Environmental Defense v Norton – last week the Wyoming portion was finalized on a motion to dismiss.
Jonah Infill – Wyoming participating – waiting for actual decision.
Regional Haze – 308 Decision upheld in December 2006.

Tracking cases having to do with NESHAP rules, PM2.5 rules (not actively participating).

Two citizen suit cases that we are tracking:
Harris et al. v Rostad Mortuary
Sierra Club v. PacifiCorp Jim Bridger

Enforcement: As of 12/8/06, 34 open cases. From 12/8/06 through 6/22/07 opened 45 cases (previous report opened 12 cases per six months). Resolved 12 cases, some are pending or are under CD.

Dave indicated that there are two problems, one that there is a failure to pay attention. The second problem, is that some of the devices that are used in the fields are not to control emissions but to release emissions.

Mr. Boger asked if a company is making a "good effort" if they are still penalized.

V. New Business

A. Proposed Changes to Wyoming Air Quality Standards and Regulations

Chapter 3, General Emission Standards, Section 2: Mike Stoll: The reason I'm doing the presentation is that this was rather a group effort amongst a number of people. Dealing with Chapter 3, Section 2 is regulation dealing with the control of particulate emissions that covers opacity, and one of the things I thought that would be beneficial at this point would be to express a little bit of how we got into the mess we are currently in. Our regulations came, initially from the Health Department. The regulations were under development in 1968 and 1970. At that time, the Health Department handled the regulatory functions of air emissions in the State of Wyoming. They utilized a board that was quite similar to the Air Quality Advisory Board called the Wyoming Air Resources Council. In the late 60s and early 70s, if you're old enough and remember, the State and the Country was working to clean up air, in general. Particulate emissions were a big player at the time. They were developing standards for new sources that turned out to

be New Source Performance Standards. Some of the first ones they came up with were performance standards for boiler systems. They were doing away with heavy emitters, requiring controls for different systems and the State of Wyoming was in the same group that was doing the same kinds of things. The Air Resources Council was developing a lot of compliance and compliance schedules for various industries out there that typically operate their processes without any type of control devices on them. Sometimes they had to come back and put these systems on.

At the time, in the 1968, 1970 time frame, particulate emissions under the old regulations were covered under four different sections. One covered "Process Weight Allowables" for existing sources. Another covered "Fuel Burning Equipment Used for Indirect Heat" which is basically boiler-type systems. Again, this is for existing sources during that time frame. A third section talked about "Particulate Emissions into the Air" (fugitive dust). Finally there was "Restriction on Visible Air Contaminants". This is what we currently phrase as opacity regulation. At the time the measuring mechanism was called the "Ringleman" mechanism. Without going into a great deal of detail, this predates me and I don't really know how it works either, they used, I believe an ASTM method to compare visible emissions to pictures and charts. They came up with a Ringleman 1, 2, 3, etc. Ringleman 1 is, essentially a 20% opacity equivalent, 2 would be a 40% opacity equivalent, and 3, I believe is a 60%. It's hard to get information for these. In 1972, the regulations were revised and they were revised in a fashion that were quite similar to what we currently have. There weren't quite as many bells and whistles in it, but we came up with a Visible Emission Regulation that had Visible Emission set at 20% for new sources, 40% for existing sources and all references to the Ringleman method were removed from the regulations. Unfortunately, they didn't provide any documentation to "how do you do opacity?". That's one of the problems we received that I'll talk about a little later.

Another difference from the regulation was that they actually had an aggregation regulation where a source was allowed to exceed their 20 or 40% equivalent in the old regulations up to 60% equivalent opacity for a 6-minute period. That disappeared. It was reduced to 40% opacity in the revised regulation. I have no idea why, it just happened. Process weights were included in this particular regulation. The original regulation had a chart (algorithm). In process weights for existing sources, in the 1972 regulations, now there's a new algorithm equation for process weights for new sources. The fugitive dust regulations were expanded quite

significantly. I'm not going to go into those, particularly in this presentation. Fuel burning equipment for indirect heat transfer, again, goes back to the boiler-type systems. Initially it was a drafted chart that allowed a person to go in there and look at the heat input rates for various size boilers and come up with a pound per million Btu heat input and allowable emission rate for existing boiler systems. When the regulations were revised in 1972, they came up with a 0.10 pound per million Btu heat input regulation and also established a 20% opacity. At the same time, and this again goes back to the development of the NSPS, they came up with a short period of exclusion that I believe was probably introduced to deal with the time frame that's associated with boilers where they would blow soot, in other words, clean out the boiler occasionally and they allowed elevated opacities between 20 and 40% for up to 2 minutes during any one-hour period. NSPS had a similar regulation in the proposal state that, when it was finally developed, was changed. It was changed to 20% as a 6-minute average. And then, finally, in the 1972 regulations they added some incinerator requirements.

