 CHAIRMAN KIRKBRIDE: Yeah. Yeah.

5 BOARD MEMBER CAHN: I'm having problems
6 with my comments showing up. I think EPA had a comment in
7 Section 6 on line 563, EPA comment 1.

8 MR. TILLMAN: Yes, Board Member Cahn. We
9 addressed that. Basically they're -- they consider us
10 allowing for a theoretical information regarding new
11 technologies. They consider that a low bar, and why don't
12 we have a pilot plan for that. And, again, my comment --
13 or the DEQ's comment was basically sometimes that's not
14 practical to have a pilot plan or a full-scale
15 demonstration of new technologies. Sometimes theoretical
16 information, theoretical data, is all that we have, and
17 it's all that is practical at that time for what's being
18 presented. So we -- we would like to keep the passage as
19 written to allow for those -- that information to be
20 conveyed to us.

21 BOARD MEMBER CAHN: Okay. Thank you.

22 I'm sorry. I forgot you mentioned that. I
23 apologize.

24 MR. TILLMAN: Any other comments on Section
25 6 or Section 5 from board members?

1 CHAIRMAN KIRKBRIDE: Hearing none, proceed.

2 MR. TILLMAN: Okay. The next section we
3 received comment on was Section 7. The first comment is
4 from Region 8. Region 8 commented, the proposed Chapter 12
5 regulations do not require applicants to submit as
6 constructed record drawings to Wyoming DEQ after a
7 permitted project is constructed. It is acknowledged that
8 statements of completion are described with each general
9 individual permit issued. However, Chapter 12 should
10 familiarize and require this as-built verification process.

11 Their suggestion, add a citation requiring all
12 permitted construction projects to provide an engineer's
13 certification to Wyoming DEQ and require that the
14 registered professional engineer to provide documentation
15 to Wyoming DEQ that the project was constructed according
16 to the permit requirements.

17 Our response, we have considered the comment.
18 Water Quality Rules Chapter 3 Section 11(b) identifies the
19 permit application process for as-built drawings, and the
20 section will remain as written.

21 It is already part of our procedure that the
22 notice of completion that engineers -- that we requested
23 engineers send back to us has a section where it -- you
24 check the box that you constructed the project as -- as the
25 submitted application information -- excuse me, as the

1 information that was submitted on the application, or there
2 was modifications to that application based on things that
3 were found, discovered as construction was going on. And,
4 again, depending on the nature of those changes, if it was
5 just a minor change, an elevation change that were a couple
6 inches, maybe half a foot, we wouldn't consider that worthy
7 of noting on a new drawing. But if they dug into the
8 ground and found, oh, we have to completely change the
9 alignment, where it goes, we now cross another pipe, those
10 are types of things that are already in place that we
11 receive as-built or new drawings of those changes after
12 construction is noted.

13 Also, in our Chapter 3, that is not a part of
14 Chapter 12, we also require if there are changes, they tell
15 us about those things. We just did not feel that it was
16 necessary to include that clarification in this chapter
17 when this chapter was providing for design construction
18 details as opposed to, you know, when you were constructing
19 the project things you ran into. We thought those were
20 adequately addressed in Chapter 3 and didn't need to be
21 commented again in Chapter 12.

22 Any comments from the Board on that -- on that
23 comment or response?

24 CHAIRMAN KIRKBRIDE: I don't hear any.

25 MR. TILLMAN: Moving on. We have another

1 comment in Section 7. Section 7(d). Mr. Darwin Dick noted
2 that we have an incorrect numbering. We addressed that.

3 Section 7(e), we received a comment from Jason
4 Palmer of the City of Green River. Mr. Palmer requested
5 that this section include a requirement that the
6 responsible charge operator review, formerly chief
7 operator, commenting that operators ultimately have to make
8 things work that are constructed and need a say in the
9 design.

10 Our comment, we considered -- we have considered
11 the comment, DEQ and Water Quality Division expects that's
12 as part of the design engineer's due diligence, the review
13 by the responsible charge operator or public works director
14 will have been taken into consideration as part of the
15 submitted design. DEQ and Water Quality Division will
16 leave the requirement as written, but recommends that local
17 governments include this collaboration of coordination of
18 the design engineer in the contract forces and design.

19 Do we have any comments from the Board in regards
20 to that comment or our response?

21 CHAIRMAN KIRKBRIDE: Sounds like we don't.

22 MR. TILLMAN: Hearing none, moving on.

23 That was all the comments we had in Section 7.

24 The next comments come in Section 8.

25 MR. HENDON: Are there any -- excuse me,

1 Mr. Chairman, are there are any further comments from the
2 board with regard to Section 7?

3 CHAIRMAN KIRKBRIDE: I don't think so.

4 MR. HENDON: Okay. Sorry to interrupt,
5 Bill.

6 MR. TILLMAN: In Section 8(c)(i), Darwin
7 Dick from Tetra Tech, his comment, with respect to the
8 requirement that are transmission and distribution lines
9 project, plans, view include existing location of
10 utilities. Mr. Dick recommended that Chapter 12 revision
11 adopt ASCE Standard 38-02 Guideline for the collection and
12 depiction of existing subsurface utility data.

13 We've considered that suggestion. And the intent
14 was to ensure that the existence and location of all
15 subsurface utilities are included on the project plan set.
16 We didn't agree that it was necessary to add another layer
17 of formatting requirements to that information as necessary
18 for -- as an extra layer of formatting requirement. We
19 think that basically the information that we're requesting
20 is just location of existing utilities, as long as it's
21 discernible and defined on the plan views that we get, that
22 that's adequate. That we didn't think it was necessary to
23 add another set of guidelines to convey that information.

24 Do we have any comments from the Board regarding
25 that -- that comment from the public for our response?

1 BOARD MEMBER CAHN: I have, Mr. Chair.

2 CHAIRMAN KIRKBRIDE: Yes.

3 BOARD MEMBER CAHN: So I have to go back to
4 the previous section. I have a lot of comments, and so
5 it's hard for me to -- I'm trying to read them all and
6 figure out what's really important and which ones can wait.

7 And it's -- when -- it starts really on line 728,
8 when we're talking about an alternative two-step
9 permitting. And I sort of have a bigger overall comment
10 when we're looking at alternatives. I struggle with this a
11 lot with the rules, and that is when should something be a
12 policy and when should something be in the rule. So if you
13 want flexibility for alternatives, which are in section
14 (g), and their -- then it's line 746, there's alternative
15 procedure. Line 758, there's an alternative procedure, et
16 cetera. So a lot of the rest of the Section 7, I would
17 probably say all of it, because it follows under that,
18 would it be appropriate, as a policy or procedure -- you
19 know, procedure, as opposed to being part of the rule?

20 MR. TILLMAN: Board Member Cahn, that's one
21 of the things we were given direction from the Attorney
22 General's Office. To make it enforceable it needs to be in
23 the rule. Policy is not enforceable. So if we try to
24 enforce policy, people could push back and say that it's
25 not -- not a part of our regulations. That's why anything

1 that we're adamant about that, that we're going to try to
2 enforce, that we're going to require that they do, we try
3 to make that a part of the rule.

