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

The Wyoming Air Quality Advisory Board will meet on January 16, 2013 at 9:00 AM, in the Cottonwood Meeting Room, Laramie County Library, 2200 Pioneer Avenue, Cheyenne, 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 4, State Performance Standards for Specific Existing Sources, Chapter 5, National Emission Standards, Chapter 6, Permitting Requirements, and Chapter 11, National Acid Rain Program. Most of the changes involve annual updates to portions of the State Air Regulations which are adopted verbatim by reference from the federal Code of Regulations (CFR). These changes affect Chapters 4, 5, 6 and 11. The Division is also proposing changes to Chapter 4, Section 5, to update regulations covering hospital and medical waste incinerators so that State regulations match federal guidelines. Finally, the Division will present changes to Chapter 6, Section 4, to update PSD (Prevention of Significant Deterioration) rules to 1) specifically list new minor source baseline dates for fine particulate, 2) include revised federal language on the treatment of condensable particulate matter, and 3) clarify when the maximum allowable increment is exceeded for particulate matter. The Division is also providing opportunity for comment on two infrastructure State Implementation Plans (SIPs) to address the 2010 1-hour NO_2 ambient standard and the 2008 8-hour ozone ambient standard. Changes to Chapter 6, as well as the NO_2 and ozone infrastructure SIPs, involve changes to the SIP to satisfy Clean Air Act (CAA) Sections 110 or 166, and those changes will be submitted to the Environmental Protection Agency (EPA). 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 January 16, 2013. Emailed comments will not be included in the public record. Copies of the agenda, public notice, proposed regulations, and the Infrastructure SIPs for the 2010 NO_2 standard and the 2008 ozone standard 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 December 16, 2012, at http://deq.state.wy.us/aqd/index.asp. If you have questions regarding the proposed rule changes, the NO_2 or ozone Infrastructure SIPs, 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.

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 16th day of January, 2013, at the hour of 9:01 a.m., at the Cottonwood Room of the Laramie County Library, 2200 Pioneer Avenue, Cheyenne, Wyoming before the Wyoming Air Quality Advisory Board, Mr. Timothy Brown, presiding, with Ms. Diana G. Hulme, Mr. Joel "J.D." Wasserburger, and Mr. Klaus D. Hanson, Ph.D. in attendance.

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

I N D E X

P R O C E E D I N G S

(Air Quality Advisory Board meeting commenced 9:01 a.m., January 16, 2013.)

BOARD MEMBER BROWN: Ready?

MR. DIETRICH: Yes, sir.

BOARD MEMBER BROWN: Okay. Welcome to Air Quality Advisory Board, January 16. Call to order.

The first rule of order is approval of minutes from July 12th meeting.

BOARD MEMBER HANSON: So moved.

BOARD MEMBER HULME: Second.

BOARD MEMBER BROWN: Second.

So moved and seconded. Any questions? Any comment?

Okay. Meeting minutes from July 12th are approved.

Old business. Staff activity.

MR. DIETRICH: Yes, that would be me, covering the hiring status. I believe over the last year we've had somewhere in the neighborhood of 13 vacancies at one time. It's been a little bit of a challenge, not only with trying to address workload, but also get new folks to come in. It's taken some time. We've gotten some promotions because of that. There's some people with familiar faces in some new roles. I might want to take

this time to introduce you guys to some of those folks in the audience right now that are here as far as the staff, if that would be okay?

BOARD MEMBER BROWN: Absolutely.

MR. DIETRICH: Okay. Melissa Meares is right here by the door, and she's in the Title V permitting program. Josh Nall is to her right. He's New Source Review. They're both new in their roles since the last time, I believe, we had Air Board meeting -- Advisory Board meeting.

And then to Josh's right is Cole Anderson. He's the New Source Review program manager. And to his right is Mark Smith. Mark Smith works a lot of the oil and gas permitting, and he will actually be doing a presentation later on this morning.

Skipping over to the aisle -- over the aisle is Nancy Vehr. She's with the AG's office. To her right is Tina Anderson with rule development. And then to her right is Jeni Cederle, who was --

Were you in this role before?

MS. CEDERLE: No.

MR. DIETRICH: So she's new as well, coming from the Air Quality Advisory -- Air Quality -- help me out here. She was in planning?

MS. CEDERLE: Resource Management.

MR. DIETRICH: Resource Management. Thank you.

She now took the place that Carissa Krey used to be in. So she helps Tina with rule development.

Behind Jeni is Darla Potter, and she is the manager -- program manager of Quality Resource Management.

And then, let's see, new person entirely, Shelley Berry. Shelley, raise your hand.

MS. BERRY: Hi.

MR. DIETRICH: She's the new Gina. Gina left us to go work in Water Quality. And Shelley came from Land Quality. So she's helping us like Gina used to in the past.

And see if I've forgotten anyone. Oh, here we go, all right. I need some help.

MS. MILLER: Shannon Miller.

MR. DIETRICH: Shannon Miller, yes. Thank you.

And she started this month working with Brian. Brian Hall's to her right, and they're in the planning group.

And I think that's all.

Okay. But as I started out earlier, we've had a lot of vacancies. Some of these folks are a result of those vacancies and got promotion and other opportunities.

But where we are right now, there is four vacancies left in the Division; one we're in the process of trying to fill. And there are three others that are part of the agency cap with the governor, so we cannot fill those positions. And they all happen to be in either New Source Review or Title V permitting right now. So we've been really busy trying to fill positions, because we really need the help. So there's where we are with that.

BOARD MEMBER BROWN: Would it help if we introduced ourselves?

MR. DIETRICH: Yes. I'm sorry.

BOARD MEMBER BROWN: My name is Tim Brown. I work at Solvay Chemicals. I'm an environmental services supervisor. I've been in environmental for about 20 years.

BOARD MEMBER WASSERBURGER: My name is J.D. Wasserburger. I'm from Lusk. I'm a rancher, and I have an oil field contracting business.

BOARD MEMBER HANSON: Klaus Hanson. I'm a retired university professor. I know nothing about this at all.

BOARD MEMBER HULME: I'm Diana Hulme. I'm from Laramie, and I work at the University of Wyoming School of Energy Resources.

MR. DIETRICH: And I'm Steve Dietrich, the Air Quality administrator.

So are we ready to move on?

BOARD MEMBER BROWN: Yep.

MR. DIETRICH: Okay.

BOARD MEMBER BROWN: Enforcement activities.

MS. VEHR: I'm Nancy Vehr with the Attorney General's Office, and I'll give you this update on enforcement and some litigation.

Our last meeting was back in July, and at that time there were 63 open enforcement cases, including several that were operating under various consent decrees. Our last report in July covered four months, and this report covered six months. So since the July report, we opened 35 cases, nine of those in these first two weeks of 2013. So it was a little bit busy this first couple of weeks here.

The total opened in 2012 were 61 new cases. We've closed, in the past six months, 25 cases. One of those will be closed in 2013. And so the total we closed in 2012 were 70 cases. Right now we've got 73 open enforcement cases. They're in various stages. Like I said, there were some that just got opened, there's some that are in settlement discussions, and then there's some that we've got agreements -- tentative agreements with the companies or are waiting for completion of items under

those settlement agreements.

There are a couple of appeals in front of the Environmental Quality Council. So this goes under the "other litigation" category. There's one case on the docket that's been there since 2010, and we're keeping it on the docket and asked the Council to keep it open in regards to PacifiCorp's settlement agreement with terms that go out until 20 -- I'd say 2020. So it might be out there for a little bit.

The other one is an appeal by Peabody Powder River Coal on an enforcement and other agency action. And that was opened in late summer of 2012, and we're in settlement negotiations currently on that one.

There's some other cases that we follow nationally just to keep an eye on with the planning folks and Tina doing state plans, and all those involved most of the ambient pollutants that we just kind of keep an eye on. We're not a participant in those cases. There's also still the greenhouse gas rules that are being challenged.

At our last meeting in July, the D.C. Circuit Court of Appeals had upheld the four national rules dealing with implementation of greenhouse gases. Some of the parties asked for rehearing, the court denied that rehearing, and I haven't checked the docket to find out if they filed a petition to go up to the U.S. Supreme Court on

that case or not. We anticipate that's what will happen, but I haven't followed up yet to see if they did.

The other challenges that greenhouse gases are in regards to action that EPA took in posing a Federal Implementation Plan for several states, including Wyoming. Wyoming challenged those, and we finished our briefing back in June of 2012. We had anticipated that the D.C. Circuit Court of Appeals might give us an oral argument in the fall. So far we haven't heard anything, so it's just sitting on their docket and still an open case.

The other case that we're participating in is an intervening with a number of states is called White Stallion V. EPA, but it's in regard to utilities MATS case. We've done our part on the briefing, and it's still in that briefing phase, so we're waiting for the other side to respond to briefing, and then it should all be completed sometime in the spring in terms of the briefing, then go to our plan.

Other litigation that's ongoing involves regional haze state plans and federal plans. There was a case -- deadline suit in Colorado called WildEarth Guardians V. Jackson. And in that particular case EPA entered a consent degree with WildEarth Guardians to establish various deadlines in relation to promulgation of state plans and/or implementation of federal plans. Wyoming's state plan

submittal was part of that litigation, so EPA established agreed-to deadlines for acting on Wyoming's state plan.

You recall from your last meeting there had been public hearings earlier this summer in regards to EPA's proposed action on Wyoming's Regional Haze Plan. EPA took comments in late June through part of July, and in the fall apparently EPA did additional analyses. So in December of 2012, just last month, EPA asked the court for an extension because they want to repropose action on Wyoming's state plan. So we're going to go through it all over again. March 31st, 2013 is the deadline, the court deadline for EPA to sign a reproposal, and then September 27, 2013 is the deadline for EPA to take final action on Wyoming's Regional Haze Plan. So we'll have to see what they show us come March.

And that particular plan dealt with nitrogen oxide and particulate matter emissions in our BART determinations, Best Available Retrofit Technology.

Wyoming -- or, excuse me, EPA did not ask for an extension of time in regards to the other regional haze plan that Wyoming has submitted involving our backstop trading program, sulfur dioxide emission. EPA took final action on that plan, and it was published in the Federal Register on December 12, 2012. We just received word, I think it was published in the paper the other day, that the

WildEarth Guardians had filed a petition for review of this regional haze plan, and that's in the Tenth Circuit. WildEarth Guardians has filed petition for review of New Mexico's trading program piece as well. So that's another active area we'll keep you updated on over the next couple of months.

And that's all I have, unless you have any questions on items of interest regarding enforcement.

BOARD MEMBER BROWN: Any questions from the Board?

BOARD MEMBER HANSON: Just one question.

We dealt with an area of haze out West. Is that what you'd be referring to when you said there was something in the courts about one area where we had the special haze situation last time we discussed it?

MS. VEHR: Regional haze, I don't recall the discussion last time, but regional haze is for multiple sources over many areas.

BOARD MEMBER HANSON: Okay. Uh-huh.

MS. VEHR: And this is a plan -- excuse me, EPA's required to -- or the states are required to submit plans across the United States, not just here in Wyoming.

BOARD MEMBER HANSON: Okay. Okay.

MS. VEHR: Wyoming is a member of some states that got to do things a little bit differently under

the Clean Air Act, because we're up on -- considered one of the --

BOARD MEMBER HANSON: The thing -- Darla gave us a report on what region? What was it where --

MS. POTTER: Oh, that was ozone in the Upper Green River Basin.

BOARD MEMBER HANSON: Oh, yeah. That's what I was referring to.

So this has nothing to do with --

MS. VEHR: No, this is haze. This is visibility.

BOARD MEMBER HANSON: Okay. Thank you.

MS. VEHR: Thanks.

BOARD MEMBER BROWN: Thank you.

Let's see. New business, rulemaking.

MS. ANDERSON: Good morning.

BOARD MEMBER BROWN: Good morning.

MS. ANDERSON: Tina Anderson with the Air Quality Division, and I'm going to give you a game plan here for new business, and then I'll -- we'll be jumping up and down with various members of the staff to fill in here.

Before I get started, I'm sure you noticed that we didn't sacrifice any trees on your behalf. But in addition to the package that you got before today -- we gave you on the very bottom of your new pile are the regs

that you actually recommended that we take through the process when we met with you in July. So you now have a completed copy of those. And if you still have your Air Quality Standards and Regulations at home somewhere, you can take out the existing versions of these and replace them with these. So that's the fruit of your labors there.

Also in that pile is a comment letter. The only comment letter that I'm aware of that we got on the rulemaking that we're proposing today that came from EDF, Environmental Defense Fund, and Wyoming Outdoor Council, WOC. And we'll talk about that when we get to that point, but you can read it at your leisure.

We also have in that pile copies of presentations that Mark will be giving that have to do with oil and gas, and also some background information that Darla Potter has forwarded regarding ozone in the Upper Green. And then finally in that pile you'll find a piece of legislation that is actually over in the Capitol right now being discussed this week or in the near future regarding greenhouse gases. And that was the other piece of regulation that we brought you in July, and that has slightly different face than what you have in the pile before you, so Steve is going to elaborate on that. So additional documents, just giving you a heads-up on those.

As for rulemaking today, we will be proposing

changes to the Wyoming Air Quality Standards and Regulations, Chapter 4, State Performance Standards for Specific Existing Sources, Sections 1, 5, and 6.

We'll also be looking at proposed changes to Chapter 5, National Emission Standards, Sections 2, 3, and 4; and Chapter 6, Permitting Requirements, Sections 4 and 14; and Chapter 11, the National Acid Rain Program, Section 2. That will be the full extent of the regulations that we will cover.

At the end of that discussion we will ask whether you will recommend that we proceed with rulemaking, and that's the action that we'll ask you to vote on today. And you're, of course, as always, free to make recommendations on different wording or different ideas that we proposed.

Once we closed that section, Jeni is going to introduce two new infrastructure SIPs, and she will talk more about what those mean. But they're not rules, so we'll separate them from the rulemaking piece.

And then finally the updates to the Division on -- being general topics, including what you just asked about, Klaus --

BOARD MEMBER HANSON: Yeah, I see that down there.

MS. ANDERSON: -- on the ozone in the Upper Green, continues to be the big topic for Air Quality

Division and the State of Wyoming.

And then finally Steve is going to catch you up on what's going on with the greenhouse gases.

So with that, I am going to turn it over to Jeni, who is going to introduce you to the changes in Chapter 4.

MS. CEDERLE: Good morning. My name is Jeni Cederle. I'm with the Air Quality Division, and we're going to take a look at the revisions to Chapter 4, our State Performance Standards for Specific Existing Sources.

Most of the sections in the chapter are required by EPA under the Clean Air Act Section 111(d). Chapter 4, Section 5 is a big chunk of what we're focusing on today, adopting amended emission limits. We'll also see some revised compliance monitoring and reporting pieces of it.

And this is focused on existing Hospital Medical Infectious Waste Incinerators, or HMIWIs. You'll hear me refer to HMIWIs. So I'll just say that all day long. The changes are being proposed to update Wyoming's recommendations to match the new federal guidelines.

We'll start off with a little bit of background. Wyoming submitted a HMIWI state plan in 1999, which was approved and published in the Federal Register in June of 2000, became effective in August 6, 2000. Since then the federal emission guidelines for existing HMIWIs have been amended and published in the Federal Register as of

October 6, 2009. The amended emission limits impose more stringent limits on those -- on sources specified by the original 1997 HMIWI regulations.

So our goal is to adopt the amended emission limits into our state regulations to get the legal authority to continue to regulate the source through a revised state plan. So we have a state plan in place from 1999, but we've had amended emission limits from the federal government as of '09.

The adopted rules are to be no more stringent than those promulgated by the EPA. The revised state plans off of the amended emission limits were due by October 6, 2010. This didn't happen, as our rules had yet to be updated and adopted. The amended emission limits became effected -- became effective and enforceable as soon as possible after the EPA would have approved our state plan, but no longer than three years, or we would have five years after the date of the rule promulgation. So right now our five-year mark will be October 6, 2014.

We have one facility in the state of Wyoming, in Casper, and it's the Wyoming Medical Center. Currently the incinerator operated there is being operated under a Title V permit and is in full compliance with the current applicable state and federal regulations. So we're still operating within the legal boundaries.

Once our Wyoming regulations are adopted, the State will then submit a revised state plan to the EPA for approval, which will then allow the State of Wyoming to regulate the source as was done under the 1999 state plan.

With this rule revision process, the pieces of the amended rule are really intricate, and so in the end we ended -- we opted to strike out all of the current Wyoming regs language and bring the amended Federal Rule into state format. If you go ahead and take a look at Chapter 4, we amended Sections 1, 5, and 6; 5 being the bulk of it. We take a look at the introduction, Section 1, you'll see that we added Section 6 to be an incorporation by reference there.

We'll move on to Section 5, which is page 4-37. Everything ahead of that is all of our old language from the regs striked out. And beginning with part (a), Definitions, we removed the entire list of definitions and incorporated CFR reference. This will allow the state to update future changes to the definitions and let them occur without having to reopen the chapter. Basically you'll see that it pushes you out to another CFR, and all of the old definitions that were in our old regs are current and up to date with what the CFR pushes you out to.

And part (b), Applicability, which is just on the same page, 4-37, this is kind of where the guts of the rule

changes come in. The new rule includes phased trigger dates, which I'm -- trigger dates is more my language, to kind of help me along with what they've done. These trigger dates determine when an affected facility must comply with amended or lower emission limits. And what they've done here is you'll see for A and B they've added in what I refer to for A, capital A, trigger date number 1, constructed on or before June 20, 1996 or modified on or before March 16, 1998. The new language added to that that differs from our old regs in the modified section, otherwise there was our own trigger date in our old regs.

Trigger date number 2, construction would commence after June of 1996, or June 20, 1996, but no later than December 1, 2008, or modified after March 16, 1998, but no later than April 10th, 2010.

Our facility is considered existing under the amended rules and falls under trigger date -- what I refer to as trigger date number 1. But those are the two big changes that they've added in here. The second part didn't even exist.