We have encountered a number of problems associated with those regulations we are attempting to correct with some modifications to the chapter and I will go over those very briefly. As I mentioned before, there is no clearly defined procedure for determining opacity. What we are proposing to do is to reference 40 CFR part 60, Appendix A, Method 9. Method 9 observations would have to be conducted by a certified observer as specified in Method 9. Additionally, we would propose that any measurements taken by certified continuous opacity monitoring systems also be operated in conformance with NSPS or NESHAP's requirements would be used for this purpose. Our second proposal is a difficulty in attempting to deal with enforcement. Currently there are two provisions in there that create some difficulties. They are based on aggregations over a time frame. The current regulation allows a source to operate for a period or periods aggregating not more than six minutes in an hour at opacity levels above 20%, but less than 40%. Although you can say that easily, you can't do that easily. At a minimum, in order to insure that someone is in compliance, if they don't have any emissions higher than 20%, you have to hang around for an hour just to document the fact that they don't. There's no description in the regulation about how one goes about doing this. Are these 15 second intervals, are they read every minute and then aggregate on a minute by minute basis, are the hours done on a clock basis, do you start out and run for an hour? It's kind of an undefined thing and it's very time consuming. Generally, right now, what we're using is typical Method 9. We're taking six-minute opacity readings

by Method 9, which means, a visible observation at 15-second intervals and coming up with an average over that time frame. We typically compare the results that answer to a 20 or 40% standard depending on if it's new or existing or some other standard that might be specified in a performance standard.

Another problem is that we have some inconsistency with Federal requirements, particularly with NSPS Subpart D requirements. I mentioned this before, and this is the part where we've got the two minute aggregate over a one-hour period of time where you can have opacities that range up to 40%. Again, the Federal standard calls for one 6 minute period of 27% opacity in a one-hour period. Functionally, these work out to be the same number. If you were to take 20% over a 4 minute period and 40% over a 2-minute period for a calculation, you come up with 27%.

We have a bit of a problem with the broad language that establishes alternative opacity limits. This is in a section that was added to the regulations in the late 70s. There is a provision in our regulation for new sources that allows for large fuel burning equipment. This would be for heat capacities of 2,500 million Btu per hour, which is a pretty significant size boiler. The permittee can ask the Administrator to look at the opacities during the performance test on the unit and then evaluate the particulate emission rates that occur during a time frame and compare it to the opacity limit. If the source is in compliance with the particulate emission rate, but out of compliance with the opacity, he can petition the Administrator. The Administrator advises him that he can petition and ask for a different opacity level and there has to be a demonstration made on the part of the permitee that the control equipment was, indeed, operational and was operating properly. It was incapable of being adjusted to accrue the appropriate set levels of 20% level. Then the Administrator can develop an alternative opacity that can be used by the source such that the source is in compliance during all hours of operation. I don't think we have ever done that at this point, but those things are available in the regulation and we think, probably, a little too broadly to be utilized without challenge. We would propose in this one to leave the opacity standard in tact during normal operations and would propose to allow the Division to establish permitting an alternative opacity limit for a defined period of operation. The proposal would require compliance with a particulate emission limit. The proposal would require submittal of an emissions minimization plan to be used during this period and would require the owner or operator to demonstrate compliance with the particulate ambient standards at

all times, including the time period where the defined period of alternate opacity.

Finally, the last thing we did, and I was part and partial to this myself, we've removed some confusing language that was left as artifacts in the regulation. There was a place or two where we had referred to a shade or density of emission and that regulation, frankly, came from the old Ringleman method, which is no longer there. We have also added specific dates throughout the regulation, where we say new and existing in different portions of the regulations, those have different meanings. A new unit, an existing unit for purposes of opacity is a regulation that dates back to 1970. A new and existing unit for purposes of fuel burning equipment under paragraph H of that paragraph has a different time frame and it's based in 1970 too. We're here today, I guess, to listen to any comments that we might have from the public and get input from the Board, so that's why we're here.

