

1 BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

2 STATE OF WYOMING

3 -----

4 In re: Solid Waste Rule Chapter 3 Docket No. 22-5102

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6 TRANSCRIPT OF HEARING PROCEEDINGS

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9 PURSUANT TO NOTICE duly given to all parties
10 in interest, this matter came on for hearing on the 15th
11 day of November, 2022, at the approximate hour of
12 9:00 a.m., before the Wyoming Environmental Quality
13 Council, with Council Member Ryan Greene presiding,
14 Chairman Steve Lenz, Council Member Shane True, Council
15 Member Marjorie Bedessem, Council Member Stan Blake, and
16 Council Member John Corra, with Council Member J.D.
17 Radakovich in attendance virtually.

18 Mr. Ryan Schelhaas, Wyoming Attorney General's
19 Office, Attorney for the Council; Mr. Jim Ruby, Executive
20 Director to the Council; Mr. Joe Girardin, Business Office
21 Coordinator, were also in attendance.

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A P P E A R A N C E S

For DEQ: MS. NICOLE BUDINE
Assistant Wyoming Attorney General
WYOMING ATTORNEY GENERAL'S OFFICE
2424 Pioneer Avenue
Cheyenne, Wyoming 82002

MS. JODY WEIKART

Also Present: VARIOUS MEMBERS OF THE PUBLIC

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

2 (Meeting proceedings commenced

3 9:00 a.m., November 15, 2022.)

4 CHAIRMAN LENZ: Good morning. I'm Steve
5 Lenz, and I'm the chairman of the EQC. Today is
6 November 15, 2022. It's 9:00 a.m. at the Capitol Extension
7 Public Meeting Room 5 in the Herschler Building, 122 West
8 25th Street, Cheyenne, Wyoming 82002 and via Zoom
9 conferencing.

10 Solid Waste Rule Chapter 3 Council members
11 present today are Shane True, Marjorie Bedessem, Stan
12 Blake, Ryan Greene, John Corra, and myself. And Council
13 Member J.D. Radakovich is on Zoom.

14 Council staff present today are Jim Ruby, Joe
15 Girardin, and Ryan Schelhaas, the EQC counsel from the
16 Attorney General's office.

17 This meeting is now called to order. At this
18 time, I would ask for a motion to approve the minutes from
19 the September 13, 2022, meeting.

20 COUNCIL MEMBER BLAKE: I make that motion
21 to approve those minutes of September 13th.

22 COUNCIL MEMBER CORRA: I'll second.

23 CHAIRMAN LENZ: Okay. We have a motion and
24 a second. We will take a voice vote. All in favor, say
25 aye.

1 (All in favor.)

2 CHAIRMAN LENZ: Opposed. Motion passed.

3 We have two rulemaking packages scheduled for
4 this hearing today. The first rulemaking is Docket 22-5102
5 from the Solid & Hazardous Waste Division, proposed to
6 revise Chapter 3 of the Solid Waste Rules.

7 The hearing officer for this hearing is Council
8 Member Greene, and I'll turn the gavel over to him at this
9 time.

10 COUNCIL MEMBER GREENE: Good morning. I am
11 Ryan Greene, the hearing officer in Docket 22-5102. It is
12 November 15, 2022, and this hearing is being held at the
13 Capitol Extension Public Meeting Room 5, Herschler
14 Building, 122 West 25th Street, Cheyenne, Wyoming 82002,
15 and via Zoom videoconferencing.

16 Council Members present today are J.D. Radakovich
17 via Zoom, Shane True, Steve Lenz, Stan Blake, Marjorie
18 Bedessem, John Corra, and myself.

19 Counsel staff present are Jim Ruby, Joe Girardin,
20 and Ryan Schelhaas, the EQC counsel from the Attorney
21 General's Office.

22 For those of you who wish to testify during
23 public testimony on this package, I will call for the
24 testimony in the following order. Those in support who are
25 present here, and then those who are in support that are on

1 video and audio. Then testimony in opposition who are
2 present here, and then those who oppose that are on video.
3 And then, finally, testimony in a neutral capacity.

4 If you wish to testify through Zoom, please click
5 the raise your hand button, and I will ask for your
6 testimony, and I will call on you to give your testimony.

