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**The Wyoming Department of Environmental Quality
Air Quality Division (WDEQ-AQD)
Wyoming Air Quality Advisory Board Meeting**

Jim Ruby, Executive Secretary
Environmental Quality Council

The Wyoming Air Quality Advisory Board will meet on June 5, 2013 at 9:00 AM, in the Wind River Room (No. 116) of the Intertribal Education and Community Center, Central Wyoming College, 2660 Peck Avenue, Riverton, Wyoming. The Air Quality Division (AQD or Division) is requesting the Board's consideration on proposed changes to Wyoming Air Quality Standards and Regulations (WAQSR), Chapter 3, General Emission Standards, Chapter 5, National Emission Standards, and Chapter 8, Nonattainment Area Regulations. Chapter 3, Section 2, Emission standards for particulate matter, is being revised to address a proposed action by the Environmental Protection Agency (EPA) on the treatment of excess emissions. Changes to Chapter 5 involve revising the definition of "commenced" in Section 2, New source performance standards, to make the definition consistent with the federal definition, and to update some footnotes at the bottom of the hazardous air pollutants table at the end of Section 3, National emission standards for hazardous air pollutants. Chapter 8, Section 1, Introduction to nonattainment area regulations, is being revised to reflect the reorganization and addition of new sections to the chapter. Section 5, Ozone nonattainment emission inventory rule, will establish requirements for the submittal of emission inventories from facilities or sources located in an ozone nonattainment area(s) pursuant to the requirements of the Clean Air Act, Section 182. Sections 6, 7, 8 and 9 are being added and reserved for future rulemaking purposes. Section 9 of Chapter 3 and Section 10 (formerly Section 5) of Chapter 8, are both Incorporation by reference sections, and are being updated to adopt by reference from the Code of Regulations (CFR) for July 1, 2012. Chapter 3, Sections 2 and 9, and Chapter 8, Sections 5 and 10, involve changes to the State Implementation Plan (SIP). The AQD will submit these SIP changes to the Environmental Protection Agency. Revisions to the Oil and Gas BACT Guidance will also be discussed. The public is invited to attend the meeting and may comment on all matters before the Board. All oral comments made during the meeting, and signed comments hand-delivered to Steven A. Dietrich at the meeting, will become part of the public record. Written comments will also become part of the public record if they are signed by the commenter and submitted to Steven A. Dietrich, Administrator, DEQ/AQD, Herschler Building 2-E, 122 W. 25th Street, Cheyenne, Wyoming, 82002, or faxed to 307-777-5616, by the close of the meeting on June 5, 2013. Emailed comments will not be included in the public record. Copies of the agenda, public notice, and the proposed regulations are available for public inspection at the Department of Environmental Quality, Air Quality Division, Herschler Building, 2nd Floor, 122 W. 25th Street, Cheyenne, Wyoming. Electronic copies will be available after May 1, 2013, at <http://deq.state.wy.us/aqd/index.asp>. If you have questions regarding the proposed rule changes or request a hard copy of any of the materials, please contact Christine Anderson at 307-675-5624.

For additional information contact Steven A. Dietrich, Administrator, Air Quality Division, at 307-777-7391.

In accordance with the Americans with Disabilities Act, special assistance or alternative formats will be made available upon request for individuals with disabilities.

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WYOMING AIR QUALITY ADVISORY BOARD

TRANSCRIPT OF MEETING PROCEEDINGS

Pursuant to notice duly given to all parties in interest, this matter came on for meeting on the 5th day of June, 2013, at the hour of 9:06 a.m., at the Intertribal Education Community Center, Central Wyoming College, Wind River Room No. 116, 2660 Peck Avenue, Riverton, Wyoming before the Wyoming Air Quality Advisory Board, Mr. Timothy Brown, presiding, with Ms. Diana G. Hulme and Mr. Klaus D. Hanson, Ph.D. in attendance.

Mr. Steve Dietrich, Air Quality Administrator; Ms. Tina Anderson, Ms. Jeni Cederle, Mr. Andrew Keyfauver, Mr. Cole Anderson, and Ms. Darla Potter of the Air Quality Division; and Ms. Nancy Vehr, Senior Assistant Attorney General, via telephone, were also in attendance.

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

2 (Meeting proceedings commenced

3 9:06 a.m., June 5, 2013.)

4 BOARD MEMBER BROWN: We'll call this
5 meeting to order. I'm Tim Brown with the Air Quality
6 Advisory Board.

7 Diana Hulme.

8 BOARD MEMBER HULME: Diana Hulme,
9 University of Wyoming School of Energy Resources.

10 BOARD MEMBER HANSON: Klaus Hanson, Laramie
11 City Council, otherwise retired.

12 MR. DIETRICH: I'm Steve Dietrich, Air
13 Quality Administrator for DEQ.

14 MS. ANDERSON: Tina Anderson, with the
15 Air quality Division.

16 MS. CEDERLE: Jeni Cederle, Air Quality
17 Division.

18 BOARD MEMBER BROWN: All right. First
19 order of business, call to order, approval of minutes of
20 last meeting.

21 BOARD MEMBER HANSON: So moved.

22 BOARD MEMBER HULME: Seconded.

23 BOARD MEMBER BROWN: So moved and seconded,
24 meaning it is approved.

25 Okay. I guess I should ask if there's any public

1 comment on the last.

2 All right. Old business. Next up, Mr. Dietrich.

3 MR. DIETRICH: Yes, thank you. I'm just
4 going to go over a little bit about our hiring status.
5 We've -- it's been a tough and busy year. It continues on.
6 Currently we have six vacancies in the Division, three of
7 which are part of the agency cap that was begun a while ago
8 by the governor's office, so those positions will remain
9 vacant. I think I remember I told you last time all three
10 of those vacancies were actually in our permitting section.
11 So those remain vacant.

12 We do have three other vacancies. One of them
13 happens to be program manager for our compliance and
14 enforcement group. Bob Gill retired last week, so it's a
15 big void to fill. So that one's vacant.

16 There is also a vacancy in the -- actually, this
17 Friday, Jennifer Frazier in our Pinedale office, there's a
18 vacancy there that will occur. And then there's also a
19 vacancy in the IT position that we have in Cheyenne, so
20 that's six vacancies that we have. And this time last
21 year -- or January I told you we spent a whole year filling
22 13 vacancies. So we're making some ground on that.

23 BOARD MEMBER BROWN: Who's stepping in for
24 Bob in the interim?

25 MR. DIETRICH: Well, you know how it is,

1 when somebody's around that long, it takes more than one
2 person to fill his shoes. So that's what happened right
3 now. We're all sharing the responsibility.

4 BOARD MEMBER BROWN: Yeah.

5 MR. DIETRICH: It will be a little while.

6 Any other questions on that?

7 BOARD MEMBER BROWN: Any questions?

8 Let's see, that's it for hiring status?

9 MR. DIETRICH: Yes.

10 BOARD MEMBER BROWN: Enforcement

11 activities? Who do we have?

12 MR. DIETRICH: I'm going to read through
13 some notes that Nancy Vehr provided. Nancy Vehr is
14 actually on the phone.

15 MS. VEHR: I can hear you.

16 MR. DIETRICH: She's from the AG's office.

17 BOARD MEMBER BROWN: Hi, Nancy.

18 MS. VEHR: Hi.

19 MR. DIETRICH: Nancy, do you want to speak
20 at all, or just listen -- let me run through it and answer
21 questions. You want to do it that way?

22 MS. VEHR: That would be best.

23 MR. DIETRICH: From an enforcement
24 standpoint, at the January Air Quality -- January 2013 Air
25 Quality Advisory Board, the report was that there was 73

1 open Air Quality enforcement cases, including several cases
2 operating under consent decrees. In the four and a half
3 months since that meeting, Air Quality has opened 35 new
4 cases.

5 To put that number into some kind of perspective,
6 Air Quality is currently on base to open about 40 percent
7 more enforcement cases in calendar year 2013 than we did in
8 calendar year 2012. In 2012, we opened a total of 61 air
9 cases -- enforcement cases. Since the last meeting in
10 January, we've closed 21 cases. So currently air quality
11 has 88 open cases, and several of these cases are pending
12 settlement or companies are in the process of implementing
13 actions required in the consent decree, and until they're
14 finished, we can't close them.

15 A couple of them that are worth mentioning here,
16 there's an NOV that was issued to Asher. It's Case Number
17 4136-07, and it's currently in the First Judicial District,
18 Case Number 174-660; Frontier, Frontier Refinery, is part
19 of EPA's global refinery initiative, and it's currently in
20 the U.S. District Court in Kansas; Sinclair Refinery, I
21 think, is the actual Sinclair Sinclair facility, part of
22 the EPA's global refinery initiative. It's in the U.S.
23 District Court in Wyoming. And then there's a Wyoming
24 referral.

25 Is that what R-E-F refers to, Nancy?

1 MS. ANDERSON: Wyoming Refinery.

2 MR. DIETRICH: Oh, Wyoming Refinery. I'm
3 sorry.

4 EPA's Global Refinery Initiative is also what
5 Wyoming Refinery is facing, and it's in U.S. District Court
6 in Wyoming.

7 So that's the list of cases that Nancy provided.
8 Any questions there before we go on?

9 BOARD MEMBER BROWN: I have no questions.

10 BOARD MEMBER HULME: Are those 40 percent
11 new cases, or 40 more this year than last year at this
12 time --

13 MR. DIETRICH: Yes.

14 BOARD MEMBER HULME: -- are those something
15 that are common source type or just spread throughout, or
16 is there a particular problem arising?

17 MR. DIETRICH: No. I just think that
18 the -- we've made more concerted effort to be visible, new
19 inspections, and we're finding things.

20 BOARD MEMBER HULME: Okay. Thank you.

21 BOARD MEMBER BROWN: So there's no pattern
22 or trends that you're seeing as far as that goes?

23 MR. DIETRICH: Not particularly. I will
24 say a lot of facilities tend to be more oil and gas related
25 than other types of facilities. Beyond that, I don't see

1 any pattern.

2 BOARD MEMBER BROWN: Thank you.

3 Any other discussion on --

4 BOARD MEMBER HANSON: As you mentioned the
5 two refineries, Sinclair and Frontier, I presume that's air
6 emission related to --

7 MR. DIETRICH: Yeah.

8 BOARD MEMBER HANSON: -- whatever they put
9 out there?

10 MR. DIETRICH: Yes, sir. A number of years
11 ago EPA had an initiative, and they -- they looked at all
12 refineries nationwide. And so what resulted -- what
13 resulted --

14 Is that correct, Nancy, before I go on?

15 MS. VEHR: Yes.

16 MR. DIETRICH: What has resulted is they
17 ended up with consent decrees to get back on track in EPA's
18 eyes. The states are -- what's the terminology? We're
19 part of that settlement as a -- as a cooperator of some
20 sort, Nancy?

21 MS. VEHR: That would be correct, an
22 intervenor.

23 MR. DIETRICH: There you go. It's actually
24 Frontier, Sinclair, and Wyoming Refinery, so there's three
25 refineries, three companies involved.

1 BOARD MEMBER HANSON: Uh-huh. Thank you.

2 BOARD MEMBER BROWN: Any other special or
3 new business?

4 Motion?

5 MS. VEHR: There's also some cases that are
6 not enforcement litigation cases.

7 MR. DIETRICH: Right. And I can give a
8 brief on those as well. And where these -- where these are
9 involved right now, they're called nonenforcement
10 litigation. They're under the EQC review. Currently
11 PacifiCorp there's a BART permit appeal. And the parties
12 there have entered a settlement agreement and incorporated
13 terms into a Regional Haze State Implementation Plan or a
14 SIP, and that's been submitted to EPA.

15 Going on, EPA has just proposed action on -- on
16 that SIP and intends to take final action in November of
17 this year, 2013. And the terms of the settlement agreement
18 extend into the year 2022. So this case may continue on
19 the EQC docket for a while, because that much time has been
20 allotted for in the consent decree.

21 Another case that's related to the EQC matters is
22 the Peabody River Coal. They appealed Air Quality actions
23 in late 2012, and the parties are working to finalize the
24 tenant of settlement documents currently.

25 I don't know if you want to add anything to that

1 or not, Nancy.

2 MS. VEHR: That pretty well sums it up.

3 MR. DIETRICH: Okay. Questions on that?

4 BOARD MEMBER BROWN: I have no questions on
5 that.

6 MR. DIETRICH: Okay. That's all I have for
7 the update on the enforcement.

8 MS. VEHR: There's more, Steve.

9 MR. DIETRICH: Whoops. Never mind. I'm
10 glad you're on the phone, Nancy. I've got paperwork in
11 front of me, and you're watching me really closely here.

12 United States Court of Appeals and for the D.C.
13 Circuit -- am I reading this right?

14 MS. VEHR: Yep.

15 MR. DIETRICH: I'm a little confused here,
16 because part of this we need to talk about later as
17 greenhouse gas implementation rules is what I was going to
18 talk about.

19 MS. VEHR: Yep, that's --

20 MR. DIETRICH: Wyoming appealed EPA's 2010
21 greenhouse gas SIP call. I think you're familiar with
22 that. It was a SIP call, failure finding, and the federal
23 implementation rules. On May 7th of this year a court
24 heard oral argument on that. So now we're in the waiting
25 period on the decision to be made on that. And hopefully

1 we'll -- we'll hear something on that this summer.

2 Just in case you forgot or hadn't heard, the
3 parties to the national greenhouse gas rule challenge --
4 the national greenhouse gas rule challenges the EPA's
5 Endangerment Finding, the Tailpipe Rule, the Timing
6 Decision, and Tailoring Rules are waiting to hear if the
7 United States Supreme Court would even hear these cases.
8 So all the other parties involved in litigation surrounding
9 this are in a holding pattern as well.

10 Okay. You want me to mention the MATS rule as
11 well, Nancy?

12 MS. VEHR: Yes, Wyoming is involved in that
13 case.

14 MR. DIETRICH: The utilities MATS rule,
15 which is the Mercury Air Toxic Standards -- I think they
16 refer to those as the White Stallion cases -- Wyoming and a
17 number of other states petitioned for review of EPA's
18 utility MATS rules. EPA reconsidered certain aspects of
19 the rule, but most of the briefing has been completed, and
20 now we're waiting for the court to set an oral argument on
21 this case. So, again, it's also on hold, waiting for the
22 process.

23 So that was the -- the D.C. circuit. Moving on
24 to -- we'll probably get a little more discussion on
25 greenhouse gas later on in the agenda as well. There's

1 just some other updates towards the end of the agenda.

2 So moving on to the United States Court of
3 Appeals of the Tenth Circuit.

4 The Tenth Circuit's endeavor, right?

5 MS. VEHR: Yes.

6 MR. DIETRICH: Okay. In that case,
7 WildEarth Guardians appealed Utah, and others filed a total
8 of two appeals of EPA's action approving Wyoming's regional
9 haze plan for sulfur dioxide. And that would be the
10 Section 309 of the -- of the rules. They also filed
11 separate appeals of EPA's approval of Utah, New Mexico, and
12 the Albuquerque, Bernardino County's similar plans. So
13 they've also filed appeals on those -- those plans. And
14 Wyoming has also intervened in the two challenges to
15 Wyoming's plan. So we're intervening for that.

16 The other states followed suit and also
17 intervened, like Wyoming did, in their challenges to their
18 respective plans. The court consolidated these briefings
19 all on -- on all of these into one case or cases. The
20 petitioners' brief is due on June 28th of this year, and
21 EPA's brief is due September 13th. And the joint state
22 intervenor briefs are due October 18th of this year.

23 So I believe that's all the update I have for
24 enforcement.

25 Nancy, you want to add anything?

1 MS. VEHR: No. You did a very nice
2 summary. Thank you, Steve.

3 MR. DIETRICH: You made my job easier.
4 Thanks.

5 BOARD MEMBER BROWN: Anything else on old
6 business?

7 Okay. Moving on to new business, rulemaking.

8 MS. ANDERSON: Good morning. I'm
9 Tina Anderson with the Air Quality Division, and I work in
10 rule development. I am here to go over some proposed rule
11 changes, but I need to let you know right up front that I
12 am not an expert on all of these. We have a lot of people
13 from our Air Quality staff with us here today, and I'd like
14 to identify them, starting in the back: Darla Potter, with
15 our Air Quality Resource Management Program; and in front
16 of her is Cole Anderson, who is our manager for New Source
17 Review; and beside him is Andrew Keyfauver, who works with
18 Cole in New Source Review; and up, sitting next to me at
19 the table is Jeni Cederle, who also works on rules; and
20 then Brian Bohlmann here to my left, who works with
21 emission inventories.

22 All these people will be getting up and speaking
23 at some point today, and if we get stuck at any point and
24 you ask questions, we've got a lot of experts here to help.

25 So the rule changes that we're looking at

1 today -- I'll just kind of go over the total list here --
2 are Chapter 3, General Emission Standards, Sections 2 and
3 9; Chapter 5, National Emission Standards, Sections 2 and
4 3; and then Chapter 8, which is Nonattainment Area
5 Regulations, and that will include Sections 1, 5, and 6
6 through 10. We'll go through all of those.

7 And then just so everybody in the audience has a
8 heads-up, we're going to do a slight shift in the agenda.
9 We will pull one of the updates related to ozone and the
10 ozone strategy for the Upper Green, we'll pull that in
11 front of the discussion on the oil and BACT guidance update
12 to provide some context to why we're doing it, and then
13 we'll go back to the updates and -- and there's a number of
14 updates in that list. So just so everybody's aware of that
15 shift in the agenda.