Ronn Smith had a question about the weight-based standard method of pounds per Btu. Is that standard also subject to alternative levels, or are we just talking about opacity?

Mike: No, the point 1 would be a set level. The opacity is the only thing we are looking at. Frankly, new units at this time are considerably lower than 0.1.

Ronn Smith: Okay, we'll open it up for questions or comments, just identify yourself.

Cathy Woolums, Senior Vice President, Environmental Services of Mid American Energy Holdings Company which is the parent corporation of our operating subsidiary PacifiCorp Energy which operates its regulated sources in the State of Wyoming. We appreciate the opportunity to comment on the rules and the changes that were outlined. As a regulated entity, environmental compliance is important to the company. Clear rules and standards help our plants make sure that we operate within accepted parameters. However, when those rules are less than clear, which you heard about in that presentation, or when they are subject to differing interpretations, compliance becomes more difficult. What we are looking for is clearly defined rules that we know we can comply with. As the Division has noted, the current opacity rules are partially a holdover from decades ago. The Department of Environmental Quality has proposed this rulemaking to update the opacity rules and clarify the State's interpretations. PacifiCorp agrees with the Division's proposal and the Division's current

interpretation of the opacity rule. PacifiCorp believes a partial solution to this problem is that proposed by the Division and that you've heard about today. The proposed rule change will match the exception period with the six-minute average period, while at the same time reducing the maximum opacity allowable during the exception period to 27%. This new rule is consistent with Federal requirements under new source performance standards and, when combined with the Division's policies, provides a much clearer basis upon which to determine compliance. This new rule will enable the Division and PacifiCorp to know, based on continuous emission monitoring data, whether a plant is in compliance for each six minute period in any given hour. PacifiCorp expresses its support of the proposed rule and encourages you to recommend its consideration by the Environmental Quality Council. Doing so will ensure that all regulated facilities in the state will be subject to clearer rules on an equal and understandable basis. Again, we appreciate the opportunity to comment on the rule and would be happy to answer any questions if you have them.

Bruce Pendery: My name is Bruce Pendery and I'm with the Wyoming Outdoor Council. I wanted to comment on one of the proposed rule changes. It would be the change in Section 2(h). I'll go ahead and read it, it won't take too long. "Visible emissions of particulate matter from new (commenced construction or modification on or after February 22, 1972) sources where fuel burning equipment is used for indirect heating shall be no greater than 20 percent opacity except for a six-minute period per hour of not more than 27 percent opacity unless superseded by an emission limit established in an Air Quality Division permit. The Division may establish an alternative opacity limit for a defined period of operation through an air quality permit which requires that 1) the source complies with a particulate emission limit during this period, 2) that the owner/operator of the source submits a plan to minimize emissions during this period to the extent practicable, and 3) that the owner/operator conducts modeling to demonstrate compliance with the particulate ambient standards, including particulate emissions generated during these defined periods of operation." What I wanted to comment on with regard to this rule change. Fundamentally what our underlying concern is that permitting may become an *(inaudible)* State Implementation Plan, that the SIP itself may not be a clearly stated standard. That, in fact, the opacity standard that comes to apply when it is developed for a particular permit. We have real concerns about that. We think that there's a question as to whether it would be legally valid under Section I of the Clean Air Act which requires EPA approval of the State Implementation Plan as well as revisions to the State

Implementation Plan, yet, here it would appear that the opacity limits might be established more on a case-by-case basis with the permit. That's an area of concern to us. We think that really, fundamentally, the opacity limit that's stated in the proposed rule change should simply be required, it's an achievable standard, sources of emission, particularly for many sources of emission if they use the baghouse technology they can achieve the 20% standard and comply with the rule. I think, at a minimum, an alternative standard a source should be required to show that there's absolutely no way, technologically speaking, that they could, in fact, be able to meet that standard and that they just absolutely must have some other permit option. I think that burden should be on the permit applicant and it doesn't matter the rule. I think, fundamentally, some other concerns we have is that the language seems to infer or imply that the permit applicant can say "we can't meet these standards". We think that should not be a permissible interpretation of the rule. DEQ should make the determination of what is possible and insist on the highest technological standard available. The last thing I'll just mention, and I don't know a lot about this, EPA has developed an excess emissions policy. So, again, in our view, it would seem that the way to go with this rule is to simply require the 20% opacity standard and then deal with any problems that a particular operator is having in achieving that opacity standard through the excess emissions policy (and I don't know this policy that well). That would allow for adjustments of enforcements. The standards, in our view, should remain the same, not be modified, but the appropriate approach is if a company really can't meet the standard is through enforcement or lack thereof, and penalties and so on. There's a better way and a better policy than to be a little blunt about it, finding a nice way to insure compliance but not insuring a reduction in emissions.