7 The Council will have the opportunity to ask
8 questions of anyone who testifies. The Director of DEQ or
9 his designee will also have the opportunity to ask
10 questions.

11 Would the representatives from the Department
12 please come forward, state your name, and spell it for the
13 record.

14 And before you begin, would you like us to ask
15 our questions as we go along or save them until the end?

16 MS. WEIKART: Mr. Chairman. If you would
17 save your questions for the end, I would appreciate that.

18 I'm Jody Weikart. Jody, J-o-d-y, Weikart,
19 W-e-i-k-a-r-t.

20 MS. BUDINE: I'm Nicole Budine from the
21 Attorney General's Office, and N-i-c-o-l-e B-u-d-i-n-e.

22 COUNCIL MEMBER GREENE: Thank you. And
23 please proceed.

24 MS. WEIKART: Thank you, Mr. Chairman.

25 Good morning, Council Members. My name is Jody

1 Weikart. I'm the solid waste permitting and corrective
2 action program manager. You see an empty seat next to me
3 today because Administrator Engels is feeling a little
4 under the weather. And she does send her regards to the
5 Council and wishes that she were here today.

6 As mentioned, I'm here to present the rule
7 package for the revised Solid Waste Rule Chapter 3,
8 Industrial Landfill Regulations. And at the end, we'll be
9 seeking approval for the revised chapter and the Statement
10 of Principal Reasons by the Council.

11 This rule was last looked at 24 years ago, in
12 1998. We've come a long ways since then. And so we worked
13 collaboratively with the Attorney General's Office and also
14 the Wyoming Solid Waste & Recycling Association, WSWRA.

15 The Attorney General's Office helped us quite a
16 bit with readability, structure with the rules, and
17 grammar. We also worked with WSWRA, as I mentioned. We
18 reached out to their membership at their annual conference
19 in 2021. And we also held a board meeting with them to
20 discuss the changes in detail in 2021.

21 This rule has been through three public comment
22 periods. Back in February of this year, we had an informal
23 comment period. We received one comment from the Wyoming
24 Solid Waste & Recycling Association in support of this
25 rulemaking effort.

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1 We then had another 30-day comment period in May
2 of this year, prior to the June Water and Waste Advisory
3 Board meeting. We received no comments. The Board did
4 give us some suggestions, revisions, which we incorporated
5 into the version of the rule presented today.

6 The Board commended the Department on working
7 with stakeholders to the point that no comments were
8 received except for one comment in support during the
9 informal public comment period. And they also commended
10 the Department on the rule package that was provided and
11 the presentation that was given.

12 And then prior to today's hearing, the rule went
13 through a 47-day public comment period in September and
14 October. And, once again, we received no comments.

15 The goal of this rulemaking was to streamline the
16 rule, provide consistency with other solid waste rules, and
17 remove the requirements of CCR landfills to be permitted
18 under Chapter 3, as they are now permitted under Chapter
19 18, which was a rule adopted by the Council in June of this
20 year.

21 Some of the highlights of our rulemaking. We
22 removed redundant and unnecessary language for clarity and
23 consistency. So, for example, rules and regulations, we
24 shortened that to just rules.

25 We reorganized the rules so it was structured

1 consistently with other solid waste rules. So if you were
2 to look at Chapter 2, our Municipal Solid Waste Landfill
3 Rule; Chapter 4, our Construction Demolition; and Chapter
4 6, our Transfer, Treatment, and Storage Rule, you'll see
5 that Section 3 is General Facility Information. If you'll
6 look at the revised Chapter 3, Section 3 is General
7 Facility Information. We thought this would give our
8 facilities an easier time navigating all of our rules.

9 We corrected capitalization, references, and
10 grammar. For instance, Administrator, we made sure that
11 was capitalized.

12 We also updated our references, because, as I
13 mentioned, this rule was last looked at in 1998, and almost
14 all of our rules has been revised since then. And so we
15 corrected all those references.

16 We also updated language so that our rules would
17 be consistent with each other. And so, for example, in
18 Section 3 of the revised Chapter 3, manager information is
19 required. That was required previously. We just updated
20 the language so it would be consistent with that language
21 in our other rules.