4 And the addition that we add to Section 7 is part
5 of those what we call the two-step process for permitting
6 water wells and for permitting water storage tanks that are
7 funded by WDO. We just wanted -- we added that for
8 clarity, because it was something that was a part of a
9 discussion when people submitted applications that they
10 weren't aware of, and then when they called us and we told
11 them about that procedure, it was basically new news. It
12 typically impacted their schedule of how they were trying
13 to plan the project and execute the project.

14 So we felt that it was appropriate that those
15 types of procedures be vet -- vetted, I guess, through the
16 rule so the people were aware up front that when you have
17 these types of projects, here's the procedure and here's
18 the timeline that it goes by, so that they weren't caught
19 off guard and it did not impact significantly their project
20 as far as when they're trying to complete them.

21 So I guess, in our opinion, what we've added
22 added clarity to what we were already doing, because it was
23 not written or codified in any way. It was more or less if
24 they didn't ask about it, they wouldn't have been aware of
25 it. But now it's in our rule that anyone that's -- may

1 possibly be considering or they're getting asked to do
2 something like that, they understand now the procedure and
3 the time it takes to execute that rather than thinking they
4 could submit it and go in one shot.

5 BOARD MEMBER CAHN: Okay. Thank you, Bill.
6 I appreciate that.

7 MR. TILLMAN: Do we have any other comments
8 from the Board on Section 7?

9 Moving on to another part of Section 8.

10 BOARD MEMBER CAHN: Please wait. Please
11 give me some time to look through all my comments. I'm
12 still trying to sort out which ones I can call Gina up
13 afterwards and say here's an English -- you know,
14 grammatical one. So I'm trying to sort through my
15 comments. So just give me a chance to get through, please.

16 Yeah, I do have a question on line 10 -- 1047.
17 And that's -- it's talking about a Wyoming registered
18 engineer. And I -- my question is does it -- is it
19 necessary that they're licensed in Wyoming, or can an
20 engineer coming over from, you know, Fort Collins or
21 something do it?

22 MR. TILLMAN: Board Member Cahn, yes, they
23 have to be a registered Wyoming engineer. Typically if
24 you're registered in one state, reciprocity is easily
25 attained in another state, but we do require that they have

1 a Wyoming registered engineer.

2 BOARD MEMBER CAHN: Okay. I have another
3 question on line 1079. It's talking about the formation.
4 So it says "The elevation and designation of geological
5 formations, water levels, formations penetrated, and other
6 details to describe the proposed well completely." I'm not
7 sure now -- now I'm not understanding my comment. I have
8 how far below the penetration should they go in giving
9 elevations? Perhaps formations can be deleted or specify
10 how far below the penetrating formations they should
11 describe. I'm not sure -- oh, I understand my comment.

12 So this is before, correct? This is the listing
13 of plans. I'm just trying to refresh where we are, what
14 section. With all the redline/strikeout, it's hard to --
15 actually, that's another general comment I want to bring
16 up, and that is by having these things with -- the way we
17 do it in Wyoming was, you know, section and then (a) and
18 then (i), and it's just gets so hard to know -- I mean,
19 I've always had this problem. It's so hard to get to know
20 where you are. Whereas when I looked back and refreshed my
21 memory on what, say, Idaho did, having, you know, 1.1, 1.2,
22 and you knew where you were, having a numeric thing. And
23 it's kind of above everybody's pay grade, and that's not
24 how we do it in Wyoming. But it sure makes it confusing.

25 And I guess my first question would be is there

1 any opportunity to change that to something that's more
2 user friendly?

3 MS. ZYGMUNT: Mr. Chairman. Board Member
4 Cahn, no, that is not at our discretion to change at this
5 time.

6 Gina, would you like to add anything about the
7 Secretary of State requirements?

8 MS. THOMPSON: Yes. So as the rules
9 registrar for the state, the Secretary of State's Office
10 sets the format and outline and other specific requirements
11 for all state agencies. So while -- while we're -- you
12 know, we periodically struggle with this numbering system
13 in DEQ, all state agencies are subject to this. There are
14 no exemptions. We don't get -- there's no variance
15 process.

16 If our rule doesn't meet their strict outline
17 requirements, we don't get a rule. So they have the
18 ability to forbid our promulgation if we do alternate
19 numbering. So at this time, you know, it's not something
20 that we can push back on or ask about, because it doesn't
21 just affect DEQ. It affects all the agencies. And it's --
22 it just -- it's something that we're subject to.

23 BOARD MEMBER CAHN: Okay. Thanks. I
24 was --

25 BOARD MEMBER DEURLOO: Mr. Chairman. And,

1 Lorie, first -- Mr. Chairman. I would have to agree. I
2 think it's backwards, big A being the smallest, and I --
3 what would it take to approach the Secretary of State? Who
4 would offer the change in lettering and numbering so it
5 makes it easier? Like what we're trying to do is make
6 things easier for everybody. That's the whole goal is to
7 simplify as much as possible and regulate the things that
8 we need to.

9 How would one go about changing it to the more of
10 a numeric -- numeric style, like, say, over a course of 10
11 years? I know it's probably like changing from imperial to
12 metric, which I am all in favor of, for the record. But
13 I'm not going to go there right now. But how does one go
14 around doing that, please?

15 MS. ZYGMUNT: Mr. Chairman. Board Member
16 Deurloo, I don't know at this point. I would recommend
17 contacting Secretary of State. I think the most that we
18 can do would be to try to find a contact. I'm not familiar
19 enough with their system to know if it's in regulations.
20 So, again, my recommendation would be to contact the
21 Secretary of State directly. But at this time, that's not
22 a message that our Division would carry.

23 BOARD MEMBER DEURLOO: Okay. Thank you.

24 BOARD MEMBER CAHN: Mr. Chair.

25 CHAIRMAN KIRKBRIDE: Yes.

1 BOARD MEMBER CAHN: So I do understand my
2 comment on line 1078. I had to kind of back up to see
3 where it was.

4 So we're talking about plans and specifications.
5 And they're saying -- this is requesting the -- saying we
6 need to know the elevation and destination of geologic
7 formations, water levels, formations penetrated, and other
8 details to describe the proposed well completely. So it's
9 a little bit vague in terms of how far below the
10 penetration are you -- should they be going in giving
11 elevations. And they haven't drilled the well yet. So,
12 you know, how far below the proposed penetration do you
13 want them to describe? I mean, we're not going all the way
14 to China.

15 MR. TILLMAN: Chairman Kirkbride. Board
16 Member Cahn, I believe Kevin Frederick was involved with
17 the UIC group in helping us draft that section. And I
18 believe that he was referring to probably as far as that
19 aquifer that they're proposing to use for drinking water,
20 drill to that depth. So I'm thinking everything that they
21 know down to the depth of that aquifer that they're looking
22 to use for drinking water is my guess, is what he's
23 intending for that elevation.

24 BOARD MEMBER CAHN: Yeah. So my point is
25 that this is very unclear. What -- you know, what's the

1 bar somebody meets -- because it's a proposed well, so it's
2 not like this is a completion drawing for a completed well.
3 And so elevation and designation of geological formations
4 will -- how far down -- it's not giving anybody any
5 inclination about how far below where they're planning on
6 putting in the proposed wells should they go.

