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 28th day of April, 2015, at the hour of 8:58 a.m., at the Wyoming State Library, 2800 Central Avenue, Cheyenne, Wyoming before the Wyoming Air Quality Advisory Board, Timothy Brown, Chairman, presiding, with J. D. Wasserburger, Diane Hulme, Klaus D. Hanson and Bayard Fox in attendance.

Mr. Steve Dietrich, Air Quality Administrator; Ms. Jeni Cederle, Ms. Darla Potter, Ms. Amber Potts, Mr. Andrew Keyfauver, Mr. Michael Moore and Mr. Daniel Sharon of the Air Quality Division were also in attendance.

I N D E X

P R O C E E D I N G S

(Meeting proceedings commenced 8:58 a.m., April 28, 2015.)

CHAIRMAN BROWN: Let's get started. Welcome to the Air Quality Advisory Board meeting. And I believe -- call to order, but what we should do first is introductions again, so we can get to know everybody, and then we'll go to the approval of the minutes.

First let's start with introductions. Do we want to start, Steve, with you?

MR. DIETRICH: I'm Air Quality Administrator Steve Dietrich, and I've got a number of staff here that I think might be better for them to introduce themselves for your benefit and folks in the public that are here to explain who they are and what they do.

BOARD MEMBER WASSERBURGER: J.D. Wasserburger, board member from Lusk, Wyoming.

BOARD MEMBER HULME: Diana Hulme, board member from Laramie, Wyoming.

CHAIRMAN BROWN: Tim Brown, board member from Green River, Wyoming.

BOARD MEMBER HANSON: Klaus Hanson, board member from Laramie.

BOARD MEMBER FOX: Bayard Fox, board member

from Dubois.

MS. POTTS: I'm Amber Potts. I'm with the SIP and Rulemaking Section, and I'm going to present today.

MS. CEDERLE: Jeni Cederle, the SIP and Rulemaking Section supervisor, and I'll be presenting today.

MS. POTTER: Darla Potter. I'm the Air Quality Resource Program manager for the Division, and I'll be presenting the ozone update for you today.

MR. MORRIS: Mike Morris. I'm also with the SIP and Rulemaking.

MR. SHARON: Daniel Sharon. I'm with the monitoring section.

MR. KEYFAUVER: Andrew Keyfauver. I'm with the New Source Review Program.

MR. DIETRICH: That's all of us.

CHAIRMAN BROWN: That's all of us.

First order of business, approval of minutes of the December 10, 2014 meeting.

BOARD MEMBER HANSON: So moved.

BOARD MEMBER HULME: Second.

CHAIRMAN BROWN: Been moved and seconded. Minutes from the December 10, 2014 meeting have been approved.

Okay. Old business. Do we have --

MR. DIETRICH: Mr. Chairman, I need to let you know Elizabeth Lyon will not be here from the Attorney General's Office today. She had a family emergency. And I called the Attorney General's Office this morning and they were not able to send a substitute. So rather than try to cover the ground that she was going to cover, I would request that we try to cover that ground next time.

CHAIRMAN BROWN: Okay. Yeah, we'll defer that to the next meeting. If everybody's okay with that, we'll just defer it.

Okay. New business. General updates from the Division.

MR. DIETRICH: Okay. That must be me again.

Okay. I'm going to cover a couple of things briefly so we can get into the rest of the meeting, but usually I cover things like vacancies, some other DEQ business. In this case I'm going to cover a little bit about Senate File 117, and then updates on our new location this fall.

So from a vacancy perspective. Currently we only have two vacancies in the division. One of those is actually in the New Source Review Permitting Program. The other one is under the administrative support position. One of those has been vacant for quite some time, the

permit writer has, so we're in the process of re-advertising that one. And then the administrative position was vacant as of March, so we're in the process of trying to fill that one.

So with that, a lot better than some previous times we talked about vacancies, so that's an improvement. I will say that, you know, it ebbs and flows, and right now we're just about at full staff, which is a good feeling.

Moving on to some legislative actions that happened during the last legislative session. Of interest to us is Senate File 117, which passed. It puts into statute -- and actually put into Article 8 under 35-11-801. It puts into statute under that article provisions of our oil and gas BACT guidance, which allows construction and operation of our oil and gas production facilities, as long as they meet the Presumptive BACT requirements by the deadline, and they have a complete and timely application submitted to the agency, to the Department, by -- within 90 days of first date of production. So it's really nothing new than what our oil and gas BACT guidance always covers, but legislature wanted us to codify portions of that, and that's what Senate File 117 did. That's about as far as it went, though, with the requirements that it tried to codify out of the guidance, and that was approved, and I believe it will be effective come July 1st.

Any questions on that one? Okay.

Moving on to the upcoming move. Everyone's familiar by now, I guess, with the capital improvements and construction that's going to begin on the Capitol as well as the Herschler Building itself, which causes most of the inhabitants of the Herschler Building have to relocate temporarily. So it looks like by this fall, I'm thinking around the Septemberish time frame, that we'll be located on 17th Street, where the old JC Penney's building used to be. I don't know if you're familiar with where that is, a few blocks south of here. And it could be as long or as short as three years, but I'm told it could be longer, depending how fast construction develops.

CHAIRMAN BROWN: So best-case scenario is three years?

MR. DIETRICH: Three years, best-case scenario I'm told. So the reason I'm telling you that is because we'll have all new addresses and things of that nature when it comes to how we'll do our rulemaking, as well as how contact information might work and all that.

That's all I had for updates at this time from my perspective. And we have the ozone update that's about to be given.

CHAIRMAN BROWN: Thank you.

Any questions? Okay. Let's move on to ozone.

MS. POTTER: Okay. I'm Darla Potter, again, the Air Quality Resource Program manager for the Air Quality Division. And so today we will be doing an ozone update for the Board.

We do these -- try to do them at each meeting in an effort to keep the Board as up to date as possible on advancements on the topic of ozone as we can, and so usually how we do these is to focus on the update from the previous board meeting, which happened in December of 2014. It's important to keep the Board up to date because there are matters that periodically come before the Board that are actions that you need to take, and it's helpful to have that background so we don't have to play catch-up each and every time.

MS. POTTS: Is it working?

MS. POTTER: Okay.

MS. POTTS: There we go.

MS. POTTER: Okay. Don't touch that.

So the high-level overview of what we will cover in the update today. We just completed the 2015 winter ozone season in the Upper Green River Basin, so I will give you an update on how that went for us. We will be talking about the evolution of the ozone strategy for the Upper Green River Basin. We update you on EPA obligations, and there actually has been some movement on EPA's part. I

haven't been able to tell the Board that in quite some time, so that will be a refreshing change. And also to let you know about an upcoming public meeting.

So our winter ozone season in the Upper Green River Basin is the months of January, February and March. So in December I told you what we were planning for this winter ozone season. Now I'd like to let you know how that went.

We reach out to all stakeholders to develop ozone contingency plans prior to the start of the winter ozone season. They identify actions that they can take on 24-hour notice from the Division to reduce their emissions on a short-term basis if we are expecting conditions to be conducive to ozone formation. This year we have 34 plans developed, basically covering the same assets that have been covered in years past.

Fortunately, we did not have to, in fact, implement any of those contingency plans. The forecasters on our staff work seven days a week throughout that season doing daily forecasts. They forecast the meteorological conditions that may be conducive to ozone formation. They do that for three days, today, tomorrow and an extended day. And we did not issue any concerns for ozone formation this year, so no ozone action days were issued. As a result, the contingency plans were not implemented.

We monitor throughout that entire season. We monitor in the area year-round, but during the winter season we had some supplemental VOC locations, volatile organic compound locations. Throughout the season, we had no monitored exceedances of the Ozone Ambient Air Standard. The Division is very excited about that.

Okay. Go the right direction. There we go. Technology --

MS. CEDERLE: Technology.

MS. POTTER: -- is not my friend today.

Sorry about that. So this is the history of the number of exceedance days per year. We've been monitoring in the Upper Green River Basin since 2005. And as evidenced by the zeros from 2012 through 2015, we have not had a winter ozone exceedance since the winter of 2011. We are very excited about that. We know that ozone formation in the Upper Green River Basin is extremely complex. We know that it has a lot to do with meteorology, but we know that industry has done a lot to reduce emissions as well. And so we are very excited in regard to seeing another season come and go. And, quite frankly, the preliminary data shows that we weren't even remotely close to the level of the standard, which is 75 parts per million. So we're very excited to see that progression, and we hope it will continue.

One of the ways that the Division has been addressing the problem in the Upper Green River Basin is through an ozone strategy. The strategy was developed to really be the guiding overall strategy for the Division in approaching the work for the Upper Green River Basin ozone nonattainment area. So I'll highlight that evolution for you now.

We started with the ozone strategy that came out in March of 2013. These strategies are designed to cover a six-month period. And then we evaluate what has been accomplished under the previous strategy, what new information has become available to craft the next one.

And you see today's date on the list. That is because today we are releasing the next iteration of the ozone strategy to the Board, and a press release will go out today as well announcing the availability of that. At the conclusion of the presentation we will hand that out for the Board, as well as the public that has come today.

These strategies really focus on four groups of activities. We identified work that we believe can be accomplished within the next six months. We identify work that will occur during the six months, but we know it will take longer than six months to accomplish.

We have a separate category for rulemaking. And typically the rulemaking process isn't constrained to just

six months. And then we have a list of ongoing items. So for the purposes today, we'll focus on items that come out of those first three groups. We really won't focus on any of the ongoing items.

So far, sum total out of all four of the strategies we've had so far we've completed 32 elements out of all those strategies, and we really believe that's been important to build the foundation to bring the area back into ozone attainment. That's a formidable process that we still need to embark on.

Focusing on the recently completed strategy, the October 21st strategy ended at the end of March. What was completed out of that strategy were elements that focused on the winter ozone season, so the forecasting the ozone contingency plans and the monitoring.

There were a couple of items that were continuation of work from the April 22nd strategy. They were conclusion of the produced water tank study that was conducted by the Division with contract assistance in the Upper Green River Basin, and then a combination of reviewing and evaluating some data collected by the office of research and development at EPA.

