

AQAB Meeting

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WYOMING AIR QUALITY ADVISORY BOARD

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TRANSCRIPT OF MEETING PROCEEDINGS

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Pursuant to notice duly given to all parties in

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interest, this matter came on for meeting on

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the 8th day of September, 2016, at the hour of 10:01 a.m.,

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at the Eastern Wyoming College, Room 139, 700 South

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Windriver Drive, Douglas, Wyoming before the Wyoming Air

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Quality Advisory Board, Timothy Brown, Chairman,

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presiding, with Diana Hulme, John Heyneman and Douglas

18

Vickrey in attendance.

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Ms. Nancy Vehr, Air Quality Administrator,

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Ms. Amber Potts, Mr. Mike Morris, Mr. Rob Leteff and

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Mr. Darion Donnelly and Mr. Lars Lone of the Air Quality

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Division were also in attendance.

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

2 (Meeting proceedings commenced  
3 10:01 a.m., September 8, 2016.)

4 CHAIRMAN BROWN: We'll convene this meeting  
5 of the Air Quality Advisory Board. It's September 8, 2016,  
6 Douglas, Wyoming.

7 The first order of business is to approve the  
8 meeting minutes from the March 14, 2016 meeting.

9 BOARD MEMBER HULME: I'll move to approve  
10 minutes from the March 14th meeting.

11 BOARD MEMBER HEYNEMAN: Second.

12 CHAIRMAN BROWN: It's been moved and  
13 seconded to approve the meeting minutes of March 14, 2016.  
14 All in favor?

15 BOARD MEMBER HULME: Aye.

16 BOARD MEMBER HEYNEMAN: Aye.

17 BOARD MEMBER VICKREY: Aye.

18 CHAIRMAN BROWN: All opposed?

19 Okay. Meeting minutes from March 14, 2016  
20 meeting have been approved.

21 All right. Next on the agenda, new business.  
22 Typically, what we do here is introductions. So I'd like  
23 to introduce DEQ and the board, and then we'll go into  
24 general update from the Division.

25 So I'm Tim Brown. I'm Air Quality Advisory Board

1 chairman. I'm from Green River, and I'm the industry  
2 representative.

3 BOARD MEMBER HULME: I'm Diana Hulme. I'm  
4 the vice chair of the board, and I'm from Laramie, and I  
5 think I'm an at large position.

6 BOARD MEMBER HEYNEMAN: I'm John Heyneman  
7 from Sheridan, Wyoming. I'm at large, and this is very  
8 new, two meeting ago.

9 BOARD MEMBER VICKREY: I'm Doug Vickrey. I  
10 live in Daniel, and I'm representing agriculture.

11 MS. VEHR: One comment I would add on --  
12 Diane just got reappointed to the board. So for those of  
13 you serving terms, Diane just got -- I don't know what the  
14 other -- the length of the term is.

15 MS. POTTS: Four years.

16 MS. VEHR: Four years. Okay.

17 MS. POTTS: 2020.

18 MS. VEHR: Yay.

19 BOARD MEMBER VICKREY: When I got my little  
20 notification, it said five.

21 MS. POTTS: I'll check.

22 CHAIRMAN BROWN: I think mine's four.

23 BOARD MEMBER VICKREY: I just want to know.  
24 A year is a year, you know.

25 MS. VEHR: You might have signed up for a

1 longer or shorter term than you know, huh?

2 BOARD MEMBER VICKREY: Yeah.

3 BOARD MEMBER HEYNEMAN: Read carefully when  
4 you sign something.

5 BOARD MEMBER VICKREY: I looked at it and I  
6 thought that's an odd number. I've never seen a five-year  
7 term.

8 MS. VEHR: We'll check on that.

9 And then I'm Nancy Vehr. I'm the administrator  
10 for Air Quality. And I'd like to introduce the Air Quality  
11 staff with us today. I'm going to start with Lars Lone.  
12 Today is his first day on the job. This is his -- he's had  
13 his first handshakes today, and this is his first official  
14 meeting, first Air Quality Advisory Board meeting as well.  
15 Lars is the compliance -- new compliance program manager.  
16 He's got a long, 15-plus-year military career in the Navy,  
17 and then at the -- more recently at the Air National Guard.  
18 And has a variety of experience in communications,  
19 strategic planning, budgeting, enforcement, investigations,  
20 and he will be -- Air Quality is a new area to him. He's  
21 got a master's in oceanography, so we're just flipping the  
22 world so he can look at it from a different direction.

23 But I remember being in that slot a number of  
24 years ago when I was new to Air Quality. And so this will  
25 also be good for all of us in the division to -- we talk in

1 acronyms a lot and try in meetings to break down those  
2 barriers so we can communicate clearly and simply to  
3 people. So Lars will help us in that so we're not just  
4 talking acronym code speak.

5 I did have to share, though, I heard him talk to  
6 another military person yesterday, and they talk in acronym  
7 code speak as well. So that was a foreign language to me.

8 And then Amber is our Team Rules supervisor and  
9 program, and she -- at the meeting in April, I think it was  
10 Amber and Mike. I don't know if you had joined yet. Yeah.  
11 So it was a two-person team. And we are now fully up to  
12 speed, which is why we're able to take care of some of this  
13 backlog of rules and state plans. And I'll ask her to  
14 introduce her team, which is fully staffed, which is  
15 wonderful because it's been busy. EPA has promulgated a  
16 lot of rules, and a lot more to go before the end of the  
17 year, so...

18 MS. POTTS: So to my left is Mike Morris.  
19 Mike's been with the division in Team Rules for almost two  
20 and a half years now?

21 MR. MORRIS: Coming up on two years.

22 MS. POTTS: Then we have Rob Leteff. He  
23 was hired in April of this year.

24 And then our most recent, Darion Donnelly. He  
25 was hired in July.

1 MS. VEHR: And Darion's, this is his first  
2 day back at work. He is a proud papa. So if you want to  
3 share -- yeah.

4 (Applause.)

5 MS. POTTS: Pictures after the --

6 MS. VEHR: So very proud papa.

7 Thank you.

8 CHAIRMAN BROWN: Thank you.

9 Next on the agenda, just general updates from the  
10 Division.

11 MS. VEHR: And we -- is in where we can use  
12 the -- we developed a PowerPoint just to kind of walk  
13 through talking points on this, so...

14 MS. POTTS: I'm not sure if the board would  
15 like to just move the chairs or move these up.

16 MS. VEHR: Or turn around. Whatever works.

17 And you're fine. I'm not going to kick you, Tim.

18 CHAIRMAN BROWN: You're fine. I was going  
19 to give you all the room you need.

20 MS. VEHR: This helps me so I don't forget  
21 points to make sure to bring to everyone's attention.

22 This is fancy. It shows up on this board too.

23 Okay. On -- this is just -- I can't recall if we  
24 used this slide at our April presentation, but when I was  
25 mentioning we now have a fully staffed Team Rules that

1 works on state plans and rule development, this is kind of  
2 the EPA slated projection of rule development for the next  
3 few years in terms of some ambient standards and the  
4 designations that go with it. So it shows that it's really  
5 valuable to us to have the board because we have to bring  
6 all these items through the board, or in some of the state  
7 plan items we hold public hearings outside of the board  
8 process when we have to submit a plan down to EPA.

9           So some of these items are going to come through  
10 the board when we have to do rulemaking, or if we -- the  
11 timing is right to have a -- a board meeting also be used  
12 as the forum for a public hearing. And then some of them  
13 we also make announcements for public hearings on state  
14 plans outside of that. So that's just FYI. And we can  
15 make these slides available to everybody. We didn't do  
16 that for this presentation, but they're certainly available  
17 if anybody wants them.

18           And then do I just hit the --

19                   MS. POTTS: Click it.

20                   MS. VEHR: -- left clicker?

21           Okay. I wanted to give you an update on some  
22 regulations that are affecting the Air Quality Division,  
23 and also kind of as a, hey, eventually these might make  
24 their way through to Air Quality or give an update on a  
25 status that are involved in litigation elsewhere. One of

1 them is the Clean Power Plan. When we met before in  
2 February, the supreme court stayed what is called the  
3 111(d), there at the bottom, the existing source rule. And  
4 it's set for oral argument. The hearing had been moved  
5 from June until September 27th. So on September 27th, the  
6 D.C. Circuit's going to hear oral argument. This is a type  
7 of argument usually D.C. Circuit Court of Appeals, they  
8 have three judges listen to arguments. On occasion they  
9 will do something called an en banc panel, which is where  
10 they have the entire panel of judges in that circuit listen  
11 to the case. So that's what they did for this case. And  
12 there are two judges that have recused themselves. So that  
13 hearing will be on September 27th. I can't remember if  
14 it's a half day or whole day hearing.

15           And then the Court will decide the case. They  
16 usually decide it after the hearing and in a written order.  
17 So at some point down the road we'll get an order -- or not  
18 we, the state. But there will be an order issued from the  
19 court that will affect that existing source rule. They'll  
20 either say yes, no, or some parts yes and no. They can do  
21 a variety of things with it. I have no idea what they'll  
22 do, but that's kind of the status of that one.

23           So for our purposes, we had started the planning  
24 process, which was involving setting up stakeholder  
25 meetings. And when the stay went into effect, that stayed



1 our planning going forward. The legislature had also met  
2 and this was a budget session and there was a section in  
3 the budget bill. I can't remember. I think it's a  
4 Footnote 3 to the section involving Environmental Quality,  
5 where it said that we couldn't expend funds to develop a  
6 plan.

7           Since the court stayed it, we can't expend funds.  
8 We keep in communication because there's other companies,  
9 other states can move forward with maybe their renewable --  
10 state renewable portfolio standards or other renewable  
11 energy measures or other things that a particular state is  
12 choosing to do at the state level. And so we're in  
13 communication with companies because some of these  
14 companies operate in more than one state. And we keep in  
15 communication with kind of what's going on in other areas.  
16 There's a Center For New Energy Economy that has done some  
17 modeling work. So we just kind of stay up to speed with it  
18 so it doesn't get stale.

19           There's a lot of energy policy pieces that  
20 involve our Public Service Commission. And so that's a  
21 whole 'nother acronym and world and entirely different  
22 regulatory structure. So it's also learning about that.  
23 The nice thing that I can say from an Air Quality  
24 administrator standpoint about having a stay is we didn't  
25 get any additional resources to do the Clean Power Plan, so

1 this is allowing us to get back to our kind of what we'll  
2 call our meat and potatoes stuff that we haven't been able  
3 to address. It's an enormous amount of time and resources.  
4 So that's the existing source.

5           The new sources, which some people refer to  
6 111(b), that applies if someone wants to build a new power  
7 plant. And that rule has not been stayed, so it's in  
8 effect, which means if a new power plant's built, they have  
9 to comply with the rule. However, it's being litigated, so  
10 it's under litigation. And they just set a briefing  
11 schedule that will have briefs run from October until  
12 February. And then -- this is again in the D.C. Circuit,  
13 and so then they'll have an argument sometime after  
14 February and issue a decision on that case.

15           So we at the state level, it's effective rule  
16 that's out there, and we comply with it. If litigation  
17 changes the outcome of that, then we'll follow along.  
18 So -- and anybody that has questions, feel free to stop me  
19 at any time and ask questions along the way.

20           There are other I'll say rules that EPA put out  
21 there for public comment. If some -- before the stay and  
22 some after the stay that aren't under the court's order  
23 directly for the stay. There's lots of arguments out  
24 there, whether they're covered, not covered, whether it's  
25 good policy to move forward with them or not.

1           For our purposes, when EPA proposes a rule, we  
2 look at do we need to make sure we have a -- provide some  
3 comment and input from the state level. And if we feel  
4 that we need to do that, we move forward with that. If we  
5 think there's a question about whether this is even a valid  
6 rule to go forward because of the litigation, then our  
7 Attorney General might provide some input on that from the  
8 litigation aspect.

9           But we look at it from kind of the technical and  
10 policy implication aspect. On some of the Clean Power Plan  
11 related rules, because they are so tight with our energy  
12 structure, delivery of -- bless you -- energy to our  
13 customers and the utility rates, then we also work very  
14 closely with our Public Service Commission on developing  
15 some of those rule comments. Again, they're out there on  
16 the public docket. Anybody that wants copies, we can make  
17 them available to you.

18           This was Federal Plan and Model Trading Rules.  
19 So EPA proposed this rule back in October. That's before  
20 the stay. And it was basically, hey, if a state didn't  
21 come up with their own plan for addressing sources under  
22 the Clean Power Plan, then EPA was proposing, here, you can  
23 use this model rule, or if you didn't do anything at all,  
24 states, this would be kind of how EPA would set things up.  
25 They proposed it. We commented. EPA has not issued a

1 final rule yet on that. So that's still one that when it  
2 comes out, we'll have to figure out what we need to do and  
3 they'll be -- we don't know what the rule says right now.

4 The other one is something called the Clean  
5 Energy Incentive Program. The CEIP program. They -- this  
6 was one when they proposed -- EPA proposed this Federal  
7 Plan and Model Rules, they mentioned this CEIP program and  
8 said, hey, we're going to develop this further and set up a  
9 rulemaking docket specifically for this so we can kind of  
10 have some more meat on the program.

11 They proposed that rule at the end of June, and  
12 we are preparing comments for that, but I don't know, two  
13 weeks ago, was it, thereabouts, they -- EPA decided that  
14 they wanted to extend the public comment period on that.  
15 So now that's still open for public comment until November.

16 So we are still -- have some kind of breathing  
17 room to continue our evaluation of that comment  
18 opportunity. That CEIP program looks at renewable  
19 energies. Excuse me. And under the Clean Power Plan  
20 structure, remember there is a way you can achieve -- EPA  
21 said you can go under a mass-based program or a rate-based  
22 program in looking at CO2 and different trade-in programs.  
23 They call them credits, if it's rate-based; allowances, if  
24 it's mass-based. And said, Okay. Can we -- is there a way  
25 we can incentivize earlier or additional credits that can

1 be out there for trading among companies so that they can  
2 achieve compliance with this Clean Power Plan. And they  
3 did that by coming up with what they would call these early  
4 recognition credits for renewables, as well as some  
5 additional credits if you develop those in what are termed  
6 low-income communities. So that's what this CEIP program  
7 is about, the structure of that.