And we kind of move a little bit forward to page -- just flip it over to page 4-38, you'll see Subpart (B)(x). What they've done here, at bottom of the page for 10, is the -- the bigger -- another piece of the change to the new rules is the inclusion of language that will

eventually push all of our facilities to operate under the new lower emission limits. Currently our facility is complying with the 1997 emission limits, and that's okay, but we'll be expected to comply with the amended rule by the October 6, 2014 date. And that's what that paragraph is getting into so that eventually existing things will push up and work under the new -- the lower emission limits.

Moving on to C, Emission Limits, which is on page 4-39. The new rule includes more stringent emission limits, based off the new trigger dates for all HMIWI. As you go through, Tables 1B and 2B represent the new emission limits.

Moving on to Section D, Operator Training on page -- operator training and Part (e), Waste Management Plan, page 4-43, have not changed; however, they are now being referenced through the appropriate CFR. Before we had listed out all of the steps, and now they're pushing you out to about the Subpart Ec.

Part (f), starting on page 4-43, Inspection Requirements, our old rule required initial and annual equipment inspections. The new rule requires those same initial annual equipment inspections, as well as initial and annual air pollution control device inspections. We'll go on to part (g), Compliance, Performance Testing, and

Monitoring Requirements. One of the big pieces of this that they changed was that our -- the old regs allowed the exception -- an exemption for startup, shutdown, and malfunction for compliance, that has been removed, and now emission limits will apply at all times.

And what you'll see through the bulk of this is that we start off from the beginning, you know, this is how you can comply with this regulation, they'll send you out to Subpart Ec, and then the following is the "but," the exclusions.

To kind of give you an overall view of the new things, a lot of it's very similar to the old regs, but there are some new pieces. The remainder of the updates are additions or revisions to the 1997 rule, and I'll just kind of summarize what some of the changes were for you, since it was pretty extensive going through all the different CFRs.

Existing sources are allowed to use previous emission test results to demonstrate compliance with the revised emission limits. All HMIWI are required to test and comply with the new NOx and SO2 emission limits. New performance testing requirements for small and rural HMIWI will be in place. But that doesn't apply to us. We're actually a medium-sized HMIWI.

So new sources utilize continuous emissions

monitoring systems or bad leak detection systems. They'll have new and improved monitoring alternatives for all HMIWI. They have some alternatives for existing, such as they can use the CO CEMS, which is the continuous emission monitoring systems, but also new and existing would be given the option to use PM, hydrogen fluoride, and mercury CEMS monitoring, monitoring requirements for HMIWI, there will be monitoring requirements for even that. So selective noncatalytic reduction technology to reduce NOx, and that's what was really tied into the compliance performance testing and monitoring section.

Moving on from there, Part (h).

BOARD MEMBER BROWN: Which page are you on?

MS. CEDERLE: I'm on page 4-48. We're into the Reporting and Recordkeeping Requirements. Our old regs were fairly mimicked to this 40 CFR 60.58c through g, Subpart Ec. And Subpart Ec is what we're seeing get pushed out of -- that's where they're getting directed throughout the new regs as well.

Right now the new regulations are the same as the old, but we're seeing some requirements specific about the air pollution control devices and bad leak detection. We'll also see some new language about procedures for test data submittal, and it's electronic.

Moving on to section (i), which is page 4-49,

Compliance Times. The facility, again, is to comply three years after EPA approves the state plan, but no later than October 6, 2014. However, there is a provision for an extension process, and that is the same as our old regs and up to this date.

Section 6 on page 4-50 is our new section that we've added in for Incorporation by Reference, and this will keep our -- help us keep our regulations as up to date as possible as revisions to the final rule are made.

Does anybody have any questions or thoughts?

BOARD MEMBER HANSON: Yes. I tried to read through this whole thing, and the one thing that occurred to me, I presume other Wyoming hospitals deliver their biohazard to this facility, right?

MS. CEDERLE: I'm not sure on that.

MS. ANDERSON: They do.

BOARD MEMBER HANSON: They must get rid of it in some fashion, right?

MS. ANDERSON: They can either take it to a landfill, if the landfill is willing to accept it --

BOARD MEMBER HANSON: Yes.

MS. ANDERSON: -- or they can truck it down to Wyoming Medical Center.

BOARD MEMBER HANSON: And that was the question. I saw nothing about I presume biohazard being

transported on the highways is a certain risk, a certain danger. Is there anything in the regulations that that is regulated in some fashion?

MS. CEDERLE: Not that I'm aware of.

BOARD MEMBER BROWN: That would be DOT regulations, if anything.

BOARD MEMBER HANSON: That would be DOT regulations?

BOARD MEMBER BROWN: If there are any.

BOARD MEMBER HANSON: Because, you know, you can well see we burn the stuff very judiciously, and rightly so, and -- but on the way it flies all over the place and could be a pollution hazard.

MS. CEDERLE: Absolutely.

BOARD MEMBER HANSON: Maybe that's just a dumb question, but is there something like that?

MS. CEDERLE: It's something I can look into and try and go through the Department of Transportation, but currently, through our Air Quality rules, we don't have anything like that to -- we're regulating the emission off of it, when it's --

BOARD MEMBER HANSON: You mentioned other facilities they probably put it in the landfill. You know, of course we have very stringent landfill regulations of what you can put into a landfill these days. We have this

problem in -- in Laramie, you know, what can end up there and what can't, et cetera, et cetera. So I -- I can hardly imagine that this stuff can end up in a landfill, because it would probably fly in the face of groundwater regulations that we have in place as far as the state is concerned. So it mysteriously vanishes somehow, and I -- I -- I'm concerned about that.

MS. CEDERLE: It's a valid concern.

Our regs also do -- Chapter 4, Section 4 also covers existing municipal solid waste landfills. So there is regulation on the landfills out there --

BOARD MEMBER HANSON: Yes.

MS. CEDERLE: -- but as far as I know, there's nothing from the federal government --

BOARD MEMBER HANSON: Okay.

MS. CEDERLE: -- that haven't crept up.

BOARD MEMBER HANSON: I was just wondering. That was my concern here.

MS. CEDERLE: Absolutely.

MR. DIETRICH: If I may, these regulations all talk about, that Jeni just went over, deals with incineration, and dealing with getting rid of it that way. From the landfill perspective, there are hazardous and solid waste regulations in this state, and also the federal level, that do deal with how to containerize and transport.

BOARD MEMBER HANSON: Okay.

MR. DIETRICH: They match pretty well with the DOT regulations as well. So to alleviate your concerns, there are regulations that do cover that.

BOARD MEMBER HANSON: Good. Thank you. Just want to be sure.

BOARD MEMBER BROWN: Do we have any questions or discussion from the public?

MS. CEDERLE: Thank you very much.

BOARD MEMBER BROWN: Would it be better if we talked about each one and moved on to the next, or approve everything at the end?

MR. DIETRICH: You want to cover all of them, Tina, and then --

MS. ANDERSON: That's up to you.

BOARD MEMBER BROWN: Why don't we do them right now so we can -- they're fresh in our mind. That way we'll have it over with, if that's okay with you guys.

BOARD MEMBER WASSERBURGER: Mr. Chairman, I would move that we adopt language presented by staff, striking out any language so indicated and adding new languages as indicated by staff.

BOARD MEMBER BROWN: Do I have a second?

BOARD MEMBER HULME: Second.

BOARD MEMBER BROWN: Okay. We propose to

approve language as -- as written by the staff, and adopting the language and the rules set before us.

And any other -- any other questions before we go --

BOARD MEMBER HANSON: One suggestion.

BOARD MEMBER BROWN: Okay.

BOARD MEMBER HANSON: Page 4-37, since I'm always the grammarian, the scope, first paragraph A, Definitions, there's a word missing here, "Terms used but not defined," I think it's "in this section" --

MR. DIETRICH: Very good.

BOARD MEMBER HANSON: -- "have the meaning." Once in a while I catch something like that.

MR. DIETRICH: Okay.

BOARD MEMBER BROWN: Any other questions? Comments?

Okay. Next item, Chapter 5, National Emission Standards.

MS. ANDERSON: This is where we're going to do a lot of jumping up and down and making you move. I'm going to start this off, and then we're going to have you get up and move to the front so you can see what the projector shows.

So Chapter 5. You've been through this before, but remind you, this is our National Emission Standards.

These are regulations that are required on specific source sectors identified by the EPA, and they're required all over the country. Everybody has to meet them whether -- no matter how you vote today, the only difference is if we incorporate these into our regulations, it's the State of Wyoming that will be enforcing and implementing the rule rather than the EPA. And for the most part, that's the way the industries in this state have preferred that we regulate that way.

So beginning on page 5-1, some very rather insignificant changes. They -- we are simply, under Subpart D and Da, we are simply changing the titles. We're removing the dates that are associated with those particular standards. It's not that the -- that the dates are going away. The sources that are constructed in these time frames are still the sources have to comply with these rules, but EPA simply removed the dates from the titles. So pretty subtle changes there. But it's really easier in the long run if we stay on the same page as EPA as to these.

And the next set of changes will begin on page 5-6, and they look a little bit different in their format than what we normally do. So normally we adopt by reference from the Code of Federal Regulations. And here you'll see that we're adopting -- proposing to adopt from

the Federal Register. The Federal Register is a periodical that the United States government puts out with all the proposed and final regulations, and then those are then codified in the Code of Federal Regulations. That takes about a year to get those all caught up. Because these particular regulations are extremely important to the state of Wyoming, they deal with oil and gas, we have decided not to wait the whole year for them to get pulled into the CFR. So we will adopt them directly from the Federal Register, and then when the year has passed, they will be moved into the CFR when we come back to you with the next round of adoptions. Okay?

BOARD MEMBER HANSON: Tina, one question. It keeps on talking there about onshore. That refers to the continuous entire United States, vis-a-vis offshore, I presume, somewhere out in the ocean.

MS. ANDERSON: Right.

BOARD MEMBER HANSON: Okay. Thank you. I just wondered why we had onshore regulation here.

MS. ANDERSON: Yeah, you know that there are drill rigs that sit out in the middle of the ocean --

BOARD MEMBER HANSON: Sure.

MS. ANDERSON: -- and they have another set of regulations.

BOARD MEMBER HANSON: Yeah. Thank you.

MS. ANDERSON: And Mark is going to be going through detail about what that means, but I also wanted to tell you on page 5-40, which is the -- in the NESHAP section, there's another set of regulations that have come in dealing with oil and gas. They are subpart -- changes in Subpart HH and Subpart HHH. Those, along with what you see on page 5-6, were all proposed and finalized together. And Mark is going to talk about these, so we're going to have him talk about them from both sections all at once. So you'll -- I'm just giving you a heads-up on that.

BOARD MEMBER HANSON: Okay.

MS. ANDERSON: So -- and then we'll come back and hit what's left in the chapter.

So with that, we'll ask you to move down to the front row, and we'll boot up the projector.

And Mark, will you come forward.

Of course it worked much better when we were --

MR. DIETRICH: There you go. It's getting brighter.

MR. SMITH: Okay. What's that?

MS. ANDERSON: You'll want to state your name for the court reporter.

MR. SMITH: My name is Mark Smith, I'm with the Air Quality Division. I do oil and gas production, facility permitting.

So what I'm going to talk about here today is the new Subpart OOOO, which came into effect -- was put in the Register back in August and became effective in October and everything. And how that -- how that rule affects our oil and gas production facilities in the state and the rules that we already have in place and where we have similarities and differences and what we're doing to address some of those -- some of those differences.

So next one.

Like I said, this rule affects any production facilities basically from the wellhead to the city gate, so it covers oil and gas, I mean, in general, all the way up to that point. So it's anything that's constructed or modified after August 23rd, 2011.

Some of the main points that come out of OOOO that are going to affect us is this requirement for reduced emissions completions or green completions. What that is is a technique that the industry has developed that allows them to bring on specialized four-phase separation equipment and bring -- when they're flowing back the well, there's sand and different proppant materials that they use to frack the wells with. There's sand and then there's solids that come up from the wellbore. So that stuff comes back up and they can put particulate and sand filters and traps in there so that when they're flowing back, they can

put that gas to a sales line to thereby reduce emissions and reduce flaring at the production sites.

The way it's worded in OOOO says that it's only at hydraulically fractured gas wells. So that's something I can -- I'm going to get into a little bit later, also. So I just wanted to cover what the -- what that reduced emission or green completion that they're requiring is for.

The next thing on here, pneumatic controllers at production facilities are going to be required to be low bleed/no bleed, and that limit for the low bleed is from the Gastar program, which is 6 cubic foot of gas per hour, is what that bleed rate can be. It has to be less than that to be considered low bleed.

The Subpart OOOO also affects individual storage tanks at production sites, compressor stations, anything along the way. They're storing high carbon --

THE REPORTER: I'm sorry. Can you repeat that?

MR. SMITH: What's that?

THE REPORTER: I have production sites --

MR. SMITH: Production sites and compressor stations, any of the facilities up through -- like I said, up through city gates stuff. Any place where there's a storage tank that has VOC emissions, that's what this subpart is going to affect. And that -- that emission rate

is 6 tons per year, and then they have to meet control requirements of 95 percent, and it's on a per-tank basis.

Next one.

The next one gets into pneumatic controllers at the gas processing plants. It will be like a gas plant where they actually process the gas and remove the heavier ends and get them processed and ready to go out to distribution systems where they clean it up, where it's 99 percent plus methane, which is what you get sent to your house, everything like that. So all those controllers at those facilities would be required to be zero bleed devices, and that's something new that hasn't been in place before. They've had other different versions of controllers at the sites.

And then it gets into reciprocating compressors, where they don't set any limits on the engines themselves, but it's set -- for reciprocating compressors, they have to change out the rod packing. That's just one of the requirements that they propose in there, and it has to be every 26,000 hours or 36 months. And it's something we don't have any requirements for that, so we'll just be adopting that, and the facilities will have to comply with that for updating facilities after August 23, 2011 date.

And then centrifugal compressors with wet seals -- this only affects the wet seal compressors, not

dry seals. There's different versions of seals on the compressors, and they have to reduce those wet seal emissions by 95 percent.

Next one.

Then here's where we get into some of the differences between what we require and what this new rule requires. A lot of the language that is in the OOOO rule was taken from the green completion requirements that we had and implemented since 2005 in the Jonah-Pinedale area. And then with our latest revisions to the guidance in 2010, we expanded those green completion requirements out to the seven counties in the southwest part of the state, which Uinta, Lincoln, Sublette, Sweetwater, Fremont, Carbon, and Natrona. So all the operators in those areas were required, per the guidance, to come in and get green completion permits, and then there's monitoring and recordkeeping requirements that they have to submit to us every -- whenever they complete new wells.

Ours is different from theirs, whereas the OOOO requires this after January 1, 2015. Right now they're encouraging operators to use completion combustion devices, which has required flaring at the sites, rather than venting. From most of the stuff I've seen, typically the operators are flaring during completions anyways. They just vent that gas that can create a safety hazard for

their employees during the completion phase.

So their JDPA for OOOO is encouraging completion combustion devices at this time, and then after 2015, January 1st, they're requiring the reduced emission completions where it's possible. There's some caveats to that where it's kind of the same as our rules there.

There has to be infrastructure in place to be able to do the green completions. I find where they can actually sell the gas, it doesn't create safety hazards and things like that. We have our -- the green completion permits we have have various reasonings and may have to submit in their reports as to why they have to flare X amount of gas and volumes, everything like that, but it definitely does reduce the emissions from that completion phase.

Our requirements don't specify oil wells versus gas wells, so that is one difference from the OOOO subpart. Ours just require where -- if at all possible in those areas. And that was one of the --

Do you want me to talk about the comments we got from Wyoming Outdoor Council, or do you want to wait until the end?

MR. DIETRICH: Any time you want.

MS. ANDERSON: Why don't you go ahead and address them, if you can, and Steve might have some

comments to add to it.

MR. DIETRICH: Yep.

MR. SMITH: One of the comments they had in here was the flaring from oil wells that are in the eastern side of the state. We've seen a lot of development in Converse County and southern Campbell County. And in those areas we don't have -- industry doesn't have infrastructure in place in the new fields, and they're principally drilling for oil. So they're not subject -- it wouldn't be subject to the OOOO rules if they were in place right now either. Part of the stuff we're looking at in terms of possible guidance emissions would be expanding our CDA requirements into these new areas. That's something -- I think we're evaluating that right now and hoping to try to be able to reduce those flaring emissions, like we have gotten some comments and stuff on.

Those are just some of the differences, where they say gas wells, we wouldn't -- we would expand our requirements. We wouldn't -- we wouldn't specify gas wells. It would just be production sites in general.

Did you have anything else?

MR. DIETRICH: Well, some of these coincide with Tina coming up, and Darla's going to touch on too. I was just going to say overall the comments that they did make was in favor of what we're going to do, rather than

against it. But they wanted Wyoming to retain any stricter requirements that the Subpart OOOO doesn't cover. So I think I'll just stop there.

MR. SMITH: Okay. Okay. I think that's -- we can go to the next one.

The low bleed/no bleed pneumatic that Subpart OOOO is requiring, it is effective -- I think October 15, 2012 is when they were requiring those to be -- any new facilities after that would have to have those on start-up, and I think they have a year on facilities that were constructed after 2011, to go back and replace those. Our requirements -- we've had that requirement in since the August 1, 2010 guidance revision, so that really isn't going to make much of a difference in terms of what we see in our rules.

Go to the next one.

The tank emissions is where we have a little bit of difference. The OOOO, like I said earlier, requires any -- any tank at an oil and gas production facility will be subject to a 6-ton-per-year limit. All the tanks and new tanks being installed in Jonah-Pinedale area would be required to have controls on startup, regardless of the emissions, everything that we put in there for control on startup.

The Concentrated Development Area, which I

mentioned the seven southwest counties, any -- any multiple-well facility that's being constructed, they have to have controls upon startup, similar to the Jonah-Pinedale. A single-well facility would be required to have controls if tank emissions from that facility were greater than 8 tons, but that would be across the facility. So they could have 4 tons -- or 4 tanks, and if they had 9 tons, we'd require them to control it. Whereas under OOOO, technically if they had 24 tons or 23 tons, they wouldn't have to, because they could say there's 5.9 tons coming from each individual tank. And we have -- we've always looked at it as one -- as one source, rather than on a per tank basis. So that's one of those areas it could be different. And the same thing in the statewide area, everything -- tank emissions are greater than 10 tons, that's where we require controls, and that would be 60 days of startup on new wells.

