

**AQAB Meeting Minutes
Western Wyoming Community College
John Wesley Powell Auditorium
Green River, Wyoming
August 16, 2011**

Board Members Present: **Jefferson “Jeff” Snider
Klaus Hanson
Joel “J.D.” Wasserburger
Ralph Brokaw
Timothy “Tim” Brown**

Others Present: **Steven “Steve” Dietrich, Administrator, Air Quality Division
Nancy Vehr, Senior Assistant Attorney General
Tina Anderson, Air Quality Division
Darla Potter, Air Quality Division
Angela Zivkovich, Air Quality Division
Gina Johnson, Air Quality Division
Dave Blue, P4
Bernie Dailey, McVehil-Monnett Associates
Dave Cummings, Basin Electric Power Cooperative
Jim Doak, PacifiCorp
Norm Hargis, Bridger Coal Company
Jim Seday, PacifiCorp Jim Bridger Plant
Mike Wendorf, FMC
Melissa Michael, Church & Dwight**

I. CALL TO ORDER
a. Introductions by New Board Members

Jeff Snider: Committee members I think I should start first, explain my background. I’m Jeff Snider. I work at the University of Wyoming; I’m on the faculty in the Department of Atmospheric Science at the University of Wyoming. I teach about 50 percent and do research in Atmospheric Science issues. Some of that doesn’t quite have much to do with air quality. The air quality issues that we deal with here, which have more to do with what goes into the atmosphere. Rather I work with how materials come out of the atmosphere through the action of precipitation basically; clouds and precipitation. That’s my specialty and as I mentioned I also teach a little bit. My background is in chemistry and also have a degree in atmospheric science. So, we can start down at the end, if you’ll introduce yourself.

Ralph Brokaw: My name is Ralph Brokaw. I have a family ranch at Arlington, Wyoming. We run cows and calves. I have two kids. My civic work--I guess I just got done with a six year term as the President of the Wyoming Association of Conservation Districts. During that tenure I was involved with national association, chaired some committees. Was just about ready to run for a national office, but things at home changed and politics in Wyoming changed. So instead of traveling so much I came home and talked

to my friend Governor Mead and consequently ended up here. Still elected supervisor of the Medicine Bow Conservation District--served on that almost twenty years. What else would you like to know Jeff?

Jeff Snider: Steve? I think that's good.

Steven Dietrich: That's good.

Ralph Brokaw: That's the basic. That's the start of me.

Jeff Snider: That's great.

J.D. Wasserburger: My name is J.D. Wasserburger. I'm a rancher and north of Lusk, Wyoming and we also have an oil field contracting service there--construction type business. My wife's a teacher in Lusk and we have three sons the youngest just graduated from college. Been active in our community for a long, long time and served on different boards and that's the story of what I do.

Jeff Snider: Klaus?

Klaus Hansen: I'm Klaus Hansen. I'm retired from the University of Wyoming. I taught in the humanities, so I know nothing about this. I look at the environment quite differently from that reason and I guess that was the reason they gave me the handicapped room at the hotel. Because I walked in there and thought, "Wow, those doors are wide" and it was. I retired quite a number of years ago now, five years ago, but I've been on Laramie City Council for this is my ninth year, so that's my civic involvement and I served on the Commission for Higher Education, which is the Commission Western Interstate Commission for Higher education for eight years. I felt somewhat knowledgeable about that because it dealt with education, so I have a lot to learn on this one. I tried to read the packet and after a while I kind of gave up and said I don't understand this anyway. So, I'm married, have three kids, they are all grown in Denver and in Laramie, two in Denver and one in Laramie. I hope they all come back to Wyoming to work eventually. One is in the medical program at Fitzsimons right now. She wants to become a physician's assistant and there's a lot of need for medically trained people in the state. And I hope she will come back to the state. So, that's my background. Thank you.

Tim Brown: My name is Tim Brown, I'm a native of Wyoming, grew up in Green River. I went to the University of Wyoming, I have a business degree. Work at Solvay Chemicals. I've been in the environmental arena for about the past twenty years. I have two kids; one at the University of Wyoming and one at Western Wyoming. And this is my first board that I've ever been on.

Steve Dietrich: Welcome. I'm glad everybody could be here. Especially, since it's a relatively new board with the exception of yourself. I'm Steve Dietrich and I've been on this job here in Wyoming, I'm not native to Wyoming. I've been here about fourteen months. Before that I worked for Virginia's DEQ as one of their six regional directors and just to give you idea on scale, Virginia's DEQ had about 850 staff versus the 260 that's here in Wyoming's DEQ. More diverse industries to deal with. I do have an air background as well. Oil and gas is relatively new to me, so I'm trying to learn as fast as I can about the oil and gas industry, because that's very big in Wyoming and very important to Wyoming. Prior to, I worked for about nineteen years in Virginia's DEQ. I'm a graduate of Virginia Tech with a civil engineering

background and prior to that I worked about six or seven years in consulting, actually doing some design, with highway and landfills. That's about it. So, welcome.

Jeff Snider: Thank you.

b. Discussion on Division and Board Responsibilities

Steve Dietrich: I know everyone has a packet in front of them, with an agenda that should be on top. The next thing we have on the agenda after the introductions was the discussions of division and board responsibilities. That's me right? So, what I thought I'd do-- that you got the yellow book in front of you, that's what we like to call it. I guess every couple of years it changes colors too. I can be real brief here but if you turn to page 26 in the book, it should be tabbed for you there. We can go over the powers and duties of the advisory board, this actually covers all the boards, but we are going to speak about the air board today. "The advisory shall recommend to the council through the administrator and the director comprehensive plans and programs for the prevention, control and abatement of air pollution." That's item A. Paragraph B, "the advisory board shall recommend to the council through the administrator and the director the adoption rules and regulations and standards to implement and carry out the provisions and purposes of this act, which relate to the division and variances there from". Paragraph C, "the advisory board shall council with and advise the administrator in the administration and performance of all the duties of the division and shall make an annual written report to the governor." Paragraph D, "the advisory board shall council with and advise each other, the public and the director of the department in order to coordinate the policies and activities of the division and to achieve maximum efficiency and effectiveness in furthering the objectives of the department." Paragraph E, lastly, "each administrator and staff shall provide the board with meeting facilities, secretarial or clerical assistance, supplies and such other assistance as the board may require in performance of its duties." That's the formal roles and responsibilities that the board has, but I just want to go through a couple of things here. We're supposed to meet four times a year, quarterly, although we may be a little behind on that, but we are going to try and catch up with that frequency as much as we can. The air quality advisory board does not approve, but they advise. In other words we are supposed to help each other, to do what we do as far as rules and regulations for air quality. The most important thing I want to bring up is you guys come from different backgrounds, different parts of Wyoming, different industry, different interests. But, the value in that is that, I want to stress this, is that we need your operating technical and public, private experience to help keep us in focus with that and give us a broader perspective of what these rules and regulations can do for Wyoming. That's what I see the value in why you were selected, besides the fact that many of you like to serve on boards and contribute to the community. Any questions? We can move on. Turn it over to you.

c. Election of Officers

Jeff Snider: So the next item on the agenda is the election of officers and there's how many officers?

Tina Anderson: We need a chairman and a vice chairman.

Klaus Hansen: Can we make nominations? I would nominate Mr. Snider, since he has been on the board and knows what's going on and we all seem to be new on the board.

Jeff Snider: So, guess do we want to discuss? Oh, this is just among the five of us.

Ralph Brokaw: I just have some questions. I have no problem with you leading us, because I'm the blind mole in the dark right now. How long have you been on this board, Jeff?

Jeff Snider: 2004, I think I started. I was never the chairman. So, I have no experience at this. You guys seem like you have much more committee experience, you understand...

Ralph Brokaw: It's a four year term that we're committed to? These appointments are four year terms?

Klaus Hanson: Four year term.

Ralph Brokaw: So you're in your second appointment. I think you'd be a great chairman.

Jeff Snider: I will be finished in a year. For the second term.

Ralph Brokaw: Well, by then we'll have some experience.

Tim Brown: Have some experience and knowledge of how the board works. I totally agree. I know nothing about it.

Ralph Brokaw: I'm completely comfortable running a board meeting, dealing with the public, handling the public, keeping things moving. That is my experience. I have no concept of what I'm getting into here. But I completely defer to you because you know. So I'm not asking for it, by any means, but I'll be glad to help out.

Jeff Snider: There might be reason for me to be involved but not at the level of chairman. My experience is more technical, as I explained. I'm not trying to back out. I appreciate your nomination. So, Klaus, and your second.

J.D. Wasserburger: I would move that the nomination cease and a unanimous ballot be cast for Jeff.

Ralph Brokaw: I'm okay with that.

Jeff Snider: Fine. Well then we need a vice chairman.

Ralph Brokaw: I have no problems helping you out.

Jeff Snider: Great. I'll second the nom, then.

Tina Anderson: So Jeff is our chairman and Ralph is our vice-chairman. And in the event that Jeff is not able to make a meeting, you'll just slide into that role.

Ralph Brokaw: Sure. But he'll be here. For that first year, I'm sure he'll be here.

d. Approval of Meeting Minutes for March 25, 2010 Meeting

Jeff Snider: So the next item on the agenda is to approve the meeting minutes from the meeting March 25, 2010.

Ralph Brokaw: Mr. Chairman, I move them as presented.

Tim Brown: Second.

Jeff Snider: So we can move on then to old business.

Klaus Hanson: I have a question. This is anyway, you do a verbatim transcription of what goes on at the meeting?

Tina Anderson: We do.

Ralph Brokaw: Who gets to do that?

Gina Johnson: That would be me.

Klaus Hanson. Oh boy. Because I read through this and I thought “Wow. I’ve never seen thorough minutes of that nature.”

Gina Johnson: We have a great recording device. So it is very thorough. Yes.

Klaus Hanson: From that perspective, of course it is very easy to approve it because everything is there.

Tina Anderson: Well there are sometimes just issues and being able to hear. And when she types it up, she may have missed a word or something. And then we proofread it. And then you get a chance to reread it to make sure it was represented the way you actually spoke.

Klaus Hanson: The next question I have, do we have to identify ourselves as to the speaker, or can you identify us?

Gina Johnson: I believe I can identify you. However if we have comments from the public we do need them to identify themselves.

Klaus Hanson: Thank you. Because that was a question that arose in the minutes. It said “Unknown Speaker” and so...

Tina Anderson: I’ll also add that the minutes become part of the public record once you have approved them, so the public has not seen them until now. So that’s part of the approval process.

Jeff Snider: Okay. So we’re ready to move on to old business and staff activity. It looks like Steven’s going to report on that.

II. OLD BUSINESS

a. Staff Activity

i. Flow Chart and Hiring Status

Steven Dietrich: Me again. You should have or you’re going to have very soon a handout. I thought it might be good to at least give you a copy of our organizational chart for the Air Quality Division as well as getting district maps. It’s a map of all of our districts. I guess the first one I’ll look at is the

organizational chart. I'll go over that really quickly. Believe it or not there's about 75 staff that are funded through the Air Quality Division. Maybe a couple that are not listed on here. They actually work in other divisions as well. I'm the administrator of course. And then what I will do, I was just going to go down through some of the boxes here and the program managers, some of which are here. Tina Anderson is listed there under Regulation Development and Toxics. And of course she is sitting right here in the front row here. And then Chad Schlichtemeier is for New Source Review. And he is not here today, but Angela's the supervisor, works for Chad in that program. They write a lot of the New Source Review permits, which includes a lot of the oil and gas industry permits. They're minor source permits, mostly. There are a few PSD permits, which we'll get into that acronym when necessary: prevention of significant deterioration. That's another permit that comes out of the New Source Review Program. Don't worry about trying to know everything that I'm trying to tell you—we can answer questions later on. I'm just trying to give you an idea of the organizational chart here first. Stationary Source Compliance is Bob Gill. That's where all of our inspectors go out into the field to inspect the facilities that we permit to make sure they're in compliance. And if not, we have to maybe go the enforcement route, where notices of violation, settlement agreements, to get the facility back into compliance as quickly as possible. That is the purpose of that group. There's also some other roles that they play. A lot of complaints we may get, we have to investigate complaints. Those are the same folks that go out. And from the districts perspective there's a lot of our inspectors actually in the field in the districts, which we have five, and I'll get to that in a minute. The Operating Permit Program, otherwise known as Title V, is Lori Bocchino. She is not with us today. She is back in Cheyenne. She did not make the trip. But that's the facilities, when they say major source, Title V, gas compressor stations is one example of a pretty good group of Title V facilities that we have across the state. That's potential to emit 100 tons per year or more of a criteria pollutant. Criteria pollutants are carbon dioxide, VOC's, particulate, CO, nitrous oxide, SO₂, lead, and there's a few others, but there are the big ones. Moving across to the right. Air Quality Resource Management, Darla Potter. And she's sitting right there. And you'll see underneath there you've got Ambient Emissions Monitoring, Air Quality Planning, and Emissions Inventory. So there are quite a big group of folks there that do a lot with our emissions, once we monitor, get the data, report it to EPA. And the planning group helps a lot with the NEPA process, which is the federal process, National Environmental Policy Act process. You'll see when we have oil and gas development on federal land, that's where that comes into play. So that's the major programs for the Air Quality Division. Now at the bottom you'll see the districts listed. District 1, 2, and so forth across the bottom. And if you look at this map, this colored map coincides with those districts. You've got District 1 which operates out of the Cheyenne office as well as the central office. District 2, headed up by Chris Hanify, in the Casper office. And then District 3 is Sheridan. And District 4 and 5 actually both operate out of the Lander office, okay? That gives you a quick overview of how we're organized and where all our people are located. I will say that there are, back to the org chart, we currently have three vacancies. But I'm told that's, I've been here fourteen months; we've had as many as seven or eight vacancies. So we're about half that size now of vacancies. We try to be as responsible as we can with filling positions for what actually the Division needs. So sometimes there are occasions where it may start in one program and then when it becomes vacant again we may move it to another program, just to try to balance the workload and the work effort that's needed at that time. We also try to be very mindful of the budget concerns that we have to be faced with every year, certainly every two years, with the biennium budget cycle. And I guess I'll pause there to see if you have any questions.

Ralph Brokaw: Yes sir, I do.

Steven Dietrich: Okay.

Ralph Brokaw: On your budget, your divisional budget, how is that funded? You get some state dollars and you get some EPA dollars?

Steven Dietrich: We get quite a bit of EPA dollars through the 105 and 103 grant monies. That's how they're titled—105 and 103. We get general funds; there are general funds involved that come from the state. There are also what we call AML funds, Abandoned Mine Land funds that we get some of our funding for. And there are occasions, more often than not, that industry helps fund some of our projects, especially when it comes to monitoring efforts. And 1 or 2 staff may actually be funded by special funds that may be raised through industry efforts. Did I miss anything?

Angela Zivkovich: The NSR program is self-funded.

Steven Dietrich: Thank you. The NSR program and the Title V program are what we call fee funded. The NSR program is funded by hourly correlation to the amount of time it takes to issue a permit. And Title V is funded by annual fees that are sent out based on the amount of actual emissions that are reported from those major sources. Thanks for reminding me about that Angela. Did I miss anything else?

Klaus Hanson: What was the acronym?

Angela Zivkovich: NSR or New Source Review.

Steven Dietrich: So it's kind of a diverse way of getting funded. We try to track it as accurately as we can. And to tell you the truth, I'm glad you brought that up because the way the budget cycle works here in Wyoming is a little different from what I'm used to. So I'm still learning how that works as well.

Ralph Brokaw: Most of your general funds are on the biennium? They fund you for two years at a time.

Steven Dietrich: Yes sir.

Ralph Brokaw: And so, just for example, you have three open positions but that money has already been allocated through your funding. So you're sitting on that money waiting to fill those positions.

Steven Dietrich: Yes sir, especially when it comes to full time positions. As part of our MEL, another acronym for you, Maximum Employment Level. Since we allocated those full time positions, they're in a certain program, which usually dictates how they're funded. But if we do move that around, we may fund it a little differently if we need to. But yes, that money has been allocated as it stands now.

Ralph Brokaw: Okay.

Steven Dietrich: Okay? I'll turn it back over to you, Chairman... (Unintelligible) Oh, I'm sorry. I'm still up here too, but I'll let you present that if you want me to go ahead straight into the next item...

Jeff Snider: So we're on updates? Previous board activities?

ii. Updates on Previous Board Activities

Steven Dietrich: I'll be brief, because I don't think anyone, including myself at the front of the room here was actually at the last Air Quality Advisory Board meeting, including myself. Because it was held back on March 25 of 2010. So I know it was a little awkward to approve minutes that you weren't a part of. But I appreciate you taking care of that. But there's been no board meeting since March 25, so there's not much to update since then. I will say that we've updated the oil and gas guidance that we use. And have implemented those changes, implemented effective August of 2010. And then we've been having to submit state implementation plans, or SIPs. And one of those that we submitted dealing with regional haze, is not yet approved, but it was submitted on time. Tina will cover that later on in the agenda. So she's got more of the detail that you may be interested in. But as far as the update, is there anything else that is noteworthy, Nancy or anybody, that I need to make sure we bring up? I think that pretty much covers what I was going to share with you today. I'll turn it back over to you.

Jeff Snider: Can I ask a question about meetings?

Steven Dietrich: Yes sir.

Jeff Snider: According to the yellow book here, although it doesn't state explicitly, there's the implicit charge that we meet four times a year. Now is it possible that we could meet, say for example, twice a year for four hours? Nobody's specifying how long a meeting should be. So what I'm wondering is, particularly as we kind of ease into from going from less than once a year, which has been the average over the last few years, if we think about having certainly more frequent meetings if that's what the Division thinks is appropriate and necessary. But that we not jump immediately to four times a year and have it. So I'm just wondering what your thoughts are that way.

Steven Dietrich: I think I'll take a stab at trying to answer. You asked a couple different questions there, related to the same thing. So I'll start and then I'll probably ask for some help. The length of the meeting each time is usually dictated by what we put on the agenda.

Jeff Snider: Yes.

Steven Dietrich: We try to be as mindful of what needs to be on the agenda versus what can be handled in other ways. Or could maybe wait till the next agenda. So the four times a year, I believe, is actually in the statute or is it suggested.

Nancy Vehr: It's in the statute. But how you guys have traditionally done it, is if there's not any material that needs to come before the board, it's been implicitly cancelled as a scheduled one. So you can have a board meeting for the sake of having a board meeting, but most of the time, it's if there's items that need to be discussed and brought to the board's attention, there's been a meeting called. So the other ones have been not scheduled, is how they've approached it rather than schedule four ahead and cancel. They just haven't scheduled. That's kind of how traditionally...

Steven Dietrich: Thanks.

Jeff Snider: Okay.

Steven Dietrich: So maybe that answers...

Jeff Snider: No, it does...

Steven Dietrich: Maybe it only takes two meetings for that particular year, for example. Okay? With that, I think I'll turn it back over to you, Chairman.