16 Starting with Chapter 3, Section 2, our General
17 Emission Standards. I'm going to give you a little bit of
18 background on what's happening here. This topic has to do
19 with excess emissions. Excess emissions occur when a
20 source emits more than their limit. This is -- Air Quality
21 Division is generally in the business of trying to avoid
22 that from happening, obviously, but it does happen for lots
23 of reasons. Sometimes there are things as obvious as a
24 lightning strike on a piece of control equipment, knocks it
25 out, you end up with excess emissions that the facility

1 could not control. You can also have during a startup or
2 shutdown of a large facility. You can have cases where the
3 air-fuel mixture is not optimized during those startup and
4 shutdowns, and so you may get excess emissions during those
5 periods.

6 And so collectively these types of emissions that
7 occur during either the malfunction of control equipment,
8 which may or may not be in the control of the operator, or
9 during startup and shutdown, fall under a collective group
10 of excess emissions we call SSM, which is your new acronym
11 for the day, startup shutdown and malfunction. And I just
12 have to get it out there, because that's what the term is
13 used in the discussion.

14 Over time EPA's philosophy on these types of
15 emissions has changed quite a bit. Forty years ago, when
16 the rule that we're going to talk about was written, there
17 was a much more relaxed attitude about it. Of course,
18 technology was not as up to date as it is today, but
19 primarily a facility was -- it was understood that if they
20 had issues during startup, shutdown or during malfunction,
21 you pretty much ignored it. Nowadays that's not the case.
22 And over those 40 years EPA has become more aggressive in
23 chasing down those excess emissions. And as a result, the
24 state has been following along and trying to tighten up
25 where those emissions could be better controlled.

1 The Division dealt with the bulk of our excess
2 emissions having to do with malfunction back in 2005 and
3 2006. As a result of an actual compliance order, the
4 Division changed the Chapter 1, Section 5 unavoidable
5 equipment malfunction provisions. This was a big thing at
6 that time. It's still a big thing, but we've gotten past
7 that.

8 We changed the rule in January of 2006. We
9 submitted a SIP revision in 2008. EPA finalized that SIP
10 revision in 2010. That was a lot of work, and I have to
11 say that most of the heavy lifting on SSM for the State of
12 Wyoming has been done.

13 In -- so in going forward, the New Source Review
14 program, that I mentioned both Cole and Andrew work in,
15 have been addressing the same issue. When they look at new
16 applications, they look very carefully at emissions during
17 startup and shutdown, and either set specific emission
18 limits during that period or require that those facilities
19 operate on a different fuel so they can meet the emission
20 limits that they're operating under during the rest of
21 their operational hours.

22 So this is not a new thing for the Division.
23 We've been addressing it all along. Most of the work has
24 been done. However, in June of 2011, the Sierra Club filed
25 a petition with the EPA on how excess emissions were

1 treated. They identified 39 states in that petition that
2 were not addressing these excess emissions in their rules
3 the way EPA is now looking at it through their current
4 policy. We were identified in that list of 39 states, and
5 that's what we're going to talk about that brings us to the
6 actual change.

7 So if you will look at Chapter 3, Section 2 on
8 page 3-2, we'll talk about what has been identified for
9 Wyoming that needs to be addressed. And we're talking
10 about one -- one sentence, so a lot of background to
11 explain why we're changing one sentence. But it's an
12 important topic that you should be aware of.

13 So we're within General Emission Standards.
14 We're in the particulate section, particulate being those
15 small particles that are pollution. And within the
16 particulate section we have a particular kind of standard
17 called an opacity standard. I don't know if you're all
18 familiar with that, but it has to do with how thick or
19 opaque the plume coming out of a source looks. Right? So
20 a hundred percent opacity means you can't see through it.
21 Zero means you can see right through it. The Air Quality
22 Division sets opacity standards somewhere between zero and
23 a hundred. This particular one deals with 30 percent
24 opacity standard.

25 And I will read what -- what we're looking at

1 here. So this is under Chapter 3, Section 2(a)(iii)(d).
2 It reads, "The emissions of visible air pollutants from
3 diesel engines as determined by a qualified observer shall
4 be limited to 30 percent opacity below 7500 feet elevation
5 except for periods not exceeding ten consecutive seconds."

6 Then it goes on to say that "This limitation
7 shall not apply during a reasonable period of warmup
8 following a cold start or where undergoing repairs and
9 adjustment following a malfunction." And you can see that
10 we have proposed to eliminate what is shown as struck out.
11 It is basically an exemption from the normal opacity limit,
12 which is 30 percent. We used to actually exempt these
13 sources from that limit during warmup or startup, and in
14 cases of malfunction. And this is no longer being -- is no
15 longer an acceptable provision in state rules, so --
16 according to the way the EPA is now interpreting this.

17 So we have proposed to remove the language that
18 is problematic. And there are -- if you're wondering if we
19 remove it, then where does that put us in terms of a
20 facility that's actually got this issue? The issues will
21 continue. The malfunction provisions will be taken care of
22 under our Chapter 1, Section 5. Facilities can still
23 apply, contact us, let us know there's a malfunction,
24 demonstrate that they've done everything possible to
25 mitigate the situation, document it, submit it. So those

1 provisions are still in place.

2 The warmup section is not covered under Chapter
3 1, Section 5, but this is a case where engines, you know,
4 have evolved a lot since 1972, and we're hoping that this
5 is not as big a problem as it might have been 41 years ago.

6 So this is what we're proposing to change, and
7 I'll open it up for questions at this point.

8 BOARD MEMBER HANSON: I do have a question.
9 In Laramie, the situation often occurs -- it hasn't
10 recently -- that, of course, I-80 is closed, the trucks
11 come into town --

12 MS. ANDERSON: Uh-huh.

13 BOARD MEMBER HANSON: -- and they keep
14 their engines running because they can't get them restarted
15 if it's really cold -- apparently, that's what I've been
16 told -- and it really has led to considerable air pollution
17 at the time. So is that addressed in any way here? I know
18 these -- you're talking mainly, I think, about industrial
19 machinery and not individual rigs here.

20 MS. ANDERSON: Right.

21 BOARD MEMBER HANSON: But, of course, when
22 there are a hundred in town, it really becomes a problem.
23 You see this huge plume, you know, and what --

24 MS. ANDERSON: Excuse me.

25 BOARD MEMBER HANSON: -- what happens

1 there?

2 MS. ANDERSON: Excuse me. This is too
3 loud.

4 The difficulty with trucks is that they are
5 mobile sources.

6 BOARD MEMBER HANSON: Sure.

7 MS. ANDERSON: We are not set up with a
8 read opacity from mobile sources.

9 BOARD MEMBER HANSON: Uh-huh.

10 MS. ANDERSON: If you'll see in the
11 provisions that we are retaining, that the opacity must be
12 determined by a qualified observer, there's a whole
13 procedure that our engineers go through twice a year to
14 actually calibrate their eyes so they can read opacity.
15 And it's all focused on stationary sources.

16 BOARD MEMBER HANSON: Stationary sources.

17 MS. ANDERSON: You have to have sun at your
18 back, so many feet from the stack. There's all kinds of
19 special provisions in there, and they're not set up for
20 reading a mobile source.

21 BOARD MEMBER HANSON: Uh-huh.

22 MS. ANDERSON: So we would have a hard time
23 actually applying this --

24 BOARD MEMBER HANSON: This to --

25 MS. ANDERSON: -- to a vehicle, yes.

1 BOARD MEMBER HANSON: Well, it's usually
2 only temporary, because then the roads open and they all go
3 on.

4 MS. ANDERSON: Right.

5 BOARD MEMBER HANSON: But it is significant
6 when it happens.

7 MS. ANDERSON: Right. And it's probably
8 something that we could address in a different --

9 BOARD MEMBER HANSON: Yeah.

10 MS. ANDERSON: -- way, but probably not
11 through this particular --

12 BOARD MEMBER HANSON: Thank you.

13 MS. ANDERSON: -- regulation.

14 Go ahead.

15 MS. POTTER: You need to do 9.

16 MS. ANDERSON: Ah, that's right.

17 So before we get too much further, I'm getting
18 the cue I've already forgotten something.

19 Section 9, on page 3-47 is an update to our
20 incorporation by reference. That's something that we
21 continually do. You've seen these before where people in
22 the audience that aren't familiar with this, every time we
23 reference the Code of Federal Regulations, we are required
24 to cite the date, and we keep that up to date so that we
25 are always referencing the Code of Federal Regulations that

1 we have incorporated into our regs and no more. So that's
2 an ongoing process.

3 Thanks, Darla.

4 Any other questions about what we're proposing to
5 do here in Chapter 3?

6 BOARD MEMBER BROWN: Do you anticipate any
7 additional enforcement actions or compliance issues with
8 this issue?

9 MS. ANDERSON: No. The bottom line is
10 that, you know, Steve Dietrich, the administrator for our
11 division, retains discretion on how he exercises
12 enforcement. So as long as we don't have an issue, he will
13 probably decide to direct his resources where they're best
14 suited. If it becomes an issue, then he has that ability.

15 MR. DIETRICH: Tina mentioned the
16 malfunctions are addressed in Chapter 1, Section 5, where a
17 facility has to make -- state its case or explain to the
18 agency what they have done to minimize what happened in the
19 malfunction. We make the determination as to whether or
20 not it was unavoidable or not. There's where the part of
21 that discretion comes in as to whether or not we excuse
22 those events or we take further action.

23 For the rest of the startup and shutdown, a lot
24 of what we depend on is what is in our air permits that we
25 write. And at the time those permits are issued, we take a

1 look at what the requirements -- the reasonable
2 requirements are to meet the regulations to -- to show that
3 there are either a different operating scenario or
4 different fuel that is used to get the engine warmed up
5 before you switch to the other fuel, things of that nature
6 are mentioned in the permit.

7 BOARD MEMBER BROWN: So this really doesn't
8 add any extra burden?

9 MR. DIETRICH: No.

10 MS. ANDERSON: We aren't --

11 MR. DIETRICH: Yeah.

12 MS. ANDERSON: We aren't anticipating any
13 at this time.

14 MR. DIETRICH: No.

15 BOARD MEMBER HANSON: In light of what I
16 just discussed prior, would it be good in Section D to add
17 a word like "from stationary diesel engines" to make it
18 clear, you know, that -- that's all you deal with here?
19 Because that's what you're -- what you mean, don't you?

20 MS. ANDERSON: Uh-huh. We could do that.

21 Any thoughts from the peanut gallery?

22 MR. ANDERSON: I mean, I think it's just
23 stating what is interpreted through regulations. I don't
24 see any substantive changes by adding that.

25 MR. DIETRICH: If it adds clarity in

1 itself, it's something we could do to accommodate.

2 BOARD MEMBER HANSON: That's what I was
3 thinking, since I immediately thought of our truck problem,
4 you know --

5 MS. ANDERSON: Right.

6 BOARD MEMBER HANSON: -- that way you have
7 addressed that.

8 MR. DIETRICH: Agreed.

9 BOARD MEMBER HULME: Tina, when I first
10 read this through I had the same question about
11 applicability for diesel engine. I didn't know if that
12 included mobile sources or just stationary.

13 MS. ANDERSON: Uh-huh.

14 BOARD MEMBER HULME: So now when I just
15 went back above to see if there was anywhere that defined
16 it, all I could find was under Section -- Section 2, Part
17 A, the first part under Section 2. It says any single new
18 source. I didn't know if that implied having a New Source
19 Review permit in place or not. It doesn't specifically say
20 that, but I --

21 MS. ANDERSON: Uh-huh.

22 BOARD MEMBER HULME: So I think -- I don't
23 know. I'm asking clarification on that. And would this
24 also include diesel-fire drill rigs? Are those now
25 considered -- are they still considered mobile or --

1 MS. ANDERSON: That definition depends on
2 how long they've been sitting in that location. But if we
3 insert the word "stationary," then it would be clear it
4 would include the ones that have been sitting there for one
5 year or longer.

6 BOARD MEMBER HANSON: Uh-huh.

7 BOARD MEMBER HULME: Do they need to have a
8 permit, though, to be under -- fall under this --

9 MS. ANDERSON: To?

10 BOARD MEMBER HULME: Do they have to be a
11 permitted facility or could it be a waived facility or --

12 MS. ANDERSON: Yeah, the way this
13 regulation is written right now, they do not have to have a
14 permit, no.

15 BOARD MEMBER HULME: Okay.

16 MS. ANDERSON: So we're back to the -- a
17 couple things have to happen here. You can decide if you
18 want to modify this, you need to put a proposal out there
19 to modify the language. If it includes inserting that word
20 "stationary," then you can do that. Then you'll want to
21 probably take some comments from the public, if they have
22 them. And I suggest that you do this rule by rule, because
23 they're all completely different rules --

24 BOARD MEMBER BROWN: Sure.

25 BOARD MEMBER HANSON: Be good.

1 MS. ANDERSON: -- make some change.

2 BOARD MEMBER BROWN: I'm just looking to
3 see where we could insert "stationary."

4 MS. VEHR: Can I interrupt just one second?

5 BOARD MEMBER BROWN: Yes.

6 MS. VEHR: This is Nancy. In terms of
7 adding clarity, and I believe someone mentioned also the
8 word "New Source." In our Chapter 1 regulation --

9 BOARD MEMBER BROWN: Yes.

10 MS. VEHR: -- new source is defined to mean
11 any stationary or portable source, the construction or
12 modification of which commence after the effective date of
13 regulation, prescribing standard of performance of such
14 source. So the actual term "new source" is defined to mean
15 a stationary or portable source.

16 BOARD MEMBER HANSON: Good.

17 BOARD MEMBER BROWN: This language will be
18 all in the same document; one, two, three?

19 MS. ANDERSON: Uh-huh.

20 BOARD MEMBER BROWN: But if we were to add
21 "stationary," I'm just looking for an appropriate place to
22 insert it, if everybody decides that's what we need to do.

23 BOARD MEMBER HANSON: What I was thinking,
24 if I may, of paragraph D, just in front of diesel engines,
25 you know, stationary -- visible from stationary diesel

1 engines.

2 MR. DIETRICH: Cole has a question.

3 MR. ANDERSON: Yeah, Cole Anderson.

4 We might also want to add portable to that, to be
5 consistent with the definitions. We have stationary and
6 portable together.

7 BOARD MEMBER HANSON: Sure.

8 BOARD MEMBER BROWN: Good point.

9 BOARD MEMBER HULME: That's what Nancy was
10 trying to --

11 BOARD MEMBER HANSON: Uh-huh.

12 MS. VEHR: The other reason I was bringing
13 this up was in light of looking at expanding regulations
14 versus using our existing regulations.

15 BOARD MEMBER BROWN: Right. Don't want to
16 change the meaning of something upstream.

17 BOARD MEMBER HANSON: Yeah. Okay.

18 MR. DIETRICH: Will that do it, stationary
19 and portable in front of diesel engine in that sentence?

20 BOARD MEMBER HANSON: Uh-huh. Yeah.

21 BOARD MEMBER BROWN: Before we go further,
22 do we need to discuss -- have any public input on this?

23 MS. ANDERSON: You need to at least offer
24 it. They can --

25 BOARD MEMBER BROWN: Does anyone need to

1 come forward and comment on this?

2 MR. TRAVIS: I didn't sign up, but I would
3 like to --

4 BOARD MEMBER BROWN: Just come forward and
5 state your name.

6 MR. TRAVIS: -- comment.

7 Glenn Travis with Frontier Refining in Cheyenne.
8 The startup and shutdown is one thing, and well taken on
9 what could be applied there. But on the malfunction side,
10 a practical application is -- is on the repair you're going
11 to have to troubleshoot, which usually causes these engines
12 to have to be run. You make a conscious effort to start it
13 up and run it when you know it's going to be out of
14 compliance, so the mechanics, especially diesel engines,
15 can look at this kind of stuff. So is there any way we
16 can, with the Section 1 -- or Chapter 1, Section 5 take
17 care of that also? I just don't want any extra liability.
18 I'm trying to repair -- and diesel engines can be nasty.

19 MR. ANDERSON: Right. Cole Anderson,
20 again.

21 I would say that the Chapter 1, Section 5 is --
22 gets back to the enforcement discretion. So I think there
23 would be some opportunities there to cover a situation like
24 that in repair and malfunction, I guess.

25 MR. TRAVIS: And do you see that as

1 notification beforehand, before we went out to establish
2 repairs or try, or something after the fact, if we did? I
3 mean, you're going to run into it, but -- so it would be a
4 prenotification-type thing?

5 MR. ANDERSON: I think it could be that,
6 but I defer that to my colleagues in compliance on --

7 MR. TRAVIS: Just a thought, a concept to
8 look at. Thank you.

9 MS. ANDERSON: I can say one thing about
10 the Chapter 1, Section 5, which is our malfunction
11 provisions, require that a facility notify us within 24
12 hours once a malfunction has been initiated, and as well as
13 the documentation in that -- are you familiar with this --

14 MR. TRAVIS: Yes. Yes.

15 MS. ANDERSON: So you've used it before.

16 MR. TRAVIS: Yes. I'm running it back
17 through my mind to make sure how this all plays out. Yes,
18 ma'am, I'm with you.