All right. Then this is where it gets into some of the leak detection programs that were under KKK. And things that they've -- they've basically bookend into the KKK and LLL subparts. So that any facility that's constructed between January 20, 1984 and August 23, 2011 will still remain under those leak detection limits that are under those subparts, and anything newly constructed after the August 20 -- August 23rd date would be subject

under OOOO. They kind of did it to eliminate redundancy. Everyone wished it to be under one subpart, instead of having multiple subparts. They had to have those by the emission rates they have to be under.

Under the KKK they revised, they're moving the leak detection rate to be the same as what's under Subpart VVa, which I believe is for refineries? I can't remember. But it lowers the leak detection for valves from 10,000 parts per million VOC content down to 500. And they monitor -- it used to be only for valves, then it's also connectors, pumps --

THE REPORTER: I'm sorry. Connectors --

MR. SMITH: Connectors, pumps, pressure relief devices, open-ended valves and lines. So it's a full leak detection program, so anything that -- any places along the -- in the system that has potential for leaks have to be monitored with some type of device that can detect VOC content from escaping from those connections.

The Subpart LLL revisions is for solar recovery systems at natural gas processing plants. And that's -- that is increasing the control efficiently to remove sulfur from 99.8 percent to 99.9 percent from a sulfur production facility that produces at least 5 tons -- 5 long tons per day.

And then here this is the -- this is my last

slide, so you don't have to listen to me talk anymore.

This gets into the NESHAPS. There wasn't a lot of changes. These are only going to affect what they consider small glycol dehydration units at major sources, and they have -- each one has its own version of what a small dehydration unit is, its throughput and emission rates. They set different concentration limits for what the -- what the BTEX emissions -- benzene, toluene, ethylbenzene, xylene -- what these emission limits can be, and it's a long drawn-out equation based on the concentration of the BTEX and the gas stream is going through in that dehydration unit, and it's a nightmare. That's why I didn't put it up here.

But the way that any of the -- any sources that we have in the state, this could possibly affect when they come in for a -- for a construction permit, going through the MACT process as a new source they would -- our limits for MACT are more stringent than what these concentration limits would be. So I don't see a big effect on any of our sites, so...

The leak detection under HH only affects -- only affects valves at this one, whereas the other one affected all the other types of connectors and everything at the site. This is just going to be at -- at those valves down to that 500 parts per million VOC content, and then

eliminates any exemptions from complying with the standards during startup, shutdown and maintenance.

And the HHH -- I guess HH affects smoke in gas plants, and then HHH is a dehy unit of major source that's at a distribution system. So it's pretty much before it gets into the city gate to come to the distribution network to go to everyone's houses and everything.

They have different -- it's another different weird equation with concentration of BTEX and everything. But we don't have typically too many of those, so there's -- we don't look like it's going to affect many of our sources. And then also one of those updates was it remains an exemption from compliance during startup, shutdown, malfunction time.

That's all I have, unless anyone has any questions.

MS. ANDERSON: Probably ask you to come back up. This will keep you awake.

MR. SMITH: It's -- BTEX is benzene, toluene, ethylbenzene, xylene.

BOARD MEMBER HANSON: And MACT?

MR. SMITH: That's MACT --

THE REPORTER: I'm sorry. I need to hear.

MR. SMITH: I'm sorry. MACT is Maximum Achievable Control Technology, and then BTEX is the

benzene, toluene, ethylbenzene, and xylene.

BOARD MEMBER HANSON: Sorry.

MS. VEHR: This is Nancy. And I'm going to interrupt just really quickly.

Where we've got a court reporter, you've got to make sure when you're talking, to either identify yourself if you're someone that's not one of the board members, as well as, for purposes of her reporting, to make sure she can hear you. So speak clearly and slowly. And if there's any other things, she'll keep us on our toes. Thank you.

MS. ANDERSON: Did you guys have any questions?

BOARD MEMBER HULME: I had a question.

BOARD MEMBER BROWN: Okay.

BOARD MEMBER HULME: A just had a clarifying question. I obviously missed something here. So we're looking at adopting the Federal Register version of Subpart OOOO right now, right?

MR. SMITH: Uh-huh.

BOARD MEMBER HULME: But we have the Wyoming P-BACT Guidance, which is more stringent and is in effect right now?

MR. SMITH: Uh-huh.

BOARD MEMBER HULME: I'm just confused by the word -- it's called P-BACT Guidance, but in what you

presented these were requirements. And so I'm kind of a little -- guidance to me is more of a nice suggestion, we prefer you do that, but required is obviously required.

MR. SMITH: Okay.

BOARD MEMBER HULME: So I'm confused how this is panning out with enforcement and -- which is it, I guess.

MR. DIETRICH: Good question.

MR. SMITH: The presumption of P-BACT, which is the Presumptive BACT Guidance, is how we allow the operators to permit their facilities and to start them up. They're allowed to drill their wells, complete them, and start flowing them back, start producing the wells, prior to getting the permit, as long as they follow the rules that are under the Presumptive BACT requirement. So if they follow those rules and control when it's setting those deadlines and follow everything we have set forth, they're allowed to construct that facility prior to getting a permit.

That's where some of the differences in the guidance -- and that's -- the way the rule is written under the OOOO, they still have -- it works -- works kind of the same way. They're still allowed to drill their wells and complete that to produce their facilities, they just have to meet those control requirements the same way.

MR. DIETRICH: Diane had an additional question there, too, as well as enforcement, with guidance rather than regulation.

BOARD MEMBER HULME: Right. I mean --

MR. SMITH: Oh, in terms -- okay.

BOARD MEMBER HULME: You say they're required to do it, but it's not -- I mean, this -- in our -- is it in the Air Quality Rules and Regs that they do this at this point?

MR. DIETRICH: The guidance is tied to our Chapter 6, Section 2 regulations which requires permitting for any facility out there that makes emissions. We handle this through guidance. It's a long history of it. There's a lot of revisions that have been done to the guidance. It's been very successful. And Mark's right, once you get a permit, then you're tied to Chapter 6, Section 2 anyway by getting a permit.

BOARD MEMBER HULME: Okay. Right. Right.

MR. DIETRICH: But this merely just allows additional work to happen prior to getting a permit. It does reduce emissions on a voluntary basis through guidance, so you're correct there.

BOARD MEMBER HULME: Okay.

MR. DIETRICH: We have had great success with enforcement under that guidance.

MR. SMITH: Yeah, during the permitting process, if we -- if they -- you know, they submit application to us, we have all these -- all these dates and everything that we know that the first date of the production is this, and they have to submit application by such a date, and in their application they have control -- control installation dates, when they were installed and everything.

So we can -- we can go back if -- you know, if someone submits an application that's two years late and was never controlled, we can go back and take enforcement on those -- on that facility if they -- they never installed their controls and they finally come in and get a permit, I'll write that up in my analysis that we do when we draft the permits, and that goes out to public notice, and then send that over to our compliance staff and say, well, there's this facility, here's their application they sent in, it was such and such late, just didn't have controls required, we're writing a permit requiring them to install these controls because their emissions are above our thresholds, and it gets handed off to them and enforcement people can do that. And we have issued notices of violation on people that haven't followed the requirements under the BACT guidance.

BOARD MEMBER HULME: Can I have some more

follow-up?

BOARD MEMBER BROWN: Yes.

BOARD MEMBER HULME: So if we adopt Subpart OOOO, we're still going to keep our more stringent requirements?

MR. DIETRICH: Yes, ma'am.

BOARD MEMBER HULME: Okay.

MR. SMITH: It just -- it will allow us -- it will allow us to do some of the -- like centrifugal compressors, since we don't have specific regulations on the vent seals on a centrifugal compressor, we can just say they have to comply with the OOOO.

BOARD MEMBER HULME: Thank you.

MR. SMITH: Uh-huh.

BOARD MEMBER BROWN: Thank you.

Do we have any comments from public? Questions? Concerns?

MR. DAILEY: I have one question.

BOARD MEMBER BROWN: Could you come on up?

MR. DAILEY: My name is Bernie Dailey from --

THE REPORTER: I'm sorry. I cannot hear. Can you come up?

MR. DAILEY: Okay.

THE REPORTER: Can you state your name

again?

MR. DAILEY: Yeah, Bernie Dailey with McVehil-Monnett Associates.

And my question, Mark, was you said on those small dehys, that the guidance and the regulations already cover the emission limits. What about recordkeeping and reporting, is there going to be additional monitoring, or does that -- does that come into -- to play now with the new rule?

MR. SMITH: Yeah, with Subpart -- with Subpart HH, those records -- those recordkeeping and reporting requirements, those all still just go to EPA. I don't know if -- I guess I'm not sure how that -- how that will work with us, if they have to send us -- they might have to send us a copy. Most of what those recordkeeping and reporting requirements are is they maintain their records showing that they're under the limits that are set forth by that -- by these -- by that -- that emission contemplation to show that they're not subject -- they're exempt from the control requirements of it. That's -- that's basically all the recordkeeping that I've seen is just they have to show that they're not subject to that subpart, because they're under the emissions that would be required under those controls.

MR. DAILEY: Thanks, Mark.

BOARD MEMBER BROWN: Any others questions? Comments?

MR. DIETRICH: Thanks, Mark.

MR. SMITH: Thank you.

MS. ANDERSON: We still have some more stuff in Chapter 5.

BOARD MEMBER BROWN: Still more stuff, okay.

MS. ANDERSON: Okay. We've caught a -- an oversight here regarding the ways and means of getting this adopted. So on page 5-6, if you'll look at that.

Like I talked about before, we are proposing to adopt from the Federal Register, which we don't normally do. The mechanism for adopting is in back of this chapter through the Code of Federal Regulations, so those aren't quite jiving. So what I'd like to propose is take this language -- it's on the very back of this section on page 5-46 -- regarding the incorporation by reference and modify it so it's appropriate in this place for the Federal Register. And I'll read to you what I'm going to suggest we incorporate, and we would pull what I'm going to -- about to read into the two sections that Mark just discussed that are being adopted by -- adopted by reference.

So we would say something to the effect all

Federal Register articles cited in this chapter and published on August 16, 2012, not including any later amendments, are incorporated by reference. Copies of the Federal Register available for public inspection and copies can be obtained at cost from the Department of Environmental Quality, Division of Air Quality, 122 West 25th Street, Cheyenne, Wyoming 82002. Copies of the Federal Registers can also be obtained directly from the federal government, or something -- something close to that. If I have your permission to make that adjustment.

So we would leave what we have in place for the CFR portion and incorporate something close to what I just read on page 5-6, and, again, on page 5-40. 5-40 was the National Emission Standards for Hazardous Air Pollutants, what we call NESHAPS. They're in a different section, because those deal with hazardous air pollutants. The earlier ones dealt with what we call criteria pollutants, it's the sulfur dioxides, the nitrous oxides, and the particulate matters. So I'm just trying to make changes on the fly here.

So there's that. And then we have one more change on page 5-40. It looks small, but it's actually quite big. It's 40 CFR Part 63 Subpart 5U. These are the National Emission Standards for Hazardous Air Pollutants from coal- and oil-fired electric utility generating --

steam generating units. These have had different names over the years. Right now they're calling them utility MATS, which is Mercury and Air Toxics rule. These rules have been in development since 1990, so 23 years in development. And they're talking about regulating mercury and other hazardous pollutants from large utilities.

And this has -- was introduced, actually, in the Clean Air Act amendments of 1990. At that time EPA was required to do a study to determine if it was even reasonable or necessary to regulate hazardous air pollutants from utilities.

By 1998 they released their study, and by 2000 a determination was made by the EPA that it was reasonable and necessary to regulate. Administrations come and go. The next administration reversed this ruling -- this determination, I should say, and decided that instead of regulating these air pollutants as hazardous air pollutants under 112 of the Clean Air Act, that the whole regulation would be shifted to 111 of the Clean Air Act, which is the resource performance standard section, which we were just talking about. And in that section they actually set up a cap and trade program called CAMR. And it was a way of regulating mercury from all the utilities, and it would be traded.

This was done in 2004 as a proposal and finalized

in 2005. State of Wyoming followed, as it's required to do, and put together a trading program to help -- to participate. By 2008 the courts have thrown it out. So, again, we were back to not regulating mercury or any other hazardous air pollutant from utilities.

After that, EPA went back to the drawing board and came up with the what's now called the MATS, or what I just read to you, and this is what we have going forward. It's still not out of the woods yet.

And I'm going to turn it over to Cole at this point. He and -- Cole Anderson, from New Source Review, and we will explain to you what's in it.

MR. ANDERSON: Thank you, Tina.

Cole Anderson, New Source Review program manager. And that was a great lead-in, because I spent about 10 years with the Division, and I've spent about 5 of those working on power plants.

And it's really kind of a privilege to be speaking with you today, because the MATS rule has been around definitely longer than I have in my current capacity, and also when I was working on power plants. It's a -- from what I've been able to read and conjure up, it's been a huge focus of national attention and also been a national priority for some time to address mercury from power plants.

So as Tina alluded to, we have a new proposal out there for the NESHAP, and I'll cover that today.

EPA promulgated a package for the power plants collectively known as the Mercury Air Toxic Standards. And as she explained, that's NESHAPS and NSPS. The 5U, the National Emission Standards for Hazardous Air Pollutants Coal- and Oil-Fired Electric Steam Generating Units was published on Thursday, February 16, 2012. The effective date was October 16 of 2012. EPA published a reconsideration of the final rule on Friday, November 30th of 2012, and accepted comments on reconsideration until Monday, January 7th of 2013. So we just finished another public comment period on these rules.

So I want to describe first the facilities that are subject to proposed subpart. For the power plants, or electric generating units, these will be coal- or oil-fired units designed to produce more than 25 megawatts of electricity. Components of EGUs subject to NESHAP include any furnace, boiler, or other device used for combusting fuel for the purpose of producing steam. This also includes the integrated gasification combined cycle turbines. So that's something that's also been added to this rule. That's a type of power plant that gasifies coal and then burns it in a turbine.

Wyoming has approximately 20 other coal-fired

units subject to the NESHAP. These units include Jim Bridger's -- I'm sorry, PacifiCorp's Jim Bridger Power Plant, Basin Electric Cooperative's Laramie River Station, Black Hills Corporation's Wyodak Complex. So they are essentially major coal units here in Wyoming. Two existing and five proposed natural gas-fired EGUs in Wyoming are not subject to this NESHAP. There are two natural gas turbines that are EGUs up in the Wyodak Complex, and the five proposed for the Cheyenne Prairie Generating Station.

There will be emission limits established for these EGUs, and I'll cover those here for you. There are seven categories in the rule. There are two coal categories, four oil categories, and one for integrated gasification combine cycle.

Wyoming units fall into the category of EGUs designed for coal where the coal has a heating value greater than or equal to 8,300 Btu per pound. Essentially these are coal units that are not designed to fire lignite coal. The rule provides for lignite coal, which is typically used like in North Dakota, and it's a lower Btu coal type.

It says Wyoming sources will be subject to three emission limitations. The first limitation allows the source to choose one of three options. They consent to do an individual emission limit for nonmercury metal HAPs.

They can accept a total nonmercury metal HAPs emission limit or they can use a filterable particulate matter emission limit as a demonstration that the HAPs are controlled. So that's why we call them surrogate, and they would be monitoring PM, but demonstrating that the hazardous air pollutants are also being controlled.

The second emission limitation allows the source to choose either an emission limit for hydrochloric acid or an emission limit for sulfur dioxide. Again, in this rule, sulfur dioxide is a surrogate that they're monitoring, which demonstrates that hydrochloric gas emissions are being controlled. It says the option to choose a sulfur dioxide is only available to sources with flue gas desulfurization. These are units that have scrubbers, either dry or wet scrubbers. Typically in Wyoming that's most of our sources. Right now there are only two coal-fired plants that don't have scrubbers on them, and they're located at the Dave Johnston Power Plant.

Finally, the third and final emissions limitation is a numeric emission for mercury, and that limit is 1.3 times 10 to the minus 2nd pounds per gigawatt hour. And that, in relation to a lot of the emission limits we established, is a pretty small number, but as I'll allude to later, for new units it's going to get even smaller.

Based on past operating experience, the Division

anticipates compliance with mercury limit being the most challenging of the three limitations. The levels proposed for SO2 and for PM as surrogates are ones we've seen demonstrated in BACT terminations, so we know they are achievable. The mercury limit, though, however, is lower than we've seen in current BACT determinations.

Just to give you an example, two of the newest coal-fired power plants, we set BACT in 97 times 10 to the minus 6 pounds per megawatt hour. What we did is we also required evaluation of further emission reductions with target range of 20 times 10 to the minus 6. Taking a look at that lower value of 20, the NESHAP that's proposed -- I'm sorry, the NESHAP emission level that was finalized is approximately 37 percent lower than the emission rate targeted by the Division. So that number of 20 was something that we were asking power plants to evaluate and determine if they can achieve. The new emission level is 35 percent lower than that level.

We are also aware that there are challenges for reducing mercury emissions. Low chloride levels in the feed coal can reduce the effectiveness of activating carbon injection. High amounts of activated carbon injected into the flue gas stream, which is often captured in baghouse or ESP, can cause a personal emission hazard, which is a safety issue for the operation of the power plants.

Essentially implementation of the NESHAP will have to be carried out on a case-by-case basis for Wyoming's existing power plants. I think each application will have its unique challenges.

New EGUs, those that haven't been built yet or permitted, will also face challenges in reducing mercury emissions. The mercury emission limit for new EGUs is notably lower. The limit is approximately a factor of 100 smaller than the level for existing sources. So a new source coming into the state of Wyoming will have to reduce emissions by a factor of a hundred to achieve the NESHAP level.

