WYOMING AIR QUALITY ADVISORY BOARD

TRANSCRIPT OF MEETING PROCEEDINGS

Pursuant to notice duly given to all parties in interest, this matter came on for meeting on the 22nd day of April, 2014, at the hour of 9:02 a.m., at the Energy Innovation Center, University of Wyoming, BP Collaboration Center, Room 209, 1020 E. Lewis Street, Laramie, Wyoming before the Wyoming Air Quality Advisory Board, Mr. Timothy Brown, Chairman, presiding, with Ms. Diana G. Hulme, Mr. J. D. Wasserburger, Mr. Brian Boner and Mr. Klaus D. Hanson, Ph.D. in attendance.

Mr. Steve Dietrich, Air Quality Administrator; Ms. Jeni Cederle, Ms. Cara Keslar, Ms. Darla Potter and Mr. Cole Anderson of the Air Quality Division; and Mr. Jeremiah Williamson, Senior Assistant Attorney General, were also in attendance.

I N D E X

P R O C E E D I N G S

(Meeting proceedings commenced 9:02 a.m., April 22, 2014.)

CHAIRMAN BROWN: Okay. Let's call this meeting to order. And first thing we want to do is we have introductions that we need to have, and I thought maybe we'd just start around the table.

MR. DIETRICH: Okay. My name is Steve Dietrich, Air Quality Administrator for the Department of Environmental Quality.

BOARD MEMBER WASSERBURGER: J. D. Wasserburger from Lusk, Air Quality Board Advisory Board.

BOARD MEMBER HULME: Diane Hulme. I'm here in Laramie with the Air Quality Advisory Board.

BOARD MEMBER BONER: Brian Boner. I'm from Douglas. I'm also with the Advisory Board.

CHAIRMAN BROWN: Tim Brown, Green River, Wyoming for the Advisory Board.

BOARD MEMBER HANSON: And he's the chair too.

CHAIRMAN BROWN: Acting chair.

BOARD MEMBER HANSON: Klaus Hanson from Laramie.

CHAIRMAN BROWN: And go ahead.

MR. ANDERSON: Oh. Cole --

CHAIRMAN BROWN: Let's hit all the State folks, please.

MR. ANDERSON: That's fine. Cole Anderson. I'm with the Wyoming Air Quality Division. I'm the New Source Review Program Manager.

MS. CEDERLE: Jeni Cederle, with Air Quality Division. I'm the SIP and Rule Development Section Rule Supervisor.

MS. POTTER: I'm Darla Potter. I'm the Air Quality Resource Program Manager from Cheyenne.

MS. KESLAR: Cara Keslar. I'm the Monitoring Section Supervisor with the Air Quality Division.

MR. WILLIAMSON: Mr. Chair. My name is Jeremiah Williamson. I'm with the Attorney General's Office. I represent the Division.

CHAIRMAN BROWN: Okay. Next on the agenda, discussion of the Division and Board responsibilities.

Steve.

MR. DIETRICH: Yes. We've got, the first time in a long time, a full board all in attendance today, and I want to applaud that. That's great.

But the -- you know, the -- maybe once -- I don't know what all you want to cover here today other than to say that we do have to talk about what each of you guys

fulfill as a board member.

I know you've been acting as the chair. One of the things we're going to cover today is if you want to elect a new chairperson.

I do know that we are required -- what we try to achieve to do is to meet at least quarterly. And for the most part we've done that, with some exceptions. We are recommended to -- you're an Advisory Board to DEQ. You help us make decisions. You advise us on things that maybe we need to discuss further. Those are the kinds of duties that, from a general sense, I expect you guys to be able to fulfill.

Now, if there's -- if there's other questions or other uncertainties we can discuss those, but for the most part, you're helping us, the Air Quality Division, do its duties to protect air quality. Most of the time that involves just reviewing, modifying or creating new regulations to help us do that. But there are other activities that are extraneous to that that we try to make you guys aware of. Everything from the work we do, from a data gathering to a scientific perspective on some of the rules that we have to create or change.

Most of the time the regulation changes that we go through are pretty straightforward. They're an attempt to maintain the primacy that we have -- have had with EPA

to regulate under the Clean Air Act. You guys, as members, help us do that.