19 MS. ANDERSON: So I think what you're
20 talking about is bringing in a diesel engine in the midst
21 of a malfunction for some other equipment; is that correct?

22 MR. TRAVIS: No, just a technician to
23 troubleshoot for repairs. You're going to have to see, you
24 know, while it's running, and it can be -- diesels are
25 notorious, but you really can't troubleshoot for the repair

1 while it's shut down a lot of times.

2 MS. ANDERSON: Right. So I -- I --

3 MR. DIETRICH: That's a variation of what
4 everybody considers a malfunction, which is normally an
5 unplanned event. This is more of a repair. We know
6 something's not quite right, we want to tweak it a little
7 bit, so we want to notify the Department ahead of time that
8 we may have some excess emissions?

9 MR. TRAVIS: Well, on malfunction, you have
10 opacity issue, your first thing is to shut the engine down.
11 Now, to troubleshoot that repair, you're going to start it
12 back up, when you know there's something wrong with it, and
13 it's going to probably emit opacity. So, yeah, you
14 mitigate it by shutting it down, but some point in time,
15 you got to find out what's wrong and fix it.

16 MS. ANDERSON: Right. And I believe that
17 the provisions do allow for you to explain what you have to
18 do to correct the problem, and I think as long as you're
19 documenting it and clearly laying out the -- you need to
20 run the equipment in order to troubleshoot it, that can be
21 part of the solution.

22 MR. TRAVIS: And then going through the
23 whole scenario in my mind -- this is practical applications
24 out in the field. We have standby engines, diesel engines,
25 that do not run continuously and -- sporadically, you go to

1 run it, you start it up, then you have your, you know, you
2 see it's not run properly, you shut it down immediately,
3 that really wouldn't come within that 24-hour notification,
4 but I think that would be -- I think I see where you can
5 handle it there. We just have to be cognizant. Okay.

6 MS. ANDERSON: All right.

7 BOARD MEMBER BROWN: Any other comments,
8 concerns?

9 Okay. Yeah, I think what we need is a motion to
10 adopt the language, remove the strikeouts --

11 BOARD MEMBER HANSON: Yeah.

12 BOARD MEMBER BROWN: -- and add the words.

13 So we'll do this in two parts. I guess we'll
14 handle this first change first, and then just handle the
15 incorporation by reference second.

16 MS. ANDERSON: Okay.

17 BOARD MEMBER BROWN: Would that be okay?

18 MS. ANDERSON: Yeah.

19 BOARD MEMBER HULME: I move to insert the
20 words "stationary or portable" on the first sentence
21 between the words "from and diesel --

22 THE REPORTER: I'm sorry. Can you slow
23 down. Can you repeat that?

24 BOARD MEMBER HULME: I would move to insert
25 the words "stationary or portable" in the first sentence of

1 Section D, so it would read emission of visible air
2 pollutants from stationary or portable diesel engines --

3 THE REPORTER: I need you to slow down.

4 BOARD MEMBER HANSON: I thought you were
5 faster than that.

6 THE REPORTER: Just repeat that sentence.

7 BOARD MEMBER HULME: Section D would read
8 the emissions of visible air pollutants from stationary or
9 portable diesel engines as determined by qualified
10 observer, et cetera, et cetera, and then delete the
11 language as stricken in our draft, the last sentence of
12 that section.

13 BOARD MEMBER BROWN: Do we have a second?

14 BOARD MEMBER HANSON: Second. I guess I'm
15 the only one.

16 BOARD MEMBER BROWN: Motion's moved and
17 seconded that we will add the language to include
18 "stationary and portable" in the first sentence, strike the
19 language that's proposed to be taken out of that phrase.

20 BOARD MEMBER HULME: Discussion.
21 Clarification quickly.

22 BOARD MEMBER BROWN: Yes.

23 BOARD MEMBER HULME: Does it matter if it's
24 "stationary and portable" or "stationary or portable,"
25 because I read "portable or."

1 MS. ANDERSON: I think "or" is probably
2 preferable.

3 BOARD MEMBER HANSON: Yes, "or" is better.

4 BOARD MEMBER HULME: All right.

5 BOARD MEMBER BROWN: Okay. All right.

6 It's been moved and seconded. All in favor?

7 BOARD MEMBER HULME: Aye.

8 BOARD MEMBER HANSON: Aye.

9 BOARD MEMBER BROWN: All opposed?

10 BOARD MEMBER HANSON: We still need to
11 update the dates on the --

12 BOARD MEMBER BROWN: I was just going to do
13 that next is all.

14 Section 9, incorporation by reference, striking
15 2011, inserting 2012. Do I have a motion?

16 BOARD MEMBER HANSON: So moved.

17 BOARD MEMBER HULME: Seconded.

18 BOARD MEMBER BROWN: Any discussion?

19 Any -- okay. Its been moved and seconded. All in favor?

20 BOARD MEMBER HANSON: Aye.

21 BOARD MEMBER HULME: Aye.

22 BOARD MEMBER BROWN: All opposed?

23 Motion approved, Section 9, incorporation by
24 reference.

25 Okay. Chapter 5, National Emission Standards.

1 MS. ANDERSON: Right. Chapter 5, National
2 Emission Standards, and we're going to start in Section 2
3 with some changes indicated on page 5-7. This is the --
4 and you'll notice you're getting a very thin copy, as we --
5 we are only giving you the changes. We're trying to save
6 paper, maximize resources. You can always look at the
7 entire thing by going online if you want to see the context
8 of the entire chapter. But some of these, particularly
9 Chapter 5, is I think well over a hundred pages, so it
10 seems kind of ridiculous to print that out for one
11 paragraph here.

12 So on Chapter -- in Chapter 5, Section 2, the
13 definition of commenced is what we're going to focus on.
14 This is a definition that basically defines when
15 construction starts at a facility. They come in, they get
16 an application, and then they start construction. They
17 start building this facility. And it is a very important
18 definition, because lots of other things key off of it,
19 including applicability for other provisions.

20 So in the -- the reason that we're now changing
21 it is because we have some old language in there that's no
22 longer consistent with the federal definition. And
23 those -- that has to do primarily with this reference to
24 Chapter 6, Section 2 in our regs. That old reference was
25 in there in the '80s. When we first brought the New Source

1 Performance Standards into Wyoming regs, we tried to
2 customize a lot of the material that came in, because we
3 had a lot of time frames that we were trying to jive. We
4 had -- we had Chapter 6, Section 2 time frames for when the
5 facility had to do testing, when the facility had to do
6 performance testing, when the facility had to turn in this
7 and that, and we wanted these things to match up. In fact,
8 the general provisions section, which is a large section of
9 the New Source Performance Standard, was all customized.

10 Over time we haven't been able to keep up with
11 all that, making sure it keeps up with federal general
12 provisions. At this point in time I think what we'd like
13 to do is just get rid of the old customized one and replace
14 it with the new one, so we no longer have that reference
15 back to Chapter 6, Section 2. And you'll see on page 5-8
16 the bulk of the new -- I guess it starts on the bottom of
17 5-7 and goes on to 5-8, but I will read it aloud for the
18 record. So what we're proposing is that "commenced" means
19 with respect to the definition of new source in Section
20 111(a)(2) of the Act, that an owner or operator has
21 undertaken a continuous program of construction or
22 modification or that an owner or operator has entered into
23 a contractual obligation to undertake and complete, within
24 a reasonable time, a continuous program of construction or
25 modification.

1 And that's a pretty long-winded way of saying
2 that "commenced" really means once you start continuously
3 constructing, or you're obligated to continuously move
4 forward. You can't pour a concrete pad in the middle of a
5 piece of property, ignore it for 11 months, and then expect
6 us to honor that as commenced construction. So it has to
7 be continuous.

8 BOARD MEMBER BROWN: Any questions from the
9 Board?

10 Any questions/discussion from public? No?

11 MS. ANDERSON: We have one other change on
12 page 5-44, and this we've now moved into the Section 3 of
13 Chapter 5, and that has to do with National Emission
14 Standards or Hazardous Air Pollutants. What you'll see
15 prior to the proposed changes is a big table loaded with
16 organic compound IDs, those are all hazardous air
17 pollutants as have been identified by the Environmental
18 Protection Agency. I had asked some of my staff to make
19 sure that we were keeping up to date with that list, and
20 she got back to me, said yes, the list looks great, but the
21 footnotes are out of date. So today we are coming to you
22 with some updates to the footnotes.

23 So that's what's shown on page 5-44. We've
24 crossed out the old footnotes and simply put in the new
25 ones. They were references to how you -- which organic

1 chains in these huge organic compounds are identified and
2 which ones aren't, is what those footnotes are all about.
3 And beyond that, I can't tell you much, because I'm not a
4 chemist.

5 BOARD MEMBER HANSON: Yeah, that's probably
6 correct.

7 MS. ANDERSON: But it does come straight
8 out of the CFR.

9 BOARD MEMBER BROWN: Any discussion on
10 footnote clarification? Any comment, concern from the
11 public?

12 We need a motion.

13 BOARD MEMBER HULME: Can I ask a clarifying
14 question, back on the --

15 MS. ANDERSON: Uh-huh.

16 BOARD MEMBER HULME: -- definition of
17 commenced --

18 MS. ANDERSON: Commenced.

19 BOARD MEMBER HULME: -- construction.

20 Sorry, it pops in my head slow.

21 MS. ANDERSON: Go ahead.

22 BOARD MEMBER HULME: What would the
23 Division consider continuous program of construction? I
24 presume that's kind of up to the discretion of you guys,
25 but, you know, is it like putting a nail in a day,

1 continuous program construction, or -- I know I'm kind of
2 getting nitpicky, but I'm just curious.

3 MR. DIETRICH: Under our regulation,
4 especially in New Source section of the regulations, we try
5 to define the period of time beyond which the permit is no
6 longer valid, because you haven't had a continuous
7 construction. It's usually two years. At the federal
8 level, just so you know, it's eight months, is our
9 differences in our regs versus EPA's. But that is what
10 that is getting at, correct?

11 BOARD MEMBER HULME: I'm just wondering if
12 someone is sort of -- you know, Tina mentioned pouring of a
13 concrete pad, letting it sit, and say, well, we started
14 construction and it's -- that wouldn't be continuous
15 program of construction, which is why you're making this
16 change, but there might be other ways to sort of circumvent
17 what could be considered continuous program construction.
18 Is it --

19 MR. DIETRICH: I don't --

20 MS. VEHR: This is --

21 MR. DIETRICH: Go ahead, Nancy.

22 MS. VEHR: This is Nancy, and I just wanted
23 to make a couple of points that will answer -- hopefully
24 answer your question, Diane.

25 BOARD MEMBER HULME: Okay.

1 MS. VEHR: One is under Chapter 6, Section
2 2, the New Source Construction Permitting Program, there is
3 a definition of "commenced construction" that is specific
4 to New Source Review. This definition in this Chapter 5 is
5 related to the New Source Performance Standard --

6 BOARD MEMBER HULME: I understand, okay.

7 MS. VEHR: -- and they do not need to be
8 the same definition.

9 BOARD MEMBER HULME: Okay. Okay.

10 MS. VEHR: The second point is when a
11 source has commenced construction as a very fact-specific
12 determination, and the Division has looked at that in the
13 past, and it is a pretty intensive -- document intensive
14 and/or site-specific investigation. So there's not -- this
15 has been my experience so far that there has not been a
16 hard and fast line. Sometimes there's a little bit of gray
17 that requires a lot more facts to flush out.

18 BOARD MEMBER HULME: Nancy, that does help.
19 Thank you.

20 MR. DIETRICH: Okay.

21 MS. VEHR: Okay.

22 BOARD MEMBER BROWN: Any other comments?

23 Klaus.

24 BOARD MEMBER HANSON: I just have maybe a
25 language problem.

1 Commenced to me is a point at which something
2 starts, while continuous refers to a duration. And so in
3 some ways for me the -- the definition commenced isn't
4 addressed in -- in what is done in the -- in the
5 definition. Maybe something like has commenced in the
6 second line on the -- as second page, has commenced and
7 undertaken a continuous program. You know, you see what
8 I'm talking about? Commenced refers to a point in time.

9 MS. ANDERSON: Uh-huh.

10 BOARD MEMBER HANSON: And undertake, you
11 know, you undertake something. It's sort of a duration.
12 So the definition doesn't fit the word "commenced" or the
13 "commenced" doesn't fit the definition completely. So
14 maybe you have to repeat the word or something like that.
15 If that's not a problem for somebody else -- I come from a
16 language background, and that's my problem here.

17 MS. ANDERSON: Yeah. First response is
18 this is a federal definition in a federal program, so we're
19 trying to not customize it. We're trying to stick with
20 what the federal definition is --

21 BOARD MEMBER HANSON: Okay.

22 MS. ANDERSON: -- for this federal program.
23 There are many things that EPA writes that I have
24 issue with as well.

25 BOARD MEMBER HANSON: Okay.

1 MS. ANDERSON: But I think in this
2 particular instance, the disconnect -- it's complicated,
3 because when a facility does commence, it takes more than a
4 moment in time to actually demonstrate that -- that
5 process --

6 BOARD MEMBER HANSON: That -- okay.

7 MS. ANDERSON: -- that process that's
8 actually been initiated. So that's the best explanation I
9 can give you.

10 BOARD MEMBER HANSON: If the Feds have
11 figured it out, that's fine for me, then.

12 MS. ANDERSON: I wouldn't go that far.

13 BOARD MEMBER BROWN: From an industry
14 standpoint, I don't think it's a negative.

15 MR. DIETRICH: Right.

16 BOARD MEMBER BROWN: We've read this enough
17 to know that we are happy --

18 MR. DIETRICH: Yes. We pick and choose
19 what we want to change language from the EPA's version of
20 definition where it suits Wyoming the best.

21 BOARD MEMBER HANSON: Good. Thank you.

22 MS. ANDERSON: We do appreciate your
23 careful reading of this, and for the nonfederal
24 definitions, jump right in there, yes.

25 BOARD MEMBER HANSON: Thank you.

1 BOARD MEMBER BROWN: Okay. Any other
2 discussion?

3 BOARD MEMBER HANSON: No.

4 BOARD MEMBER BROWN: Can I have a motion?

5 BOARD MEMBER HULME: I'll move to accept
6 the language change on page 5-8, under the definitions for
7 commenced, as provided.

8 BOARD MEMBER HANSON: Second.

9 BOARD MEMBER BROWN: Okay. It's been moved
10 and seconded to accept the changes of -- the new
11 definition, strike the old definition, add the new
12 definition that meets the federal regs as written.

13 May I have a vote? All in favor?

14 BOARD MEMBER HANSON: Aye.

15 BOARD MEMBER HULME: Aye.

16 BOARD MEMBER BROWN: All opposed?

17 It's been moved and seconded and voted. We
18 accept the language as written in the document.

19 Now we have a motion for --

20 BOARD MEMBER HANSON: I move to update the
21 footnote number 2 on page 5-44 as stated.

22 BOARD MEMBER HULME: Second.

23 BOARD MEMBER BROWN: It's been moved and
24 seconded to approve the footnote number 2 to match the CFR.
25 All in favor?

1 BOARD MEMBER HANSON: Aye.

2 BOARD MEMBER HULME: Aye.

3 BOARD MEMBER BROWN: All opposed?

4 Approved.

5 Okay. Next Chapter 8, nonattainment area
6 regulations.

7 MS. ANDERSON: Now, we're going to switch
8 horses a bit. Brian Bohlmann is going to give you some
9 background information on how to collect emission
10 inventories, because that's what this regulation is all
11 about, and then Jeni is going to get up here and talk to
12 you about the specific rule changes.

13 See if we can make all this high-tech stuff work
14 twice.

15 MR. BOHLMANN: Okay, board members, my name
16 is Brian Bohlmann. I am the Air Quality Division's
17 emission inventory supervisor. And this presentation is
18 going to give you brief overview of the Air Quality
19 emission inventories that we have been collecting, and
20 specifically focusing on those inventories that we've
21 collected over the past nine years for what is now defined
22 as the Upper Green River Basin Ozone Nonattainment Area.

23 MS. POTTER: You just want me to do it?

24 MR. BOHLMANN: Go ahead.

25 First, what is an emission inventory? This is

1 the calculation of pollutants emitted into the atmosphere
2 due to some type of process from specific sources at
3 specific locations. These are based on short-term emission
4 rates, such as grams per horsepower hour, and then
5 converted into long-term emissions, such as tons per day or
6 tons per year.

7 Why do the states need this inventory data?
8 First, under the federal regulations 40 CFR, part 51,
9 subpart A, the states must report inventory emission
10 sources located on nontribal lands to the EPA. This
11 information is provided to the EPA for their national
12 emissions inventory, and it is currently submitted
13 electronically from the Air Quality Division to the EPA.

14 When inventory data is reported to EPA annually
15 for all of our major sources by December 31st for all
16 inventory -- emissions that occurred in the previous
17 calendar year, and then triennially, or once every three
18 years, for all sources located in the state of Wyoming.
19 Uses of the inventory information, there's various things
20 that we do here, but we can use it to track industry
21 development. We do some trend analyses with this. We use
22 these as inputs for air dispersion models. We can compare
23 it with ambient monitored data. And we can use this to
24 assist us with making policy decisions. And the website
25 provided gives a summary of actual emission inventories

1 that we collected over the years to provide information to
2 the public.