And then, finally, the other element that was completed was the Division's review of EPA's Ozone National Ambient Air Quality Standard review. And I'll touch on

that later to give you more in-depth detail about that when I talk about the EPA obligations.

So the new strategy, hot off the presses today, as I mentioned, follows the same pattern as the previous strategies. It is an evolution from the strategy that was released in October of last year. We look at the status of all of the elements in the strategy as of March. We look at new information that's become available since October, and then it's the same four groupings of activities. In this strategy we will have four activities to be worked on through the end of September. We will have three activities that we know the work will go through September and go into a subsequent time frame. And then we have five rulemaking subject areas as well.

The number of ongoing activities fluctuates between 17 and 20. We are up to 20 ongoing activities because those winter ozone season activities drop down for this time of the ozone strategy into that ongoing list as we continue to work to improve those.

So I'll quickly go through the items that are in the first three groupings for you. On an annual basis, the Division is responsible for preparing a status to go to the Environmental Protection Agency, given that we have voluntarily signed up for the Ozone Advanced program in the Upper Green River Basin. The letter really just highlights

what the Division has accomplished over the past year.

While we have concluded the Upper Green Winter Ozone Study monitoring during the winter months, we still need to have all that data come in to us from our contractors, consolidate that and get a final report on that, and then that will be released to the public for their utilization.

Two new items in the strategy are Items 3 and 4. EPA has released the final State Implementation Plan requirements rule for the 2008 Ozone NAAQS review, which is a mouthful. Basically this rule governs implementation that the Division has to comply with for the standard that we are, in fact, in nonattainment for the Upper Green River Basin. So this is an item in the strategy so that we can recognize the Division's time to fully review and evaluate what new requirements are in that rule, and what implications it has on the Upper Green River Basin. And I'll talk a little bit more about that later as well.

In addition, EPA has released a memo and Air Quality Modeling Technical Support Document. It's a preliminary draft. And that has been released for the 2008 Ozone NAAQS Transport Assessment. This is when they look at the effects from one state on another state. And we need to take the time to go through, and even though it's preliminary, we need to take a hard look at that and

evaluate it for potential impacts, and these would be potential statewide impacts. This is not just unique to the Upper Green River Basin.

BOARD MEMBER HANSON: Darla, concerning number 3, isn't that sort of behind, the facts, because we have no incidents, haven't had any, what did you just say, for the -- since 2009 or '10, or whatever you had, '11.

MS. POTTER: You're absolutely correct. It is behind. And to give you an idea how behind it is, EP -- so it's a 2008 standard.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: We were designated, and our designation became effective July 20 of 2012. EPA proposed that implementation rule in June of 2013, and they just finalized it. So, yes, absolutely. And I'll touch on it later to give you more of an idea of what's in it for a marginal area. Fortunately, we weren't hampered a great deal by EPA's lack of action, but their delayed pace at releasing those really has the potential to very much impact the state of Wyoming. It's very hard to plan to do our jobs when we don't know what the rules of the game are.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: And so we keep doing our best with what we know to be the case, but there are some changes in that that will affect us. I'll touch on those a

little bit later.

BOARD MEMBER HANSON: Thank you.

MS. POTTER: Uh-huh.

The three items that -- apparently my numbers didn't work. They should be 1, 2, 3. Three items to be worked on through the end of September, and we know we'll go beyond that. Work is continuing that was initiated under previous ozone strategy. We currently are in the field study phase for oil and gas production site emissions inventory study. We are studying the control effectiveness of combustors in the Upper Green River Basin. We are also doing work to quantify emissions from fugitive sources. And so this work is currently ongoing due to a number of complicating factors taking longer than anticipated, and, in fact, will go past September of 2015.

The produced water ponds study we are very excited to finally be getting underway. This has been in previous studies to get the contracting work in place. That's finally been completed. And so this work will occur in a field study in two components. There will be a summer 2015 component. There will also be a winter 2016 component. And this very much is research work. There's -- these are very difficult to quantify the emissions of, and so this work is very much necessary for us to better understand those potential sources of

emissions in the Upper Green River Basin.

And the item that should be number 3 is the new item in the strategy. This item is kind of a next step. We concluded the produced water tank study, where fieldwork was done with a contractor, now this element is added so that we can fully take the results of that study and look at it across the division. So we will look at potential relevant information that the Division may decide to embark on control strategies, different permitting approach, potential impact for emissions inventories, monitoring, modeling. So we'll take an across-the-division look at the results of that study and determine what additional work needs to occur based on what we've gained in knowledge from that.

And our final grouping is rulemaking. And this very much is where the Board becomes directly involved in what is happening in the Upper Green River Basin. Number 1 is a technology-based control strategy and regulatory option to reduce emissions from existing upstream and midstream oil and gas sources. We also refer to it as Phase I.

This rulemaking started in June of last year, 2014. We've been before the Board twice on this rulemaking, once in July of 2014 and once in December. We are proceeding forward through the rulemaking process, and

we'll be in front of the Environmental Quality Council on May 19th for that rulemaking effort.

So it is proceeding forward. We are anticipating for that rulemaking to be complete during September of 2015. So we are making progress in regard to that.

A new element in the strategy is acknowledging the work to revise Wyoming Air Quality Standards and Regulations, Chapter 6, Section 13, the Nonattainment New Source Review permit requirements. That will follow in the rulemaking section today to change that from an incorporation by reference to state rule format.

And the final three items in this group are all from a previous ozone strategy. Item 3 is evaluating an emissions budget-based control strategy and regulatory option to reduce emissions from existing sources. We've referred to this as Phase II.

Items 4 and 5 dovetail in with that. Item 4 is gathering information on an incentive program and how that can be coordinated with rulemaking to accelerate emission reductions, as well integrating stakeholder involvement in the gathering and evaluation of information that may be utilized in Phase II.

Any additional progress in regard to these three elements of the strategy really is dependent upon the success of Phase I, the technology-based control strategy

work. And so given the limited resources that the Division has, a number of the same people that are still working on Phase I, would be the same people working on Phase II. So we continually get asked about progress on Phase II, and to be quite frank, we have not been able to devote any additional resources to Phase II and furthering that given the additional time that it's taken for Phase I, the technology-based approach. So we will know more after the May 19th Environmental Quality Council hearing.

And as I mentioned, I'm not going to touch on any of the ongoing items. If the Board has any questions after you've had a chance to look at the strategy, please feel free to give me a call and we will do our best to answer your questions.

And now I'll transition into the EPA obligations. EPA has a number of obligations. They have a number of things that they need to provide to the states so that the states can consistently implement the Ambient Air Quality Standards and actually bring about the changes in air quality that are necessary to comply with those standards. As Klaus mentioned earlier, they are often behind, and we often wait a significant period of time for them to take action on things that are necessary for us.

So I'm going to touch on two things today. I mentioned these briefly earlier. There is a federal

proposed ozone National Ambient Air Quality Standard review that was released. It was released in the Federal Register December 17th of 2014. This is the one that had been released November 26th, just before the previous board meeting. It had been released to satisfy a court-ordered deadline. Oftentimes court-ordered deadlines is how EPA finally takes action on a number of things.

So that proposal came out the -- and this is part of EPA's obligation to revise -- review a National Ambient Air Quality Standard every five years, and they were behind on that. The range that the Environmental Protection Agency proposed was a range from 65 to 70 parts per billion, with the same form of the current standard, an eight-hour daily maximum with the design value calculated from the three-year average of the fourth high.

So the form is the same, it's the range that is proposed to change. The current standard is 75 parts per billion. And in this proposal, EPA accepted comments down to 60 parts per billion as well. When the Division reviewed the proposal -- we are not health-based experts, which speaks to the primary standard. There's also a secondary standard component that speaks to public welfare for ozone that's primarily vegetative effects.

We are also not ecologists, botanists. Some of us are ologists, but not the right kind of ologists. So we

really focused on the state's perspective on implementation challenges, should the proposal go forward as indicated. And that's really what the DEQ comment letter focuses on.

In regard to that, one of the items that's been incorporated into this proposed ozone NAAQS, if you look back at -- or recall any of the previous ozone updates I've done for you, we've been waiting for an ozone monitoring rule since 2009. EPA was not successful in getting the ozone monitoring rule through, and that dictates things like where we have to monitor for ozone, what our ozone season is. Traditionally that is the summer months. We don't fit that norm.

So in this proposal, it incorporates things like ozone season, and it incorporates things like where you're required to monitor for ozone or ozone precursors. And so we focused on those items as well. But with EPA's lack of success taking an individual monitoring through, we're now seeing that they're incorporating some of those elements into the proposal for the actual standard.

They are -- EPA's on court-ordered deadline for promulgation of the final standard. That has to be done by court-ordered deadline by October 1st of 2015. So what that means for the state of Wyoming as a whole, not just the Upper Green River Basin, is EPA identified five counties that, based on the monitoring data available, have

the potential to be nonattainment with an ozone ambient standard in the range of 65 to 70 parts per billion. The counties that EPA identified are Sublette County, Fremont County, Sweetwater County, Albany County, and Laramie County.

The final designations will be based on the 2014, 2015 and 2016 monitoring data. So with the final promulgation in October of 2015, the governor has one year to make his recommendations to EPA for the entire state. So that will take place in October of 2016. And then EPA will make their final designations one year following that, or two years after the promulgation, so in October of 2017.

So we will be looking closely at the monitoring data. We're currently waiting for the certification of the 2014 monitoring data. As evidenced by not having exceedances in the winter of 2014 in the Upper Green River Basin, our winter of 2015 in the Upper Green River Basin, we are expecting to see those numbers improve. And we are very much hoping, specifically in the Upper Green River Basin, that those numbers will show that we are in attainment with the current standard of 75. We will have to certify those data to see exactly where those numbers indicate we are heading statewide, not just in the Upper Green River Basin.

BOARD MEMBER HULME: Darla, just a question

on the county designation, the five counties. I mean, those counties are, I'll state, rural, but how they designate the whole county. I mean, are we talking more around the towns or -- because, I mean, we don't have oil and gas development in Albany County. I know we have naturally elevated ozone, but is this right around Laramie or -- I mean, how do they determine it would be the whole county, or they just generalize, okay, so maybe it's around the city of Laramie, so we're just going to say the whole county? How do they determine?