If there's ever a time that -- I just want to throw this out there. If there's ever a time you guys want us to consider other alternatives or other ideas or other subjects, for that matter, feel free to share that with us. We'll work it into these types of meetings, or, if necessary, we could have separate meetings to go into things in more detail.

What I'm trying to say is we have some flexibility here in that we're not as rigid as a -- as a -- as an Environmental Quality Council and how they function, but you're equally important in the role you guys fulfill.

So I kind of paraphrased what I thought your duties are. Are there any questions from anyone that we need to discuss further?

CHAIRMAN BROWN: No, no question.

MR. DIETRICH: Okay. Because we are now at the -- at the full staff, you guys might want to -- I don't know, Brian, you want to say a few words, since you're the newest member to the Air Quality Advisory Board. You want to share with us your prior experiences before becoming Air Quality Advisory Board member?

BOARD MEMBER BONER: Like I said, my name is Brian Boner. I'm from Douglas, and I'm a rancher up

there. So certainly have that experience in a general sense dealing with energy companies wanting to develop resources on our land. I also spent six years as a nuclear launch officer in the Air Force. You might ask yourself what that has to do with ranching or air quality stuff. Not much is the answer, but actually the last job I had was making safety policy for our nuclear deterrent -- deterrent. So I have a general understanding of making policy and taking higher guidance and sort of translating it to something that's useful to people. I actually had to implement that policy, so hopefully that could come in handy in a very, very general sense.

So I'm looking forward to helping out here on this board, and look forward to working with all of you.

MR. DIETRICH: I'll turn it over to you.

CHAIRMAN BROWN: Okay. Next order of business is election of officers. Do we have any discussion on election of officers?

BOARD MEMBER HANSON: Can we make nominations, Mr. Chair?

CHAIRMAN BROWN: Yes, you can make nominations.

BOARD MEMBER HANSON: I would like to nominate you as the chair.

BOARD MEMBER HULME: Second.

CHAIRMAN BROWN: Okay. Moved and seconded. And does this -- is this another year? Are we going to do them yearly? How do we want --

MR. DIETRICH: I think it's up to you guys how you want to do that, but I would recommend nothing less than a year.

CHAIRMAN BROWN: Okay. All right. Any other comments or --

BOARD MEMBER WASSERBURGER: I move the nomination --

THE REPORTER: I'm sorry. I can't hear you.

BOARD MEMBER WASSERBURGER: I move the nominations cease and unanimous ballot be cast for Tim Brown.

CHAIRMAN BROWN: Any dissenting?

BOARD MEMBER HULME: Second.

CHAIRMAN BROWN: Okay. So moved and seconded. I'll be the --

BOARD MEMBER HANSON: The chair.

CHAIRMAN BROWN: I'll be the chair for the foreseeable future.

MR. DIETRICH: No longer an acting chair.

CHAIRMAN BROWN: Okay. Any other

discussion on this?

Okay. Next is approval of meeting minutes from September 24th meeting. Any discussion on the minutes?

BOARD MEMBER HANSON: Move to approve.

BOARD MEMBER HULME: Second.

CHAIRMAN BROWN: Okay. It's been moved and approved, seconded.

Moved to approve the meeting minutes from September 24th.

MS. CEDERLE: Chairman Brown, could I interrupt?

CHAIRMAN BROWN: Yes, ma'am.

MS. CEDERLE: Could we go ahead and elect a vice chair in the instance you would be unavailable?

CHAIRMAN BROWN: Sure. We can do that.

MR. DIETRICH: Good idea.

CHAIRMAN BROWN: Any nomination for vice chair?

BOARD MEMBER WASSERBURGER: I nominate Diane.

BOARD MEMBER BONER: Second.

BOARD MEMBER HANSON: I would second it.

CHAIRMAN BROWN: It's been moved and seconded. Diane Hulme is the vice chair.

Okay. Back to approval of meeting minutes. So

we've got that taken care of.

Next on the agenda, Old Business, Staff Activity.