In addition to emission limits, there are work practice standards. Wyoming sources, as existing sources, will be required to conduct a tune-up of EGU burner and combustion controls at least 36 months or 48 calendar months apart if neural network combustion optimization software is employed.

What they're getting at here is every three years they're going to have to tune their boilers to make sure they're operating as efficiently as they can. There's an extra 12 months allowed for those sources that use neural networks, which are sophisticated software and computer devices used to optimize the performance of a boiler during combustion. EPA decided to make combustion tune-ups a

federal requirement. The Division does not currently require tune-ups. This work practice creates additional recordkeeping and burdensome reporting on the companies. Essentially that was something that was brought up in comments on this rule, is tune-ups in and of themselves something companies already are doing. Requiring them doesn't seem to add any additional value at this point.

EPA established work practices for periods of startup and shutdown. These practices include starting up on natural gas or distillate oil, operating their continuous monitoring equipment during startup and shutdown, and also making sure the pollution controls are in operation during the shutdown mode and brought on line as soon as possible. Originally as proposed, EPA was saying there should be numeric limits on emissions of hazardous air pollutants during periods of startup and shutdown, and in the final rule they determined that work practices would be more appropriate.

Also added in the final version was provisions for the startup and shutdown of IGCC units. Currently there are none in Wyoming, so that won't affect us.

Several power plants in Wyoming have similar startup and shutdown work practices. These were established through the BACT requirements. In addition to work practices, we also see that power plants are able to

demonstrate compliance with their emissions during all periods of operation. And they often will accept limits during startup and shutdown. These are their normal -- pardon me, their normal limits will be effective during the startup and shutdown, so we don't require work practices. That's an alternative that some people have adopted.

It also says that for PM monitoring -- and this is an additional area of what I would call new direction for us -- that's particulate matter, continuous emission monitoring systems. And these are designed to monitor particulate levels continuously as the boiler operates. Currently we don't have any of these in the state of Wyoming as they are equipped on power plants.

There's also additional testing and notification requirements. Sources subject to the NESHAPS are required to perform initial performance tests, may install continuous emission monitoring equipment for sulfur dioxide, PM, hydrochloric acid, and hydrofluoric acid. NESHAP provides the option to demonstrate whether the affected source is a low-emitting EGU by conducting a 30-day test using sorbent traps. Low-emitting units, or LEEs, are only required to conduct one 30-day test for mercury every 12 months, and one 30-day test for other pollutants every 36 months. This is an incentive built into the rule where they can demonstrate that they're a low

emitting unit. Their test frequency drops off significantly, once per year for mercury and once every three years for the other ones.

There are compliance requirements. Wyoming's affected sources are existing EGUs, and as such, must comply with Subpart 5U no later than April 16, 2015. After Wyoming receives authority to implement Subpart 5U, sources may petition the State for an additional year to comply with NESHAP. So the rule gives them three years, and there's a petition process that gives them one additional year.

In addition to that year that they may petition the state for, there is a one-year extension which EPA may issue as an administrative order under which the source will have the option of up to one year in which to come into compliance. EPA has issued a memorandum and guidance back in December on how they intend to operate under the administrative orders. Essentially with the administrative orders it says that the source has to make a demonstration that there is specific documented liability concerns, essentially how the implementation of new controls or changes to their operation in order to comply with the rule will affect reliability. If they can demonstrate that, then seems like EPA would be willing to entertain an administrative order, but that's definitely not guaranteed

and something they have to petition for. So that's kind of an overview of the requirements of the rule.

As mentioned earlier, the rule went through reconsideration. That started November 30th of last year, and ended here in just -- in July 7th -- or on -- sorry, January 7th, on Monday. And we provided some comments, State of Wyoming did. I just want to briefly go over what we commented on for reconsideration.

The first comment noted that EPA should consider the impact of mercury control when establishing a beyond-the-floor standard for HCL admissions. One of the things that EPA did in part -- in the reconsideration was they went back and did a beyond-the-floor analysis. What that is is an additional step that EPA can undertake to prove that more control, beyond what they already determined, could be applied to these both cost effectively and as a technical matter too. So they had to demonstrate it on a technical basis and look at cost when they did it beyond the floor.

And what they came to a conclusion was that they would leave the existing standards for all the other pollutants except for HCL. They did propose additional requirements where they lowered the emission level for HCL.

And our experience with installing and operating activated carbon injection systems, especially in the

Powder River Basin, is that chloride levels in the coal can be low and additional chloride may be required to achieve levels of high mercury removal. So what that means is our coal for HCL emissions is definitely probably the most beneficial, because you don't have a lot of chloride to start off with. Unfortunately, while that may lower your HCL emissions, that does affect your ability to achieve mercury reductions as well. So you're balancing mercury versus hydrochloric gas emissions. In the Powder River Basin we've had some demonstration projects where they've injected chloride to help raise the mercury removal, and we've seen just insignificant increases in HCL emissions. But we do, in our comment, note to EPA they must consider the additional effects from chloride when you're trying to establish the HCL emission level.

We also noted that -- and this was brought to everyone's attention by EPA, but we commented that in establishing the emission level, it did look at a commercial -- excuse me, a commercial boiler instead of EGU. So they had the wrong source type they were looking at when they were establishing the level for which the EGUs would be held to. So we commented they need to consider the source and the operation of the source and not base their analysis on the wrong source type.

When establishing limits for new sources, EPA

conducted a high-level achievability analysis based on a hypothetical 500-megawatt new source. We made the comment that when performing such an analysis, it's important to consider size and operational differences, especially if EPA is making broad determinations for all EGUs greater than 25 megawatts. Essentially what they did is looking forward for new sources, they picked a middle of the road boiler, which would be about 500 megawatts, and they said we believe that this unit can achieve the emissions level. Because this one can, we expect everyone else to. And our comment is, well, you're regulating from 25 megawatts, all the way up to -- in some cases boilers exceed 500, 800, and even a thousand megawatts in capacity. So you're looking at some very large boilers. And to pick middle of the road, you know, I don't think necessarily answers the question.

Finally, EPA requested response and comment on whether to retain the option to perform quarterly stack testing to demonstrate compliance with the filterable particulate matter (PM) standard. Again, this is where EPA was saying our experience and what they have for information on particulate matter CEMS, they believe that quarterly testing for particulate matter wouldn't be necessary. And based on our experience, or lack thereof, PM CEMS aren't in Wyoming a demonstrated emission

monitoring system yet. So we commented to them that we would prefer the option to keep stack test in light of the fact that PM CEMS does not prove workable solutions here, that we can use quarterly stack testing.

And that's it for an overview of 5U. I'm definitely willing to entertain any questions you might have. It's pretty complicated, and I know I used a lot of acronyms. I can clarify anything you would like.

BOARD MEMBER BROWN: Do you anticipate new sources having trouble achieving the lower mercury limits?

MR. ANDERSON: I haven't seen anybody achieve that one. It's 2.5 times 10 to the minus 7.

BOARD MEMBER BROWN: Right.

MR. ANDERSON: And when you look at that, it's a hundred times lower than what we're seeing our best plants demonstrate today. I think that would be difficult.

BOARD MEMBER BROWN: Would that preclude new sources, then, that can achieve that --

MR. ANDERSON: Well --

BOARD MEMBER BROWN: -- on paper, going through your analysis?

MR. ANDERSON: Yeah. I mean, at this point it's a federal rule. And we would say comply with that. And I guess, if they couldn't -- I'm not saying that we would necessarily hold a permit in denial of that. At this

point they would have to make a demonstration that they could comply with that.

MR. DIETRICH: This is Steve.

Cole, is it safe to say that you're not aware of any burn technology or control mechanisms out there that can actually achieve that value?

MR. ANDERSON: Not at this time. And there's a lot. I mean, they've got activated carbon. They're looking at new processes. They've used bentonite. We have some plants here looking at producing a bentonite clay material that they would inject instead of activated carbon. So they're definitely motivated and being inventive when coming up with solutions.

BOARD MEMBER BROWN: What kind of control are we at now, our mercury emission limit -- or where are they running at now, a typical --

MR. ANDERSON: 97 times 10 to the minus 7 is one that's achievable. We've seen a lot of emissions there. We've done a couple of analyses. Actually, we didn't do it. It was the power plants that submitted it, and we reviewed those analyses. And their levels were right around 40 to 41. And so seems like 20 is something that a couple of them might be able to achieve, but, again, going lower than that, we don't have any information they can do that.

BOARD MEMBER BROWN: Okay. Thank you.

BOARD MEMBER WASSERBURGER: What would be the penalties?

MR. ANDERSON: That's under the enforcement, so I think that -- I can't give you a number at this point, but they would be subject to enforcement action, and we would follow the process.

BOARD MEMBER WASSERBURGER: Shutdown or what are you talking about?

MR. ANDERSON: Well --

BOARD MEMBER WASSERBURGER: Fines?

MR. ANDERSON: Well, you want to speak to that? I can talk to --

MR. DIETRICH: Let Nancy speak to that. Nancy will speak to that.

MS. VEHR: This is Nancy Vehr with the AG's Office. And on enforcement, under -- there's two components under this 5U, a federal rule, and there's Federal Clean Air Act and Regulations that EPA follows have different provisions for how EPA may choose to enforce particular items. So if the state does nothing, and EPA chooses to enforce, they would -- EPA would follow the Federal Clean Air Act and Federal Regulations in their federal policies.

Under those provisions, EPA has options for

administrative enforcement or judicial enforcement. The judicial enforcement provisions, I'm not quite up to date on all those, but the dollar figure is around $38,000 per day per violation. So it can add up to be quite significant quite quickly.

They also have provisions that they can request what's called injunctive relief, which would be a way to get a source back into compliance. The issue I think that Cole hit on was whether a source could actually achieve compliance by the standard. How that EPA might choose to enforce, we don't have any particular idea.

For the State of Wyoming, once we adopt a federal standard into our state regulations, it becomes state law. Under the Environmental Quality Act, there's a provision, it's 35-11-701, and the goal under the Environmental Quality Act is for the Department to work with sources to get them back into compliance. We have mechanisms for issuing a Notice of Violation, which is an allegation that violation has occurred. That gets the source into the State to talk to the Department about what the situation is.

Out of that process, we can enter into settlement agreements or compliance agreements, again, with the goal of getting the source back into compliance. And then there's another component that the Act allows for

stipulated -- excuse me, penalties, and that -- the state level is $10,000 per day per violation.

There's also a third enforcement mechanism. There's a provision under the Wyoming state law, as well as under federal law that allows for citizen enforcement, third parties to enforce, and that's out of our control, and they can choose to go either under the federal route or the state route. And they would have the same I'll say remedies available to pursue a suit in court to achieve compliance.

So the mechanisms can be federal, state, or the citizen suit, and it can be in the state arena or federal arena. Until you have an actual situation in front of you, it's difficult to say how the state would -- what action the state would take other than typically when we have a compliance concern, it's through this Notice of Violation mechanism, where we start trying to gather the facts. And it's definitely a very serious consideration for all affected sources.

Wyoming, as I mentioned earlier, is participating in the litigation over this 5U. It's in the D.C. Circuit Court of Appeals. The rules right now are effective at the federal level, and this rulemaking process would put the rule into state law so that we could implement the rules instead of having EPA implement. So sources that would be

affected typically in that process, EPA has allowed the state to take the first crack at enforcement rather than at the federal level. So affected sources would deal with the state directly, rather than having to deal with EPA Region 8 headquarters.

It's not a very comfortable situation. It's got a lot of plants concerned on meeting these requirements. The provision that Cole talked about that allowed this extended compliance state three years out, and additional two one-year provisions, we're not sure how that's going to work. As far as I know, that has never been done in the EPA level before in terms of the total rulemaking package. They may have done it on a source-by-source basis. So the sources are very anxious to see how this rolls out, and is of frank concern. And there's been a lot of press about this particular rule. You may have seen announcements about various sources closing. This is one of the rules that affects them deeply.

So it's not a direct answer to your question, but compliance is a step if someone's not meeting the permit requirements or the rule.

BOARD MEMBER BROWN: And it's strictly EGUs, correct?

MR. ANDERSON: Yes, yes.

That's also a good point to note, a point of

clarification, some of these rules for NESHAPS can have an area source component to them. Major source is a source with 10 tons of individual hazardous air pollutant or 25 tons combined. Those are major sources of HAPs. Then there are area sources, which are everything less than that. This NESHAP is a little bit unique in they've chosen not to create an area source for this, but they actually incorporated boilers at 25 megawatts in size that may themselves be an area source if actually measured the pollutants.

So while there aren't specific provisions for area sources, they did incorporate some sources that might qualify for area source recognition.

BOARD MEMBER BROWN: Okay. Thank you.

MR. ANDERSON: Thank you.

BOARD MEMBER BROWN: Any other -- Tina?

MS. ANDERSON: We've got one more.

BOARD MEMBER BROWN: One more.

MS. ANDERSON: One more comment.

Draw your attention to page 5-46, which is Section 4 of Chapter 5, Wyoming Rule Standards and Regs. This is the incorporation by reference section. So in addition to modifying it for the provisions regarding the Federal Register adoption, we also need to adopt this section as it's laid out on page 5-46, which is simply to

roll forward the date from 2010 to 2012 to incorporate all the changes, updates, revisions since 2010.

And that's something that you do on an annual basis. We're skipping a year because it's taken us longer than we thought to pull this together. You don't have to go through it one more time, put it that way. So other than that, that's all we have to propose in Chapter 5.

So at this point if you want to make a decision about recommending with the revisions that we talked about, and maybe you'd like to take a 10-minute break or something.

BOARD MEMBER BROWN: Okay. You may have to help us with the language once we get to --

MS. ANDERSON: Okay.

BOARD MEMBER BROWN: Any discussion from the Board?

BOARD MEMBER WASSERBURGER: I have one more question for Cole.

On a gas-operated turbine, what kind of mercury discharges do they have?

MR. ANDERSON: Well, I think I would call it maybe not insignificant, but it's very low compared to the coal units. And I think that's why EPA went forward excluding gas units from this NESHAP. So you have -- it's usually orders of magnitude less than coal-fired unit.

BOARD MEMBER WASSERBURGER: Thank you.

Mr. Chairman, I would move that we adopt language as proposed by staff in Chapter 5.

BOARD MEMBER BROWN: With revised language?

BOARD MEMBER WASSERBURGER: Yes, sir.

BOARD MEMBER BROWN: Do I have a second?

BOARD MEMBER HANSON: Second.

BOARD MEMBER BROWN: Anyone opposed?

Okay. Board recommends that we recommend Chapter 5, incorporating by reference using revised language as put forth in today's meeting.

So 10-minute break, is that --

MS. ANDERSON: That would be good.

BOARD MEMBER BROWN: Okay.

(Meeting proceedings recessed 10:40 a.m. to 10:57 a.m.)

BOARD MEMBER BROWN: Okay. Let's reconvene.

Chapter 6, Permitting Requirements.

MR. DIETRICH: I believe that's going to be Tina.

MS. ANDERSON: This is Tina Anderson again.

So we're now looking at revisions to Chapter 6, which is our permitting chapter. And we're going straight into Section 4, which is the PSD section, that stands for

Prevention of Significant Deterioration. It is a chapter that deals with the largest sources in the state. These are power plants, cement kilns, refineries, sources of that magnitude. These are very complicated rules, and we'll do our best to try to help you look at some small revisions to a really great big complicated rule.

So beginning on page 6-64, the first set of changes, and you'll see at the top of the page highlighted language referencing the minor source baseline dates for particulate matter that is 2.5 microns or smaller. So we're looking at really fine particulate. And the PSD program -- I'll give you a little bit of background here, so going from the really big to the really small here.

PSD program, as I said, deals with large sources. And when they come in to get an application from Cole and his group, one of the things they have to do is model the impact of this source to anticipate the impact that source would have in the future, and they do that by gathering information from the source about what they expect their emission rates to be and whatnot. Down the line they try to anticipate what that impact would be from that individual source, and they also are required to look at what the cumulative impact would be from that source and its neighbors. It's not enough to just look at your own impacts, but what do all of them have together and how does

that relate to various standards that they have to comply with.

Well, in addition to the cumulative impact, they're also required to look at what we call an increment standard, which is a standard within the standard. So you all know about ambient standards, and those are the standards we set for all of our pollutants around the state. And those are basically established by the national -- at the national level, and then we adopt them. So we have ambient standards for SO2 and particulate and nitrous oxide.

This particular one deals with, again, really fine particulate, what we call PM 2.5. And when this big source does this modeling exercise, they look at the -- what the rule says, you cannot pollute up to the standard, that you're only allowed an increment of that standard. So it's even more stringent than trying to comply with the standard. And when -- this is all done with a modeling exercise. So when we look at what they're allowed in this little increment, we look at the pollutant. We look at where they are in the state, and we look at when that area actually received its first complete application for a large source, because that triggers the whole tracking mechanism for increment.

And when we do that, we set those dates. And

then when a new applicant comes in, they look at that date, and then when they gather up all the sources they have to look at, they use that date to start tracking whether or not the combined impact of all those sources would exceed these various standards, or we -- is that making sense?

So on the previous page you can see where we've already put in some of these minor source baseline dates. There's one for sulfur dioxide. There's one for nitrogen oxide. And we've been putting those in our regulations, not because EPA requires them, but because it makes a lot easier for the applicants coming in, because they need to know this information in order to do this modeling so that they can get approved application. So we've been putting them in as these areas get triggered.

And PM 2.5 is a new pollutant in the air quality scheme of things, and so the triggering dates have been fairly recent. So what we are recommending here is to add these three new trigger areas end dates. One is for Laramie County, right where we are, which was March 1st, 2012; one is for the City of Cheyenne, March 1st, 2012; and then one is for Carbon County, May 1st, 2012. Those dates were triggered by the first complete application that landed on Cole's desk for these major sources. The first two came in with this brand-new Cheyenne Generating Station, and for Carbon County it was a major modification

to the Sinclair Refinery.

So these are not required by EPA, but they make it a lot easier for people to get permit application in the state of Wyoming. So that's why we're recommending that we add those. Any questions about that?

BOARD MEMBER BROWN: Any questions?