8 Another big one is on regional haze. Regional  
9 haze -- and Klaus may -- may be -- I think regional haze,  
10 Tim, when you started on the board, was -- we already had  
11 done our submittal down to EPA.

12 CHAIRMAN BROWN: Yes.

13 MS. VEHR: So Klaus, if he predated you, he  
14 may have been involved in some of the earlier meetings.  
15 But regional haze was something that got started long, long  
16 time ago, EPA. And in the Clean Air Act, they have a  
17 couple of different programs. There's what's called the  
18 reasonably available visibility improvement, where you can  
19 actually look at a source and say, Hey, this is -- we can  
20 see that this is impacting this Class I area. We think  
21 it's from that specific source.

22 The word "regional" in regional haze means  
23 there's a bunch of different sources over a wide variety  
24 of -- a wide area, and they are all impacting, but we can't  
25 point to any one particular source. So there's certain

1 pollutants that get emitted that affect visibility.  
2 Visibility is measured in a metric called a deciview, which  
3 is kind of the light extinction, how when you look out on a  
4 day and you can see everything crystal-clear and another  
5 day you can barely see something, maybe it's weather  
6 related, maybe it's regional haze. And so that light  
7 extinction, that difference in how well you can see  
8 something in these Class I areas is what the target of this  
9 rule is addressing.

10 Wyoming put together two plans. One plan was  
11 addressing sulfur dioxide and particulate matter. So we  
12 put together this plan. I remember doing -- not me, but  
13 air quality doing presentations to the Advisory Board and  
14 having separate public meetings, doing some presentations  
15 to the Environmental Quality Council on these plans. The  
16 first one we did we came through in our rules we have what  
17 we call our best available retrofit technology, or BART,  
18 regulations. And that was for specific sources that had to  
19 do a specific analysis of controls they needed to put on  
20 their facilities.

21 It affected mostly power plants. I think there  
22 were some trona facilities as well that were in this BART  
23 category. So they had specific permitting requirements and  
24 analysis that they needed to go through.

25 Then we took those into our plan and looked at

1 how other sources that needed to be addressed. We  
2 submitted this sulfur dioxide program down to EPA for  
3 approval. And some of you may know it as our backstop  
4 trading program. And so for certain states along the  
5 Colorado plateau, back -- the Clean Air Act set up, hey,  
6 you can look at regional haze, and there's some specific  
7 impacts, and they set up a visibility transport commission.  
8 And that's the genesis for this trading program. It  
9 resulted in three states and one local air quality agency  
10 signing up to do this. That means that we set -- there's a  
11 declining path, and it sets milestone markers over time.  
12 And as long as sulfur dioxide emissions stay under that  
13 declining pathway, sources are doing the right thing.  
14 They're lowering their emissions. And there's no specific  
15 regulatory requirement that says you have to put this type  
16 of control on your particular source, as long as we stay  
17 under that pathway. We've stayed under that pathway, but  
18 that particular trading program doesn't have a forever  
19 life. And so EPA approved it for these states, and we're  
20 implementing that now.

21           The nitrogen oxide program we submitted down to  
22 EPA, and that got partially -- parts of it were approved by  
23 EPA and parts were disapproved. The disapproved parts have  
24 been involved in litigation for a number of years now. I  
25 think it was -- the time frame is 2014. There was a bunch

1 of rulemaking going back and forth, so I'm not sure the  
2 exact number of years.

3 But it's down in the Tenth Circuit Court of  
4 Appeals right now. There are some settlement negotiations  
5 going amongst some of the parties there. So we anticipate  
6 at the end of that settlement negotiations there will be  
7 additional movement forward on that. And so that's kind of  
8 our plan status.

9 Then we are in the implementation phase of this.  
10 And under the Regional Haze Rule, as it was originally  
11 promulgated, we have to do updates. So back in I think,  
12 Amber, was it late 2013 we did a progress report that we  
13 brought forward, and I can't remember if it was the Air  
14 Quality Advisory or the EQC. We did a public hearing  
15 anyways on. It got public comment and input. We've been  
16 revising that plan, and so shortly we should be able to get  
17 it released out there and down to EPA so we can keep track  
18 on the progress reports.

19 In the meantime -- and I forgot to write the  
20 dates down -- EPA has proposed revisions to the Regional  
21 Haze Rule. We just submitted comments, what, a week or two  
22 ago on regional haze, was the comment deadline. The EPA  
23 proposed some structural changes with the program, and so  
24 when that -- there was some changes we felt would be useful  
25 for Wyoming's program, and some that would -- we wanted EPA



1 to think about further to -- so it would make sense for us.  
2 So we have put those comments out there. I know they  
3 received a lot of public comments. A lot of the air  
4 quality agencies, organizations, the Western States Air  
5 Quality agencies and some of the national agencies also  
6 provided comment.

7 Smoke is a big component, especially here in the  
8 West. Regional haze issues in the West don't have some of  
9 the same -- they have different challenges than some of the  
10 regional haze issues in the East. So the rule has to look  
11 at all those. So we'll see what EPA comes out with, and  
12 that will be another thing we'll likely bring back through.

13 Am I taking -- if you keep me on track for time.  
14 I can talk, as Lars found out, essentially Cheyenne to here  
15 nonstop. So I have no problem talking. I love talking  
16 about this. So I don't mean -- if anybody has questions,  
17 just interrupt because I can drone.

18 BOARD MEMBER HEYNEMAN: What are the three  
19 states involved in the trading program?

20 MS. VEHR: Utah, New Mexico and --

21 MS. POTTS: City of Albuquerque.

22 MS. VEHR: -- City of Albuquerque and  
23 Wyoming.

24 MS. POTTS: Us.

25 MS. VEHR: Yeah.

1           On sulfur dioxide, just to give you an update on  
2 this. Back in 2010, EPA -- so there's some what are called  
3 criteria pollutants. There are six of those criteria  
4 pollutants. EPA sets what are called ambient standards.  
5 Ambient standards are protective of health and welfare.  
6 When EPA sets those standards, they don't factor in cost  
7 considerations, but they set the standard, and then it's up  
8 to each state to decide how we want to develop our program  
9 and implement that standard in the state.

10           So EPA set this 75 parts per billion one hour  
11 standard in 2010. For many of the pollutants, the standard  
12 had been a longer averaging period than one hour. EPA had  
13 done it with ozone one time, had done it with nitrogen  
14 oxides just I think prior to this 20 -- 2010 regulation.  
15 But it's a very new way of doing things. So the monitors  
16 that were out there collecting data -- because when you're  
17 looking at ambient standard, you collect data over a period  
18 of time. Generally it's been three years. There wasn't  
19 any three-year collection of this one-hour data because  
20 there was no one-hour standard out there.

21           And so there was a lit -- lots of litigation  
22 involved over this rule. As a result of that litigation,  
23 there was settlement agreements reached with EPA in terms  
24 of addressing these standards and these designations. So  
25 when the EPA comes out with new ambient standard, they've

1 got to decide whether a particular part of the country is  
2 meeting that standard, not meeting it, or whether we don't  
3 know enough about it. So it's up to each state to come  
4 forward to EPA and say this is what we think the standard  
5 should be.

6           So we did that. We're in this designation  
7 process. We have designations due for -- one other thing  
8 about this is -- under this rule is sources could either  
9 meet the standard by -- if they were over 2,000 -- taking a  
10 limit under 2,000 tons per year, sulfur dioxide emissions,  
11 demonstrating they were meeting the standard through  
12 modeling or demonstrating that they were monitoring and  
13 they met the standard.

14           So in the settlement, there's a time frame for  
15 designating modeled areas and a time frame for designating  
16 monitor areas. The monitor area time frame is longer  
17 because they've got to get three years worth of data. So  
18 EPA came out with data requirements rule in 2015 that  
19 applies to these greater than 2,000 sources and said here,  
20 there's three pathways.

21           So we submitted -- if anybody had looked and  
22 noticed our ambient monitoring network plan, we put that  
23 out for public comment, submitted it down to EPA at the end  
24 of June, and we talked about our monitoring networks.  
25 We've had sources go through and look at modeling and

1 monitoring. So we're in this phase, and we're waiting to  
2 hear back from EPA.

3 Ozone. This is a great success story. In 2008,  
4 the ozone standard was set at 75 parts per billion. There  
5 was litigation over the standard, and so it wasn't until a  
6 couple years later that EPA actually made the designations.  
7 And that was in 2012. And they designated the Upper Green  
8 River Basin -- so Sublette County and part of Sweetwater  
9 and Lincoln County -- as nonattainment. So it wasn't  
10 meeting -- based on the monitoring at that time and that  
11 three years worth of previous data, it wasn't meeting the  
12 ozone standard of 75. And so we have worked extremely hard  
13 at the Air Quality agency. We brought through rules on  
14 existing sources. We have a BACT Guidance that addresses  
15 permitting. Sources in the Upper Green have been very  
16 responsive, because remember this was an ozone issue that  
17 was pretty well unknown nationwide because it dealt with  
18 wintertime ozone, not summertime urban ozone. So there was  
19 a great deal of needing to get knowledge as well before we  
20 could develop and implement strategies. We set up an ozone  
21 team within the Air Quality Division. So we had citizens  
22 groups involved, industry. Lots of folks involved.

23 When EPA designates an area as nonattainment,  
24 then they set a certain time frame for that area to come  
25 back into attainment. That time frame for this area was

1 under the standards, so other areas of the country as well.  
2 It was July of 2015. Air Quality submitted information,  
3 said, Hey, we're back meeting the standard. EPA in May  
4 said, A final rule, yes, you're meeting the standard. So  
5 that is a great success story that we are meeting the  
6 standard.

7 The -- I talked about our existing source rule  
8 and the strategy. One of the other components, whenever  
9 EPA -- and you might remember this from the April  
10 presentation that Amber gave -- when EPA sets an ambient  
11 standard, we have to say how we're going to meet that  
12 standard. But one of the other components is what's called  
13 an infrastructure state plan. That's where we have to  
14 demonstrate that we are not impacting and preventing the  
15 attainment maintenance or contributing to nonattainment in  
16 other areas.

17 So you may have heard in the East Coast they have  
18 this transport. And so that's where pollution is coming  
19 from one part down to another and impacting states there.  
20 Some of our counties are larger than some of the states out  
21 East. So we've got a little bit different -- different  
22 makeup.

23 But one of the things we have to do is make that  
24 demonstration. We prepared that state plan and submitted  
25 it down to EPA in, I think, 2013, 2014, somewhere around

1 there. The wintertime. And EPA, under Clean Air Act, has  
2 a certain time frame they have to take action. When they  
3 don't take action and they miss a deadline, they can be  
4 sued by somebody for failing to meet their deadlines, and  
5 then they enter a consent decree, most of the time, to set  
6 new deadlines that they have to meet.

7           The states aren't parties to those. We're not  
8 being sued. It's our action that we're waiting on, but  
9 we're not the ones being sued. So a lot of times states  
10 are left out of that process. This was one where we were  
11 left out of the process. In fact, we were not even  
12 notified of the suit being filed until six, seven months  
13 after it had been filed and the parties were already  
14 starting to negotiate deadlines.

15           So we've been cut out of the process. That can  
16 be problematic for states because when we are cut out of  
17 the process and someone else is setting the priorities for  
18 the state, that may mean we have to, just like we did -- we  
19 have to shuffle around and adjust to those properties, as  
20 well as -- it rearranges relationships, as you can imagine,  
21 trying to work with someone and then working in a less  
22 collaborative fashion.

23           So, anyways, there's a suit. In June they  
24 published a proposed consent decree on this resolution, and  
25 Wyoming submitted some comments on that. EPA has taken

1 action on some infrastructure SIPs recently for Utah, where  
2 they proposed disapproval. We're trying to avoid having  
3 disapproval of a state plan, and so we'd rather work with  
4 someone to make sure we get someone that meets the standard  
5 for submittals.

6 So that's tied into this infrastructure plan for  
7 2008 ozone. Also, on ozone in 2015, EPA set a new standard  
8 at 70 parts per billion. The -- was it October 1, the  
9 deadline that we have to tell EPA -- governor has to tell  
10 EPA what he's recommending designations for the counties in  
11 Wyoming. EPA generally uses the county boundary as a  
12 default. And so that's when those -- oh, here it is. The  
13 slide. That's when those recommendations are due. And  
14 then about six months later, EPA will say, Yes, we agree,  
15 or, No, we disagree, or however they want to respond. And  
16 then October 2017 is when these designations go into  
17 effect.

18 The great news for Wyoming is we are under the  
19 standard in every single county, and we have -- I can't  
20 remember. Do you remember off the top of your head  
21 estimate of total ozone monitors?

22 MS. POTTS: I think there's 16.

23 MS. VEHR: In the county -- in Wyoming  
24 counties?

25 MS. POTTS: Uh-huh.

1 MS. VEHR: So that is great coverage  
2 throughout the state. We're able to demonstrate attainment  
3 of the standard in every single place we got monitors, over  
4 the next three years worth of data collected with all  
5 of the activities that we've got going on in the state.

6 And then in 2018, we still have to show that  
7 we're not preventing the attainment, maintenance or  
8 contributing to nonattainment in other areas under that  
9 infrastructure SIP. So we'll be bringing that through,  
10 which is great, Diane, that you and the rest of the board  
11 will be here, and you can say, Yeah, I kind of remember.  
12 Now I've got my work plan cut out for me here.

13 So that's kind of the ozone story, if anybody has  
14 any questions on ozone. Okay.

15 Other things we've been working on are something  
16 exciting called exceptional events. So when we have these  
17 three years worth of monitor data that we're getting,  
18 sometimes a monitor will ding. You get a fire, and you got  
19 a monitor by Sublette County, that smoke may come and  
20 impact that particular monitor, and all the sudden you've  
21 got particulate matter going off the roof. It's showing  
22 you're not meeting the air quality standard. And so we  
23 want to say that's an exceptional event occurring. It's  
24 not -- it's not from an industrial source. It's something  
25 outside of anyone's control, a wildfire.