3 What's reported to the Air Quality Division from
4 industry? We have actual throughputs for the monitoring
5 period, such as tons of coal mined per year or tons of coal
6 burned per year for these sources; vehicle miles traveled;
7 component counts for the different industries; equipment
8 operating hours. Other sources would be such as acres
9 burned for smoke management programs.

10 How some of these emissions are determined, there
11 are various software programs out there in the oil and gas
12 industry. There is a ProMax and GRI-GLYCalc for
13 calculating emissions from storage tanks or dehydration
14 units moved in the mobile software program to calculate
15 emissions from vehicle traffic. There are various EPA
16 emission factors, among other things, that we use.

17 Focusing on some of our inventory sources, we've
18 got the nonproduction sites in the UGRB or the Upper Green
19 River Basin. These include the compressor stations, liquid
20 gathering facilities, water disposal facilities for
21 produced water. We've got bulk crude oil stations and some
22 gas plants in the area. You know, at the production sites,
23 there are some wellhead engines, heaters, storage tanks.
24 We're also looking at the drill rigs, completion of
25 emissions, and various other operations that are associated

1 with the production sites.

2 And then other sources in the Upper Green River
3 Basin include both the on-road and nonroad mobile
4 equipment, smoke from prescribed and wildland fires, and
5 then the construction industry, such as gravel pits,
6 crushing and screening operations and that sort of
7 information.

8 Can one compare inventories from one year to the
9 next? It depends on why are they different. Some of these
10 have intended different uses, whether they are for entire
11 calendar year versus a partial year. Calculation
12 methodologies do improve over time. The number of sources
13 change. Field-specific values go from -- we're going from
14 field-specific values versus generalized statewide values.
15 And then the inventory areas have changed over time, so
16 there you're collecting, again, more sources also.

17 Specific to the ozone nonattainment area, the
18 first year we collected emission inventories was for the
19 calendar year 2004. And these were from production sites
20 only within the Jonah Field and Pinedale Anticline. We've
21 later expanded those to a February 1st through March 31st
22 short-term inventory, which we consider our wintertime
23 inventory, and that was first collected in 2007. You know,
24 and we used this to -- as supplemental information that has
25 been collected for our Upper Green River Basin Winter Ozone

1 Studies or UGWOS. Some of the differences also is we
2 expanded this just from the Jonah and Pinedale production
3 fields to all of Sublette County.

4 And then the Upper Green River Basin itself we
5 expanded our annual inventories from -- in 2008 to include
6 all of the proposed ozone nonattainment area at that time,
7 which is our current nonattainment area. So as you can
8 see, the area in which we've -- our current inventory is
9 substantially different compared to the time frame when we
10 first started.

11 So the evolution of emissions for the oil and gas
12 industry itself, calendar year was 2004 through '07. When
13 we were inventorying this area, we started off with eight
14 different sources and seven pollutants for the Jonah and
15 Pinedale Anticline development area. The winter inventory
16 that were first collected in -- for 2007 were the same
17 sources, but we increased that up to 22 pollutants with the
18 majority of those increases being speciated hydrocarbon
19 emissions.

20 In calendar year 2008 and for winter of 2009
21 inventories, we were, again, increasing the number of
22 sources from 8 to 14, upgraded the number of pollutants
23 that we were collecting inventory information on up to 24,
24 and we also developed some fieldwide equations to assist
25 the industry in reporting emissions so that with our tank

1 flashing equations, industry only needs to report operating
2 pressure and total production, and then the equations are
3 built into our spreadsheets to calculate emissions.

4 MR. DIETRICH: Point of clarification,
5 Brian. When you say 15 sources and 14 sources, that's
6 source types, right?

7 MR. BOHLMANN: That's correct.

8 MR. DIETRICH: So there's more than just 14
9 sources.

10 MR. BOHLMANN: Yeah, these are source types
11 that are collected at each of the individual production
12 sites.

13 And then, again, in calendar year 2011, we
14 increased that up to 15 source types, where we were having
15 some confusion from a few operators as far as the
16 differences between reporting emissions on pneumatic pumps
17 versus pneumatic controllers at production sites. So there
18 was a clarification also to help them out, understanding
19 what type of information we were requesting. And then,
20 again, we've increased a number of pollutants up to 25.

21 So that was just a brief overview of the
22 inventories, what we've collected over the past several
23 years in the -- what's currently the ozone nonattainment
24 area.

25 Yes.

1 BOARD MEMBER HANSON: The first question,
2 your inventory only includes human-produced pollutants.
3 I'm thinking, you know, we have forest fires that occur
4 naturally. They pollute. Are they included in your -- in
5 your estate -- in your estimates?

6 MR. BOHLMANN: What we've been tracking --
7 or showing in this presentation are just the emissions
8 associated with oil and gas production facilities.

9 BOARD MEMBER HANSON: Oh, okay.

10 MR. BOHLMANN: We do have a separate
11 program that looks at -- or smoke management program looks
12 at emissions from prescribed and wildland fires. So we do
13 collect information on those so that we could determine on
14 a daily basis, based off of the vegetation matter that's
15 been burned, the total acres for that day, we can then go
16 back through and calculate emissions associated with those
17 prescribed and wildland fires.

18 BOARD MEMBER HANSON: The other question,
19 at the beginning there was something about excluding tribal
20 lands, but then it says for the three-year report
21 everything. Does that include, then, the tribal lands?

22 MR. BOHLMANN: What we have been given
23 information -- or -- or what information we do collect, is
24 through the nontribal land inventories as based off of the
25 federal regulations. So...

1 BOARD MEMBER HANSON: Again, so it does
2 include it or doesn't include it?

3 MR. BOHLMANN: Does not include the tribal
4 land sources.

5 BOARD MEMBER HANSON: Even the three-year
6 report?

7 MR. BOHLMANN: Okay. Yes.

8 BOARD MEMBER HULME: Brian, based on the
9 history of this, since it started, what are you guys
10 seeing? I mean, what's -- are you finding this helpful?
11 Are you seeing trends? Are the numbers --

12 MR. BOHLMANN: Yes.

13 BOARD MEMBER HULME: -- going up, down,
14 generally?

15 MR. BOHLMANN: Some of the trends that we
16 are seeing over the years is that because of the work in
17 conjunction with our permitting program, even though the
18 number of sources and at well sites, and the number of
19 production wells in the upper Green River Basin continue to
20 increase. We have seen trends showing that actual overall
21 emissions are decreasing.

22 MR. DIETRICH: To add to what Brian is
23 explaining. We've seen pretty significant reductions over
24 that period of time in VOCs and NOx emissions, while the
25 production of oil and gas has increased.

1 BOARD MEMBER HANSON: Yeah.

2 MR. BOHLMANN: And this has been jointly
3 working with industry to determine what sources can be
4 controlled and how effectively we can do that.

5 BOARD MEMBER HULME: Thanks.

6 BOARD MEMBER BROWN: Since that is a
7 nonattainment area, is it harder for the industry, like a
8 new industry, to come in and permit an application
9 resource?

10 MR. DIETRICH: It is more difficult to --
11 for brand-new source to come into nonattainment area, as
12 opposed to other parts of the state, mainly because of our
13 requirements to offset the ratio of the 1.5 to 1 and 1.1 to
14 1 in the VOC and NOx respectively. And even though
15 everyone meets those offsets, it's harder to get to those
16 offsets as a new source coming into the area.

17 BOARD MEMBER BROWN: Yes.

18 Thank you. Any other questions for Brian?

19 BOARD MEMBER HULME: No.

20 BOARD MEMBER BROWN: Any questions from the
21 public of the presentation?

22 Thank you.

23 MR. BOHLMANN: Thank you.

24 MS. CEDERLE: Good morning. My name is
25 Jeni Cederle, and I'm with Air Quality Division. And I'm

1 going to take off from where Brian started you. He gave a
2 nice overview of our emission inventory process and a
3 timeline, and that has been -- we've been at this for quite
4 some time now. And we'll be taking a look at Chapter 8,
5 Nonattainment Area Regulations. We'll be seeing a little
6 bit of a facelift to Chapter 8 today. We'll see some
7 changes to Section 1, introduction to Nonattainment Area
8 Regulations; Section 5, Ozone Nonattainment Emission
9 Inventory Rule. That's the bulk of the change you'll see
10 today. Sections 6, 7, 8 and 9, as well as Section 10.

11 Before we get started, though, I'd like to give
12 you a little bit of background as to -- into the -- how
13 this rule is coming about, why the changes to Chapter 8 are
14 occurring. And what happens is as a result of being
15 designated nonattainment for ozone in the Upper Green River
16 Basin, the Clean Air Act, Section 182, requires that states
17 collect a statement of emissions from any facility or
18 source in the nonattainment area.

19 We were designated nonattainment July 20th of
20 2012. Our nonattainment area consists of Sublette County,
21 portions of Lincoln and Sweetwater Counties, and I went
22 ahead and brought you a map to kind of refresh your memory
23 of what the nonattainment area looks like.

24 The Clean Air Act -- I'm sorry. Once we're
25 designated nonattainment for ozone, the Clean Air Act gives

1 us two years before the requirement for the emission
2 inventory statement, or, as we're calling it, emission
3 inventory rule, goes into effect. This is where the
4 requirement of the Clean Air Act is to submit to the State
5 an annual inventory of actual emissions of nitrogen oxides
6 or NOx and volatile organic compounds or VOCs.

7 It's the reaction of -- the two air contaminants
8 react in sunlight to create ozone, ground-level ozone,
9 which can be harmful to public health. And so what we did,
10 as the Clean Air Act requires, is the Division developed a
11 rule that applies to any facility or source in the ozone
12 nonattainment area, and we require the annual submission of
13 NOx and VOC emissions.

14 Now, when the drafting group got together and
15 started thinking about how to construct this rule, there
16 were some main framework pieces that we really wanted to
17 keep intact with our processes already in place that Brian
18 brought to your attention today. We are, you know,
19 actively collecting emission inventories, and we've been
20 doing this a number of years, and we really wanted to
21 capitalize on the results and actions that are already
22 happening.

23 So we had four big framework pieces as we
24 compared what the requirements of the Clean Air Act are
25 versus our process that is already in place. And one of

1 those was that we were going to keep it focused to ozone
2 nonattainment areas. Right now the Clean Air Act --
3 provisions of the Clean Air Act pertain to ozone mainly,
4 and that they call out the emission inventories of NOx and
5 VOCs, precursors of ozone.

6 The second piece of the framework that we felt
7 was really important for this rule is that can be applied
8 anywhere in the state. So if, for instance, another area
9 of the state were ever to go nonattainment for ozone -- and
10 right now the EPA is looking to propose a lowering of the
11 ozone standards later this year, late December of this
12 year.

13 The third piece is we felt it was very important
14 to maintain -- maintain consistency with how our emission
15 inventories are already collected. The Clean Air Act
16 requires NOx and VOC specifically, whereas we, as a
17 division, are already -- you'll be -- request additional
18 air contaminants as well. And this is part of what helps
19 us create the trends or ground data and anything -- any
20 other new projects that might come along. It really does
21 preserve the process that's already in place, and it helps
22 us, you know, compare to the ambient monitoring data just
23 modeled to Brian's slide, just kind of let you know how
24 important these emission inventories have been to us in the
25 past several years.

1 The fourth piece of the framework that the
2 drafting group wanted to keep in place was to avoid
3 duplicative work for sources already submitting
4 inventories, submission inventories, under our state regs
5 right now. We're really not interested in making this an
6 exercise in paperwork.

7 So right now I'm here before you. I'm letting
8 you know that Chapter 8 pertains to areas in the state that
9 are nonattaining the National Ambient Quality Standards,
10 and I'm asking the Board for a recommendation to send
11 Chapter 8 through to the EQC for rulemaking, and just
12 wanted to recap to you before we get into the core changes
13 to Chapter 8, the rule itself, is that Air Quality -- we
14 have been requesting emission inventories from industry for
15 many years. Majority of our sources are accustomed to
16 submitting an annual or partial inventories or even EPA's
17 triennial, so it's not a real big new piece we're throwing
18 at them. It's something they've been seeing for years, and
19 that our goal was to work from this process that Brian
20 introduced to you as we move through.

21 So if we could take out Chapter 8, our
22 Nonattainment Area Regulations, and you'll see here on the
23 front page that we've gone ahead and done a little bit of
24 restructuring. Section 5, which used to be our
25 incorporation by reference, has been moved down to

1 Section 10. We introduced the rule in Section 5 as Ozone
2 Nonattainment Emission Inventory Rule. Sections 6, 7, 8
3 and 9 have been reserved. And Section 10 has now been
4 updated to incorporation by reference.

5 Moving on to Section 1, the introduction on 8-1.
6 We've gone ahead and included the Section 5, a brief
7 synopsis of what the rule entails, establishing
8 requirements for submittal of emission inventories from
9 facilities or sources located in an ozone nonattainment
10 area as a requirement of the Clean Air Act, Section 182.

11 We've gone ahead and reserved Sections 6 through
12 9, and Section 10 has been changed to the incorporation by
13 reference. And as Tina's mentioned before, added you've
14 seen this before, the back end of a lot of our -- most of
15 our chapters in the regs and added to make sure that any
16 updates to the CFR are captured by our regulations.

17 Now on to the fun stuff. If you change to 8 --
18 page 8-84, we'll get into Section 5, which is a new
19 addition. All of this language is newly added to the
20 chapter. This is a new rule, as a requirement of being
21 designated nonattainment, and it's a Clean Air Act
22 requirement of us. So this is a brand-new rule.

23 Starting with Section A, Applicability. This
24 rule applies to a facility or source operating in an ozone
25 nonattainment area as identified by 40 CFR 81. 40 CFR 81

1 is the official listing of ozone nonattainment areas. This
2 40 CFR 81 will be changed and updated should any additional
3 areas go on attainment for ozone, and would, therefore,
4 become subject to this rule.

5 So once you've found that you're in a designated
6 nonattainment area, you're moving into A -- big A -- A, B,
7 C, which are applicability regs. So if you're in a
8 nonattainment area for ozone, and your facility or source
9 has been permitted under the Wyoming Air Quality Statutes
10 and Regs, Chapter 6 Permitting Regulations, this rule
11 applies to you, or if you're an individual oil or gas
12 facility or source.

13 Now, what we did with that B applicability piece
14 was to get after sources that may not be permitted or might
15 not have been modified for eons, so that we're capturing
16 that piece of the puzzle. This rule applies to you or if
17 your emissions of NOx or VOCs are greater than 25 tons per
18 year. And we have a little bit of a side piece with that,
19 where the Division wants to main -- preserve how we are
20 collecting our air contaminants and our emission
21 inventories as it stands now. So the other piece of it is
22 if NOx or VOC emissions are greater than 25 tons per year,
23 we've already said you're applicable to the rule, but what
24 we're also asking for is that our rule will require both
25 air contaminants be reported, even if one is lower than 25

1 tons per year. And that just feeds back into that ozone,
2 is it created by NOx -- the reaction of NOx and VOCs and
3 sunlight, so we really wanted to preserve the collection of
4 both air contaminants through this rule.

5 This rule, to get after the -- avoiding
6 duplicative statutory paperwork, you are -- satisfied this
7 rule if the source or facility already submits an emission
8 inventory, but required by specific provisions of our state
9 regs. So if you're -- it applies to you if you're
10 permitted, not permitted, the threshold of VOCs and NOx,
11 but if you're already submitting an emissions inventory to
12 us per our state regs, that -- this rule does not apply to
13 you.

14 Moving on to Section B, reporting and
15 recordkeeping. The reporting and recordkeeping
16 requirements of this rule are based off the information we
17 already asked for. Moving through Section B, you'll see
18 that we ask for location, owner, the nature of the
19 facility. We're asking for tons per year, maybe, versus
20 pounds per hour, air contaminants and whatnot.

21 Currently the Division requires two types of
22 emission inventories from industry and the Upper Green
23 River Basin, and these emission inventories already include
24 NOx and VOC emissions. As Brian pointed out to you, we've
25 had an annual and a winter, and this rule also identifies

1 the annual or partial emission inventory submission of the
2 actual NOx and VOC emissions that, according to our rule,
3 the annual emission inventory will be due April 30th for
4 emissions that occur the previous year. For example, if
5 your emissions inventory submission is due April 30th of
6 2015, it will be for the emissions from 2014, from the
7 January 1 to December 31 time period, just as Brian had
8 explained the annual before.

9 The partial emission inventory is due 90 days
10 after the end of a partial year time frame. This is done
11 to also maintain consistency with our current emissions
12 inventory requests; however, our partial year inventory
13 time frames are to be determined by the administrator, the
14 division administrator, if they become necessary. And that
15 would be along the lines of the winter inventory Brian
16 explained to you, which often adds supplemental information
17 through the inventory process.

18 This -- the partial inventory will also allow the
19 Division the ability to address months outside of the
20 current winter inventory, perhaps if another part of the
21 state were to go nonattainment for ozone. The winter
22 situation may not apply for the supplemental information,
23 so that allows us the opportunity to do that. Industry
24 will be required to submit an emission inventory annually
25 after the first submission as the requirement of the Clean

1 Air Act states. It will annually thereafter.

2 Moving on through Section B a little further,
3 we're into more of the reporting requirements. If you
4 change to page 8-85, we've kind of -- we've moved into
5 (iv), where we're talking more about what the report --
6 report requirements will be. Industry will maintain copies
7 of the emission inventory submissions, including how the
8 information was determined. They'll keep them for a period
9 of five years, and they'll make them available to the
10 Division upon request.