7 MR. HENDON: Chairman. Board Member Cahn.

8 BOARD MEMBER CAHN: It penetrated, that's
9 like -- go ahead.

10 MR. HENDON: Chairman. Board Member Cahn,
11 perhaps we can add in a simple definition or declaration
12 that states how far below the end of their planned well and
13 how far below that they need to explain the other
14 formations presented with regards to well and plans and
15 specs. So we can just have capstone statement with, I
16 guess, a minimum standard below the --

17 THE REPORTER: Below the?

18 MR. HENDON: Below the end of their
19 proposed well.

20 BOARD MEMBER CAHN: Or to the --

21 MR. HENDON: Or the casing. The casing.

22 BOARD MEMBER CAHN: -- that they're
23 being -- that they're planning on getting water from, maybe
24 it's the bottom of the formation from what they're getting
25 water from. But maybe you want to know what there is below

1 that for an aquitard or anything.

2 So, anyways, I don't have the answer to this. I
3 just think that it needs to be better specified.

4 MS. ZYGMUNT: Board Member Cahn, we'll
5 consult with the groundwater section. And, as Keenan
6 indicated, we'll add some clarification there.

7 BOARD MEMBER CAHN: Then I have a comment
8 on line -- on the section that starts on line 1126. And it
9 uses -- on line 1127, it uses the term "all," but then at
10 the end on line 1129, it says "when applicable." And so I
11 say is "when applicable" necessary when the list is "all"?
12 If it's not part after all, it's not applicable. So I
13 thought it was confusing having both the terms "all" and
14 "when applicable."

15 I'll let you guys figure that out. I don't
16 have --

17 MR. TILLMAN: Board Member Cahn, let us
18 take a look at that. Let me read that real quickly before
19 we formulate a response.

20 BOARD MEMBER DEURLOO: Lorie, what line
21 number was that again, please?

22 BOARD MEMBER CAHN: It's lines 1126 through
23 1129. And it basically reads the type, size, strength,
24 operating characteristics, rating or requirements for all
25 mechanical, electrical equipment, including machinery,

1 valves, piping, electrical apparatus, wiring and meters,
2 laboratory fixtures and equipment, operating tools, special
3 appurtenances and chemicals when applicable. So it's
4 either -- it's all of those things and -- so or when
5 applicable, so...

6 MS. THOMPSON: Mr. Chairman and Ms. Cahn.
7 When I read that, all mechanical and electrical equipment,
8 those -- I think that's a separate concept. So we want it
9 for all mechanical and electrical equipment, including all
10 those examples. And laboratory fixtures and equipment and
11 operating tools and special appurtenances and chemicals --
12 and chemicals, when applicable. So "when applicable" only
13 applies to chemicals.

14 BOARD MEMBER CAHN: Okay. So I would
15 then -- if that's true, then I would say "and, when
16 applicable chemicals." And then it's clear that -- and
17 then we have to have an "and" after -- oh, and we do have
18 "and meters" -- wait. We'd have to have an "and" after
19 tools and before special appurtenance.

20 MS. THOMPSON: And potentially, if I might
21 suggest, that might be a good candidate to break that up a
22 bit.

23 BOARD MEMBER CAHN: Yes.

24 MS. THOMPSON: Because that is a very long
25 string, and I can see where that would be confusing.

1 BOARD MEMBER CAHN: Yes. That's all I have
2 on Section 8.

3 MR. TILLMAN: All right. Okay. Chairman
4 Kirkbride, moving on.

5 CHAIRMAN KIRKBRIDE: Uh-huh.

6 MR. TILLMAN: Next comment on Section 8
7 from Darwin Dick was just considering a numbering error and
8 adding something to a list. We corrected the numbering
9 error and considered the suggestion, put the design
10 engineer responsible for researching the information that
11 is regulated by Wyoming Public Service Commission as a part
12 of their due diligence. The proposed standard that he
13 recommended was ASCE 3802 falls outside our regulatory
14 authority and is better adopted by local governments.

15 That was the last comment that we had on Section
16 8. Do we have any other comments from the Board regarding
17 Section 8 or any other concerns to that section?

18 BOARD MEMBER CAHN: Yes, I do. Can you
19 kind of explain to me what you anticipate an engineering
20 design report to do? When is it prepared, and what --
21 what's its purpose, and what do you envision is in that?

22 MR. TILLMAN: The design report typically
23 is to put into words what they're trying to achieve with
24 the project, what the proposed -- what project is. The
25 problem is trying to solve, how it proposes to solve that,

1 and any, I guess, variances or things that they want to
2 consider or need to consider in application of that design
3 for that problem. Different than plans and specs. Plans
4 and specs are typically drawings and spec sheets. The
5 engineering report is a verbal description of what they
6 plan to do and any, I guess, other considerations they had
7 to take into account to make the design workable and fit
8 our rules and regulations. And, therefore, that's why,
9 when we modified that, the engineer that we were working
10 with at the time -- or a couple of engineers -- they noted
11 that when they got necessarily engineering design reports,
12 let's say on a treatment works, they weren't necessarily
13 getting all the things they were expecting to be described
14 or talked about. So in that section we tried to annotate
15 exactly what we would expect from the different types of
16 applications that we received, be it treatment works or
17 distribution systems or things of that like. And there
18 was -- whether it was new or existing, it mattered kind of
19 what that was in the type of information we received.

20 So I guess that's the best way we can address
21 that comment.

22 BOARD MEMBER CAHN: Okay. Let me -- let me
23 go through and find my specific comments.

24 MR. TILLMAN: And, Board Member Cahn, there
25 isn't really any standard template that we expect from

1 them, and that's why we kind of gave them an outline,
2 because we weren't getting the information that we wanted
3 or the description of what they were trying to do or why
4 they chose -- I guess certain design parameters can also be
5 described in that engineering report.

6 So it's a verbal description that we look for to
7 help us understand the who, when, where and why of a
8 design.

9 BOARD MEMBER CAHN: So some of the stuff
10 seems a little bit more prescriptive and detailed than
11 you're kind of describing to me. So I guess I would ask
12 you to kind of look through this list as you do your
13 reviews to see if some of this may be -- is either out of
14 place or -- like, for instance, there's a description on --
15 on line 1892, it starts out "A summary of the likely
16 drilling and completion challenges that will be faced,
17 including description of the engineering design,
18 management, monitoring, and drilling and completion
19 practices that will be used to successfully construct the
20 well in accordance with this Chapter." And I will say a
21 lot of this stuff isn't really known ahead of time, so, you
22 know, I'm not sure that some of the stuff really belongs in
23 an engineering -- kind of a high-level conceptual report,
24 or -- so...

25 And then, again -- let's see. "The methods that

1 will be used to overcome lost circulation, bore
2 instability, and deviations from vertical" -- I mean, I
3 think a lot of the stuff you aren't going to know until --
4 I mean, you have might have some contingency plans of what
5 you're thinking you're going to do, but I think a lot of
6 this is just really premature. It's really more
7 appropriate for -- at the back end, after you've put in
8 your well, not while you're proposing your well.