Jeff Snider: Okay, so I think this is Nancy's place to come in and talk about enforcement activities.

b. Enforcement Activities Report

Nancy Vehr: And my name is Nancy Vehr and I'm the assistant attorney general assigned to represent Air Quality. And it surprised me, all the time, how much time flies by so fast. Because I've been representing Air Quality since 2003. And I'm just now feeling like I'm conquering some acronyms, as Gina tested me earlier. I was sharing with Bernie, the first meeting I went to, they were talking about the names of the pollutants with their acronyms and they were SO_x and NO_x, and I'm like "This is Dr. Seuss like." So don't feel too overwhelmed. You'll get a grasp of it and they have the handy charts for the acronyms. And if your mind does, I slip into it a lot, in talking to other attorneys; I'll slip into the acronym land. And if someone reminds me, I'll pull myself out. So if I slip in there, just say "Hey. Stop." And don't feel embarrassed about that. It really is, as I learned, a kind of a different world. But these guys do a great job. For the enforcement report, what I usually do is kind of present just a broad overview of the activities that occurred since the last meeting. This one will be covering 17, so the numbers are not going to be typical. Typically you get smaller numbers. But back in March of 2010, there were 116 open enforcement cases. At that time, the Legislature, a couple of years previously had under one of the industry enforcement initiatives had staffed a person in the oil and gas fields in the Jonah and so some of the oil and gas inspection numbers had started to ramp up and of course then some of the enforcement activities increased after that. So we had a period where we had AG, attorney general, staffing at a certain level and the enforcement activities that were coming over from Air Quality had ramped up. And we have since closed 109 of those cases and opened 43 new ones. So we're now back into 50-60 open case range, which is more typical of how we adjusted. Prior to 2010 I was the only one over at the AG's office doing Air Quality enforcement. And since then, we have a number of attorneys now who do air quality enforcement. So I may not be the only person that comes in and presents to you. The types of cases that enforcement has range from demolition and renovation which would be more in the asbestos kind, worker's safety types of cases. There's gravel pits and so there's dust. There's permitting cases where entities don't realize they needed to get a permit or after the fact realize they needed to get a permit, so there's failure to obtain a construction permit. When you go through the Air Quality Act, you'll notice that's one of the requirements, is before any business entity can emit, they have a potential to emit air pollutants into the state, they need to obtain an Air Quality Construction Permit. The Title V permits that Steve had mentioned that are operating permits, sometimes somebody has a permit and they aren't operating within the confines of that. Permittees might have an emission exceedance or failure to submit a kind of report that they need to submit. There's in the oil and gas area, a lot of the violations that are seen are failure to contain some of the emissions. You have to route emissions to a combustor and there might

be leaks in those different connections that come up. So they cover a pretty broad spectrum. There's odor violations. There's just a wide range. Most of the violations that we have are from activities that are also covered by our state implementation plan. We have a couple that are strictly from Wyoming regulations like odor. It's not a national program. So it's strictly a state program. There are a couple cases that EPA has come into the State and partnered with the State on enforcement. EPA has some national agenda items that they have for enforcement. In the recent past, those have included power plant enforcement cases involving what EPA calls marquee issues; they cover certain topics or certain pollutants, and refineries. We have entered into consent decrees with all of the refineries in the state. The consent decree process typically takes the longer time because there's a lot of activities that have to occur before the consent decree can terminate. We do enforcement cases and go in front of the Environmental Quality Council, we can settle with the company or we go to court. Those are kind of the three routes or the information comes through that process that Air Quality inadvertently found a violation. So they work with the companies to gather additional information....

Klaus Hanson: Do landfills fall under your (unintelligible) as well? Because that's been an issue in Laramie as far as the land fill is concerned...

Nancy Vehr: Landfills cover a couple different divisions in the Department of Environmental Quality. If it's air emissions, it comes under, and Steve might be able to address that...

Steven Dietrich: Yeah...

Klaus Hanson: It is probably water or whatever...

Steven Dietrich: Well you've got the Solid and Hazardous Waste Division which regulates all of the landfills in the State of Wyoming. But there are a couple of requirements that do cross over into air. One of those could be odor. The other one could be—there's a New Source Performance Standard out there for landfills called WWS that came out in the '90's. I don't know the exact date. But it deals with non-methane, organic compounds being emitted to the atmosphere. Some landfills and very few landfills in Wyoming are big enough to be concerned about that. I think we're at maybe four or five out of the total. And when that happens, it kicks them into actually getting an air permit, mostly as a Title V permit.

Nancy Vehr: When we are involved in a case with EPA, we're typically in the federal court system. The rest of our cases are all handled at the state level so they are in the state court system. We currently have one air quality consent decree that's at the state level. The others are at federal level. But as cases come up and get resolved. The other aspect that I talk about typically is give you a little bit of an update on what other kind of litigation activities the Air Quality Division is involved in. And since your last meeting, one of the aspects of air quality is to issue permits. And once a permit is issued, that's considered a final agency action. And so a permit can be appealed by the person that is asking for the permit if they don't like conditions. And there's also been third party appeals. So since the last board meeting, there was an appeal at the Medicine Bow on DKRW coal to liquids facility. It's probably out close to where you're....

Ralph Brokaw: I know all about it.

Nancy Vehr: And when appeals of agency action are heard, they go in front of the Environmental Quality Council. And so this appeal was heard in front of the Environmental Quality Council and that council upheld the permit that was issued. And then from there it gets appealed to the district court and it was certified to the Wyoming Supreme Court. And they upheld it. So that particular case is now over. There were also three, and Tina might get into it in the regional haze, there were three best available retrofit technology permits that had to do with control of emissions that deal with visibility. And those the companies appealed. There was PacifiCorp appealed two of their permits that were issued and Basin appealed their Laramie River Station permit. Again, this goes to the Environmental Quality Council. We entered into settlement agreements. And those are linked to the State Implementation Plan that got filed. So those cases are still on the docket, if you go on the Environmental Quality Council website, they are still on the docket there, but they're resolved they're just awaiting action that EPA has to take on the State Implementation Plan. There was also a permit appeal for a gravel pit. When Air Quality, for gravel pits they permit both the pit itself as well as the equipment that comes to a pit. And this was a permit appealed up in the Sundance area for Croell Redi-Mix. That case just ended. It got upheld by the Environmental Quality Council and went to the 6th Judicial District and was dismissed. So we don't have any current active permit appeals. That's on that aspect of it. There's other cases. There's a lot that happens when EPA promulgates a rule. They promulgate it at a national level, it gets published in the Federal Register, and then some of it directs states to take certain actions if they want to maintain certain pieces of their program. When EPA promulgates rules, because it is happening at a national level, they're appealed at the national level, and usually it's to the court of appeals for the District of Columbia circuit, out in DC. So air quality, I follow those cases that are of interest to air quality. And those are kind of slow moving cases, a lot of them, so it takes a while. The last ones I reported on, there was some dealing with particulate matter of the 2.5 micrometer size. And that's kind of, a lot of these cases get put on hold while EPA reconsiders them. That one's in that kind of on hold pattern. Ozone was one that has been in the news. EPA was to have made a decision by the end of July. And they've kind of put that off for a while. And so that one's kind of been on hold pattern; they're filing some motions back and forth. But nothing that we have to react to right now. There's also, and I think you might touch base on this in the greenhouse gas, so I'll just cover it briefly and you can ask more questions at that level. But greenhouse gases was another big one in the past year and a half. And so there's some cases that have been filed at the national level dealing with the national rulemaking. Wyoming filed three cases dealing with the actions that affected Wyoming directly. And we just got word yesterday that now we have to go out to DC. They try to target everything out east. And sometimes it's nice to have a different perspective on issues, so, that was a little bit disappointing. The other thing pending—there's not only in addition to states filing state implementation plans, but tribes can obtain status to file tribal implementation plans. And to do this, they've got to go through a process called treatment as a state. The Wind River tribes have filed for treatment as a state, back in I think it was 2009, and that is pending EPA's decision. Wyoming filed some comments on that. So we're just kind of tracking and waiting for that particular decision to see what action or not that would be required for us. Another aspect in terms of litigation are citizen suits. How the air quality act is constructed, is that primary enforcement is given to both EPA at the federal level and the state at the state level where we have primacy. However, the Clean Air Act and Wyoming's Environmental Quality Act both provide that a citizen can sue a company. They can also sue possibly the State and EPA, depending on the action. And those are called citizen suits. And that case, an individual, if they were unhappy or thought that somebody needed enforcement action taken against a particular

company, they could bring a case. It's not the State bringing the case, but most of the documentation is at the State level. So usually the State DEQ Air Quality folks get involved in those cases as witnesses. So we track those and follow those kinds of cases. Since the last report, there was a citizen suit, Sierra Club versus 2 Elk. And that had been filed in federal court in front of Judge Downs up in Casper. He dismissed the suit. It went to the 10th Circuit Court of Appeals and the 10th Circuit Court upheld Judge Down's decision. And I'm not sure if the time to appeal that further has passed. So that case may or may not be done. I can't remember on that one. Another one was Sierra Club versus PacifiCorp on the Jim Bridger, in regards to some, I believe it was particulate matter issues. My understanding is that one they've settled. And then the third one was Sierra Club v Basin Electric. And that had to do with the Dry Fork and mercury maximum achievable control technology. And that case was staid while we were taking some action on permitting that Basin had. And my understanding is that one has been dismissed, but I'm not positive on that. So we kind of keep track of those as they get active, then staff gets involved and I get more involved with those. There were some deadline suits. I'm not sure if you're going to be covering those. When EPA doesn't take action, when they promulgate certain rules, there are certain timelines that they have to follow that the Clean Air Act requires that EPA take certain action. And if not, they get what is called deadline suits. It's a suit to compel EPA to act by certain deadlines. Some of those impact the states because we're waiting for EPA to give direction. And so we wait. And then EPA gets sued and we have to react to that. There's one on regional haze that Wyoming just commented on in July. That's all that I do for—they keep me pretty busy. It's very, very, very interesting work. I'm happy to answer questions anytime.

Ralph Brokaw: Mr. Chairman, I have a question for Nancy. If industry is operating their plant and they've worked with the State and they have their permits in order, and business is going as it should, and then they get a citizen's suit, what are those suits primarily after? What legitimacy do they have? What are they litigating?

Nancy Vehr: You'll find when you're looking through the rules and regulations that there are parts that the State has something called enforcement discretion. So when the State looks at, it's kind of like a county prosecutor makes a decision whether to bring a particular case based on the facts, the workload, whatever variables they weigh, Air Quality and DEQ have a similar kind of enforcement discretion. So it may be important for Air Quality to focus on large emitters of certain kinds of pollutants because you can get more bang for your buck, or whatever they make as a priority. Or target certain industries or localities. That may be different than what a citizen may have. You can't bring a case if you don't have a basis for it, so on a citizen's suit case, let's say DEQ had made a determination under the Act we have to work with companies to bring them back into compliance. And so that may or may not mean an enforcement action where we're filing a lawsuit. It may be an administrative action where we're coming to a settlement agreement. Or the company agrees to take certain steps. Someone may not like that action that the State's taking and want, by God what needs to happen. And then in that case they bring enforcement case. There's issues where how far it will go and stuff like that. But that's kind of the right that's provided. And so it can be a disagreement with what the states done or what the feds have done. Or it may be a different enforcement priority that what we have at the State. And we may be taking action in a different arena under the Act, if it's not in court, then typically those cases may proceed.

Klaus Hanson: Mr. Chairman, I have another question. That is, State rules, coming from the local government, I know we can be more restrictive than state rules are. Now can the State be more restrictive than EPA rules? Probably cannot be looser, that's of course always the case, but you can make rules, for example, to set emissions more strictly than the federal standards. Is that the case?

Nancy Vehr: Yes. Some states have a limitation in their statute that it can be no more stringent than the federal, but Wyoming does have that.

Klaus Hanson: Does not, okay, that was my question. Thank you.

Nancy Vehr: And there's some authorities that Wyoming has, such as the odor rule, for example. That is a state only rule. The feds have no ability to regulate that.

Klaus Hanson: Okay thank you. Clears that up.

Jeff Snider: Any more questions for Nancy? Thank you. New business, Tina.

III. NEW BUSINESS

a. Rulemaking

i. Overview of the Process

Tina Anderson: Okay. I'm Tina Anderson with the Air Quality Division. And I'm going to be taking you through the painstaking part of the meeting, which is to look at the actual rule changes. I don't know if we have any members of the public out here. Anybody representing the public? Industry and consultants? Anyway, it's a tedious process, but I'll try to go through it as quickly as possible. I've also given you a flow chart, so I'd like to spend just a few minutes on showing you where this process fits into the larger process. The Air Quality Division starts making rules basically internally, with a lot of input from the EPA, the public, and industry. And I have to say that probably well over 90 percent of the actions that we take in the rule making arena come from the federal government, in order as Nancy said, to maintain primacy for our program. We have to adopt a certain number of rules and show compliance with the Clean Air Act, basically. So we begin with that part of the process. And then once we have something drafted, we will convene a meeting with you, the Air Quality Advisory Board. And it's always 30 days out, that's prescribed. Most of this process is very prescribed and done through the statute. And this is a gross over simplification of the process, but to give you an idea of how this works. So EPA and industry and the public will weigh in on what we actually propose. I believe we've only gotten one comment, isn't that right, Gina at this point? We have copies of those comments for the board. They came from the Powder River Basin Resource Council. And she'll pass those out. Basically, it's a thumbs up. They don't have a problem with what we're presenting. You'll have an opportunity to look at those. EPA always comments, but not always on time. So sometimes we'll get comments later. And we expect to probably have comments by the time we get back. And then after you have a chance to look through what we present, you will, as Steve pointed out, you will recommend or not recommend that we proceed with rulemaking and take them to the EQC, which is the next step. Well actually the next step is if you recommend it, we then ask for the Governor's permission. So we put together a package for the Governor. The Governor gets ten days to take a look at it and see if it fits in with his overall policy as well. And if he doesn't do anything in that ten day period, we go forward. But generally we get a note back that says

proceed. And then, the next step is to schedule something with the Environmental Quality Council. And the Environmental Quality Council is another board. It's larger than this board. It has seven members. But it's also diverse representation in terms of their background and their political affiliation. That board actually will vote on our rules. And they will decide whether or not to adopt them. And that process is much longer. The EQC is a very busy board, because they do more than rulemaking. They also hear a lot of contested cases. They look at permits. They hear comments from all over the state and they cover all the media, not just air. So it's very hard to get on their agenda. So that may take months to get on their agenda. Once we get in front of them, again, there's a flurry of comments that come in. Unfortunately a lot of people wait until the EQC actually hears the rule, because they're the body that votes. It's actually much more useful if they will comment early so we can make the changes early and move through the process quicker. So the EQC will then either vote us up or down. If they vote us down, we kind of go back to square one and go through the process again. If they want to make slight changes, they can do that, and they're done right there. We then take the result of that process and put it into another package, which we then duplicate. We send one through the AG's office, which will go through Nancy. And one goes to the Legislative Service Office. The Legislative Service Office will then decide whether or not what we've put together is actually consistent with the Wyoming statutes. And they kind of do their own thing. The AG's office will review and if we pass their review, then it gets forwarded up to the Governor, who then takes a look at it again. So the Governor actually has two shots at it. And if the Governor is satisfied, it then gets transferred to the Secretary of State's Office, and they're the final agency for review. And they will actually stamp it. Once it's stamped it becomes state rule. At that point, it comes back to us, and it's our obligation to get it out as quick as possible because it is an effective rule. It always gets posted on our website. And then we make it available by paper to anybody that needs paper copies. So it goes back out. So that's the overall scheme. So you're right at the beginning. And an important part of the whole process, because it's our first chance to find out whether we're really off base or on the right track. So you're an important part of the process. So if you don't have any questions about that. Go ahead.

Klaus Hanson: Can the legislature involve itself in the process? I presume, you know that there's a contentious base where the legislature says "We would like to look at this, at the rule that's coming forward." Is there any way in this process? I don't see any.

Tina Anderson: Well, the legislative service office, the LSO, they represent the legislature.

Klaus Hanson: Correct.

Tina Anderson: And that's their job—to look and see if there's any issues.

Nancy Vehr: They make a recommendation to the management council, which meets routinely.

Klaus Hanson: Yes. Okay.

Nancy Vehr: So the management council...

Klaus Hanson: So that way it could go to the legislature if there were a ...

Nancy Vehr: If there were some issue, that's where it would come up.

Klaus Hanson: Okay. Thank you.

Tina Anderson: But the LSO is also notified at the point we're getting ready to go to the Environmental Quality Council. We send a copy; it's called the notice of intent for rulemaking. They get a copy. So they get a head's up right then. So there's only one time in the past that I'm aware of, where you know hackles went up. And we were able to resolve things at that level before it went all the way. But they do have actually two points where they can enter in.

Klaus Hanson: Okay.

ii. Proposed Changes to Wyoming Air Quality Standards and Regulations

1. Chapter 3, General Emission Standards

Tina Anderson: With that, I'm going to proceed to the actual rules. All of you in your packet should have gotten copies of the rules that we're changing. Today we're looking at changing chapters 3, 5, 6, 11 and 14. This sounds like a lot, but a lot of these changes, once I describe them to you, you'll see they go pretty fast. We have 14 chapters in our regulations. And I have to say that this group of changes are not controversial. And I'm not just saying that because I'd like you to approve them, but I've been doing this for a number of years. And these are mostly updates to our regulations to make sure we conform with the Clean Air Act, some clean ups, and things of that nature. So I think they'll be easy for you to accept. Also I want to say before I get going here, that even though I'm going to take you through these, I am not by any means the expert on all air quality topics. And we have some other people in the room from the Division that will be able to help me out if we get into the weeds. And there were two people back home that helped me prepare these, Carissa Krey and Vanessa Buyok, did a great job with all the detail that goes into these. I just want to make sure they get credit. So the first chapter is Chapter 3, which is our general emission standards. These are some of the oldest regulations on the books. Our regulations go back to the '70's. And these are called general emission standards because they're not tied to specific sources. They're emission standards because the standards are set at the point of where the pollution is actually introduced into the air, usually a stack, as opposed to ambient standards, which we have, which protect your public health. And that is the point at which you actually breathe the air. So we're going to be talking about ambient standards and emission standards and going back and forth. But just so you're clear on that. So these are general emission standards and old ones. The only thing that we're doing in this whole chapter is way at the back on page 350. And you'll see we're updating the dates by which we're--- she's going to get you a new one. We've already made a change here, a small change. When we adopt pieces of our regulations, sometimes we take the federal language and pound it into state language. And that's primarily the way we did it in the old days. The regulations are coming so fast and furious now, that a lot of them we just take and incorporate by reference. So we just cite the document and the date and pull it into our regs that way. In this particular example here and what we're doing here is rolling them forward from the 2008 Code of Federal Regulations to the 2010. Statute again prescribes very carefully how we can do this process, so that's why it seems kind of awkward, the language. But we have to tell when we are going to adopt it, where you can get a copy of it, that we're not adopting anything other than what we've said we're adopting, and that all has to go in here. The other things that we adopt by reference are from the ASTM standards. And if you work in industry at all, you're probably familiar with those. We just roll those forward with the same date as the Code of Federal Regulations. So that you know what's

actually being updated here, you can go to section 6, which is on page 311. And there's going to be a lot of shuffling of paper here. And it has to do with emission standards for VOC's, or volatile organic compounds. This is a definition that's extremely long. And a VOC is an organic compound, it has carbon in it, and the significance here is that VOC's react with sunlight and the presence of nitrogen oxides and actually produce ozone, which is sort of the central problem with VOC's. When EPA defines a VOC, they actually say it is a carbon compound, but it does not include the following, and the list is--Gina has a copy of those, you can see those—it's a list of what is not a VOC. So every couple of years, they add more chemicals to the list, what is not a VOC, the names are as long as your arm. But these are all chemicals that are not, they have negligible photochemical reactivity. So that's the essence of what we're doing by changing those two dates in Chapter 3. Any questions about that?

Ralph Brokaw: Your definition and explanation of what a VOC was, was concise and I caught it. Would you do it again? It was carbons plus sunlight that did what?

Tina Anderson: So a VOC in the presence of sunlight and nitrous oxides, we call NO_x , N-O-X, because there's a whole bunch of them, will produce ozone. Now individual VOC's can also have deleterious effects, like benzene. You smell that when you pump gas into your car, it's also a VOC. Obviously, not good for you to breathe. But there are no specific standards that EPA has established for an ambient level for those. This particular definition is focused on the reactivity aspect. So, like Steve said, it's overwhelming, air quality has a lot of technical parts to it. So just absorb what you can, and next time you'll absorb a little more. And you're always a newbie in air quality, I'll tell you that.

Nancy Vehr: And they will test you on the acronyms.

Tina Anderson: So you do have an acronym list now. But I think the date on it—there's probably a hundred more that need to go on this. We'll have to update this.

Klaus Hanson: I have a brief question about the small sentence that follows the date change, not including any later amendments. Does it refer to future amendments that may come?

Tina Anderson: Right. That means I've got to come back in here when they amend it and we have to go through this again.

Klaus Hanson: That's of course cumbersome. Instead of saying the opposite, including any future, then we don't have to come back.

Tina Anderson: But see, if I do that, then I'm asking you to adopt things that you don't know about.

Klaus Hanson: Don't know about.

Tina Anderson: Speaking of cumbersome here, I have to do this demonstration.

Klaus Hanson: Opened the can, did I?

Tina Anderson: I'll only do this once. The reason that we adopt these by reference is because this is what we're adopting by reference. If we didn't adopt by reference, we'd have to include all of those regulations in that pile you have. And this actually saves everybody time, money...

Ralph Brokaw: A tree or two.

Tina Anderson: A tree or two, right.

Klaus Hanson: Thank you.

Tina Anderson: And they're actually available online now. And they didn't used to be in the old days. But it was like gold getting a hold of one of these copies. And we physically copied them and put them in our regs in the old days. So we've actually come a long ways.

Klaus Hanson: Thank you.

Ralph Brokaw: Mr. Chairman, procedural question. How do we adopt Chapter 3 changes?

Klaus Hanson: By motion?

Ralph Brokaw: We just move for adoption?

Jeff Snider: Is that the language? I thought we were recommending, is what I heard...