MS. POTTER: So I'll use Albany County as a perfect example. Ozones are a regional pollutant. So the monitor that EPA is looking at is actually not -- we don't have a monitor in Laramie.

BOARD MEMBER HULME: Right.

MS. POTTER: This is the Clean Air Status and Trends monitor. It's part of a federal monitoring network that is near Centennial, Wyoming. So not only do we have to be concerned with what our state monitors are showing us, we have to be aware of what the federal monitors are showing as well. We have to make sure that the data collected by those, in fact, complies with all of the quality assurance requirements and is the appropriate equipment, meaning federal reference method or federal equipment method. So there will be a lot of work to be

done.

The state of Wyoming is only responsible to certify data collected by the state of Wyoming. So we're not responsible to certify the data through any of the federal networks or any of the industrial networks in the state. So taking a hard look at that 2014 data will be really important. One of the things that is -- one of the things that's very challenging about this pollutant -- pollutants that are primary pollutants, meaning they're directly emitted from a source, and we directly monitor them in ambient air, oftentimes when we see decreases in those pollutants or see decreases in the emissions, we can correlate those. And we know when we see those decreases we're headed in the right direction. We see increases in the monitoring, we know we're not headed the right direction.

Ozone is a secondarily formed pollutant. It's a very complex chemical reaction. As we found in the Upper Green River Basin, the meteorological condition in the winter can play a great part in that. We have not seen wintertime ozone formation concerns anyplace else in the state where we are monitoring, but then that transitions to what time of year do we need to be concerned with. And the proposal that EPA has in ozone season from January through September, so we could be in a situation statewide where

there are a number of factors that we have to be concerned with.

So it's not only what's locally generated and what can the state actually control, but it's also being concerned about, Diana mentioned, naturally elevated background levels in the West we know are of a concern. We know that transport is a concern. It's not a concern in the Upper Green River Basin for winter ozone formation due to those meteorological conditions, but for the remainder of the year and even in the winter when we don't have those specific meteorological conditions, we know that transport occurs, either from other states or internationally as well.

And this is where the focus on the implementation issues really is important. There are a number of what EPA terms as regulatory relief mechanisms. A number of these are quite dated, lack very -- they're very broad in general, in what EPA has put forth. So there -- there is a regulatory relief mechanism to designate an area as a rural transport area. There are only two of those that have ever been designated in the entire country. It is not straightforward. So our comments ask EPA for some additional structure.

There is an option to identify international transport. Even states that are on the border with Mexico

and Canada have difficulty identifying international transport. So when you get to the state of Wyoming, while we know it occurs, it will be very difficult to quantify and specifically identify how much is associated with that.

So really a lot of our -- our comments really focus on provide us with the tools, in a timely fashion, please, that will actually help us to do the work that we need to do and not just make it a paperwork exercise, quite frankly.

The other -- the other regulatory relief mechanism is the Exceptional Event Rule. That really comes into play with ozone, with ozone stratospheric intrusion, and we've developed a number of those exceptional event packets. We've developed five of those, of which EPA has only reviewed and only concurred with one. So we're not certain that that's really a viable regulatory relief mechanism. Ozone can also be elevated in association with fire. So in those packets are even more complex -- not that the stratospheric intrusion packets are easy to demonstrate, but we have seen packets that the Environmental Protection Agency has issued concurrence with.

Cara Keslar, our monitoring section supervisor, has looked at those and concluded that for the Division those would take 15 months to prepare and $150,000 of

contract support. We don't do our budget for staff resources that we can reassign off of other work or for additional contract dollars to that degree. So really we are expecting EPA to hopefully do more with those so that they're valid regulatory relief mechanisms. The State of Wyoming, when we do our work, really needs to focus on what can the State control? What are the emissions in the area? And that's exactly what we've done in the Upper Green River Basin. Unfortunately, EPA's tools are crafted around large urban nonattainment areas with a high degree of mobile source contribution, major source contribution and its summertime formation.

So we will be watching where the final standard is established very closely, because with that 65 to 70 range and the current monitoring data, there's five counties. We don't believe that designating at the county boundary is appropriate in all cases. But you have to go through a five-factor analysis to justify a different area other than the arbitrary geopolitical boundary of the county. And that -- that takes staff resources and contract resources to support as well. So we know that that's a potential. We are setting aside contract resources to be able to help with that endeavor, but it's a heavy lift, particularly lacking much specificity from EPA.

CHAIRMAN BROWN: Is that what you did with

Sublette County and upper Sweetwater County?

MS. POTTER: Correct. Yes. So we knew Sublette County wasn't the appropriate nonattainment boundary, but through additional work, then the -- the triangle air referred to as it comes down and takes a portion of Sweetwater and portion of Lincoln counties. That was established through a five-factor analysis. But you hit a county like Sweetwater, you know, and based on the monitoring in Sweetwater County, I'm not sure that a designation for the entire county would be appropriate, but how exactly one would go about designating the appropriate boundary, we would have to explore.

Klaus.

BOARD MEMBER HANSON: Did you mention in previous meetings -- you just mentioned fire as a contributing factor. Did you also mention snow cover?

MS. POTTER: So in the Upper Green River Basin, when we have sufficient snow cover, what we find is that -- so it's a capping inversion. Light to no wind speed, snow cover on the ground and sunny day, what happens is the sunlight reflects back off the snow cover and we get a doubling of the ultraviolet effect, roughly.

BOARD MEMBER HANSON: Yeah.

MS. POTTER: And so that plays a large role. For the winters that we have not had elevated ozone

formation, we have not had what we would consider to be a sufficient snowpack for that entirety. There are a number of meteorological factors, but the snow cover for the Upper Green is a big factor.

BOARD MEMBER HULME: I have more follow-up. Darla, you mentioned previously that for our ozone monitoring in the Upper Green we're in compliance quite a ways from the 75 PPB, but if this were to come into effect would we still -- based on the numbers, is that area -- would it still be in compliance with potentially the five --

MS. POTTER: No.

BOARD MEMBER HULME: Okay.

MS. POTTER: Sublette County is one of the counties that has been identified as well.

BOARD MEMBER HULME: Right. I didn't know if that was based on the Upper Green River --

MS. POTTER: No.

BOARD MEMBER HULME: -- where that monitor is.

MS. POTTER: Each -- each -- each new Ambient Air Quality Standard has to be assessed independently. So it's not an automatic, that just because we are nonattainment for the current standard, doesn't automatically carry to the new standard. That designation

will be based on the new monitoring data. So hopefully we'll continue to see improvements in that monitoring data. So there are instances in the country where you can be nonattainment for the level of a standard, and the standard is revised and it becomes more stringent, but due to the improvements you've already made, you may, in fact, not be designated nonattainment for the new standard. That can happen. That would be great if it would happen.

In other instances, you may be found to be nonattainment for the new standard as well, and at that point in time you're in nonattainment for both standards, unless EPA institutes some relief for the previous standard that that was higher or less stringent.

CHAIRMAN BROWN: So it doesn't supersede that.

MS. POTTER: It does not supersede it. The area may not be the same area. We established the area for the Upper Green River Basin based on the very specific meteorological conditions that we were able to associate with that wintertime formation. When we looked at a lower standard, depending how low that goes, it may speak to not just January, February and March for the Upper Green River Basin, it may speak to that entire time frame through September as well, then this Division has to go back and look at if that boundary that currently exists is still

appropriate for the new standard. So that's not automatic.

It's very complicated. We are very much looking forward to October 1st.

MR. DIETRICH: What Darla's also explained, you can be working on two standards at the same time, the same staff.

CHAIRMAN BROWN: Yeah.

BOARD MEMBER HANSON: Yeah.

CHAIRMAN BROWN: I was unaware of that. I was thinking it would supersede, but...

MS. POTTER: It does not.

So the last items are the implementation rules that I mentioned earlier with the much more long, drawn-out formal names of those. Those are the ones that were proposed in 2013. They finally became final and were published in the Federal Register February 13th of this year. These are -- this is the rule that would specify exactly what the state has to do, and the state has to do different things, depending on the classification of the nonattainment area.

For a marginal nonattainment area, what we've initially seen is that the finalization of the rule really didn't change much, because marginal areas aren't required to do a lot anyway. What it did change, in an initial look, is there was a court decision in December of 2014

that struck down some things that EPA had previously put forward with regard to the 2008 standard. We were previously operating under the direction that the area had to comply, because it was a marginal classification, by December 31st of 2015, which would have meant we would have looked at the 2013, 2014 and 2015 monitoring data to determine that. That was struck down by the court. The court dictated that EPA did not have the latitude to do that. The determination is do three years after the designation. So we will have to determine if we attain or not July 20th of 2015.

What that does for the state of Wyoming is we will have to rely on the 2012, 2013 and 2014 certified data. So that's part of the reason we are so eagerly awaiting the certification of that data. Once we have that, then we will do the appropriate calculations and determine where we are at with respect to the design value that can compare to the standard and then embark on what we need to do.

If, in fact, that monitoring data does show that we attain, it's not a light switch. It doesn't go from nonattainment to attainment automatically. There is a process where we have to go into maintenance. Maintenance is a 10-year period. Jeni has routinely told plan for 12, because things in EPA don't exactly, you know, move like

clockwork.

So we will be taking a close look at that data, but our time frame to determine if we are in attainment is a -- is much closer than it previously appeared. We are still examining that rule for other things that may have changed, that may have other implications for the state, but we know that is one of the things that has changed.

We are thrilled that 2015 winter season did not have any exceedances, because had that been the case, we believe that EPA could still take the latitude to consider that monitoring data in 2016 as well, and it may not look favorably upon trying to go to maintenance if, in fact, we can. So we are hoping very much that the monitoring data will show that we have attained, which is a huge accomplishment. We weren't that far away from the standard to begin with, and that's why we were a marginal classification. But it's -- it's a huge accomplishment if we've been able to reach that. So hopefully at the next board meeting I'll be able to share with you those numbers and what the Division is doing in regards to that.

And then finally there are still things that we are waiting on. The list, however, is only two bullets long this time instead of five. One of the things that the Division continues to find challenging, specifically in the Upper Green River Basin, is that the states lack the

ability to implement emission controls on nonroad engines. That is important in the Upper Green River Basin because of the drill rigs and the completion of fracking engines associated with the oil and gas development.