9 MR. TILLMAN: Chairman Kirkbride and Board
10 Member Cahn. That section in particular was -- arose from
11 the issues that they came up with in Gillette Madison in
12 that acidizing. And you're correct, there's some of that
13 information you're not going to know. But on the other
14 hand, we're requesting that they do their due diligence to
15 try to find out that information, because that was probably
16 some of the issues that we ran into, is that -- or that we
17 do run into when people drill some wells. They'll claim
18 they don't know anything about the geology, where they're
19 going into. And sometimes they don't. But at the same
20 time, if we're going to permit them to drill those wells,
21 to the best of our ability we have to request that we get
22 that information so that we can try to protect the
23 environment and the aquifers and those existing wells to
24 the best that we can. And it is very well understood that
25 some of that information would not be known up front. But

1 at the same time, through other means, through other
2 documents, through maybe other drilling logs in the area,
3 maybe -- and I don't know how far apart that needs to be,
4 because I know geology can change from an acre of land from
5 one corner to the next, but we would ask that that person,
6 the engineer, do their diligence, use all their channels,
7 to try to figure out where that information might reside.
8 And if they don't -- if they can't come up with that
9 information, let us know to their ability what they do know
10 and what they're planning so that, again, we can try to
11 make a calculated decision and an agreed decision with the
12 permittee that with all we know and what all we know of
13 that area, we're in pretty good shape that we're not going
14 to have any issues.

15 So, again, there is some -- there is some
16 understanding that we may not get all that we're asking
17 for, but we're still going to ask for that, and we're
18 obligated to ask for that in trying to protect the
19 environment.

20 BOARD MEMBER CAHN: Okay. It just -- it
21 sort of seems like a lot of information based on one --
22 maybe you can quickly summarize what happened in Gillette
23 with that acidization problem. Just quickly.

24 MR. TILLMAN: I guess the best way I can
25 summarize that is that they were trying to, you know,

1 stimulate a well through acidization. And I guess they had
2 accompanying ranchers, other residents, that all the sudden
3 saw the pH in their water in their well drop to -- I think
4 it was below 2. It was around a 1 or something like that.
5 To where animals wouldn't go near it. And they're kind of
6 going what's going on here?

7 And so part of the investigation -- we didn't
8 understand whether or not it was part of the stimulation of
9 that well that got away from them, that they didn't know
10 the geology, the formation, the cracks, fissures, and all
11 those sorts of things that may have led to possible acid
12 getting into a formation or into an aquifer that they
13 weren't aware of. But as it turned out, it seemed that the
14 geology, the natural components in the dirt, in the earth,
15 lended itself towards an acidic liquid. And so it was
16 something that was naturally occurring, but it just so
17 happened to be at the same time that they were trying to
18 stimulate a well in a nearby area. So it was kind of
19 happenstance that they discovered that it was natural
20 geology chemistry that was contributing to that low pH
21 water different than injecting acid into the ground, trying
22 to fracture or stimulate, you know, water production.

23 So, again, that was part of the drive to try to
24 understand more of what's going on subsurface prior to
25 someone drilling a well and drilling a hole and saying,

1 hey, I think we've got water, so that we have fully
2 understood what we might run into. And, again, that's a
3 might, and I think we're -- the public puts that on the
4 Department that we do our diligence to the best that we can
5 to understand what that might be in the future, because
6 whether we're wrong or we're right, they're going to expect
7 that we -- we permitted that well and we knew what we were
8 doing when we did permit that well.

9 BOARD MEMBER CAHN: So it seems -- it
10 sounds to me like we had a problem and we thought it was
11 acidization. So because of that, we are bringing in all
12 these new requirements. But then it turned out not to be
13 that. So I'm a little bit -- it seems like a lot of
14 prescriptive stuff for one example that didn't turn out to
15 be what we thought it was.

16 MS. ZYGMUNT: Can I -- if I can interject.
17 So Mr. Chairman. Board Member Cahn, Bill gave a good
18 summary of the Gillette Madison project. And, yes, it did
19 not turn out to be acidization of the well causing the
20 water quality problems, but as we mentioned this morning,
21 that investigation pointed to areas where we needed more
22 information -- information to make sure that we are doing,
23 as Bill said, a regulatory due diligence to protect
24 groundwater.

25 We will take another look at this language, but

1 I'm feeling pretty confident that it's language that we
2 need to address what we learned through the Gillette
3 Madison project. So we understand your comment. We will
4 consider that feedback. But I do just want to make it
5 clear why we have included this language and why it is
6 important to the State.

7 BOARD MEMBER CAHN: Okay. Thank you.

8 And then going on to line 1916. It says "If any
9 damage to the casing" -- sorry, 1915. "If any damage to
10 the casing is found, the applicant shall describe how
11 defective areas will be repaired and if there is a need for
12 additional well bond logging." And, I guess, is there an
13 example where when well bond logging wouldn't be needed for
14 damaged or defective casing?

15 MR. TILLMAN: Excuse me, Board Member Cahn,
16 could you please repeat that?

17 BOARD MEMBER CAHN: Yeah. So on line 1915
18 and 16, we're talking about if any damage of the casing is
19 found, and said the applicant shall describe how defective
20 areas will be repaired and if there is a need for
21 additional well bond logging. And I'm thinking isn't
22 there -- is there an example where you wouldn't need well
23 bond logging for damaged or defective casing?

24 MR. TILLMAN: Board Member Cahn, I believe
25 that not always when they drill a well is bond logging

1 required. In some instances where they know they've got
2 problems or they had an issue with putting in that casing,
3 I think that where bond logging can give them indication as
4 to where that problem is, how -- how pervasive or how long
5 or depthwise that problem exists, and gives them indication
6 what they can do.

7 In some instances, bond logging is not -- is not
8 necessary, is not even asked for. So I guess what we're
9 trying to do there was in the event that they're putting in
10 casing, they know they had issues, that bond logging can
11 give them some information, some intel, as to what they
12 need to do and how they can solve and rectify the problem
13 that they've run into.

14 BOARD MEMBER CAHN: But you're saying it
15 wouldn't always need to be well bond logging if there's
16 damage to the casing or defective areas?

17 MR. TILLMAN: Not always, but, again, I
18 would leave that -- I'm not a driller, and I would leave
19 that to the drilling -- the drilling people, geologists, to
20 determine whether or not that bond logging would give them
21 that information, that additional information that they
22 need to make a repair or to not -- or deem it's not severe
23 enough to be repaired.

24 But that would be something I would defer to that
25 specialist -- that geologist to make that determination.

1 BOARD MEMBER CAHN: Okay.

2 MS. ZYGMUNT: Mr. Chairman, if I could
3 interrupt. So we are at 2:30. And Mr. Deurloo pointed out
4 earlier that we will not likely get through all sections of
5 the rule today. If it would be a good plan, we could
6 finish the section that we're on now, Section 9, and then
7 it might be the best use of time to then talk about what
8 the Board would like us to do from this point forward.