1           And so there's a process. The Clean Air Act  
2 allows you to exclude that data so you're not declared  
3 nonattainment for things that are outside your -- your  
4 ability. The air quality allows that data to be excluded  
5 under this exceptional events.

6           EPA promulgated a rule and policies on  
7 exceptional events. They've repropoed it in the fall. We  
8 commented this spring on it, and we're waiting for the  
9 final rule, and it's supposed to be out sometime soon.  
10 This is also important for a number of reasons in Wyoming  
11 that's different from other states.

12           Wyoming has a lot of industrial source  
13 monitoring. So we, at the state, run some monitors, but we  
14 also require some of our large industrial sources to have  
15 monitors. Those monitors meet the -- do ambient readings.  
16 We've taken enforcement action against sources for  
17 exceeding those ambient readings. And so this has  
18 implications for sources as well as the State of Wyoming  
19 on how to handle -- it takes a lot of work.

20           We have to make a -- the companies that have  
21 industrial source monitors or the state -- or our state  
22 monitors have to make a demonstration, and these packets  
23 can be quite large, have all the technical formulas and all  
24 that to it, make a demonstration that that particular  
25 monitoring was caused by something outside of any kind of

1 sources' impacts. So that's very important to the state  
2 resources.

3 Team Rules. Been working on all of these items.  
4 I don't know if you want to touch base on anything in  
5 particular on these, Amber.

6 MS. POTTS: Just that the, you know, the  
7 sheer amount of federal regulations coming out and coming  
8 at us, a lot of our work has been on the comment and  
9 development piece of that puzzle. And then we're also  
10 continuing to work on the state plans, like Nancy said.  
11 And then regulation updates, you know, we're bringing  
12 before the board. So there's a lot of pieces to try to  
13 keep in the air. So I'm very, you know, excited that we've  
14 got a full team here.

15 MS. VEHR: And one of the things we're also  
16 trying to do is some public outreach. Air Quality -- I  
17 didn't even know there was such a thing as Air Quality when  
18 I started representing the agency. That just -- I didn't  
19 have that background. I was a nurse before. Didn't know  
20 there was Air Quality.

21 I have since grown to very much appreciate -- I'm  
22 super excited about it and the important work that's being  
23 done. But part of what we're trying to do is to some folks  
24 it's what is this? What are we doing? And we want to show  
25 the value that we're providing to the citizens of the state

1 of Wyoming, much as you serving on the board are. So  
2 that's -- that's where we're trying to do some outreach to  
3 communities, to the public.

4 We had Mike and Rob and I think other people on  
5 Team Rules that are involved in May. There's something  
6 called Air Quality Awareness Week. This is the first time  
7 Air Quality Division has participated. And it's a national  
8 air quality awareness week. Went out to Laramie Community  
9 College. We focused our efforts this year on kind of  
10 Cheyenne.

11 And I don't know, Mike and Rob, you might want to  
12 share some of those, what you did, some of the examples of  
13 the community outreach efforts.

14 MR. MORRIS: Yeah. Sure. We were able to  
15 go out, and, as Nancy mentioned, go to Laramie County  
16 Community College and interact with some college students  
17 and some faculty. And really this was just a general air  
18 awareness campaign that focused on some day-to-day  
19 practices, people get incorporated into their lives in  
20 order to sort of reduce any sort of impact they would have.  
21 So, you know, whether that would be carpooling, or, you  
22 know, biking to work, things of that nature.

23 But we also went out to elementary school, Davis  
24 Elementary in Cheyenne, and had kind of an air quality game  
25 to more or less educate fourth graders on the general

1 concept of air quality and were pretty well received out  
2 there, I think. And, you know, it was good to go out to  
3 the general public that -- I guess, sometimes, you know,  
4 this concept is a little bit anomalous to them. And so it  
5 was good to go out and interact at a face-to-face level as  
6 opposed to just an agency. And so --

7 MS. VEHR: And they did a great job of  
8 encouraging people's awareness and what we could do as  
9 citizens in terms of increasing that awareness and  
10 practices we can put into play. And we hope to expand it  
11 broader, get more folks involved from the Air Quality  
12 Division. But along those lines we also are reaching out  
13 not only through our interactions with regulated community,  
14 but when they have legal representation. So we did a  
15 presentation of the Wyoming State Bar, a webinar over the  
16 lunch hour. And staff spend time preparing that webinar  
17 and presenting the -- very similar to what we did with the  
18 Air Quality Advisory Board, kind of the intro to Air  
19 Quality and what we do, and provide contact names so we can  
20 get issues and contacts out there.

21 And, again, we hope to expand that to other  
22 community outreach efforts so people know, Hey, when I've  
23 got a smoke issue, or see something coming from a plant and  
24 I've got a concern, here's somebody I can call in the  
25 district.

1           New Source Review program. This is the one that  
2 Cole Anderson does. This is our permitting of both minor  
3 sources and major sources. I guess over the previous year  
4 and a half we worked on getting our oil and gas Best  
5 Available Control Technology guidance, got that finalized  
6 in May, and it's now in effect. And this is where we went  
7 from three areas -- air quality areas in the state in terms  
8 of requirements to two areas, and applied a -- lowered the  
9 threshold on a tons-per-year basis across the state.

10           On emissions, like I said, ambient standard we  
11 can't take into effect the costs, but when we're looking at  
12 best available control technology when coming with up with  
13 the strategy for how to meet those costs is a factor. So  
14 that's looking at what technology sources can apply.

15           This is guidance. It's not a rule. But they  
16 still go through our permitting process, but it kind of  
17 lets -- for oil and gas sources, lets them start the  
18 process. And if they apply these technologies, it's  
19 presumptively kind of approvable until we can find out the  
20 emissions coming from the particular formation.

21           If they emitted major sources, they've got to  
22 have a permit off the bat. And so there's some risk on  
23 companies sometimes because they don't know what they're  
24 getting into, and turns out a different kind of production  
25 than they anticipated.

1           The other piece on best available control  
2 technology is it's a process. Those of you that are  
3 familiar with Dan Olson, who is a former Air Quality  
4 administrator, he said BACT isn't one thing. It's a  
5 continual process. And so we are always looking at best  
6 available control technology. When we get a permit come  
7 in, they always look at it. And so as technology advances,  
8 costs change, understandings change. We look at that. It  
9 has worked to drive down emissions over time.

10           And so for this guidance process, we're already  
11 starting that loop again. Even though we just came out  
12 with something, rulemaking's a long, lengthy process. So  
13 is guidance development. And we've done now 10 revisions  
14 to this guidance since we started the policy back in the  
15 late 1990s.

16           On this guidance that's being developed, we've  
17 met with some environmental groups. We just had a meeting  
18 with industry folks, and we've got to loop into the public  
19 comment process as well. We hope to go through a more  
20 formalized process on this outreach effort to come up with  
21 a guidance and have a proposal and then get it through this  
22 comment process so we have something here to the board  
23 by -- we were hoping end of first quarter 2017 with the  
24 legislative session and some of the other challenges that  
25 we'll be facing. More realistically it's going to be about

1 the second quarter. So your second meeting. Not 2016,  
2 '17, sorry. So your second meeting we hope to have  
3 something here to the board on this.

4 New Source Performance Standards, that's part of  
5 your rulemaking packet today, so I won't address that other  
6 than when EPA adopts something called New Source  
7 Performance Standard, it goes into effect and applies  
8 whether Wyoming does anything about it or not. By us  
9 incorporating those into our regulations, we kind of get to  
10 take the lead on those. So sources, the public can deal  
11 with us initially. It's still a national applicable  
12 regulation, but if we incorporate it, then we can have --  
13 under our state practices, we can have some ability to --  
14 to operate that.

15 EPA also adopted something when they did this  
16 New Source Performance Standard in June, they also did  
17 something called Source Determination. Some people might  
18 be familiar with it under the term of "aggregation." And  
19 that's basically when you look at emissions from sources,  
20 at what point do you say, Well, those sources are really  
21 operating as one source, and you need to clump all those  
22 emissions together.

23 Under EPA rules, when they do look at emissions,  
24 they have certain thresholds. So if you stay under those  
25 thresholds, they've made a determination that the impacts

1 from those pollutants can be looked at little bit  
2 differently. When you get bigger amounts, you've got to do  
3 a larger, broader analysis and additional requirements. So  
4 the cost goes up, the time goes up, and the analysis goes  
5 up.

6           They came out with the source determination rule,  
7 and that doesn't really change how we've applied it.  
8 Wyoming has been a leader in oil and gas rulemaking and  
9 driving emissions down. And part of the reason we've been  
10 able to do that is through our minor source program,  
11 permitting program, and our use of our guidance.

12           So whenever we look at any emissions coming out  
13 of sources, we look at it as a facility-by-facility basis.  
14 So you might see a pad. And so when you come in and you  
15 drill one well, you get a permit for that. And then you  
16 want to get more sources added in there, they go through a  
17 permit modification process each time. So on a pad-type  
18 facility, we're clumping all those emissions together when  
19 they're looked at. But we're not going and saying, Hey,  
20 there's another facility that's at a different pad and  
21 we're clumping those. So how we've been doing it is  
22 consistent with what EPA came up with in its rule. That  
23 was a lot of concern to both us and the State because it  
24 would really change our programs.

25           Another thing New Source Review is working on is



1 EPA's proposed guidance on how to look at significant  
2 impact levels for ozone and smaller particulate matter.  
3 This only affects when we've got these major sources coming  
4 in, what they call prevention of significant deterioration  
5 or PSD sources. This is not your oil and gas small  
6 sources. But the significant impact levels dictate what  
7 level of modeling you needed to do to show impacts. And so  
8 this is guidance that just got published very short time  
9 ago. And so our folks have just taken a look at it now.  
10 So other than knowing it's out there, out for public  
11 comment, I don't know much about it.

12           Also, New Source Review, just to give you kind of  
13 an end-of-the-year or fiscal year update. People are  
14 always wondering, Okay, with the downturn, what's that done  
15 to our permitting? I can tell you the workload is just as  
16 high now as it was. We have not seen a downturn yet in our  
17 permitting. And part of that is sources that are out there  
18 have other legal obligations, like trying to maintain a  
19 lease. And so they may need to go forward with permitting.  
20 When we issue a permit, it's good for two years that they  
21 can take construction. So it may not be that they're out  
22 there doing construction today. In some cases they are.  
23 They're -- under their particular plans.

24           But under our permitting system, this new  
25 inventory monitoring, permitting and compliance tracking

1 our IMPACT program. We can pull some data out a lot  
2 easier. And one of those in the past nine months, we  
3 permitted 900 -- received 907 applications that are all in  
4 process for the fiscal year, which runs from July 1 to  
5 June 30. We issued 1,232, and that's pretty consistent.  
6 We kind of bump right up and down there, maybe 50 permits  
7 or so. That's pretty consistent with what we did the  
8 previous year.

9 New Source Review Program, fully staffed. Any  
10 questions on New Source Review?

11 Okay. Title V, Operating Permit Program, this is  
12 our operating permits program for these big, major sources.  
13 We've got about 124 facilities. So these are things like  
14 power plants, the trona facilities, some of your very large  
15 compressors. There's certain types of sources that are in  
16 this category. Historically, we've had higher numbers.  
17 Those numbers as -- again, as the Air Quality and Clean Air  
18 Act has worked to lower emissions when you get under  
19 certain thresholds, and you can control your emissions to  
20 certain levels, some of these programs no longer apply to  
21 you. So one of the success stories that we've had is that  
22 there are fewer sources that this applies to because  
23 emissions have gotten lower.

24 So that's a good news story. This operating  
25 permit program is able to show that emissions over time

1 have greatly decreased. And one of the challenges is that  
2 this is kind of one of those self-funding programs. It's  
3 tied to how much companies are charged a certain dollar  
4 amount per ton of emissions. So as they lower emissions,  
5 you get less money in, and then you're in that kind of  
6 battle of raising fees and lowering fees, trying to figure  
7 out how much emissions you have.

8           But in this program there was comments we  
9 submitted this spring on eNotice. So when we like notice  
10 permits out there, we have a broad audience in the state of  
11 Wyoming. We have some people that have absolutely no  
12 Internet access in our state, then we have some people that  
13 have limited Internet access, and then we have some people  
14 that are fully online. And so we provide public comment  
15 opportunities by doing public notice in the paper. EPA was  
16 proposing a rule where you wouldn't have to do that. We  
17 wanted to alert them that, Hey, keep the flexibility open  
18 so we can make sure to get to people in our state. We  
19 submitted that comment in the spring.

20           Whoops. I don't have a previous.

21           One of the other Title V rules that EPA put out  
22 for comment was on removal of what's called an emergency  
23 affirmative defense. That's where something that happens  
24 at your particular source. That's not -- it's out of the  
25 ordinary. It's a malfunction type. There was a provision

1 that allowed for an affirmative defense, which means the  
2 burden shifted to somebody else. EPA proposed removal of  
3 that affirmative defense. It doesn't really impact  
4 Wyoming's program all that much in terms of how we  
5 implement it. We have in our rules something where they  
6 have to make a demonstration. So we've got still that  
7 provision to address emergencies for sources, where they  
8 have to make a demonstration.

9 EPA's proposed revisions to the petition process.  
10 So when we issue a permit, there's public comment period,  
11 then it goes to EPA. EPA can decide if they want to  
12 propose revisions. The public can say, Hey, EPA, do this  
13 or that with the permit as well. And that's called the  
14 petition. They're trying to work on that process. We're  
15 looking at, I think, a couple months left on the public  
16 comment period.

17 One of the things we've got here in fiscal year  
18 '16, these permits are good for five years, so we will need  
19 to renew them periodically. Those are there.

20 Air Quality Resource Management. This is Darla's  
21 program. I mentioned the network plan's been out there for  
22 approval. The other big thing that right now is there's --  
23 EPA has certain rules. That's monitoring data we collect  
24 for ambient air determinations. Has to meet certain rules  
25 for quality assurance collected in a certain manner. This

1 is a big, big new rule that came into effect in April, so  
2 we're working through the implementation of that.