11 As we move through those sections, A, B, we're
12 down into (vi). And this is another set forth requirement
13 of the Clean Air Act, Section 182, is that our state rule
14 will, you know, ask that all emission inventory submissions
15 be certified being true, accurate, and complete by a
16 responsible official, to the best of their knowledge. And
17 we've incorporated that into our rule as well.

18 Moving on to Section C, Compliance, still on page
19 8-85. The Division wanted to avoid the assumption that
20 this rule replaces other obligations. The Division -- we
21 went ahead and added some language, and the language is not
22 to relieve an owner or an operator from the responsibility
23 to comply with any other applicable reporting requirements
24 set forth in any federal or state law, rule or regulation,
25 or in any permit. And we went ahead and went forth with

1 this language, because there are other Wyoming regulations
2 that may have alternate reporting requirements, and they
3 still need to be addressed by industry, maybe perhaps
4 something in the New Source Performance Standards section
5 requirements there might be something that just requires a
6 different reporting scheme.

7 In the end with our new rule, overall we're not
8 requiring the sources to do something completely brand-
9 spanning new. Majority of our sources are accustomed to
10 submitting an emission inventory to us, whether it be an
11 annual, partial, or EPA's triennial. And right now this
12 rule is going to codify a portion of what their -- we're
13 doing already to satisfy requirement of the Clean Air Act.

14 Moving to the bottom of page 8-85, you'll see
15 that Sections 6, 7, 8 and 9 we've decided to reserve, in
16 case there's ever any future work that needs to be done.
17 And then moving to the final page 8-86, Section 10 has been
18 updated, an incorporation by reference, and added to make
19 sure all updates in the CFR citations are captured in our
20 regulations, and we've gone ahead and updated that to the
21 most current one of 2012.

22 Are there any questions or comments?

23 Okay, Diana.

24 BOARD MEMBER HULME: Jeni, are -- emission
25 inventories are still used to assess fees, right, for

1 facilities that pay -- pay for emissions; is that correct?

2 MS. CEDERLE: I believe that's specific to
3 the Title V.

4 BOARD MEMBER HULME: Right, so --

5 MS. CEDERLE: Yeah.

6 BOARD MEMBER HULME: So major source
7 would -- it's already under Title V, which fall under -- is
8 there additional emission inventory requirements, then,
9 because of the nonattainment, and would they pay fees for
10 that as well?

11 MS. CEDERLE: As far as I know, that if you
12 look back to the applicability piece -- and if I'm getting
13 crazy, help.

14 BOARD MEMBER BROWN: Let Brian --

15 MR. BOHLMANN: Brian Bohlmann.

16 The Title V inventories are still -- facilities
17 are assessed a fee upon review of the inventories by the
18 Division. There are no other fees associated with
19 inventory submitted to us for the ozone nonattainment area.
20 And as Jeni explained in the rule, under Chapter 6, Section
21 3, there is a requirement for the major source inventories
22 to submit annual inventories to us. So any major source
23 within the ozone nonattainment area would not have to do an
24 additional annual inventory, but they would have to do a
25 partial year inventory, if requested by the Division.

1 BOARD MEMBER HULME: Thank you, Brian.

2 That answers my question.

3 MS. CEDERLE: Klaus.

4 BOARD MEMBER HANSON: Just one question in
5 that section on page 85 there, B6, it says by a responsible
6 official. Is that an industry official or a Division
7 official, because I was just wondering who's guarding the
8 henhouse here?

9 MS. CEDERLE: That would be an industry
10 official that we could come back to. When the -- the
11 inventories are submitted to us, we do go ahead and Q/A
12 those inventories, and if a glitch showed up, that would be
13 the person that we could go back to.

14 BOARD MEMBER HANSON: It still strikes me
15 as somebody guarding the henhouse or something.

16 MR. DIETRICH: No, it's not a new term,
17 when it comes to use of the term "responsible official."
18 We use that also in permitting, because that's who signs
19 the application. Some people affectionately call that the
20 "designated felon," because if you have to go after
21 someone, that's who you go after. That's the responsible
22 official. It's who from the company's certifying what
23 they're submitting to us is true.

24 BOARD MEMBER HANSON: Yeah, I think you've
25 answered my question, but not the way I -- I feel it should

1 be answered. I -- I think, you know, if -- if somebody
2 monitors this thing, it should be somebody from the
3 division rather than -- you know, we see this so often in
4 this kind of environment that the people who are doing the
5 damage are also doing the -- doing the monitoring, you
6 know, and that doesn't comport.

7 BOARD MEMBER BROWN: I can speak to that,
8 too, because we submit an emissions inventory every year.
9 We'll put it together, and then we go talk to our plant
10 manager, who is the responsible official. So he's signing
11 his name on the line that we did our job correctly. And it
12 goes to Cheyenne, and they review it to make sure there are
13 no errors or discrepancies and get back with us. But our
14 plant manager relies on us to do it right or they go after
15 him.

16 MR. DIETRICH: If you think of it this way,
17 Klaus, we depend on a lot of self-reporting people we
18 regulate, in the districts we regulate, and we write those
19 permits accordingly. We can't be in every place at one
20 time, but the true test of everyone's effort, ours and the
21 industries', is what the ambient monitors show out there on
22 the ground. So if we're all doing our jobs right, we
23 eventually show that we get back into the compliance.

24 BOARD MEMBER HANSON: Something isn't
25 right, doesn't jive with what they reported. Sure. Thank

1 you.

2 MS. CEDERLE: Sure. Any questions from the
3 public?

4 Now, there's a bit of protocol here. I did
5 receive some written comment from Anadarko Petroleum
6 Corporation, as well as Wyoming Outdoor Council. I'm not
7 quite sure how the Board would like me to proceed. We can
8 go through those with responses.

9 BOARD MEMBER BROWN: I think we should.

10 MS. CEDERLE: We've been here an hour and a
11 half. Should we take a quick break, you know, like 5,
12 10 minutes?

13 (Hearing proceedings recessed
14 10:40 a.m. to 10:50 a.m.)

15 BOARD MEMBER BROWN: Okay. We can go back
16 on the record and start discussion of additional
17 information on the comments that you received.

18 MS. CEDERLE: Okay. We received comments
19 from Anadarko Petroleum Corporation, as well as the Wyoming
20 Outdoor Council. We'll go ahead and begin with Anadarko's
21 comments. They were received in the office electronically
22 May 28, 2013. I have not received the hard copy yet, but
23 I've been informed it's inbound.

24 Anadarko has made several different comments, and
25 I'll break down a summary for you, and our response to that

1 as we move along. I did try to stay in order. I believe
2 you guys have a copy of the comments in front of you.

3 BOARD MEMBER BROWN: Yeah.

4 MS. CEDERLE: Follow along with me as we
5 go, starting off, Anadarko suggested that the applicability
6 requirements for permitted and unpermitted oil and gas
7 sources be removed. Anadarko's concern was the current
8 language was too prescriptive and request for source-
9 specific inventories via the administrator's discretion.

10 In the rule we're looking at Section (a),
11 Applicability, (i), (A) and (B). This is the language they
12 feel is too prescriptive.

13 BOARD MEMBER HANSON: Give us page number.

14 MS. CEDERLE: I'm sorry. 8-84.

15 BOARD MEMBER HANSON: 84.

16 MS. CEDERLE: Yeah. Majority of these
17 comments are directed at Section 5. We'll be starting on
18 8-84.

19 So in response to that, this -- this emission
20 inventory rule is a requirement of the Clean Air Act,
21 Section 182, and it is applicable to any facility or source
22 in any area of the state designated as nonattainment for
23 ozone. Oil and gas operations are plentiful statewide, and
24 our division advocates that the applicability language for
25 permitted and unpermitted oil and gas sources is -- it's

1 not prescriptive. In developing the rule we utilized our
2 statewide emission inventory request process already in
3 place at the discretion of the administrator. And as a
4 division we consider that continuing to request the
5 nitrogen oxide and VOC emission inventories -- inventories
6 are not satisfying requirements of the Clean Air Act,
7 Section 182 specifically.

8 The rule, as written, does allow for a variety of
9 sources to be accounted for, and there -- should there be a
10 future ozone nonattainment area in the state, while still
11 maintaining our process for oil and gas operators to submit
12 annual and partial emission inventories.

13 Moving on, Anadarko requested clarification on
14 the 25-tons-per-year threshold for nonoil and gas sources
15 and how we reached that. The 25-tons-per-year threshold
16 was taken from the Clean Air Act, Section 182(a)(3)(B)(ii).
17 The Clean Air Act allows the states to waive the
18 requirements of this rule if air emissions of NOx and VOCs
19 are under 25 tons per year. And while according to the
20 Clean Air Act this waiver applies to any facility or source
21 that emits NOx or VOCs in the ozone nonattainment area, the
22 Division finds that continuing the collection of individual
23 oil and gas source air emissions is an extremely important
24 and necessary program to preserve, especially in regard to
25 the maintenance of healthy ambient air.

1 Anadarko also expressed some confusion over the
2 lack of a definition for oil or gas facility or source as
3 written on -- in the rules, Section (a), Applicability. On
4 page 8-84, we're looking at (a)(i)(B), and requested some
5 clarification. The term "facility" and the term "source"
6 are defined in Chapter 1, Section 3 of our Wyoming Air
7 Quality statutes and regs. And this rule is written -- is
8 maintaining consistency with how the Air Quality Division
9 permitting group utilizes the terminology in Chapter 6 of
10 our regs.

11 Another of Anadarko's comments, and this one
12 is -- is a bit of a two-parter and a little long, so hang
13 in there with me. We'll get in there.

14 Anadarko is commenting that oil and gas operators
15 currently submit annual and winter emission inventories for
16 Upper Green River Basin with due dates of May 31 for the
17 annual, and July 31 for the partial in the year 2013. So
18 this year. They're requesting clarification as to whether
19 those inventories would satisfy the requirement of the
20 emission inventory rule, our new rule, or additional
21 emission inventories are going to be required. The due
22 dates in the rule are April 30th and 90 days after a
23 partial.

24 Anadarko is also requesting a due dates of the
25 rule being changed for consistency, so the Division

1 consider the submissions of the annual and winter as
2 meeting our requirements. So we've got a little --
3 according to Anadarko, with what the requests that went out
4 for emission inventories said in 2013, there's a
5 discrepancy.

6 We took into account the submission of annual and
7 winter emission inventories for oil or gas facilities or
8 sources in the Upper Green as the basis of the framework.
9 So we're going back to the framework piece now, where we
10 didn't want to create duplicative work. And it's our
11 expectation that the annual emission inventory submitted by
12 oil or gas facilities or sources in the Upper Green will
13 satisfy the requirements of this rule. So taking part of
14 the first part of the question is yes, the inventories will
15 satisfy part of the rule. And now for the explanation of
16 the date discrepancy. In years previous to 2013, we've --
17 the Division sent out requests for the annual and
18 winter inventories in the Upper Green with the dates of
19 April 30th and June 30th, respectively, which is roughly
20 the 90 days after the end of the partial period, which was
21 March 31st. What happened in 2013 is that the request was
22 sent out, excuse me, February 4th of 2013, and this was
23 approximately a month delayed compared to years past. It
24 was -- due to this delay, the Division opted to push back
25 the due dates of the annual emission inventory and the

1 winter emission inventory just to give industry consistent
2 preparation time to get those submitted, since the initial
3 request went out a month late.

4 The Division completely intends to readjust the
5 annual and winter Upper Green emission inventory submission
6 dates in the future to reflect what is in our emission
7 inventory rules starting with the year 2014.

8 Excuse me. Moving on to the Wyoming Outdoor
9 Council comments that were received May 27, 2013. I'm
10 sorry. They were dated May 27, 2013, and received by the
11 Division May 30, 2013.

12 The first comment is about an agenda item
13 following this discussion, so I will hold off on going
14 anywhere with that until after we have that agenda item
15 discussion, which would be the oil and gas guidance.
16 Following this, another comment is that the Wyoming Outdoor
17 Council overall supports the changes to Chapter 8
18 nonattainment area regulations. I'm sorry.

19 BOARD MEMBER HANSON: Oh, that's good.
20 Okay.

21 BOARD MEMBER BROWN: Thank you.

22 BOARD MEMBER HANSON: That's just the
23 projection.

24 MS. CEDERLE: Yeah. So as you'll see on
25 the first page, there's a BACT guidance revision, and

1 that's the bulk of the next agenda item for this board
2 meeting, and we can go ahead and come back to that comment.

3 On that second page is where the Wyoming Outdoor
4 Council has made some comment on Ozone Nonattainment
5 Emission Inventory Rule. Overall they support the changes
6 to the rule. We're very appreciative of that. As you move
7 through, the Wyoming Outdoor Council also commented on the
8 right of record review in Section 5(b)(iv)(B), and they are
9 asking it should be expanded to include members of the
10 public in the rule. This can be found on page 8-85, and
11 it's B at the top, and it will be your second B as you move
12 through the page.

13 Again, we, as a division, appreciate the Wyoming
14 Outdoor Council's involvement and support of the emission
15 inventories being submitted to the Division so the efforts
16 to control ozone in the Upper Green River Basin can be
17 monitored and tracked. The actual NOx and VOC emission
18 inventory submitted to the Division as a requirement of
19 this rule and Clean Air Act will be subject to the Public
20 Records Act and be made available to the public upon
21 request to the Division, just like our current emission
22 inventories are. That process won't change.

23 That was the bulk of the mailed-in comments,
24 despite the Wyoming Outdoor Council oil and gas guidance
25 piece, which we can come back as we move through the

1 agenda.

2 Are there any further comments or questions?

3 BOARD MEMBER HANSON: I'm trying to find
4 the original section that they are referring to,
5 5(b)(iv) --

6 BOARD MEMBER HULME: It's right here.

7 BOARD MEMBER HANSON: -- (b), and that's
8 not it, is it?

9 BOARD MEMBER HULME: There's a little B and
10 a big B.

11 BOARD MEMBER HANSON: This is the one?

12 BOARD MEMBER HULME: Correct.

13 BOARD MEMBER HANSON: Thank you.

14 MS. CEDERLE: No problem.

15 BOARD MEMBER HANSON: That's the only
16 problem I had.

17 BOARD MEMBER HULME: Can I ask a little
18 more clarification on Anadarko's first comment on the
19 applicability?

20 MS. CEDERLE: Okay.

21 BOARD MEMBER HULME: Can you go over that
22 again? I'm not sure what they're --

23 MS. CEDERLE: Sure. It was my
24 interpretation of the comment, as I read it, that they felt
25 that A and B, the oil and gas pieces, were too

1 prescriptive, and that it should be reworded to be at the
2 discretion of the administrator. While we sent out our
3 current inventory requests under the discretion of the
4 administrator now, this -- this -- the Clean Air Act is now
5 requiring us to codify the process for NOx and VOCs. So
6 that's where it's not exactly an interpretation of the
7 Clean Air Act to maintain this request at the discretion of
8 the administrator, whereas we need to codify at least that
9 process. And then through codifying the process, we still
10 do want to maintain everything that we're -- that we're
11 already doing at the discretion of the administrator. And
12 so as written with A, B, and C, we're still able to get to
13 all sources that would fall into requirements of this rule
14 across the state, and not just the Upper Green River Basin,
15 whereas oil and gas is a very numerous emitter of air
16 contaminants statewide.

17 BOARD MEMBER BROWN: So you're capturing
18 everybody with A, B, and C, pretty much.

19 MS. CEDERLE: Yes.

20 BOARD MEMBER HULME: Anybody.

21 MS. CEDERLE: Which is a requirement of
22 the --

23 BOARD MEMBER BROWN: Is this taken directly
24 from -- verbatim from the Clean Air Act?

25 MS. CEDERLE: Which piece?

1 BOARD MEMBER BROWN: Just A, B, and C.

2 BOARD MEMBER HANSON: A, B and C.

3 MS. CEDERLE: No, we built that.

4 BOARD MEMBER BROWN: You built that, okay.

5 MS. CEDERLE: With -- starting from the
6 framework pieces that we wanted to concentrate on, make
7 sure we weren't making our sources in Wyoming do anything
8 more than they've been accustomed to.

9 BOARD MEMBER HANSON: Uh-huh.

10 BOARD MEMBER BROWN: Anything --

11 BOARD MEMBER HULME: Thank you.

12 MS. CEDERLE: Sure. Any other comments?

13 BOARD MEMBER BROWN: Do we have any
14 comments from the public regarding either one of these
15 submittals?

16 So we can go through Chapter 8, then, each
17 section and approve or recommend?

18 MS. CEDERLE: Yes.

19 BOARD MEMBER BROWN: Okay.

20 BOARD MEMBER HANSON: On the -- one, two,
21 three -- fourth paragraph, they just want some
22 clarification, I guess, how the 25 parts, or whatever,
23 threshold can be reached. Can you give that to them? Just
24 seems to be sort of a question --

25 MS. CEDERLE: Oh, okay. My interpretation

1 of that is where did we get the threshold. Where did
2 25 tons per year come from --

3 BOARD MEMBER HANSON: Yeah.

4 MS. CEDERLE: -- and it's actually in the
5 Clean Air Act, Section 182 --

6 BOARD MEMBER HANSON: Uh-huh.

7 MS. CEDERLE: -- as a potential.

8 We went ahead and decided to pull in that
9 threshold.

10 BOARD MEMBER HULME: Okay.

11 MS. CEDERLE: So maintain consistency with
12 the Federal Rule.

13 BOARD MEMBER HULME: So they are aware of
14 where they can find it?

15 MS. CEDERLE: Yes.

16 BOARD MEMBER HANSON: Okay.

17 MS. ANDERSON: They will be. They aren't
18 yet.

19 Go ahead.

20 MS. CEDERLE: Yeah, I'm sorry. Final draft
21 of the comments -- reply to comments will be going out
22 after this meeting.