Ralph Brokaw: Do we move to approve? To recommend...

Jeff Snider: Move forward to the Governor and then on to the EQC. So I think once we're finished, we're going to do this serially, in the sense we're going to go through Chapter 3...

Tina Anderson: You can do it either way. We could either do it chapter by chapter or you can wait until I get through all five and then do it all at once. It's up to you.

Klaus Hanson: Mr. Chairman, there would be a question if they're all like this than it would be easy to go through all five. But if there's a contentious issue, then it would be probably easier to go chapter by chapter.

Tina Anderson: They're not all adoption by reference. 3 and 5 are focused on that, but the rest aren't. But I wouldn't say any of them are highly contentious. But you can still do them chapter by chapter at the end if you want. The thing I want to make sure that we keep track is that we actually amended the proposal by adding that update to ASTM, so when you do your recommendation, I would ask that you recommend that we proceed with the updated revision.

Jeff Snider: Now there's another procedural issue. If there's public comment, when would that come? At the end of all four or five chapters? Or sequentially in between chapters?

Tina Anderson: We'll probably ask for public comment after we've gone through all of them. So if you want to wait and do that, even though there's no members of public, industry may want to comment. But we can do this piece by piece too. You can do that. If that makes more sense.

Jeff Snider: What are people more comfortable with?

Ralph Brokaw: I would act on them separately.

Tim Brown: I would too.

Jeff Snider: I think that's a good...

Tim Brown: That's a good way to go...

Jeff Snider: Good recommendation. Okay, so we're still on Chapter 3; we're not ready to...

Tina Anderson: I think you're going to ask for some comments here.

Jeff Snider: I just have one comment. I would suggest that we stick with the acronyms as stated on the acronym list, just as a stickler for the way things are stated. For example, when it comes to BTU, it's capital letters. And that's on the first page. And I don't know whether this is a grammatical thing...

Tina Anderson: It's a consistency thing. We've got 14 chapters developed over thirty years and we're kind of trying to stay with however we used the term.

Jeff Snider: That's not a big deal for me. Any discussion? Klaus? You had a question a minute ago?

Klaus Hanson: No. I was going to move adoption or recommendation to adopt Chapter 3 as changed.

Nancy Vehr: Do you want to have a discussion from the public first to see if there's...

Klaus Hanson: Oh. Okay. You do that first before we move it?

Nancy Vehr: To see if there's any comment...

Klaus Hanson: Good enough.

Jeff Snider: So...

Tina Anderson: Is there anyone from public or industry...

Jeff Snider: If there's anybody in the public that wants to make a comment on Chapter 3. I'm not seeing anybody. So Klaus...

Klaus Hanson: Then I'll go ahead and say to recommend the change in section 9 to change the dates as suggested.

Jeff Snider: A second?

Tim Brown: I second that, Mr. Chairman.

Jeff Snider: And then the next step would be to recommend to move forward to...no. Is there a place this is moving forward to? To the Governor's office? That's what the flow chart says. Or just a recommendation to move forward?

Tina Anderson: I think the latter would probably be...

Klaus Hanson: Should I include that to include moving it forward to the Governor's office?

Jeff Snider: Please do.

Klaus Hanson: As a recommendation.

Jeff Snider: So we're looking for a second.

Tim Brown: I second that.

Jeff Snider: So...

Tina Anderson: All those in favor...

Jeff Snider: We need to vote. That's right. So all those in favor say "Aye"

Jeff Snider, Tim Brown, Joel Wasserburger, Ralph Brokaw, Klaus Hanson: Aye.

Jeff Snider: Any opposing? No? So the recommendation to move forward with the inclusion of Section 9 from the changes that were made this morning for Chapter 3 passes.

2. Chapter 5, National Emission Standards

Tina Anderson: So that takes us up to Chapter 5. And these are what we call national emission standards. Again, a small change at the end. Same issue as before. I neglected the ASTM standards. They're called emission standards again, because we're dealing with the source. Only we're looking at very specific sources that are spelled out. They're called national emission standards because the EPA sets these and these apply to sources all over the country whether we adopt them or not. They apply equally in every state in the country. There are two basic types. The first one are called New Source Performance Standards. And they're in section 2. We call them NSPS. And Section 3 are the National Emission Standards for Hazardous Air Pollutants. And we call those NESHAP's. Two more acronyms for you. These we adopt by reference. And that's what you're seeing primarily in that pile there. NESHAP's represent all but two of those books. So the NSPS are a much smaller group than the NESHAP's are. Just to kind of give you a difference between these two groups, the NSPS deal with those criteria pollutants that Steve mentioned, the basic ones, particulate, CO, SO_x, the NO_x, lead, ozone, and VOC's. The NESHAP's deal with the air toxics. And there are 186 of those at this point in time. So a lot more pollutants, but a lot less known about those pollutants. So those are the basic divisions between those two groups. And what we're going to look today at is adoption by reference. It's the same kind of motion you just made. But we're also doing some clean up while we're in there. We have a number of source sectors that we just don't have the industries. So we're going to take them out. They're listed. And we're also looking at removing the general provisions to the NESHAP section and I'll talk more about that when we

get there. Some smaller changes as we go along. So we're just going to do this page by page. And I'll try to go through this quickly. And also, I need to mention before I go on that this is not in our State Implementation Plan, whereas the first chapter was primarily in our State Implementation Plan. The difference there is in the way EPA actually works with us on how we meet the Clean Air Act. The State Implementation Plan is sort of the basic obligation we have with the Environmental Protection Agency. And it's covered under section 110 of the Clean Air Act. And it covers protection of public health, primarily. It's not that none of this stuff doesn't cover protection of public health. But EPA chooses to delegate these instead of having them part of our SIP. Because there's nothing in here that we can change. They just come down lock, stock, and barrel. So it probably confuses you, but as a person that's putting this out to the public, I have to tell you and the public what's in our SIP and what isn't. There are certain rules about how we serve the SIP. Okay. So that takes us to the first change, which is on page 5-2. I think there are copies of these out there... Okay, would members of the public like copies of these as we go through? You have copies? Gina has copies. So on page 5-2 you'll see that we're removing subpart E, which is the standard of performance for incinerators. We're removing that not because we don't have any incinerators, but we don't have any incinerators as of a certain date. And once you miss that date, it just doesn't apply. So you will see us taking a whole bunch of them out of here to clean these up and streamline them, is basically what we're doing. And on pages 5-3 through 5-8, and I'll just group all of these together, all the strikeout that we see in there, those are categories for which we do not have any sources. So we do not have any primary copper smelters, primary zinc smelters...

Steve Dietrich: And the reason we are able to take them out is the date beyond which this would apply has come and gone. Or not.

Tina Anderson: In the case of the incinerators, yes. So these other ones, we just don't have any. We don't have any aluminum reduction. It's a good thing we don't have these kinds of plants. Because these are...

Klaus Hanson: Mr. Chairman, can I ask a question? Should they appear in the future, in the state, what happens then, since we've taken them out?

Tina Anderson: That's a very good question. That's why we put them in there in the first place. Because we weren't sure. And there weren't so many. But chances we probably aren't going to get a copper smelter. But if we did get a copper smelter, because they are national emissions standards, the emission standards still apply. Except that the federal government would then issue all of the requirements. And it would all be between the federal government and the source. The reason that we adopt these by reference, one of the biggest reasons, is that when it comes to enforcement, the enforcement happens between the state government and the source, instead of the federal government and the source. And most sources would prefer that. But if they come in, and they do, they would be covered by the federal government until we meet as an air quality division and say "You know, we've got a copper smelter up at Northeast Wyoming, so we need to pull that one in." So we can remedy the situation as needed.

Klaus Hanson: Thank you.

Tina Anderson: So all the way through 5-8, those are just strike outs, of categories that we don't have. So that's all that's happened there. That takes us up to page 5-12. And actually pages 5-12 through 5-32, you'll see the word "part" crossed out and section written. This is just an artifact from when we brought language in from the federal government. The federal government uses the word part; state government uses section. So those should have been cleaned up earlier and we're just now fixing them. So that takes us all the way through page 5-32. And then the next change is beginning on page 5-38. And this is the beginning of section 3 which are the national emission standards for hazardous air pollutants. And you'll see a change at the bottom of paragraph 8. And this is we are changing a reference there. And we're having to change a reference because we're taking a huge section out. When you take something out of the regs, it shuffles all of the cross references. So you're going to see a number of the cross references changed. So when I get to the point where I take it out, I'll show you that. But that's what this is here, a realigning the cross reference. Then beginning on page 5-39 going through 5-48, you will see a similar strike out, just like we did with the New Source Performance Standards. We're now going through and removing all the NESHAP's or National Emission Standards for Hazardous Air Pollutants because we don't have those categories either. So again it's a streamlining effort. Try to get some of this stuff that is not necessary out of there. So then on page 5-48 at the very end of the list, we actually have a new NESHAP. And that's for plating and polishing operations. So that's chrome plating and polishing. We do have a number of those. And this is not decorative—this is industrial plating and polishing, so that one has been included. On page 5-49, you'll see some strikeout in the middle. This was like a cross walk between federal general provisions and our provisions, which we're taking out because we're removing the general provisions. And from this point, from page 5-49 through 5-126 you're going to see a massive amount of strike out. And that's because we're removing what's called the general provisions for NESHAP's. Now all of these books you see here have requirements for specific industries. And all of those industries also have to meet certain basic requirements. And those mostly have to do with monitoring, record keeping, performance testing, and reporting. Those are called the general provisions. When we first put this together, we brought those in and sort of tried to craft them for our state. What's happened is EPA has changed them so much that we can't keep up with them anymore. So we've decided internally that it would be more efficient just to adopt them by reference as well. Because what we were doing was not really different than what was in this anyway. So we're just striking out these state general provisions; replacing them with the federal general provisions. And the consensus is there really wasn't a difference in the first place. Things have changed a lot over the years. When we were doing regulations in the past, there was more crafting and now that we're getting so much federal regulation that we're doing less crafting and pulling in more federal regulation. I know that doesn't sound good but it's the reality. This is a program, like I said; it applies to these sources no matter what—these national emission standards. In order to keep our program going and the parts that the Division wants to maintain some primacy over, we've got to take the whole program. So that's what's happening all the way up to page 5-126 and then on 5-126 we'll see a very similar incorporation by reference. And Gina's handed out the updated one with the ASTM for ruling over the adoption of the 2008 CFR.

Klaus Hanson: Mr. Chairman, page 56, there are some possible additions, I presume.

Tina Anderson: I'm glad you pointed that out. So on page 5-56. There's two significant things here. It's probably easier for me to talk about under what used to be "B" is now "ii." This is an addition. The

general provisions include permitting under the federal version. When we took the general provisions from the federal government, we separated the monitoring and record keeping and the reporting from the permitting. And put the permitting general provisions in the permitting chapter. And now that we're putting the federal general provisions back in the federal version, we have to also take away the permitting provisions and adopt those through the federal version as well. The first reference up there is to make sure that people understand that complying with these regulations doesn't keep you from having to get a permit. So we're sending folks to Chapter 6, Section 2, which is sort of a portal for all permitting requirements for the State. So that's what's under "ii." And I also want to make a change in there while I'm standing here, from what you've got, that I caught after we printed this. Where it says "in addition to complying with the provisions of the section, the owner/operator of any such source is required to obtain a permit for modification." I'd like to recommend that we change that to may be required. And the reason there is that you go to the permitting folks. They'll look at what you present. And they can actually waive the permitting requirements. So they may not have to get a permit. But they're at least required to go there. So if we change that to "may be" it will be consistent with the sentence that follows that which is the "owner/operator" may also be required to obtain an operating permit. Again, there's some discretion. So that's the change. Now under sub paragraph "D", it says "the general provisions of the subpart are incorporated by reference" and that's the sort of basic change that we're making here today. So instead of adopting them as we were before, they're now being adopted by reference. So that's the heart of all that strikeout.

Klaus Hanson: Mr. Chairman, my observation would be, coming from the humanities, if you say "may be" to me that says, "don't necessarily have to." I would say "can be" is a little stronger, or is normally required or something of that nature. "May be" to me, if I were the one who has to follow this regulation says, "Ah, forget it." So there I would tend to say some other wording like "can be", which says that's a possibility, and it's a strong possibility. But "may be" I could sort of overlook it.

Steve Dietrich: If I could add one comment, what we're trying to differentiate is, we want to give in our New Source Review staff the ability to analyze what they're about to do. And they either are going to have to get a permit because the emissions are great enough, or as Tina mentioned earlier, a permit waiver, which is basically a letter. A permit waiver doesn't have to go through public participation where a permit does. That's the biggest difference that I could point out to you. Is there anything else that differentiates the two?

Angela Zivkovich: No, and I think what, as Tina said, they still have to submit an application. It's just whether they may have to get a permit or they may get a waiver. So I think that is what that language is saying. Everyone still has to submit the application; it's just what they receive. They may receive the permit or not.

Klaus Hanson: I'll withdraw my comment, then.

Tina Anderson: It's a good question. I don't know. Nancy, do you feel like there's any difference in the legal weight?

Nancy Vehr: We tend to use “may” and “shall” kind of on those ones. And sometimes “shall” means “may.”

Klaus Hanson: Sure.

Nancy Vehr: It’s one of those kinds of things. But I think on this I can understand “may be required to obtain” or “can be required to obtain.” Or you could have “may need to obtain.”

Klaus Hanson: Something of that nature would satisfy my feeling here.

Tina Anderson: “May need to be obtained?”

Nancy Vehr: Or “may need to obtain.”

Klaus Hanson: “May need to obtain.”

Steve Dietrich: We can do that.

Tina Anderson: And then I would suggest that we do the same for the second sentence, with Chapter 6, Section 2.

Klaus Hanson: Thank you. That makes it a little clearer.

Tina Anderson: It’s a good change. These not only need to be useful, but they need to be understandable.

Klaus Hanson: Sure.

Tina Anderson: Okay. So that takes us, I believe, to page 5-126. And there we have a replacement. And this is where we actually adopt by reference from the 2010. And if you’re wondering why we’re doing 2010 and not 2011, it’s because they haven’t printed 2011. And the state statute requires that we adopt something that we can actually, physically, distribute to people. So that’s all that’s covered under Chapter 5. And I think we mentioned that something in the middle. I have everything tabbed...

Steve Dietrich: So we’re at the end of this section. And we’re going section by section, right?

Tina Anderson: Yes. So you’ll need to again ask for public comment.

Jeff Snider: So we’re considering Chapter 5 for changes that Tina’s proposing. And we’re looking for public comment. Not having any, then there’s actually three steps. So we need to accept the adoption by reference. And the changes that Klaus and Tina discussed on page 56. And then the complete Chapter 5 and make a recommendation to go forward. So do these have to be done individually?

Tina Anderson: No, you can do it all at once.

Klaus Hanson: I would consider mine only editorial comment anyway. Just change to “may be required.”

Tina Anderson: Along with the last minute change with the ASTM standard.

Jeff Snider: And the last minute change was...

Klaus Hanson: It's the second one.

Jeff Snider: Yes, so this is the...Is there a motion?

Ralph Brokaw: Mr. Chairman, I would move that recommendation.

Klaus Hanson: Second.

Jeff Snider: Then we vote. All in favor of the changes that have been made to Chapter 5. And then the recommendation that Chapter 5 move forward, say "Aye."

Jeff Snider, Tim Brown, Joel Wasserburger, Ralph Brokaw, Klaus Hanson: Aye

Jeff Snider: Opposed? So the...

Ralph Brokaw: Motion carries.

Jeff Snider: Motion carries.

Klaus Hanson: Mr. Chairman, could we take a five minute break?

Jeff Snider: We'll take a break and meet in five minutes.

(Break)

Jeff Snider: Okay, so we're finished with Chapter 5 and ready to move on, I believe.

3. Chapter 6, Permitting Requirements (Part 1)

Tina Anderson: Yes. That takes us up to Chapter 6, which are our permitting requirements. Both Steve and Nancy have talked a little bit about permitting in the state. A lot of permitting. Everything that emits air pollution technically has to be permitted. We do have provisions for waiving. But section 2, which we're not going to change today, as I said is sort of a portal into the permitting program. Section 3 is the Operating Permit Program. And Operating is after you've constructed your source and you're up and running, there's another permit that you get if you're a large source, called an Operating Permit and Title V is the other acronym for that. And then Section 4, we'll get into here, which is a real special kind of permit. And then 5, we're actually taking out. So we'll go through those, piece by piece here. I'll make sure I don't forget anything this time, Klaus, so thank you for checking that one last time. The first thing we're doing is on page 6-1. You probably already tell now, 6-1 means Chapter 6, page 1. So the first number is the chapter and the second number is the page number. Section 1, the introduction is being slightly changed because we're taking out our section 6. And it's now going. Is it section 6? It's section 5. It's actually moving. We're actually removing and that's the one that we just talked about adopting by reference in Chapter 5. So that's what this language and introduction is all about. Then we move to page 6-12. A very small clarification change—adding the words "Wyoming Air Quality Standards and Regulations." WAQSR is at the end of that sentence. Chapter 6, Section 2 of the Wyoming Air Quality Standards and regulations. Small clarification. Then moving on to page 6-13 you'll start to see some strikeouts under the definitions. Many of our chapters include definitions. We don't have them all in one

place because definitions tend to change depending on where you're at in the regs. And in the old days we used to number them. But we found that numbering them just leads to a lot of problems later because they keep adding definitions and then we have to change the numbers and you have to change all of the cross references. So we're just taking the numbers out, chapter by chapter. And then when you cross reference a definition, you just cross reference the definition. And they're alphabetical, so you can find them. They're in the definitions section. So you'll see a lot of strike out in the definitions section under the little heading that they're each under. And then there will be places where the cross references have changed to reflect that as well. So that's most of what you see on page 6-13. There's also an additional definition there for a term called alternative operating scenarios. And that is a term that we're adding to formalize something that we're already doing. In the Operating Permit Program, you are allowed to have other kinds of operating scenarios other than what you would consider your standard operating scenario. And like I said, they've been using them for years, but we're actually adding the formal definition here. The best example I can give you is if you're normally a coal-fired boiler, you operate on coal, maybe 364 days of the year. Maybe there's a couple days of the year when you want to fire on oil—maybe you want to clean slag out of your boilers or something. So you actually have that option to operate on a different fuel. So that's what the term is all about. And there will be some follow up sections that you'll see that will refer to this term as we go forward. On page 6-14, this is a perfect example at the bottom where the cross-reference to a definition has been changed. So that's how they're going to look now. Instead of saying nothing under paragraph B-5, it would say nothing under the definition of applicable requirement in paragraph B. So that's how we take care of no numbering in the definition. Another new definition appears on the top of page 6-15. And that's called "approved replicable methodology." And I dare you to say that six times quickly, because I can barely say it once. And it has an acronym, ARM. And it basically means that you have to have a methodology for if you're trying to back up a process or trying to come up with some kind of an alternative scenario, you have to have a methodology that is grounded in science, basically. And again, this is a term that we've already sort of absorbed intuitively, but we are now formalizing it by putting it in our definitions. So you have to come up with a protocol that's based on sound science and mathematical principles. We would never have allowed you to do that without being sound science to begin with. But now there's a formal definition. And it just makes it consistent with the federal Title V section. That's what's on page...

Klaus Hanson: Mr. Chairman? Tina, just a small editorial comment under 1. The sentence starts, "approved applicable methodology means operating permit terms that specify..." and then it should be "implement". It changes to a singular. I'm sort of a grammarian.

Tina Anderson: That's fine. I'm just trying to follow where you're at.

Steve Dietrich: So where was this at?

Klaus Hanson: In section 1. In section "I". "Specify a protocol" I'm on page 6-15.

Tina Anderson: I'm with you now. "Specify a protocol which is consistent with an implements." Right, because it's more than one term.

Klaus Hanson: Yes. It says “terms” on top. And you specify, quite correctly. And in parallel, it should then be “and implement” permit terms implement. If I read that, grammatically.

Tina Anderson: “Specify protocol which is consistent with and implements an applicable requirement.” I think...

Klaus Hanson: Because it refers back to permit terms.

Tina Anderson: I think it refers to the protocol.

Steve Dietrich: Rather than terms.

Tina Anderson: Rather than the terms.

Klaus Hanson: Oh. Then and the first one should be “specifies”?

Steve Dietrich: Because protocol is singular.

Tina Anderson: Yes. I think the problem may be in the first, under the approved replicable methodology ARM means. How about if we say “means an operating term that specifies...”

Klaus Hanson: ok

Steve Dietrich: Take permit out? Or not?

Tina Anderson: That’s okay. It means...

Steve Dietrich: Means an operating permit...