3 Emissions inventory, that's where we look at all  
4 the emissions from the sources throughout the state of  
5 Wyoming and gather those up. Title V sources, submit those  
6 annually. We also do specific inventories for specific  
7 parts of the state, for specific purposes at times, and  
8 then every three years we do minor source inventories. So  
9 this is all being streamlined electronically. So we've  
10 been working closely on that, because it's very important  
11 data so we can make demonstrations to EPA as we develop our  
12 plans.

13 The planning folks have also been involved in  
14 some NEPA projects. So there's some oil and gas projects  
15 out there. There's not really anything new that's coming  
16 through. These are projects -- our experience has been,  
17 when we've been working with the BLM, that a lot of these  
18 projects take 7, 8, 10 plus years. So there's still a lot  
19 of work going on, but they're not new projects. It's just  
20 that's how long the project takes.

21 And then we've been working on this inventory  
22 monitoring permitting and compliance tracking program. We  
23 found when sources go through our electronic permitting  
24 program, they can shorten the time that they get a permit.  
25 That can mean dollars to certain types of sources. So if

1 you guys have anybody that's interested in improving their  
2 bottom line, that's one of the ways they can get  
3 production, get a permit more quickly and get going. It  
4 allows us to have data all centrally located so all of our  
5 different programs can pull out, and we can do some  
6 analysis more easily. It's still got about another two  
7 years before we got it fully implemented. So we're still  
8 developing this.

9           On compliance -- and, again, Lars is our new  
10 compliance program manager. But, again, this is for the  
11 past fiscal year. We have our asbestos program. They did  
12 about 114 inspections. They provide trainings around the  
13 state. And you'll see them come through here next year  
14 because we're going to look at streamlining our asbestos  
15 rules. They haven't been looked at since like the 1980s,  
16 early 1990s. So this is one we're trying to streamline.  
17 And also use that as an opportunity to educate people.  
18 There's a lot of misinformation out there about asbestos  
19 that we'd like to make sure we've got the resources and we  
20 can do this as a service to the state and businesses.

21           Inspections. We have a variety of inspections  
22 that go on. Our on-site ones. This is where you've got an  
23 inspector that comes on-site and actually goes through your  
24 particular facility. They've reviewed reports. It's a  
25 very labor-intensive process, but it gets boots on the

1 ground. We completed 328 of those. We've got five  
2 district offices. And the inspectors for some of those  
3 inspections, we break up actually to take two days and  
4 split them out over six months or longer, plus all the  
5 reviews in between that sources submit.

6 We had an emission -- engine emission testing  
7 project that had been going on from 2011 to 2016. This was  
8 a very successful program. This past year we tested 87.  
9 We -- engine -- one of those things that fine tuning makes  
10 a big difference in how things are operated. So this was  
11 one of those compliance assistance tools that we provided  
12 companies so that we could help them stay in compliance and  
13 learn from this program, reduce the percent of failed  
14 engine testing. And this under portable analyzer testing.  
15 If they failed, they had to do some additional testing. It  
16 doesn't mean they were all out of compliance. They just  
17 triggered as an additional testing we needed to do. But  
18 this was 34 percent under these portable analyzers, and  
19 7 percent -- only 7 percent failed. And this was over the  
20 course -- we had one guy, John Walker, out of our  
21 Sheridan -- excuse me, Lander office -- no, yeah, Lander  
22 office that was participating in this program.

23 BOARD MEMBER HEYNEMAN: You went to  
24 industrial sites and tested compressors and things?

25 MS. VEHR: We don't do the actual testing

1 these are engines that -- some of them are smaller engines  
2 and some of them are larger horsepower engines. And they  
3 actually do a portable analyzer emission test from those.  
4 There's a company -- John would accompany a company out  
5 there and industry representative, and they would analyze  
6 the emissions from these compressor engines of different  
7 sizes, and then look to see if they fell within the  
8 parameters.

9           Those -- there was a lot of lessons learned in  
10 terms of operations and maintenance, and it's a skill set  
11 as well. So learned a lot. This is one program that, in  
12 terms of funding as we look at our budget going forward,  
13 this is not a program that we're able to keep going  
14 forward. Doesn't mean we've abandoned it. It means we've  
15 got to look at how we can incorporate some of those lessons  
16 learned in a little bit different manner.

17           On our enforcement side, we had a -- we issued  
18 51 notices of -- resolved 51 notices of violation and  
19 initiated 29. We had -- say -- we can only keep up with so  
20 much. There's a certain workload that you're able to  
21 manage, and you can have them coming in and coming out  
22 about the same frequency. We were tipped over a little bit  
23 where our violations resolving pile kept growing. That  
24 needed to be resolved. So we've gotten that backlog  
25 addressed. We've redirected some resources. We had a



1 vacancy, and now we should be on track to be more evenly  
2 balanced going forward.

3           We have great inspectors that are out there, and  
4 a lot of the compliance issues do not ever rise to the  
5 level of a notice of violation. A lot of times our  
6 inspectors are able to work with companies, because under  
7 the act, our goal is to get companies back into compliance.  
8 And so sometimes that's, Hey, you need to do X, Y or Z at  
9 your facility and get back into compliance, and it doesn't  
10 require a whole lot of effort other than those kind of  
11 interactions.

12           So this is just things that we try to have a  
13 level playing field or that rise under the various EPA  
14 policies we're required to do certain actions, and then  
15 under the state.

16           BOARD MEMBER VICKREY: Nancy, once a  
17 violation has been determined, what's the time frame to  
18 come back into compliance normally?

19           MS. VEHR: Most of the time in Wyoming,  
20 under how our program operates, most of the time those  
21 sources have already come back into compliance. And it's  
22 just a matter of figuring out how to make that playing  
23 field level. So a lot of times it might be someone that  
24 did not submit a permit. Between the time that we get the  
25 notice of violation issued, they've already submitted the

1 permit. And so the violation is over. We wait until that  
2 permit's issued so we know what the level of pollution  
3 we're looking at, needing to be addressed, and then we work  
4 towards resolving that particular violation. Oftentimes  
5 it's a monetary amount when it's for a past violation.  
6 There's a rare circumstance that it will be, Hey, you still  
7 need to do these other activities.

8           So most of the time the source is already back in  
9 compliance by the time we issue this, which is great  
10 because that means our sources are doing exactly -- we much  
11 rather have them come back into compliance because that  
12 lowers the emissions.

13           Done. Thank you. That went longer. I told  
14 Amber I could do it like that (indicating). I told you if  
15 you give me time, I just keep going. So thank you. That's  
16 kind of the update.

17           I forgot to mention we do have -- I mentioned Air  
18 Quality Team Rules is fully staffed. New Source Review is  
19 fully staffed. We now have our Title V program. Just got  
20 a new permit engineer started about a month ago, so they're  
21 fully staffed.

22           And our compliance program, those of you that  
23 worked with Tony Hoyt out of the Lander office, he retired.  
24 He had been with the Air Quality Division for about 15  
25 years or so. So he retired August 8th, and so we'll be --

1 Lars -- I'll be working with Lars to get a new district  
2 engineer up out in the Lander office for District 5.

3 And then we have some support staff position  
4 that's we're looking at. And then on our Air Quality  
5 Resource Management side, our emissions inventory team,  
6 they're fully staffed now. Our planning section, we've got  
7 two vacancies because we had folks move within the division  
8 or the department. So we've got two vacancies there.  
9 and --

10 MS. POTTS: Monitoring has one.

11 MS. VEHR: Oh, monitoring has one. Soon.  
12 Or is it -- yeah, I think next week. We've got a gentleman  
13 that's got a different opportunity he's moving to outside  
14 the state.

15 BOARD MEMBER HULME: Nancy, on the hiring,  
16 are you having any issues replacing? I know the State's  
17 budget situation, hiring freezes and things like that has  
18 been an issue.

19 MS. VEHR: Yeah. That was a good point.  
20 Thanks for bringing that up in terms of budgeting and  
21 hiring.

22 So the process that is used, in the fall there  
23 was a freeze that was put into place. So the freeze is  
24 there. And each position that comes up vacant has to be  
25 looked at individually. And so we go through a process.

1 There was three individuals -- and I don't know who they  
2 are, but they go through a -- they're outside the  
3 department. But we make a showing within the department of  
4 the need and the justification for the position, and then  
5 we make a showing to the outside committee that's looking  
6 at it on a broader state level. Everything we've moved  
7 through has come back approved, and we've been able to  
8 fill.

9           As the I'll say budget developments come up, that  
10 may not always be the case. But they are looking at them  
11 case by case. And so far all of ours has gone through  
12 because of our justification and need. I know as things  
13 get looked at in a broader state, that may change. It  
14 makes it a little bit longer process to go through because  
15 you've got to do these justifications at the front end and  
16 then at the back end.

17           The -- so when -- let's see. At our last  
18 meeting, I can't remember if it was before the big group of  
19 states -- big board meeting that was all together in June.  
20 I don't remember the timing of it. But -- so when the  
21 legislature moved through our budget bill in the spring, I  
22 think it was in February, probably -- it was a shorter  
23 session, February -- they did across-the-board cuts. And  
24 so our -- our budget was reduced at that point. And  
25 then -- that was by -- I'll say roughly 2 percent was

1 across, applicable to all state agencies.

2 And the other agencies may have had specific  
3 cuts. But anyways, for DEQ and Air Quality it was across  
4 the board at 2 percent reduction. And then the --  
5 following that there was an additional revenue report that  
6 came out, and the governor directed state agencies to look  
7 at additional 8 percent cuts. So we did those.

8 As a result of those cuts, we -- because this is  
9 general fund. Air Quality is funded by some EPA grant  
10 money. That EPA grant money provides a whopping total to  
11 the state of Wyoming of 7 percent of our Air Quality needs.  
12 That's it. We are what's called a minimum funded state.  
13 So we get the minimum. Colorado gets big chunk.

14 BOARD MEMBER HEYNEMAN: Why?

15 MS. VEHR: That's how EPA's funding model  
16 works. They don't -- that's how it's set up from EPA.  
17 They look at EPA. And if you look at EPA's budget as it  
18 goes forward, there's been a gradual shift on what goes to  
19 states and what goes to EPA. There's different incentives  
20 that get applied as they implement federal policies to  
21 figure out how they want to do chunks. And then they've  
22 got regional offices. So they take their buckets and move  
23 them to regional offices. And then within those regions  
24 they determine how it goes to states.

25 When it goes to a region, there's what's called

1 minimum funding level. I don't know the calculations on  
2 that, but that's been the EPA practice for how it's set up.

3           There's always been -- Todd Parfitt, our  
4 director -- there's different national organizations that  
5 look at funding and provide comment on that. We have  
6 experienced and known when you have policy being made in  
7 the East, where the large population centers are, and you  
8 look at, okay, what bang for the buck, I can understand  
9 that mentality in reaching people, and that -- but then you  
10 look at the needs in this what I call the gap, middle, and  
11 I think the western is a unique -- even more unique subset  
12 of that. And then you look at the West Coast issues where  
13 they also have large populations. There's a lot of policy  
14 on a national level driven here that doesn't necessarily  
15 fit or take into consideration a smaller population, rural  
16 based and unique needs.

17           So we are always like "Don't forget about us."  
18 And on a national level we're doing that, and our  
19 organizations we belong to, we're doing that to try to say  
20 wait.

21           I think -- this is a total diversion, but I  
22 remember my dad talking about growing up in rural South  
23 Dakota. They didn't get electricity until the 1940s.  
24 There's -- that's unheard of for some people to think,  
25 okay, I grew up in a city and I didn't get electricity.

1 It's like, What? But that's those cost infrastructure  
2 pieces that have different ramifications out in the mid  
3 aren't always considered. So we're always raising those  
4 issues.

5 But, anyway, so our state budget for Air Quality  
6 we get a portion of these federal grant monies. Then we  
7 get specific -- EPA has had a program for a while. They  
8 call it 103 Grant, but it looks at small particulate  
9 matter. That provides grant money that can only be spent  
10 on those particular activities.

11 And then we have what are called State General  
12 Funds. That's what our legislature gives us to kind of  
13 fill in. And we've had some in the past what's called  
14 Abandoned Mine Land Funding. And that, in tough budgets  
15 times, there's additional pressures on that type of  
16 funding. It can, again, only be used for certain, you  
17 know, purposes and that's not under our direction.

18 So that's made up -- and there was -- the federal  
19 government had stopped that abandoned mine land funding  
20 coming, and then they, I think, gave some of it back, but  
21 it's only a limited use, limited time purpose. So when  
22 you're asking questions about -- we kind of juggle all  
23 those. But when the governor asked for the additional  
24 8 percent, that got us to a total Air Quality 10 percent,  
25 we looked at our -- one of our big areas where we have

1 general fund spending, is in our monitoring contracts. So  
2 we had one monitor that we put down in Farson. It was kind  
3 of on the southern edge of that Upper Green Basin. It was  
4 a MET station. We collected data that was not new  
5 information that was being used for other purposes. So we  
6 were able to close that contract out, take those funds and  
7 put aside to address the budget situation.

8 We had some contract positions for support staff,  
9 and we ended some of those contracts and we, I'll say,  
10 moved the end date sooner on some of those contracts so we  
11 can divert those funds to account for those reductions. We  
12 had some frozen positions that we're not filling.

13 And so that's how we met it. The governor has  
14 asked state agencies to look and see if there's additional  
15 reductions we can make as the legislature gets ready to  
16 meet again, so we're going through that process right now.  
17 Don't know where it will end, but we've got about  
18 10 percent reduction.

19 And so we're implementing things at the agency  
20 level, such as cross-training. Darion's working with the  
21 IMPACT team. You heard we're trying to get other staff  
22 involved in some of these air quality resources so we can  
23 be more flexible internally as time changes.

24 Thank you for that question.

25 That's it. Okay. Thank you. Next time y'all



1 learn -- oh, one thing. Elizabeth. Update on litigation.  
2 She said to let you know there's no changes from the update  
3 that she gave in April, except for the Clean Power Plan  
4 argument date and the Volkswagen case.