Chad Schlichtemeier: I would like to just add a little to Mike's presentation and also to maybe put a little more perspective on the rule change. Back in December 2006 we went to public notice of WyGen 3, which is a PC power plant up in the Gillette area. We received comments back from EPA that our language in our permit states allowable emissions compliance during all times including during startup and shutdown. Whether we've been flying under the radar or whatever up to this point, we have now addressed startup and shutdown. Our language says these are emission limits and it's kind of left up to enforcement discretion when it comes to looking at those at a later date. Then it got into replying to comments, we started digging into EPA policy and what is required for startup and shutdown and there's been those out there that BACT should have been applied during startup and shutdown.

Since then we have gone back to our PSD applicants and said that as far as your application, you need to start addressing your emissions during startup and shutdown. PacifiCorp and the Jim Bridger Plant were one of the first ones that came through and we've brought through and addressed the opacity issue. Those are older units. They startup on fuel oil and I don't know if any of you have seen a unit startup on fuel oil, but temperatures still get up in the stack of the petroleum equipment and you can see excess emissions during startup. No matter what you do, with fuel oil, as you startup, you are never going to see a 20% limit. PacifiCorp has taken some steps when we went through that action and we asked them to submit a minimization plan. They went through and said that, rather than looking at opacity, we're going to look at work standards. We're going to bring on scrubbers, we're bringing on ESPs and we're going to minimize emissions to the extent practicable. We looked at that and we went to their minimization plan. We started looking at those and based on opacity and just seeing them comply with 20% and we use enforcement discretion. Well that was fine in the past, and now everyone has their eye on compliance and everything else, so we thought it appropriate to write the condition that clearly defines when the limit applies. We know, based on past history, that compliance with the 20% during startup and shutdown just isn't possible, so rather than set a hard and fast opacity limit, we, basically, said follow the work practice standard and as long as they do that and follow the varying plant startups the opacity limit does not apply. This clearly defines what the violations for PacifiCorp and when it comes to looking at their excess emissions the one thing that also is key is that we're talking about 1 to 2% of the time. Before we get all wrapped around the axle here and say we're giving everything away, we have to step back and look at the other 99.8% of the time is that during normal operations they're required to meet the 20%. So, we're talking very small periods of time here. It's important that we keep that in mind. We spent hours upon hours responding to comments on this startup and shutdown and it seems like we're kind of stepping over nickels to pick up pennies. We should really be concerned about emissions during normal operations. I do agree, they need to make sure they comply with all ambient standards and minimize to the extent practicable, but beyond that, there may have to be some different conditions during startup and shutdown. All new PC plants that are coming on line are coming on with natural gas. So opacity isn't an issue. This is a very limited number of sources that this will apply to.

Ronn Smith: I have a couple of questions. So, the defined periods will be strictly startup and shutdown? Or, are there times when the client will be running at high levels?

Chad: As Mike said, we've got this provision in our regulation up to a point and we've never exercised to allow higher capacity limits during normal operation limits, while the language is pretty general, I think it would be more directed towards just startup and shutdown.

Ronn Smith: That might be something you should contemplate putting in the language of the rule.

Dave: We are having some continued discussions about this rule. There are various other languages like that that can be read to be overbroad and we don't intend for it to be overbroad. So, we're likely to have continued discussions on that, tighten it up, and most likely, bring it back to you.

Ronn Smith: So it's my understanding from what Mike said that you are not looking for a recommendation today, just feedback? Mike indicated "correct".

Jeff Snider: Chad, can you say how much pollution results during startup and shutdown relative to normal operations?