Tina Anderson: Means an operating permit term that specifies a protocol. Are we good with that? And in this case you’re actually making an improvement on federal language.

Klaus Hanson: Oh! I come from the humanities and it has to be parallel.

Tina Anderson: That’s good. I agree.

Steve Dietrich: I before E except after C, all those rules I can’t remember.

Tina Anderson: The feds do make mistakes, so...

Steve Dietrich: Yes.

Tina Anderson: Any other questions about that term? We’ll fix that. And then we move over to page 6-17. And you’ll just see a cross reference change along with the un-numbering of the definitions. A small—you’ll see and continuing on page 6-18 and 6-19 the same thing. Another cross reference change on 6-19. And then that takes us to page 6-21. This part of the regulations in the Operating Permit Program deals with what’s considered a complete application. And a complete application has to have a description of those AOS—those alternative operating scenarios. So you can’t just come up with an alternative operating scenario on the fly. You have to think about it ahead of time, include it in your permit

application and it becomes a part of your process. So that's what's happening on 6-21. Then on 6-22 is language that, and I'll just read part of it here. It says for emission units subject to annual emissions cap, the tons per year can be reported as part of the aggregate emissions associated with the cap except where more specific information is needed. Or including where necessary to determine or show compliance. What that says is that it's okay to report your emissions as a cap, because we now actually have ability to put a cap over a facility. They're called plant-wide applicability limits. But you can't when you put your Title V permit together, you can't just meet the cap where there are sub emission standards that you have to meet. So you may have a unit within the cap that has a requirement that is separate that you still have to meet. You can't get out of that by meeting the cap. Does that make sense?

Klaus Hanson: What does TPI stand for?

Tina Anderson: TPY—tons per year.

Klaus Hanson: Tons per year.

Tina Anderson: That's what that's about. On page 6-23, again we're spelling out the AOS, the alternative operating scenarios. And this just says that when you put your permit application together, that your AOS, you have to have the authorization to have an AOS in the first place. And that authorization might come through a Chapter 6, Section 2 permit. That's the construction permit. You could have gotten it done then and then it could just be slid right into your Title V permit. Or you may have had to go to the administrator and get some special approval for it. But it has to be authorized before it can be put. And then at the bottom, there's another reference to the AOS. And this has to do with the compliance plan that's a part of the application. And it just says that in terms of timing, you have to commit that your alternate operating scenario would be effective as soon as you need to use it, basically. This should all be in place before you can use it.

Klaus Hanson: Can I ask another question? Going back to the original, does the operator know where he or she obtains the permission for alternative operating scenarios, since that is a new term? I mean how do they go, who do they apply to?

Tina Anderson: Well, they'll talk with the permitting staff. And the permitting staff will help them.

Klaus Hanson: In your office? And that's clear to them, that's clear to the operators? You know it simply says here, means a scenario authorized in an operating permit. It doesn't say by whom or what, in the original, in 6-13. I'm just looking because it comes up so often now and you said it was a new term, and I'm just wondering whether you need to spell out by your agency or something like that, of that nature. I'm sorry; I'm coming late with this. But it just occurred to me.

Tina Anderson: We could add, means the scenario authorized by the Air Quality Division.

Klaus Hanson: Yes, something of that nature. So people know...

Steve Dietrich: But back in the original definition...

Tina Anderson: Page 6-13

Klaus Hanson: 6-13, yes.

Tina Anderson: Angela, are you comfortable with that?

Angela Zivkovich: That's fine.

Klaus Hanson: I'm sorry...

Steve Dietrich: Are you going to put in AQD or something else?

Tina Anderson: I would put, authorized by the Division. Because Division means Air Quality Division in our regs.

Steve Dietrich: Okay.

Tina Anderson: Okay. You're going to start getting copies of this ahead of time, Klaus.

Klaus Hanson: Then I'd have to read it.

Tina Anderson: Your usefulness is going to be taken advantage of. So that took us through—I think we got through 6-23, the bottom of 6-23. And then it looks redundant on the bottom of page 6-24, but now we're talking about the compliance schedule which is also included in the operating permit application. And basically again there it says the timing is such that you have to have your AOS, you have to have the statement that you're going to meet the requirements. And that you'll meet them in a timely manner. That they become effective and satisfy these provisions unless a more detailed schedule is expressly required by the federal requirement. So, it sounds redundant, but it's a different part of the application is all. And then that takes us over to 6-26 and 6-27. And you'll see a couple more of those parts being removed, a section being inserted. We've got those before. And then again, same thing on page 6-33. More parts replaced with sections. Then it takes us to 6-43... We're back to ARMS, at the top of the page there's a grammatical correction. The word "owned" was not the right word there. It was "owed." "Failure to pay fees owed the Department is a violation..." And then down under H, permit content. They're basically saying here that these ARMS, that again this is the scientific protocol that you use, it cannot contradict other requirements in the regulations or other requirements in your permit, is basically what they're saying there. It seems pretty obvious, but it's stated clearly here. And then we are up to page 6-47. You can see where we removed the word "operating scenarios" which we just used before and formalized the AOS, the new acronym. And again it says "the Division shall not approve a proposed AOS into the Operating Permit until the sources obtain all authorizations required under any applicable requirement". You'll get that one pretty hard. On page 6-51 under your permit shield, there's another part been replaced by sections. And that takes us through the operating permit changes. That takes us up to Section 4. Any questions about the operating permit piece? Okay, now we're about to start changes into what we call PSD, prevention of significant deterioration. It is another permitting chapter. It's probably the most difficult chapter to understand in all of our regs. So I'll try not to lose you or take you too deep in this one. But the basic idea of this chapter is that it says that when you're constructing a large source, like a power plant or a refinery, you obviously cannot build a plant that pollutes and violates our ambient standards. But this provision also says that it's not enough that you don't violate the ambient standard. It

says you cannot pollute up to the ambient standard. You can't build a plant and then just ruin the air for everybody else; I guess is the basic way to say it. You can't go all the way up to the standard; you're only allowed a small portion of that standard when you build one of these big facilities. And that small portion we call increment. And the increment, there are increment standards that are established. So you build this plant. You actually model the plant, go through a computer modeling exercise and you see how much of that increment you've actually used. And those standards have all been established in this regulation. What we're doing here today is bringing in a new set of increments for particulate matter that's very small. We call it $PM_{2.5}$. The PM stands for particulate matter. And the 2.5 stands for 2.5 microns. Quite small—it's microscopic. So all of the other increments for SO_2 and the larger particulate and the NO_x are already in here. But today we're going to add those increments for the smaller pieces of particles. So that's just what we're doing here. And we'll get into some of the little individual changes as we go along. So on page 6-56, there's a definition for a baseline area. I talked about when you build this facility you can only consume so much of this increment. The increment gets tracked over time. Because as other sources start building and operating, they're consuming increment as well. And you have to be able to compare it to some starting point. So we track it by the area of the state you're in and we also track it by certain dates. Different dates trigger for different pollutants. And we track it by pollutant. This part deals with the area. The State has the ability to define different areas of the state to track increment. And that's a huge flexibility that the State has. And what we're doing in this definition for baseline area is simply separating out the $PM_{2.5}$. We're adding the $PM_{2.5}$ but it has a special requirement for how you define that area. For all the other pollutants, the SO_2 , and the NO_x , and the larger particulate which we call PM_{10} —particulate matter of 10 microns and smaller—when you model to determine appropriate area by which you would track, you can't make that area any smaller than one microgram per meter isopleth. So when you model all of this thing, you get a little circle, essentially. And you can't make that area any smaller than that. And the reason that there's requirement for that size is because they don't want you drawing little circles around every single source you have out there. They want these to be of a certain basic size. And the other ones, although there's one microgram isopleth, with $PM_{2.5}$ because it's so much smaller, it has a smaller isopleth. So its isopleth is 0.3 micrograms per cubic meter. And that's what's happening in that definition here. I know--that's clear as mud. But the basic idea is that you can't pollute up to the standard. There's elaborate rules for how you determine that. And the way that we track how much of that you can is by area and by time. And when we get into the area part of it, we are constrained by what areas we can define and those we do for this modeling exercise. And the modeling exercise says that we can only draw those 0.3 micrograms per cubic meter or larger. Okay? Yes.

Klaus Hanson: Question. On a different issue, in the first line there is talk about the intrastate area. And when I grew up in Germany, the French built all their coal fired power plants on the eastern border so the pollution would go over into Germany. And the Germans did the same thing. They built them on the eastern border so the pollution would go to Poland. So it was kind of an interesting way of beating the regulation with intrastate, here. So we by the same token ought to build all our power plants at the eastern border of Wyoming near Nebraska and have the stuff go over there and we follow the regulation. I'm kind of a little perturbed by the word intrastate here, because I think we should think more federally here...

Tina Anderson: Well there's two things. One is that the PSD regulations actually do require you to notify a neighboring state. And you do that in the beginning of the process, correct?

Klaus Hanson: Alright.

Tina Anderson: So, the neighboring state is watching what you're doing. And vice versa. So in other parts of the regulation there is a provision that covers that very thing. And the Federal government is watching too. And they're sharing all this information...

Steve Dietrich: Yes, and so our neighbor to the east of us isn't another country—it's still the United States...

Klaus Hanson: That's right...

Steve Dietrich: So you still have to communicate with them, unlike maybe Germany didn't communicate with France and so forth...

Klaus Hanson: That's right, yes. So is the term intrastate really necessary?

Tina Anderson: So when intrastate is used here, what they're talking about is that Steve as the administrator has the ability to establish these areas within his state only, "intrastate", and he can make these areas and call these baseline areas. Of course he has to tell EPA what he's doing. But they have to be within his state only, the way he defines these baselines. So they are intrastate. Okay? Alright, so that's what we're doing on 6-56. That takes us up to page 6-62. And in each of these cases the harder task is understanding the context in which the change occurs, than the actual change. This has to do with the definition of major source baseline date. I said, remember, that we track both by areas of the state and we also track by certain dates. And when a major source is in the process of permitting, they are looking at tracking by these major source baseline dates. And they set these by pollutant. And they used to set the PM one, they had one date. Now we have PM separated into two different pollutants, so you have to pull those apart. So that's what we're doing here, is leaving the old one with the PM₁₀, January 6, 1975. And then creating a new one for PM_{2.5}, October 20, 2010. Okay? I know this doesn't explain what's happening with PSD, but this is what's happening in this definition. And then on page 6-63 we have another term called "minor source baseline date". Because even though it's the major source that's permitting, when you start looking at the increment consumption you don't just look at the major source increment consumption, because the minor source is out there. The smaller ones are also consuming part of that increment. So you also have to have dates by which you track those. So it gets very complicated. But we're doing the same thing here in the minor source baseline definition that you were looking at with the major source definition. We used to have one pollutant and now we have two. Okay? Alright. Then we move to page 6-71 and 6-72. These go together. At the bottom of the large paragraph on 6-71 there is, this is in the beginning of the requirements. We're finally leaving the definitions in PSD and moving into what's actually required. And this paragraph describes, you have to do this special analysis if you're a PSD source. And there's lots of things involved in the analysis. But one of the things that's required is that you don't violate that increment standard. And that's what's happening at the bottom of the paragraph. And if you flip over to the next page, you'll see the new increment standards for PM_{2.5}. There's an annual and a 24-hour because our ambient standards have an annual and a 24-hour. And then

they're broken up by class. The classes refer to different areas of degradation. Class I areas are the pristine areas of our state. We have seven Class I areas in the state of Wyoming. And they include Yellowstone Park and the Grand Tetons because they're national parks. And then we have a number of wilderness areas around them. All our Class I areas are over in the northwest corner of the state; the Bridger Wilderness and the Fitzpatrick Wilderness, and the Absaroka Wilderness, and the Washakie Wilderness. So those are all of the pristine areas. Obviously they require greater protection than the rest of the state. The rest of the state is all Class II. So different increments, more protection for those different classes. And then if you flip back to page 6-71, you'll see that language at the very bottom was added. It says if the air quality impacts for $PM_{2.5}$ are less than the amount specified in Table 2. So in addition to meeting the increments for $PM_{2.5}$, you also have to make sure that you don't go above those levels that are listed there in Table 2. So you're air quality cannot exceed that. At this point in time, this is the only pollutant for which there is this extra level that you have to meet. We're dealing with some very small amounts as you can see: 0.06, 0.07, very tiny amounts. And lots of challenges for the people doing the modeling because the modeling, as you can imagine, is not a perfect science. The margin of error is sometimes larger than the amounts that you're actually asked to comply with. It can get very difficult. That's what's going on there. That takes us up to page 6-75. Another requirement for these large sources is that before they even construct, sometimes they are required to do preconstruction monitoring to see what the baseline is around their plant. And this portion of the regulation says that if you are able to look at the increase in the pollutant ahead of time—again, this is done through modeling—you are not required to do the preconstruction monitoring. So we have now established a level that gets around preconstruction monitoring for $PM_{2.5}$ as well as the other pollutants. The other pollutants—it has already been established. We're just adding $PM_{2.5}$.

Jeff Snider: Is that because it's just easier and less expensive to do the modeling as compared to the monitoring?

Tina Anderson: Probably because it's very expensive to do the monitoring, yes.

Jeff Snider: Yes.

Tina Anderson: Because I believe it's one year's worth of monitoring. So you've got to go out there, establish power...

Jeff Snider: Well on the other hand, you've got to have someone on your staff that does the modeling and does the emission inventories...

Tina Anderson: Usually by the time you get to a PSD application, you've hired consultants to do this for you. And you're already spending \$200,000-300,000 to put this permit together. I'm just throwing numbers out there, but they're expensive.

Jeff Snider: And then the air bars—you talked about air bars. Are the uncertainties associated with modeling comparable to or larger than those associated with monitoring?

Tina Anderson: Good question. I think we're just kind of starting this. These are just going in there—consultants are...Bernie might have more to weigh in on this. But they're just now getting an idea of how those are going to play out. It's going to be very difficult.

Steve Dietrich: For $PM_{2.5}$? Yes, there may not be enough data for anyone who needs a PSD in Wyoming to borrow data from some other facility or some other monitoring effort that's already going on. So because of that they have to go out and get some more recent data or data near their area that needs to be modeled for their proposed facility. So for lack of having that data to pull off the shelf somewhere, either from our monitors or someone else monitoring, someone else actually modeling an area, they have to go out and try to get it. That's what this is trying to get to.

Tina Anderson: And we didn't dream any of this up, I can assure you. All PSD plants in the country have to follow this....So as they get up and running, they may find out that this isn't working very well. The feedback will go back to EPA and they may have to make modifications. But I think it's going to be difficult. And that takes us up to page 6-81. This is a special provision for in the cases where, and you're working with federal land managers--foresters, and national parks, right? If you do all of this modeling and it shows that you actually violate the increment but you don't impact what they call "air quality related values." Those are their standards for protection in their parks. They are things like...some examples...

Darla Potter: They're like acid deposition. Concerns about acid neutralizing capacity in aquatic systems in non-sensitive lakes, primarily within Class I areas is mainly where those come into play within the state.

Tina Anderson: Right. So if you don't affect those air quality related values, those are okay. But you still blow the increment, if the federal land manager is satisfied and would agree with you, you could still get a PSD permit provided you didn't violate the Class II increments which are listed at the bottom of that table. We think that's a highly unlikely scenario as federal land managers are very protective of their areas. And we'd probably not be happy if you violated the increment. So the provision is there but probably wouldn't be used. But what we're doing here is adding these same increments for $PM_{2.5}$. So that's what's happening on the bottom of the page. And that takes us all the way through Chapter 6. No it doesn't, sorry. There's page 6-103. There's a couple more things. We're taking these out. I mentioned before in Chapter 5—you guys are so patient here—Chapter 5, we decided we were going to adopt the general provisions by reference. Those included the permitting provisions. We had those permitting provisions listed in our Chapter 6. We're now going to take them out, because we're going to adopt them by reference in 5. So what you see under "A" forward--there are all those permitting requirements coming out. It doesn't mean that the sources don't, go through page 6-109, it doesn't mean they don't have to comply with them. They have to comply with them. But instead of complying with them here, they would do it directly through the Code of Federal Regulations. And the little paragraph at the beginning, it's a placeholder to explain what's now happening. If we just take it out and don't put anything in there, it looks like nothing applies.

Klaus Hanson: What does the acronym stand for again?

Tina Anderson: NESHAP? Those are National Emission Standards for Hazardous Air Pollutants.

Klaus Hanson: Hazardous air pollutants? Oh.

Tina Anderson: So special permitting requirements for hazardous air pollutants.

Steve Dietrich: Which was most of those books that were on the table. Part 63.

Tina Anderson: So that's what's all coming out of there on up to page 109. And then a very small change on 6-114. It's a cross-reference that we just discussed. It used to be in 6-5. It's now in 5-3. Another cross reference change on page 6-118 at the top. Same thing--regulations that we just talked about. Those general provisions for permitting are no longer in 6-5. They're now in 5-3. And the final changes are on page 6-129. And again incorporation by reference. Anything that's referenced in this chapter is now brought up to date to 2010. So that's very similar to what you've seen before. That takes us to the end of Chapter 6.

Steve Dietrich: More action.

Tina Anderson: More action.

Jeff Snider: So we'll open the discussion to anybody from the public concerning proposed modifications to Chapter 5.

Steve Dietrich: Chapter 6.

Jeff Snider: Chapter 6, excuse me.

Bernie Dailey: My name's Bernie Dailey. I work for McVehil-Monnett Associates right now. These comments are kind of in the weeds. I spent 25 years working with this rule for the State of Wyoming. I was with the Air Quality Division for a long time. My comment is on page 6-71 and 6-72. I think you've got an "and" where you don't want an "and." Because you are saying, I have to comply with the increment, which is defined over here. And then I also have to comply with Table 2, which is the definition of significant impact. The federal rule, and I didn't print it out, at 52-21--I think it's "K"--identifies that you have to comply with the standard. You have to comply with the increment. And then they went to, if you're less than the concentrations listed in Table 2 as you've got listed in there, I need to do no further analysis. This "and" says, I've got to comply with the increment, I've got to comply with the standard, and I have to be insignificant. And I don't believe that's correct.

Tina Anderson: This is wrong...

Steve Dietrich: So in the highlighted section is what you're talking about?

Bernie Dailey: Yes.

Tina Anderson: So, actually there's...we probably need...

Bernie Dailey: You need some more language in there. You need to say that, and I've got the Federal Register on my computer, or somewhere I can talk to you a little bit later or something, but you need to add some more language in there that says that those concentrations in Table 2 are meant for defining and insignificant source. And what it says in the federal rule is that if I am less than those concentrations, I don't have to do any sort of PM_{2.5} analysis.

Tina Anderson: Okay...I think the best way to handle this is to just table the approval of this one. We're going to have a break over the lunch hour. And we'll fix this up. And then we'll bring this one back to you after we've gotten that straightened out.

Steve Dietrich: We can probably look it up here.

Tina Anderson: Yes, either that or we can bring it up online. I'm not sure I have...

Bernie Dailey: And my other comment was something similar in Chapter 6, Section 2, since you're bringing things together for PM_{2.5}. In the table that defines significant, I would ask that you put in PM_{2.5}...

Steve Dietrich: What page are you on?

Bernie Dailey: I'll get there...

Tina Anderson: 6-69?

Bernie Dailey: 6-3. Paragraph C2. Where we're defining the significance levels, there is a significance level defined for PM_{2.5}. And it's 0.03 annual and 1.2 I believe, I've got it here. 1.2 24-hour. I would ask that you—it's in 165...

Tina Anderson: Okay. We just missed it.

Tim Brown: I don't know if he's talking about the table or the text.

Klaus Hanson: Are you talking about the table or the text?

Tina Anderson and Bernie Dailey: The table.

Klaus Hanson: The table...

Bernie Dailey: It has to have an addition for PM_{2.5}, because those levels were defined as well.

Tina Anderson: Okay. Good catch, Bernie.

Bernie Dailey: So those are my two comments...

Jeff Snider: Can we change the font size on SO₂ column for the 8 hour as well?

Steve Dietrich: It's a pretty small number there isn't it? Yes, I think we can make that bigger.

Jeff Snider: I assume that's 25.

Bernie Dailey: Those are my two comments. Thank you.

Jeff Snider: Thanks a lot.

Tina Anderson: See, Bernie shouldn't have left. And it's true. He knows more about PSD than anybody.

Steve Dietrich: So we need to work on this and come back later.

Tina Anderson: We'll fix those over lunch. And bring those back to you. We can still get that taken care of. That takes us up to Chapter 11...

Steve Dietrich: One comment...

Tina Anderson: Oh, I'm sorry.