We have done a lot voluntarily with the industry in that area. We've been lucky that they have really wanted to voluntarily commit to cleaning a number of those things up; however, we lack the regulatory authority to do specific emission controls on those. We continue to raise this as a concern to the Environmental Protection Agency. We continue to not see any movement on that front. So this will be an issue statewide should we have additional ozone nonattainment areas in areas of oil and gas development.

And then finally, federal involvement in wintertime photochemical grid model development. The Division has spent money and we have really done our part to try to get the existing Photochemical Grid Models to work for the Upper Green River Basin. We have been unsuccessful in duplicating the actual ozone formation that has occurred.

As a result the state does not have the resources, either from a staff perspective or the monetary resources, to develop additional photochemical grid modeling capabilities. We are not those experts. There's also some chemical mechanism development that goes into

these. We're not experts, and we don't have the resources to do that either.

So we really continue to push EPA for federal involvement, in furthering the development of those models. We're not the only wintertime area. Uinta Basin in Utah has similar concerns. A lot of work is being done in the Uinta Basin in Utah. They were spending a considerable amount of funds in research there. We are hoping at some point there may be a breakthrough that then the Division can capitalize on to refine the work that we've done so far and see if we can make further progress. But at this point in time, really without federal involvement and advancement of that tool, we don't have a tool that would work specifically for that area.

Klaus.

BOARD MEMBER HANSON: On the first point, would that require state legislation, because there is no federal legislation? I didn't quite understand the point.

MS. POTTER: Okay. So the state is actually prohibited from doing anything more stringent from the Environmental Protection Agency in regard to that -- the nonroad engines thing. Anything mobile, the states, other than the state of California, do not have the authority to tackle. So we cannot pass state legislation. That would be struck down. We're not allowed to do so.

BOARD MEMBER HANSON: That's kind of strange, because I know in other areas -- we just, as a city council, went through alcohol laws, you know. We can always be more strict than the state, but in this case we cannot be more strict than the federal government.

MS. POTTER: We cannot be -- mobile sources, on-road mobile sources and nonroad mobile sources are a specific category where EPA has retained the regulatory authority, other than the state of California. And often the state of California requirements are more stringent than EPA's, but other states are not allowed to embark on that. We would either have to adopt what the state of California has, which probably is not palatable in the state of Wyoming.

BOARD MEMBER HANSON: No.

MS. POTTER: But to do something different than that just is not within -- within our regulatory authority.

BOARD MEMBER HANSON: But there are some federal standards on those.

MS. POTTER: There are some federal standards. These are -- for the nonroad engines these are typical diesel -- diesel fired.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: I am not an engine expert, but

I have been told they can continue to be rebuilt for quite some time. So while there are Environmental Protection Agency requirements on the new engines that are manufactured, there is no retirement pace at which that has to occur.

BOARD MEMBER HANSON: And the older they get, the dirtier they get.

MR. DIETRICH: So Darla hit on a reason for the nonroad engines where EPA would like to take -- have all the control for the road engines, just for similarity. They go to the car manufacturers and dictate what the emissions are. So if each individual state started doing that for on-road engines, it would be chaos for the car manufacturers. That's one of the reasons they want to have control of setting those standards.

BOARD MEMBER HANSON: Makes sense. Thank you.

MS. POTTER: So as we -- as you consider potential implications of a lower ozone standard across the state of Wyoming, these -- these nonroad engines are not unique to the oil and gas industry. Think of an industry that we have in the state of Wyoming, and those are not sources that the state can exact control over. So this could be a big challenge -- it has been in the Upper Green River Basin. We've been really fortunate that industry in

the Upper Green River Basin has voluntarily taken steps to improve -- improve those engines and go to newer engines that are cleaner burning, but that may not be universal.

BOARD MEMBER HANSON: Thank you.

MS. POTTER: Then the final -- final thing that I'd like to let you know about. Director Todd Parfitt has made a commitment in the Upper Green River Basin that we will do public meetings twice a year. We do those meetings prewinter ozone season so that we are letting people know what to expect. That meeting was held in December of 2014.

We also do a postwinter ozone season meeting each year. That meeting will be held on Tuesday, May 19th in the evening. We will be in Pinedale at the Sublette BOCES building. We have found what works best for these meetings is an open-house format with multiple stations.

So a number of things that I briefed you on today will be included in stations at that open house. In addition to that, the Department invites industry, as well as the Citizens United for Responsible Energy Development, CURED, to have stations at the open house as well so that individual questions can be asked and answered.

So if you are, you know, in the area and you would like to attend you're more than welcome to. A number of things will be what you heard already today.

BOARD MEMBER HULME: That's the same day as the EQC?

MS. POTTER: That is the same day as the EQC hearing. Different location.

BOARD MEMBER HULME: Okay.

BOARD MEMBER WASSERBURGER: You mentioned fugitive sources. What defines that?

MS. POTTER: So for oil and gas facilities, fugitive sources are emissions that come from -- emissions that are released that don't come from a stack. So for oil and gas production sites specifically, valves, flanges, connectors. These are things that even when properly designed and maintained can have a fugitive emission associated with it. So what we're looking at are those emissions. Those -- those emissions are some of the least well understood and associated with a fixed production site, so we're looking at those. It's not an investigation into those things that are not maintained properly or operating in noncompliance, so we are not -- we are not searching out noncompliant activities. We're trying to better quantify the -- the leak rates, essentially, of the fugitive emissions associated with valves, flanges, connectors, those types of things. So it doesn't come out a specific stack.

BOARD MEMBER WASSERBURGER: Okay.

MS. POTTER: Okay. I know it was rather lengthy today, but we have had some additional evolutions going on, and I thought it was good to bring those to the Board today.

Does the Board have any additional questions?

CHAIRMAN BROWN: Any questions?

MS. POTTER: Okay.

CHAIRMAN BROWN: No questions.

MS. POTTER: Thank you.

CHAIRMAN BROWN: Let's see. Next is rulemaking. Do we want to take a quick break now? Is this a good time to take a break and come back?

MS. CEDERLE: Yeah.

MR. DIETRICH: I think it's also a good time to take a break.

CHAIRMAN BROWN: Okay. Come back in 10 or 15.

(Meeting proceedings recessed 9:56 a.m. to 10:07 a.m.)

CHAIRMAN BROWN: We'll reconvene. And the next order of business is rulemaking. And the proposed changes to the Wyoming Air Quality Standards Regulation, Chapter 2, Ambient Standards.

MR. DIETRICH: Right. So by way of introduction, we're here today to update the Wyoming Air

Quality Standards and Regulations, Chapters 2 and 6. And so this is to maintain consistency with the most updated federal version of these regulations. And the updates should be straightforward and are intended to satisfy federal requirements of the Clean Air Act requirements. Changes will be incorporated into our Wyoming State Implementation Plan, or SIP, which will be eventually submitted to EPA for their approval.

Amber Potts and Jeni Cederle are here today to walk us through the detailed information associated with these updates to these chapters, and so at this point I'll turn it over to Amber.

MS. POTTS: Good morning. I'm Amber Potts, and I'll be presenting the Wyoming Air Quality Standards and Regulations Chapter 2 rule changes for you today.

Once I walk through the Chapter 2, Sections 2 and 12, I'll ask the Board, if it's all right with you, to vote on that Chapter 2 change, keeping Jeni's in mind for later, and we'll do the same thing after she presents Chapter 6, if that's fine with the Board.

CHAIRMAN BROWN: That seems to work out a lot better, yeah.

MS. POTTS: So Chapter 2, if you have your rule here, are all of our rules that deal with the Ambient Air Standards. And these standards are meant to protect

public health and welfare. So ambient air is the air external to buildings that folks in Wyoming can breathe or have access to. Most of these standards align with the federal standards, and when EPA periodically updates those federal standards, we like to follow suit with the state standards and update those Wyoming rules for us. So this process of aligning our regulations with the federal regulations helps Wyoming maintain our primacy for our regulated community, and if you approve these changes today we'll be incorporating them into our Wyoming State Implementation Plan which is submitted to EPA.

So there's a couple of updates in Chapter 2. The first is in Section 2, ambient standards for particulate matter, and specifically the PM2.5 or fine particulate matters standard. So fine particles are anything less than 2.5 micrometers in diameter or smaller. And these particles can be emitted from combustion sources or fire.

And so in January of 2012, EPA strengthened the primary standard of that health-based standard by setting the new standard of 12 micrograms per meter cubed. The previous annual standard reflected in our Wyoming regs currently was 15 micrograms per meter squared -- cubed. Sorry. Cubed. The previous standard was set back in 1997.

BOARD MEMBER HANSON: Hmm.

MS. POTTS: Just to give you a snapshot

where Wyoming sits with our state-run monitoring locations for PM2.5. There's 19 monitors throughout the state that AQD -- or the Air Quality Division mans and pays for. And all of them are well below 8-microgram per meter cubed. So the 12, we're not going to see any problems that we can see here shortly.

And then the second group of changes is back in the incorporation by reference section, which is Section 12, on page 2-7. And we've kind of already alluded to this, but some of these changes are just housekeeping changes. The Code of Federal Regulations date is the latest publication date of July 1st of 2014. We've updated that one.

And then you'll also see our Web address, and Web address for the Code of Federal Regulations. This is because of new state statute requiring a Web address for anything incorporated by reference from the federal government. So we want to make sure folks can get to those Code of Federal Regulations from our regulation. And our Web address, deq.wyoming.gov, is there because we've taken the address for our Herschler Building out of it because the Capitol Square renovation and our potential move. We want to make sure folks can get to us when they need to get to us, and that's the best place to find out.

And that wraps up Chapter 2. Pretty short and

sweet. If there were any questions or comments, you know, I'm happy to take those.

Yes.

BOARD MEMBER HANSON: Just from my perspective, to read this -- because I got the two versions --

MS. POTTS: Yeah.

BOARD MEMBER HANSON: -- which are basically identical, because -- and what you just said was kind of interesting, namely what is replaced, and we don't have an idea about that. And I think for my taste it would be easier to have the strike-out version and then the new stuff there so we know what we're replacing.

MS. POTTS: Okay.