23 BOARD MEMBER HANSON: Okay.

24 MS. CEDERLE: So they'll be fully aware.

25 BOARD MEMBER HANSON: Okay. You know, for

1 my taste, it would probably be best if you went paragraph
2 by paragraph and -- of their suggestions, complaints, or
3 whatever it is, and say it's addressed or it's not
4 addressed, it needs to be addressed, or whatever, because I
5 can't follow it that quickly, quite frankly. Can you do
6 that?

7 MS. CEDERLE: So -- yeah.

8 BOARD MEMBER HANSON: Okay.

9 MS. CEDERLE: I could speak to you -- it
10 feels like you're having a formatting question.

11 BOARD MEMBER HANSON: Uh-huh.

12 MS. CEDERLE: And so I guess my next
13 question would be -- yeah, I do try to add a comment
14 summary.

15 BOARD MEMBER HANSON: Yeah.

16 MS. CEDERLE: And then a comment response,
17 and I try to break out for each comment as I read them to
18 you --

19 BOARD MEMBER HANSON: Yeah.

20 MS. CEDERLE: -- is how I broke them out.

21 BOARD MEMBER HANSON: Good.

22 MS. CEDERLE: But you would like to see
23 something that says this comment was addressed --

24 BOARD MEMBER HANSON: Or hear something.

25 MS. CEDERLE: Okay. Yeah.

1 BOARD MEMBER HANSON: Thank you.

2 MR. DIETRICH: Just for your information,
3 we try to do that where we can. In this case, you know, we
4 got one commenter, it's easier to do that. But if we had a
5 lot of different comments, we may be forced to generalize
6 more. But we can follow your suggestion in this case,
7 especially if you get comments from the public, too, which
8 is one of the reasons we haven't responded yet.

9 BOARD MEMBER HANSON: No, because on the
10 other one, what occurred to me on the Outdoor Council,
11 where they wanted to make it available to the public, I
12 think by inference it always is.

13 MR. DIETRICH: That's correct.

14 BOARD MEMBER HANSON: Whatever you guys do
15 has to be public.

16 MR. DIETRICH: There's a different process
17 already in place, we don't need to state it in the
18 regulation, that's correct.

19 BOARD MEMBER HANSON: So that's what I was
20 referring to, you know, are these comments legitimate or
21 are they legitimate concerns or do they only need
22 clarification of some sort.

23 MR. DIETRICH: The way that we respond is,
24 like Jeni tried to outline already going through the
25 letter, where our response is going to come from --

1 BOARD MEMBER HANSON: Yeah.

2 MR. DIETRICH: We tend not to say the
3 comment was good or bad, we just respond to how we're going
4 to react to it.

5 BOARD MEMBER HANSON: Sure. That's
6 acceptable. I have no --

7 MR. DIETRICH: All right.

8 BOARD MEMBER BROWN: So we can address
9 these with the comments outstanding, the return reply of
10 the comments?

11 MS. CEDERLE: I'm sorry. I don't
12 understand.

13 BOARD MEMBER BROWN: I mean, you're going
14 to reply, but we really haven't seen --

15 MS. CEDERLE: Correct.

16 MR. DIETRICH: Yes.

17 MS. CEDERLE: I wanted to be able to take
18 in everybody's comments and respond --

19 BOARD MEMBER BROWN: Right, after this
20 meeting.

21 MS. CEDERLE: Correct.

22 BOARD MEMBER BROWN: I understand.

23 MS. ANDERSON: But what she will write up
24 in her response to comments will be -- for these ones
25 you've just gone over, will be exactly what she just told

1 you, and that's, in essence, already happened.

2 BOARD MEMBER HANSON: Yeah.

3 BOARD MEMBER BROWN: When do we have to
4 respond to these comments?

5 MS. ANDERSON: Well, we'll get them
6 responded to before we take the next step, which is to go
7 to the governor and ask for permission to proceed with
8 another meeting. So the governor will be interested in
9 feedback as well.

10 BOARD MEMBER HANSON: And I guess you
11 already made the comment that there are swirling -- a
12 number of dates around here, and to --

13 MS. CEDERLE: Yeah.

14 BOARD MEMBER HANSON: -- kind of make it a
15 little easier.

16 MS. CEDERLE: I think there was just one
17 point of confusion on Anadarko's side where maybe whomever
18 was working it just saw that press letter for the first
19 time and pulled from those dates and didn't realize there
20 was actually previous --

21 BOARD MEMBER HANSON: Dates.

22 MS. CEDERLE: -- dates that are more
23 consistent and the reasoning behind that pushback.

24 BOARD MEMBER HANSON: So you're making
25 those consistent?

1 MS. CEDERLE: Oh, absolutely.

2 BOARD MEMBER HANSON: Good.

3 BOARD MEMBER BROWN: Any more questions or
4 comments?

5 BOARD MEMBER HANSON: No. That's as much
6 as I understand.

7 BOARD MEMBER BROWN: I don't have any more
8 comments.

9 Any comments from the public?

10 BOARD MEMBER HANSON: We received this --
11 this is your -- basically your response sheet, then?

12 MS. CEDERLE: No, I have not. I can get --
13 that is our ozone strategy.

14 BOARD MEMBER HANSON: Okay.

15 MS. CEDERLE: You'll get an update later in
16 the agenda.

17 BOARD MEMBER HANSON: Okay. That was
18 that -- okay.

19 MS. CEDERLE: I can provide you with the
20 response to comments once they're formalized, if that's
21 your preference.

22 BOARD MEMBER HANSON: Yes. That would be
23 good, yes.

24 MS. CEDERLE: Okay.

25 BOARD MEMBER BROWN: I think we have to --

1 we have to vote on Chapter 8 before we go to the next.

2 MS. CEDERLE: Right.

3 BOARD MEMBER HANSON: Yeah, why don't we do
4 that.

5
6 BOARD MEMBER HULME: Go section by
7 section or --

8 BOARD MEMBER BROWN: Yeah. Let's go
9 section by section. That I think that would be -- instead
10 of the --

11 BOARD MEMBER HULME: I'll move approval of
12 the revised language to Chapter 8, Section 1, Introduction
13 to the Nonattainment Area Regulations as provided.

14 BOARD MEMBER HANSON: I would second that.
15 That's just sort of a reorganization of all --

16 BOARD MEMBER BROWN: Okay. Been moved and
17 seconded to adopt the language for Chapter 8, Section 1,
18 Introduction of Nonattainment Area Regulations. All in
19 favor?

20 BOARD MEMBER HULME: Aye.

21 BOARD MEMBER HANSON: Aye.

22 BOARD MEMBER BROWN: All opposed?

23 Okay. Chapter 8, Section 1 language as written
24 has been approved.

25 Next section, Section 5, Ozone Nonattainment

1 Emissions Inventory Rule.

2 BOARD MEMBER HANSON: I move to adopt
3 Section 5, which is a completely rewritten section,
4 correct?

5 MS. CEDERLE: A new rule.

6 BOARD MEMBER HANSON: A new rule. Okay.

7 BOARD MEMBER HULME: Second.

8 BOARD MEMBER BROWN: It's been moved and
9 seconded to adopt Chapter -- or Section 5, Ozone
10 Nonattainment Inventory Rule.

11 All in favor?

12 BOARD MEMBER HULME: Aye.

13 BOARD MEMBER HANSON: Aye.

14 BOARD MEMBER BROWN: All opposed?

15 So approved to incorporate Section 5 Ozone
16 Nonattainment Emission Inventory Rule.

17 BOARD MEMBER HULME: I'll move to reserve
18 Sections 6, 7, 8 and 9 under Chapter 8 as provided.

19 BOARD MEMBER HANSON: For future --

20 BOARD MEMBER HULME: For future rules.

21 BOARD MEMBER HANSON: Second.

22 BOARD MEMBER BROWN: It's been moved and
23 seconded to adopt Sections 6, 7, 8 and 9 as reserved. All
24 in favor?

25 BOARD MEMBER HULME: Aye.

1 BOARD MEMBER HANSON: Aye.

2 BOARD MEMBER BROWN: All opposed? Been
3 moved and seconded to adopt Sections 6, 7, 8, 9 to be
4 reserved.

5 Section 10, incorporation by reference?

6 BOARD MEMBER HANSON: I move to incorporate
7 by reference the date changes as suggested.

8 BOARD MEMBER HULME: Seconded.

9 BOARD MEMBER BROWN: It's been moved and
10 seconded to adopt Section 10 as an incorporation by
11 reference and including the new dates. All in favor?

12 BOARD MEMBER HULME: Aye.

13 BOARD MEMBER HANSON: Aye.

14 BOARD MEMBER HULME: All opposed?

15 It's been moved and seconded and approved to make
16 Section 10 incorporation by reference for Chapter 8,
17 nonattainment rules and regulations.

18 Let's see, next on agenda, we're going to switch
19 to this, so general updates from the Division, is that what
20 we wanted to do?

21 MS. ANDERSON: Okay. We're not going to
22 get all the updates here. Just related to ozone, while
23 they're doing that presentation. We don't need --

24 THE REPORTER: I'm sorry.

25 MS. ANDERSON: We will be updating to --

1 we're changing the agenda to move updates related to ozone
2 only forward in the agenda.

3 MS. POTTER: Okay. Is the Board ready?
4 Okay. So when we took a break, the document that I gave to
5 each of the board members is that ozone strategy. We will
6 not be proceeding forward through that in its entirety
7 today.

8 I'm sorry. Darla Potter, I'm the Air Quality
9 Resource program manager with the Division.

10 We won't be going through the strategy page by
11 page, number by number today, but I wanted you to have it
12 in your entirety. The document can be accessed via our
13 website for everyone that's in attendance. What we're
14 going to do is utilize a presentation that was put together
15 when the strategy was developed and released in mid-March
16 of this year. It will provide you some background that
17 will be important to the next agenda item to discuss
18 changes to the oil and gas permitting guidance that the New
19 Source Review program will cover.

20 This presentation lasts approximately 10 minutes.
21 It has audio that goes with it, and because of the fabulous
22 facility that we're holding the meeting in, very excited to
23 give this a try. The voice that you will hear is Keith
24 Gill. Keith is our public information officer for the
25 Department of Environmental Quality. So we wanted to

1 utilize this tool today to give you an overview of the
2 ozone strategy.

3 (PowerPoint played.)

4 MS. POTTER: We learned earlier today that
5 then we have to turn the volume back down, otherwise we
6 would rupture eardrums with the microphones.

7 There are just a couple additional things that I
8 will tell you about the strategy that weren't covered in
9 that presentation, then we'll move on to the next agenda
10 item in regard to the oil and gas permitting guidance.

11 The strategy was -- the current strategy is dated
12 March 11th of 2013. It is limited in scope, and it does
13 not describe activities that may get started after August
14 of 2013. When the strategy was developed, it was
15 identified to be developed for a six-month time frame. Not
16 all of the activities that the Air Quality Division needs
17 to do will magically get started and get done within that
18 six-month time frame. So this strategy will evolve over
19 time. The document will evolve over time, and recognition
20 that as we move forward, things may change and they may
21 need to be adjusted. So the strategy is not guidance
22 that's set in stone. It's not policy. It's not rule.
23 It's simply the strategy that the Division and the staff
24 are following to guide us through the six-month time frame.
25 It will evolve. There will be additional work that will

1 need to be done after August of 2013. And as we go through
2 this first six months, we'll determine how that strategy
3 needs to be modified as we go into the future. So in terms
4 of the ozone update, I'll have a little bit more for you
5 later, but we wanted to give you the full overview of the
6 ozone strategy, because I think it's important, as we go
7 into this next piece on the agenda.

8 Any questions from the Board on that piece?

9 BOARD MEMBER BROWN: I have no questions.

10 MS. POTTER: Thank you.

11 MR. ANDERSON: Cole Anderson, New Source
12 Review program manager. So I guess moving on, if that's
13 okay with the Board, to the next item.

14 And, first, I just want to kind of lay out where
15 we're headed in this discussion. And, first of all, it
16 would take me a lifetime to get together a presentation
17 like Keith did, so what I have done, instead, is choose to
18 keep this open as a discussion. So I want to just caveat
19 that if I use acronyms or anything that needs
20 clarification, please ask. That's something I definitely
21 can do to help you.

22 As far as format goes for this discussion, I'll
23 start by addressing some of the general topics, and I'll be
24 slowing my speaking. And then I will also call on my
25 colleague, Andrew Keyfauver, and he will address the Upper

1 Green River Basin and how that's going to play into future
2 guidance revisions as identified in the strategy.

3 So, first of all, let me say it's a privilege to
4 talk about this topic. Going back and doing a little bit
5 of research, we've been working on the oil and gas issue
6 for many years, at least 20. And the guidance revisions
7 have been around for about 20 years. And so what you see
8 as a guidance in its current form represents countless
9 hours of work and evolution over the years.

10 So why do we have a permitting guidance for oil
11 and gas production facilities? Currently -- and I checked
12 this this morning -- there are about 22 or 23,000 active
13 facilities we have issued permits for. Approximately
14 19,000 of those are for oil and gas production facilities
15 and dehydration facilities. That's approximately 80
16 percent of those sources and facilities that we regulate or
17 have permits or waivers for.

18 So how did the oil and gas guidance come about?
19 I'll read a little narrative here. The permitting
20 requirements for oil and gas production facilities haven't
21 always been clear in the past, especially regarding
22 hydrocarbon emissions. During the late '70s and early '80s
23 VOCs, or volatile organic compounds, became regulated
24 pollutants due to realization of their participation in
25 ozone formation. It's a lot of -tions.

1 Essentially ozone, as we know, is a criteria
2 pollutant -- or, actually, it's a regulated pollutant. We
3 have ambient standards for ozone. Volatile organic
4 compounds are not a primary pollutant. They are a
5 secondary pollutant, which means they participate in the
6 formation of ozone. There is no VOC ambient standard out
7 there. So in the early '70s and the '80s, we recognized
8 that the VOCs and the hydrocarbons themselves did have a
9 contribution to ozone formation.

10 Then in the 1980 or -- or 1990s, we see that the
11 Clean Air Act was revised in the 1990 amendments, and there
12 was an emphasis on hazardous air pollutants, and several of
13 those hazardous air pollutants are a subset of VOC
14 emissions, things like benzene, toluene, ethylbenzene,
15 those are hazardous air pollutants, but they're also
16 volatile organic compounds.

17 In an effort to clear up the confusion on
18 permitting requirements, the Division sent a memo to
19 operators on October 23, 1995, requiring industry to submit
20 applications for permits for oil and gas production
21 facilities with the priority placed on major sources. The
22 Division stated in the memo that sources with emissions
23 less than 50 tons of regulated pollutants, 5 tons of
24 individual HAPS, and 12.5 tons total HAPS would have permit
25 requirements waived.

1 Then in May of 1997, the Division rescinded the
2 1995 memo and associated waiver thresholds for production
3 sites. The reason was increased gas and condensate wells
4 being drilled in the southwest Wyoming area. Operators
5 were required to submit a Section 21, which is now
6 currently Chapter 6, Section 2, that's the minor source
7 program. They were required to submit applications under
8 that program for all production facilities. The
9 application should apply BACT to limit emissions for which
10 BACT is considered economically reasonable and technically
11 feasible.

12 Emphasis was placed on storage tanks and
13 dehydration units. This essentially was, in 1997, kind of
14 the first guidance that we gave. Do I need to clarify what
15 BACT is? That's often one that people have questions on.
16 Perhaps? No? Okay. All right. Moving on. I'm sorry.
17 I'm taking cues here.

18 In January 6 of 1999, the oil and gas guidance
19 was revised to include presumptive BACT requirements.
20 Control thresholds were put in place for the first time for
21 flashing orifices, for pressure vessels and for storage
22 tanks. In 2001, the guidance was, again, revised to
23 include Presumptive BACT requirements for controlling
24 emissions from dehydration units.

25 And as you can see, this is an evolving process.

1 The Presumptive BACT guidance has been continuously
2 evolving to include controls for more sources of emissions
3 at oil and gas production sites, as well as reducing
4 thresholds requiring controls on both tanks and dehydration
5 units. So essentially what is the guidance? The guidance
6 is a mechanism to afford operators the time to collect
7 samples and determine flow rates to properly size their
8 controls to meet our control requirements that are
9 established by BACT. The guidance allows operators to
10 begin producing in order to obtain a permit in order to
11 determine what emissions would be -- and what types of
12 controls would be required. The need for this ability to
13 produce is imperative as emissions from production sites
14 cannot be determined until the well is producing, requiring
15 permits prior to having the facility operate would create
16 situations where operator obtains a permit for new
17 production site, only to drill a well with little to no
18 production, or perhaps the wrong size controls would be
19 installed for a very prolific well.