22 We eliminated the separate requirement for
23 industrial landfills of less than one acre. Now all
24 industry landfills must meet the same requirements in the
25 rule.

1 We moved from eight-year permit terms to lifetime
2 permit terms through post-closure. That transition will
3 take place when existing facilities renew their operating
4 permit. They will renew for a lifetime permit through
5 post-closure. And any new facilities will receive a
6 lifetime permit when they receive their first operating
7 permits.

8 We've also added annual reports because of that
9 lifetime permit. And, finally, we created some new
10 sections. Sections 14 through 17. Those were all created
11 to provide clarity for the applicability of other solid
12 waste regulations. Some of our facilities have dry pads or
13 they need to solidify material before it's placed for
14 disposal, and so that would be a transfer, treatment,
15 storage operation, and so they need to meet those
16 regulations. So we just clarified that with these new
17 sections.

18 So while all those revisions sound wonderful,
19 what does that mean for a permit? What does a permit look
20 like? If you were to open one up on your desk today, what
21 would you find in it?

22 So our industrial landfill permit, you're going
23 to find general facility information. This is going to be
24 information on the operator and manager. It's going to be
25 the service area, what waste they accept, their lifespan,

1 the facility's capacity.

2 You'll also see information on the location of
3 the facility. We have a lot of location standards. So
4 you're going to see how far they need to be to the nearest
5 drinking water well, wetlands, fault zones, those sorts of
6 things.

7 There will be information on geology, soil types,
8 depth to the uppermost groundwater, groundwater flow
9 direction. You're going to see a lot of details on the
10 design of the landfill. This includes things like the
11 buffer zones. They have sufficient cover material, slope
12 stability. If the facility is required to line, you're
13 going to see that liner design.

14 You'll also see information on the operation of
15 the facility. Some of this includes the knowledge and
16 training that their solid waste manager will have. And it
17 will also show how their operation will handle access,
18 control, litter, dust, routine cover, those sorts of
19 things.

20 There will be information on monitoring. You'll
21 see sampling analysis plans. You'll see sampling
22 schedules. You'll see what monitoring they're doing.
23 You'll see their plans for recordkeeping. Our rule
24 requires certain records to keep it -- be kept for a
25 certain period of time. Those items include litter

1 collection, financial assurance documentation, training,
2 the permit application itself, the operating permit, permit
3 amendments that they receive.

4 And since these permits are for the life of the
5 facility through post-closure, you're going to see some
6 pretty detailed information on closure and post-closure
7 care. So that's going to include closure schedule, the
8 notice on the deed, design of the final cover, access
9 control during post-closure.

10 There will be information regarding other solid
11 waste chapters. As I mentioned before, some of our
12 facilities have drying pads or treatment pads for
13 solidification of the waste so they can place it in their
14 cell. That would require transfer, treatment, storage
15 permit. So instead of issuing a separate permit, they just
16 include that information in their Chapter 3 permit.

17 Special lease is another item that would fall
18 under this.

19 And then, finally, you'll see supporting
20 documents. These are maps of the facilities, drawings of
21 the various designs for the cells, cross-sections, well
22 logs, table calculations, that sort of information.

23 So with that, that concludes our presentation on
24 the rule. And so, Mr. Chairman, we are happy to answer any
25 questions you have on the rule at this time.

1 COUNCIL MEMBER GREENE: Thank you for your
2 presentation.

3 Does -- oh, yeah. Question from Council.

4 COUNCIL MEMBER BLAKE: Yes. I have a
5 question, probably just to educate me.

6 When you say lifetime permit, is that lifetime of
7 the plant? Is it the lifespan of the facility? So can you
8 explain to me what -- lifespan versus lifetime permit, if
9 you can. Thank you.

10 MS. WEIKART: Mr. Chairman, it is the
11 lifetime of the facility. So when the facility first comes
12 in for a permit, they will receive a lifetime, and that
13 permit will end when the post-closure period for the entire
14 facility has been approved.