MR. DIETRICH: Yes, this is -- I'll talk to you guys a little bit about the hiring status. You know, the Air Quality Division statewide is around 69, 70 staff. There's a number of vacancies that we've been trying to fill the last year. We've been making pretty good headway on that. I think this time last year January -- a couple Januarys ago we had about 13 vacancies.

So what we have now is currently we have four vacancies that we can fill. There's one that we can't, because it's one of the positions that -- because of the budget requirements we're not filling that position. And it was -- I can briefly tell you what those are.

Currently there's a vacant position in the Pinedale area. We usually have two inspectors there. We have one there right now. Jamie Brewer is there. And Brian -- Brandi O'Brien that used to be there has now become a permit writer, and she's now in Cheyenne. So her vacancy there is one we're working on filling. And then we'll be at full staff there at Pinedale.

We have another vacancy in the monitoring group. It's a time-limited position that we're trying to fill. Unless we got any more news on that one, Cara -- that one's still vacant, right?

MS. KESLAR: It's still vacant. It closed yesterday.

MR. DIETRICH: Oh, okay. So that position is in process. And then we have another position that's vacant. Jeni alluded to the fact that she is now in Tina Anderson's old position. So she now has a vacant position to fill, which was her old position, in writing regs and state implementation plans. So that one's in process.

And we just learned a little while ago that Brian Mark, who is one of our permit writers under Cole, he came to us from the Air Quality -- I mean, the Water Quality Division. Came to work with us for about a year, maybe?

MR. ANDERSON: About a year and a half, yep.

MR. DIETRICH: Year and a half. So now he's going back to Water, so there's a vacancy to fill.

And then Mr. Don Watzel is leaving us as of May 1st. He also works for Cole. He's one of our modeling staff that also writes permits. So he's going on to work in consulting world, I believe. Right?

And then we have a position that we call frozen, one we can't fill. It's still in permitting -- it's actually in the Title V section. It's one of four or five positions the DEQ cannot fill because of the cap that has

been put in place. And that's related to budget and what the governor has wanted us to do.

And I believe that's all the vacancies that I know about in the current time. So they've run few and -- one or two there in permitting -- three, actually, in permitting. And then one in inspections, and one in the monitoring group. So it's a lot better than it was a year ago.

Okay. That's all I have for you there.

CHAIRMAN BROWN: Okay. Next, Enforcement and Litigation Activities Report.

MR. WILLIAMSON: Thank you, Mr. Chairman, for having the opportunity to appear before you today and provide you with a brief overview of the federal Air Quality litigation of which the State of Wyoming's a participant.

Before I do that, I'd like to apologize on the behalf of my office for not being able to appear at any previous meetings over the last nine months. We've been operating on a bit of a shoestring staff for that period, but we're now coming back to full staff and hopefully have regular presence at these meetings.

Right now Wyoming's involved in, oh, roughly a dozen federal air quality cases that can be grouped at about six different categories. I'll walk through each of

those briefly today. If you have any interest in them in particular, feel free to ask questions.

First and foremost is regional haze. Wyoming's involved in four different cases involving regional haze, about to be involved in a fifth. In the first, nongovernmental organizations challenged EPA's approval of Wyoming's multi-state sulfur dioxide backstop trading program. That case has been fully briefed and argued in the Tenth Circuit. We should have a decision on it within the next six to maybe nine months.

In the second case, Wyoming challenged EPA's disapproval of the State's plan for particulate matter and nitrogen oxides. And that's working its way through the litigation process, although in the early stages right now.

Third that relates to Wyoming specific plans, nongovernmental organizations challenged EPA's partial approval of the particulate matter and NOx plan, and Wyoming will be participating in that as well.

The other two cases are on petitions for certiorari before the United States Supreme Court. Oklahoma and North Dakota are both seeking high court review of the regional haze plan decisions as well. And Wyoming, along with other states, submitted amicus brief supporting those petitions.

Moving on to greenhouse gas. Wyoming, at this

point, is involved in two different cases related to greenhouses. The first was the State's challenge to EPA's calling the state's plan when they first regulated greenhouses under the Prevention of Significant Deterioration Program. The D.C. circuit upheld the EPA's actions, but our case is stayed at the moment, pending disposition of a Supreme Court case, and also involving greenhouse gas regulation.