9 CHAIRMAN KIRKBRIDE: I think that's fine.
10 Go ahead.

11 BOARD MEMBER DEURLOO: Mr. Chairman, I'll
12 make -- just as a -- I've been involved with lots of
13 drilling, lots of coal-bed methane wells and core wells and
14 oil wells and so forth. And that line 1915 seems -- Lorie,
15 it seems fine to me. When there's -- when the original
16 bond log finds a problem in the well, whether it be annulus
17 cement or casing or whatever. There's an innumerable
18 amount of tools you can send down wells to -- downhole to
19 determine what the problem is. And so I think that's
20 pretty -- I believe it's pretty well written to allow the
21 experts to -- you know, they need to notify the DEQ that
22 something's gone wrong, but there's additional bond logging
23 if necessary to figure out what's wrong with it.

24 BOARD MEMBER CAHN: Okay. Thank you,
25 Brian.

1 MR. TILLMAN: Chairman Kirkbride, we're now
2 into Section 9.

3 BOARD MEMBER CAHN: Excuse me. I think --

4 MR. TILLMAN: Go ahead.

5 BOARD MEMBER CAHN: -- we had decided --
6 oh, I see. We're just finishing Section 9. I'm sorry. Go
7 ahead.

8 MR. TILLMAN: Comments that we had on
9 Section 9, the first one was from Cheyenne BOPU. Basically
10 it was a number -- numbering error in 9(a). We will
11 address that.

12 In Section 9(b)(iv), from Mr. Dayton Alsaker.
13 Mr. Alsaker commented a design engineer may not know about
14 all the services that are connected to a new waterline. It
15 seems this comes later by the system owner through their
16 cross-connection control program by the person designated
17 to conduct this evaluation.

18 And we've considered this comment. Each new
19 water service connection is required to be permitted. DEQ,
20 Water Quality Division requires that the review at that
21 time of the design for the overall type of hazard, and we
22 will review future changes to assist them to permit
23 conformance. DEQ anticipates that the design engineer will
24 conduct their analysis to the best of their knowledge and
25 future connections will need to be considered as new

1 details emerge.

2 So at the time that they, I guess, apply for
3 their permit, all the information that they know regarding
4 service connection needs to be evaluated for its having
5 connection. And to the best of their extent, if they don't
6 know, and they don't know what the services will be, when
7 those services are applied for a permit, that at that time
8 we will evaluate what those connections are and their
9 hazard classification, and then assign them that
10 classification at that time and move forward with the
11 installation.

12 Any comments from the board members or -- on that
13 comment or our response?

14 CHAIRMAN KIRKBRIDE: I don't hear any.

15 MR. TILLMAN: Objection. Moving on to the
16 next comment in Section 9. Section 9(e)(ii)(A). Region 8
17 EPA commented that this section requires water systems that
18 are collecting water quality data for surface water sources
19 to conduct two water quality sampling events; one during
20 spring runoff and one during late summer or early fall low
21 flow. There are concerns that this may not capture the
22 expected seasonal variability of some water quality
23 parameters. They suggest that we increase the sampling
24 frequency for some water quality parameters that are
25 expected to be highly variable.

1 Our response, Water Quality Division has
2 considered this comment. Paragraph B, capital B, states
3 this data shall be sufficient for the Division to determine
4 that the process safely and reliably complies with the
5 water quality standards required by 40 CFR Part 141. When
6 combined with Part B, the sampling frequency is flexible so
7 that DEQ, Water Quality Division, may require additional
8 sampling as needed. And depending on what information we
9 get, we can always ask for more. And so we would request
10 this passage remain as written.

11 Do we have any comments from the board members
12 regarding that comment or our response to that comment?

13 CHAIRMAN KIRKBRIDE: I don't hear any.

14 BOARD MEMBER CAHN: Um, have we gotten to
15 Mr. -- which section are we in right now? I mean, we're
16 Section 9. Which part are we in right now?

17 MR. TILLMAN: We're in Section 9. The
18 comment was from Region 8, and the Section 9(e)(ii)(A).

19 BOARD MEMBER CAHN: Okay. I guess I'll
20 want to go back to the previous comment by Dayton Alsaker.
21 You have to excuse me. We have so many pieces of paper,
22 and I'm trying to shuffle through all of them on my
23 computer, and it's just really hard to keep track of where
24 we are and what people said.

25 So his comment on 9(b)(iv).

1 MR. TILLMAN: Uh-huh.

2 BOARD MEMBER CAHN: He said -- Mr. Alsaker
3 commented that a design engineer may not necessarily know
4 about all the services that are to be connected to a new
5 waterline. And I'm thinking that the comment -- the
6 passage could actually be reworded, I think, to address his
7 comment. I think it's the way it was worded.

8 And then I'll have to switch back to line 1781.
9 Sorry. I have -- we have so many files for this, I can't
10 even find --

11 BOARD MEMBER DEURLOO: Yeah, it's really
12 difficult. I feel your pain, Lorie, because we're going
13 off comments and then we're going off the document that was
14 written for public comment and one that's corrected. It's
15 all over the place, trying to figure out which number we're
16 on.

17 BOARD MEMBER CAHN: Yes. So line 17 -- oh.
18 Line -- I think it's at 1681. I've got to get there on
19 another -- okay.

20 BOARD MEMBER DEURLOO: I'd like to make --
21 Lorie, while you're looking, Mr. Chairman, if I may for a
22 moment?

23 CHAIRMAN KIRKBRIDE: All right.

24 BOARD MEMBER DEURLOO: So, Mr. Chairman, if
25 I'm understanding, because I'm like Lorie, kind of jumping

1 back and forth here. You're reading comments from the
2 public that were based upon their referring to 9(b)(ix) or
3 what have you, you know, we're trying to follow that down,
4 and that's the lines. But then the most recent one that
5 we're looking at is the last -- the second to last file on
6 your website. It's -- it's the Chapter 12 strike and
7 underline, yet you're referring to with the public comments
8 on this -- not the -- sorry.

9 I'm looking at the -- sorry. Never mind. So,
10 yeah, I do have a question here. When you're -- when --
11 because I'm jumping back and forth. When the comments from
12 like EPA come and they say we want to make a comment and on
13 9(e), you guys have made -- as of December made updates to
14 those incorporating some of the comments into the rules,
15 right -- into the draft rules, right?

16 MS. ZYGMUNT: Mr. Chairman. Board Member
17 Deurloo, that is correct. So the response to comments are
18 just organized by section with a header to give you a sense
19 of what passage in the rule. But the most recent strike
20 and underline that Gina provided does include any edits we
21 made to the rule itself based on the comments.

22 BOARD MEMBER DEURLOO: Got it. And where
23 my train came off the rails was at 9(b), because it would
24 have 9(a) to 9(t). And I think that is referring like this
25 updated -- updated numerals? Is that right, or am I wrong

1 on that? Because on 9(b), the old ones, you go from 9(a)
2 to 9(g), skip (b), (c), (d), (e), (f). And so are you
3 referring to old numbering here when you say 9(b) or the
4 new?

5 MS. ZYGMUNT: The new numbering would be my
6 understanding, Board Member Deurloo.

7 BOARD MEMBER DEURLOO: Okay. Yeah.

8 MS. ZYGMUNT: We do recognize this is
9 confusing. We get confused ourselves, and it is a big
10 challenge. And I just have to give kudos to Gina, because
11 she does a phenomenal job trying to track these changes and
12 present them in a digestible way. So we recognize the
13 challenge that we're throwing at you, particularly with
14 this size of rule. We're open to feedback how we can
15 present that information more clearly, but it is a big
16 challenge. We get that.