15 COUNCIL MEMBER GREENE: All right. Any
16 other questions?

17 Council Member.

18 COUNCIL MEMBER CORRA: Yeah. Sharp finger.

19 Okay. Hi. I had one quick comment, so -- but my
20 question -- and it may -- in the -- my question has to do
21 with financial assurance. Now, there is -- that is
22 contained in another rule. And your reference here is just
23 to Chapter 7, I think. Yeah. But -- and so you may -- if
24 you can't answer it, I'll understand.

25 I was just curious, once there was this concern

1 about financial assurance, bonding these landfills, and
2 have you -- as you all, as an agency went through and redid
3 the self-bonding requirements for mining and so on, did you
4 also make changes to the financial assurance requirements
5 for landfills? And if you did, can you tell me what they
6 are now, or is it not a good question to ask?

7 MS. WEIKART: Mr. Chairman. Yes, we did
8 make changes to our financial assurance chapter. Those
9 were completed last August, I want to say. And we did use
10 the Land Quality chapter and the Water Quality chapter as a
11 guide for making those revisions. And our bonding group
12 worked to make sure that those were consistent throughout
13 the departments.

14 COUNCIL MEMBER CORRA: Yeah. My comment is
15 it's good to see that Solid Waste Recycling Association
16 supports you in this effort. When the Department started
17 down the road of regulating landfills, way back when, it
18 was kind of amazing how fond all these local operators were
19 of their own garbage. They just wouldn't let it go. So a
20 lot has changed. So good presentation.

21 Thank you, Mr. Chairman.

22 COUNCIL MEMBER GREENE: Any other
23 questions?

24 Yes, Chairman Lenz.

25 CHAIRMAN LENZ: Thank you, Mr. Hearing

1 Officer.

2 So I'm glad that your representation is here from
3 the AG Office as well. In reading through this, I came
4 across a section under General Facility Information. And
5 in your either laptop or your documentation they have there
6 -- it's actually on Section 3-17, lines 756 through 764.
7 And what came out of that, as I read it, it's talking about
8 the operator, and how an operator will play their role in
9 this permit. And it has language -- and I spoke with
10 Mr. Schelhaas about it as well, and in his research, it
11 goes clear back to the 1998 version.

12 MS. WEIKART: Uh-huh.

13 CHAIRMAN LENZ: But it's asking for
14 information about the operator, whether they have had any
15 kind of legal infractions. And it includes the words
16 felony conviction, court proceedings, criminal
17 racketeering, and I assume that's some kind of standard
18 language for that. But what came out of it for me was how
19 does that then get regulated? Who would be the enforcing
20 agency, if that information was voluntarily revealed or if,
21 after the permit was granted and this operator was the --
22 was approved, and then you found out that they had priors,
23 how do you go about suspending, revoking, you know, what
24 kind of time lines do they have to get a new operator who
25 does not have this kind of background? That may not be a

1 question that can be answered.

2 MS. BUDINE: I don't -- just push it?

3 Okay. Thank you.

4 Mr. Councilman, so I have to admit I'm actually
5 the stand-in Assistant AG today, because the other one had
6 other commitments. But for the purposes of this rule, my
7 assumption, based on the Water Quality rules I normally
8 work with, that is DEQ, that determines what happens with
9 the permit. But I'll let the DEQ representative answer
10 that.

11 MS. WEIKART: Mr. Chairman. This is
12 reviewed at the time of the permit application being
13 submitted to the Department. And we do a completeness and
14 technical adequacy review at that time. I do know that in
15 our Solid Waste Chapter 1, the Director does have the
16 ability to revoke a permit if they -- I'm having someone
17 pull up Chapter 1 right now to take a look at it. But I do
18 know that we have the ability to revoke a permit. It's at
19 the Director's discretion.

20 MS. BUDINE: Yes. I would agree with that.

21 CHAIRMAN LENZ: Okay. Thank you.

22 It seemed as though that language was strong, and
23 had some serious implications to the facility and through
24 the permit. And my curiosity was how would we handle that,
25 if that were revealed, either voluntarily or involuntarily.

1 And with these being lifetime permits, it seems like it
2 could end up with a situation like that, or maybe it has
3 happened in history, and that's why this is in there, to
4 abate that. So thank you.