Chad: It's followed up on when we issue that permit one of the parts is that they comply with their allowable limits, their limit established for that period during startup or shutdown. When we worked with PacifiCorp, they did some estimation. They first started up on fuel oil and then towards the end of the startup they had a combination of coal. During fuel startup they came out around 10 to 11 pounds per hour, and allowable is around 180 pounds per hour. Towards the end we started talking and asking ourselves if we could come up with some engineering estimates, when you switch over to coal the temperatures start getting up, they start working better, but they are not the coal temperature so there's a question as to what's the abduction of bmp. We can't really say for sure if they're complying with the limit. So, the end result was that we required them to do a test during startup of one of their units. They had Unit 3 down, it came down shortly after the permit was issued to low NOx burners and when they brought it back on they did some performance tests and it made us feel a lot better.

Bill Lawson with PacifiCorp indicated that their emissions in terms of pounds per hour (pph) during the set up period, we just barely

got some draft results back. We looked at the period that we were fired with fuel and our emissions at that point in time were around 10 to 30 pph on fuel. We looked at the transition period, when we were transitioning from fuel to coal, and I think we were in the range of 60-70 pph. The maximum that we saw, the point at the end of the startup period, normal operation, the maximum emissions that we saw in terms of particulate were around 70-80 pph, well below the 180 pph. From an emission perspective, the emissions received during this period simply, in talking pounds per hour, from my perspective are important. That's what's going into the environment, that's what's being modeled are the pounds per hour emissions. When we see the pounds per hour emissions we're going to start treating fairly low from what we see during normal operations. I haven't taken the opportunity to talk opacity during this test. Some of the things we are doing can tend to make the opacity worse. We are putting the precipitator in service immediately, which causes a potential code, our wire. The other thing we are doing is that we put into our scrubber, our SO2 scrubbers, when we first start firing, and when we do that you are adding moisture to your system. Opacity is a measurement of the opaqueness of what's going up your stack. When you add moisture that gives you an opportunity to increase your opacity. So opacity is not necessarily measuring emissions, per say, it's measuring the opaqueness of your stack. Some of the things that we are doing if we truly wanted to eliminate opacity we wouldn't be putting the scrubber into service. The scrubber has a better chance of knocking out particulates and removing extra fuel burned during the startup period. It may not be fully effective during the startup period, but it has that potential, so, by putting that in service we are minimizing emissions. If we only focused on the opacity we would do things that don't necessary minimize emissions but would minimize opacity. We're in compliance over 99% of the time. The startup and shutdown periods, as Chad said, are very small periods of time.

Bill Lawson: Some of the things that you see happening during the startup with the opacity (or any other change in operation, if you change your duct configuration or you change your fan positioning), you open up a duct you can have ash that's hiding out in a location behind a duct and you open it up, you get a puff that blows out the stack. That puff can stick from the average and cause you to go over. You are now down to a 20% standard measured on 6-minute averages, you have one puff that goes up.

Cathy Woolums (PacifiCorp): You're allowed two one-minute periods of time at 40% over an hour. What does that really mean

to us, especially when your monitors are measuring and recording data? I understand, 6 minutes at 27% is, I'm not sure about the ...

Bill Boger: What is the normal startup cycle, what kind of timeframe are we looking at to get online. Bill indicated that it depends on what kind of a startup it is (i.e., hot v. cold). If a unit trips (i.e., hot) those may last two to three hours. If we have a major overhaul and unit is offline for a long period of time (i.e., cold) that can take up to 15 to 20 hours for startup.

Bill Boger: Part of the reason for seeing a lower pph during startup even though you have an opacity might due to just *(inaudible)* at that time. I mean, once you are on line, you're operating at a higher ...

Bill Lawson: Our heat input, when we're talking pph, just for a simple example if you're at half load you're at half normal heat input so if the standard is 0.1 on a pph basis, you'd be at 0.2 of your pph, which is very low.

Jeff Snider asked what they run at. Bill indicated that their limit is 180. Jeff said that's your limit, what do you operate at? Bill indicated 100. Bill indicated their emission limit is 0.03 Btu.

Dave indicated that these startup/shutdown issues aren't a concern for AQD because we have traditionally and continue to employ BACT. Again, some of the comments that we have heard today are that the language may not be as tight as people may be comfortable with. We will go back and work on that and bring it back to you.