In the Supreme Court case, again, Wyoming, along with other states, submitted an amicus brief in support of petitioners. Relevant to greenhouse gas, as well, on the horizon are two different EPA rulemakings, new source performance and existing source performance standards. But those are still in the early works.

Third, just like many of you have heard in the news about the issues related to Riverton and the treatment of the state case, that case is also working its way through Tenth Circuit right now.

Fourth, we have two different cases we're participating in at the district court level. All the preceding ones I mentioned are working their way through the appellate courts. Both of these relate to EPA taking timely action on state plan submissions.

We're involved in one case, the WildEarth Guardians, brought in the District of Colorado related to

infrastructure plan for the one-hour NOx standard. And we also brought our own case here in the District of Wyoming for EPA's failure to take action on the State's Nonattainment of New Source Review plan.

Fifth, we have the cross-state air pollution rule, which, on its face, largely relates to the eastern states, but also involves issues applicable here in lap of Wyoming law and other states participated in that case.

Finally, we have utility Mercury and Air Toxics Standards, which the D.C. circuit upheld just recently. Wyoming was a party in that case as well. And I believe the parties are contemplating further action on that.

So that's all the federal Air Quality litigation in a nutshell, and be happy to provide any detail if you guys have any particular interests.

MR. BROWN: Is there any enforcement updates from your office?

MR. WILLIAMSON: Enforcement?

Jeni, did you compile those numbers?

MS. CEDERLE: No. I was unable to do that. Sorry.

MR. WILLIAMSON: Got it. I can speak, though, for the nine months or so that I've been temporarily in this position, we've been proceeding in a pretty typical fashion, with no shortage of NOV settlement

agreements and consent decrees.

CHAIRMAN BROWN: Thank you.

MR. WILLIAMSON: Thank you.

MR. DIETRICH: Just to add to that, I don't believe we have any Air Quality issues about to go before the Environmental Quality Council, any kind of appeals or anything of that nature, right?

MR. WILLIAMSON: Not at this point, no.

MR. DIETRICH: Okay.

CHAIRMAN BROWN: Any other questions or comments for litigation/enforcement report?

Okay. Next on the list is New Business, Rulemaking.

MS. CEDERLE: Good morning. My name is Jeni Cederle, and I'll be presenting the Air Quality Division's rule changes for the Board's approval today.

Besides some of the rules, some of the other topics that we'll be covering today include a five-year review of the Powder River Basin Natural Events Action Plan. Cara Keslar, the AQD monitoring section supervisor, will provide an overview of the action plan later on this morning.

Darla Potter, the Air Quality resource management -- program manager will bring us up to speed on all things ozone with an ozone update. And, finally, Cole

Anderson, manager of the New Source Review program, will provide information regarding greenhouse gas permitting.

So I'll go ahead and get started with the fun stuff now. We'll take a look at the rules. About a month ago our office sent out a rule packet to you, and we'll go ahead and start with Chapter 3, Section 9. But first of all, I'd just like to say that we'll be going through five different chapters of the Wyoming Air Quality Standards and regs. We'll be reviewing changes to Chapter 3, Section 9; Chapter 5, Sections 2, 3 and 4; Chapter 6, Sections 3, 4, and 14; Chapter 7, Section 3; and Chapter 11, Section 2.

Before we get started, I'd like to ask the Board's consideration on voting as we go through each chapter. I'd like to identify where we're asking for approval as I move through the chapters, but in the end, ask for you guys to consider voting after each chapter's presented. Would the Board be okay with doing that?

CHAIRMAN BROWN: Yes, I think that's a real good idea. We'll have discussion, too, before we move on.

MS. CEDERLE: Absolutely. Fantastic. Let's move on and get started with Chapter 3.

Chapter 3 deals with General Emissions Standards which established limits on the quantity, rate or concentration of air pollutants. We'll be focusing on Section 9 for an update to the incorporation by reference

or IBR section. And what this will end up doing is changing the definition of volatile organic compounds or VOCs.

First I'd like to explain a little bit about the incorporation by reference sections. This is where we update a reference to the Code of Federal Regulations, or the CFR, from year to year to keep our regulations up to date. Every time we cite the CFR in our rules, we need a mechanism to update the CFR reference through time as well.