20 By using the guidance, the Division has the
21 ability to allow operators to produce the wells, gather
22 samples, both liquid and gas, and based on those, determine
23 the appropriate controls to install when they are required.
24 Under the guidance we have a timeline that we have
25 established for permitting. 30 days from the first date of

1 production the operators have to collect samples and also
2 to gather information on the production. Then from that
3 point, there's an additional 30 days in which, based on the
4 information they collect, the operators are to install
5 controls if they are required. We have certain emission
6 thresholds. If they exceed those, then controls are
7 required.

8 And finally, 30 days, so we are -- we take a step
9 back. There's 30 days in which to collect samples, another
10 30 days to install controls, then finally the last 30 days
11 is the time in which to gather the information together,
12 submit an application for us.

13 The Division then proceeds with that information
14 in the application, and we issue a permit. Now, that is
15 our general permitting timeline. The guidance itself also
16 has more stringent requirements. One example is the
17 Jonah/Pinedale Anticline Development area, or JPAD, and in
18 the JPAD area, controls are required upon startup. That is
19 also in the guidance.

20 So as we look forward to changing the guidance,
21 we're going through the process again to allow the
22 evolution of the guidance. I just want to point out a
23 couple of things. First, the benefits of the guidance are
24 that the controls are properly sized. It's very important
25 to have the right control in place, otherwise you are not

1 achieving emission reductions you're hoping to. A wrong-
2 sized flare, wrong-sized combustor, and you're not
3 achieving the 98 percent control that's required by the
4 division.

5 Finally, effective emission reductions. When you
6 take a look at trying to get these controls on, there is a
7 significant amount of science that goes in -- well, science
8 and engineering, that goes into sizing those controls and
9 making sure they're working effectively. And by going
10 through the guidance and allowing operators to get some
11 experience, then they will size those controls and we will
12 see those emission reductions.

13 I will now turn it over to Andrew Keyfauver, who
14 will explain kind of where we're headed in relation to the
15 Upper Green River Basin.

16 MR. KEYFAUVER: Good morning. I'm Andrew
17 Keyfauver, NSR program, and I have the shortest part of
18 this presentation.

19 As you can see from the previous presentation,
20 that in the ozone strategy there's a commitment to update
21 the guidance for the Upper Green River Basin. I also want
22 to point out that this commitment was not part of the ozone
23 task force that was created, as that task force only
24 addressed existing sources. We are updating this to lower
25 the control thresholds so that more sources can come into

1 the basin, because there will be continued drilling,
2 because there are projects like NPL and LaBarge coming in
3 that we know are down the road.

4 I also want to point out that based on
5 preliminary data, we know that the presentation said we
6 would just expand the JPAD requirements to Green Basin
7 (sic). We know, based on preliminary data, that that's
8 probably not going to be a realistic endeavor, because we
9 do not want to intentionally cause some operators to be
10 applying LAER, our most achievable emission reduction
11 technology, when in other areas it would be BACT.

12 The next point I want to -- an item that was not
13 covered in the presentation, but is in the strategy,
14 there's a -- an objective to -- that we start in the next
15 six months and continue on is the reconciling of oil and
16 gas guidance with a new NSPS came out that was subpart
17 0000, that's emission thresholds for tanks at oil and gas
18 sites. And also established REC for completions, which is
19 regional -- reasonable emission controls, or green
20 completions, which we are going to require. This process
21 will likely involve updates not only to Upper Green River
22 Basin area, but the rest of the state.

23 The timing for these projects for the Upper Green
24 River Basin nonattainment area, we plan on having a revised
25 portion of that guidance ready for the next advisory board

1 meeting. And I -- that's dependent upon timing of when
2 this board is. The reconciliation, we would hope, would be
3 completed sometime there during this year, because a lot of
4 the information will gather under -- the change to the
5 Upper Green River Basin will feed the other portions of the
6 guidance, because the cost control -- cost numbers that
7 will be divided on a cost to control per NOx or VOCs.
8 Mostly VOC driven. And all this data that is being
9 collected also, I want to reiterate, will feed task force
10 items 1 and 2, that were not specifically mentioned, and
11 those are upstream and midstream existing source when we do
12 the REC.

13 Does anyone on the Board have questions?

14 BOARD MEMBER BROWN: No, I don't have any
15 questions.

16 Do you have any questions?

17 MR. KEYFAUVER: Does anybody in the
18 audience have questions?

19 MS. WILSON: Can you guys go over -- you
20 mentioned --

21 THE REPORTER: Can you state your name,
22 please.

23 MS. WILSON: I'm sorry. My name is Amber
24 Wilson. I'm part of the Wyoming Outdoor Council.

25 Can you expand a little bit on your explanation

1 of why the BACT guidelines couldn't be resized to --

2 MR. KEYFAUVER: To just expand the JPAD?

3 MS. WILSON: Yes.

4 MR. KEYFAUVER: Based on preliminary data,
5 there are low emitting wells out there.

6 MS. WILSON: Okay.

7 MR. KEYFAUVER: For example, there are some
8 oil-producing wells that I believe are more towards the
9 Burnt Canyon area -- that preliminary data we've been shown
10 says even though these wells have -- may have a significant
11 volume to them, emissions may be 1 or 2 tons per year. On
12 a cost basis, compared to other areas, we would say we may
13 be unintentionally creating a LAER, where LAER is not
14 required at this point in time, as LAER is only required
15 for major stationary sources.

16 MS. WILSON: Okay.

17 MR. KEYFAUVER: Under Chapter 6, Section 13
18 requirements.

19 MR. DIETRICH: So as a point of
20 clarification, what Andrew's trying to make the distinction
21 between is your new or your major sources versus your
22 existing or minor sources in expanding the JPAD
23 requirements.

24 Is that correct?

25 MR. KEYFAUVER: Correct.

1 BOARD MEMBER BROWN: Any other questions?
2 Any questions, comments from the public? Any more
3 questions?

4 MS. WILSON: This is Amber Wilson again,
5 with Wyoming Outdoor Council. Would this be a good time to
6 elaborate on the second half of that?

7 MS. ANDERSON: So Wyoming Outdoor Council
8 had submitted comments, including rules, and then they also
9 had some comments on the BACT, so it might be a good time
10 for Amber to --

11 BOARD MEMBER BROWN: Certainly.

12 MS. WILSON: So I need to come to the mike?

13 BOARD MEMBER BROWN: Yes, please.

14 MS. WILSON: Okay. So, again, my name is
15 Amber Wilson. I'm here from the Wyoming Outdoor Council.

16 Thank you for allowing me the opportunity to make
17 some brief comments to you. We're a little bit concerned
18 about the fact that the agenda for today's meeting to only
19 to discussion the potential revisions to the oil and gas
20 industry Best Available Control Technology, or BACT
21 guidelines. We feel that we should be considering and
22 helping to adopt actual revisions to this guidance.

23 So as we've been discussing, Air Quality Division
24 adopted its Upper Green River ozone strategy on March 11th.
25 Under the strategy, a number of action items are specified

1 that the DEQ will pursue to reduce the unhealthy ozone
2 levels that have plagued the Sublette County area. Some of
3 these items are intended to be accomplished by this August,
4 as we saw in that presentation, and some will take longer
5 to pursue. One of the items that is to be accomplished
6 this coming August is revision to the BACT guidance that
7 applies to the Upper Green River Basin. The ozone strategy
8 states that there will be an update to the oil and gas
9 BACT, which will expand the Jonah-Pinedale Development
10 Area, or JPDA, requirements to the entire Upper Green River
11 Basin nonattainment area. This update will be completed at
12 an Air Quality Advisory Board meeting in early summer 2013,
13 which seems to imply now. That is, by August, Air Quality
14 Division has committed to expanding the more stringent BACT
15 guidelines that already apply in the Jonah-Pinedale
16 Anticline Fields to the entire Upper Green River Basin
17 ozone nonattainment area to fields like the large Big Piney
18 LaBarge field.

19 Yet, if all we do today is discuss BACT revision,
20 accomplishing this aspect of the ozone strategy as
21 scheduled will not be possible. It won't happen. We will
22 be falling behind almost before we have even started. We
23 urge you to express concern about this delay to the Air
24 Quality Division and ask them to expedite the BACT revision
25 as called for by the ozone strategy. This is necessary to

1 maintain the creditability of the Air Quality Division and
2 to protect the public health in the Pinedale area. Let's
3 not delay -- let's not let delay become the norm of the
4 ozone strategy. The ozone problems in that area are too
5 severe to permit delay.

6 The Air Quality Division has indicated to us that
7 the reason that is delaying implementation of expanding the
8 JQPA -- or, I'm sorry, the JPDA BACT guidance to the entire
9 nonattainment area is that there are concerns about the
10 cost of changes to industry and concerns about technical
11 issues of putting in place pollution controls and other --
12 and these other fields, so that was what I was asking
13 clarification about. We note that the oil and gas industry
14 caused problems in the Upper Green, and so -- and this is
15 established fact. So, therefore, concerns about cost
16 should not delay these new provisions. The oil and gas
17 industry has caused the problem, so it must help to correct
18 it. The existing JPDA BACT guidance has been successfully
19 implemented for the last three years, so it seems there
20 should be no technical reason it cannot be expanded to
21 other areas.

22 And so to close I'd like to emphasize a reminder
23 that the Wyoming Department of Health's recent study
24 showed, for every 10 parts per billion increase in ozone
25 levels in Sublette County, there is a 3 percent increase in

1 visits to clinics for adverse respiratory --

2 THE REPORTER: I'm sorry. You're going to
3 have to slow down.

4 MS. WILSON: I'm sorry. I feel like I'm
5 reading a lot, so I don't want to take up a lot of time.

6 Higher ozone levels in the Upper Green River
7 Basin are making people sick and this is wrong. So we
8 cannot permit delays that continue allowing these public
9 health risks to persist and worsen. Thank you.

10 Questions?

11 BOARD MEMBER BROWN: Any questions or
12 comments?

13 Thank you.

14 BOARD MEMBER HANSON: I have a technical
15 question. Why is the Wyoming Outdoor Council located in
16 Logan, Utah?

17 MS. WILSON: Oh, that's Bruce Pendery, our
18 attorney. That's where his office is at, is in Logan.
19 We're actually located in Lander.

20 BOARD MEMBER HANSON: It is located in
21 Wyoming?

22 MS. WILSON: Yes, in Lander. I drove here
23 this morning in 20 minutes.

24 BOARD MEMBER HANSON: Okay. Thank you.

25 BOARD MEMBER BROWN: Thank you.

1 MR. DIETRICH: Just where Bruce gets his
2 mail.

3 MS. WILSON: That's where he lives.

4 BOARD MEMBER HANSON: Okay. Thank you very
5 much.

6 MS. WILSON: Yeah.

7 BOARD MEMBER BROWN: Any other questions,
8 comments, concerns?

9 MS. ANDERSON: You want to talk about
10 timing of board meeting, and --

11 MR. DIETRICH: If I could just add a couple
12 of comments related to what Amber said to some degree.
13 We're working on the guidance revisions. Cole outlined a
14 lot of revisions gone through time. The last time this
15 guidance was actually revised was in 2010. So now we've
16 promised in our guidance we're going to have something
17 ready in August. What we are looking to do is to do just
18 that. We revise the guidance according to how it's been
19 described to extend JPAD requirements to the entire
20 nonattainment area, but we have to be smart about how we do
21 it. We have to make sure that it can target the areas we
22 intend to target emissionswise, but also knowing that part
23 of the process in bringing the revised guidance to you guys
24 prompts us to talk about having an Air Quality Advisory
25 Board pretty daggone soon. One of the things we're going

1 to get into later on that we always do in the agenda is set
2 the next. So I urge you to think about what the earliest
3 possible time we can do that. I'm suggesting September
4 time frame. And when it comes to guidance, we can change
5 the guidance and bring it to you to show you what we've
6 done, but we can also be already implementing portions of
7 it before you even see -- just like the guidance may be
8 surgically revised, not revised in its entirety. So that's
9 what we're embarking on right now. We're in the process of
10 changing that guidance. We're looking at the data we're
11 gathering that Andrew mentioned and trying to maybe be
12 smart about how we expand those requirements.

13 BOARD MEMBER BROWN: Okay. So we're
14 thinking September for the next meeting?

15 MR. DIETRICH: That's -- that's a
16 suggestion. That's something the Board can definitely
17 decide.

18 BOARD MEMBER BROWN: Definitely have to
19 look at my calendar, do like we always do, schedule it as
20 soon as we can for September.

21 MR. DIETRICH: Okay.

22 BOARD MEMBER BROWN: We won't nail down the
23 exact date today, but we'll -- we'll get as close as we
24 can.

25 MR. DIETRICH: Fine.

1 BOARD MEMBER HANSON: Are you thinking
2 beginning or end of the month, September?

3 MR. DIETRICH: Well, I know on the schedule
4 already are some other meetings that I know -- that I
5 personally have to attend, and they are targeting for the
6 first half of September, so...

7 BOARD MEMBER HANSON: Yeah, that suits me,
8 so we're going to be out of the country until about the
9 middle of September.

10 MR. DIETRICH: So maybe the last half of
11 September is really more realistic for folks that need to
12 be at the meeting.

13 BOARD MEMBER BROWN: That will give you
14 time to prepare all the guidance changes and all the
15 documents that you need to bring before the Board?

16 MR. DIETRICH: That's correct.

17 MR. ANDERSON: Correct.

18 MR. DIETRICH: We also need to make sure we
19 involve the public to some degree, so we need time to do
20 that.

21 BOARD MEMBER BROWN: Right. Okay. We'll
22 shoot for the latter half of September for the next
23 meeting.

24 BOARD MEMBER HANSON: Yeah.

25 BOARD MEMBER BROWN: So we can get this

1 moving in a timely fashion.

2 Any other questions, concerns that we need bring
3 forward?

4 MS. ANDERSON: Related to the oil and gas
5 BACT guidance?

6 BOARD MEMBER BROWN: Yes.

7 MS. ANDERSON: I don't think so.

8 BOARD MEMBER BROWN: Okay.

9 MS. ANDERSON: We'll take us back to our
10 updates, and I believe Darla Potter has more ozone
11 information to share with you.

12 BOARD MEMBER BROWN: That will be the last
13 item on the agenda? Do we just want to go through this and
14 then just adjourn and go eat? I don't know how much time
15 you have.

16 MS. ANDERSON: We have some more updates
17 for you that are not listed --- -

18 BOARD MEMBER BROWN: Oh.

19 MS. ANDERSON: We'll want to share with
20 you.

21 BOARD MEMBER BROWN: Sure.

22 MS. ANDERSON: If you're starving and don't
23 want to hear them, we can do that too.

24 BOARD MEMBER BROWN: No, I don't care.
25 Yeah, I think we ought to just keep going.

1 BOARD MEMBER HANSON: And be done with it.

2 BOARD MEMBER BROWN: And be done.

3 BOARD MEMBER HANSON: Yeah.

4 BOARD MEMBER BROWN: Let's do that.

5 BOARD MEMBER HANSON: I think we did that
6 last time.

7 BOARD MEMBER BROWN: We did that and it
8 worked out well.

9 BOARD MEMBER HANSON: Works better.

10 MR. DIETRICH: We may actually finish
11 before 12:30 I think.

12 BOARD MEMBER BROWN: That's only
13 35 minutes, so, yeah, let's do that.

14 BOARD MEMBER HANSON: You know, I have one
15 general observation, and that is what's the function from
16 what we heard today of this Division? I think it is sort
17 of an arbiter between outdoor concerns and industry
18 concerns, and I think it's very important, from my
19 perspective, that we, as representatives of the people,
20 working with the Division, do not come across as favoring
21 one side or the other, but rather trying to find a modus
22 vivendi, a mode of how we can live together and have both
23 sides be productive in their efforts to protect the
24 environment, but also use it as for our human endeavors.
25 So I think -- I just wanted to make that point, that I

1 personally don't want to lean one way or the other. I want
2 to see that we can find a way to make it all work.

3 MR. DIETRICH: I agree. I think finding
4 the right balance of allowing production and people to
5 prosper in business and in their own endeavors, but also
6 getting into attainment is the balance we're trying to
7 strike.

8 BOARD MEMBER HANSON: Yes, that's what
9 we've been dealing, since I've been on the commission,
10 basically with, you know, how we make the impact tolerable.
11 We can't make it go away. I drive my little Prius, because
12 that gives -- is better on the environment, but I cannot
13 kid myself and say it has no impact on the environment.

14 MR. DIETRICH: Right.

15 BOARD MEMBER HANSON: So I think there's a
16 good example.

17 MS. POTTER: Okay. Darla Potter with the
18 Air Quality -- Division Air Quality Resource Management
19 Program. For the remainder of the ozone update for you,
20 we'll just highlight some things in regard to what has been
21 happening and changing since I last updated the Board at
22 the meeting in January of 2013.

23 The Air Quality Division likes to do this with
24 the Board so that as we bring topics forward to you where
25 you are, in fact, part of the process, so as we ask for

1 your input as we go forward with ozone nonattainment
2 planning, we're keeping you up to date as we go along. And
3 so hopefully that makes it easier as we bring forward those
4 items for you.

5 So when we met in January, we were -- just had
6 started into our winter ozone season of 2013, and we
7 covered the items that we had prepared for, the things that
8 were set up. And that's the January, February, March time
9 frame. Specifically in regard to that, the short-term
10 emission reduction measures, the plan that industry put
11 together for those, the ozone contingency plan, we had an
12 increased number of companies participate this year. We
13 have 31 companies submit those plans. That's a voluntary
14 submission. They're not required to do that. So that was
15 very encouraging. We had some companies that we had not
16 seen participate before that participated.