Dave Cummings: I'm Dave Cummings from Basin Electric. Mr. Dietrich, here is a copy of our comments. And basically we want to echo your comments. Basin Electric, we looked at it a little differently on the same section. We believe that the Department is incorporating the significant impact levels as ambient air quality standards, which 52-21 does not indicate it to be that way. And we just request that it be looked at again, so that's already going to be in the works, there. And then two additional comments, similar also. Incorporating the Table 2 data from page 6-72. We would just like to ask that that Table 2 match Table 2 that is back on page 6-3. They're one on the process and that's already been brought up also. And then our final comment here would just be more in the nature of a general comment, as opportunity to do so. We would request that the Department would consider adding a provision to the regulations that would authorize the Department to find if a proposed source or modification does not cause or contribute to an exceedance of NAAQS or PSD increment, if at the time and place of the model exceedance, the modeled impact is less than the SIL. And then there's further documentation for you guys.

Jeff Snider: Can you explain SIL?

Dave Cummings: Significant impact level. That is the level at which EPA has said that we believe at this level or higher you're significantly impacting the emissions. But it is not necessarily considered to be an ambient air quality standard. And two different things and we just feel like it's kind of, that that line is being blurred in this particular case. And our concern along that, bringing that up, we've just completed Dry Fork Station in Gillette and just got that online. And based upon our permitting process there we're concerned if this were to go the way it is right now, that there would never be another large source permitted in this state. So we just feel that we want to point that out in advance, even though we don't have any plans to do anything in the near future. We don't want to tie our hands for what might come down the road.

Steve Dietrich: Okay. Unless you want to go through the rest of these.

Dave Cummings: No, I'll just leave the documentation there. You guys can talk about that. I will have, there's a fourth comment included when we get to Part 14.

Steve Dietrich: On mercury?

Dave Cummings: To Section 14.

Steve Dietrich: I want to make sure we can get some copies of these. Thank you.

Jeff Snider: Any more questions from the public? Chapter 6? Good. So Tina, move forward.

4. Chapter 11, Acid Rain Program

Tina Anderson: Chapter 11 is the acid rain program. It's just a one pager as we simply adopt the entire program by reference. We are updating the reference. The Acid Rain Program is a very large federal program. It's basically a cap and trade program for power plants. There are other sources that are allowed to opt in. But it's primarily a power plant cap and trade program, and NO_x averaging program. These permits are enforced through the federal government. They do all the tracking, the selling and buying of allowances. We have nothing to do with that. But in order to maintain our operating permit program, we're required to keep that as part of our regulation package. So we continue to update those. But other than pulling those requirements in for our operating permits, we really have very little to do with it. That's all I'm going to say about 11. Questions?

Jeff Snider: So questions from the public, Chapter 11? So what's happened here? You've updated a date?

Tina Anderson: Right.

Jeff Snider: So no questions? Then a motion to recommend putting this forward.

Klaus Hanson: So moved.

Tim Brown: Second

J.D. Wasserburger: Second

Jeff Snider: So motion's adopted. Now we vote. All in favor, aye?

Klaus Hanson, Tim Brown, J.D. Wasserburger, Ralph Brokaw: Aye.

Jeff Snider: Opposed? So the recommendation to move Chapter 11 forward is adopted.

5. Chapter 14, Trading Programs

Tina Anderson: That brings us up to Chapter 14, which is our emissions trading program regulations, other than the one I just described. We have several of these, but the two that we're going to deal with today have to do with, one of them has to do with the backstop trading program we have for regional haze. Regional haze is the air pollution out there that you can't really tie down. You don't know which particular source it came from. But you look out and you see haze all over the sky. It has regional sources. At this point in time, everybody's sort of contributing to regional haze. It's a fairly new concept. We have a whole set of regulations and plans to deal with that. We've spent the last probably somewhere between 10 and 15 years dealing with it. We're very close to getting it completed, at least the first phase of it

completed and sent off to EPA. What we're looking at today, in this chapter is to deal with some parts that just need to be updated. We're also looking at the mercury, getting rid of the mercury budget trading program because that's been dropped by EPA. And I'll talk a little bit more about that. We'll go through these piecemeal as well, starting on page 14-1. You'll see some changes to the introduction. And basically taking out section 4, which is the mercury trading program. They called it the CAMR program, the Clean Air Mercury Regulation. It was a trading program for mercury which EPA got sued over. And we left it in our regulations for a while. We're now proposing to take it out because EPA has actually proposed something else to take its place under the NESHAP's program and the MACT that will cover it. So it's a defunct program whose time has come to take it out. We're just leaving the section as reserved because it's really hard to shuffle sections around. So that's what's happening in the introduction. And then if you move up to page 14-41, you'll see some strikeout under the changes in emission measurement techniques. This is part of the regional haze program. Regional haze focuses pretty heavily on sulfur dioxides. It's a big contributor to haze. One of the things we have to do under that program is inventory all SO₂ sources and in the course of inventorying the sources over the years, you find that the monitoring techniques have changed. And we used to have a provision in here, because the program used to have a baseline of 1998, we had some provisions in here for actually truing up some of those measurement techniques, so that you're comparing apples and apples. We have changed our baseline date forward to 2006. So we don't really need those techniques anymore. So we're proposing to take those out. If you'll look and on the paragraph right before section 4 you'll see where we've actually changed the baseline date from 1998 to 2006. And the monitoring calculations all refer back to 2006. So while there's always issues about making sure that the different monitoring methods are trued up, we don't have the same issues that we had before. So that's why we've taken out that language. And then under Section 4, the Mercury Budget Trading Program, is all coming out. And you'll see that on pages 14-42 through 14-48. And then under section 5, incorporation by reference. Everything that's referenced in this chapter would be rolled forward to 2010. That's it for section 4.

Klaus Hanson: Mr. Chairman, a question. In the meantime, you said we're reserving it until we get some federal guidelines there. In the meantime, how is mercury pollution being handled?

Tina Anderson: New sources are required to follow a new source performance standards requirement that is on the books. So we actually do have, is it one or two sources that have mercury standards? Brand new ones. CAMR, the Clean Air Mercury Regulation, was an attempt to go back and regulate the existing ones. And nothing has been done to regulate those sources in the state of Wyoming until this came along. This is now falling off. It was a trading program. You can't run a trading program unless everybody else is trading too. So we're not able to kick it off. The only part of it that we were able to implement was the monitoring regulation. So we did make sure that all of the power plants in the state got the monitors on so we could start at least getting some baseline data on how much mercury was coming out of the stacks. So what's happened right now is EPA has proposed a utility NESHAP is essentially what it is. And it's on a schedule, I believe it's a quarterly schedule, isn't it Nancy? The NESHAP's...

Nancy Vehr: Yes, the promulgation.

Tina Anderson: I think it's, I want to say November is the time frame. Does that sound right? November for a final mercury? Although, you can imagine, there's a lot of interest about it. So whether or not they

come out with it by November remains to be seen. So the answer is, no, we haven't regulated the mercury for the existing plants to date. The new plants are getting regulated. And EPA is on track to put something in place to cover all of them.

Klaus Hanson: And that's not disturbing to your agency?

Tina Anderson: That we're not regulating mercury at all? We attempted to do exactly what we were required to do in 2005, which was participate in this mercury trading program. And then it got heavily litigated. And there wasn't a whole lot we could do about that. And EPA has been working madly to replace it with something. And it's a contentious rule, to say the least. So that's where we're at. We're not the only state in that position. Lots of states are in that position. I don't know if you want to add anything...

Steve Dietrich: I'm trying to think. I think what I can add—I'm having a hard time doing that right now.

Tina Anderson: So it's just a matter of time before this mercury does get regulated from primarily power plants.

Steve Dietrich: That's the majority of emissions—from combusting coal.

Klaus Hanson: I'm just coming from a very layman's standard here. We're regulating virtually everything and we're leaving something unregulated now by taking out even what we have.

Tina Anderson: Right. But the thing that we have in place is impossible to implement without participation by everybody else, because it's a trading program.

Klaus Hanson: Sure. I understand.

Tina Anderson: It's not an emission limit program. Like I said, we were extremely fierce about leaving it in place this long so that we could at least get monitoring data collected. And that's where we're at. We've got a similar problem with ozone. And you're going to hear about that this afternoon. Ozone, all the medical studies are showing that it needs to be lower. There's been so much litigation; we don't have a standard yet. They've delayed it multiple times. But we're not in the business of setting health standards ourselves. We're regulators. We're not medical experts. So we're in a kind of difficult position.

Steve Dietrich: So is it safe to say, if EPA does come out with something in the near future to regulate the existing sources, we'll be taking a look at that to incorporate that as well.

Tina Anderson: It would be incorporated just like these other NESHAP's.

Klaus Hanson: Yes.

Tina Anderson: And you will get a sense of this too as time goes on, this is a very contentious issue. The more contentious the air pollution issue is, the more difficult it is for the regulations to get created and implemented. Because they get so tied up in litigation. I don't know what else to say.

Nancy Vehr: That sums it up. On the trading program it was under the New Source Performance Standards. And mercury, the court decision said it had to be treated as a hazardous air pollutant. So that's why they had to develop them on that route, to get the existing source new sources that came out in the state.

Tina Anderson: I mean it started with a requirement to study it. They studied it and determined it should be regulated under 112. And then we had a change in administrations. And they came in and said, "Nope. It should be regulated under 111" as Nancy pointed out. Then we had another change in administrations and it's gone back to 112. So we've done the flip flop here. And as a state agency, all you can do is follow them.

Steve Dietrich: If it affords you any comfort, although we may not have it completely solved from an air emissions standpoint, where it's burned as a product of combustion and goes up through the stack, mercury is being regulated by the waste group as well as by the water group. To protect their media as well.

Jeff Snider: And more of a procedural question, by reserving, you're anticipating that in the future, language will go in here?

Tina Anderson: No, it won't go in this spot because it won't be a trading program. We're reserving that because something else will go in there. But if I move everything up, then I've got to change...

Steve Dietrich: Renumber everything...

Tina Anderson: And cross references. So I'll just reserve it and then when the appropriate regulation comes along...

Steve Dietrich: Less changes that way.

Jeff Snider: So we've asked for public discussion on Chapter 14 yet? Dave?

Dave Cummings: One comment. It's in the fourth comment there. We're just going to request that when you add to this that you also repeal, I'm sorry I've lost my place here. To repeal the mercury trading provisions that effectively revokes the Title V facility permit conditions based on that rule. And our request is based on the fact that when this part is reserved and taken out and removed, the rules for how we were supposed to operate these monitors and maintain them and do our testing and certification, all those rules go away. They have gone back, always reference back to EPA to part 60 and part 75, which are the rules that require for monitors on how they tell you you're supposed to operate these things. Well March 10, EPA threw all their stuff out too. So we're going to be operating these monitors and not really have any basis by which we're supposed to be doing this. Which basically, effectively allows us to run these monitors any way we want to. Which is not really conducive to any party in this. And I guess we would propose that if DEQ wanted to get the baseline data, we would suggest that they have them take that baseline data on these existing facilities. And since they have achieved that objective, that they allow us to go ahead and stop doing this and not have something in our Title V permit that's not supported by the Wyoming Air Quality Standards. And that would be my only comment.

Steve Dietrich: So do we need to discuss this further?

Tina Anderson: We can discuss this.

Ralph Brokaw: Mr. Chairman, the gentleman's request seems very logical. I would pose the question, I guess to Tina. How do we retain monitoring requirements or how do we add language that says they're no longer required to monitor, if we're going to scrap the whole...

Tina Anderson: It's a good question. We were trying to finesse this so that we could slide a new one in when the old one went out. And whatever you do today is not going to make it go away anyway. You're just recommending—it's got to go all the way through. The typical time period for a body of rules to go through is about seven to nine months. Our hope was that the new stuff would be in place before we actually yank that officially, through the stamping of the Secretary of State. So it may be a moot issue. We may have all that coming out at that point. The Title V requirements would go away at the same time that the requirement came off the books. So our hope is this will take care of itself and we won't have to take a special action.

Klaus Hanson: Mr. Chairman, if I understand it right, what the gentleman proposes is we have two issues. We have a regulatory issue and a monitoring issue. If we take out the monitoring as well, then we have basically nothing anymore. I know we can't enforce anything at this point because we don't have any regulations. But at least we are monitoring. And some data are being collected that might be helpful for the future if the regulations come about. So I'm a little hesitant to say let's do away with the monitoring as well because that might be helpful in some fashion to, if I understand this correctly, to establish baselines for regulation in the future.

Tina Anderson: It's on the books now. The requirement is still there until the Secretary of State removes it. So it will be on there and everybody will have to follow it until it's removed.

Steve Dietrich: In addition to that—I don't know how many Title V permits out there have the requirement to monitor for mercury and obviously Basin is one of them...

Dave Cummings: It would impact all the EGU's in the state.

Steve Dietrich: Even if the regulation was changed, the permit would still be enforced until which time the permit is changed or amended in the future. Also, just so you know, the Title V permits do have a five year expiration period, they have to be renewed. However, if new requirements have to be inserted and it's more than three years left on the permit. Like if a new federal requirement comes out, we can open the permit and stick those in. There are occasions where we could go into the Title V permits and amend those to match the regulatory process as well, if we have to.

Nancy Vehr: The other point to consider would be, in your recommendation, if that was a concern that the proposed rules were delayed by some point in time and the Board had recommended that these rules be withdrawn and there would be this gap in how you monitor. If that was a concern, you could probably make your recommendation contingent on having some other rule in place, if you were concerned about a gap. That would just be a recommendation.

Steve Dietrich: So what do we want to do?

Tina Anderson: I guess we need a motion from the Board about how to handle this.

Ralph Brokaw: Mr. Chairman, I have another question. Tina you said that you were hoping that something new from EPA would resolve this and that was what?

Tina Anderson: They are going to be regulating mercury and several other HAP's, under what's now called the Utility MACT, maximum achievable control technology. It's essentially a NESHAP. And that is proceeding by a consent decree, I believe...

Nancy Vehr: One of those deadline suits so that EPA has to propose it by a certain day, which they did. And they were supposed to adopt it by a certain date. EPA does not always meet those deadlines. So that's where some of the gap.

Tim Brown: Do we know what time we're looking—time frame yet?

Nancy Vehr: I think it's November when they're supposed to have a final rule. And then it will get published in the Federal Register following that.

Jeff Snider: Well I would make the motion or suggestion that if we're going to go forward with recommending this Chapter 14 that we suggest to those ahead of us that the monitoring stay in place for the time being.

J.D. Wasserburger: Mr. Chairman, I don't know how to say what Nancy said, but her language made sense to me that the monitoring would stay in place and I would ask her to rephrase that again.

Ralph Brokaw: That's where I'm trying to get to...

J.D. Wasserburger: What you said, about that the monitoring would stay in place...

Nancy Vehr: Contingent on an EPA adopting...

J.D. Wasserburger: I would adopt her language, I guess, to the motion that I would make. Does that make sense?

Klaus Hanson: Can you give us that wording...

Nancy Vehr: If you want to adopt or recommend that these changes to the rules be adopted, contingent upon EPA having final rules in place. That way your recommendation goes forward and someone notes that you're concerned about not having monitoring in place, as part of that. The next stage, they'll decide that is something they want to follow or not. But at least it alerts the next group. Hey, this is a concern you had.

Tim Brown: Mr. Chairman, would that cover your concerns?

Dave Cummings: I think that would probably cover it. Our concerns are more on the technical side of things on how do we do all of this. Our Title V permit references something that is going to be removed,

on the rules we're supposed to follow. And I guess our concerns are if there are no rules out there to tell us how we're supposed to do these things, maybe the Department could look at addressing that. They could address that separately, that might be a way to do it too. But they would need to incorporate themselves, rather than waiting on the Feds for what the rules are going to be.

Klaus Hanson: Mr. Chairman, could I ask this gentleman a question?

Tina Anderson: You better come down...

Klaus Hanson: Would the current monitoring put any special onerous on you that you don't have now?

Dave Cummings: It wouldn't put any more—it would continue what we've had. We have a large investment in these monitors. And it doesn't change anything for Dry Fork Station, because that's a new station, obviously. With a new station, it's under a different set of things. What the onerous that it puts on us right now is that continual upkeep and operation expense and technical involvement. We are also finding difficulty with vendors and supply. We can get parts but we can't get their technical expertise because they're not making money on these things right now, based upon what the EPA has done. And most other states have done the same thing that Wyoming is doing right now. But have gone in that direction. And so we're running into technical support issues, those kinds of things. And it's just becoming more and more difficult as time goes on, without any guidance on what we're supposed to do to keep these things operating.

Jeff Snider: Technical question—isn't there some way to say, you burn so much coal, and you emit so much mercury?

Dave Cummings: Yes, in fact EPA has had methodologies out there for what, Mr. Dietrich, 30 years or better?

Steve Dietrich: Yes. A while.

Dave Cummings: For monitoring and we would prefer to see it go that way. The technology on mercury monitors is not at the same place that it is for SO₂ monitors and NO_x monitoring, which is well established and very robust and very reliable and precise. Mercury monitors are very, technically they require a lot of manpower to keep them operating. And the results are not always what we would consider to be reliable, even though we follow the methodology and the rules. So for us, it just seems like a large waste of resources at this point in time. And you're right. It's going to come back in Subpart UUUU and do things. And there are some changes. It's a little different for what the old ones were. But quite frankly when they come back and we have rules again, we're probably looking at replacing monitors and starting from scratch anyway. So that's just something that we have to deal with. It's the cost of doing business.

Jeff Snider: Well I think there's a motion on the floor, I'm not...not quite sure how to frame it. Nancy is the one that is helping us...

Nancy Vehr: You want to make a motion to approve these changes and recommend approval, contingent upon EPA's rule. That could be a motion that you make. I don't want to make the motion for you. But that concern about having the monitoring, you could include that in the motion. And the timeframe that

Tina talks about on this flow chart. Typically from the time we start the process here to when it gets through to approval at the Secretary of State's office, is about six months. So when it goes to the Environmental Quality Council and they do their adoption, that will be the final public hearing on it, which is still a couple of months out. So by that time, there should be some direction from EPA whether they got approved rules.

Klaus Hanson: That's pretty well your motion...

J.D. Wasserburger: It was my motion

Klaus Hanson: I think I seconded it...

Tim Brown: Does that work, Mr. Chairman?

Jeff Snider: I think it works for me, I just don't want to get cross wise between what Nancy's saying and what Dave is telling us.

Tina Anderson: We have the regulations that they're following right now are still in place, because they are state regulations. You do have regulations that they're required to follow. All of the power plants in the state are following them. They will remain in place until we take them off. And when this gets further down the line, I'm sure it's going to be the same concern from the EQC if EPA hasn't finalized their mercury rule...

Steve Dietrich: So what you're saying...

Tina Anderson: You could just pass your concerns ahead, if you recommend adoption of this but you have concerns about these.

Jeff Snider: Well, let me try to formulate the motion a little bit better. I recommend, or I propose that we recommend adoption of Chapter 14 with the contingency that, well this is where I get lost...well with our concern about the mercury monitoring. I can't say it any better than that. And I'd be happy to withdraw my motion, seeing as how it's close to lunchtime, and I'm not thinking too well.

Tim Brown: Second that.

Tina Anderson: Do you want to pass...

J.D. Wasserburger: Well my motion is still on the floor, but, I don't have any trouble withdrawing my motion and adopting Jeff's...

Tina Anderson: Your motion was contingent on EPA adopting a rule?

J.D. Wasserburger: I'm not sure what my motion was...

Tina Anderson: It sounded like that's what you were saying that you were recommending adoption of Chapter 14 to the EQC, contingent upon EPA replacing it in a timely fashion with another rule that regulates mercury.

Klaus Hanson: But I think you have the monitoring process...

J.D. Wasserburger: Yes, it was the monitoring process...

Klaus Hanson: And retaining the monitoring process.

Tina Anderson: Okay, the monitoring is going to be in there...

Tim Brown: There's no holes in the monitoring process?

Tina Anderson: No.

Steve Dietrich: Not right now.

Tina Anderson: Everybody's up; everybody's running their monitors. They're reporting the data. What we don't have is a place, other than the state to send all this data. So when they first set this up, there was supposed to be this huge bank that all this monitoring data went to. Then EPA would deal with it, because it was going to be a trading program. And then that's the basis of charging and selling and what not. And that never happened. So right now, they're just sending it to us. That part is not real clear. That's a request that the Administrator, I believe actually prior to you. I believe it was Dave Finley actually send out a request. So that part was handled through an administrator request.

Klaus Hanson: I seconded that.

J.D. Wasserburger: Yes you did.