Rather than cite the CFR at each incorporation within our regulations, we consolidate them in one place. And you'll see this in nearly every chapter of our Wyoming Air Quality Standards and regs.

This IBR is actually a really good example of that. The change to Chapter 3 is on 3-47 in Section 9. You'll see we're updating the CFR date from 2012 to 2013. And what this will do is update the definition of VOCs back on page 3-8. So if we turn back to page 3-8, there we have the definition of VOCs. You'll see that in the definition we refer back to the appropriate Code of Federal Regulations, and we let the reader know that that CFR reference has been incorporated by reference in Section 9, back on 3-47.

We do this to keep our regulations concise and aligned with the federal definition. And then we don't

have to reopen our regulations every time EPA decides to futz with the definition of VOCs, as they've done twice now. In this instance, EPA has either added or excluded chemical compounds to the definition of VOCs, and it's very long and complicated. So back in June of 2012, they excluded a compound to VOCs. In February of 2013, they added several compounds to the definition of VOCs. And when you go through the Code of Federal Regulations and take a look at how they write it, it's in column format to column format per page. And the definition of VOC is roughly two and a half columns long.

So updating it in this matter really helps keep our Wyoming regs concise and still aligned with the federal regulation. We're asking the Board to approve incorporating by reference the 2013 Code of Federal Regulations for Chapter 3, Section 9.

That will be it for Chapter 3. Are there any questions or comments?

BOARD MEMBER HANSON: Mr. Chair.

CHAIRMAN BROWN: Yes, sir.

BOARD MEMBER HANSON: Just a few questions.

I took the effort to read through this whole thing, even though it's old, and with the definitions, I hope that somebody knows the definitions that are listed at the beginning, because I had trouble with some of them.

For example, a definition of strip. Strip means -- this is on page 13, 3-13. Strip means to take off RACM -- which I also didn't know -- from any part of a facility or facility components. You could have -- well have written this in Hebrew or Chinese. I have no idea what it means. I hope the people who are involved do know what it means. Do you know what it means?

CHAIRMAN BROWN: I know, yes.

BOARD MEMBER HANSON: Yeah. Okay. Then I --

CHAIRMAN BROWN: I know the vernacular of Air Quality from the meetings.

BOARD MEMBER HANSON: Okay.

CHAIRMAN BROWN: Any other questions for Jeni on this one?

MS. CEDERLE: Cole Anderson would be able to address Klaus's --

BOARD MEMBER HANSON: Yeah.

MR. ANDERSON: Okay. So -- Cole Anderson.

BOARD MEMBER HANSON: Yeah.

MR. ANDERSON: I'll try to attempt to answer your question.

BOARD MEMBER HANSON: Sure.

MR. ANDERSON: So when we're talking about strip in this case, a lot of these definitions apply to

types of activities, and mining activities is one of those where we're looking at it, and it's a term defined in context of mining activities.

BOARD MEMBER HANSON: So what does RACM mean?

MR. ANDERSON: I'm trying to think off the top of my head. I apologize here.

MR. DIETRICH: Regulated asbestos-containing material.

BOARD MEMBER HANSON: Oh, okay.

BOARD MEMBER HULME: Page 3-12.

MR. DIETRICH: The page before.

MR. ANDERSON: Oh, okay. I guess in this case -- I'm sorry, I'm used to strip in the terms of mining, but it can also be applied to other programs, like asbestos.

BOARD MEMBER HANSON: I can see it's on the previous page.

MR. ANDERSON: Okay.

BOARD MEMBER HANSON: And I sometimes miss a cross-reference. Thank you.

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

CHAIRMAN BROWN: Any questions, comments from the public relative to this?

BOARD MEMBER WASSERBURGER: Mr. Chairman, I move that we adopt language in Section 9, Chapter 3, as presented by staff.

BOARD MEMBER HULME: Second.

CHAIRMAN BROWN: It's been moved and seconded to adopt the language in Chapter 3, Section 9, incorporation by reference. All in favor?

BOARD MEMBER WASSERBURGER: Aye.

BOARD MEMBER HULME: Aye.

BOARD MEMBER BONER: Aye.