BOARD MEMBER HANSON: In this case you mentioned that we are replacing 12.0 micrograms from 15, right? Is there anything else that we're replacing in that section? That's it?

MS. POTTS: No, that's it, yep.

BOARD MEMBER HANSON: That would be interesting to me, you know, if we did that in the future.

MS. POTTS: So --

BOARD MEMBER HANSON: You see what I mean? Where you have the whole section? I didn't know what it replaced.

MS. POTTS: Okay. So in the previous, if you look on page 2-2, the primary and the secondary --

BOARD MEMBER HANSON: Yeah.

MS. POTTS: -- were the same, 15.

BOARD MEMBER HANSON: It's all the same.

MS. POTTS: Yeah. Federal government is keeping secondary as 15, which is welfare-based --

BOARD MEMBER HANSON: Yeah.

MS. POTTS: -- standard.

So we did add this new Section B --

BOARD MEMBER HANSON: Uh-huh.

MS. POTTS: -- with how the calculations are working, how they're measured, what the definition of PM2.5 is.

BOARD MEMBER HANSON: So this is indeed an added section.

MS. POTTS: Yes. Everything in gray is added.

BOARD MEMBER HANSON: Added. Was not there before.

MS. POTTS: Was not there before.

BOARD MEMBER HANSON: And that's why Section B -- old Section B is now Section C.

MS. POTTS: C, yes.

BOARD MEMBER HANSON: I get it.

MS. CEDERLE: And we struck out the primary language.

BOARD MEMBER HANSON: Okay. Thank you.

MS. POTTS: Yep.

CHAIRMAN BROWN: Do we have any other comments from the Board? I didn't see a public comment sheet. I didn't know -- before we do any voting --

MS. CEDERLE: I'll get the sign-in --

CHAIRMAN BROWN: -- I want to make sure the public has an opportunity to make a statement or a comment on these regulations.

MS. CEDERLE: Nobody indicated that there would be verbal comments today, Mr. Chairman, at all.

CHAIRMAN BROWN: We're going to discuss this one and then vote on it and then go to the next ones.

BOARD MEMBER WASSERBURGER: Mr. Chairman, I would move that we adopt language presented by staff in Chapter 2, Section 2 and Section 12.

BOARD MEMBER HULME: I'll second that.

CHAIRMAN BROWN: Has been moved and seconded. All in favor?

BOARD MEMBER WASSERBURGER: Aye.

BOARD MEMBER HULME: Aye.

BOARD MEMBER HANSON: Aye.

CHAIRMAN BROWN: Those opposed?

It's been moved and seconded to adopt the language in Chapter 2, Section 2 and Section 12 as written.

MS. CEDERLE: All right.

MS. POTTS: Thank you. And now Jeni is going to start walking you through Chapter 6. It's a little bit longer than mine.

BOARD MEMBER HANSON: You can say that again.

MS. CEDERLE: Good morning. My name is Jeni Cederle. I'm the State Implementation Plan and Rule Development Section supervisor for Air Quality. Today I'll be walking you through Wyoming Air Quality Standards and Regulations Chapter 6, permitting requirements, Sections 1, 13 and 14. Section 1 is the introduction to permitting requirements. Section 13 covers permitting requirements for new and modified major stationary sources located in and on a nonattainment area. Section 14 is the incorporation by reference or IBR section.

We'll get started with the front page. The table of contents in the front of Chapter 6, we've changed the title of Section 13 from nonattainment permit requirements to nonattainment new source review permit requirements. There's nothing substantive about the change. The big change is actually the page count of this regulation. You may have noticed in your review of the regulation that we

went from a one liner on one page to 35 exciting pages of regulatory text.

We'll move on to Section 1 on page 6-1. We've revised the language to read, "Section 13 covers permitting requirements for new and modified major stationary sources located in a nonattainment area." Previously the language incorporated by reference the federal nonattainment New Source Review requirements laid out in the Code of Federal Regulations, Part 51.165, nonattainment permit requirements. Since we're no longer incorporating the rule by reference from the Federal Rule, we've gone ahead and changed the introductory language to better describe what we're doing there.

Section 13 is the main event for the Chapter 6 revisions. This section will be the home of our nonattainment New Source Review permit requirements, which I'll refer to as nonattainment NSR, and it will take up the bulk of the rulemaking for Chapter 6. These rules apply to pollutants for which an area has been designated nonattainment for a National Ambient Air Quality Standard, or a NAAQS. When a state goes nonattainment for a standard, such as ozone, the Clean Air Act requires that states adopt nonattainment NSR permitting requirements.

The Upper Green River Basin of Wyoming was designated nonattainment for ozone July 20, 2012, as Darla

mentioned in her presentation. Once a nonattainment area has been designated, states are required to ensure that new major stationary sources do not further degrade the air quality in that nonattainment area. Nonattainment NSR rules are designed to assist in the efforts to attain and maintain compliance with the national standards.

So a little bit of history. Back in 2009, 2010 time frame, in an attempt to be proactive by getting out ahead of the Upper Green River Basin being designated nonattainment, the Division went through the rulemaking process to incorporate by reference from the Code of Federal Regulations, or the CFR Title 40, Part 51.165, in its entirety, and 40 CFR 51.165 are the federal nonattainment NSR regulations.

Once our rulemaking was final through the Division, the Chapter 6 regulations were submitted to EPA as the State Implementation Plan, or SIP. And we did that back in May 2011. Portions of the SIP pertaining to that blanket incorporation by reference of the nonattainment NSR regulations were just formally disapproved by EPA this November, November 2014. EPA explained to us that the blanket incorporation by reference was inconsistent with the Clean Air Act and EPA regulations. They said that because of how their rule is written -- and that's the 51.156 piece -- combined with our blanket incorporation by

reference of that federal language meant we were not effectively imposing requirements on sources.

So that's the example paperwork I handed out just before we got started with the yellow highlighted language. It highlights some of what EPA thought was the problematic language. Highlighted in yellow are examples of that language. EPA explained to us that the direct incorporation of the language each plan shall adopt, each plan shall use, and each plan shall require failed to create enforceable obligations for sources that would be subject to the nonattainment NSR requirements.

In order to address the concerns raised by EPA from that original SIP submission, we went ahead and developed a state nonattainment new source review regulation based largely off the federal regulation, but we customized it to fit Wyoming needs. Taking the federal language and putting into state format rule provides some advantages to the Division that the blanket incorporation by reference does not. We can make minor changes to the language and tailor the rule to Wyoming circumstances.

So before we continue to dive into Section 13, I'm going to spend a little bit of time explaining our process behind this rulemaking. While going through the exercise of developing the nonattainment New Source Review -- New Source Review state rule based off the

federal language, we are very cognizant of maintaining consistency between our current Chapter 6, Section 14 prevention of significant deterioration regs. This proposed Chapter 6, Section 13 nonattainment NSR requirement and the federal nonattainment NSR requirements laid out in part 51.165.

For Wyoming to have an effective nonattainment New Source Review rule, it's all about tailoring the rule to remain consistent with our prevention of significant deterioration regulations, while also satisfying the Clean Air Act.

So to explain a little bit about that. To better understand how nonattainment NSR permitting -- okay. So to better understand what the nonattainment NSR permitting program means to Wyoming and why developing our own regulation for incorporating it by reference in its entirety is a benefit, it's necessary to realize that there are some places in our state's existing Chapter 6 permitting requirements for major sources that differ from the federal major source permitting requirements. Wyoming already permits new and modified major sources subject to the prevention of significant deterioration, or PSD.

And Chapter 6, Section 4, the PSD and nonattainment NSR programs are similar in most aspects. Major sources in Wyoming will be familiar with the

permitting process and what's required of them. However, nonattainment NSR requirements are more stringent than the PSD requirements because they pertain to sources located in a nonattainment area.

Some other areas of increased stringency in the nonattainment NSR regulation that are different from PSD regulations are applicability thresholds for PSD. The applicability threshold is the same pretty much all over the country. For nonattainment NSR, there's a type of a two-step process for triggering applicability. First it must be determined whether or not the source will be considered a major source under the rule. And this determination is based off the nonattainment area of classification. And Darla's kind of touched on what nonattainment area of classification are. For the Upper Green, it was marginal.

So for an example, Wyoming's nonattainment area is classified as marginal for ozone. A source would be considered a major source under this rule if emissions are equal to or greater than 100 tons -- 100 tons per year, volatile organic compounds or nitrogen oxides. And often you'll hear me refer to volatile organic compounds as VOCs or nitrogen oxides as NOx.

So another type of an example is if the nonattainment area was classified as serious, a source

would be considered a major source of emissions if the VOC or NOx emissions were greater than 50 tons per year. So as your classification of nonattainment in a sense raises up in severity, the triggering threshold as a major source in that area gets tighter and goes down.

So that once a source has been determined a major source, under nonattainment NSR, proposed project emissions are calculated and compared to a significant emission rate, or a SER, S-E-R. If the proposed project emissions exceed the significant emission rate, or the SER, for the pollutant, the affected facility would then become subject to the nonattainment NSR permitting requirements.

So let's go back to our example. And we have Source A in the Upper Green River Basin that emits more than 100 tons per year of NOx. That source is going to be considered a major source under the nonattainment NSR rule. And the second step is determining if the source is required to satisfy the nonattainment NSR permit requirements based on whether or not Source A's proposed project emissions exceed the significant emission rate for VOC and/or NOx, so that SER level. And in that example, that SER would be 40 tons per year. So that's kind of the second kick-in.

Another example of increased stringency is that sources in a Wyoming nonattainment area, subject to

nonattainment NSR permitting, will be subject to LAER or lowest achievable emission rate analysis. Major sources subject to PSD are required to do a BACT, or best available control technology analysis. A LAER analysis is a more stringent requirement for new and modified major sources.

Emission offsets are another part of the nonattainment NSR regulation. I know that a lot of people are aware of the Division's interim policy that has an offset aspect to it for minor sources, but a nonattainment NSR permitting, it's the major sources that will be doing emission offsets.

In the end, it's a new set of regulations that will address emissions in a nonattainment area, from sources in a nonattainment area. The regulation is a requirement of the Clean Air Act. States must adopt nonattainment NSR permitting requirements once they are designated as nonattainment for any National Ambient Air Quality Standard. It is also important for the State of Wyoming to adopt these regulations, because later on down the road, once EPA approves its regulation as a State Implementation Plan, it ensures that Wyoming maintains the authority to permit and enforce on sources located in a nonattainment area.