Jeff Snider: Okay. So we're voting on your proposal? All in favor?

Ralph Brokaw, J.D. Wasserburger, Klaus Hanson, Tim Brown, Jeff Snider: Aye.

Jeff Snider: Opposed? So...

Tina Anderson: So do we have a statement for what we just adopted, does somebody want to say it for me...

Steve Dietrich: The motion that was voted on?

Ralph Brokaw: The motion was to help streamline your language but to help industry not get burdened down with a bunch of Title V problems.

Steve Dietrich: There you go...

Ralph Brokaw: Nancy...

Nancy Vehr: What I have in terms of notes wasn't quite as succinct as that, but you recommended adoption contingent upon EPA adopting mercury rules and dealing with the monitoring, and that was your concern.

J.D. Wasserburger: That was exactly the motion, right there.

Tina Anderson: All right.

Steve Dietrich: There you go.

Tina Anderson: That takes us through the rule changes, except for Chapter 6 and we'll look at those over lunch and see if we can sort those out. There's some other, after lunch we have some more general topics, not rules. So, I guess we just have to decide how long of a lunch break, what time you want everybody to come back.

Steve Dietrich: It's 12:05.

Jeff Snider: So I think we can...we have to drive into town. That's going to take an hour, not the drive or the lunch in town and the drive back. Is 1:15 too early to propose a time to reconvene?

Ralph Brokaw: That's okay.

Tim Brown: No that's fine.

J.D. Wasserburger: Sounds good.

Jeff Snider: So let's meet back here at 1:15 and continue on.

Break

6. Chapter 6, Permitting Requirements (Part II)

Jeff Snider: Joining back to the meeting after lunch. And we're considering Chapter 6 of the standards and regulations and the concerns raised by David Cummings and Bernie Dailey.

Tina Anderson: One of the issues raised by both of them had to do with the language on the bottom of page 6-71. And what we're proposing, we agree with both the commenters that this was incorrectly worded, would be to strike everything on page 6-71, everything on that last paragraph after the word "exceeded." So we would be striking "and if the air quality impacts for PM_{2.5} are less than the amount specified in Table 2..." We take that out and then turn the page, and then we would insert, before Table 2, the following language, and this comes straight out of the federal language, I think makes it more clear. And it would say, "for purposes of PM_{2.5}, the demonstration required in paragraph (b)(i)(A)(I)," and that's the big paragraph on the previous page, "of this section is deemed to have been made if the emissions increase from the new stationary source alone or from the modification alone would cause in all areas, air quality impacts less than the amount specified in Table 2." And what that means is that if your impacts are less than these, you don't have to do the analysis required in this paragraph. So...

Tim Brown: That was the intent?

Tina Anderson: That was the intent...

Tim Brown: Anyway...

Tina Anderson: That was the intent...

Steve Dietrich: Which is the nature of the comments.

Tim Brown: Right.

Tina Anderson: Both of them commented on that. So I think that fix would address that.

Nancy Vehr: And you'd restore the "and" that was struck out.

Tina Anderson: Yes. Leave the "and" in there. I did the "and" before. "If the ambient standard for the pollutant is not exceeded..." That one? Yes. Good catch, Nancy.

Klaus Hanson: Yes.

Tina Anderson: Okay, so that was issue number one. A second issue raised concerns a table on page 6-3. Let's look at 6-3 for a second. 6-3 is in Section 2, which is our minor source permitting rules. We are not opening those today. Both of the commenters suggested that we add the PM_{2.5} significance levels to this table. Since we didn't open this up to comment, we don't think it's appropriate to be opening it now. We have to go back out, advertise it, and what not. And it's something that we need to do in a separate step. And I will also tell you that this chapter has a number of issues in it, so we're very careful about when we open this. But we think we can address the immediate issue of needing the significance level for the modelers by putting it into some sort of a modeling guidance document that Steve can sign, make available to the permittees, and they can be aware of what those levels would be.

Steve Dietrich: That would be outside of the process that was outlined by passing a regulation. It's not as onerous. It's guidance or a policy that we can issue outside of that process.

Tina Anderson: So that will address issue number two, which is both of Bernie's issues. And then David Cummings had commented about the mercury, I think which you guys have addressed through your resolution. And I think his other comment was just an extension of one of the comments that we also addressed. Because I think he was concerned that we were treating these levels, back on page 6-72 like they were ambient standard levels and they're not. So that's fixed by putting this language in, that they become significance levels rather than ambient levels. So I think that might get us around the issues that we talked about this morning. And we can make those changes. And then as it goes forward, that's how it would look.

Tina Anderson: Here he comes.

Klaus Hanson: Mr. Chairman, that means we only have to really move one amendment, not the other one. Because the other one you want to address differently. So I would move to amend, to include the language that you just read to us, I didn't catch it all. It was fairly long. But it made sense.

Tina Anderson: Okay.

Nancy Vehr: And you had previously made modifications on page 6-13 and 6-15...

Klaus Hanson: Together, because it belongs together. Yes.

Tina Anderson: “By the Division...” Yes, we’ll still do those. So you missed the significance, but do you want me to recap it for Bernie since he was the commenter?

Tim Brown: I believe you should.

Tina Anderson: So with respect to the problem with Table 2, we have removed the highlighted text at the bottom of that paragraph and then inserted before Table 2 the language which is straight from the federal government which says for the purposes of PM 2.5, the demonstration required in the paragraph and then we refer to this paragraph instead, “of the section is deemed to have been made if the emissions increase from the new stationary source alone or from the modification alone would cause in all areas air quality impacts less than the amount specified in Table 2.” So that was the first fix. And then your interest in modifying the table in Section 2, I just explained to the board that we haven’t opened up 2, we only opened up 4. So I can’t modify Section 2 without going back out to public notice. But in the interim, we have agreed that we could come up with some modeling guidance in the division so that modelers and consultants would have something to go by and that could be issued by Steve and get people through the interim.

Bernie Dailey: Okay.

Tina Anderson: Okay. So I think that addresses your two issues, in the short term anyway. Okay. And I think that leaves you guys with deciding what to do with our Chapter 6.

Jeff Snider: So I think we’re looking for a second for Klaus’s...

Tim Brown: I second.

Jeff Snider: So then, one thing we didn’t do. We had our period of public comment. We did that, so I think we’re ready to vote then. So all in favor of that we adopt Klaus’s recommendation and say “Aye.”

Ralph Brokaw, Tim Brown, J.D. Wasserburger, Klaus Hanson, Jeff Snider: Aye.

Jeff Snider: Opposed? No one opposed, so I think the motion carries. And we can move forward.

Klaus Hanson: We still have to adopt the whole thing.

Jeff Snider: Ah, the whole thing. So now we’re planning to vote on Chapter 6 as the whole thing. And we need more discussion or? So we’re voting on Chapter 6 as amended by Klaus’s recommendation. Is there anyone coming forward with a...

Ralph Brokaw: Yes, I’ll move a favorable recommendation as amended.

Tim Brown: Second.

Jeff Snider: Okay. And then voting. All those in favor?

Ralph Brokaw, J.D. Wasserburger, Klaus Hanson, Tim Brown, Jeff Snider: Aye.

Jeff Snider: Opposed? So that covers Chapter 6, I hope.

Tina Anderson: Yes. You already voted on the others. So that concludes our rulemaking section of this meeting. Yay. You guys were great sports about it. I know it's painful, but the alternative is to pass rules without letting people see what we're actually changing, so that's kind of devious. And great questions and great comments. So now we're going to switch gears and project something on the screen, so we'll ask you all to come out here and find a comfy seat...

b. General Updates from the Division

i. Ozone

Darla Potter: Can everybody see okay or do we need it turned...

Nancy Vehr: It looks good from here.

Darla Potter: Okay. I'm Darla Potter. I am the Air Quality Resource Management Program Manager with the Division. So as described earlier today within the organizational chart, my group includes the Ambient and In Stack Monitoring section, the Emissions Inventory section, and the Planning section. And the Planning section does the majority of the NEPA coordination, primarily with oil and gas development in Wyoming. One of my jobs, as well, is in respect to ozone. We have an ozone team within the Division to administer and look over ozone issues throughout the state. And it's an interdisciplinary team that crosses throughout the Division. Angela represents the New Source Review Program. Tina represents the rulemaking aspect of that. Kelly Bott represents the planning portion. And Cara Keslar represents the monitoring portion. What we wanted to do today—there aren't any rules that you have to approve or recommend approval for. But ozone is a big issue within Wyoming. Going to become a bigger issue and as a board, wanted to give you some information and update so you're better prepared as we do have in fact rulemaking to bring forward to you in the future as well as implementation plan. So what I'm going to step through for you today is what we know about ground level ozone, what we have been doing, what we're planning to do, both within the proposed non-attainment area as well as state-wide, and what the future holds for us as well as for you. So on to what we know. Ground level ozone—people often refer to as “bad ozone.” As opposed to good ozone. Good ozone occurs naturally in the stratosphere, approximately ten to thirty miles above the Earth's surface. And it forms the layer that's protective of life on Earth from the sun's harmful rays. So often times when we start talking about “bad ozone,” some folks start to get a little bit confused. When we talk about bad ozone, what we're really talking about is ground level ozone. It's a secondary pollutant. It's formed by complex photochemical reactions between nitrogen oxides, or NO_x, and volatile organic compounds, or VOC's in the presence of sunlight. The reason that it's referred to as “bad ozone” is because it affects the lungs and the respiratory system. It reduces lung function. It can inflame and damage cells that line the lungs, make them more susceptible to infection, aggravates asthma conditions and other lung diseases. And repeated exposure can have permanent effects. There is a national ambient air quality standard for ozone. That level 1 is 0.075 parts per million. The form of the standard is a 3-year average of the 4th highest daily 8-hour average ozone concentration. You have to scratch your head and rub your tummy at the same time just to get the full effect. It's very complex. It's very complicated. Basically what we do for each day of the year that's monitored will end up with twenty-four 8-hour averages within that day. We find the maximum for each day within the year. At the end of the year, we find the 4th highest daily maximum for that year. We then take three years of data and take those 4th high values and average those together. And that's what ultimately gets compared to the

level of the standard. Was strengthened to this level by EPA in March of 2008. I mentioned it was a very complex photochemical reaction. What you see here are just a few of the simplified equations. There's an ultraviolet light component. And there nitrogen dioxide is involved. There can be interaction with inert particles in the air. Volatile organic compounds then can convert to nitrogen oxide and nitrogen dioxide without in fact destroying the ozone, which can lead to more ozone. This is the simplified description, because there are over 200 chemical equations at play. Our monitoring section informs me that there is actually 286. So it's extremely complex. And we certainly don't need you to understand all of the chemistry behind it. I think it's important in Wyoming to understand the traditional thinking about ozone. Probably what comes to most people's minds are sunlight and hot weather causing ground level ozone to form in the air. That's when you've got the ozone precursors of nitrogen oxides, the volatile organic compounds. It's typically, because of that, thought of as a summertime air pollutant. In urban areas, many urban areas tend to have high ozone levels in the summer, mainly due to motor vehicle exhaust, industrial emissions, gasoline vapors, those types of things. But it can also, even in the summer, be an issue in rural areas. It can be an issue in rural areas because ozone can be transported a great distance as well as the pollutant precursors to form ozone can also transport. So as you go through and you start to hear information about where ozone levels are, particularly throughout the west and even in rural areas, they're higher than what people have typically thought they would be. And some of that is the transport. Because of this traditional thinking, historically scientists have believed that ozone could not be formed in low temperatures or with low sun angles. So for us that meant the wintertime. In fact, most monitoring was only done in the traditional summertime months. In Wyoming when we have monitored for ozone, we have traditionally left our monitors on year round. What has happened in Wyoming is that we have discovered a problem within Sublette County, as early as 2005 it has been monitored. The contributing factors there, in the months of February and March; we have concentrated areas of oil and gas sources. Those emit nitrogen oxides and the volatile organic compounds. So we've got the precursor emissions that are necessary. We have strong capping inversions that trap the emissions near the Earth's surface. Throughout the majority of the day in that time frame. We also have a nighttime buildup of emissions because our atmosphere becomes much more stable the more snow cover we have. We have sufficient incoming sunlight that is then reflected back off of the snow. So in effect, you get a doubling in essence of the ultraviolet component. We have low wind speeds that then, in terms of emissions, don't transport the emissions very far but also eliminate a lot of that vertical mixing that happens at higher wind speeds. The airflow recirculates within the basin. So we kind of get a sloshing effect, so to speak, even with the low wind speeds. And in some cases we have pretty short distances between the sources that are emitting the precursor pollutants and our ambient monitors that are in the area. We started measuring ambient ozone concentrations in the basin in the winter of 2005. We had eight elevated 8-hour ozone days above the level of the standard. We thought that was rather unique and wondered if the instrumentation was working correctly. So we put some additional instrumentation out the following winter and detected two elevated 8-hour ozone days. We then geared up to do a rather robust study in the winter of 2007 and the meteorological conditions didn't cooperate. To put it simply, we lacked the snow cover. We didn't have any elevated days. Did another study in the winter of 2008 and we had fourteen elevated ozone days above the level of the standard, higher in magnitude than the previous years had observed. Which was great for the study. We then continued studying to different degrees and in the winter of 2009 and in the winter of 2010 we again did not have any elevated 8-hour ozone days. The weather was not conducive for the formation of elevated ozone. But yet this past winter, mid-January through March of 2011, we once

again ended up with thirteen elevated 8-hour ozone days. They were higher in magnitude than in previous years. Even higher than in 2008. And again, the meteorological conditions were conducive to the formation of elevated ozone. We really started to understand the meteorological characteristics of this phenomenon in the winter of 2008. Based on the observations this past winter, we're now refining those understandings. So obviously we have a problem. What have we been doing? As an agency, we have in fact proposed to EPA an ozone non-attainment area. It's outlined in red, right here. It includes all of Sublette County. It includes portions of Lincoln County and portions of Sweetwater County. The non-attainment recommendation was made to EPA in March of 2009. In 2009 a technical support document was submitted to EPA as well. Revisions to that technical support document were made in May and August of that year. What happened at that point in time is basically all activity at EPA in regard to our proposed non-attainment area stopped. That was because of the reconsideration of the ozone standard. And I'll get into the details of that later. But right now, where we sit is with a proposed non-attainment area at EPA that has not been acted on. It has sat there since that point in time. What does non-attainment really mean for Wyoming? When an area is declared non-attainment, there's a specific federally mandated actions that are required. We just listed the core requirements here for a state plan. It includes inventory. It includes modeling. It includes control strategies for those precursor pollutants. It includes promulgation of rules to in fact ensure that our ozone program to fix the non-attainment situation, will work, as well as development of an implementation plan. Regardless of the federal process, Wyoming DEQ has been taking action. And we have been taking action since 2008. What that action has looked like—it has taken the form of an interim policy that has been developed so that permitting could continue in the area. The primary choice for being able to make the demonstration, not affecting the area's attainment status has been the use of offsets, with nitrogen oxides as well as VOC's. The New Source Review permitting program has tightened their best available control technology requirements and those are in place. Industry has accelerated management of emissions from sources that didn't have controls and weren't required to have controls. Our compliance staff has increased their inspections. The New Source Review Program, in conjunction with industry, has cooperated to issue permits for drilling rigs in the Jonah Pinedale Development Area. We have done numbers of studies to understand the complex wintertime ozone formation. We plan to use that study information for modeling inputs and to verify the model mechanisms. Industry has put in place ozone contingency plans that are put into place when we have the appropriate meteorological conditions that are conducive to ozone formation and internally we have been forecasting for those conditions that set up, that are right for ozone formation, and issuing ozone advisories. Those get pretty good press throughout the state, so more than likely, especially this past winter, you heard about some of those. All of these efforts together, in terms of the winter of 2008 through the winter of 2010 have yielded a 28 percent reduction in actual VOC emissions, a 24 percent reduction in actual NO_x emissions, and all of that has occurred while the number of wells has increased by 843 wells in Sublette County and gas production has increased by 8.3 percent. So gas production has been increasing while those emissions have been being reduced. This summarizes for you what we saw happen this winter. We issued ten advisory days actually with thirteen elevated 8-hour ozone days. If you cross walk those dates, they don't match up very well. We were about 50 percent accuracy on our ozone forecasting. It's weather forecasting. And our meteorologists really hate it when we say this, but any meteorologist who forecasts the weather on a day to day basis isn't right 100 percent of the time. And so they work really hard at it, but we're not there. And so we're looking for refinements as we go into this next winter. In the chart, what you see are the top four ozone 8-hour readings at each monitor. What you

see for the Daniel and the Boulder monitors are numbers using parenthesis that are the values for the top four highs in 2008. The Wyoming Range, Pinedale, and Jule Springs monitors were not in place in 2008. And so if you look at that, that fourth number on the table, the lowest most number if that's the highest 8-hour value for 2011, then that would be averaged with the fourth highest values for 2010 and 2008. And that's what gets compared to the standard. Obviously, despite all of our efforts, we have not been able to be successful in not having wintertime ozone formation occur. So there is much more work to be done. We have been, and will continue to collect the appropriate scientific data, via collaboration and research. The amount of precursor pollutants that are produced and monitored, where and when they are produced, and the weather data that's unique to the Upper Green River Basin. We continue to implement policies to reduce the precursor emissions, continue to coordinate with industry on their contingency plans and their voluntary measures. We have in fact, we will continue to forecast, refine that forecasting, and issue ozone advisories. And the ultimate goal as we move forward, from a technical standpoint, is to be able to use all of this scientific data that we're collecting to develop models that will actually reproduce the actual ozone formation. This is not an area where we can take a model off the shelf. It just doesn't work that way. Those models have been developed for urban, summertime ozone pollution transformation. And so we're working hard with that. If we get a model that can reproduce ozone formation, we can then use it as to design more focused reduction strategies, so that we are more exact. In the meantime, what we are planning within the proposed non-attainment area, in particular, DEQ is working towards developing the winter ozone model. We're consulting with EPA on how to encourage early reductions from industry. We have engaged industry to make early reductions, additional early reductions by the winter of 2012. And so far this year we've had meetings in May and July. And the objective of those has really been to work together in partnership with industry, so that we can reduce the high ozone days next winters. Additional actions on the part of the Department—just last week, the technology transport workshop was held in Marbleton. They discussed implementation of ozone contingency plans. They discussed technology for emission reductions so that industry operators could share their knowledge and information. The DEQ is reviewing the effectiveness of the 2008 interim policy to determine if that needs to be revised. Service companies, not just the operators themselves are being engaged in this process. Once the 2011 winter inventory has been quality assured, we will be comparing that inventory to the 2010 inventory for February and March to see if there are any distinct differences, what those differences are. We have a goal of 100 percent participation in contingency plans as we go into next winter. And the Department has already requested formaldehyde testing on all four-stroke lean burn engines. Formaldehyde is one of the hazardous air pollutants that has a pretty photochemical reactivity rate. And so it's of great concern. Industry has committed to examine operations to determine what emission reductions can occur before the winter of 2012. They plan to report those commitments to DEQ by the end of September. And from there, and their outreaching to their service companies as well, as other operators in the county that may not be as encouraged. Statewide what we have been doing is monitoring the ambient air. This map is a statewide map. It shows you all of the ozone monitors that are operated statewide, either through the Clean Air Status and Trans Network, which is a national network operated by EPA. Or DEQ/Air Quality monitoring network, our DEQ/Air Quality mobile monitoring trailers that, once they're located, stay in a location for at least a year to monitor. We have some industrial monitoring sites as well. Not shown on this map are monitors that are currently in the process of being hooked up and will be running shortly. We will have a mobile monitoring trailer located within the community of Gillette that will be soon to start up. And we will also be operating a station in conjunction with the National Park Service in Grand Teton