17 BOARD MEMBER DEURLOO: Sorry. I'm not
18 trying to complain about this. I'm trying to figure out
19 different ways or if there's an easier way.

20 Thank you. I'll bet Lorie's got her thoughts
21 together by now. Thank you.

22 BOARD MEMBER CAHN: Well, on that, Brian, I
23 think in the response to comments, if it could give the
24 line number that the comment -- you know, Section 9(b)(iv),
25 if we got that that refers to 1781 to 1782 in the

1 redline/strikeout version, then that would help us jump to
2 that part. But anyway, so what --

3 BOARD MEMBER DEURLOO: I agree.

4 BOARD MEMBER CAHN: I think Mr. Alsaker has
5 a really good point here. He says -- so the language in
6 the proposed language says "A determination of the degree
7 of hazard of all water service connections" -- and this is
8 line 1781 -- "to be connected to the proposed project. A
9 hazard classification shall be identified for each
10 connection and recommended mitigation measures shall be
11 described for each hazard." And what he's saying is design
12 engineer's not going to necessarily know about -- for a new
13 waterline, the design engineer's not going to necessarily
14 know all the services that are to be connected. So he says
15 that -- you know, seems this comes later by the system
16 owner through their cross-connection control program. So
17 are we asking for stuff that it's not -- they might not
18 even know, or -- or we asking for it in the wrong place? I
19 mean, you know, does the cross-connection control permit --
20 are we regulating it in two places, is kind of what I'm
21 asking. But -- that's number one. And number two, his --
22 I think his point is since this isn't going to be known,
23 maybe -- I'm saying maybe DEQ could reword and take out the
24 word "all" on 1781. So it's determination of the degree of
25 hazard of water service connections to connect -- or

1 anticipated to be connected to the proposed pipe -- or
2 known to be future connections or something. Because
3 obviously there's lots of unknowns. And by using the word
4 all, somebody could say, well, you never told us about
5 this. And they can say but I didn't know about it at the
6 time. So I think we need something to cover the event
7 where a future use is not anticipated at the time. This
8 is, again, an engineering design report. So this is this
9 high-level, upfront document.

10 So, again, I think there's a lot of detail in
11 here that seems to me to be too early on in the project.
12 It -- we're at the planning stage, not the done and
13 reporting stage. So I would just ask DEQ to kind of look
14 through -- that's the stuff in here we talked about, maybe
15 looking through and seeing if there's some stuff here that
16 is really too detailed through this stage. And I think
17 this is an example where maybe the word "all" might need to
18 come out, as well as maybe some other things. So I'll
19 leave it at that.

20 MR. TILLMAN: Board Member Cahn, when they
21 submit an application, they don't submit application to
22 install a waterline. They just say we want to stick a line
23 in the ground. Typically with an application they're
24 installing for a subdivision, for a business, for a
25 service, for an apartment building. They know something

1 about what they're doing. They may not know the extension
2 that we're going to go, you know, another couple hundred
3 yards and add another subdivision. They may not know that
4 at that time, but at the time they're usually putting in an
5 application for water system, they have a fairly good idea
6 what the initial use of that water system's going to be.

7 That's all we're asking. To the extent that they
8 don't know what the extension might be, if they put a plug
9 and valve at the end of the line saying we can extend that
10 further if someone wants to incorporate that area or
11 someone wants to buy, you know, that piece of land and do
12 something else with it, and they don't know what that looks
13 like, we understand that.

14 But we argue that when they put in a line for a
15 subdivision, they know what residences are. They know
16 where they're going to be plugged in. They know whether
17 they're going to have a strip mall or if they're going to
18 have apartment buildings. And all we're asking is that
19 they evaluate those hazard classifications at that time.

20 And you're absolutely correct, sometimes they
21 don't know. But that's what we're saying, when they do
22 know and they go to apply for that permit to finish that
23 construction, at the time when they do know, they give us
24 that hazard classification based on the information that
25 they're going to build.

1 MS. ZYGMUNT: And I think, Board Member
2 Cahn, that the way we can potentially write that to support
3 what Bill just said and address your concern would be all
4 known or anticipated water service connections, and then as
5 a response indicates we would work with them on future
6 modifications. But as Bill said, we do need to know
7 upfront everything they are anticipating at that time.

8 BOARD MEMBER CAHN: Jennifer, I --
9 Jennifer, I appreciate that. I think adding that language
10 "known or anticipated at the time" type language would
11 really help.

12 MS. ZYGMUNT: Great.

13 MR. TILLMAN: Chairman Kirkbride, that
14 concludes Section 9. So I think we're at a point where we
15 need to, I guess, discuss our path forward.

16 CHAIRMAN KIRKBRIDE: Anybody else got
17 anything on 9?

18 Okay. All right. Path forward, what do you
19 think?

20 MS. ZYGMUNT: Mr. Chairman, we're certainly
21 open to feedback. I think after what we've heard today,
22 you know, I'm seeing a couple needs. First, people need
23 time to digest the material that we've presented. We also
24 need time to digest the comment that Mr. Sepe provided
25 today via our Smart Comment Portal. So we will definitely

1 take a look at that and can update response to comments and
2 draft documents.

3 I'm tentatively foreseeing the Board might like
4 another public notice comment period on this rule.
5 Obviously we would do that before bringing the rule back to
6 the Board at the first quarter of 2022. So we're open to
7 doing that again. I do not feel, again, that we need to go
8 back to square one, start over with the stakeholder group.
9 I think the comments have identified, excuse me, entities
10 that we can do some targeted outreach with, look at their
11 comments and their questions, provide responses, do a
12 little bit more outreach that way to better prepare us to
13 come back to you at your next board meeting with further
14 revisions and/or additional responses to comments.

15 Those are my initial thoughts, but, again, I'm
16 open to feedback on what the Board would like to see.

17 BOARD MEMBER DEURLOO: Mr. Chairman, this
18 is Brian Deurloo. May I make a comment?

19 CHAIRMAN KIRKBRIDE: Please do.

20 BOARD MEMBER DEURLOO: Thank you.

21 As just a thought, I think we're just throwing
22 some ideas on how to proceed. This is the first time that
23 I have -- Chairman Kirkbride and I joined the Board at the
24 same time --- I don't know how many years, three, four
25 years ago now -- and it's the first time I've seen that we

1 haven't got all way through like a single rule and had to
2 carry on to the next one.

3 I would be willing to meet sometime in January,
4 even before the next quarter. Like we don't have to wait
5 the full quarter to get to it, otherwise it might take us a
6 year to get this passed.

7 I don't know -- we've already had a public
8 comment on this draft of the rules. I don't know if I
9 recommend another public comment on the whole thing when
10 we've already covered one-third of it today. If it please
11 the Board, and I'd open it up for comment, that we just
12 continue with this discussion and -- between now and -- or
13 sometime in January. Maybe Lorie can share some of her
14 grammatical and other comments with Gina between now and
15 then, we pick up right where they left off and then plan on
16 completing it even before the first quarter board meeting,
17 potentially. So I guess what I'm talking about is maybe a
18 special session to continue discussion.