So with that we can go ahead and dive into Section 13, which starts on page 6-122. Under subparagraph

(a), you'll see that we struck out the incorporation by reference language of 51.165 and replaced the next 35 pages with the appropriate regulatory language that lays out the requirements of the nonattainment NSR rule. Majority of these 35 pages of text represent the federal regulatory language put into state format, minus all the nasty bits in the yellow highlight in the page that I handed out to you that EPA was unhappy about in our initial SIP submission. Some of the language is customized to maintain consistency with our PSD regulations, and as we go through this rule I'll point those out to you.

Looking at Section B, definitions, which start on page 6-122 and ends on page 6-137. One of the advantages of customizing your rule language is the ability to alphabetize definitions. The federal regulations never alphabetized these, and in the Division's opinion it's a lot easier for the end user to find those definitions if they're alphabetized. So from 122 to page 137 we've gone ahead and alphabetized all the definitions.

All the definitions in the proposed rule align with the intent of the definitions published in 40 CFR 51.165. There are some minor formatting differences, and we've changed the language to point to the Division where appropriate. But overall majority of these definitions mirror what's in the federal regulation. There are four

that we opted to pull out from our preexisting state rule language, and those are the definitions of BACT, best available control technology, and you can find that on page 6-125; net emissions increase on page 6-131; stationary source; and the definition for structure, building, facility, equipment, installation, or operation, and those definitions can be found on page 6-136 and 137.

We opted to pull over the PSD definitions to provide consistency between the two state permitting programs, the existing PSD program and this proposed nonattainment NSR program. Each definition is already federally approved through the Chapter 6, Section 4 PSD permitting program.

Affected sources will understand exactly what the intent of the Division is, and how permitting program for nonattainment areas will be implemented. How the definitions of BACT, net emissions increase, stationary source, and structure, building, facility, equipment, installation, or operation as interpreted will remain consistent between the two permitting programs. The definitions do not alter what the federal nonattainment NSR requirements are or how they'll be implemented. And pulling these four definitions over from the PSD regulation was the best way for the Division to maintain consistency and clarity for affected sources.

BOARD MEMBER HULME: Um --

MS. CEDERLE: I'm sorry, Diana. Yes.

BOARD MEMBER HULME: That's okay. I think I just noted a typo.

MS. CEDERLE: Okay.

BOARD MEMBER HULME: Page 6-136, under (ii).

MS. CEDERLE: Okay.

BOARD MEMBER HULME: Under (ii) is one, fifth line down.

MS. CEDERLE: Okay.

BOARD MEMBER HULME: Should be located instead of locating in a series.

MS. CEDERLE: Yes. Thank you very much.

BOARD MEMBER HANSON: What page is this?

MS. CEDERLE: 6-136.

BOARD MEMBER HANSON: 136.

MS. CEDERLE: Under (ii), that begins with notwithstanding. Oh, okay. All right. So it is a typo, and as we were going through this, this regulation is old, and we're pulling over federal language as best we can. This is actually a federal error that we are pulling over to maintain consistency --

BOARD MEMBER WASSERBURGER: We had faith in you.

MS. CEDERLE: -- between EPA's federal regulation.

And Mike is the most fantastic copy editor, critical research man on the planet, and he knew right away, nope, that's federal language, because it would have annoyed him as well.

MR. DIETRICH: We bring it over verbatim.

MS. CEDERLE: We bring it over verbatim --

BOARD MEMBER HULME: Okay.

MS. CEDERLE: -- to ensure SIP approvability moving forward with this regulation. I know. I know. It annoys everybody on this -- at this table, but, yes. I forgot all about those. There may be more.

MR. DIETRICH: Good catch, though.

BOARD MEMBER WASSERBURGER: Yeah.

MS. CEDERLE: We had lively conversations in regards to how consistent with federal language we were going to be with this. So, yes, thank you.

Thank you, Mike, for pointing that out.

Okay. So starting then with page 6-137, under subsection (c) -- oh, sorry, Klaus.

BOARD MEMBER HANSON: Before you go ahead, I have a dumb question, maybe. Why does the year have 24 months here? I don't understand that. If you go to 6-123, and further down it occurs again. It talks about in tons

per year, right on top of the page, at which the unit actually emitted the polluting -- pollutant during a consecutive 24-month period. For me the year has 12 months, and it always has had that. What's going on here? What am I not understanding?

MR. KEYFAUVER: I'll attempt to answer that.

Under the PSD regulations and the nonattainment regulations, they specified a 24-month period to try and capture the best representative emissions from a facility, because a facility could have a turnaround period where it's down for an extended period, and this way it gives a better picture of what the facility's emissions are over a longer period instead of one could be a bad year.

BOARD MEMBER HANSON: Yeah, it still makes no sense to me. Maybe in the line prior to that you could say in tons per two-year period or whatever. You know, it's either one or the other. I didn't understand that. If that's the way it should be, then I will --

MR. KEYFAUVER: The 24-month period does allow an operator to do January to December.

BOARD MEMBER HANSON: Sure. I understand.

MR. KEYFAUVER: March to February. I think that's another reason why it says 24-month period instead of just calendar year.

CHAIRMAN BROWN: Kind of smoothed it out, also.

BOARD MEMBER HANSON: Yeah, okay. That's fine. It occurs later on again, so I -- I will not harp on that, you know, okay.

MS. CEDERLE: Are there any other questions before we move on?

CHAIRMAN BROWN: No.

BOARD MEMBER HANSON: Hang on. No, I think it's clear. Yeah.

MS. CEDERLE: Okay. On to page 6-137, under subsection (c), nonattainment New Source Review permit required.

CHAIRMAN BROWN: 137?

BOARD MEMBER HANSON: 137, yeah. Section (c).

MS. CEDERLE: Towards the middle of the page. These regulations outline the applicability procedures for the nonattainment NSR program. The proposed language in this subsection mirrors the federal language in 51.165, except under (c)(i). Here we have included text at the bottom of that paragraph that reads, "Notwithstanding the source category-based exemptions set forth under Chapter 6, Section 2 (k), any new major stationary facility or major stationary source undergoing a major modification

under this Section will not be granted any of the Section 2(k) exemption."

What this means is that the Division is aware of certain exemptions that already exist in our Chapter 6, Section 2 permitting regulations. The language in subsection (c)(i) clarifies that an affected major source would still have to submit a permit application to the Division for the equipment types outlined in Section 2(k) exemption. The exemption would not apply for sources subject to this proposed rule.

This language is also consistent with our requirements set forth in the PSD regulation. All the remaining requirements in subsection (c) of this proposed rule align with the requirements that are published in 40 CFR 51.165. So in this subsection (c), that's the only area where we customized it to fit Wyoming's needs.

Moving on to the bottom of page 6-138 in subsection (d), nonattainment NSR permit, in this subsection we have a few areas where we've tailored the regulatory language to meet our needs. At the beginning, under d)(i), towards the bottom of the page, the language reads, "Requirements for construction or modification of a source specified under Chapter 6, Section 2 of these regulations shall apply." This means that a major facility subject to the proposed rules is also subject to Chapter 6,

Section 2, permitting requirements. This is consistent with the language used for PSD, but it also ensures that someone subject to the proposed rule is aware of additional permitting requirements that they might be subject to.

On page 6-139, towards the middle of the page, under paragraph (B), we've added the language, "Before beginning actual construction, the owner or operator shall provide information set out in paragraph (d)(ii)(A) of this section to the Division as a Chapter 6, Section 2 permit application." This language represents a specific change that is tailored to keep Wyoming's permitting processes consistent.

Starting with paragraph (A) above, and then moving through (I), (II) and (III), we're outlining information an owner or operator is required to document and maintain prior to construction. But then in paragraph (B), we come back in and say also prior to construction an owner or operator is going to take all the required information from A and submit a Chapter 6, Section 2 permit application. This is the really interesting part of the rule where we differ greatly from EPA's regulations, but in a shocking twist, we have EPA's blessing with this.

This section ties back to the 51.165 provisions referred to as reasonable possibility. The reasonable possibility provisions apply to projects that do not result

in a significant emissions increase, or the SER increase, under Nonattainment NSRs applicability determination.

So back into our example. Source A, located in the Upper Green River Basin, is considered to be a major source under the Nonattainment NSR rule, but it doesn't trigger an exceedance of the significant emission rate threshold, or the SER threshold. So when we're thinking back to the first example, it's not triggering the second step in the applicability process. So that 40 tons per year of NOx and VOC is considered a major source, but it's not hitting the second step.

Under the federal -- yes, Klaus.

BOARD MEMBER HANSON: Would it, by the way, add clarity, instead of simply saying that Section B, Division, Air Quality Division? Because that's what you're referring to, your division --

MS. CEDERLE: Correct.

BOARD MEMBER HANSON: -- has to be consulted in this matter.

MS. CEDERLE: Correct. And most often we use Air Quality Division and Division interchangeably, and most often in our regulatory language we call out the Division to represent that.

BOARD MEMBER HANSON: Yeah.

MS. CEDERLE: And it's defined on page

6-127.

BOARD MEMBER HANSON: Yeah. I know it was defined earlier. But, you know, just for the layman, you know, to read it, because I had that question further down as to -- because that's not quite clear to me in this whole chapter. The enforcement falls to the Air Quality Division, doesn't it? As, for example, in the next paragraph, at five years following or 10 years following, et cetera, this is something your division determines, right?

MR. KEYFAUVER: No. This would be the applicant, would be doing this.

BOARD MEMBER HANSON: Yeah. Actually, I'm referring to something later, you know, where you have critical and supercritical and whatever. It was unclear to me who determines the levels, but we're coming to that.

MR. KEYFAUVER: Yes.

MS. CEDERLE: I don't really talk about determination of the levels. I mean, the levels themselves are determined by EPA --

BOARD MEMBER HANSON: Okay.

MS. CEDERLE: -- and incorporated into the rule.

BOARD MEMBER HANSON: Okay.

MS. CEDERLE: And then it's a determination

process as to whether the source -- it depends on what level you're talking about as well.