BOARD MEMBER HANSON: Aye.

CHAIRMAN BROWN: All opposed?

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

MS. CEDERLE: Chapter 5 is where we house the New Source Performance Standards, or NSPS, and National Emission Standards for Hazardous Air Pollutants, or NESHAP. These are regulations that are required on specific source sectors identified by the EPA and required all over the country.

We adopt these regulations to maintain enforcement authority. Most industries in the state prefer that the State of Wyoming implement the regulations versus EPA.

Chapter 5, Section 2, NSPS, is required by the

Clean Air Act, Section 111, and are issued for categories of sources which cause or contribute significantly to air pollution, which may reasonably be anticipated to endanger public health or welfare.

Starting on page 5-2, there is a change to Subpart Ec. On May 13, 2013, the EPA finalized changes to the standards of performance for hospital, medical, infectious waste incinerators, or HMIWIs. The title of this subpart is changing. We are removing the dates associated with the particular standards; however, the sources will still have to comply with the applicability dates laid out in the rule. EPA has only opted to remove the dates from the title. It's much easier in the long run if we stay on the same page as EPA when they make a change to a title like this.

The new standard identifies new HMIWIs as having commenced construction after December 1, 2008 or commenced a modification or reconstruction after April 6, 2010. Those are the applicability dates in the new NSPS.

Currently the State of Wyoming has only one operating HMIWI, the Wyoming Medical Center in Casper, Wyoming. That facility is still considered existing, and is well on target to meet the required emission limits by the compliance date of October 6th of this year, 2014.

We are seeking Board approval to the title

exchange to Subpart Ec in Chapter 5, Section 2.

BOARD MEMBER HANSON: So moved.

CHAIRMAN BROWN: Do you want to wait --

BOARD MEMBER HANSON: Oh, are we going to do the whole thing?

MS. CEDERLE: Yeah. That's where I'll point out what we're approving.

BOARD MEMBER HANSON: Fine.

MS. CEDERLE: Yes. That's fine. Great, Klaus. Thank you.

The next change on page 5-2 is the addition of a new subpart. Subpart Ga, our standards of performance for nitric acid plants constructed, reconstructed or modified after October 14, 2011. You'll notice that we've already adopted standards of performance for nitric acid plants. Subpart G above applies to nitric acid plants constructed or modified after August 17, 1971, and on or before the October 14, 2011 date.

This new NSPS revision includes a change to the emission limit for nitrogen oxides, or NOx. And some additional testing and monitoring requirements. As far as I know, at this time there are no facilities that will fall subject to this legislation. We are seeking Board approval to adopt Subpart Ga into Chapter 5, Section 2.

On page 5-3, towards the bottom of the page,

Subpart Y has been updated to reflect a change in the title of the NSPS. EPA added text that was for preparation and processing plants back in 2010. Not revising the title was an oversight on the Division's part, which we are correcting today. We are asking the Board to approve the addition of language to the title of Subpart Y in Chapter 5, Section 2.

Moving on to page 5-5. On page 5-5, we are addressing the first two subparts at the top of the page, KKK and LLL. A year ago from January we brought before you these two subparts. Tina Anderson was working for us then, and she explained to you that the subparts are very important because they deal with oil and gas. However, at the time we were unable to adopt the rules through the Code of Federal Regulations because they had not been published in the Code of Federal Regulations yet, and it comes down to the timing issue.

Because the final rule wasn't published in the Federal Register until August 16th of 2012, it was not rolled into the 2012 CFR. In that last rulemaking, the subparts were adopted by reference from the Federal Register final rule, the August date. The Federal Register is a periodical that the U.S. government puts out with all the proposed and final regulations, and then those are codified into the Code of Federal Regulations, but it's on

a tilted timetable.

All we've done here in the top of page 5-5 is add Subparts LLL and KKK to their proper place in Chapter 5. The regulations will be adopted by reference from the 2013 Code of Federal Regulations. We are asking the Board to approve incorporation by reference from the 2013 Code of Federal Regulations for Subparts KKK and LLL.

Moving down the page, the bottom of page 5-5, Subpart CCCC has changed. This subpart pertains to Standards of Performance for Commercial and Industrial Solid Waste Incinerators, or SISWI units.