Break

Tina Anderson: I'm Tina Anderson with the Air Quality Division and I'm going to be going over specific rule changes in Chapters 3, 5 and 11 of the Wyoming Air Quality Standards and Regulations. The Board has already seen some of these rule changes. We were getting ready to line those up for the Environmental Quality Council and then the LSO got pretty intense about our Adoption by Reference procedures. So, we decided to back up and go ahead and correct those. That took enough time that EPA actually published another set of CFRs, so we rolled the whole date forward, so some of this stuff is going to feel like déjà vu, but I will try to go over that pretty quick. You should have at hand your copies of Chapters 3, 5, and 11. There were some public copies in the back.

Beginning with Chapter 3 in the Table of Contents, there's a new Section, Section 9, which is incorporation by reference. If you flip the thing over and look at the back of this package of paper, the very end of Chapter 3, that is Section 9 there. There are two subsections, one for the Code of Federal Regulations and one for ASTM. What we've decided to do, instead of every time we mention that we are adopting something by reference and site the date and the document and that it's available at cost and that you can come and get it from us and everything else that the LSO requires, to put it in one place and capture all of it in one spot. That's what we've done here. Many of these things were done at the recommendation of Nancy Vehr, our Attorney, so I can thank her for trying to streamline some of this. So, what you see in the back, we hopefully captured all of the LSO's strict compliance with adoption by reference requirements. We didn't used to do this with ASTM, which is an organization that keeps track of a lot of testing standards which we reference. This is the first time we've actually adopted ASTM standards by reference, so that's new. That's sort of the bulk of what's happening here.

Going on to page 3-1, under Section 1(a), this is just a reference to the fact that we have a new Section 9.

I will skip most of Section 2, because that is the opacity material that Mike just covered, but this embodies the specific language.

If you go to page 3-6, you will see the Figure, which you saw before. That is still new since the last adoption, but it's a figure that you've seen before. Then on Page 3-7, at the bottom, the very last paragraph, which is now little (ii), we crossed out source test methods, specified by the Administrator. We cannot specify source test methods, the EPA Administrator has to do that. Then we inadvertently crossed out one through (this was a comment I think we had received from Nancy's office) that it was only five, but actually when you do particulate testing you need all of one through five. The first couple of test methods involve moisture, volume of air, but they are all necessary tests that you have to run prior to actually measuring particulates. So it really is methods one through five. So that should not be crossed out there.

Moving on to Page 3-8. At the top, that top sentence is actually a modification from the opacity standard, that's simply an effort to make sure that all the test methods that are done in opacity agree with what is happening in the New Source Performance Standard Section. Below that in paragraph (ii), we have crossed out

subsection (g)(iv) and that is simply a mistake and that is something that we simply had not caught earlier, so that is a correction.

Then moving ahead to page 3-12, this brings us up to Section 6, these are our emission standards for VOC, all we've done there is crossed out the repetitious language about how you adopt by reference. Again, that's all captured in the last section of the Chapter.

On page 3-13 and many pages thereafter there are corrections in the emission standards for asbestos. I can't even tell you at this point whether they were miss-cited in the first place, because this happened before I was doing rules. I don't know the history. These have been corrected. You will see those on 3-13, 3-14, 3-15, 3-16, 3-17. On 3-18 we had an old incorporation by reference section. We pulled it out. Rather than reshuffle the entire chapter we just reserved (e) and we will leave it there and if we need to put something into this chapter, it will be a good place to insert it without changing every citation in Chapter 3.

That takes us up to Page 3-33 there are more corrections to asbestos and also on page 3-36. On page 3-37 there is a more significant change in the middle there (still in the asbestos chapter). These are instructions on what the EPA Administrator will use when judging an application. Nancy correctly pointed out that we don't really need to embody the criteria that EPA will use when judging an application in our standards. So, that has been removed. We simply say that you have to get prior written approval from the EPA Administrator if you are going to use this alternative emission control and waste treatment method and it goes off to EPA and it's their problem to review it. It shouldn't be in our regulations.

On Page 3-43 we have another correction to the asbestos citation.