National Park. Also, out for request for proposals, and not nearly as far along, is a station that would be located within the community of Casper. What the future holds. As I mentioned earlier, no action has taken place on our proposed non-attainment area. The reason that no action has taken place is because in May of 2008, just shortly after EPA strengthened the federal ozone standard, they were petitioned with suits filed about that decision. In March of 2009, the court granted EPA's request to stay the litigation and allow the new administration time to either choose to maintain, modify, or reconsider that standard. In September of 2009, EPA announced their plan to reconsider the standard. So, remember we submitted our non-attainment recommendation in March of 2009. In January of 2010, EPA proposed to revise the primary standard. They did not provide a specific number. They simply stated a range of 60 to 70 parts per billion. They also introduced a potential for a secondary standard to protect vegetation. And that standard takes a different form. And it was in the range of 7 to 15 parts per million hours. At that point in time what we had been informed, is that EPA would sign a final rule with a revised standard at the end of August. The end of August came and went and we were extended to the end of October. The end of October came and went and we were extended to the end of December. December came and EPA announced that they had asked the Clean Air Science and Advisory Committee to further interpret the epidemiological and clinical studies used to make their recommendation in respect to when the ozone standard was strengthened to 0.075 parts per million. At that point in time, we were informed final standard by the end of July. The end of July has come and gone and we do not have a standard. What we have been officially informed, is that the reconsideration is going through interagency review lead by the Office of Management and Budget and that they look forward to finalizing the standard shortly. At this point in time, we are still proceeding forward with all of the activities that we can. But it makes it very difficult, particularly in respect to state-wide. Our anticipation is that the reconsidered standard will be lower than 0.075. We just don't know how low. Why that's difficult—this is a map that shows our information for our monitors within EPA's Air Quality Information System. They have three years of monitoring data, 2008, 2009, 2010, that we can do this calculation of the three year average of the 4th maximum. What you can tell, is that the site at Boulder is our highest monitored site. It doesn't matter at this point where the standard ends up. Sublette County and the proposed non-attainment area, including portions of Lincoln and Sweetwater County will still be proposed non-attainment. But where we start to come into question, you can see South Pass is our next highest monitor. It sits at 0.071 for that value. The reason that's asterisked is because we are currently working on submittal of exceptional events packets for stratospheric ozone intrusion. The South Pass monitor is a high elevation site. We know that there is some stratospheric folding that occurs and we're in preparation of some very technical packets to put all of that information together. It's really up to EPA's evaluation whether they'll accept those or not. If they do not accept them and the standard is lowered to 0.070 parts per million, we will have another non-attainment area there. It gets even closer after that. Our next highest site is at Yellowstone. It's sitting at 0.065 parts per million. So depending on where the new standard lands, that could be problematic. The remainder of other areas where we have sufficient monitoring data range from 0.062 in south Campbell County, within the same county we have a 0.064 at our Thunder Basin site. And Sweetwater County, we have Wamsutter sitting at 0.064. And on the Utah-Wyoming border, I was asked a question earlier today about sources on the border. We have a monitor on the border—that one is sitting at 0.063. So the lack of certainty in respect to a standard really ties our hands to a certain amount as to what we can be planning and doing. We are still actively pursuing actions within Sublette County, Lincoln County, and Sweetwater County within the proposed non-attainment area. But when it comes to the rest of the state, we really need

that reconsidered standard to be announced to tell us what additional work needs to take place. Once a reconsidered standard is approved and announced, what are the next steps? There are a number of things that have to happen. We will have to revise the recommendation on the attainment status and revise the technical support document to address that standard. So everything we've already sent down to EPA in March of 2009, we're going to have to pull back and reconsider and resubmit. EPA will then have to, and for any other additional areas as well, we'll have to develop that packet. EPA then has to officially designate the non-attainment areas based on the reconsidered standard. That takes a period of time. Once that has been done, we will be required to submit the first part of our ozone SIP approximately a year following the designation is pretty typical. And the full demonstration within three years following that designation. To add another layer of complexity, EPA is already into the standard five year review cycle that happens for each Ambient Air Quality Standard. We could potentially end up with overlapping obligations for the state. Because that review will continue its schedule to have a proposal due out in June of 2013, with a final consideration in respect to that ozone national ambient air quality standard in March of 2014. So it's still a moving ball, even once we get a reconsidered standard. So the reason we wanted to go through this with you today is two-fold. To start to give you some background—maybe you've heard about ozone but didn't quite understand what was happening. This doesn't get into all of the nitty-gritty. But it gives you a flavor. Because coming your direction will be rulemaking actions in terms of emission control strategies. They may be statewide. They may be for one particular area of the state. As well as development of state implementation plans that may come before you. So I'd encourage you—this just kind of touches the top. If you think about it, look at the information in the packets and if you have more questions, please contact the Division and we'd be happy to have some additional discussions with you. But we wanted to touch on it with you today to start to give you some flavor of what might be coming your direction. I won't throw them away. And with that, it's not nearly the degree of all of the red-line, strikeout additions. But if you've got any questions, I'd be happy to try to answer those.

Klaus Hanson: Is there a summer ozone problem in Wyoming?

Darla Potter: The level of the reconsidered standard will determine whether we also have a summertime problem in portions of the state...

Klaus Hanson: Because you only deal with winter here, yes?

Darla Potter: Right. Primarily the data you've seen is winter. The map that shows statewide values, this is data that is collected throughout the entire year. We know that the problem that we're having in Sublette County is February and March. But when we look at the 4th-highest values in other areas of the state, and for that matter within Sublette County, depending on the year, those 4th high values could be more traditional summertime, spring, summer, fall, values. And so depending on where the reconsidered standard lands, it could be a potential that we may have a summertime issue as well.

Klaus Hanson: Related to this map then, you seem to kind of indicate, well: A, that snow seems to have a significant impact. The snow poor years seem to produce less ozone because of this reflective action, I guess. But you seem to indicate, if I followed you, sort of 0.66 or 0.65 was the cutoff point. Below that seems to be tolerable and above that seems to be not tolerable. But then I saw Campbell and it said 64 and then 62. Is there sort of a magic number? 65? Or was that just sort of arbitrary?

Darla Potter: I think it's a lot of speculation on our part at this point in time as to whether the reconsideration, where that may land. If it's the rumors that we have heard, and tend to lead us toward thinking that the reconsideration will be closer to 70 than it would be closer to 60. So I think from the lens of Division employees, we tend to look at the map and we tend to look at the map being more concerned about sites that are 65 or higher. But we don't have any insider information to know which direction EPA is headed. So if it's headed towards 70, the bulk of the monitors that we have statewide will be okay. And our big question is whether or not they'll approve the exceptional events packets at South Pass. So if we start to hit 65, then I think we've got more questions about how borderline are a number of those sites throughout the state.

Klaus Hanson: One last question, does ozone travel, this round of ozone?

Darla Potter: Yes it does.

Klaus Hanson: It does. So it could show up in Laramie?

Darla Potter: It could. It can be transported. That's one of the big questions that we have been asked about the winter ozone formation within Sublette County. Due to the conditions of the tight inversions and the trapping, the topographic region, we don't believe that we have long-range transport at play in that situation. But once we start to get into other situations and scenarios, particularly in summertime, transport probably becomes a much greater concern.

Klaus Hanson: Thank you.

Tim Brown: So your proposed non-attainment area probably should stay the same, hopefully? Just based on when the standard comes back.

Darla Potter: I think a lot of it depends on where the level of the reconsidered standard is in fact at. Where that falls. I think we feel very confident in what was proposed for the non-attainment area. But if the standard dips too low, I think it will be a struggle to retain that recommendation. I think the tendency in some people's minds would be to start to look to a larger area, depending on how low that standard would go.

J.D. Wasserburger: How do you differentiate between industrial activity and natural activity? Because there's not a heck of a lot of industry up in Yellowstone Park. And you're right at where you're at in Daniel where you have all that oil field activity.

Darla Potter: From the ambient monitoring itself, we can't, is the simple answer. That's why, as part of those implementation plans, the modeling is so important. And that's why it's important to get that right. And when you model for ozone, you model for a much bigger area. The modeling we're planning to do concentrated on the proposed non-attainment area starts with some domains that encompass several states so that you can try to capture transport, if in fact it is occurring. And we try to inventory natural sources—the vegetation, to mobile sources, the point sources, all of those things in a larger area, so that you can try to discern where's the problem coming from. I believe in Yellowstone, those higher values are more summertime/fall than they are anything that's related to wintertime.

Unknown Audience Member: Wouldn't you be better off looking at some sort of a delta for background than setting an absolute limit?

Darla Potter: There's a lot of controversy on what exactly background is. And that becomes an even touchier subject when people start talking about lowering the standard down to a level of about 60 parts per million. We've shown you just the information from the State of Wyoming. But there are numerous monitors throughout rural areas throughout the western United States that have values very similar to the 62 to 65. And so that background level is a hot button topic, especially when they talk about a lower standard.

Unknown Audience Member: Thank you.

Klaus Hanson: I guess I'm longing back to my youth. My mother maintained all ozone was good.

Darla Potter: I'm not going to tell you your mother was wrong.

Klaus Hanson: She was talking about the stuff up there...

Darla Potter: Yes, but now we have a different appreciation for it. Okay, thank you for your time today.

ii. GHG's

Steve Dietrich: I've always thought all this technology to control ground level ozone, whoever could find it, the right invention to pump all that bad ozone up to the stratosphere would be a rich man. On to another exciting topic then, easily solved: greenhouse gases. I'm being facetious. I believe back in March when the Air Quality Advisory Board met in March, I don't think any of you guys were here, including myself. And so we had a presentation that went over a lot of this, but some of this wasn't even well defined even back then as it is now. So what I hope to do is go through those slides again and then I've got some updated slides at the end. And then answer questions. So what you see here is Massachusetts versus EPA. We're going to go over that. We're going to go over some of the mandatory reporting of greenhouse gases, briefly, endangerment findings for greenhouse gases, light duty motor vehicle rule for greenhouse gas standards, and the reconsideration of interpretation, of course the Greenhouse Gas Tailoring Rule, what that means to Wyoming from the permitting and impacts to Wyoming and the greenhouse gas update that I mentioned earlier. If we get any of the litigation type questions, I may call on Nancy for some help. That's the way of background. On April 7, 2007, the Supreme Court found that greenhouse gases, which includes carbon dioxide, are air pollutants covered by the Clean Air Act. That's the Massachusetts versus EPA that most people are familiar with. From that, EPA was required to determine whether or not emissions from greenhouse gases from new motor vehicles cause or contribute to air pollution, which may reasonably be anticipated to endanger health and welfare. And whether or not the science is too uncertain to make a reasonable decision. This basically started a whole process and the events that have occurred since then on greenhouse gases and some of the discussions, litigation, proposals by EPA we're familiar with now. So from that point forward, I was going to cover for updates. Continue on with the background theme—reporting of all greenhouse gases, this was actual emissions rather than proposed, was April 10, 2009. They proposed that greenhouse gas reporting rule, EPA did. And then on October 2009, the reporting became mandatory by EPA. So it's proposed and mandatory.

And what they're going to try to do is collect accurate emissions data to inform the policy decisions that are yet to be made and programs to reduce emissions. Initially the annual reports to EPA for facilities that emit 25 metric tons per year or more of CO₂ equivalent emissions. Now that's a lot said there, and there's probably a lot that you may not completely understand where that comes from. But we can talk about that a little bit more in the near future. I wanted to direct you down to the bottom here. But the families of greenhouse gases, what all those are. Carbon dioxide, methane, nitrous oxide, hydro fluorocarbons, per fluorocarbons, sulfur hexafluoride, and other fluorinated gases. That's what all those are. And just by way of get back to the CO₂ equivalent—some of these, like methane, when you plug it into the equation to calculate your methane emissions, what this number should be, some of these are more potent than others, if you will, for lack of a better way to explain that. And so methane, for example, it's either like 27 or 24 times more potent. So you come up with a number here that is a CO₂ equivalent that you use against the standard, and what the requirements are. So those ought to be six million families of pollutants. Then on March 22, 2010, the date it was signed, EPA proposed rules to amend the mandatory reporting of greenhouse gases. And since that time, they've had some other amendments, but they were considering adding some other requirements to the general provisions for three new reporting requirements. Oil and natural gas was already there. Fluorinated gas sector, facilities that inject and store CO₂ underground for carbon sequestration. What I don't have is what some of those amendments have been since then. Just know that that's still being amended, probably as we speak. Okay? Moving right along. April 24, EPA proposed the Endangerment and Cause or Contribute Findings of Greenhouse Gases under Section 202a of the Clean Air Act. This is all about greenhouse gases that contribute to air pollution and that may endanger public health or welfare. Again, there's the six families or groups, the same pollutants we talked about earlier. And then the other proposed finding is that greenhouse gases from new motor vehicles may be contributing to the same greenhouse gas problem in the atmosphere. So then on December 15, 2009, EPA Endangerment and Cause or Contribute Findings under Section 202 was final, finding those six greenhouse gases and combinations endanger public health and welfare. And then again with new motor vehicles and engines contribute the same endangerment of public health under section 202. Under the section, it obligates EPA to issue greenhouse gas emission standards for motor vehicles. And so what resulted from that is EPA and the National Highway Transportation Safety Administration—is that what that acronym stands for? Very good. Okay. Proposed rulemaking to establish the light duty vehicle greenhouse gas emission standards and corporate average fuel economy standards. That's a mouthful. But that's what that compelled, the previous slide I just went over, compelled EPA to do. And so the new standards for light duty vehicles that will reduce greenhouse gas emissions and improve fuel economy, concentrate on cars and light duty trucks in model years 2012 to 2016. Then on May 7, 2010—promulgation of the greenhouse gas emission standards for the model years I mentioned earlier. And then we get into the implementation of EPA's light duty vehicle standard will make emissions subject to regulation and regulated pollutants—these are important phrases to remember, especially as we go into rulemaking and SIP development, and that comes under the umbrella of what's regulated for greenhouse gases. Here's where we try to explain what that implication of that would be, is that air pollutants subject to the regulation under the statute are subject to the Clean Air Act's prevention of significant deterioration, which you heard a little bit about earlier today, and our Title V operating permit provisions for stationary sources. Those two permitting programs are affected by the greenhouse gas rule. Okay? Moving right along to October 29. EPA also proposed reconsideration of interpretation of regulations for determined pollutants covered by the federal PSD permit program. What this is getting at is in May you

heard a little bit about this. Former Administrator Johnson memo of 2008 was an interpretive memo that tried to clarify when things fall under PSD review and when they don't. It gets into what some people try to coin as the three part test. Ownership or control, same SIC code, same property. What has been clarified or what they checked to clarify after that is when the pollutant becomes subject to regulation under the Clean Air Act as a regulated pollutant. That's becoming subject to the Clean Air Act's PSD and Title V permit provisions that I mentioned earlier for stationary sources. So in April of 2010, it was final on that interpretive memo. And the Clean Air Act permit requirements apply to newly regulated pollutants at the time a regulatory requirement to control emissions of that pollutant takes effect. In other words, they don't give you a whole lot of time. Once it's promulgated, and maybe you can help me clarify this, the minute it becomes a regulatory requirement, EPA doesn't give you a whole lot of grace period.

Nancy Vehr: EPA's view is that when they say that a regulation goes into effect to control a certain amount of a pollutant, so in this case the tail pipe emissions, when that would be required under EPA's interpretation, that's when they go into effect. It kind of shushes down and automatically we go into effect. You guys went through this morning, the regulatory process where we adopt things and we have a public comment period under EPA's interpretation. It would just take effect when they say it would take effect. And they encourage states to take that perspective as well and not go through a rule making.

Steve Dietrich: Okay. Thank you.

Klaus Hanson: That's why they get sued.

Nancy Vehr: That's why they get sued.

Steve Dietrich: Then October 27 of the same year, EPA proposed the Title V and PSD Greenhouse Gas Tailoring Rule, which is what most people remember out of this whole event since '07. And they tried to tailor the current thresholds—the 100 and 250 ton per year, which is the PSD major source threshold for greenhouse gases, which would take effect automatically without adoption of EPA rule or limit to control greenhouse gases. So if EPA had done nothing at all, we could have went by our current PSD program. What that would have done, however, is a lot of people would have been automatically subject to greenhouse gas and have to get a PSD permit. So the whole idea of the Tailoring Rule was to phase it in over time, based on different threshold levels. Again, there's the six greenhouse gas, which most of us can't even still remember and I've already shown it on the slide three or four times, but I still don't remember the list. CO₂ equivalents—they're transmitted to that number that we mentioned earlier. So now, instead of having 100-250 ton, the proposal was Title V major source was at 25,000 tons per year of CO₂ equivalent. And then the significance level was 10,000 to 25,000 tons per year. The difference between those two is what? You're automatically a major source at that level, but significance levels for any changes or modifications to that facility triggers in that range, right? It would be significant for PSD. Okay? June 4, 2010—about a year ago—then they promulgated what they had proposed on the previous slide, and so we have a period of time that's just expired, January 2 to June 30. 75,000 tons per year of CO₂ equivalent was where you had what they called the “anyway” sources—sources that would already be subject to PSD for other pollutants, criteria pollutants mainly. It would be your CO₂, your NO_x, SO₂, some of those criteria pollutants that you're familiar with from earlier today even. So that has already come and gone and I believe—if I'm not mistaken—we didn't have anybody we had to worry about

during that time period in Wyoming. Nobody had to come in for a permit application. So we're doing this the whole time, but that didn't happen, so we didn't have to worry about processing any PSD permits in that time period. Now we're into the July 1 through June 2013. And so the new requirement, the new threshold is 100,000 tons per year of CO₂ equivalent, even if you do not see any other pollutant. So the difference between this time period and this time period is, it doesn't matter if you exceed for the criteria pollutants. If you hit this number 100,000 tons per year, you're automatically in. And then the modification, again it's 75,000 tons per year if you don't exceed for any other criteria pollutant. Title V follows suit with 100,000 tons per year CO₂ equivalent, even if without applying for any other criteria pollutant. So now it's getting more interesting. So the first time we did this presentation back in March 2010, these numbers were a little different on what the Tailoring Rule/Wyoming impacts would be. Combustion emission estimates—internal combustion engines that we're talking about are 21,000 horsepower or greater to hit the 100,000 tons per year CO₂ equivalent threshold. I believe, Angela if I can remember, this number was much smaller.

Darla Potter: It was 4,000 to 6,000 at the 25,000 tons per year of the CO₂ equivalent.

Steve Dietrich: Yes. So we've revised that since last year. And then when it comes to boilers and heaters that combust, greater than 100,000 tons per year is what it would take. And these are some of the boiler sizes and heater sizes. 107 mbtu per hour, for the Powder River Basin burning sub-bituminous coal. And then 193 mbtu per hour burning natural gas. Okay? Since that time, this is what we talked about—some of the SIP revisions we were asked to make, some of the comments we made to EPA and some of the letter writing we've done since that time back and forth. We responded to EPA on July 30 of last year on how Wyoming plans to administer the Tailoring Rule for Greenhouse Gases. Because when they proposed what they were proposing the Tailoring Rule, they asked states to respond and how they were going to administer that. So we responded and so on September 9, we sent a letter to EPA signed by the Governor at that time stating that Wyoming, the Environmental Quality Act prevents the State of Wyoming from regulating greenhouse gases. And in your yellow book, that's the section we're talking about, where it talks about being limited by the events that occurred at the Kyoto Protocol back in, was it 1999. That's the paragraph that's in that yellow book that we're referring to in that section there. So that's how we responded to EPA's request for how Wyoming was going to administer the Tailoring Rule for Greenhouse Gas. And then October 4th, we commented on EPA's SIP and FIP notices. You know what the SIP is, a state implementation plan. And FIP is a federal implementation plan. Stating that Wyoming already has an approved SIP, which we did for PSD, in place for criteria pollutants. In other words, non-greenhouse gases. And Wyoming did not object to a FIP deadline of December 22, 2010. The reason we did that was to prevent any, what we perceived to be, some permitting delays if we was to get inundated with permits because in order to construct under PSD, you have to have the permit in hand before you can break ground. And so we were anticipating that if we didn't go this route, that we would be actually in a position to not be able to serve the public well and industry well and issue their permits in a timely manner.

Nancy Vehr: And actually, EPA also had threatened the states and threatened sources with non-compliance if they didn't have the greenhouse gas permit in hand. And so there would be a gap in permitting authority if Wyoming did not agree to do this.

Steve Dietrich: That's right. Very good. I forgot that part. I forgot to mention that. So that's the predicament we were in at the time. But us and several other states, not every state responded like we did. Other states respond in different ways. But there was a group of states including Wyoming, and a lot of the states, I believe, well they weren't all necessarily western states, were they?

Nancy Vehr: No.

Steve Dietrich: They were all over the map. And so that's how we respond and try to protect what we thought was to do the right thing for being able to write permits. And on December 1st, EPA sent a response to us requesting a revised SIP for greenhouse gases, which we figured that was going to happen not long after we communicated with EPA back in October. So then on the 21st of December 2010, we sent a response to EPA that stated that Wyoming was not in a position to revise its SIP as requested for the same reason we mentioned earlier about our statute. Okay? And then on December 23, EPA sent us a letter saying we failed to revise our SIP. So it was a letter writing campaign over the last few months of 2010. And so then on December 29, EPA published in the Federal Register to put a FIP in place for Wyoming for greenhouse gases and the Tailoring Rule. I think Wyoming is one of seven states that probably faced that same FIP that time. Okay? Then on January 2 of this year, the Tailoring Rule for Greenhouse Gases went into effect. Since that time we've been communicating with EPA Region 8 staff, their permitting staff, mostly Carl Daly and his staff on how major source permitting is going to work in Wyoming, especially if they have to get a greenhouse gas permit and a regular PSD permit for criteria pollutants. So far, one permit application for greenhouse gases from major sources has been submitted to EPA. So Black Hills Corporation, I guess it's called the Cheyenne Generating Station. So, so far, after all that time period that we were concerned about having a permit backlog, so far we've just received one permit application. And what I don't know is I think it was submitted in the first part of this month...