MS. ANDERSON: Okay.

BOARD MEMBER HULME: Tina, can you distinguish between your major source baseline date and minor source baseline date? Just back through those two.

MS. ANDERSON: I might call on Cole here.

MR. ANDERSON: Yeah, the minor source is triggered by, like you said, the first complete application, and the major source is triggered earlier in the rule. So it's two different points in time. And the minor source is usually triggered at the end, when we get that first application, so it's the last one to get triggered.

BOARD MEMBER HULME: Okay. Thanks.

BOARD MEMBER BROWN: For Laramie County that was the power plant?

MS. ANDERSON: Yes.

BOARD MEMBER BROWN: For Cheyenne it was --

MS. ANDERSON: Cheyenne it was also the power plant.

MR. BROWN: They're both power plants?

MS. ANDERSON: Right. Well, same power plant, but the city of Cheyenne sits inside Laramie County. And not to take you down another rabbit hole, but --

BOARD MEMBER BROWN: That's fine.

MS. ANDERSON: -- yeah, those areas are broken out -- those areas were broken out a long time ago when we made our designation for the state on which areas were attaining and not attaining for PM 2.5.

BOARD MEMBER BROWN: That was my question. Would this affect attainment areas?

MS. ANDERSON: It's -- so when a new standard is promulgated, we go in and the staff determines what areas we want to break the state up into, and then determine whether each of those areas is in attainment or nonattainment. For 2.5, everything was in attainment, but we knew that this comes down the road in its increment tracking. So we broke them up into smaller pieces. If we don't do that, you trigger for the entire state as soon as one application comes in.

BOARD MEMBER BROWN: Thanks.

MS. ANDERSON: All right. Am I still speaking the truth, Cole?

MR. ANDERSON: Yeah.

MS. ANDERSON: Okay. This takes us to page

6-76. And this is under the definition of regulated NSR pollutant. This -- so one of the definitions -- this is definition --

MS. VEHR: Oh, 6-67.

MS. ANDERSON: 6-67.

BOARD MEMBER HANSON: Yeah, I was just going to say we're skipping.

MS. ANDERSON: Okay. 6-67. Apologize.

So in the definitions we define what a regulated NSR pollutant is. NSR, New Source Review, is basically this section. This is New Source Review. So these are the pollutants that are regulated under the section, and it is, for the most part, the pollutants we've been talking about. Anything that has, as the definition indicates, a National Ambient Air Quality Standard is a regulated pollutant under this section. There's also some additional things, and that's what we're going to get into here.

Particulate emissions are more complicated. They consist of both a filterable and a condensable fraction. So when -- the filterable part is pretty easy to understand. Those are all the little pieces, particles in the gas stream that can get caught on a filter when you're actually testing this gas. We also have particles that exist in the gas phase that are in the gas stream that do not actually become particles until they condense when they

hit ambient air, and those portions are what we call the condensable portion. And for a long time EPA ignored the condensable portion in terms of regulation and testing, because -- well, for a number of reasons, primarily because it was very difficult to actually test the condensable portion. It's a very unpredictable portion, hard to regulate. So the tools weren't really there to regulate the condensable portion. EPA now believes they are to that point where we need to address the condensable portion, especially when you're looking at the really fine particles, because condensable particulate is very small.

So this is not new today, that they regulated condensables. We actually had language like this in here before, but what has -- the fundamental change that we're bringing to you today is that they are no longer looking at the larger particulate. So if you look on page 6-68, the language has been crossed out, you'll see the word PM is -- is what's missing in the new language. So we just have PM 2.5 and PM 10 emissions. Where it was PM, which is the larger body of particulate matter, which would include larger particles, has been removed. EPA has identified it as an error in their own regulation, and that's why it's being fixed here today.

So that's the big change. You also see stuff moving from one page to another. There's no -- other than

what I just pointed out, the language is identical from what we had before, but it's just been moved around. So...

BOARD MEMBER HANSON: I thought -- Tina, today it's still there, PM 2.5 emissions and PM 10 emissions --

MS. ANDERSON: Right.

BOARD MEMBER HANSON: -- in the new section.

MS. ANDERSON: Right, but not PM, which is even larger -- can include particles which are even larger than 10 microns --

BOARD MEMBER HANSON: Okay.

MS. ANDERSON: -- 40 microns.

And there you're looking at things that are not typically not related to the combustion process, so you don't even have that condensing mechanism happening.

BOARD MEMBER HANSON: Okay.

MS. ANDERSON: And then you also see on page 6-68 we had to shift the numbering because we moved some of these paragraphs around. So that's what that's all about.

BOARD MEMBER HANSON: This one replaces this.

MS. ANDERSON: Any other questions about the condensables?

Okay. That's takes us to page 6-72, to Table 1. And this is a table of the Maximum Allowable Increments of Deterioration. We talked about those increments to those portions of the standard which the facility has to model in compliance with. And they're set for -- as we indicated before, each pollutant has a different one. And in this case, there's also a distinction between Class I areas and Class II. That has to do with how pristine the areas of the state are. The Class I areas are national parks and wilderness areas. Yellowstone, Tetons are Class I areas. Everything else in the state are Class II. And obviously we have a higher standard to meet in the more pristine areas.

And that gets me to what we're actually changing here. So under PM 2.5, we've simply added asterisk for the PM 2.5, 24-hour maximum, and the PM 10, 24-hour maximum. And the asterisk clarifies that when you actually model this and you show exceedances, that you can get -- may be exceeded once per year at any receptor site. The receptors are those points that you model when you measured the -- you modeled the concentrations.

The reason that we put the asterisks in there is because it's clear in the rule that's what EPA meant, but if we put the asterisks in the table, it makes it easier for the people using the rule to understand that without

burrowing back into the EPA's published rule. So this is a clarification.

If there are no additional questions about that, then that takes us to the end to Section 14, incorporation by reference, and that's on page 6-122. And, again, we are rolling forward the date to incorporate everything in this chapter to 2012 dates, much like what you just saw in Chapter 5.

That's it for Chapter 6.

BOARD MEMBER BROWN: Any comments from the public? Concerns?

Any discussion from the Board?

BOARD MEMBER HANSON: I just said we've got more particulate.

BOARD MEMBER BROWN: Do we have a motion?

BOARD MEMBER HANSON: Move to adopt the changes.

BOARD MEMBER HULME: I'll second.

BOARD MEMBER BROWN: Second. Okay. It's been moved and seconded to adopt the language in Chapter 6 on the permitting requirements.

Okay. Chapter 11, National Acid Rain Program.

MS. ANDERSON: So Chapter 11 is our National Acid Rain Program chapter. This is a chapter that we continue to adopt by reference. We have very little to

do with its administration. It's a huge program that EPA manages, but we are required to keep it up to date in our regs so that our Title V program -- our operating permit program remains approvable. So here we're simply -- again, on page 11-1, Section 2, Acid Rain Program, (b), rolling forward the adoption by reference of date 2012.

BOARD MEMBER HANSON: Mr. Chairman.

BOARD MEMBER BROWN: Yes, sir.

BOARD MEMBER HANSON: Move adoption of moving forward --

THE REPORTER: I'm sorry. Can you repeat that?

BOARD MEMBER HANSON: To move it forward to the date of July 1, 2012 from 2010.

BOARD MEMBER BROWN: Second.

BOARD MEMBER WASSERBURGER: I second.

BOARD MEMBER BROWN: It's been moved and seconded, adopted by reference Chapter 11 to include the date of 2012.

Okay. Now we have two infrastructure SIP plans to discuss and the ozone. And we can -- yes, ma'am.

MS. VEHR: Did you guys approve that?

BOARD MEMBER BROWN: Yes.

BOARD MEMBER HANSON: Yes.

MS. VEHR: Okay. Just for the record, if

you could say that.

BOARD MEMBER BROWN: It is approved.

We have about an hour left, we can -- or an hour and a half, maybe. We can go through lunch, because I heard it's crowded out here when legislation is in session. We can power through and get done by about 1:00 or 1:30, I think we should do that. Anyone have a problem?

BOARD MEMBER WASSERBURGER: I will be leaving about 11:30. I hate to do that to you, but I need to be back in Torrington by 1:00, Mr. Chairman.

BOARD MEMBER BROWN: Why don't we do that. Let's move forward to infrastructure 7 -- or the one-hour NO2 standard. And this is hearing, we're not voting on this, correct?

MS. ANDERSON: Correct.

MS. CEDERLE: Jeni Cederle with the Air Quality Division. We're going to be kind of switching gears here while we're talking about infrastructure SIP, that's State Implementation Plan. And I would just like to let the Board know that the infrastructure SIP does not represent any new requirements for sources, but simply a compilation of the programs we have in place to manage our state's air quality.

A little bit of background. The EPA has established a new primary standard for nitrogen dioxide.

They promulgated the one-hour NO2 standard. It became effective, then, on April 12, 2010. They're hoping that in conjunction with the retained annual secondary, that those prone to short-term respiratory health would be protected with this shorter term one-hour standard.

The form of the standard is based on a three-year average of the 98th percentile annual distribution of the one-hour daily maximum NO2 concentration, and the level's been set at 100 parts per billion.

This is entirely new National Ambient Air Quality Standard, and the state of Wyoming has finalized rulemaking to include the one-hour standard in our regulations, and that became effective at the state level on December 19, 2012.

The Clean Air Act, Section 110, requires the states to submit a plan that provides for the implementation, maintenance, and enforcement of specific air quality standards. We need to do this within three years of EPA promulgation of a new standard, the new standard being our one-hour NO2. We are now in the midst. This is a public process for this. It's required that we do this so that we can submit the infrastructure SIP to the EPA and for the one-hour NO2 standard and ask your approval on that.

What we're looking at here is an infrastructure

SIP. This is the building blocks to our state air quality management of our programming. It basically identifies how the state's going to obtain and/or maintain the National Ambient Air Quality Standards. So once the NAAQS changes, or in this case is created, we then have to develop an infrastructure SIP for that particular standard. Our SIP outlines how the state plans to implement, maintain, and enforce this new standard.

So in the end we have three years to get the SIP approved by EPA. That deadline would be sometime -- and the SIP -- sorry. We have three years to do it. It was promulgated in 2010, so our SIP is due to EPA for approval by April 2013. There's been some delay, as EPA has moved forward with guidance on exactly what they want these infrastructure SIPs to look like. There's a lot of chatter out in the world right now about being a multi-pollutant SIP or break it down to the criteria pollutants. So we're just kind of going with what we knew. They said to use a lot of old guidance. We're going forward in that manner, and this is what we're representing to you today. Wyoming has currently -- we're currently attaining the one-hour NO2 standard. We don't have any exceedances,
and this state has been classified by the EPA as unclassifiable/attainment.

So if we move on into the SIP itself, the Section

110 SIPs are divided into elements. EPA wants to see you address each element and make sure you have the programs to maintain and enforce each piece. Our first element here is emission limits and other control measures. We have set this up so that we start at the top of the Nonregulatory Documents.

Number 4 has been added in, that we do not have any exceedances of the one-hour nitrogen dioxide standard, and we have not adopted any additional one-hour reduction measures at this time.

Following that we have it divided out in Regulatory Documents from the past, everything that's been in place, as you can see starting here in 1972. And as you flip through to page 2, we're still in the past and we're moving forward.

What we have added on page 3 is number 23. We have had update to Chapter 3, Section 6, emission standards for volatile organic compounds. And our most recent state's regulatory SIP document was submitted to EPA on May 24, 2012, and is still pending EPA approval.

Moving on to what's been added into this is number 27, Chapter 8, Section 3, conformity of general -- general critical actions to State Implement Plan. Our last SIP has been approved and printed in the Federal Register, but we are moving through -- we've just submitted and

updated the SIP from rulemaking that was effective on the 19th. We have an updated SIP out to EPA that went out on December 26th of 2012. And so, again, pending EPA approval.

The second element, ambient air quality monitoring and data systems. What we have added here in the nonregulatory section, at the bottom of page 3, number 4, is our Wyoming Ambient Air Monitoring Annual Network Plan, which is, you know, a provision that we have to do. It's required by the EPA. It's a yearly annual network plan that our monitoring section goes through and does assessment and it helps them decide and make the objective decisions on where monitoring might need to go in the future in the state.

Flipping over to page 4, it's another create monitoring deal we do required by the EPA. It's the Wyoming Ambient Air Monitoring Network Assessment. This is done every five years, where the one we just talked about is done annually. And we've had our latest piece submitted July of 2011.

Moving through the Regulatory Documents, you'll see that we'll have a bit of repetition, because a lot of our programs fit the requirements of the different elements, but a recent one that we're waiting on is number 8, Chapter 2, Section 2, ambient standards for particulate

matter. Again, we've submitted an updated SIP to the EPA in August of 2011, and we're awaiting EPA approval.

Number 9, Chapter 2, Section 3, ambient standards for nitrogen oxide directly ties into this. That is our addition of the one-hour NO2 standard, and we have updated -- the state rule adoption of this became effective on December 19th, and we'll be working towards getting a new SIP submitted here in January 2013.

Number 10, Chapter 2, Section 4, ambient standards for sulfur oxide. Again, state rulemaking made effective December 19, and we'll be moving forward to a SIP submittal in January of 2013.

Number 12, Chapter 2, Section 6, ambient standards for ozone. Again, this was to move forward in our most recent state rulemaking, became effective at the state level December 19th. And what we will be doing here is another SIP submittal for January 2013. But this will be, I believe, nonattainment requirements -- I'm sorry. I misread that. It was -- oh, no, that's correct. Sorry. Yes. And we'll be moving forward with that.

Again, with number 14 in this section, the Chapter 2, Section 10, ambient standards for lead, we have submitted a SIP in August of 2011, and it's down there awaiting EPA approval.

Moving on to the third element, programs for

enforcement of control measures. We can move it to the Regulatory Documents section, and that would be number 4. Again, you'll hear PSD. Chapter 6, Section 4, PSD. We had submitted a SIP down to EPA in May of 2012, and we're pending EPA approval; however, our PSD program, as it stands, meets all federal requirements.

Chapter 5 -- or number 5, Chapter 6, Section 13, nonattainment permitting requirements. The most recent SIP went down to EPA in May of 2011 and has been posted in the Federal Register as of July 2011.

And moving on to the next interstate and international transport provisions. This was the section that has been fairly problematic in the infrastructure SIP development in that the guidance from the EPA hasn't been given to us. And they now have said, you know, if you -- in some instances with some pollutants -- and we'll cover that with ozone in a little bit -- said you can forgo it and may still deem your infrastructure of SIP complete.

What we have gone ahead and done is created our own argument. We're not going to just put in something that's incomplete -- that could be deemed incomplete. So we've gone ahead in the nonregulatory section in number 3, we went ahead and added in the text that we're currently in attainment with no violations. And, you know, this can be proved through the Federal Register that we've been

classified is unclassifiable/attainment. And so if you're in attainment, you're not transported into another area.

And until things move forward with the EPA and how they deem -- how they go on to classify in the future, it's based a lot off of major roadways and setting up nitrogen dioxide roadway monitoring system, but it's very heavily weighted on demographics, which Wyoming doesn't have. So it doesn't look like we'll actually need to pull into that network, but how it shakes out in the end. We'll see.

Moving on into the regulatory document section at the bottom of page 6, Chapter 6, Section 4, the PSD program works out really well, and we're -- you know, we've got a good program in place at this time.

We've also added in number 3, the Wyoming Environmental Quality Act, Article 2, notification to the Environmental Protection Agency and contiguous states. This is just that we would notice a state if we had -- we would provide notice to an outside state if we did have a transport issue that came up through permitting.

Moving on to the next element, adequate resources. We have added on page 8, number 4, Wyoming Environmental Quality Act, Article 1, powers of administrators in the divisions. This basically allows -- says operators will comply with Wyoming statutes to monitor

an emission -- monitor emissions in reports. And that's a new piece that we've added into this SIP.

Emergency power has stayed the same.

Future SIP revisions requires states have the authority to revise their SIPs in response to changes to the NAAQS, availability of improved methods for attaining the NAAQS, or in response to EPA finding that the SIP is substantially inadequate. We're moving forward. SIPs that have been approved in the past, and we've had nothing new in the programs to add to that.

We're moving on to Element J, consult -- consultation with government officials and public notification. And out into the PSD and visibility protection, the first two -- I'm sorry, consultation with government officials and public notification, we're moving that -- we're rolling that forward from the -- from another SIP that has been approved, and these programs do apply to the one-hour NO2 standard.

Moving into the PSD and visibility protection. Again, Regulatory Documents, we do have a SIP out there from May of 2012, and we're just awaiting EPA approval.

The next element, Air Quality modeling and data. If you go to page 10, again, we -- you know, we're required to do monitoring through Chapter 6, Section 4, of number 4 there, prevention of significant deterioration. And it's,

again, just letting the EPA know that we have a SIP out there, and that it's -- it's waiting their approval.

We've also added the Wyoming Environmental Quality Act, Article 1, powers and duties of the director. And this statute basically states that we'll get involved into gathering and disseminating information to the public.

Moving forward, we -- the last two elements of permitting fees and consultation/participation by affected local entities, and those will remain standard off of the older SIP.

Does anybody have any questions about our one-hour NO2 infrastructure SIP?

BOARD MEMBER BROWN: Questions from the Board?

No questions.

MS. CEDERLE: Okay. Well, I will move along.

MS. ANDERSON: So point of order, we'd have you ask if the public --

BOARD MEMBER BROWN: Does the public have any comments on that?

No comment from the public.

MS. ANDERSON: For the record, we did not receive any comment by mail or submitted to Steve Dietrich, so...

BOARD MEMBER HANSON: I just have a procedural question. You said these sections that you mentioned were added. Why is there no approval needed here versus what we did before? That's just procedural.

MS. CEDERLE: How -- the sections that have been added --

BOARD MEMBER HANSON: Yeah.

MS. CEDERLE: -- and you're referring to pieces I said were pending approval, like the PSD section?

BOARD MEMBER HANSON: Uh-huh. Yes.