17 We did daily forecasting from January 2nd through
18 the end of March. Those weather forecasts did not result
19 in any meteorological conditions that were conducive to
20 elevated ozone formation. And as a result, we did not
21 issue any ozone action days during this winter. The
22 contingency plans are only to be implemented when we have
23 ozone action days. So while the plans were submitted, they
24 were never put into practice this past year.

25 On the monitoring side of things, from the

1 ambient monitoring side, we continued our regulatory
2 monitoring. And we supplemented that with additional
3 ambient and meteorological monitoring throughout the Upper
4 Green River Basin. At all of those locations, we did not
5 monitor an exceedance of the ozone ambient air quality
6 standard of 75 parts per billion.

7 In fact, we were well below that this past
8 winter. So it was a very, very good winter, went very
9 smoothly for us. So we wanted to make sure, in coming back
10 to you at this meeting, we let you know how that -- that
11 winter had gone. So we now have two winters in a row where
12 we have not monitored any exceedances of the ozone ambient
13 air quality standard. So it's happened before, but we're
14 very encouraged by that, and we're very eager to go into
15 next winter and see what other monitors show then as well.

16 Transitioning to the ozone nonattainment
17 planning. A big piece that had happened between January
18 and now was the development of the ozone strategy. As the
19 overview presentation covered, it incorporated all 10 of
20 the task force recommendations, and I briefed you on those
21 at the last meeting. But as Andrew Keyfauver pointed out,
22 it incorporates a number of other elements and activities
23 and pieces of work that the Division needs to do as well.
24 And so it's a rather extensive document. If the Board has
25 any questions after you've had time to look at that, please

1 feel free to contact us at the division, and we'll answer
2 any questions that you may have, because it -- there's a
3 lot in there, and there's a lot to digest. The mention in
4 the ozone strategy was the general conformity State
5 Implementation Plan. That was submitted to EPA in December
6 of 2012. EPA published in the Federal Register on May 7th
7 of 2013 their notice proposing approval of the BACT into
8 our State Implementation Plan. Comments must be received
9 by EPA on or before June 6, 2013, which is tomorrow. So
10 that's moving forward, and we're seeing that process go
11 through the EPA approval process as well. So we're very
12 encouraged by that.

13 The emissions inventory rule, which is required
14 under the Clean Air Act, you acted on earlier today, so
15 we'll continue to take that forward. That's a key piece
16 for our nonattainment planning. The strategy mentioned,
17 the ozone advance, and we've talked about that in previous
18 updates.

19 The Division has submitted their "path forward"
20 letter to EPA on April 8th of 2013. That "path forward"
21 letter basically describes a combination of the measures
22 and programs that the Division commits to undertake at this
23 point in time in the Upper Green River Basin to address
24 these unique wintertime ozone episodes in our unique
25 nonattainment situation.

1 The ozone advance "path forward" letter does not
2 incorporate everything that you will find in the ozone
3 strategy. And for those interested, that's also, excuse
4 me, posted on our website, if anyone is interested in the
5 details of that.

6 And one of the -- one of the key -- we've been,
7 throughout this process with dealing with ozone, waiting
8 for EPA to release key pieces of the framework that the
9 State needs to follow in terms of the -- the requirements
10 on the State of Wyoming. Just recently -- in fact,
11 May 29th, EPA has finally released their proposed
12 implementation rule for this ozone ambient air quality
13 standard has yet to appear in the Federal Register, but
14 once it does appear in the Federal Register, we are
15 expecting a 60-day comment period. This implementation
16 rule, as proposed, will address the range of implementation
17 requirements for the ozone ambient air quality standard.
18 Specifically it will address any state implementation
19 planning requirement for areas that are nonattainment for
20 that standard, as well as submission deadlines.

21 We are expecting there to be very little within
22 that implementation rule that will actually apply to our
23 situation, because the Upper Green has been designated as a
24 marginal nonattainment area. And marginal areas
25 traditionally have the least amount of specific

1 requirements from the Environmental Protection Agency.

2 So that's just been released. We will take a
3 very close hard look at that. Where we see things that are
4 of concern to the Division, we will anticipate that we will
5 provide comments on that. But at this point in time, we
6 just haven't had enough time to digest that entire document
7 yet.

8 And, finally, the last item to update you on in
9 terms of changes regarding ozone, and the presentation on
10 the ozone strategy mentioned this as well, the Air Quality
11 Division and the Department of Environmental Quality have
12 identified a primary point of contact in regard to Upper
13 Green River Basin ozone issues. That point of contact was
14 announced at the end of March of 2013, and that individual
15 is Brian Lovett, who works in the Department of
16 Environmental Quality in Cheyenne. And so all requests are
17 coming into Brian, and then he is utilizing staff resources
18 appropriately to be able to address those questions,
19 comments, and concerns that come in.

20 And so those are all of the things that I wanted
21 to cover with you today, just to keep you up to date on
22 what's changed from the last update that you received in
23 January of this year.

24 Does the Board have any questions?

25 Klaus.

1 BOARD MEMBER HANSON: Just a question,
2 because I was kind of tickled by the term "marginal
3 nonattainment area." Is this sort of the EPA saying we
4 give up, or, you know -- I guess isn't, but it's kind of a
5 funny term.

6 MS. POTTER: It's an EPA term.

7 BOARD MEMBER HANSON: Yeah.

8 MS. POTTER: There are various
9 classifications that the lowest of which is marginal,
10 meaning that you are marginally above the level of the
11 ambient air quality standards, so...

12 BOARD MEMBER HANSON: I thought it was
13 marginally below.

14 MS. POTTER: No, it's marginally above.

15 BOARD MEMBER HANSON: Okay.

16 MS. POTTER: So for the Upper Green River
17 Basin -- well, for all areas, the level of the standard is
18 75 parts per billion.

19 BOARD MEMBER HANSON: Uh-huh.

20 MS. POTTER: For the Upper Green River
21 Basin, based on our monitoring data, we had a design value,
22 which is the specific form that compares to the ambient
23 standard --

24 BOARD MEMBER HANSON: Yeah.

25 MS. POTTER: -- of 78.

1 BOARD MEMBER HANSON: Okay. So we were
2 still above.

3 MS. POTTER: So we're just -- just
4 marginally.

5 BOARD MEMBER HANSON: Marginally above.

6 MS. POTTER: Marginally above the standard.

7 BOARD MEMBER HANSON: Okay. Are there
8 areas in this country that are marginally below?

9 MS. POTTER: Yes. And those areas are
10 either designated as attainment or unclassifiable.

11 BOARD MEMBER HANSON: Okay.

12 MS. POTTER: If there is monitoring data,
13 typically what the State of Wyoming does is we submit a
14 designation to EPA asking those areas to be designated as
15 in attainment. It's once you -- once the design value is
16 above the level of the standard, the classification gets
17 assigned.

18 BOARD MEMBER HANSON: Okay. Thank you.

19 MS. POTTER: Uh-huh.

20 BOARD MEMBER HANSON: Well, maybe I have
21 one more question.

22 MS. POTTER: Sure.

23 BOARD MEMBER HANSON: And that is in -- in
24 Laramie, there has been sort of speculation, of course, on
25 both sides in the papers and letters to the editor on

1 global warming, climate change, et cetera. You just
2 mentioned three years or two years of a good situation as
3 far as ozone is concerned in the region. Speculate, is
4 this in any way related to climate change or is it not?
5 Because people will ask me at home, you know, about these
6 effects.

7 MS. POTTER: I can't answer the question on
8 how it's related to global climate change.

9 BOARD MEMBER HANSON: Yeah.

10 MS. POTTER: What I can tell you is that
11 the formation of ozone in the Upper Green River Basin is a
12 very complex photochemical reaction. And the information
13 that we've collected in the basin since 2005 has indicated
14 that there are a lot of dependencies on the meteorological
15 conditions.

16 BOARD MEMBER HANSON: Uh-huh.

17 MS. POTTER: One of which is snow -- the
18 amount of snow cover and snow depth.

19 BOARD MEMBER HANSON: That that's what you
20 pointed out.

21 MS. POTTER: I can tell you that for the
22 winter of 2013, we had less snow depth at multiple points
23 in the basin.

24 BOARD MEMBER HANSON: Uh-huh.

25 MS. POTTER: Throughout January, February,

1 as well as March.

2 BOARD MEMBER HANSON: Yeah.

3 MS. POTTER: And so how much of that is due
4 to --

5 BOARD MEMBER HANSON: Climate.

6 MS. POTTER: -- meteorological conditions
7 specifically, how much of that is attributed to the fact
8 that we have lower emissions being emitted by the
9 industrial sources in the Upper Green River Basin, we can't
10 answer that question, because it's such a complex system.
11 But we do know that it's very good from a public health
12 perspective to have had two winters in a row where we have
13 not had any exceedance of that ambient air quality
14 standard.

15 Does that guarantee that next winter, if the
16 meteorological conditions are, you know, kind of that
17 perfect storm that comes together, that there won't be,
18 unfortunately we would love to have that crystal ball, and
19 we just don't know enough about all of the complex
20 components to be able to answer that.

21 BOARD MEMBER HANSON: And I'm certainly
22 aware that speculation is beyond the scope of this
23 commission, but I just wanted to raise the question.

24 MS. POTTER: No, it's a good question.

25 BOARD MEMBER HANSON: Thank you.

1 MS. POTTER: Thank you.

2 BOARD MEMBER HANSON: Thank you.

3 BOARD MEMBER BROWN: Any more updates.

4 MS. ANDERSON: Couple more updates.

5 MR. DIETRICH: Yeah, a couple more.

6 MS. ANDERSON: Thank you.

7 Tina Anderson, again, with the Air Quality
8 Division. I think Steve and I are going to do this kind of
9 tag-team, but these are all issues that you've seen at some
10 other point, I think. Greenhouse gases you just raised the
11 issue about -- and I don't have any answers for your
12 question either, Klaus --

13 BOARD MEMBER HANSON: Don't speculate.

14 MS. ANDERSON: I won't speculate. I just
15 want to tell you where we're at with what you guys -- you
16 look -- you guys actually weighed in on the rules that we
17 did. They went through the process. They were finalized
18 in February of this year. The legislature had to complete
19 a final enabling act that would allow us to submit it to
20 the EPA, done in a whole series of acts. That was the last
21 one. They completed that in early March. The governor
22 signed it, and it was submitted to EPA on the 8th of March.

23 So our greenhouse gas SIP package is down in
24 Denver being reviewed. I have had numerous contacts with
25 them. They have not found any fatal flaws. We expect it

1 to be approved. It's just an issue of timing at this
2 point. The only thing that might slow it down is that it
3 is, like all things we do, we send stuff down there and it
4 gets backlogged. And because the majority of the changes
5 to the greenhouse gas regulations are in the Chapter 6,
6 which is our permitting regs, we have two modifications to
7 our SIP involving the Chapter 6 permitting regs that they
8 have not acted on. And you have to do these in sequence,
9 so they're going to have to pull those up -- out and
10 approve those as well. So that may extend this approval
11 process, but we don't see any issues with the greenhouse
12 gas piece.

13 MR. DIETRICH: I was just going to add,
14 earlier I talked about the litigation updates that Nancy
15 was on the phone for. And May 7th was when the oral
16 arguments were heard. We're still a part of that. I think
17 it was our own Nancy Vehr went to D.C. and made this oral
18 argument. So despite what is going on at the national
19 level, we're still going forward with rulemaking so we can
20 get primacy back. So those are kind of happening in a
21 parallel path.

22 MS. ANDERSON: Maybe while we're talking
23 about Nancy Vehr -- I'm pretty sure she's off the phone at
24 this point -- but she is leaving the Air Quality Division.
25 And a big loss to us, but she did want to convey her

1 gratitude to the Board, and for all of the work that you've
2 done.

3 BOARD MEMBER HANSON: Very competent, yes.

4 MS. ANDERSON: Yes, she is a very competent
5 person. And she's going to private practice, and we're
6 losing her, but --

7 BOARD MEMBER BROWN: Big loss.

8 MS. ANDERSON: She just wanted to make sure
9 you guys knew she was grateful for the work you had put in.

10 MR. DIETRICH: She's leaving AG's office I
11 think on 19th of June.

12 BOARD MEMBER HANSON: Sad.

13 MS. ANDERSON: And we are definitely
14 grateful that three of you showed up today, because if you
15 hadn't, we wouldn't have been able to advance the
16 rulemaking agenda, and we would have been off our strategy
17 already. So --

18 BOARD MEMBER HANSON: Gold star.

19 MR. KEYFAUVER: That's right.

20 MS. ANDERSON: Another topic we need to
21 update you on is regional haze. Regional haze is -- I
22 think you guys kind of got in on the tail end of most of
23 the work on that, but the latest thing that's happened in
24 the Regional Haze Program is that EPA has repropoed
25 controls through a FIP-like proposal, a disapproval of

1 nearly every decision the Division made for NOx controls
2 for major stationary sources from the state. I believe we
3 have 16 units that we're looking at when you combine the
4 BART and long-term strategy units. We proposed what we
5 thought was the best control appropriate for the situation,
6 and EPA came back a year ago with a proposal. They have
7 since then repropoed, and it actually is more severe than
8 the one that we saw a year ago.

9 So the document is not in the Federal Register
10 yet. There will be a public meeting in Cheyenne on the
11 24th of June. It will run the afternoon and evening of
12 that day. If there's anybody in the audience or board
13 members that would like to come and make a comment, we
14 would welcome it. We're going to be scrambling now in the
15 next 60 days pulling together a whole other round of
16 comments.

17 MR. DIETRICH: DEQ is going to make
18 comments, just like we did the first time around.

19 MS. ANDERSON: So do you have any questions
20 about the status of that? It's -- it's -- yeah, Nancy --
21 Nancy had -- had talked earlier about the litigation
22 schedule, which is happening independently, but we are
23 still going forward with our comments and -- on the
24 positive side, however, the SO2 program was fully approved
25 by EPA, became effective in January. The particulate

1 matter proposal looks like it's going -- well, EPA proposed
2 to fully approve that piece. And nitrogen oxides for the
3 nonEGUs look like they will be fully approved as well. So
4 those are all positive things. At this point we're
5 focusing on EGUs and NOx.

6 MR. DIETRICH: For the regional haze, yeah.

7 MS. ANDERSON: For regional haze.

8 We've also wanted to talk to you about a letter,
9 and I think it was in your packet that came from the office
10 of the governor. I don't -- did you receive this letter
11 independently from us, or did you only get a copy of it in
12 your package from me?

13 MR. BROWN: It was in our packet.

14 BOARD MEMBER HULME: It was in our packet.

15 BOARD MEMBER HANSON: It was in our packet,
16 yeah.

17 MS. ANDERSON: So we're glad we included it
18 in the packet, because it was addressed to Board members,
19 but we weren't sure if you had received it independently.

20 Do you want to go ahead and talk about this?

21 MR. DIETRICH: This is obviously from the
22 governor's office itself. And what we've been -- all
23 agencies are being tasked to do, including DEQ, is to
24 reduce by one-third in number and one-third in length of
25 regulations. Now, we're trying to work on that as hard as

1 we can, and do what makes sense to do, realizing that it
2 may not be achievable in all cases, but we're going to do
3 the best we can.

4 As a matter of fact, just so you know, in the
5 agency itself there's 4,000 regulate -- 4,000 pages of
6 regulations at DEQ, and Air Quality is not the biggest of
7 those. So maybe our effort may be a little harder, because
8 it's harder to reduce a smaller number by a third, but
9 we're going to do the best we can where it makes sense.

10 MS. ANDERSON: And I think Darla updated
11 you on general conformity, which was also on our list. And
12 that's chugging right along, I believe that's it on the
13 list of updates.

14 MR. DIETRICH: Unless you guys have any
15 more questions or discussions you want to have.

16 BOARD MEMBER BROWN: Any more questions
17 from the Board?

18 BOARD MEMBER HANSON: No.

19 BOARD MEMBER BROWN: Any comments from
20 public? Concerns? Okay.

21 MS. ANDERSON: So if we talked about late
22 September for the next meeting, so Jeni will probably give
23 you a Doodle poll to fill out, if that's working for
24 everybody. If you're confused with Doodle poll, just
25 respond to her e-mail and she'll --

1 BOARD MEMBER HANSON: That's great, the
2 Doodle poll. That works very well. Thank you.

3 BOARD MEMBER BROWN: Once I figured it out.

4 BOARD MEMBER HANSON: Yeah. I think I put
5 myself in three times.

6 MS. CEDERLE: You didn't. You're fine.

7 BOARD MEMBER BROWN: Okay. Let's see here.
8 Any other last comments or questions?

9 Motion to adjourn?

10 BOARD MEMBER HANSON: So moved. Move to
11 adjourn.

12 BOARD MEMBER HULME: Seconded.

13 BOARD MEMBER BROWN: Moved and seconded to
14 adjourn. Thank you, everybody.

15 (Hearing proceedings concluded

16 12:13 p.m., June 5, 2013.)

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C E R T I F I C A T E

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

Dated this 8th day of July, 2013.



Kathy J. Kendrick
KATHY J. KENDRICK
Registered Professional Reporter