Angela Zivkovich: It was last week. We haven't received the criteria pollutant application yet. Just the greenhouse gas has been submitted to EPA. We haven't received our portion of it yet.

Steve Dietrich: So it's going to be interesting to see, timeline wise, how we're going to issue our permit, EPA issues their permit, and hopefully the industry and anybody that applies for these permits don't see a major time lag because if it. That's what we're hoping for. And that's all I was going to talk about today. Try to answer questions as best I can.

Klaus Hanson: So FIP applies to Wyoming now?

Steve Dietrich: For the Tailoring Rule for Greenhouse Gases, yes it does. And I guess it was officially as of January.

Nancy Vehr: And we've got three cases. Wyoming filed a lawsuit challenging what they call the SIP call, which is the first rule, the finding of failure to submit the SIP by EPA's deadline, and a federal implementation plan of FIP. And those are pending but the rules stay in place, so we have to follow those.

Angela Zivkovich: So we can do PSD permitting for criteria pollutants. Just not for the greenhouse gas. So there's a dual permitting process that will go on while the FIP is in place.

Steve Dietrich: And actually what's been happening, there's been several facilities have come and talked with us. And they're weighing all their options. And this is a definite possibility if they turn their PSD for greenhouse gases and criteria pollutants. So they're really taking a hard look at what their expansion or modification to the facility really needs to be and seeing if they can afford that time and afford those controls.

Jeff Snider: Were the...

Steve Dietrich: 100,000 tons per year?

Jeff Snider: 100,000 ton per year number, threshold that was in the discussion there—were they serious about that? That was for CO₂ initially?

Steve Dietrich: CO₂ equivalent. Take those...

Jeff Snider: I understand that. But now we're up to 100,000. Before it was just a 100 tons per year.

Steve Dietrich: The 100 and 250 has been and always will be the threshold for criteria pollutants—your SO₂, NO_x...

Jeff Snider: So the CO₂ was never considered at that low of a level?

Klaus Hanson: So the 100,000 figure is the max to which you can go higher, right?

Steve Dietrich: No, you can go above it. It's just that if you do the calculation and get the CO₂ equivalent and you hit that threshold, you must go through greenhouse gas permitting for that pollutant.

Klaus Hanson: Okay.

Unknown Audience Member: So are a lot more facilities required for Title V permitting now? With that 100,000 ton threshold?

Steve Dietrich: Short answer is, we thought it was going to be a bunch right off the bat but it hasn't happened yet. We have about 150 Title V sources throughout the state, not all of them subject to greenhouse gases of course. Not all of them do the same kind of combustion. But so far we haven't seen a huge influx or huge increase in Title V permitting because of it.

Darla Potter: The anticipation of the effect on both the prevention of significant deterioration permitting program as well as the operating permit program was much greater at the proposed level of 25,000 tons per year than it is at 100,000 tons per year. And I think that's pretty evident in the fact that the Tailoring Rule went into effect on January 2 and it took until August 5 of this year for an application to come in to trigger that over 100,000 tons per year level and be subject to the regulations. What we were anticipating for an effect, staff wise, was much, much greater at the proposed level.

Steve Dietrich: And it just hasn't materialized yet.

Nancy Vehr: And the Tailoring Rule is anticipated to keep gliding down. EPA in their Tailoring Rule proposed to keep lowering the limits until, I think, 2016 they have 50,000 tons...

Jeff Snider: But then everybody's car will need one...

Steve Dietrich: Well that's where that light-duty vehicle rule comes into play. And they're already messing with the emission standards from that and fuel economy. That's what I mentioned earlier. That model year 2012 to 2016 is a different rule dealing with the same emissions. And I think out of those six families of emissions, when it comes to light-duty vehicle rule, only about four of those are in play rather than all six. Now you know everything you need to know about ozone and greenhouse gas. Bernie?

Bernie Dailey: Steve, will you put these last two presentations out on your website for public review?

Steve Dietrich: Okay, sure. Thank you, guys. What's the next thing on our agenda?

iii. Miscellaneous New Federal Air Rules

Tina Anderson: I'm going to hit some federal air rules and general permits...

Gina Johnson: Do you have a handout for that one or no? I think that's the only one that doesn't...

Steve Dietrich: Do you have a hand out for that, Tina?

Tina Anderson: Yes, there is a handout.

Gina Johnson: It's not this?

Tina Anderson: It's the last one, there's one more. It's like a one-pager.

Gina Johnson: Oh, yes. Sorry.

Tina Anderson: This is just a head's up on what's coming on the federal front on proposed final and future rules. It's not all of them. We look at about 1000 federal air rules a year, somewhere between 1000 and 1200 federal air rules a year. That's just the ones that pertain to air quality. And then we go through those and try to figure out which ones we need to pay attention to. These are ones that are coming up here in the near future or are already on the scene. The first one there is that NESHAP's and NSPS for electric utilities. That's what we talked about earlier. That's what's going to replace the CAMR rule. This is the one that will isolate the mercury controls. So there's a proposal out there. People are commenting on it. The comment period closed last week, or the week before. And the beneath is a secondary standard for nitrogen and sulfur oxides. It's also out. What EPA decided about that one was, and I think much to our relief, they weren't going to come up with anything new. They're going to just default to the primary standards. Secondary standards look at protection of vegetation, primarily. And the primary standards focus on human health. So what they're saying is the human health one is good enough for now and we'll consider that protective. They're going to launch more studies. But for now, that's giving us a little breathing space, because these are coming out real fast. And then final rules. We have some NSPS for small EGU's. We've got some NESHAP's for reciprocating internal combustion engines. Those are a big source for us because that's compressors. There's lots of compressors in the state of Wyoming. And under

area sources, we have a boiler rule. And you'll see the boilers split between future and new. They came out, not too long ago, with a NESHAP's for all sizes of boilers and the larger ones are already under reconsideration. So that's been dropped down to the future rule section. But the smaller ones and by small I mean like, boilers in churches and schools and all kinds of things. We aren't even regulating those. We have elected not to. We're going to let EPA take care of those. There are just too many of them and we've got our hands full. But it's going to affect lots of small outfits. What else do we have on there? Got the boilers. And then we've got these spark engine internal combustion engines. I think, and Angela you can correct me if I'm wrong, this focuses on the smaller engines, the diesel generator engines. We've got lots of those, especially up in the Campbell County area. That's part of the whole methane extraction process with smaller generators. So these will definitely affect Wyoming. And you'll see them when we come back with updates to the NESHAP's and NSPS in Chapter 5. And then on the future rules Darla talked about the ozone. So that's on the list. That's the big one. The oil and gas NSPS and NESHAP's—it's actually just been proposed. But it hadn't hit the Federal Register yet so that's why it's not officially up in the proposed list. But we're just now reviewing it. Bit impact for us even though we have some of the most stringent regulations on the books in the country for oil and gas. Most of our stringency is focused on Sublette County and the Jonah/Pinedale area. But this is going to affect operations all over the state, so that's going to be a big impact for the rest of the state. Already talked about the boilers—that's under reconsideration. And that's one that has been in litigation for years and years. And then some more regulations on solid waste, commercial and industrial solid waste incineration units coming. And then lastly, but not least, are revisions to the PM, particulate matter NAAQS. And that's a biggie. Particulate matter is an important pollutant in the state as well. We have two kinds—we talked about this earlier—the PM₁₀ and the PM_{2.5} standards. And EPA is looking at revising both types of standards. And they're looking at some pretty significant changes. For example, our PM₁₀ 24-hour standard is currently set at 150 micrograms per cubic meter and they're looking at dropping that to somewhere between 60 and 80, so cutting it in half, which is huge. It will really impact the Powder River Basin, which is coal mines and any other area that is prone to dust generation. So that's a big one that we're watching. So that's all I have on kind of a head's up. Anything else you wanted to throw in that list?

Steve Dietrich: We cover SIPs on the next page, right?

iv. Status of State Implementation Plans, Including 110 Infrastructure for PM_{2.5}

Tina Anderson: Yes. So we kind of danced around this whole concept of the SIP. But just to repeat, the SIP is our agreement with the EPA on what we will do to make sure that the Clean Air Act is being followed in the State of Wyoming. So it's an agreement between the State and EPA. And we have lots of different aspects to the SIP. The first one I've listed up there, probably because it's the oldest at the moment, are our Regional Haze SIP—so these are our plans to show what Wyoming was going to do to address regional haze. Jeff sat through quite a few of those meetings. Part of it had to do with the SO₂ program. SO₂ was a big contributor to regional haze and power plants generate SO₂, so we had to look at that. And our solution to that part of the problem was to enter into an agreement with several other states and agree to drop SO₂ emissions by a glide path, which we determined collectively. And as long as we stayed on that glide path, and keep reducing emissions, we were okay to meet those requirements. And in the event that we didn't stay on the glide path, we would enter into a back stop trading program where we would trade emissions between the states. So we actually had to come up with a rule to do the trading and

what not. And that's all been accomplished; all the states have actually pulled this together. And we've submitted that to EPA and we're just waiting at this point for EPA to review. We're hoping that's going to be an approval. The other aspect of that, which is the 309(g) part, deals with NO_x, the nitrous oxides and the particulate. And we're still a little bit hung up on that one. That one is not a trading program. Again the focus is primarily on power plants, and some large boilers in the state. And we have put together a plan which we think is defensible. We're reducing the proposed reduction of around 50,000 tons of NO_x between now and 2018. And EPA doesn't think we've done enough. So we're in the last stages of negotiation with EPA on that. So hopefully we can come to some kind of agreement. If we don't come to some kind of agreement, we're talking about another FIP for those plants, which is not a great position to be in. So that's kind of the update on regional haze. Regional haze, just so you know, it's not a done thing. The program goes out to 2064. So you guys are probably not going to be sitting on the board in 2064. And I'm sure not going to be working on regional haze in 2064, but it's a long term program. We're doing this in steps. So as soon as we get that one wrapped up, we start generating the next one, another round of cuts to try to address this regional problem. And it's very difficult, because you have to deal with other states. And it's hard enough to come up with strategies in our own state. But then to have to sit down with other states and come up with solutions. So it takes a lot of negotiating. And we have some SIP updates we did not too long ago. So when we complete these chapters like you were looking at this morning, the ones that are a part of our SIP after it goes all the way through that process and gets stamped in by the Secretary of State's Office, it actually has to be packaged up and sent down to EPA as a SIP revision. And they do an additional review. So we try to keep EPA in the loop all along, so that then they don't kick it back and we have to go through the whole process all over again. One of our biggest frustrations is that EPA will not comment early on, so that we can be more efficient about it. You didn't see any comments from EPA today when we put these out, and that's my fear. Is that they will submit the comments down the road and we'll end up making revisions later. That's never very helpful. So those are some of the ones we've done previously that are down there and they're pending. And we, that last statement is just a restatement of what I just said. Then we have these things called Infrastructure SIPs. And they're kind of a new animal. The SIPs that I've just talked about are just revising the rules that are a part of our agreement and sending them down to EPA. The regional haze is a very specific kind of SIP that addresses a separate problem. Then we have non-attainment issues, like Darla was describing, is coming for ozone for Sublette County. And we'll have to pull a SIP together for that. Those are very big, involved, multi-year SIPs. Infrastructure SIPs deal specifically with the basic program elements that demonstrate to EPA that we can even run an air program. So you might want to handout the current infrastructure SIP we're working on. The ones we've completed so far are ozone—it got partially approved, and partially disapproved. It was disapproved because of the greenhouse gas aspect. And everywhere they're reviewing our infrastructure SIPs for basic program elements, we're going to get disapproved because of the greenhouse gas piece. So partial approval, partial disapproval. And then the 2.5 is the one that we're going to ask you to look at today. And I'm going to get into a little more detail. Lead is right after it. These are all criteria pollutants. And what happens is every time EPA revises a standard, you have to do an infrastructure SIP. In the past, I can tell you, in the time I've worked here; we didn't even used to do these. And then EPA got sued because they weren't doing them, because in the priority scheme, it didn't seem like a very big thing to worry about. So nobody was worrying about it. Well they got sued, so now we're doing them. They started off very basic, and now they're getting more and more complicated. So that's kind of where we're at. We will have, you can see, we'll have more of

them coming because they revised the NO₂ and SO₂, the CO just got finalized, so we'll have one for that. And once ozone is finalized, we'll have one for that. So what you've got in your hands there is our actual Infrastructure SIP. And everywhere it's yellow, these are little changes we've made. And to repeat, what this is, is a list of all the basic elements of our program. So you'll see under the bold headings, the first one is emission limits or other control measures. It's a real basic element. And below it is a list of all the things that are in our program to assure that we have emission limits and control measures in place. And you'll see some yellow on page 2. And this is a section on abnormal equipment and malfunctions. It's already in place—you don't have to review it. We submitted it to EPA. They approved it. And so it's going into our infrastructure SIP. It's like a list of what's already in place. This is not new stuff; it's just a re-listing. Then we have our ambient air quality monitoring and data system. And you can see all of the things that are a part of that. We have enforcement and control measures. And under that we have some new regs that would impact the enforcement of control measures listed there at the bottom. And their status. Just keep turning the pages. You'll see that we have a whole section on adequate resources. We have to be able to show that we have the staff, we have the ability to charge for fees and that we have this Wyoming Environmental Quality Act in place that actually gives us the statutory authority to do what we do. And then we have the emergency power section. We just made a small revision to that, basically saying that we aren't obligated to come up with an emergency episode plan because for PM_{2.5} we're not even hitting the levels that require an emergency episode plan. So that's been added. These Environmental Quality Act citations have been added. They're not new, but they've been added to the infrastructure SIP. And then the next page is more basic requirements, consultations with government officials, public notification, our PSD—you heard about our PSD and visibility protection programs—air quality modeling, permit fees, etc. So this is the basic elements of our program. I am required to get this down to EPA, it says August 16. They told me they'd give me another week. So if you're comfortable with it, I just need for you to again recommend that this be, in this case, submitted to our director. Our director will sign off on it and will submit it to EPA. So that's all I needed to cover on that unless you have some questions.

Jeff Snider: Sheridan, with its PM₁₀ problem doesn't have a PM_{2.5} problem?

Tina Anderson: It does not have a PM_{2.5} problem, no. Most of the problems in Sheridan come from road sanding in the winter and the material they put on the roads is pretty coarse stuff. And in the past, that's what has contributed to the air pollution problem. It has caused PM₁₀ problems but not PM_{2.5} problems. We have a plan in place. We had to create a SIP to address it. And basically what they did was in certain areas of the town, they are not allowed to put down certain kinds of sand. It has to be washed and has to meet a certain kinds of analysis. And then they have to pick it up at an even faster rate. Well they have to pick it up at a certain rate specified in the plan so that you don't have that sand lying around all winter long. And in a place like Rock Springs where the wind blows 100 miles an hour every other day, it's not an issue. But Sheridan sits down in a bowl and that stuff builds up and that's what causes the problem there. Lots of stuff going on. I'm not sure you guys knew what you were signing up for when you said "Sure, I'll be on the Air Quality Advisory Board." But we're glad you're here. And I think that's all for me, except for one final action from you to recommend or not recommend taking this forward in the process.

J.D. Wasserburger: Would you like that motion now? I would move that this plan be submitted to the Director and the action be taken.

Klaus Hanson: Second.

Jeff Snider: So let's vote. All in favor?

Klaus Hanson, J.D. Wasserburger, Tim Brown, Ralph Brokaw, Jeff Snider: Aye.

Tina Anderson: Thank you.

Jeff Snider: Opposed? So moved to recommend submission to Steve...

Steve Dietrich: And John...

Tina Anderson: It will actually go all the way....that's the way our SIPs have gone. You know we'll probably try to bring as many of these as we can. But sometimes the timing just isn't right....And then, I guess we need to talk about the next meeting.

IV. Schedule Next Meeting

Steve Dietrich: Yes. I think it's the last thing on the agenda, isn't it? Two schools of thought. You brought up the question earlier about how many times we have to meet versus what we generally try to do. And one school of thought is to schedule some dates out there. And if you don't have an agenda long enough to meet, we'll just cancel it before we advertise. The other school of thought is, try to set up a meeting when we have enough things to talk about and coordinate everybody's schedules to get everybody together, like we did today. Sometimes that's a little bit harder to do, last minute.

Jeff Snider: You mean last minute at the meeting, without people being in their office, being able to look at their schedule...

Steve Dietrich: Yes. If you try to put some dates out there in advance and just cancel them if we don't need them...

Jeff Snider: Yes, I understand. But I think it's a little hard to, at least for me, to say four months from now or three months from now what's going to be happening. What works well for me, and often I respond late, is when Tina says we're planning to have a meeting within this window of time, sometime in March, for example. And then the email goes out and well then people are in their offices and can look at their schedule and fill in the schedule ahead so they know. Because there's other things probably that need to be put on the schedule that aren't on the schedule, they're just in their head. That's what works best for me.

Steve Dietrich: Okay, so, if we sent you an email that said go to this little doodle thing, and fill in the dates you're available, you could do that?

Tina Anderson: Are you all comfortable with the doodle?

Ralph Brokaw: I haven't doodled. I can learn to doodle. I've heard about Doodle.

Tina Anderson: Yes, so all you get this little grid. And it has each of the dates that we have up there. And you just go by and check the ones that work for you. And that generates a matrix for me. And I can go down and say "Oh. They can all meet on this date." But if none of them agree, then I just generate more dates. So.

Ralph Brokaw: And we'll say, "Whack. You'll be here buddy."

Tina Anderson: That's easy for us, if I can get everybody to agree to participate in something like that.

Steve Dietrich: The other thing we might want to bring up is that we met for the first time today in Green River. Of course you know we try to move it around the state. And it may be good to try to meet somewhere near Cheyenne or in Cheyenne when the legislatures are in session, so if we want to reserve that time period for Cheyenne and one of the meetings to be in Cheyenne when the legislature is in session, it may be kind of handy. So there's that to consider too. So between there, in between now and when that happens in January/February, we could actually have another meeting if we needed to.

Tina Anderson: It would be late November or early December is what we're throwing around. We don't want to do Thanksgiving timeframe. We don't want to do Christmas timeframe. You know we have to do this year round. Fortunately, most of you are in southern Wyoming, so when the weather gets really bad, we can try to keep it in an area that's good. Casper is often nice for the public at large, because then everybody only has to drive 3 hours or 2 and a half hours to a meeting as opposed to some people driving 7-8 hours.

Klaus Hanson: Casper is nice.

Tina Anderson: So we just leave it open then?

Steve Dietrich: Well it sounds like and Jeff's and everybody is kind of agreeing to, try not to set dates now, but send out some Doodle dates for different times of year and see if we can get a date and maybe a back-up date kind of lined up.

Klaus Hanson: So you're looking at late November beginning of December. That would work fine for me.

Steve Dietrich: And then the next one could be when the legislature is in town. And we'll probably stick close to Cheyenne then.

Jeff Snider: March?

Steve Dietrich: No. It's January through...

Klaus Hanson: January through...what is the next one, a full session?

Steve Dietrich: Is it a long session?

(Audience murmuring)

Darla Potter: This one's a short one.

Klaus Hanson: So it's a four week session. The only concern that I would have is Wyoming Association of Municipalities also meets during the legislature time. So if you find a time...if it's right before or right after, it's fine. But that kind of takes me out because of WAM.

Steve Dietrich: All right.

Tina Anderson: Right. Okay. That works.

Steve Dietrich: So we'll just send out a Doodle and when it gets closer to the time. Because we still have to advertise thirty days in advance. We've got to leave time for that too.

Tina Anderson: Right. So about, 6 to 8 weeks out, we would send you an email that says here's some dates, go to the Doodle. It has the Doodle link right in the email. And go right to it, unless you guys agree on a date. Then we start this formal process...

Steve Dietrich: Okay. We'll do that, then.

Tina Anderson: All right.

Steve Dietrich: We just need to close the meeting unless you have something else, Jeff.

V. Adjourn

Jeff Snider: Anything else? It's late in the day. Thank you everybody, Tina, Darla, Nancy, Steve.

(End)