19 MS. THOMPSON: Those special meetings
20 are -- they're allowed under the Rules of Practice and
21 Procedure that govern rulemaking. And if you -- if you
22 want, I can pull up that rule to see what the requirements
23 are. I think -- I think that's one of your decision
24 options. But if you -- if it pleases the Chairman, I can
25 look up that rule and see what the requirements are for a

1 special meeting.

2 CHAIRMAN KIRKBRIDE: All right. What is
3 the timeline that the Division needs? I mean, are you
4 wanting to keep this moving?

5 MS. ZYGMUNT: We're absolutely willing to
6 keep this moving. It will not take significant time to
7 respond to Mr. Sepe's comment from this morning. Again,
8 if we need to do targeted outreach with the individuals
9 who have commented so far, I think having a meeting in
10 January -- toward the end of January would give us time to
11 do that.

12 CHAIRMAN KIRKBRIDE: Is any Board unwilling
13 or think it's a better idea to wait?

14 BOARD MEMBER COCHRAN: Mr. Chairman.

15 CHAIRMAN KIRKBRIDE: Yes.

16 BOARD MEMBER COCHRAN: I might ask what is
17 proposed for the first quarter meeting?

18 MS. ZYGMUNT: I might have to look at Gina,
19 see what she has on her radar.

20 MS. THOMPSON: So my understanding, as of
21 this week, our sister division has no topics ready for your
22 next meeting. DEQ anticipates -- or we had anticipated
23 bringing the new rule to you governing the fees for the
24 electric sequestration projects and the special revenue
25 account. That rule has not been through our preliminary

1 attorney review, and so that one would not be ready for an
2 early January meeting. We had anticipated bringing that to
3 you in March. That those -- that project is the only one
4 that I'm aware of at this time.

5 MS. ZYGMUNT: Mr. Chairman -- and, Gina,
6 thank you for the reminder. Yes, that would be Chapter 29.
7 I'll give you a heads-up that is only five pages, though,
8 so in terms of you doing a review of that rule, it should
9 not be a significant lift, much different than Chapter 12.

10 So I think we're open. We can go either way. If
11 the board feels it's important enough to keep this moving,
12 meet toward the end of January, we'd be happy to do that.
13 If we wanted to wrap both chapters into one meeting, the
14 new Chapter 29, coming back to Chapter 12, we would be fine
15 waiting until February, March as well.

16 BOARD MEMBER CAHN: So would we just -- let
17 me ask just a couple questions. So, I mean, I see one
18 option we just hold onto our comments that we have on the
19 rest of the chapter and we leave the public comment period
20 open, because I think, in my mind, given the problems that
21 some people had expressed their frustration in finding the
22 10 States Standards, we need to give more people time to
23 comment on these. So we can leave them as is, and at our
24 next meeting pick up and maybe cut off the public comment
25 period so many days before our meeting so that you have a

1 chance to go over them and -- and then continue our
2 discussion with the rest of the chapter. And then you go
3 back and make changes, if necessary. Otherwise, maybe the
4 Board just says, yeah, we're addressing these comments
5 adequately at that meeting and go forward.

6 So I see one option would be to -- to continue
7 the public comment period and continue -- basically
8 continue this meeting until either January or the next time
9 that we're going to have a quarterly meeting anyways. I'm
10 afraid that if we do another alternative, which is you guys
11 go back and revise it now and come back to us with a new
12 one, all the comments -- it's going to make a lot of work
13 for the Board, because all the comments that we've -- I
14 have spent days and days and days.

15 I cannot -- I've never spent this much time on a
16 new -- on the regulations and the comments as I have on
17 this, and I don't want to lose what -- what work I've
18 already done and have to redo it and figure out where does
19 what I've got -- wrote before apply to new rules and
20 everything else. So -- but I'm willing to do that if -- if
21 you prefer to take it now and go back to the drawing board
22 and then have a new public comment period with new rules,
23 new revised rules. So I think we've got kind of two
24 options, and I guess I'm looking for feedback on what DEQ
25 thinks and what other board members think about that.

1 MS. ZYGMUNT: Mr. Chairman. Board Member
2 Cahn, yeah, we clarify we certainly don't feel we need to
3 go back to the drawing board. We feel we have a good
4 product that's still obviously in development. We have a
5 good initial round of feedback. We certainly don't want to
6 create additional work for the Board. And we know how big
7 of a lift this has been for us, so we can appreciate the
8 time that it's taken you to go through this significant
9 chapter as well.

10 So that said, I am going to, you know, have Gina
11 double-check me here as I talk out loud. But if we wanted
12 to extend the public comment period so that people have
13 time to look at the 10 States Standards and during that
14 time we'll make -- do some outreach to make sure people
15 know where they can find the 10 States Standards and then
16 have a clear cutoff date before the next Board meeting,
17 that would be a workable solution for us as well. But
18 compared to what we've done in the past board meetings,
19 where the public notice goes up to the meeting, a clear
20 cutoff date for those comments well in advance of the
21 meeting will help assure that we can wrap up any comments
22 and get a clear product to you before the meeting that you
23 have time to review.

24 Gina, can you correct me on anything there?

25 MS. THOMPSON: Yeah, I would agree, that

1 would be consistent with how we've handled other similar
2 extended comment periods. And, you know, I would reiterate
3 if we do extend this, that closing it off well in advance
4 of the Board, so that we can finalize any changes, give
5 them to you in time for you to review them, we can
6 certainly do that. With that extension of the comment
7 period, we would -- we would follow our typical public
8 process. We've done an ad before. So we'd probably do a
9 newspaper ad, do our listserv, do our hand mails, and then
10 make adjustments to your advisory board Web page resources
11 so that there's isn't confusion on what we're asking people
12 to look at. So...

13 BOARD MEMBER CAHN: I'd like to add
14 something. And I think, you know, with us losing -- with
15 you losing Bill -- and good luck to you, Bill, in your next
16 endeavor -- I think we're losing a lot of institutional
17 knowledge and expertise, and so I would like -- you know, I
18 don't know who's replacing Bill or who's going to be
19 working on this, but it would -- I think particularly,
20 because we're losing Bill, I think it would be really
21 important that whatever stakeholder group also has people
22 within DEQ that have the experience base working with
23 the -- I'd like the district engineers to be involved,
24 so -- anyways, just want to ask that, you know, you guys
25 work with your district engineers as well as the

1 stakeholders within the state.

2 MS. ZYGMUNT: Absolutely, Mr. Chairman,
3 Board Member Cahn. Pretty much all the staff in the Water
4 and Wastewater Section have been involved in this rule.
5 Yes, we are very sad to lose Bill. We have not talked him
6 out of retirement yet, and I don't think we will over the
7 next week. So it is a challenge every time we lose that
8 historical knowledge within the agency and the Division.

9 I have failed to introduce Anthony earlier.
10 Anthony Rivers is in the room with us. He is one of our
11 newest additions to the Water and Wastewater Section. And
12 he's been working with Bill to help assimilate some of that
13 historical knowledge on this rule and has been a big help
14 on bringing this revised chapter to where it is now. So
15 Anthony will be picking up some of the workload, but we
16 will be working with all of our district engineers, because
17 that historical knowledge is important. And, again, Board
18 Member Cahn, we will outreach to entities that have reached
19 out to us in comments.