5           The Volkswagen case, we are getting -- I can't  
6 remember -- I think it's 7 and a half million, if it goes  
7 through on settlement, that we can use for specific NOx  
8 reduction projects, and it's specified in the settlement  
9 agreement.

10           The other part is we have filed a notice of  
11 intent to sue Volkswagen. So when you are suing an entity  
12 for failing to comply under the act, you have to give them  
13 a 60-day notice. So there is about five states that have  
14 filed a notice of intent to sue. One of them is Wyoming.  
15 We have to wait 60 days before we file a complaint. This  
16 allows us to start engaging with the company in  
17 negotiations and participating with those other states to  
18 resolve some environmental -- additional environmental  
19 impacts to the state.

20           So those are the only updates she had. She did  
21 want to say, so think about it, at the end of the meeting,  
22 later, to let Amber know of areas you might be interested  
23 in having Elizabeth talk to the board about, educate.  
24 Again, one of our goals is not only educating the public,  
25 but educating the board as well.

1 Elizabeth has provided trainings on privileges.  
2 So we deal a lot with attorney-client privileges as we're  
3 making decisions. Deliberative process privileges.  
4 Companies sometimes submit confidential what are called  
5 trade secret business processes. So she can talk and  
6 educate -- not giving legal advice, but educating on what  
7 those processes are.

8 There's a provision under the act that allows for  
9 environmental audits that companies do. That's where they  
10 go out and they look at their own facilities and discover,  
11 hey, we've got these areas of possible noncompliance.  
12 That's a whole new area that we're looking at.

13 So there's some benefits to companies that  
14 participate in it, from a privilege standpoint, as well as  
15 possible, I'll say, violation resolution benefits. But  
16 there's certain standards that they have to meet to  
17 qualify. We're seeing bankruptcies in other areas.  
18 There's a lot of bankruptcies going on right now in the  
19 mineral industry, small and large companies.

20 So if you think of things you'd like Elizabeth to  
21 talk about -- history of a case from start to finish, how  
22 do you, you know, present an enforcement case. She's  
23 willing to do anything. She wanted me to say, Hey, poll  
24 the board and find out what your needs are, and she'd be  
25 happy to set up something for the next meeting. So if you

1 don't think of something now, don't worry. Just let Amber  
2 know, and we'll get it to Elizabeth.

3 Thanks. Now I really will sit down.

4 CHAIRMAN BROWN: I think right now is a  
5 good time to take about a 10-, 15-minute break, and then  
6 we'll reconvene at 11:25. How's that?

7 MS. VEHR: Sounds good. Thanks.

8 (Meeting proceedings recessed  
9 11:12 a.m. to 11:28 a.m.)

10 CHAIRMAN BROWN: Let's reconvene here.

11 Right now we've got the rulemaking phase of the  
12 proceedings. And I don't know how we want to go about  
13 this.

14 Amber, are you going to --

15 MS. POTTS: We'll walk you through --

16 CHAIRMAN BROWN: -- walk through each one?

17 MS. POTTS: Yeah, so I want to ask your  
18 board walk through like-kind changes so to get all those --  
19 the easy ones that are doing the same exact thing.

20 CHAIRMAN BROWN: Yes.

21 MS. POTTS: You know, Mike's going to walk  
22 us through that.

23 CHAIRMAN BROWN: Okay.

24 MS. POTTS: And then the more in-depth New  
25 Source Performance Standards, I'd like Rob to walk us

1 through that --

2 CHAIRMAN BROWN: Okay.

3 MS. POTTS: -- you know, just to kind of  
4 keep those together --

5 CHAIRMAN BROWN: Sure.

6 MS. POTTS: -- so we don't have to state  
7 over and over again what we're changing.

8 One note that we'd like to let you guys know.  
9 Since we put this package out for public notice, we've done  
10 some digging, and we found in Chapter 6 there is a date of  
11 a Federal Register that's no longer up to date. So Mike's  
12 going to pass out an updated redline version for you.  
13 They're also over here for the public. And we'd like your  
14 consideration of these additional changes.

15 CHAIRMAN BROWN: Okay. So walk us through  
16 it when we get there.

17 MS. POTTS: Yeah. Mike will walk us  
18 through that.

19 CHAIRMAN BROWN: Okay.

20 MS. POTTS: And then -- so if you're  
21 willing to move in that fashion, then we can get --

22 CHAIRMAN BROWN: Yeah. Whatever  
23 streamlines it the best.

24 MS. POTTS: Okay.

25 CHAIRMAN BROWN: And then I thought after

1 each one, we should do the comments, instead of waiting  
2 until the end.

3 MS. POTTS: Okay.

4 CHAIRMAN BROWN: Because that way, if  
5 someone does have something to say, it will be fresh and we  
6 don't have to --

7 MS. POTTS: Absolutely.

8 CHAIRMAN BROWN: If that works for  
9 everybody that way, that might make it go faster also.  
10 Give the public an opportunity to comment after each  
11 presentation, I think.

12 MS. POTTS: Yeah. I think that's great.

13 CHAIRMAN BROWN: And then if there is  
14 public comment -- we don't have like a podium or anything,  
15 but sign in and then you'll have to come and state your  
16 name clearly so it can go in the recording.

17 And two comments. Thank you.

18 MS. VEHR: You can go this way, Tim.

19 CHAIRMAN BROWN: Okay.

20 MS. POTTS: All right.

21 CHAIRMAN BROWN: All right. Jon and Amber?

22 MS. POTTS: I'll pass that on to Mike.

23 CHAIRMAN BROWN: Okay.

24 MR. MORRIS: All right. Thank you, Amber.

25 We'll start off with the incorporation by

1 reference sections. These -- one of the prevailing actions  
2 within this rulemaking package, and it involves updating  
3 the incorporation by reference or IBR sections. For a  
4 number of our Wyoming Air Quality Standards and Regulations  
5 chapters.

6           So for today, we're going to specifically update  
7 the incorporation by reference sections for Chapter 2,  
8 Ambient Standards; Chapter 3, General Emissions Standards;  
9 Chapter 4, State Performance Standards for Specific  
10 Existing Sources; Chapter 5, National Emission Standards;  
11 Chapter 6, Permitting Requirements; Chapter 8,  
12 Nonattainment Area Regulations; and Chapter 11, National  
13 Acid Rain Program.

14           Now, today we're going to try to give you the  
15 Cliff Notes on Cliff Notes version of the IBR process,  
16 simply because it's quite straightforward. So -- and I  
17 don't want you guys to end up with my voice droning on  
18 through your head the next two days.

19           So the IBR is essentially a mechanism to keep our  
20 state regulations consistent with federal regulations that  
21 were definitions that we haven't fully enumerated within  
22 our own state regulations. So instead we make a reference  
23 to where those federal regulations are located within the  
24 Code of Federal Regulations, or the CFR.

25           And so what the incorporation by reference

1 mechanism essentially does is that it consolidates a pretty  
2 mountainous collection of regulations in order to keep our  
3 state regulations clean and concise for our users. And so  
4 we update these IBR references periodically to ensure that  
5 our CFR citations are up to date in case that the EPA makes  
6 an update to one of the federal regulations that we IBR.

7           So if the EPA changed let's say like a reference  
8 method or a test method or a definition that we incorporate  
9 by reference sometime over the last couple of years, this  
10 revision that we're bringing forth today will bring all  
11 those updates that had occurred as of July 1, 2015 into our  
12 state regulations.

13           So, for example, we make reference to some test  
14 methods in the appendices of 40 CFR, Part 60 in Chapter 3.  
15 And so these -- these IBRs today would adopt any of those  
16 updates that had occurred on a federal level into our state  
17 regs as of July 1, 2015.

18           So the last time we took the IBR rulemaking  
19 update for many of these chapters through the Air Quality  
20 Advisory Board was April 2014. And those updates became  
21 state effective in October 2014. And we updated the IBR  
22 sections in Chapter 2, 6 and 8 more recently because other  
23 parts of those chapters had been brought through this  
24 statutory rulemaking process. And we just tacked on the  
25 IBR update as -- as sort of a formality. And so

1 nevertheless, the most recent updates to Chapter 2 and  
2 Chapter 6 were only as of July 1, 2014, and the other  
3 chapters were up to date as of July 1, 2013, with the  
4 exception of Chapter 4, which went all the way back to  
5 2012.

6           So we're all going to -- we're going to bring all  
7 of these a little bit more up to speed by virtue of this  
8 rulemaking update. And so there's -- there's a little bit  
9 of a lag. Obviously, we're not living in July 1, 2015  
10 anymore. But with that said, this is about the best that  
11 we can do because the EPA only rules these updated rules  
12 into the CFR once a year, on July 1st, and we were already  
13 in the process of developing this rule package as of  
14 July 1, 2016 because there's a little bit of a lag between  
15 the CFR date and this EPA finalizing that annual  
16 compilation.

17           So we'll update our IBR sections to July 1, 2016  
18 at a later date. And so ultimately the reason we do this  
19 is to maintain state primacy on any of these rule updates.  
20 As of the July 1, 2015 date, I think as Nancy mentioned  
21 earlier, sources would still have to abide by the federal  
22 regulations that have been finalized and are effective in  
23 the time since then, but these -- these updates bring them  
24 into our state regulations. And so if anything has  
25 happened more recently, they won't be included in our state



1 regulations until the next wave of IBR updates to the  
2 WAQSR.

3 And so we are beginning to -- or we're planning  
4 to do this IBR update on an annual basis moving forward.  
5 So each time we come forward with an Air Quality Advisory  
6 Board meeting, you know, in the third or fourth quarter,  
7 we'll do an IBR update with that as well. It will be like  
8 an IBR Christmas.

9 So anyhow, that's -- that's about all I have on  
10 behalf of the IBR updates. So at this time if we have any  
11 comments, I'll open the floor for that.

12 MS. VEHR: Did you want to address the  
13 Chapter 6?

14 MR. MORRIS: Yeah, we can do that and roll  
15 that into this as well. Sure.

16 As Amber mentioned in our interview, we've also  
17 got a minor additional recurring update that we made to  
18 Chapter 6. And, actually, it's also in Chapter 7, and it's  
19 the same federal reference -- or Federal Register  
20 reference. And so this also pertains to incorporating by  
21 reference. And what this revision today will do that we're  
22 bringing forth is it will remove the same outdated  
23 reference to a Federal Rule update that was made in  
24 November 2013. And so this -- this is found on the pages  
25 that we provided: Chapter 6, Section 3 on page 6-19;

1 Chapter 6, Section 4 on page 6-59; and then Chapter 7,  
2 Section 3, on page 7-9.

3           So, previously, in the rulemaking package that  
4 went before the board on -- in April 2014, we had revised  
5 these three sections to amend the definition of tons per  
6 year, CO2 equivalent emissions. In order to pull a federal  
7 update regarding greenhouse gas reporting, that it appeared  
8 in the Federal Register in November 2013, we wanted to pull  
9 this directly into our state regs prior to waiting for the  
10 annual IBR update. We wanted to get it into our regs prior  
11 to. And so we directly cited the FR article, the Federal  
12 Register article, as opposed to waiting several months  
13 after that July 1st date.

14           And so the updates from that November 29, 2013  
15 Federal Register, they've since been actually rolled into  
16 the Code of Federal Regulations on a federal level. And so  
17 they also would be automatically now pulled into our state  
18 regulations too because as of today we would be  
19 incorporating by reference as of July 1, 2015.

20           So regardless, this citation is out of date. And  
21 in addition, there was actually a newer Federal Rule update  
22 to the greenhouse gas reporting program on December 11,  
23 2014 that kind of provides us with further reason for  
24 removing this outdated reference because the 2014 update  
25 added some new global warming potentials that weren't

1 covered in the 2013 rule. And so, again, those 2014  
2 updates still are also incorporated by reference directly  
3 because we are IBRing as of that July 1, 2015 date.

4 So, in short, all we're doing here is removing  
5 these references to an out of date FR article and simply  
6 incorporating by reference Subpart A of 40 CFR, Part 98 as  
7 of July 1, 2015. And so we apologize for not catching  
8 these revisions prior to going out to notice, but we  
9 figured we'd try to take the opportunity today to bring  
10 them before the board at this time, rather than waiting  
11 until the next time the board convenes and having them  
12 become further out of date.

13 So, again, these revisions aren't substantive.  
14 We're already incorporating by reference. We're just  
15 cleaning up something that can be confusing to users at  
16 this time, so...

17 CHAIRMAN BROWN: Are there any questions or  
18 comments from the board?

19 Are there any comments from the public?

20 MR. GOLDSTEIN: So both Amber and I are  
21 going to comment on Chapter 5, Section 4, the 0000(a). Do  
22 you want to take that now or take that later?

23 MR. LETEFF: That's going to be the next  
24 section.

25 CHAIRMAN BROWN: Okay. So -- yeah. So

1 there being no comments, so we need to make a vote on this?

2 MS. VEHR: Do you want to wait -- we  
3 have -- part of the rule that Jon was referencing -- we've  
4 covered the incorporation by reference piece of it, but  
5 there's still some other aspects.

6 CHAIRMAN BROWN: Oh, there's still more?

7 MS. VEHR: Yes.

8 CHAIRMAN BROWN: Okay. We're not quite  
9 ready yet. Thank you.

10 MR. LETEFF: All right. So we'll go ahead  
11 and move onto Chapter 5, then.

12 CHAIRMAN BROWN: All right.

13 MR. LETEFF: And this is one of the more  
14 substantim -- stubstative -- excuse me, substantive updates  
15 in the rulemaking. Chapter 5 is where the Division  
16 incorporates by reference New Source Performance Standards  
17 also referred to as NSPS and National Emission Standards  
18 for hazardous air pollutions -- pollutants, also referred  
19 to as NESHAPs, which are developed by the EPA.

20 These are emission control regulations for  
21 specific sources, and, as Nancy had said earlier, are  
22 required nationally by the EPA for all applicable sources  
23 whether or not the Division adopts them. The Division has  
24 adopted the regulations that are currently in Chapter 5 to  
25 maintain administrative authority which allows the state,

1 rather than the EPA, to implement the regulations and  
2 evaluate compliance with the requirements. Additionally,  
3 it has been the Division's experience that most industries  
4 in Wyoming prefer to work directly with the state rather  
5 than working with the EPA.