BOARD MEMBER HANSON: Uh-huh.

MS. CEDERLE: So through the process you determine whether or not a source is triggering a level depending on where you are in the process.

CHAIRMAN BROWN: It would be in your permit analysis before you started.

MS. CEDERLE: Yeah.

CHAIRMAN BROWN: Then you would know before you even started permitting --

MS. CEDERLE: Yeah.

CHAIRMAN BROWN: -- where you fell in that.

BOARD MEMBER HANSON: But isn't it your division that does the analysis and -- and determines that?

MR. KEYFAUVER: So based on the application, the submitted rule, we will review the proponent's project for comparison against this. And based on those calculated emissions, we will generally set up a -- through our permitting process an emission-tracking requirement that's modelled after the rule, which is very similar to what we do with PSD, and then proponent has to track their emissions and submit that, which right now we coordinate that with their Title V emission inventories, so they're not duplicating work, or we are prepared to say,

hey, if you've exceeded these levels in your permit, you've triggered, in this case, nonattainment NSR, should have gone through.

BOARD MEMBER HANSON: And in your opinion -- this is what I just wanted to ask. In your opinion it is clear to the applicant that this has been established by you and this is what they have to follow?

MR. KEYFAUVER: I would say based on the industry that we're working with, who know they're going to be a major stationary source and gone to PSD, that this is familiar to them, because the two programs pretty much mirror themselves --

BOARD MEMBER HANSON: Thank you.

MR. KEYFAUVER: -- with some minor changes.

CHAIRMAN BROWN: I would say applicants are acutely aware.

BOARD MEMBER HANSON: Yeah. We don't have to point that out to them.

CHAIRMAN BROWN: Correct. They will know.

BOARD MEMBER HANSON: Thank you.

MR. DIETRICH: One thing. Once that PSD is sized, they know there's extra scrutiny not only by us, but also EPA, on what they're about to build or construct, so they want to make sure it's right before they start.

BOARD MEMBER HANSON: Okay. Thank you.

MS. CEDERLE: Okay.

BOARD MEMBER HANSON: Sorry.

MR. KEYFAUVER: No.

MS. CEDERLE: No, absolutely not. Good. Good.

So based on the language in paragraph B, where we're saying go through (A)(I), (II) and (III), we would like you to submit that information as a Chapter 6, Section 2 permit.

Under the federal rule, Source A then would be considered exempt from permitting, but still required to document all of the determination and track the future emissions. If there was reasonable possibility that the SER, the significant emissions increase, could occur.

In our Wyoming rules, Source A would not be exempt from permitting. In Wyoming Source A would be required to submit their determination and emissions calculations in the Chapter 6, Section 2 permit application. This is again consistent with the PSD regulations, so major sources are very familiar with the process, and it maintains consistency in the Division permitting actions. Again, it's nothing new and it mirrors what we're already asking major sources located in an attainment area to do.

Continuing on page 6-139, towards the bottom,

under (D)(iv), within that we've added a sentence to that paragraph that reads, "Notwithstanding the requirements of Chapter 6, Section 2 (c)(v), the BACT analysis requirement is hereby superseded by the Appendix X" -- S, sorry, as in Steve, "Section IV(A), Condition 1, LAER analysis requirement. This language was added to clarify that a new or modified stationary source located in nonattainment area such as the Green River Basin is subject to the more restrictive LAER requirements, instead of the BACT requirements. BACT requirements are tied to the PSD for sources in an attainment area.

All the remaining requirements in subsection D of the proposed rule align with requirements published in CFR 51.165.

CHAIRMAN BROWN: I've got a question, Jeni.

MS. CEDERLE: Okay.

CHAIRMAN BROWN: The LAER requirement, now, does that require whether it's, you know, moderate to serious to severe nonattainment?

MR. KEYFAUVER: The LAER requirement applies to any source that triggers nonattainment NSR. It's not based on classification of the area. The biggest difference between LAER and BACT is the cost of control is not considered.

CHAIRMAN BROWN: Right.

MR. KEYFAUVER: It's just the most achievable emission rate.

CHAIRMAN BROWN: I didn't know if there was attainment status that went along with that.

MR. KEYFAUVER: No, there's not.

MS. CEDERLE: Any other questions before we move on?

Turning the page to 6-140. Subsection (e), determining credit for emission offsets. All the requirements in subsection (e), along with the federal requirements laid out in 40 CFR 51.165, except for paragraph (e)(x)(A) on page 6-141. It's towards the bottom third of the page. And when you're looking at it, it would be the (A) paragraph. The language in that paragraph reads, "The Administrator may impose an alternative ratio that is more stringent than the applicable numerical ratios listed in (B) through (D)." The Division incorporated this language to avoid undermining our Chapter 6, Section 2, permitting process.

Part of the Chapter 6, Section 2(c)(ii) requirement is that a facility will not prevent the attainment or maintenance of any ambient air quality standard. To fulfill the Chapter 6, Section 2 requirement now, sources can opt to demonstrate compliance requiring offsets for VOCs and NOx via the interim policy. We

touched on it a little bit more. Folks are pretty familiar with our interim policy out there for minor sources.

The interim policy offset ratio is more stringent than the offset ratio required in this nonattainment NSR rule; therefore, we've incorporated language that allows the Division to continue to permit at a higher stringency ratio at the discretion of the administrator. This allows the Division to maintain a quality between new or modified major sources that are going to operate in the Upper Green River Basin, and would now be subject to this proposed nonattainment NSR rule, with requirements already being met by sources in the Upper Green River Basin nonattainment area. All the remaining requirements in subsection (e) of the proposed Chapter 6, Section 13 regulation align with the requirements published in 40 CFR 51.165.

Moving on to page 6-142, subsection (f), application in ozone, PM10 and PM2.5 nonattainment areas. All requirements of subsection (f) align with the federal requirements laid out in 40 CFR 51.165, except for paragraph (f)(iii), towards the bottom of the page on 6-142. The language of paragraph (iii) reads, "Requirements of this section shall not apply in the Sheridan PM10 nonattainment area, where a major source construction ban is in place per requirements of Chapter 6, Section 2(c)(iii)(B) of these regulations."

Back in 1994, a construction ban was imposed on the city of Sheridan, Wyoming to fulfill the nonattainment NSR requirements for PM10. And we're fast-forward to present day now and we have a nonattainment area for ozone and the duty to satisfy the clean air requirements by adopting nonattainment NSR regulations. Instead of possibly putting a construction ban on the Upper Green River Basin, the specific Sheridan construction ban language in subsection (f)(iii) is necessary, because without it, once this regulation is final, adopted and SIP approved, we'll have created a conundrum for the city of Sheridan. On one hand we're going to have a construction ban for the city of Sheridan, on the other hand we're going to have a regulation in place that gives -- provides permission to construct in the city of Sheridan if they meet certain requirements like LAER or offsets.

The Sheridan-specific language keeps the construction ban in place even when this rule is finally promulgated for the city of Sheridan, avoiding any potential future conflict. All the remaining requirements in subsection (f) of the proposed rule align with requirements published in 40 CFR 51.165.

Moving on to page 6-143, subsection (g), Actuals Plantwide Applicability Limitations, otherwise known as a PAL. What is a PAL? A PAL is essentially a facilitywide

permit limit for a regulated NSR pollutant or a facility cap for that pollutant. So in the case of Wyoming, it would be a facilitywide permit for NOx and VOCs, which are precursors to ozone.

There was no customization incorporated into this section of the rule. All the requirements in subsection (g) of the proposed Chapter 6, 13 -- Section 13 regulation align with the federal requirements laid out in 40 CFR 51.165. This includes all the paragraphs (A) through (O), on pages 6-143 through 6-157. Paragraphs (A) through (O) kind of -- they give you all the how-tos, the what-tos and the when-tos necessary to institute a PAL or plantwide applicabilities limit. So that brings us to end of Chapter Section 13.

BOARD MEMBER HANSON: Another question. Sort of a grammar question. Why does actuals have an S on it all the time? Because it says PALs -- Actuals PAL. Is there something special by that?

MS. CEDERLE: That's another remnant of federal language that we pulled over. I know, Klaus.

BOARD MEMBER HANSON: It's all over the place.

MS. CEDERLE: It's all over the place.

BOARD MEMBER HANSON: Shouldn't we kind of correct the grammar?

MS. CEDERLE: I should have opened up with that.

BOARD MEMBER HANSON: That was the other one I was looking for.

MS. CEDERLE: I'll learn from that for future reference.

BOARD MEMBER HANSON: Yeah.

MS. CEDERLE: Okay. So the final section for Chapter 6 is Section 14, incorporation by reference. And that can be found on page 6-157 and 158. Very much like what Amber presented to you, you'll see that we're updating the CFR date from 2013 to 2014. It's, again, a type of a maintenance update that we do every year.

In this section we update the CFR to keep our regulations up to date and aligned with the federal regulations. And rather than cite the CFR at every incorporation within Chapter 6, we tend to consolidate them one section towards the end of a chapter. We do that for most of our chapters, not all, in our Wyoming Air Quality Standards and Regulations.

We also changed the Web address for the Wyoming Department of Environmental Quality, since that has recently changed.

For that, that concludes the revisions to Wyoming Air Quality Standards and Regulations Chapter 6, Sections

1, 3 and 14.

And before I open it back up to the Board for questions and comments, I do want to make you aware of a written comment that was received from EPA yesterday, and we provided that to you. There's nothing substantive about the comment made by EPA, it was another typo. This one was not federal language, carried over from an archaic age. This was a typo we missed. It was -- it's within the definition of net emissions increase on page 6-131. It refers back to a paragraph that's not calculating emissions. The paragraph below it, (c)(ii)(B) is actually the paragraph we should be referencing.

So moving forward with this rule, we'll go ahead and make that revision. I'd also like to point out that we've been working really closely with EPA in developing this rule, taking federal language -- old problematic federal language for that matter, and putting into state rule format. So I'm really pleased that the extent of their comments sent to us was a typo we missed. I'm not happy we missed a typo, by any means, but I'm happy that that was the extent of their comments.

So are there any other questions or comments?