MS. CEDERLE: It's more a table of contents for the EPA to look at. It's the building block of our program. It's how we maintain them. So it's our way of letting the EPA know we have -- you know, we've been moving forward, we're updating our PSD regs all the time and keeping our PSD and our SIP updated to you. You need to note that it's in house. So that's our -- that's why it's not in the Federal Register yet, because I'm waiting on action from the EPA.

BOARD MEMBER HANSON: And then approval will be --

MS. CEDERLE: And then when I go through --

BOARD MEMBER HANSON: Okay.

MS. CEDERLE: -- again, I would update with Federal Register date and --

BOARD MEMBER HANSON: Okay. Thank you.

MS. CEDERLE: Yeah, that's what that meant.

BOARD MEMBER WASSERBURGER: Mr. Chairman, I'd ask that I be excused.

I apologize to staff for missing your presentations. I really -- the second part of this meeting is most informative to me. This stuff gets a bit dry, but I really enjoy your presentations, and I do apologize for missing those, and I'll look at it.

MS. CEDERLE: This second one is the eight-hour ozone infrastructure SIP. It's very much not putting any further requirements on sources. Again, we're here to go through public process for this.

The background of this one is a little different than our NO2 -- the one-hour NO2 standard was brand-new when created, so we had to build a SIP for that. With the eight-hour ozone, that was a change to the standard. And what happened here -- we'll start with a little bit of background. In March of 2008 the EPA revised the primary/secondary Ozone National Ambient Air Quality Standards from the level of .08 PPM, parts per million, to .075. This was released in the Federal Register.

What it did was increase the level of protection for public health and welfare. The Federal Rule became effective May 2008. We saw no change to the form, and it

was just the lowering of the level for public protection.

Accordingly, with -- due to the Clean Air Act, Section 110 again, each state's required to submit an infrastructure SIP that provides implementation, maintenance, and enforcement of the revised NAAQS. So we saw change, we saw lowering in the level of ozone; therefore, we need to go through this process and update our infrastructure SIP for ozone, letting you -- the EPA know how we're going to implement and maintain -- how they attain or maintain our NAAQS.

The federal rules promulgated in March of '08, March 12, '08, and we had a three-year deadline to get this ozone infrastructure SIP. And that ended up being March 12, 2011. So we're behind again. However, in the case of the 2008 eight-hour ozone NAAQS, there was a period of time EPA decided to reconsider it. And that was expected to happen in the fair new -- near term. So what happened is the reconsideration process ended up extending about six months beyond the March 2011 submission deadline for this infrastructure SIP, and a lot of things kind of snowballed.

EPA has recently acknowledged that they didn't provide us the pollutant guidance, which we talked about with the NO2, that would help states -- assist us in preparing these submissions. Sorry. And that they were --

states were given the impression that as a result of the reconsideration, the three years we had to get the infrastructure SIP submitted would start again. So we were waiting for this guidance. We were thinking that once they reconsidered it and changed the standard again, then we would have the three years again, even though their process took us past that process before we knew they weren't going -- took us past the deadline.

So Wyoming is waiting -- was waiting for the revised 2008 ozone standard to even initiate our rulemaking to adopt the rule, the new standard, and then we could go through and initiate what we're doing today, which is the infrastructure SIP, based off of that standard. Since there was no revision, what happened was the March 2011 deadline remained legally applicable.

That said, EPA was also sued by NGO for not taking timely action against states that had not submitted this SIP by March 2011. We were all future forward, looking back. And the litigation resulted in the State of Wyoming receiving a finding of failure to submit, and that came to us at about January 4, 2013. And so it was published in the Federal Register yesterday. So we're trying to move this forward and get back in line with the EPA's deadlines as best possible to us.

It's that failure to submit that that we need to

get back in line with this. So at this point in time, with the failure to submit out into the Federal Register, we have two years to get our infrastructure SIP approved by EPA. So that will put us about February 14, 2015. And we'd like to get it in front of them as soon as possible to avoid being FIP'd in those two years, having Federal Implementation Plan put upon us.

The State of Wyoming has adopted the eight-hour 2008 ozone standard into our rules and regs, and with submission of this SIP to follow on the heels of this public meeting. The EPA is aware of our current rulemaking and what we're up to and the forthcoming SIP submission. They know we're on it.

So, again, the structure is very same to the one-hour NO2, which, you know, the Clean Air Act, Section 110, has the elements A through M. And a lot of them are the same. I'll try to run through it a little bit quicker.

In the emission -- the first element, emission limits and other control measures. On page 2, number 23, we updated Chapter 3, Section 6, emission standards for volatile organic compounds. The SIP has been submitted to EPA May 2012. Again, these are the same SIPs that we were just referring to before. We're awaiting EPA approval.

Number 27, Chapter 8, Section 3, conformity of general federal actions to State Implementation Plans.

Again, we had one out there that's been published in the Federal Register, but with our most recent rulemaking, that one became effective on the 19th of December, we were able to get a SIP out the door as soon as possible on EPA on December 26th.

Second one, ambient air quality monitoring/data systems, numbers 4 and 5, we've added in. That's, again, the Wyoming Ambient Air Monitoring Annual Network Plan, and Wyoming Ambient Air Monitoring Network Assessment. Number 4 being done yearly, required by the EPA. And number 5, every five years. And this, again, helps us determine on monitoring setups and our objectives of monitoring.

Moving on to page 4, number 8, under Regulatory Documents, Chapter 2, Section 2, ambient standards for particulate matter. SIPs submitted to EPA August of 2011, pending approval.

Number 9, Chapter 2, Section 3, ambient standards for nitrogen oxides. We've updated state rules, again, effective the 19th of December, and revised SIP submission will go in early in January 2013.

Number 10, Chapter 2, Section 4, ambient standards for sulfur oxide. Most recent rulemaking occurred December 19, 2012, and a revised SIP submission to EPA tentative January of 2013.

Number 12, Chapter 2, Section 6, ambient

standards for ozone goes over to page 5. Again, the rulemaking was completed at the state level the 9th -- or effective the 19th of December, with a revised SIP submission to EPA tentative for January 2013.

And number 14, Chapter 2, Section 10, ambient standards for lead. We have submitted a SIP to EPA with -- in August of 2011 and pending EPA approval.

The next element required in this infrastructure SIP is a program for enforcement of control measures. Moving down towards the bottom of the page, under Regulatory Documents, number 4, Chapter 6, Section 4, the PSD. Again, that's the May submittal, pending approval; however, as it stands, we meet all federal requirements with our PSD program.

Number 5, Chapter 6, Section 13, nonattainment permit requirements, was submitted in May 2011, and has been posted in the Federal Register July 2011.

The next element, interstate and international transport provisions. Again, this is the piece, the real tricky piece that the guidance would have been very helpful for with any of our criteria pollutants; ozone in particular. We do have a nonattainment area in southwest Wyoming. And just not knowing how EPA wants you to represent what transport is, it has been a little bit difficult. So what we've gone ahead and done is, again,

created our argument along the lines of do the Nonregulatory Docket, number 3, again, EPA has acknowledged they have not provided us guidance in how we should attack -- you know, approach this element, but we have -- so we've stated that, that guidance was not available to us.

And then number 4, we used the basis and approved nonattainment area designation of the Upper Green River Basin, because through that approval of the designation, it affirms a lack of transport within the state, because we don't have any other exceedances outside the basin, and our entire argument for the boundary of the basin is that it's under certain meteorological conditions, and that -- not another way to say it, but there's no seepage out to the southern counties. It's very isolated and unique to that basin.

So we've gone ahead and used the designation and the approval of that designation as our argument that we're not a part of transport to other states. And we've gone ahead and set up links to the associated Federal Register, our EPA designation letter, and the 2009 State of Wyoming boundary recommendation, as well as our technical support document.

Under the Regulatory Documents for transport, again, number 2, Chapter 6, Section 4, the PSD SIP

submitted May 2012, and we're waiting approval. And we've also added a Wyoming Environmental Quality Act, Article 2, notification to the Environmental Protection Agency and contiguous states, meaning that we would notice -- we would provide a notice to state of transport issues and permits.

Moving on to the next element, adequate resources, page 8 -- oops, no. Sorry, adequate resources remain the same. We pushed it forward from 1997 ozone infrastructure SIP, which was approved.

On to page 8, stationary source monitoring systems. That require states to establish a system to monitor emissions from stationary sources and to submit periodic emissions reports. What we've added in under Regulatory Documents is number 4, Wyoming Environmental Quality Act, Article 1, powers of administrators in the divisions that operated -- basically just says the operators will comply with our Wyoming statutes and monitor their emissions and report to us.

Moving on to emergency power. Okay. What we did with this was roll forward from our 1997 approved infrastructure ozone SIP. Emergency power has had no additions.

Future SIP revisions has had no additions.

Consultation with government officials has had no additions.

Public notification stands the same.

On the bottom of page 9, PSD and visibility protection, moving into page 10, Regulatory Documents, again, you'll see there our most recent submittal for the PSD SIP, awaiting EPA approval.

MS. ANDERSON: I'm going to do a timeout here.

Several times -- I just want to clarify that we do not have a fully approved PSD program because we do not have greenhouse gas piece. You're aware of that. Just because we're making a public record of this, I just wanted it on the record that that's the case.

BOARD MEMBER HANSON: PSD?

MS. ANDERSON: Yes.

BOARD MEMBER HANSON: What does it mean?

MS. ANDERSON: Oh, prevention of significant deterioration.

BOARD MEMBER HANSON: Deterioration, okay.

MS. ANDERSON: Go ahead. Sorry.

MS. CEDERLE: No, you're fine.

The air quality and modeling and data element, requires that SIP provide for performing air quality modeling for predicting effects on air qualities of emissions form any NAAQS pollutant and submission of such data to EPA upon request.

Again, number 4, Chapter 6, Section 4, prevention of significant deterioration, PSD. We have submitted a SIP, and we're waiting approval.

We've also added the Wyoming Environmental Quality Act, Article 1, powers and duties of the director, and that's basically the requirement to get involved with information gathering and dissemination to the public.

The final two elements, permitting fees and consultation/participation by affected local entities has been rolled forward from approved 1997 ozone infrastructure SIP with no changes to this current one.

Does anybody have any questions?

BOARD MEMBER BROWN: Any questions from the Board?

Any questions from the public? Comments? Okay.

MS. CEDERLE: Thank you very much.

BOARD MEMBER BROWN: Thank you.

MS. ANDERSON: Yes. And also for the record, we did not receive any comments through the mail regarding the eight-hour ozone infrastructure SIP.

BOARD MEMBER BROWN: Thank you.

MR. DIETRICH: Okay.

BOARD MEMBER BROWN: Let's see. Updates from the Division. I guess that would be ozone?

MR. DIETRICH: Yes.

MS. ANDERSON: So we have two updates. You'll have to come around again, so -- first one involves a slide show. Darla Potter will be giving the first presentation.

BOARD MEMBER HANSON: Best seats in the house, right?

MS. ANDERSON: You see something?

UNIDENTIFIED MALE: It's coming up.

MR. DIETRICH: It's lightening up.

MS. POTTER: I'm Darla Potter. I am the Air Quality Resource Program Manager for the Air Quality Division. You've heard from me numerous times before on this topic, and I don't envision that stopping any time soon, so we'll keep you up to date.

The purpose for these updates at each Board meeting is to make sure that we continue this dialog with the Board to keep you up to date as this topic evolves over time, because eventually, and as we get to the end of the presentation, I will point out several points, which we will be coming before the Board, with actions for your consideration. And so we have found in the past that it's much easier if we continue to update you on these big topics so that when we bring a regulation before you for rule -- in rulemaking, you can focus on the rulemaking at hand and not have to try to play catch-up on all of the

background information.

Okay, Tina.

The outline today, Jeni gave a great overview and background for you of the eight-hour ozone standard, and we've been through that before, so I won't bore you with that today. Rather, what we'll focus on today are four things. We'll focus on the Upper Green River Basin Air Quality Citizens Advisory Task Force and the Department of Environmental Quality's evaluation of the recommendations from the task force.

We will focus on Air Quality Division resources that we are dedicating to ozone, primarily in the Upper Green River Basin in Wyoming, but we are looking at these issues statewide as well.

We will focus on the winter of 2013 for that Upper Green River Basin and what activities are ongoing and already started.

And, lastly, we will focus on the ozone nonattainment planning specific to Upper Green River Basin.

Okay, Tina.

So for the task force, we'll go to the next slide. And just a refresher on the task force, this group was formed at the direction of the governor of the State of Wyoming, Governor Mead, as well as Director John Corra.

The group was formed to consider and advise DEQ

on potential solutions to reduce ozone. The group was a stakeholder-based group of 26 individuals from a wide variety of stakeholder base, everything from municipal and county governments to federal -- federal agencies, the public industry, and environmental groups as well.

And they've held numerous meetings over the course, primarily, of 2012. And in late September they submitted 10 recommendations to the Department of Environmental Quality. Just last Thursday, on January 10th, the Air Quality Division went to Pinedale to meet again with the task force and the public to communicate our evaluation of those recommendations to the -- to the DEQ.

If we could -- as we go to the next slide, we'll explain the basis of our evaluation to you. We won't go through everything that was covered in that meeting last Thursday, but that presentation from last Thursday's meeting is posted on the DEQ website. For the Board's convenience, a copy of them have also been given to you today so that you can look at that at your leisure, and if you have questions, please let us know and we will do our best to answer those for you.

As we considered the 10 recommendations that came from the task force, we did not reject any of those 10 recommendations. And to be a recommendation sent to the

DEQ, they had to achieve consensus with all of those stakeholders. So in and of itself, that's quite a feat.

We did not reject any of those 10 recommendations. Rather what we did with them was looked at grouping them into three different groups. Those groups were based on the time to implement the recommendation, the need for regulatory processes, which, as our board, you're very familiar with the processes that we go through to take something through that, that regulatory process to final state rule, and then on to EPA when appropriate.

We already also have some authority limitations. Those were of consideration to us as we did these groupings. We also looked at the overall benefit of each recommendation in terms of reducing ozone. That was the objective of these recommendations.

What we -- as we get into this a little bit further, what you'll see is some recommendations were actually placed into two groupings based on the implementation strategy. There are some things we are able to do sooner, and some things with each recommendation that we may have to do later. And so not to confuse you. Sometimes you'll see a number more than once.

As we go onto the next slide, this is the compilation of where each of those recommendations ended up within each group. The final task force recommendations

are posted within the Air Quality Division website. For the convenience of the Board, that's also been provided to you in the handouts that you received today so that you can see the language associated with those.

In the interest of time today, I'm not going to take you through each and every one of those 10 consensus recommendations, but rather explain to you how something ended up in Group 1, Group 2 or Group 3. The Group 1 recommendations on the left-hand portion of the slide portion can be implemented to some degree in the near term. All of the numbering associated with the recommendations are the numbers that correspond to the task force recommendations.

One thing that I -- you should be aware of is when we got the recommendations, there was no recommendation number 8. So not to -- not to throw us off in regard to that.

Some of the actions in Group 1 are things that are already in motion to some degree by the Air Quality Division. Items in Group 1 can be implemented without going through the regulatory process, and so these are things that -- that can be, because of that, implemented more in the near term.

The Division programs that we anticipate to assist with the items in Group 1, involvement in the New

Source Review program -- you've heard from them throughout the meeting today -- involvement of our planning section, involvement of the monitoring section, and involvement of the emissions inventory section. And all three of those sections are within the Air Quality Resource Planning -- Resource Management Program.

What you'll see is we move from Group 1 to Group 2, you'll see recommendation number 6 and recommendation 7 repeated between Group 1 and Group 2. Those are our two examples of recommendations where there is something that we can do in the near term with each of those recommendations, but there is something that needs to be implemented in the longer term.

Group 2 focuses on implementation in the longer term. These are actions that will require the agency to go through the regulatory process. So in terms of these recommendations, as we would go through that regulatory process, that rulemaking would first and foremost come to the Advisory Board for your consideration before continuing through that process. Some of these items may also be affected and driven by budgetary constraints, not only rulemaking constraints. And so that may have been the result of why they ended up in Group 2 as well.

A lot of the same Air Quality Division programs would assist with the Group 2 implementation. The New

Source Review program would, again, need to assist in implementation for Group 2. Obviously, when we do rulemaking, that directly involves our rulemaking staff, and a lot of this would involve our emissions inventory section as well.

And, finally, Group 3 has the least number of recommendations within it. That is because the implementation is even longer term than Group 2. That is because we, as an agency, do not have the regulatory authority to accomplish those tasks. In these cases, both of those recommendations are written specific to nonroad mobile engines, and those are a source category that the State of Wyoming does not have direct authority to control.

In -- in some of these instances we need some more background information as well. We need to seek that. Because we don't have the authority on those, assistance by the Environmental Protection Agency would be necessary and appropriate. And should we end up at a point where those, in fact, can go forward and we can overcome those limitations, the Division programs that would need to assist in that are a lot of the same ones you've heard about. We would need assistance from the emissions inventory section. At that point, hopefully we would be in a situation for rulemaking. Should we get such authority, our rulemaking staff would be involved, as well as our New

Source Review staff.

Before we leave this slide. Earlier today in the rulemaking portion of the discussion primarily involving the rulemaking for the New Source Performance Standards and NESHAPS for oil and gas sources, you heard reference to a comment letter that was received from the Wyoming Outdoor Council and the Environmental Defense Fund. That letter, in several places, references the task force recommendations, and the Division's evaluation of those recommendations. That letter supports that all of the task force recommendations calls out some of these categories, although it doesn't call out any particular recommendation. And so you think it's important to point out once again that the Division did not reject any of the 10 recommendations from the task force. Rather, what we did was evaluated what can we look at and work with near term, what will require rulemaking, primarily, and that, as a direct result of the rulemaking process that's required by the State of Wyoming, would take longer to accomplish. And then finally those items that we just simply don't have a rule for.

Diane.

BOARD MEMBER HANSON: Ladies first.

BOARD MEMBER HULME: So Group 1, number 10 incentive, obviously they must be short term or easily

implemented incentives. Can you expand on what they were thinking with some of those, what some of those might be?