5 COUNCIL MEMBER GREENE: Any other questions
6 from the Council?

7 Yes, Council Member Bedessem.

8 COUNCIL MEMBER BEDESSEM: Thank you.

9 Whoops. There we go. Just a couple of brief questions.

10 I don't know if we've had criminal racketeering,
11 but I know we had at least one -- somebody in the witness
12 protection program. That was a previous -- but, anyway,
13 aside from that, I had a question about your response to
14 Stan's question regarding lifetime permit. I know -- I
15 mean, you clarified that lifetime is related to the
16 lifetime of the facility. But I remember when we first did
17 the municipal waste rules and converted to lifetime
18 permits, my recollection was we all joked about how it was
19 25 years, that the lifetime was 25 years. So has that
20 changed, or is it 25 years for industrial facilities as
21 well?

22 MS. WEIKART: Mr. Chairman. The 25-year
23 for the lifetime, that's defined in statute for municipal
24 solid waste landfills. And so we don't have that
25 limitation for our other facilities. And so we've gone to

1 lifetime through post-closure. There's no 25-year permit
2 term on it. It's also a gone-to for our transfer,
3 treatment, storage, our construction demolition landfills,
4 and our coal combustion residual landfills and surface
5 impoundments.

6 COUNCIL MEMBER BEDESSEM: Thank you for
7 clarifying. So 25 only applies to municipal solid waste --

8 MS. WEIKART: Correct.

9 COUNCIL MEMBER BEDESSEM: -- because it's
10 in statute.

11 MS. WEIKART: Correct.

12 COUNCIL MEMBER BEDESSEM: Thank you. I
13 appreciate knowing that.

14 COUNCIL MEMBER GREENE: Any other questions
15 from the Council?

16 Thank you for your presentation.

17 Is there anyone present here in the room wishing
18 to testify in support of this rule package? Please come
19 forward and state your name and spell it for the record.

20 Seeing none, I'll move on. Is there anyone
21 present on Zoom wishing to testify in support of the rule
22 package? Please state your name, and spell it for the
23 record.

24 No? Is there anyone present here in the room
25 wishing to testify in opposition to the rule package?

1 Please come forward, state your name, and spell it for the
2 record.

3 Seeing none. Is there anyone on Zoom wishing to
4 testify in opposition to the rule package?

5 No? Is there anyone here in the room who wishes
6 to testify in a neutral capacity?

7 Is there anyone on Zoom who wishes to testify in
8 a neutral capacity?

9 Seeing none, I am closing the public hearing in
10 Docket 22-5102, and I return the gavel to Chairman Lenz.

11 CHAIRMAN LENZ: Thank you, Council Member
12 Greene.

13 Do I have a motion to approve the Rule Package
14 Statement of Principal Reasons in Docket 22-5102?

15 COUNCIL MEMBER TRUE: I would move this
16 forward.

17 COUNCIL MEMBER BEDESSEM: Second.

18 CHAIRMAN LENZ: Okay. We have a motion
19 made and second.

20 We will call a roll call vote. First, I would
21 ask on Zoom, Council Member Radakovich.

22 COUNCIL MEMBER RADA KOVICH: Aye.

23 CHAIRMAN LENZ: Are you with us?

24 COUNCIL MEMBER RADA KOVICH: Aye.

25 CHAIRMAN LENZ: Aye.

1 And then Council Member True.
2 COUNCIL MEMBER TRUE: Aye.
3 CHAIRMAN LENZ: Council Member Bedessem.
4 COUNCIL MEMBER BEDESSEM: Aye.
5 CHAIRMAN LENZ: Council Member Blake.
6 COUNCIL MEMBER BLAKE: Aye.
7 CHAIRMAN LENZ: Council Member Greene.
8 COUNCIL MEMBER GREENE: Aye.
9 CHAIRMAN LENZ: And Council Member Corra.
10 COUNCIL MEMBER CORRA: Aye.
11 CHAIRMAN LENZ: And the chairman votes aye.
12 All in favor, motion carried.
13 (Hearing proceedings concluded
14 9:23 a.m., November 15, 2022.)
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C E R T I F I C A T E

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

Dated this 13th day of December, 2022.


KATHY J. KENDRICK
Registered Professional Reporter