Then, on page 3-47 we have stricken a sentence in the middle of the page under little (iv) "according the procedures described under paragraph (m)(i)(D)", which is what I just described which is the EPA criteria for judging applications for these waste treatment facilities. So, since we removed it there, it needs to be removed here as well. That takes us up to the very last page, which you've already seen, so that gets us through Chapter 3.

Chapter 5 is our New Source Performance Standards. These are the standards which EPA establishes and that we adopt by reference, as well as the NESHAP standards which are similar

except that they focus on air toxins rather than criteria pollutants. We have done the same thing with Chapter 5 that we did in Chapter 3 and that is if you flip to the very back we have a new section that adopts by reference in one spot.

Going to Page 5-1, under Section 1 you will see a new reference under the Introduction to the fact that we added this new section. Then under Section (b) on that same page, we've removed the specific language about adoption by reference. That's all we've done there. On page 5-5 we formally adopted the Standards of Performance through the Federal Register because that was all that was available at the time and staff were needing this to be adopted by reference faster than EPA was publishing it. So, we used this method. It has since been pulled into the CFR and actually the subpart is right above the stricken language, so, it has all been pulled into our regulations.

On page 5-8, Subpart EEE, is Standards of Performance for Other Solid Hazard Waste Incineration Units, also known as OSWI. These are new incineration units that reside at institutional places like churches, government facilities, any kind of a non-profit would be something other than a commercial and it would not include something specifically like hospital, municipal waste incinerators, etc. So, this is a broad category. We looked at this category for existing sources and found a couple of them. We gave them the option of complying with the standard or basically shutting down. All of the facilities we contacted opted to shut down rather than comply with this regulation. There's quite a bit to it. What you are looking at here is the same thing only it's the version for new sources. So any new source that comes into the State that fits under that category is going to have to comply with this rule. The language right below concerning the designated appendices is simply a rewriting to reference our section in back for adoption by reference.

Page 5-35 (the strange symbols you see are because when we formatted this in Sheridan and then printed it in Cheyenne we got these strange symbols, so ignore the symbols in the equations in this chapter, I didn't even catch them until they'd been printed and I was on my way over here). What we are actually changing are the references to the ASTM standards that have been modified. This has been kind of an eye-opener for us because these ASTM standards change all of the time and, apparently, our regulations are 30 years old. We've never changed our references to ASTM standards. So, we are now on top of it. They've been old for a long

time. Some of them don't even exist anymore. So this is an improvement.

Page 5-38: Again, this is simply changing the way we reference in the back. All of this is now adopted through July 1, 2006. This will bring the Division up to date. A new MACT standard is on page 5-44 for plywood and composite wood products. We don't have any in that category, but on page 5-47 we do have commercial and institutional boilers and process heaters which is Subpart DDDDD. This is the boiler NESHAP and the boiler NSPS as well as the boiler guidelines for existing sources have been vacated by the DC Circuit Court recently (last week) which has thrown us into a tizzy, because we have a lot of boilers and process heaters in the state. The instruction that we have gotten from our good attorney is to hold on and not do anything radical yet in the next month. The end of July we'll know whether people are filing stays and appeals. Whether or not these vacatures will be permanent we won't know for the next month. My thought on this is to go ahead and put them in here. If the vacature becomes permanent between now and the time we go to the EQC we'll pull it because there's no point in adopting something that they're going to revise anyway, but if they decide not to do anything with it we may leave them in here. The problem with pulling it prematurely is that we'll have no standards to cover boilers and process heaters. We'll follow your recommendation but that's kind of where we're at in that difficulty.

Mike's in a bind because he has various permits in different stages. Some of them already have these in there and they've been incorporated into the State Rule. So, if EPA dumps their rule, we still have a rule. Then you have some that are up for public notice, so there's the question as to whether or not you keep going with those. At this point, we're going to keep going along as is until the end of July and see what happens, whether or not the vacatures stick and then figure out what to do.

On page 5-53: You will see a great big table with all of the air toxics that are regulated under this chapter. You will see that Methyl ethyl ketone has been removed. That was not our decision. That was an EPA delisted chemical. Oeople make appeals or make a case for why a chemical shouldn't be listed as an air toxic and this is one that made it through the long appeal process. We try to keep in step with EPA with what they consider to be a hazard with air pollutants.

That takes us all the way to page 5-123. This is simply a correction to an ASTM standard. Again, on pages 5-124 and 5-125 is our last

and new section where we incorporate everything by reference in this chapter.