MS. POTTER: The incentives recommendation is to work to provide incentives to accelerate emissions reductions, in short. That's not the entire recommendation. What we plan to do with that is to convene the industry stakeholders to have some discussions with them on the range of incentives.

BOARD MEMBER HULME: So they didn't go into exact detail on what those would be or work those out, but obviously the idea is to incentivize them to reduce emissions, but we don't know by what process yet.

MS. POTTER: Correct.

BOARD MEMBER HULME: Is that what you're saying?

MS. POTTER: A lot of these recommendations -- well, we can tell you that the wording for these recommendation -- because they had to achieve consensus among all the stakeholders, the wording was chosen very carefully. In some cases the wording is left more broad to be able to achieve consensus among that many stakeholders. And for some stakeholders, they also wanted to provide the discussion of the Department and the Division to determine what will work best. And so we participated in those task force meetings, in the drafting

of the recommendations. And there's a fine line with considering all the discussions that went on in the task force, being respectful of the final consensus recommendation, because simply the addition or removal of one word in particular could have translated to it not achieving consensus among the groups. So those are things that the Division has considered and we will continue to consider as we work with these recommendations.

BOARD MEMBER HULME: Thank you.

MS. POTTER: Klaus.

BOARD MEMBER HANSON: Two questions, 7 and 11. Let me go 11 first. I guess that's just your reaction, because there were 10 commandments. So 11 is your reaction to this?

MS. POTTER: No. 11 is a recommendation. So you have to remember they didn't give us a recommendation 8.

BOARD MEMBER HANSON: Oh, so --

MS. POTTER: So they skipped 8.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: And we have a 9, 10, and 11.

BOARD MEMBER HANSON: Okay. So 8 is actually left out.

MS. POTTER: Well --

BOARD MEMBER HANSON: Something like that.

Whatever it is.

MS. POTTER: Right. 11 is a recommendation.

BOARD MEMBER HANSON: Yes.

MS. POTTER: And 11 was a recommendation to assess the needs and dedicate DEQ personnel to manage the Upper Green River Basin nonattainment air quality issues. And I have specific slides to let you know how we're dedicating our resources currently. And so given how we're allocating our resources currently, we'll evaluate whether we need to dedicate additional personnel. But I'll cover that for you today.

Then you had a question on 7?

BOARD MEMBER HANSON: Yeah, I just wanted to know the term "produced water." This is what industrial produced -- the industrially produced water or whatever -- what does it refer to?

MS. POTTER: The language in the recommendation specifically states from open evaporation and produced water ponds.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: And then a parenthetical statement after that and various commercial and noncommercial pits. And so that was the -- kind of the universe that they were considering for that

recommendation.

BOARD MEMBER HANSON: So this refers to water that has been in some way polluted.

MS. POTTER: In some way utilized by the oil and gas industry.

BOARD MEMBER HANSON: By the industry. Okay. Has some components in it now that weren't there originally.

MS. POTTER: Uh-huh.

BOARD MEMBER HANSON: Okay. Thank you.

MS. POTTER: Okay. So from here on I'm going to leave the task force recommendations. So if you have any remaining questions, now would probably be a good time to answer those with the Board.

No? Okay. So we'll move on.

Klaus, I couldn't have paid you money to ask me a better question about recommendation 11. Perfect segue.

BOARD MEMBER HANSON: I'll do it for free.

MS. POTTER: Oh, thank you.

So we'll move on to AQD resources that are currently being devoted to the topic of ozone, particularly on the Upper Green River Basin. The Division has an ozone team; a number of us are here today. It's a team of division staff who provide ongoing oversight of ozone activities in the Upper Green River Basin. We also

continue to watch ozone as a topic in terms of the entire state of Wyoming, not just the Upper Green River Basin. Although the bulk of our effort is directed toward the Upper Green.

We meet at least weekly. We meet more frequently if necessary. The team's comprised of Division staff from multiple programs within the Division. I participate from the Air Quality Resource Management and Planning. Tina and Jeni participate from our rulemaking and our State Implementation Plan development side of things. Andrew Keyfauver is the staff person in our New Source Permitting Program, and he participants in that group. Cara Keslar leads our monitoring section, and she participates in that group. And we have two staff that are dedicated to compliance in Pinedale and in the Upper Green, Jennifer Frazier and Brandi O'Brien, and they participate in that group as their schedules allow as well.

The team functions and reports to Steve Dietrich, our Air Quality Division Administrator. As I mentioned, we meet throughout the entire year, but we dedicate a lot of resources to getting ready for winter ozone season in the Upper Green River Basin, which is January, February, and March. So we are now in winter ozone season for the Upper Green River Basin.

In order to do the best job that we can, serving

the needs of the state of Wyoming on this topic, we not only work with the individuals that I mentioned, those several individuals, but we utilize staff throughout the -- throughout the Division. We utilize resources from ozone experts, the Environmental Protection Agency, and others that may have more information on the topic than we have at hand. And as we go into ozone seasons -- so if we go to the next slide, you can see that this really is a much bigger effort.

As we go into each ozone season, there is a much broader group of individuals that are involved in what is truly a team effort. As you look at the slide, what you may see is that a number of -- number of people's titles are repeated over and over. Because we have multiple people that serve in their roles and their jobs and their responsibilities of what they're hired to do on a day-to-day basis for the Air Quality Division and for other departments as well, the Department of Health, the Governor's Policy Office, DEQ as a whole, not just the Division, but at this time of year, all of those people come together and in some way, out of these approximately 30 people, we have people that end up talking each and every day throughout the ozone season. Seven days a week. This doesn't stop working on the weekend.

We go through and we establish and maintain our

involvement with the Wyoming Department of Health. They, on their own, are conducting an epidemiological study in the Upper Green River Basin. Our discussions are tied to the Governor's Policy Office as well, so that they're aware of what we're doing. And so it truly takes a team of individuals to really direct our efforts that are -- and our resources appropriately to be able to address this problem year-round. So we simply don't have one individual that handles this issue. It's a much bigger issue than that. And it truly is a team of people year-round and a larger team of people as we go into each one.

From here we'll go into the things that are specifically in place for this winter so that you know what's going on, and if you hear press in relationship to these things, you can kind of place them in context.

Well, first go to the next slide and we'll talk about winter ozone forecasting.

The Division issues a daily forecast from January 2nd to March 29th -- I'm sorry, that should say 2013 --

BOARD MEMBER HANSON: Yeah.

MS. POTTER: -- not 2012.

We do this seven days a week. We have Air Quality Division staff that are trained meteorologists. We also -- we also contract with a meteorologist who's also involved in our winter monitoring efforts as well.

The forecasts that are issued are based on weather forecasting. We primarily look at winds, snow cover, pressure fronts, and cloud cover. Based on the evaluation of the weather, each day a winter ozone update is issued. A winter ozone update is issued to be able to look at the expected conditions for the current, as well as the next day. We issue these forecasts by noon each day. And the primary purpose is to inform the public so that they can make the appropriate decisions about their level of outdoor activity.

Ozone levels affect each and every individual differently. We know that the elderly and the young, those with compromised respiratory systems probably see the greatest effect from elevated ozone, but the reality is no two people react exactly the same way. So it's important for the public to be able to make their own decisions. We make this information available each day via posting on our Division website. We have a toll-free phone number that has a recorded message on it so that people can call in and hear what the expectation is for potential for ozone formation based on the weather conditions on that day.

There is an e-mail Listserv that by going to our website people can sign up for, and if you like a lot of e-mail, you get an e-mail each and every day. But it's a way for us to get that message out. We also send messages

each day to the media outlets to help us get that message out.

In addition to making sure that the public has the information they need to make decisions about outdoor activity, we also issue a decision about ozone action days. These decisions are issued 24 hours in advance of when we believe forecasted weather conditions appear to be favorable for the formation of elevated ozone the following day. This is done primarily to allow industry who have submitted an ozone contingency plan to then implement those short-term emission reduction measures with that notice.

So this decision is issued by noon each day. It gives industry that ability to then put in place those contingency plans the following day. Those plans are voluntary. They're not required. And each company chooses the emission reduction measures that fit their operation. This year we have 31 companies that have submitted ozone contingency plans, and that is up from in the past two years we had about 26, 27 companies. So we continue to work to expand that effort.

And we encourage everyone, not just companies, that when we issue an ozone action day, to do their part to reduce emissions. So for citizens in the Upper Green River Basin, if they simply can eliminate their vehicle idling, that can help. Every amount of emissions that are emitted

in that basin when there's a type of capping inversion and all the weather parameters line up, all of that we feel is very important and could make a difference.

BOARD MEMBER HULME: Darla.

MS. POTTER: Uh-huh.

BOARD MEMBER HULME: It's a tough thing to quantify, but do you guys have any sense on how well the public is voluntarily reducing emissions on these days? Like, are they following -- do you have -- can you quantify at all, are people following this?

MS. POTTER: We -- our best attempt at quantification is more qualitative. When we issue an ozone action day, for the past two winters what we have done is had our compliance staff observe activity levels within the communities, as well as out in the industrial development area.

BOARD MEMBER HULME: Uh-huh. Okay.

MS. POTTER: And what we learned last year, for the two ozone action days that we issued last year, was that there was overall a much better response from industry as well as the public last year.

BOARD MEMBER HULME: Okay.

MS. POTTER: But it's really more of a qualitative observation than anything we can quantify.

MR. DIETRICH: Darla, if I could add --

this is Steve -- that we would -- this is one of the things that would be in Group 1, that we continue to improve on a voluntary basis and needs to be increased wherever we can do that.

BOARD MEMBER HULME: Have you guys seen that it helps? I mean, like -- I don't know what the lag time is for when you have people start altering their practices to accommodate the high ozone. When do you see -- I mean, what's the impact of this, do we know? Does it really help or is it a sort of feel-good, political --

MS. POTTER: We can't quantify -- unfortunately we don't have a method to quantify the emissions reduction that occurs in association with these contingency plans. So I would say there's probably some reality to the statement of, you know, feel-good measure.

BOARD MEMBER HULME: Uh-huh.

MS. POTTER: We have systems that set up -- that end up being multi-day events. And I would say in particular, for those multi-day events, it's good for us to be able to reduce emissions on any day when we believe those conditions meteorologically are going to set up. But when we have those conditions persist over multiple days, any emissions that continue to be generated in that basin, stay in that basin --

MR. DIETRICH: Right.

MS. POTTER: -- and interreact. And so we -- we believe that they are positive and they are beneficial --

BOARD MEMBER HULME: Okay.

MS. POTTER: -- but having the quantitative numbers behind is where we are really lacking information.

BOARD MEMBER HULME: Okay.

MS. POTTER: Klaus.

BOARD MEMBER HANSON: You mentioned something that there was an increase in the number of industry participating.

MS. POTTER: Uh-huh.

BOARD MEMBER HANSON: What's the percentage altogether? You said I think up to 24, or something like that. How many participants could there be?

MS. POTTER: You know, I'd have to go back and --

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: -- look at the number of companies.

BOARD MEMBER HANSON: Okay.

MS. POTTER: I know when we sent out the letters, we sent out over -- we ended up sending out over 130 letters when we sent out the letters to notify people that we once again were requesting plans. What I don't

know out of that 130 off of top of my head is how many of those letters were to multiple people within the same company.

MR. DIETRICH: Yeah.

MS. POTTER: We know we don't have every single company out there that's participating, but in terms of those companies that are participating this year we have seven new companies that have not ever participated in the past. And so that's -- that's what we are hoping --

BOARD MEMBER HANSON: Encouraging.

MS. POTTER: -- continues to encourage growth of the program. And we continue to encourage the those who have participated before to continue to participate.

BOARD MEMBER HANSON: The other question, we are two weeks into the program, have we issued any action days?

MS. POTTER: We have not issued --

BOARD MEMBER HANSON: Okay.

MS. POTTER: -- an ozone action days.

So far -- including the forecast that I stepped out so that they could communicate with me this morning, so far all of our forecasts have indicated that the weather conditions are not setting up to be conducive to the formation of elevated ozone.

BOARD MEMBER HANSON: Okay.

MS. POTTER: And that being said, as we get later into January, and in particular as we move into February and March, it's typically when we've seen, on monitored basis, those -- those ozone levels rise. And so we haven't seen that yet, both in the weather forecasts, as well as in the monitored data.

But we do this every day, starting at the beginning of January, because it's a very complex system, and we need to very much be vigilant. And if there's a potential for those weather conditions to set up, we want to make sure that we're letting the public know so that they can take the appropriate precautions.

BOARD MEMBER HANSON: Last question. I think last meeting we discussed the proportion of snow levels, I think.

MS. POTTER: Uh-huh.

BOARD MEMBER HANSON: And this has been a very dry winter. Does that have a positive effect or any effect?

MS. POTTER: It's a very good question, and that's one of the things that we look at in December, as well as when we start forecasting the beginning of the month. We look at where we're at with snow levels. We compared an image -- camera image from January 2nd this

year with January 2nd last year. We have had snow since the beginning of January in the Upper Green this year, where last year the basin was brown.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: And we did not pick up the snowpack last year until storm systems that came through January 21 through the 26th. That being said we're nowhere near the snow levels that we had starting the season in 2011. And 2011 was the last --

BOARD MEMBER HANSON: Big one.

MS. POTTER: -- year of -- of, you know, really elevated ozone levels in the Upper Green. And so it is something we watch very closely.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: In fact, while we were up there last Thursday night, they had a nice snowstorm come through while we were there, added between 3 to 5 inches throughout the interior of the Upper Green River Basin. And so any snowpack that had deteriorated so far this season, they've regained. And so we've continued to watch the additional precipitation. It is staying cold enough for that snow to stay, and that is a key component.

BOARD MEMBER HANSON: Thank you.

MS. POTTER: Uh-huh.

Okay. We'll -- still within respect to what's

going on this winter, I mentioned our -- that we have two compliance staff in the Upper Green River Basin. They do inspections of facilities year-round in their jobs in that compliance program, and they continue those inspections during winter ozone seasons. So they're inspecting production sites, compressor stations, major Title V facilities. Those continue to go on.

In response to Diana's question, I mentioned kind of the qualitative response. We do ask them to go out and have a field presence on ozone action days. It's qualitative, but it gives us a better feel for, you know, what level of activity is still going on. And, you know, that activity level, you know, both in terms of the ozone contingency plans as well as community participation.

When we issue an ozone action day for those companies that have contingency plans within 10 days of that day, they notify us -- they send in an event summary that lets us know how they were able to -- how they were able to meet the thing that they indicated they would do on an ozone action day in their plan. So it gives us a good idea on action days of what events are actually taking place. What are they curtailing, those issues. So that's very helpful to us as well.

BOARD MEMBER BROWN: So there's staff in Pinedale?

MS. POTTER: Yes, we have two staff in Pinedale.

BOARD MEMBER BROWN: In Pinedale.

MS. POTTER: Uh-huh.

Okay. And our last slide for the winter of 2013, each year since the winter of 2007 we have had a formal Upper Green winter ozone study that has happened. The monitoring study actually began in some part in 2006, just wasn't formally called that until we went into the winter of 2007. The objective changes each year we evaluate what information is necessary. This year our objective for that study is for ongoing regulatory monitoring at six stations that we have that are in the station -- in the basin year-round, and we are supplementing that regulatory monitoring at six stations with additional ambient and meteorological monitoring.

So the current monitoring is at six sites. It's all federal reference method monitoring. We will be deploying three mesonet monitoring sites. These are tripod based sites that are on solar power. We will collect ozone information at these sites, as well as meteorological information. And we have the cameras attached to these sites this year to help us get a better visual on impact throughout the basin.

We will -- and, in fact, all of this monitoring

is, in fact, in place. We deployed a monitoring trailer at a location in the Jonah field. When monitoring happened, when we discovered the ozone formation in the Upper Green River Basin, we actually had a permanent station located in association with the Jonah field. That station became eclipsed by the field itself, and we no longer viewed it as ambient air, so it's been moved. We tried going back, if possible, and it's been possible this year, with a mobile station to set up so we can monitor those conditions and then compare back to that information from previous years.

We will collect speciated VOC samples. Those will occur at a number of our permit sites, as well as a number of these mesonet sites, so that we get a spatial feel for the volatile organic compound speciation throughout the basin. Those aren't continuous. What we look for are meteorological conditions that are ideal for ozone formation, and then we trigger those canisters to collect during that time frame.

And then this year we will be launching some ozone sondes, and radio sondes. They're attached to balloons. We'll launch those. They give us a picture of ozone as the balloon goes up in elevation as -- and the radio sondes capture the weather information as well, and give us a better idea about the very -- primarily of the inversion, so that we know where that's at.

The mini-SODAR is operated throughout the entire time frame that gives us an idea of mixing height so that we know where that inversion cap is at. And that's important information in terms of the modeling that we're doing as well.

And then finally, to make sure that all of this operates and runs correctly, as part of our contract we actually hire a monitoring technician who lives in Pinedale during this entire time frame. If there's anything that goes wrong with any of the equipment, that technician we could deploy to fix it. That technician is also responsible for the collection of the speciated volatile organic compound samples, as well as assisting with those ozone and radio sondes launches. So it, in and of itself, takes a great deal of effort to do the monitoring we do each winter.

BOARD MEMBER HANSON: What is SODAR?

MS. POTTER: You know, I don't know what the acronym stands for.

BOARD MEMBER HANSON: Sonar --

MS. POTTER: Does anyone know what SODAR stands for?

MR. HALL: It's --

THE REPORTER: Excuse me. Can you state your name?

MR. HALL: Brian Hall, Air Quality Division.

It's Sonic -- what --

MS. BERRY: Sonic Detection and Ranging.

MR. HALL: Sonic Detection and Ranging, so it's the same thing as radar, except using sound waves instead of radio waves.

BOARD MEMBER HANSON: Sounds like a radar system of sorts.

MS. POTTER: But a small one.

BOARD MEMBER HANSON: Small one.

MR. DIETRICH: Mini.

BOARD MEMBER HANSON: Mini.