6           The changes to Chapter 5 in this rulemaking  
7 concern NSPS only and no changes are being made to the  
8 NESHAPs in Chapter 5. Chapter 5, Section 2, New Source  
9 Performance Standards are required by the Clean Air Act,  
10 Section 111 and are issued for categories of sources which  
11 cause or contribute significantly to air pollution, which  
12 may reasonably be anticipated to endanger public health or  
13 welfare. All industry subject to NSPS must meet certain  
14 requirements such as monitoring and recordkeeping, meet  
15 industry-specific emission limits for specific pollutants,  
16 make compliance demonstrations and follow certain testing  
17 methods and procedures.

18           The NSPS first posted to the Federal Register,  
19 and then are eventually codified in Title 40, Part 60 of  
20 the Code of Federal Regulations, which is also referred to  
21 as the CFR. The NSPS we're updating today and  
22 incorporating in this rulemaking will be incorporated from  
23 the Federal Registers. They have not yet been codified as  
24 the public notice. But we -- since then they have been  
25 codified, and we were asking the board today to recommend

1 that NSPS be adopted directly from the CFR rather than from  
2 the Federal Register itself.

3           Altogether we are updating one NSPS, which is  
4 0000. And we are incorporating for the first time two  
5 additional NSPS, 0000(a) and TTTT. And so the changes that  
6 we're going to be making to the NSPS occur on page 5-6 of  
7 Chapter 5. There are some changes to the first paragraph  
8 following NSPS KKKK to make it consistent with the other  
9 updates by changing the word "is" to "are" where  
10 appropriate, and to adding "S" to make the words plural  
11 where appropriate because before we had had Subpart 0000  
12 there without the additional NSPS that were there that were  
13 being adopted by referring to the Federal Register.

14           The first NSPS that we'll be updating -- or the  
15 only one that will actually be updated NSPS 0000 standards  
16 and performance for crude oil and natural gas production  
17 transmission, distribution for which construction,  
18 modification or reconstruction commenced after August 23,  
19 2011 and on or before September 18, 2015.

20           The Division updating the adoption of Subpart  
21 0000 through August 12, 2015 and changing the volume page  
22 number of the associated Federal Register citation to keep  
23 the reference current. 0000 was amended to revise the  
24 definition of low-pressure gas wells.

25           To keep Wyoming's adoption of 0000 up to date,

1 the Division has revised the Federal Register reference to  
2 cite most recent final rule as published in the Federal  
3 Register as of August 12, 2015. Again, OOOO is not yet  
4 codified as of July 1, 2015. And with the board's  
5 recommendation, we will instead adopt it from the Code  
6 of -- Federal Register, rather -- Federal Regulations,  
7 rather than the Federal Register.

8 Those are the only updates to OOOO. And we will  
9 move on to OOOO(a), unless there are any questions.

10 CHAIRMAN BROWN: Any questions from the  
11 board?

12 MR. LETEFF: No questions? All right.  
13 We'll move on to NSPS OOOO(a), standards of performance for  
14 crude oil and natural gas facilities for which  
15 construction, modification or reconstruction commenced  
16 after September 18, 2015.

17 The Division is adopting Subpart OOOO(a) --  
18 and that is OOOO, small A, for the benefit of the  
19 court reporter -- from the June 3, 2016, Federal  
20 Register citation. OOOO(a) applies to oil and gas natural  
21 category -- oil and natural gas category sources  
22 constructed, modified or reconstructed after September 18,  
23 2015. As well as requirements for oil and gas processes  
24 and activities in OOOO(a) became effective as of August 2,  
25 2016. This added new standards for volatile organic

1 compounds as well as standards or greenhouse gas emissions.  
2 Let's see. There are also standards in 0000(a) which were  
3 not regulated under 0000 previously for volatile organic  
4 compounds, but not greenhouse gases. So, in short, the  
5 updates are new requirements for volatile organic  
6 compounds, which were not previously regulated under 0000,  
7 and new requirements in total for greenhouse gases under  
8 0000(a). I'm sorry. It can get a little confusing  
9 sometimes with moving between the two, but essentially 0000  
10 is an update to previous rules in 0000, and adding new  
11 requirements as well as of that September 18, 2015 date.

12 And, again, with the recommendation of the board,  
13 we will adopt that, rather than from the Federal Register,  
14 from the Code of Federal Regulations.

15 Are there any questions about 0000(a)?

16 CHAIRMAN BROWN: No questions. Any  
17 questions from the board?

18 BOARD MEMBER HEYNEMAN: So give me another  
19 45 seconds here.

20 MR. LETEFF: Sure.

21 BOARD MEMBER HEYNEMAN: We're updating  
22 state regs to match federal regs and we're coming from  
23 different sources. We're coming from the code of  
24 regulations rather than the register?

25 MR. LETEFF: Yes, that is correct. Well,



1 with the board's recommendation. As of the public notice,  
2 we were going to be updating from the Federal Register, but  
3 since the public notice, the OOOO, OOOO(a) and I'll be  
4 coming up to TTTT, has since gone to -- they have been  
5 codified in the federal Code of Federal Regulations. So in  
6 that approximately four-week period from the time that we  
7 sent out the public notice to now, they have been codified.

8 And so rather than waiting until our Christmas  
9 IBR next year, we were going to ask the board to recommend  
10 adopting directly from the Code of Federal Regulations.

11 BOARD MEMBER HEYNEMAN: Christmas Grinch  
12 raining on Christmas already.

13 MR. LETEFF: And there is that possibility,  
14 yes.

15 BOARD MEMBER HEYNEMAN: Big event.

16 MR. LETEFF: All right. So does the board  
17 want to open up the questions to the public?

18 CHAIRMAN BROWN: That was my next -- if  
19 we're at a good place to open up for public comment.

20 MR. LETEFF: Certainly. We have one more  
21 NSPS to go through, but we can answer questions about  
22 OOOO(a) at this point.

23 CHAIRMAN BROWN: Let's do that because  
24 that's what the comments were specific to.

25 MR. LETEFF: Absolutely.

1 CHAIRMAN BROWN: Jon Goldstein?

2 MR. GOLDSTEIN: Sure. You want me to just  
3 do it from here?

4 CHAIRMAN BROWN: Yeah, as long as --

5 THE REPORTER: If you could come up here.

6 MR. GOLDSTEIN: Whatever works.

7 THE REPORTER: Thank you.

8 MR. GOLDSTEIN: I'm Jon Goldstein. I'm  
9 senior energy policy manager for Environmental Defense  
10 Fund. Based in Colorado, but I've worked here in Wyoming  
11 for several years on air quality issues, and I'm here today  
12 to strongly support adoption of the 0000(a) standards that  
13 were just outlined.

14 The Environmental Defense Fund's a national  
15 environmental organization. We worked pretty extensively  
16 on the development of 0000(a) and commented to EPA on the  
17 development of those rules, in addition to working  
18 extensively on the Wyoming rules that in some ways formed  
19 the basis for 0000(a) in the Upper Green River Basin that  
20 Nancy was speaking about earlier.

21 Those Upper Green River Basin rules that this  
22 board has heard in the past and approved are extensively  
23 footnoted, I guess you could say, in 0000(a), and are, you  
24 know, a lot of the foundation in some ways for what EPA is  
25 doing now nationwide with this update to their New Source

1 Performance Standards. So we, you know, strongly support  
2 the adoption by reference that you're considering today.

3           There are two areas that I wanted to mention,  
4 that we feel like could in the future be areas that the  
5 state could go further in, and we actually filed a letter  
6 that should be in your files to this effect. But the first  
7 is to kind of take a page from the Upper Green River Basin  
8 playbook that the state has developed and actually do  
9 better than what EPA has proposed as far as efficiency of  
10 leak inspections.

11           In the Upper Green currently there's a quarterly  
12 requirement for leak inspections. In this NSPS update, the  
13 EPA is proposing a semiannual frequency. So twice a year  
14 versus four times a year. And we would encourage the state  
15 in the next update to the P-BACT to consider going --  
16 stepping beyond that and using the Upper Green standard  
17 statewide.

18           That's another important point that's in our  
19 letter, is in the past, you know, Wyoming rightly has taken  
20 a lot of pride in leading these Air Quality rules and doing  
21 like what they've done in this case, forming the basis for  
22 the national EPA standards. We would encourage in this  
23 adoption that that continue, that in the areas where the  
24 state is already exceeding this new NSPS, that that remain  
25 in place. Such things as controls on tanks, the Wyoming

1 requirements are already better than what EPA is proposing  
2 to do in the NSPS update, and we would encourage the state,  
3 as they've done in the past just allow those areas where  
4 the Wyoming requirements are already better than EPA's to  
5 remain in effect.

6           And then finally -- again, this is a sort of a  
7 comment for a future consideration. It's not obviously  
8 part of NSPS, but we would encourage the state to consider  
9 moving forward on existing source regulations similar to  
10 what's happening in the Upper Green, that, you know,  
11 there's a lot of sources out there that aren't new and  
12 modified, that won't be covered by this NSPS update for  
13 instance. And EPA is doing an information-gathering  
14 exercise right now with the thought of moving forward on  
15 potentially rulemaking for existing sources. The Bureau of  
16 Land Management is finalizing a rule that will apply in  
17 many of these same measures to existing sources on federal  
18 and tribal lands. So we would encourage the state to do  
19 what it's done in the past and use this as an opportunity  
20 to kind of help set the table and show the federal  
21 regulators what's possible.

22           So thank you. I'm happy to answer questions if  
23 you'd like.

24                           CHAIRMAN BROWN: Any questions for  
25 Mr. Goldstein from the board?

1 Thank you.

2 MR. GOLDSTEIN: Thank you.

3 CHAIRMAN BROWN: Amber? How do you  
4 pronounce your last name?

5 MS. REIMONDO: Reimondo.

6 CHAIRMAN BROWN: Reimondo, R-E-M-A-N-D-O.

7 MS. REIMONDO: R-E-I-M-O-N-D-O. My name is  
8 Amber Reimondo. I am the environmental quality advocate  
9 for the Wyoming Outdoor Council, which is based in Lander.  
10 I was born and raised in Wyoming, and the past  
11 three generations of my family was supported largely by  
12 careers in the extraction industry that fuel our state.

13 Next year will be the Wyoming Outdoor Council's  
14 50th anniversary of advocating for the protection of  
15 Wyoming's environment and quality of life for current and  
16 future generations. Today I'm here to speak to you on  
17 behalf of our thousands of members and supporters and --  
18 who support our mission. Those include several of my  
19 family members who understand and respect both the rule of  
20 extraction in Wyoming and the fertility and beauty of  
21 Wyoming's clean air, wildlife and open spaces.

22 Similar to what Jon just told you, Wyoming  
23 Outdoor Council wholeheartedly supports the Air Quality  
24 Division's recommendation to incorporate by reference EPA's  
25 New Source Performance Standards from the Federal Register

1 0000(a) into the Wyoming Air Quality Standards and  
2 Regulations. The 0000(a) rules are critically important to  
3 making significant reductions in harmful methane emissions  
4 as well as VOCs and other air toxics.

5 At the same time that we support the adoption of  
6 these federal standards, we would also urge the DEQ to  
7 retain those existing Wyoming-specific requirements that  
8 are more stringent than the federal requirements, and to  
9 expand those protections statewide where the vast majority  
10 of drilling applications and activity are now taking place.

11 Specifically I'm referring to the quarterly  
12 instrument-based fugitive emissions monitoring requirements  
13 that, as you know, currently exist in the Upper Green River  
14 Basin. And in that same area, some even more aggressive  
15 voluntary operator inspection programs have proven feasible  
16 and effective in Wyoming at economically reducing ways to  
17 protecting air quality. The fact is that even in today's  
18 natural gas market, gas that stays in the pipeline is still  
19 more money in the bank, and we know the current programs  
20 continue to pay for themselves.

21 The options available to operators for compliance  
22 are broadening with improving technology and increasing  
23 availability of contractors for operators uninterested or  
24 unable to make the investment in the equipment, personnel  
25 for fugitive emissions monitoring program of their own.

1 That's why expanding the requirement quarterly  
2 instrument-based inspections from the Upper Green River  
3 Basin to the rest of the state is not just the responsible  
4 thing to do, it's also reasonable and feasible.

5           As the state's leading actions in the Upper Green  
6 Basin acknowledge, these inspections are not critical --  
7 are critical not just for new and modified sources, but for  
8 existing sources as well. Those existing sources are the  
9 ones contributing the large percentage of the methane  
10 emissions we're experiencing right now. Leaks are simply  
11 part of the nature of equipment, whether they happen  
12 through malfunctions or simple human error, such as leaving  
13 a hatch open. The only way to mitigate them is to look for  
14 them often and fix them quickly.

15           The Outdoor Council and our members thank the  
16 DEQ, the air division and this board for the -- for its  
17 foresight thus far, and we just urge the DEQ to issue a  
18 goal date for the statewide expansion of these responsible,  
19 reasonable and feasible requirements being -- already being  
20 implemented in the Upper Green River Basin.

21           So like Jon, that was a -- a bit of NSPS and not  
22 NSPS. So thank you for hearing me out.

23           CHAIRMAN BROWN: Thank you.

24           Any comments from the board? Questions?

25           BOARD MEMBER HULME: I have a question for

1 Division --

2 CHAIRMAN BROWN: Yeah.

3 BOARD MEMBER HULME: -- if I can.

4 So given the comments we just heard, is there any  
5 intention to keep -- if 0000(a) is adopted, keep  
6 requirements more stringent than the federal?

7 MS. VEHR: I can address that, and Amber  
8 can probably touch on the I'll say specific comments. Jon  
9 provided us a copy of his comment letter so that we can get  
10 a response to the board timely for this hearing.

11 But on the -- so we have the 0000(a) requirements  
12 that came out, and we are, through this incorporation by  
13 reference, recommending that the board adopt those into our  
14 state regulation, that allows us to go ahead and enforce on  
15 those.