The last chapter, even smaller, is Chapter 11 which is our National Acid Rain Program. We roll forward with the incorporation by reference process. We did add a reference to the 1990 Clean Air Act Amendment which is more specific there. We didn't create a special section for this chapter because it's so short anyway.

That is all of the rule changes today.

Ronn Smith asked if she knew why that one subclass was vacated. Tina answered that it has to do with how you define the class of boilers. People who were following the original law felt that EPA was too narrow in the way they defined boilers in the NSPS section. The NSPS and the NESHAP actually work together. If you don't fall in the one you may fall into the other. So if it's already too narrow and EPA decides to broaden the category, you may actually reduce the size of the other and vice-versa. They're working in tandem to try to correct this.

VI. Regional Haze Update

Brian Bohlmann introduced himself: New Regional Haze Emission Inventory Coordinator for the Division. What I am going to do after talking with Dave and Tina is just give a brief overview of the 308 and 309 Programs. This should let the Board know exactly where we are at in revising our SIPs.

Brian Bohlmann gave a PowerPoint presentation.

The Regional Haze Rule was promulgated on July 1, 1999. A portion of the rule was vacated by the U.S. Supreme Court in 2002 which caused a few problems. On December 29, 2003, the State of Wyoming actually hand-delivered our 309 SIP to EPA Region 8. Our SIP, along with every outer state participating in the 309 Program, has never been approved by the EPA. We are in the process of revising the SIP to address EPA's concerns.

Originally, there were nine western states and four tribes that were going to participate in the 309 Program (which specifically deals with the SO2 emissions from facilities). Now, because of various lawsuits, states not getting their SIPs prepared in time to meet the specific deadlines, we are down to just four states, Arizona, New Mexico, Utah and Wyoming that are participating in the 309 Program. Some of the things that we have to do are to revise the milestones for total SO2

ourselves and then bring them to you for some kind of approval and then preview what we think are the changes to the SIP. I can't actually do that until we do the "better than BART" demonstration. We can't do that until all the BART applications have been reviewed and permits have actually been issued for BART.

On 308 there will be a lot of new material. We would like to share some of that technical data with you. We have been talking about doing some kind of training on the TSS possibly the morning of the meeting so people that are interested in that level of detail could come and see that. And then, in the afternoon we could do a "results of what we know". This could happen in the September time frame.

We won't be able to give you a final SIP for 308 to look at until the BART determinations are done. That will probably be the first of the year. We can't bring the BART to you until after the first of the year. So then the question is, amongst yourselves, do you want several small meetings or do you want one massive meeting after the first of the year.

Ideas for meeting in September were suggested: week of 10th or 17th (not the 1st or 3rd Tuesday) for Joe.

IX. Ronn Smith adjourned the meeting at 10:15 am.

Attendees

John Robitaille	Petroleum Association of Wyoming
Erika Enger	EnCana Oil and Gas (USA) Inc.
Chris Smith	BP
Peter Galusky	Conoco Phillips' Consultant
Mike Megee	Megee Consulting for Yates Petroleum
Bruce Pendery	Wyoming Outdoor Council
John Cannon	Chevron
Eddie Baker	PacifiCorp Energy
Path Schevlin	Chevron
Cortnie Morrell	Williams
Vanessa Cameron	E3 Consulting
Garry McFaddin	Compliance Partners
Otto Schnauber	FMC Corp
Jim Sewell	Shell E&P Co.
Kelli Wilber	Trihydro
Ron Olsen	EnCana Oil & Gas (USA) Inc.
Ted Rasmussen	Wyoming Machinery Company
Wanda Burget	Powder River Coal, LLC
Cathy Woolums	Mid American Energy Holdings Co.
Bill Lawson	PacifiCorp Energy
Naveen Chennobhotla	Marathon Oil Company

Kelly Bott	WDEQ/AQD
Nancy Vehr	WDEQ/AG's Office
Brian Bohlmann	WDEQ/AQD
Robert Gill	WDEQ/AQD
Dave Finley	WDEQ/AQD
Chad Schlichtemeier	WDEQ/AQD
Tina Anderson	WDEQ/AQD
Mike Stoll	WDEQ/AQD
Lori Simkins	WDEQ/AQD
Cynthia Madison	WDEQ/AQD