MS. POTTER: Okay. So we're going to leave what we're doing in the winter, and we'll transition into ozone nonattainment planning. And thanks to Tina Anderson, she's -- she's our ozone nonattainment planning expert, and so she may have to help me if you have hard questions on these.

There are four slides that I'll walk you through, and because there are -- there are a lot of different aspects to ozone nonattainment planning in terms of where we need to go forward as a Division.

We will be working to implement the Group 1 task force recommendations. It's one of the first things that

we will be working to do. And, again, those Group 1 items are items in the near term.

There are also federal requirements that, as a regulatory agency and as a Division, we have to tackle them. We have to go forward with those. And so what you see in the remaining three bullets on the slide are, in fact, tied to the federal requirements. The general conformity state implementation plan revision, some of you may recall that last year we brought an update to our general conformity state rule before you. That rulemaking process was completed in December. And in December that revised state rule was packaged up and submitted to EPA as a SIP revision.

This topic is very important to ongoing coordination with the Bureau of Land Management and ongoing oil and gas development in the Upper Green River Basin. And so while encouraging EPA to, in fact, revise our state implementation plan with the updated rule, we are continuing to meet with BLM. You know, we've already met numerous times. We continue to meet with them to coordinate and to get some very important questions answered on implementation of the general conformity requirements.

Nonattainment New Source Review, a number of years ago, before this Board was a rulemaking to

incorporate by reference the nonattainment New Source Review required permitting requirements. So those have, in fact, been effective state rules for number of years. The Upper Green River Basin became a -- designated as an nonattainment area effective July 20th of 2012. And so now in place are those -- the implementation of those rules that came before the Board and were, in fact, adopted as state rules.

These would apply and be applied by the New Source Review Permitting Program as any major source within the nonattainment area. Either a new source or modified source comes through for nonattainment -- a New Source Review permit. Stricter standards, such as lowest achievable emission rate, LAER, instead of BACT, best achievable control technology, things such as that.

This also incorporates some offset requirements, but as part of our interim guidance, which is in the regulations, we've got those that apply to all sources in the Upper Green River Basin as well. If they choose to use offsets in order to demonstrate to the administrator that they won't make the nonattainment problem worse.

BOARD MEMBER HANSON: Towards attainment?

MS. POTTER: Yes. And the language in that portion of the rule is that they won't cause or contribute to, you know, not attain the standard.

The intent of those is yes, we continue to make things better, not worse.

BOARD MEMBER HANSON: Yeah.

MS. POTTER: The last bullet is a rule that you haven't seen yet. You will see yet this year. The agency meets to develop an emissions inventory rule, as a requirement of our nonattainment status in the Upper Green River Basin. Even though, through the Environmental Quality Act, that act already authorizes the DEQ to collect emissions inventories. And we have a fairly aggressive emissions inventory program in the state of Wyoming. In order to satisfy EPA requirements, we'll need to take that through as a rule. And so the staff will develop an emissions inventory rule in the traditional rulemaking process. You will see that rule, and you will see it in 2013.

BOARD MEMBER HANSON: So that would probably be -- the last two bullets are sort of connected to one another, right? Because you want to get to some kind of an attainment with the second part, emission development invent -- inventory to get to attainment.

MS. POTTER: So developing an emissions inventory rule --

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: -- in its simplest form, would

codify the process that we go through --

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: -- to require sources that are actually operating to submit us their actual operation information.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: Okay. So that we can quantify actual emissions in the area.

BOARD MEMBER HANSON: Oh.

MS. POTTER: So it's more about tracking the actual activity level, and when that's occurring and the emissions produced associated with it, where nonattainment New Source Review is forward looking as sources are new or modified to make sure that as those continue to come into the basin and are modified for major sources, those are being looked at so that they're not making their nonattainment problem worse.

BOARD MEMBER HANSON: Okay.

MS. POTTER: Okay. We'll go to the next slide for nonattainment planning. These steps get a little bit more complicated to implement. In previous presentations to the Board, we've let you know about the Ozone Advanced Program that EPA came out with. The State of Wyoming signed up for ozone advance in April of 2012. And so our next step in that requirement is to submit a

"path forward" letter to EPA in April of 2013. This "path forward" level (sic) is important to be able to tell EPA what some of our emission reduction efforts have already done. In order to begin to build the appropriate history, remember we did not wait to begin actions in the Upper Green until we were designated nonattainment. Industry in the state of Wyoming have done a lot in that basin to reduce emissions, and we want to make sure that that's recognized by the Environmental Protection Agency.

So we plan to document those efforts. Our "path forward" level -- "path forward" letter also plans to incorporate the Group 1 recommendations from the task force. Those are the nearer term items that we can go forward with. And we will evaluate and look at what of the possible Group 2 items from the task force to include as well, which of those by the April of 2013 time frame are appropriate.

So that is our plan for submitting that "path forward" letter. It just simply lays out for EPA what we've already done and what we intend to do.

Earlier today you spent an amount of time talking about incorporation of the new federal oil and gas rules, the New Source Performance Standards, and the NESHAPS. So that rulemaking's going forward already. We think that that is important to recognize as -- as -- it's important

statewide, but also is important to recognize in terms of ozone nonattainment as well. So that's moving forward.

And in Mark's presentation, he addressed for you some of the differences between, you know, those -- those requirements and the current state guidance. And so in some cases, there may be -- it may necessitate reconciling that state guidance with those new rules, particularly sources trying to feel their way, you know, through that.

So you've heard about those two bullets today. And then in this -- this group of things that are a little bit more complicated to implement we are going to begin working on those Group 2 task force recommendations first and foremost that don't involve rulemaking. So there's some aspects to produced water and storage that we don't believe will require rulemaking. We'll look at working on those. And then the DEQ personnel evaluation, we don't believe will require rulemaking, but definitely has some budgetary and legislative concerns associated with it. So we'll focus on those.

Getting harder still. These by far are items that will take a lot of effort and require future rulemaking. So everything associated with the first bullet would definitely be things that are relevant to the Board, because in our rulemaking process, we will come to you with those first and foremost in that process.

So things that -- that we are focusing on and we know that rulemaking would be necessary, controlling emissions from older sources. We have a number of existing sources in the Upper Green River Basin that are complying with the permits that they, in fact, were issued. The fact of the matter is that the permits that they were issued were issued when the emissions control requirements weren't as stringent as they are today. And so we know by doing the emissions inventories, that those sources are contributing a good portion of the emissions that are being emitted ended up in the Green River Basin. So we know we need to look at those and go back and evaluate, you know, more permanent and enforceable mechanisms for reductions, not just the voluntary reductions that have occurred so far.

Along with that, oil and gas development and industrial development continues to be important to that basin. And so as we look at controlling those emissions from older sources, we also need to address new growth so that we can be able to continue to have economic development within that basin as well.

So we will be looking at doing both of those things. All of these tie back to task force recommendations as well. And we're using equipment -- emission leaks through leak detection and repair programs,

LDAR. And inspections is another component and another item that for existing sources will be important in terms of rulemaking.

So all of those things are things that you should look forward to coming before you at a future date.

And finally in this, we continue to support modeling, monitoring, and emissions inventory work, as it directly addresses the Clean Air Act requirements or emission control options. We already do a lot of work in respect to this, but we need to move away from the basic science question to workable solutions and a practical science approach. So we will -- we will continue to look at what we're doing, but look with a new eye and a new lens for how we can move that program forward as well.

Okay. And lastly, it should be no surprise, there are still actions pending from EPA. So while we are really trying to move forward as best we can, there are still a number of things that we don't have the crystal ball to know exactly what will be required of us by EPA.

The first of those are the federal ozone implementation rules. These describe the specific nonattainment instructions on how to address the -- that 2008 standard. We are anticipating that it will be similar to the 1997 implementation rule for the 1997 ozone standard, but until they actually propose it and finalize

it, we really don't know. And so we are doing our best to move forward with what we know, but there's still some things that are unknown.

Federal ozone monitoring rules are another item that we are still waiting for. This rule was originally proposed in 2009, but it is not yet final. This is important to us because it establishes the who, what, and when you have to monitor. If we have to establish additional monitoring throughout the state of Wyoming, there oftentimes are requirements by EPA to do that. That would have to be established here. It also defines our ozone season. We don't have a traditional ozone season in the Upper Green River Basin, so this is of particular importance to the State of Wyoming as well.

We've talked of -- before about the fact that we are already in the five-year cycle for the next ozone National Ambient Air Quality Standard review. We are expecting EPA to propose a new ozone standard in 2013 associated with that review. We're anticipating it would be later in 2013. From what we know from following the discussions of the Clean Air Science Advisory Committee, we are expecting that the standard will be lower than the current standard of 75 parts per billion. We've heard discussions of a range between 60 parts per billion and 70 parts per billion.

So we definitely are keeping this potential strengthening of the ozone standard, the lowering of the ozone standard in mind as we are working to come up with control strategies for the Upper Green River Basin. We need to keep in mind that we very well could be dealing with a lower standard that would be much more restrictive.

And we talked -- when we were talking about the task force recommendations, remember Group 3 were those -- those recommendations where we didn't have authority. Those recommendations are specifically in regard to nonroad engines. As Wyoming doesn't have the authority, but EPA does, we continue to work on encouraging EPA to move forward on some -- some nonroad engine requirements that would be helpful -- helpful for us.

And lastly, as you know by now, we have a very -- we're not the only state that has a wintertime ozone problem, but we're one of the few. We don't fit the mold of what EPA has developed and created in terms of ozone models, specifically the Photochemical GRID Model. Those are the models that are traditionally used in attainment planning to show how a state can achieve attainment in the future. And we have been working on that. It is not simple. It is not straightforward. It is not without a monetary cost associated with it. We continue to hit roadblocks, and so really we do need EPA to help develop a

wintertime model. We not only have this problem, the Uinta basin in Utah has this problem, and it's -- it's not something that -- it's not something that we will most likely be able to solve on our own with our own resources. It will probably take a larger -- larger initiative. So we continue to encourage EPA to work toward that as well.

And with that, that wraps up the update. It's longer than the last time, but we felt it was important to update you on the task force recommendations.

BOARD MEMBER HANSON: Since the nonroad engine question came up before, is it just a lack of state regulations on that -- on nonroad engines that nothing has ever come from the legislature, or how come there is no -- no regulation?

MS. POTTER: Under the Clean Air Act --

BOARD MEMBER HANSON: Yeah.

MS. POTTER: -- there's only one state that has authority to address mobile sources and nonroad sources, and that's the state of California.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: Because the state of California had requirements prior to EPA establishing them.

BOARD MEMBER HANSON: Oh, yes.

MS. POTTER: For the remaining states EPA retains all authority in respect to mobile sources and

nonroad sources. So it's not an issue of our legislature not passing --

BOARD MEMBER HANSON: Passing.

MS. POTTER: -- for us and not acting.

BOARD MEMBER HANSON: Yeah.

MS. POTTER: It's a federal issue that's not just unique to the state of Wyoming.

BOARD MEMBER HANSON: This goes back to early automotive restrictions, et cetera.

MS. POTTER: Yes, very much.

MR. DIETRICH: Yep.

BOARD MEMBER HANSON: Boy, that's strange.

MS. ANDERSON: I think the original intent was so that we didn't have a patchwork of mobile source regulations all over the country. That's what EPA was thinking. So they had one, EPA would do all the emissions setting.

BOARD MEMBER BROWN: If they do lower the national emission rates for ozone, could that throw the whole state into nonattainment? I think I asked this last time.

MS. POTTER: And it's a difficult -- it's a difficult question. Depending on where the level of the standard is set --

BOARD MEMBER BROWN: Right.

MS. POTTER: -- we have the potential for numerous monitoring sites throughout the entire state to have design values that would show nonattainment.

BOARD MEMBER BROWN: What's the background number about?

MS. ANDERSON: You're asking all the good questions.

BOARD MEMBER BROWN: Sorry.

MS. POTTER: Yeah, you're asking all the good ones. Background in the West.

BOARD MEMBER BROWN: Yes.

MS. POTTER: Is thought to be -- and correct me if I get this wrong -- between 40 and 60 parts per million. Where -- that's where we hit the rub, is when EPA is looking at a range for Ambient Air Quality Standard of 60 to 70 parts per million, if in the West --

BOARD MEMBER BROWN: Brought it back.

MS. POTTER: -- background is 60 parts per billion, you know, we will not be the only western state that will have a problem.

MR. DIETRICH: The long and short of that is it doesn't leave room for much human activity.

BOARD MEMBER HANSON: Right.

MS. POTTER: It's something we continue to watch very closely. We watch the design value for all of

our monitors statewide and look at where those are at. Our expectation, when they propose a new ambient air quality standard, is that EPA will propose a range. And when they do that, the staff will take all of our monitoring data that we have statewide and we will evaluate each monitor that we have, given that range. And we now have monitoring in every county throughout the state, but it seems plausible that if the standard is set low enough, and the monitors that you do have have monitored data that indicates that those sites should be designated nonattainment, and the only portions of your state that you don't have that indication for are the, you know, portions of the state that are unmonitored, you know, stands to reason that those then would become unclassifiable because you don't have the monitoring data to show they would attain.

MR. DIETRICH: Right. They --

MS. POTTER: That would be a good situation.

MR. DIETRICH: Okay.

MS. POTTER: Thank you for your time, even though it took longer today.

BOARD MEMBER BROWN: Do we need to take a quick break for the next presentation or is --

MR. DIETRICH: What I have is really short.

BOARD MEMBER BROWN: Okay. Yeah, we'll just go.

MR. DIETRICH: All I was going to mention here is give you an update on the greenhouse gas regulation and legislation that's pending.

Last year-- during last year you guys got to do your part in our rulemaking for greenhouse gas regulations, which we completed that in December, just like we did in general conformity regulation that got completed. What I was going to do is let you know, in concert with that regulation that's now been signed, but it's not effective yet. And the reason it's not is because of our statute. If you remember our statute -- our Statute 35-11-213, for a long time, from the late '90s until just last year, A through D were the sections that were in our statute.

And as I go forward with this, if I slip up, I know you're going to correct me, right, Nancy.

MS. VEHR: Correct.

MR. DIETRICH: What it did was prohibit us not only proposing, but also promulgating any rules to regulate greenhouse gases. With last year's legislative session, they came up with Sections E through K of that same statute that allowed us to at least go through and develop regulations, which we did -- it took a year of participation, as well as EQC and the governor -- but did

not give us effectiveness on that regulation, meaning we can't use it -- we can't submit it to EPA, we can't do anything to change our SIP submittal to EPA.

What this legislation that we're hoping goes forward -- and you should have a copy of what -- the draft of that legislation is in your packet -- is to give us that authority to give that -- the ability to submit it to EPA, get a SIP approval, become effective in both our eyes and EPA's eyes. And what it would then do is it would allow the State, either to ask or have it automatically happen, to get rid of the FIP, the Federal Implementation Plan, that's currently in place, to replace it with a State-approved and EPA-approved SIP, okay? What, in essence, that would do, then, in the end, it would prevent the dual permitting that's currently going on for EPA having to issue the PSD permit for greenhouse gas and the State issuing permits for all other pollutants we regulate, to only have EPA -- Wyoming DEQ issue the permits for both -- all of those pollutants.

So we're hoping that the legislation -- and you have a copy of it there -- it hasn't got into discussion in the committee yet, but we were expecting it -- expecting that was going to take place this week. It may actually start happening this Friday. So we're watching that very closely with that language that's there. That would do

what we need it to do to move forward with EPA and get a SIP in place. That's all that was going --

Nancy, if you want to add anything else there, or not. Great. Do I get an A or B?

MS. VEHR: A.

MR. DIETRICH: Okay. Questions on that?

Okay. Great. We do have a couple more items here on scheduling the next meeting and adjourn, right?

BOARD MEMBER BROWN: Next meeting quarterly or whenever is needed. Do we want to set the date now or check the calendar and see what's coming up after the legislature?

MR. DIETRICH: Tina, do you have any idea when you think we might want to have another meeting? I know we've got a lot of rules we've talking about here, you saw them on the slides here.

MS. ANDERSON: Right. There are a lot of rules that you're going to be looking at in 2013, and we'll probably have to ask you to come multiple times. Not fully because it would be overwhelming for you, but because it would be overwhelming for us to try to prepare these all at once. So I'm guessing it will probably be about three or four months out before we have the first bunch, and then probably be another three or four months out for another. But we're still trying to put our plan together, so...

MR. DIETRICH: Is it too early to suggest a month like April or May, or not?

MS. ANDERSON: We can kind of target May, at this time, and then --

MR. DIETRICH: Okay.

MS. ANDERSON: -- get back with you.

BOARD MEMBER BROWN: That will work.

MS. ANDERSON: And locations, do you all have some thoughts about that?

BOARD MEMBER BROWN: Let's see. We've done the southwest, southeast and middle. It's probably northeast or northwest, I suppose.

MR. DIETRICH: Okay.

BOARD MEMBER BROWN: Unless it's so important we need to centralize it in Casper, like we did last time.

BOARD MEMBER HANSON: Everybody has to travel a little bit.

BOARD MEMBER BROWN: Doesn't matter to me. We can talk about it later too.

MS. ANDERSON: Okay. It's nice to take the Board around the state, because it gives public -- people that are up in Gillette rarely come all the way down here, except for maybe Phil Dinsmore. It's nice just to spread it around, so we can keep that in mind, I suppose.

BOARD MEMBER HULME: That's fine.

BOARD MEMBER BROWN: Any other questions?

BOARD MEMBER HANSON: For me always Tuesday is bad because of City --

MR. DIETRICH: Tuesday is bad.

BOARD MEMBER HANSON: Tuesday is always bad for me.

MR. DIETRICH: Okay.

BOARD MEMBER BROWN: Do we need a motion to adjourn, or just adjourn?

BOARD MEMBER HANSON: Motion to adjourn.

BOARD MEMBER HULME: Second.

BOARD MEMBER BROWN: Meeting is adjourned.

MR. DIETRICH: Thank you.

(Air Quality Advisory Board meeting concluded 12:55 p.m. January 16, 2013.)

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 5th day of February, 2013.

KATHY J. KENDRICK
Registered Professional Reporter