20 BOARD MEMBER CAHN: Thank you.

21 MS. ZYGMUNT: And one other note,
22 Mr. Chairman. You know, as appropriate, and we want to be
23 cognizant of public meetings laws, but if there are times
24 when we could facilitate one on outreach with board members
25 to help answer questions, we'd be happy to look into that

1 too. We might need to consult with Gina and our Attorney
2 Generals just to make sure we are following all appropriate
3 procedures there. But if it would help to do some specific
4 outreach with you guys one on one, we'd be happy to do
5 that.

6 CHAIRMAN KIRKBRIDE: I believe we've come
7 to some kind of consensus, unless somebody's got -- seemed
8 like to me, Gina, you look for a time, huh? Explore a time
9 for ways you had -- you had mentioned quite a few hoops you
10 had to jump through.

11 MS. THOMPSON: Right. Go ahead,
12 Mr. Deurloo.

13 BOARD MEMBER DEURLOO: Oh, thank you.
14 Mr. Chairman. So I hear -- like the question is do public
15 comment or not do public comment before the next meeting, I
16 suppose, maybe is what I'm hearing. We could move the --
17 we could move the first quarter advisory board meeting up
18 to -- well, I don't know. It's just a matter of timing,
19 and I'm wondering what the staff prefers, that we do extend
20 the public comment period or we finish the review process
21 here.

22 It seems to me -- I could be wrong, but it seems
23 to me that we will -- if we go through this, it's one of
24 the most important -- it's a very -- not most important,
25 but very important rule. Will we be sending this to public

1 again after our next one? You know, so we've taken onboard
2 the comments we already have. I'm not trying to make a
3 motion for the next meeting or anything like that. I'm
4 just kind of wondering, are we going to be sending this out
5 for public comment again after our next meeting? I think
6 that might dictate if we hold or extend public comment on
7 this one. Am I right or off base there?

8 MS. ZYGMUNT: So, Mr. Chairman, Board
9 Member Deurloo, I think I'll answer your question, but once
10 the advisory board advises us to move forward with the
11 rule, it will go to the Environmental Quality Council.
12 There will always be a public notice before the
13 Environmental Quality Council meeting. And I'm going to be
14 looking toward Gina here as well, but we are required to
15 have a public notice before each advisory board meeting as
16 well. So there -- if -- regardless, before the next
17 advisory board meeting, there will be another public
18 comment opportunity for folks to comment on this rule. Did
19 that answer your question or confuse?

20 BOARD MEMBER DEURLOO: That answered my
21 question. Yes, it totally did. Thank you.

22 BOARD MEMBER CAHN: And I would like to
23 propose that we just extend the public comment period that
24 we're in right now, that ends at the end of this Board
25 meeting. I think we just extend that. I've been on the

1 Board a long time. We've done that many times before. So
2 we just -- I would propose we just extend this public
3 comment period. And I don't know if we're having our
4 meeting in March or January or whatever, but if there's
5 other business to be done, then we can combine -- have one
6 Board meeting in March that has other business, then maybe
7 we would end the public comment -- you know, extend it now
8 for another -- it's the holidays, so maybe we extend it for
9 45 days, or something like that, because the holidays and
10 now that people know where they can get a copy of the
11 201810 State Standard. So that would be my proposal.

12 MS. ZYGMUNT: Mr. Chairman, I propose we
13 try to have the next board meeting in early March, and at
14 that meeting finish up Chapter 12, finish your discussion
15 on Chapter 12, and that should also give us time to wrap up
16 Chapter 29. Again, it's a five-page rule, it should be
17 very straightforward. It should be similar to other rules
18 that we've promulgated.

19 So I think that would be a reasonable agenda for
20 one meeting. It would be more efficient for us if we could
21 try to combine them into one meeting. So that is what I
22 would propose, and I would support Board Member Cahn's
23 proposition to extend the current public notice period for
24 at least 45 days. If we had the Board meeting in early
25 March, perhaps we could cut off the public notice period

1 sometime mid-February to give us time to wrap the comments
2 and deliver products to you.

3 BOARD MEMBER CAHN: That sounds good to me.
4 Thank you.

5 CHAIRMAN KIRKBRIDE: Do I hear a motion to
6 that effect or any other?

7 BOARD MEMBER CAHN: I so move.

8 BOARD MEMBER COCHRAN: Second. Jim
9 Cochran.

10 CHAIRMAN KIRKBRIDE: Any discussion? We'll
11 vote. All in favor say aye.

12 COUNCIL MEMBER COCHRAN: Aye.

13 BOARD MEMBER DEURLOO: Mr. Chairman, I'm
14 sorry. Didn't get my mute off. So, again, I do have a
15 discussion. So to me, Lorie still moves, I'm just being
16 clear. So sounds like what we're looking at doing is
17 extending the public comment period by 45 days, and we'll
18 revisit Chapter 12 as it currently stands with additional
19 response to comments to the public comments at our next --
20 the first quarter advisory board meeting. Is that what I
21 heard?

22 CHAIRMAN KIRKBRIDE: I believe that's it.

23 BOARD MEMBER CAHN: I'll just clarify that
24 I think we're looking at extending the public comment
25 period to middle of February, so maybe not necessarily

1 talking about number of days, just extending it. We want
2 to just end it significant enough time before our board
3 meeting that DEQ has a chance to respond to whatever
4 comments they receive by the time we have our meetings. So
5 I would say mid-February would -- considering the holidays,
6 rather than saying 45 days, it's just -- I like the idea of
7 let's say we're cutting off the public comment period in
8 mid-February, and then have our March meeting, deal with
9 chapter 29, plus this, or whatever else business comes up
10 at the time.

11 BOARD MEMBER DEURLOO: Okay. Thank you.

12 CHAIRMAN KIRKBRIDE: Clear?

13 BOARD MEMBER DEURLOO: That was my
14 discussion, Mr. Chairman.

15 CHAIRMAN KIRKBRIDE: Any other discussion?
16 Proceed to vote. All in favor say aye.

17 BOARD MEMBER COCHRAN: Aye.

18 BOARD MEMBER CAHN: Aye.

19 BOARD MEMBER DEURLOO: Aye.

20 CHAIRMAN KIRKBRIDE: All opposed.

21 All right. That passes. We'll do.

22 Any further business -- when will we be hearing,
23 do you think?

24 MS. THOMPSON: That is a good question,
25 Mr. Chairman. We had not discussed. I think that's the

1 last item on our agenda before you adjourn, which would be
2 the discussion scheduling of the next meeting. And if you
3 want to adjourn the public part and have the discussion
4 without the transcriptionist typing, I'll run back and
5 forth on our schedule, you're welcome to adjourn the public
6 part so Kathy doesn't have to type it all.

7 CHAIRMAN KIRKBRIDE: Well, then, I declare
8 the meeting adjourned.

9 (Hearing proceedings concluded
10 3:07 p.m., December 21, 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 24th day of January, 2022.


KATHY J. KENDRICK
Registered Professional Reporter