16 One of the other things we do is -- I mentioned  
17 that Best Available Control Technology permitting process,  
18 it starts with the floor of whatever the New Source  
19 Performance Standard is. And it may be that BACT is that  
20 floor, or it may be more stringent. And so when we're  
21 going through the permitting process, those -- that staff  
22 has analyzed where there may be requirements that don't  
23 quite dovetail well or that may -- we may have a state  
24 requirement that's more stringent than the Feds. So by  
25 adopting the 0000(a), we're not changing our -- our BACT



1 process, other than that floor has changed. We have to  
2 start with that on that BACT process.

3           So when we go through the BACT Guidance revision  
4 that both Jon and Amber had mentioned is these other  
5 additional permitting requirements, that's when we look at  
6 those. That's that stakeholder process I mentioned we just  
7 had started getting some environmental group input, some  
8 industry input/discussion, and we'll more formalize that  
9 and hopefully come back in January -- not January -- first  
10 quarter, more realistically second quarter of 2017 on that  
11 BACT Guidance.

12           CHAIRMAN BROWN: That would be potentially  
13 addressing those two comments.

14           MS. VEHR: Exactly. Yep. Yep.

15           BOARD MEMBER HULME: Thank you.

16           MS. VEHR: Uh-huh. In terms of the actual  
17 comment letter, that provided in support, there were  
18 two points -- and I haven't had a chance to talk to Jon on  
19 those -- but there were two points there that I wanted to  
20 clarify for the board's purpose. One was addressing the --  
21 the comment that we were dangerously close to the new 2015  
22 ozone standard. The time frame -- again, I mentioned we  
23 looked back three years, and so the time frame that we're  
24 looking at for 2015, I didn't bring the data that shows our  
25 16 monitors throughout the state. But our perception as a

1 state is not that we're dangerously close. Those  
2 standards, as they get lower, they approach this, but at  
3 the same time we've implemented measures to lower emissions  
4 throughout the state, and we are in attainment on those.

5 So we might hold differing views on what -- how  
6 to describe that -- that difference and that narrowing  
7 there, but we are in attainment.

8 CHAIRMAN BROWN: Is that a three-year  
9 rolling average?

10 MS. VEHR: It's at the fourth high eight-  
11 hour.

12 CHAIRMAN BROWN: Okay. I see. Okay.

13 MS. VEHR: It's complicated.

14 CHAIRMAN BROWN: I was thinking as things  
15 get better, some of those worse ones may drop off.

16 MS. VEHR: They drop off.

17 CHAIRMAN BROWN: So we have that margin or  
18 that comfort level with the new standard.

19 MS. VEHR: Yeah. They call that a design  
20 value. So the design value that Jon would have referenced  
21 for those particular monitors, I believe Albany and Laramie  
22 County is a different design value when you -- as you keep  
23 rolling forward and you have a new year's data that design  
24 value changes all the time. So I just wanted to point that  
25 out.

1                   BOARD MEMBER HULME: Just a follow-up to  
2 that. I guess maybe it's that design value. Because I  
3 remember Darla, at the last meeting or two meetings ago,  
4 presented about the new ozone standard, how monitors in  
5 Albany County were very close to the new standard, and  
6 there's no activity really there that -- extra, other than  
7 natural background that might be contributing, so lower  
8 emissions, may not -- there's really no place to lower  
9 emissions up there. So are we in danger?

10                   MS. VEHR: There -- again, as this  
11 gets -- this gets close here, there's always -- you  
12 have a different margin. We don't -- so some of that  
13 background -- what's in the background that's not  
14 anthropogenic, not created by industry, that part of it is  
15 also, as the standard lowers, that -- and that's where  
16 there's a lot of debate going on right now.

17                   BOARD MEMBER HULME: Right.

18                   MS. VEHR: But we were in attainment at  
19 that -- we definitely are closer. I don't know that I  
20 would use the word dangerous to describe the situation  
21 because some of that component is a background component,  
22 that, again, if you got to a situation where you had to  
23 analyze, if you're meeting the standard or not, you've got  
24 to look at all those aspects. We are meeting the  
25 standards, so we're not devoting the resources to try and

1 figure out what percentages are coming from different  
2 places.

3 So that's where I would say on the  
4 characterization, the Division would say we're not  
5 dangerous. Are we close? Yes. The --

6 BOARD MEMBER HEYNEMAN: And growing closer?

7 MS. VEHR: No.

8 BOARD MEMBER HEYNEMAN: It's just not  
9 dangerous.

10 MS. VEHR: In terms of moving closer, no,  
11 we're not moving closer. Those have, I think, been fairly  
12 stable over the past three years. I will get that  
13 information, though, so we can give an update for the board  
14 for the next meeting on those particular monitors, if you'd  
15 like me to do that. I certainly would on that monitoring.

16 And then there was one other point in the comment  
17 letter.

18 Amber, do you remember what --

19 MS. POTTS: Darion.

20 BOARD MEMBER HULME: Is it applying  
21 existing source guidance to statewide?

22 MS. VEHR: No, no, because that would fall  
23 under that P-BACT process. We'll address whether that's  
24 something that goes through that whole comment period on  
25 P-BACT, looking at, but there was another -- might have

1 been on page 2. I'm sorry. I didn't bring my highlighted  
2 version.

3 Laramie County was the dangerously close. That's  
4 on page 2. Oh, on page 3, there was a reference to  
5 existing unhealthy air quality in the Upper Green River  
6 Basin. And, again, the Division would like to note to the  
7 board that we are attaining the standard of all pollutants  
8 in the Upper Green River Basin. And so the unhealthy --  
9 existing unhealthy air quality, we would take issue with  
10 that characterization. Was the Upper Green River Basin in  
11 nonattainment under the 2008 standard? Yes. Did we  
12 achieve attainment? Yes. Did we show in 2015 that we'd  
13 had three consecutive years -- and now I think we're up to  
14 five consecutive years -- of attaining the standard which  
15 is the health baselined standard? Yes.

16 So we would just say, Hey -- again, I haven't had  
17 the opportunity to talk to Jon about this, but we would say  
18 that we have healthy -- we're meeting the standard of air  
19 quality in the state. And we appreciate the comments and  
20 support.

21 MR. GOLDSTEIN: And for my part, I  
22 completely agree that you should be proud of the success  
23 story in the Upper Green. If I mischaracterized that in  
24 here, I apologize.

25 MS. VEHR: That's why I'm saying I haven't

1 had the opportunity to talk to Jon, but just wanted to let  
2 the board know, if you review those, those were of concern.

3 BOARD MEMBER HULME: Thank you.

4 BOARD MEMBER VICKREY: Nancy, I would be  
5 remiss if I didn't comment just a little because I've lived  
6 in the Upper Green for, hell, 70 years. Well, I have.

7 BOARD MEMBER HEYNEMAN: You're 90 years  
8 old.

9 BOARD MEMBER VICKREY: Yes. How did you  
10 know that?

11 The ozone issue up there come to light, what's it  
12 been, eight, nine years now?

13 MS. VEHR: 2005 was the first high reading.

14 BOARD MEMBER VICKREY: So those years we  
15 have higher ozone levels were instrumental, in my mind, at  
16 least, by the higher snowfall levels that we had. And I  
17 believe this, that snowfall and bright light also add to  
18 the ozone. I'm not a scientist, but I know that occurs.

19 The last three years -- and this is one of my  
20 concerns, is -- of the ozone thing. The last three years,  
21 our snowfall's been minimal, quite frankly. Very minimal  
22 in the Upper Green. So were we to get, and we hope we do,  
23 a huge snowfall in the next year or two, or consecutive, if  
24 you would, is that going to have an opportunity to raise  
25 our ozone spike, which will be a phenomenon, if you would,

1 that occurred from Mother Nature? And so then are we all  
2 going to be put under that umbrella, geez, we've got to  
3 lower this level again? Where at some point, you have a  
4 level so low you cannot attain it. And I don't care who  
5 you are or how hard you work at it.

6 I've been involved in gas and oil. I'm currently  
7 in the livestock business, which neither are worth a darn.  
8 But I've seen the progress that industry has made, as I'm  
9 sure some of you here have also. From the 50 years back  
10 that I can remember actually working in the oil field to  
11 today, the improvements they've made have been  
12 astronomical. That's just all there is to it. And the  
13 folks that live there, in our country, don't want to  
14 breathe bad air, just as you and I do.

15 So my concern with some of the standards that we  
16 set, are they going to at some point get so low that we  
17 absolutely cannot attain them? That's the thing that I  
18 think we need to look at and to be careful that we don't  
19 set things in such a way that we're just -- we're history,  
20 so to speak. We cannot attain those things.

21 So as we go along -- and I'm not too -- I'm not  
22 too sure what OOOO was. Actually, I was looking for it to  
23 be spelled out before I realized we were talking about four  
24 zeros with a little A after it. That's how used to it I  
25 am. I'm hunting it. And I don't even know what all of

1 what 0000(a) says. I'm sure there's pages of it that  
2 explains what it's all about somewhere.

3           Having said that, I guess this staff is  
4 recommending that, probably I'm going to go along with it,  
5 but I thought I just had to say something about the Upper  
6 Green and the snowfall that either can or cannot accumulate  
7 there, and the nonsources like, you know, you can get up  
8 some morning where I live, and it's as clear blue as you  
9 can imagine. By afternoon, you see something coming from  
10 the south, which is not from the gas field, by the way.  
11 It's coming a lot further than that from the Denvers or  
12 from the Salt Lake Cities. So we have that come in also on  
13 occasion. And I don't know if that's all monitored or if  
14 we have to just take that on as part of our liability, if  
15 you would.

16           So those kind of things all need to be taken into  
17 consideration, obviously, before you point a finger at  
18 Upper Green as being the bad guy or the good guy, whichever  
19 the case may be. There you go. Thank you.

20           MS. VEHR: Thank you for that input. And  
21 those are all considerations that we, as a division, go  
22 through as we evaluate -- evaluate issues. And some of it  
23 are known. Some of it's still evolving science. And some  
24 of it is taking into, I'll say, consideration of the  
25 measures that we put in place. So those strategies we come



1 up with, the companies do, the communities do. And all of  
2 those are factored in. So thank you for those comments.

3 And do I have to say, when I first heard quad --  
4 I knew NSPS, and I knew that it meant letters. But when I  
5 spelled it out for presentations, I spelled it Q-U-A-D-A-Y.  
6 So I'm right with you.

7 MR. LETEFF: And my apologies for that. I  
8 should have spelled out.

9 BOARD MEMBER VICKREY: Not, that's fine.  
10 Just my --

11 MR. LETEFF: And, you know, I do make notes  
12 for myself as well, that I actually put "quad" with an "O"  
13 so I know to say it rather than --

14 MS. VEHR: When they get into above, what,  
15 nine -- I don't even know what that -- how you say that  
16 one.

17 MR. LETEFF: I think some go high as seven.  
18 Seven or eight.

19 MS. VEHR: Yeah. So they still got to go  
20 through the alphabet a couple more times and then they'll  
21 switch probably how they label these.

22 Did you have more --

23 MS. POTTS: TTTT.

24 MR. LETEFF: No. That was it for OOOO(a),  
25 four O's, little A.

1           Now we'll be moving on to NSPS TTTT, unless there  
2 are any further comments about AAAA -- OOOO(a).

3           All right. So NSPS TTTT is the third and final  
4 NSPS that we'll be planning to incorporate. And that is  
5 the NSPS TTTT is the standard performance for greenhouse  
6 gas emissions for new, modified and reconstructed  
7 stationary sources, electric utility generating units.

8           What this essentially means is these are  
9 standards for power plants. So power plants that use  
10 fossil fuels as their source for generating electricity.  
11 The Division, as with the other NSPS, was planning to adopt  
12 TTTT from the October 23, 2015 Federal Register citation.  
13 But as with this one, with the board's recommendation, we  
14 will instead incorporate it from the Code of Federal  
15 Regulations.

16           TTTT became effective October 23, 2015, the same  
17 date it was posted to the Federal Register. And TTTT  
18 establishes limits on greenhouse gas emissions,  
19 specifically carbon dioxide from new, modified and  
20 reconstructed electric utility generating units and  
21 stationary combustion turbines that use fossil fuels.

22           TTTT applies to units that commenced construction  
23 after January 8, 2014. And units that were modified or  
24 reconstructed after June 18, 2014. And that completes the  
25 updates to NSPS Section 2, Chapter 5. And we'll open it up

1 to questions for TTTT, if there are any.

2 CHAIRMAN BROWN: How many power plants do  
3 we have in the state of Wyoming?

4 MR. LETEFF: That I don't know. I'd have  
5 to find out.

6 Amber, do we know?

7 We'll go see one today.

8 MS. POTTS: I'm not sure how many  
9 Gillette -- are in the Gillette generating. There's that  
10 area. Dry Fork is the newest.

11 MS. VEHR: The Jim Bridger -- you've got  
12 plants and then you've units at those plants. So you've --  
13 depends how you count the thing. You've got the Jim  
14 Bridger. You've got the Naughton. You've got the Wyodak  
15 complex.

16 MS. POTTS: Dave Johnston.

17 MS. VEHR: Dave Johnston.

18 MS. POTTS: Laramie River and then Cheyenne  
19 Prairie.

20 MS. VEHR: Is the gas one.

21 CHAIRMAN BROWN: I was just wondering how  
22 many --

23 MS. VEHR: WyGen. Yes, so the Wyodak,  
24 WyGen.

25 CHAIRMAN BROWN: It's substantial.

1 that's -- I was just -- it was for my own benefit to know.

2 MR. LETEFF: I've been wondering that  
3 myself. I'll find out for the next board meeting.

4 CHAIRMAN BROWN: I was just -- it was just  
5 a question that --

6 MS. VEHR: There have been two that were  
7 shut down. Osage and -- I can't remember the second one.  
8 And that was I want to say about a year or two ago, maybe a  
9 little bit longer.