BOARD MEMBER HANSON: Another question, just to clarify for me. Page 6-150, where the section starts with the renewal of a PAL. Do I understand that if

an applicant doesn't renew the PAL, which runs for, what, 10 years, I think, or whatever -- 10 years --

MR. KEYFAUVER: That's correct.

BOARD MEMBER HANSON: -- then it is null and void, or it continues for another period? That wasn't clear to me, what the intent was. Maybe I didn't read it thoroughly enough.

MR. KEYFAUVER: If an applicant doesn't renew a PAL, then the Division would need to reissue a permit for the facility. The facility would have to go through and apply -- I believe in this case it would be LAER to all the affected emission units. And then the -- instead of defaulting to the potential emissions, the actual emissions would be allocated across all the -- all the units. So it's -- there's quite a consequence if an applicant doesn't renew a PAL for a facility.

MR. DIETRICH: Safe to say, Andrew, if they don't renewal the PAL, eliminates part of the sources flexibility how they account for their emissions plants, right?

MR. KEYFAUVER: That would be correct.

BOARD MEMBER HANSON: And, again, I just want to be sure that is expressed clearly enough for the industry, that it's incumbent upon them to renew in time in order not to get caught in between here. Is that clearly

stated?

MR. KEYFAUVER: I believe based on the applicants that we have dealt with for PSD for PALs it is clearly stated, because those that have come forward -- at least in the PSD forward for PAL, we have incorporated a permit condition making it clear in their permit that they need to renew. It's very simple, pretty much lift requirements to put in the permit, make it clear if they do not renew, there's some consequences, or if they want to renew, they have to submit their application within a certain time frame.

BOARD MEMBER HANSON: Yeah.

MR. DIETRICH: Roman numeral 2 kind of explains that.

BOARD MEMBER HANSON: Which one?

MR. DIETRICH: Roman numeral 2, under there.

BOARD MEMBER HANSON: Give me the page.

MR. DIETRICH: 150.

BOARD MEMBER HANSON: 150, Roman numeral 2. Okay. Six months prior to -- okay. Okay. All right. Thank you.

CHAIRMAN BROWN: Is there a permit shield or any kind of --

MR. KEYFAUVER: For a PAL?

CHAIRMAN BROWN: Yeah. Like for when you apply for a renewal, if it takes longer than the permit time's out, is there a -- you know, like the Title V permit shield, is there something similar?

MR. KEYFAUVER: I believe as long as the application is submitted within the defined time frame allowed, then that PAL continues forward until the new PAL is issued.

CHAIRMAN BROWN: Okay. That's what I was wondering.

MR. DIETRICH: Yeah. I think your question, by contrast, the Title 5 permit shield has to be timely and complete application. Here it's just a timely application.

CHAIRMAN BROWN: Okay.

BOARD MEMBER HANSON: Thank you. That clarifies it, I think.

MS. CEDERLE: Are there any other questions or comments?

CHAIRMAN BROWN: Any questions from the Board?

BOARD MEMBER WASSERBURGER: On our agenda, under Chapter 6, permitting requirements, so we are adopting some language in Section 1 that wasn't listed there?

MS. CEDERLE: Could you repeat the --

BOARD MEMBER WASSERBURGER: Under Chapter 6, permitting on our agenda, Chapter 6 permitting requirements, it lists Section 13 and 14, but we are going to adopt just that little short section in Section 1.

MS. CEDERLE: Oh, yes, please.

BOARD MEMBER WASSERBURGER: I would so move to do that as presented by staff.

MR. DIETRICH: Before we do that, could we open it up for public comment, just in case there is someone that has a comment or a concern?

CHAIRMAN BROWN: Okay.

BOARD MEMBER WASSERBURGER: So my motion is still on the floor.

BOARD MEMBER HULME: Second.

CHAIRMAN BROWN: Let me write this down before we --

BOARD MEMBER HANSON: Can we ask one more question, thank you, before you go to passing it.

Just, again, to clarify, on 6-151, under (3)(b), "The Division shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph," whatever, "of this section." What does that in effect mean?

MR. KEYFAUVER: That they would have to go

back and apply LAER to the other sources. There's a -- when you go through your PAL you have to establish your baseline emissions at your facility cap. If you want to increase that, you need to go through this more stringent exercise to verify why you should be allowed to have a higher cap.

BOARD MEMBER HANSON: I guess my -- my confusion was the level higher.

MR. KEYFAUVER: Correct.

BOARD MEMBER HANSON: Is that a more stringent or less stringent --

MR. KEYFAUVER: It would be more stringent.

BOARD MEMBER HANSON: More stringent. Okay. And, again, that's -- that's clear, right? Level higher than the current PAL?

MR. KEYFAUVER: I would believe so, based on the applicants we've dealt with that are familiar with the PSD regulations.

BOARD MEMBER HANSON: Uh-huh. Level higher here means level more stringent?

MR. KEYFAUVER: So if they want to go to a -- for example, if the PAL level was 200 tons of emissions, if they wanted to go 250 tons, they would have to go through an extensive exercise to demonstrate they're applying more stringent controls to be able to fit under

the 250, assuming they're adding a new source. We just won't say you can go to 250 without going through an exercise to demonstrate LAER and the other requirements under the rules.

BOARD MEMBER HANSON: But 250 would be more polluting than 200.

MR. KEYFAUVER: It would be more polluting, but they may have to apply LAER to some of their existing sources, which is quite an extensive process, because then it doesn't take into account the cost to control emission source.

BOARD MEMBER HANSON: Uh-huh. You see my confusion here?

MR. KEYFAUVER: Yes.

BOARD MEMBER HANSON: Because it's actually more.

MR. KEYFAUVER: It's actually -- we -- it's actually more emissions that you would be allocating, but they have to go through quite an extensive process, possibly applying LAER, which is more costly to the company to get to a high --

MR. DIETRICH: I guess it's trying to lend flexibility for the source to be able to increase emissions because they make a plant modification of some sort. But it comes at a price to ask for higher a PAL, because they

may have to look at all the other emissions that didn't have controls and now have to.

BOARD MEMBER HANSON: Uh-huh, yeah. I'm still debating the term "level higher," you see, because it actually is more -- more pollution here, you know. But I'll let you -- you're taking this over from the federal language anyway.

CHAIRMAN BROWN: Yeah, we are.

BOARD MEMBER HANSON: So everybody knows it already. Okay.

CHAIRMAN BROWN: All right. So --

BOARD MEMBER HANSON: That's why you let laymen ask questions, you see.

CHAIRMAN BROWN: Yes. Absolutely.

BOARD MEMBER HANSON: No.

CHAIRMAN BROWN: No, that's an awesome question, actually.

Do you want to restate your motion, please?

BOARD MEMBER WASSERBURGER: I would just move to adopt language presented by staff in Section 113 and 114 of Chapter 6.

BOARD MEMBER HULME: Still second.

CHAIRMAN BROWN: Okay. Been moved and seconded. All in favor.

BOARD MEMBER WASSERBURGER: Aye.

BOARD MEMBER HULME: Aye.

BOARD MEMBER HANSON: Aye.

BOARD MEMBER FOX: Aye.

CHAIRMAN BROWN: All opposed?

Okay. It's been moved and seconded to adopt language in Chapter 6, Section 1, Section 13, Section 14 as written, with typo corrections.

MS. CEDERLE: The typo correction.

CHAIRMAN BROWN: I said one, correction.

Thank you.

Do we need to talk about the next meeting or any kind of future --

MS. CEDERLE: I think I could -- I'd like to reiterate that we are moving forward with the existing source rule for sources in the Upper Green River Basin. The Environmental Quality Council meeting is in Pinedale at the Sublette County Library on May 19th, starting at 9 a.m. And then following that evening at the BOCES room is our open house that Darla referred to in her ozone update.

Right now we do not have another air board on our immediate agenda, so I would propose to the Board to continue communicating through a doodle poll when we get something put together to put before you. If that's all right with the Board, we can continue to communicate in that manner, okay?

CHAIRMAN BROWN: Okay.

MS. CEDERLE: That would be fantastic.

BOARD MEMBER HANSON: That was May 19th, we don't have to attend.

MS. CEDERLE: You do not have to be there. I don't know if you're really interested in coming to see how this --

BOARD MEMBER HANSON: No, I have a council meeting that night.

MS. CEDERLE: See what happens as we move to continue forward with that big rule.

Anything else you can think of? Andrew? Mike?

So I think that's about where we're at right now as we head into our --

BOARD MEMBER HANSON: So when would you envision -- what months would you envision our next meeting?

MS. CEDERLE: Well, I don't know. We would normally be trying to gear up for a summer --

BOARD MEMBER HANSON: Summer meeting sometime?

MS. CEDERLE: Yeah. I honestly -- I really need to get through the EQC before I can sit down and take --

CHAIRMAN BROWN: So your focus is there.

MS. CEDERLE: I have two weeks, so I would like to get through May and then maybe we can touch base and start taking a look at what else we have moving forward into the summer.

MR. DIETRICH: Yeah, there was substantial comments that we received in the comment period for the EQC, at least 20 different folks commented on this proposed rule we're trying to take forward. So it's to take not only time to get through the EQC, but also to address those comments we're working on right now. Anything that comes up during the EQC would have to be addressed as well.

CHAIRMAN BROWN: Uh-huh.

MS. CEDERLE: Really, you want to come up, join us.

CHAIRMAN BROWN: What's that?

MS. CEDERLE: Come to Pinedale, join us.

CHAIRMAN BROWN: I'll be out of town that week.

BOARD MEMBER HANSON: I'll be out of the country, sometimes, in the summer, but that's --

MS. CEDERLE: Okay.

BOARD MEMBER HANSON: -- that's why I asked the question.

CHAIRMAN BROWN: Thank you, everybody. Appreciate it.

BOARD MEMBER HANSON: Thank you.

CHAIRMAN BROWN: Okay.

MR. DIETRICH: Adjourn?

BOARD MEMBER HULME: I move to adjourn.

BOARD MEMBER WASSERBURGER: I second.

CHAIRMAN BROWN: It's been moved and seconded. Meeting's adjourned.

(Meeting proceedings concluded 11:11 a.m., April 28, 2015.)

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 15th day of May, 2015.

KATHY J. KENDRICK
Registered Professional Reporter