10 MS. POTTS: Neil Simpson 1.

11 MS. VEHR: Neil Simpson 1? Okay.

12 CHAIRMAN BROWN: Any questions from the  
13 board?

14 BOARD MEMBER HEYNEMAN: Have there been  
15 unsupportive comments regarding these changes from  
16 industry?

17 MS. POTTS: No. We've not received any  
18 comments. Comment period did close at noon today. So if I  
19 did get anything this morning, I will certainly pass that  
20 along to the board, and we'll work up a comment -- or a  
21 response to comments for you.

22 BOARD MEMBER HEYNEMAN: Okay.

23 MR. LETEFF: Unless there's no further  
24 comments or -- we'll move --

25 CHAIRMAN BROWN: Are there any public

1 comments? That was all on OOOO(a).

2 MR. LETEFF: That's the big one.

3 CHAIRMAN BROWN: Okay.

4 MR. LETEFF: All right. So the final  
5 updates to Chapter 5 are mainly administrative and deal  
6 with, as Mike spoke about before, the incorporation by  
7 reference section on page 5-46. And we're updating that to  
8 bring the published as of date up through July 1, 2015 for  
9 CFRs incorporated into the chapter, though I don't know --

10 Amber, would that date change if we did not from  
11 the CFR with their recommendation? I wasn't sure.

12 And we're also updating Section 4(b), which has  
13 been updated to bring the published as of date for the  
14 American Society for Testing and Material Standards  
15 incorporating by reference for Chapter 5 up to July 1, 2015  
16 as well. And we're also making changes to the division  
17 websites to give the correct URL for those.

18 And with that, that completes the updates to  
19 Chapter 5. And unless there are any further comments, I  
20 will turn it back over to Mike to finish the updates.

21 CHAIRMAN BROWN: Go ahead.

22 MR. MORRIS: All right. Thank you.

23 So we will backtrack to Chapter 2, Section 6.  
24 And remainder of these rule updates, I'll add, are pretty,  
25 I suppose, minor revisions in nature.

1           In Chapter 2, Section 6, ambient standards for  
2 ozone, we are updating A and B of this section to  
3 incorporate the new federal ozone standard for the primary  
4 and secondary ozone NAAQS. And so this is, again, just  
5 pulling in the new federal standard from 2015 into our  
6 state regs.

7           And that's essentially the nature of that update.  
8 And so are there any questions? I'll move on.

9           We'll move on, then, to Chapter 3, Section 3.  
10 And so in Chapter 3, general emission standards, Section 3,  
11 emission standards for nitrogen oxides, we have a revision  
12 that you'll see on page 3-8. And this revision corrects an  
13 inconsistency regarding internal combustion engines that  
14 was pointed out by our Title V program. So if you look at  
15 Section 3(a), (i) through (vii), all of those provisions  
16 refer to "fuel-burning equipment." However, in (viii), we  
17 have provisions for an internal combustion engine with no  
18 reference to fuel-burning equipment.

19           In Chapter 1, Section 3 of the Wyoming Air  
20 Quality Standards and Regulations, which is definitions.  
21 So in Chapter 1, fuel-burning equipment is defined as "Any  
22 furnace, boiler, apparatus, stack or appurtenances thereto  
23 used in the process of burning fuel or other combustible  
24 material for purpose of producing heat or power by indirect  
25 heat transfer." And so, by definition, internal combustion

1 engine is not considered fuel burning equipment. And so  
2 we're just removing this provision because none of the  
3 other provisions in Section 3(a) are applicable to internal  
4 combustion engines anyhow. So this just corrects that  
5 inconsistency by removing (viii).

6 And so if there are any questions at this time.

7 CHAIRMAN BROWN: No.

8 MR. MORRIS: Okay. We'll move on to one  
9 other nonsubstantial change, then. And this is Chapter 6,  
10 Section 3, and Chapter 7, Section 3.

11 In those sections, we have a revision to the  
12 definition of major source. And in here we are updating  
13 our regulations to reflect Supreme Court decision in  
14 Utility Air Regulatory Group versus the EPA, which was  
15 decided on June 23, 2014.

16 BOARD MEMBER HEYNEMAN: Which page are you  
17 on?

18 MR. MORRIS: Sorry. I believe that is  
19 on -- take a look at Chapter 7, I guess.

20 MS. POTTS: Chapter 7.

21 MR. MORRIS: Yeah. So it's in 6 and 7,  
22 Section 3 of both. And this is on -- in Chapter 7, it is  
23 7-6.

24 BOARD MEMBER VICKREY: You've jumped ahead  
25 to 7 from 6?

1                   MR. MORRIS: Sorry. I just grabbed  
2 Chapter 7 first.

3                   BOARD MEMBER HULME: 6-16, I believe.

4                   MR. MORRIS: I believe so, yeah. Yep. So  
5 6-16 and 7-6.

6                   And this is the same revision to both sections.  
7 Again, these -- this revision reflects a supreme court  
8 decision that was decided on June 23, 2014. And the  
9 outcome of this decision found the EPA did not have the  
10 authority to regulate greenhouse gases separately as an air  
11 pollutant, and as such, we removed greenhouse gas related  
12 provisions from the definition of major source so our  
13 regulations are in line with the supreme court's decision.

14                  And so if there are any questions at this time?

15                  CHAIRMAN BROWN: Any questions from the  
16 board?

17                  MR. MORRIS: Okay.

18                  CHAIRMAN BROWN: Okay.

19                  MR. MORRIS: One last set of updates. And  
20 this solely pertains to contact information that's updated  
21 in Chapter 3, Section 9; Chapter 4, Section 6; and Chapter  
22 11, Section 2. We updated our website URL once again in  
23 all these sections because the website had changed since  
24 those chapters were last updated.

25                  So -- and that concludes all of the updates in



1 this rule package that we brought before you today.

2 MS. VEHR: And this is Nancy. One of  
3 the -- I just -- for expediency, instead of asking for a  
4 timeout, if I can ask for the board's indulgence just to  
5 follow up on a question that Rob -- a point that Rob had  
6 raised on the CFR updates.

7 We reference 2015 in our CFR updates. And so if  
8 we're going to incorporate Code -- excuse me, Federal  
9 Registers that were published in 2016, our Code of Federal  
10 Regulation update would move forward to 2016. And so that  
11 would be, I think, consistent with what Rob is recommending  
12 that if the board would want to recommend the incorporation  
13 by reference of those Federal Register cites to the Code of  
14 Federal Regulations cites, one of the corresponding  
15 additional recommendations that the board would need to  
16 make would also be to update our Code of Federal Regulation  
17 reference from 2015 to 2016.

18 So right now our updates reference 2015, but with  
19 those additional Federal Register cites, that would be a  
20 2016 Code of Federal Regulations.

21 CHAIRMAN BROWN: That will be a mouthful  
22 when we do it.

23 BOARD MEMBER HULME: Trying to take notes  
24 how to word it.

25 MS. VEHR: There's certainly -- in terms of

1 substance, the Federal Register changes that we've  
2 referenced for the -- those specific Federal Register  
3 pieces, the board can certainly say we would like to have  
4 the Code of Federal Regulations be the 2015, and still do  
5 those incorporation by reference of those specific  
6 provisions from the Federal Register of 2016, what we would  
7 do then from a practical standpoint, it's the same  
8 implementation of those particular rule provisions. We  
9 would just come back through it our next update and make  
10 the update then. So it can be whatever the board's  
11 pleasure is in terms of recommending moving these forward.

12           There will be additional public comment period,  
13 if the board recommends these to go forward. And so if  
14 we -- if the board recommends keep it this way, we can  
15 certainly move forward and present to the council a -- you  
16 can do it either way. We can put out -- if the board wants  
17 us to put out both options, we can do that. If we want to  
18 make a recommendation for streamlining and ease of public  
19 use, that they can just go to one Code of Federal  
20 Regulations volume, the newer one, which is the 2016 one,  
21 you can do it that way too.

22           Substantively, it will have no practical effect.  
23 We're implementing the same rules. It's just what volume  
24 someone goes to pull off the shelf to find the regulation  
25 we're referencing.

1 CHAIRMAN BROWN: Get the verbiage right and  
2 make it easier for someone to actually do that.

3 BOARD MEMBER HEYNEMAN: Streamlining sounds  
4 good.

5 BOARD MEMBER HULME: Yeah.

6 CHAIRMAN BROWN: I want to make sure we say  
7 it right to make a motion so we can get it on the record  
8 properly.

9 MS. VEHR: You can certainly make a motion  
10 to -- to update all of our Federal Register citations to  
11 the corresponding Code of Federal Regulations. Update all  
12 of our Federal Register citations to the corresponding Code  
13 of Federal Register citations -- regulation, excuse me.  
14 That's too many Rs. Code of Federal Regulation, CFR  
15 citation.

16 CHAIRMAN BROWN: Citation, yes. Okay.

17 MS. VEHR: And you can also make the  
18 corresponding update from 2015 to 2016 Code of Federal  
19 Regulations citations, CFR.

20 CHAIRMAN BROWN: Corresponding CFR?

21 MS. VEHR: Yep.

22 CHAIRMAN BROWN: Corresponding 2015 CFR.

23 MS. VEHR: Update to 2016.

24 CHAIRMAN BROWN: Okay.

25 MS. VEHR: And then what we would do from

1 that point, then, if that's the board -- when you take  
2 action, if that would be your recommendation, we would go  
3 back through these rules, make those updates, then when we  
4 move it to the Environmental Quality Council, it would have  
5 those updates incorporated in it.

6 CHAIRMAN BROWN: So all we're talking about  
7 are dates. The substance, like you're saying --

8 BOARD MEMBER HULME: Right. It's not  
9 changing.

10 CHAIRMAN BROWN: -- we're not affecting any  
11 kind of regulation. We just need to make it easier for  
12 everybody involved --

13 MS. VEHR: Yep. Yep.

14 CHAIRMAN BROWN: -- I think.

15 So is there any comments from the public?

16 MS. VEHR: That's pretty technical one.

17 CHAIRMAN BROWN: Put this before the board.

18 BOARD MEMBER HEYNEMAN: If you have the  
19 language, I'm happy to make that motion.

20 CHAIRMAN BROWN: I think it's a two-part  
21 motion.

22 BOARD MEMBER HULME: Need to do all this  
23 too.

24 CHAIRMAN BROWN: But we can incorporate all  
25 these into this motion.

1 BOARD MEMBER HULME: Right.

2 BOARD MEMBER HEYNEMAN: As presented.

3 BOARD MEMBER HULME: Yeah. Pretty much.

4 CHAIRMAN BROWN: It's the two stars on the  
5 bottom, but --

6 BOARD MEMBER HEYNEMAN: All right. So I  
7 will --

8 CHAIRMAN BROWN: I can't make a motion.

9 BOARD MEMBER HULME: That's right. You  
10 can't.

11 BOARD MEMBER HEYNEMAN: I will move to  
12 update all the Federal Register citations to the  
13 corresponding CFR citations and corresponding 2015 CFR  
14 updates to 2016 CFR, as well as the proposed changes on the  
15 agenda as proposed.

16 CHAIRMAN BROWN: Incorporation by reference  
17 for the rest of the proposal?

18 BOARD MEMBER HEYNEMAN: Yes, sir.

19 BOARD MEMBER HULME: Second.

20 BOARD MEMBER VICKREY: Could you repeat  
21 that, please? I'm sorry. I just had to after that comment  
22 about me being 90.

23 CHAIRMAN BROWN: Where's my notes?

24 Okay. So there's been a motion and a second to  
25 update all the federal regulation -- Federal Register

1 citations to the corresponding CFR citations, and  
2 corresponding 2015 CFR updates to 2016 CFR. And also the  
3 remaining incorporation by reference that we discussed.

4 All in favor?

5 BOARD MEMBER HEYNEMAN: Aye.

6 BOARD MEMBER HULME: Aye.

7 BOARD MEMBER VICKREY: Aye.

8 CHAIRMAN BROWN: Those opposed?

9 The ayes have it.

10 Recommend moving this forward to the  
11 Environmental Quality Council.

12 MS. VEHR: Thank you.

13 CHAIRMAN BROWN: All right. So what --  
14 next -- my thing's -- I --

15 MS. VEHR: Next would be to schedule the  
16 next meeting.

17 And, Amber, I don't know if you've had any --

18 MS. POTTS: If it's at the board's  
19 pleasure, we can do the doodle poll --

20 CHAIRMAN BROWN: Let's do the doodle poll.

21 MS. POTTS: -- and see for the fourth  
22 quarter of 2016 meeting.

23 CHAIRMAN BROWN: Okay. So what else have  
24 we got left on here? I guess we did do the Chapter 7.

25 MS. VEHR: Yep. You incorporated all the

1 other recommended changes.

2 CHAIRMAN BROWN: All right.

3 MS. VEHR: And that concludes what  
4 presentation we had, unless the board has any questions on  
5 any other matters we didn't bring before you. We'll come  
6 back with some additional information in terms of the power  
7 plants for the next meeting. And we'll look through the  
8 notes that Kathy's taking to make sure if there were other  
9 items we bring back before the board for -- that people had  
10 questions on, we've addressed all those and covered those.

11 If there's additional items in the meantime that  
12 come up, you can reach out to any of us. Or if you want  
13 something on the agenda, working through Tim and getting it  
14 on there, if you come up with ideas that you'd like  
15 Elizabeth to do presentations on, happy to do that as well.

16 BOARD MEMBER HEYNEMAN: We talked about  
17 this. I hope it not a tremendous amount of research, but  
18 be interested to know what -- the applications that you're  
19 dealing with.

20 MS. VEHR: Yep. We'll break those out.

21 BOARD MEMBER HEYNEMAN: That would be  
22 really interesting.

23 MS. VEHR: Yep. We'll certainly do that.

24 CHAIRMAN BROWN: Any other comments,  
25 concerns?

1 BOARD MEMBER HULME: I move to adjourn.

2 BOARD MEMBER VICKREY: Second.

3 CHAIRMAN BROWN: Moved and seconded. We're  
4 now adjourned. Thank you, everybody, for your time and  
5 your help and your hard work.

6 (Meeting proceedings concluded  
7 12:30 p.m., September 8, 2016.)

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C E R T I F I C A T E

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

Dated this 3rd day of October, 2016.

  
KATHY J. KENDRICK  
Registered Professional Reporter