The title of the subpart is changing. We are removing the dates associated with those particular standards. But, again, the dates aren't going away. Sources will still have to comply with the applicability dates laid out in the rule. EPA has just opted to remove the dates from the title. Again, it's a lot easier, moving forward in time, if we stay on the same page with EPA when they make a title change like this. We are asking the board to approve the title change to Subpart CCCC in Chapter 5, Section 2.

Moving on to page 5-6, from the middle of the page down. Last year we adopted Subparts KKK, LLL and OOOO. Due to the timing, the Division adopted each subpart by referencing the final rule as published in the Federal

Register. As we just covered earlier, KKK and LLL will now be adopted by reference from the 2013 CFR, because they were rolled into it, and we are asking the Board to approve removing the Federal Register language on this page pertaining to KKK and LLL in Chapter 5 in Section 2.

Also included at the bottom of the page, OOOO ended up going through a reconsideration process. The rule was finalized again last summer. So it wasn't captured in this 2013 CFR update. So to keep our adoption of OOOO up to date, the Division is asking the Board to approve revising the Federal Register reference to cite the most recent final rule as published in the Federal Register on August 23, 2013, in Chapter 5, Section 2.

It is expected that the subpart would be adopted by reference from the CFR the next time around. So next year I'll be in front of you hopefully adopting by the CFR and not another Federal Register notice, if it doesn't get reconsidered again.

That completes our NSPS, Chapter 5, Section 2 updates. We'll be moving on to Section 3 now, National Emission Standards for Hazardous Air Pollutants, or NESHAP. These are required under the Clean Air Act, Section 112, and we'll get started on page 5-39.

BOARD MEMBER HANSON: Mr. Chair.

CHAIRMAN BROWN: Klaus.

BOARD MEMBER HANSON: I note that two more changes on the last pages 46 and 47.

MR. DIETRICH: Yeah. Bottom of 5-6 there.

BOARD MEMBER HANSON: Oh, yeah. There were more. Page 40.

MS. CEDERLE: Page 40?

BOARD MEMBER HANSON: Yeah, page 39 is --

MS. CEDERLE: Okay. That's where we'll start with NESHAPS right now in Section 3.

BOARD MEMBER HANSON: Oh, you're still in --

MS. CEDERLE: I was closing out Section 2.

BOARD MEMBER HANSON: Okay. Sorry. You're still in Chapter 5.

MR. DIETRICH: Still in Chapter 5, yeah.

CHAIRMAN BROWN: Yeah.

BOARD MEMBER HANSON: Thank you.

MS. CEDERLE: So we'll go ahead and get started on page 5-39 in Chapter 5.

BOARD MEMBER HANSON: Uh-huh.

MS. CEDERLE: Chapter 5, Section 3 are National Emission Standards For Hazardous Air Pollutants or NESHAPs. These are required under the Clean Air Act Section 112. Hazardous air pollutants are defined as chemicals that can cause adverse effects on human health

and environment. Currently there are 186 hazardous air pollutants that are regulated under this section. We do provide a list of the 186 HAPs, and our Wyoming Air Quality Standards and Regs on page 5-41 to 5-45.

I'd like to let you know that we don't choose those air pollutants. The federal government does. And then what we do is it's referenced from the Federal Rules into our regs.

At the bottom of page 5-39, we are proposing to adopt by reference NESHAPs for major sources, industrial, commercial and institutional boilers and process heaters, Subpart DDDDD. I'll refer to this regulation as the boiler rule or DDDDD.

At a Board meeting held in 2012, we opted to remove this rule from our regulations. In the meeting we presented the complicated legal nature of the regulation, and I'm going to recap that for you now. DDDDD was previously incorporated into our state regulations. Wyoming had a regulation dating from 2004, adopted by reference from the Federal Register to hold the regulation at that point in time, while legal action after legal action occurred, taking place moving forward in time. Finally in March 2011, a new boiler rule was final and effective. But by December of 2011, it was under reconsideration.

It became a case of dueling regulations, which creates big problems trying to demonstrate compliance. At that time, Wyoming's best course of action was to remove the 2004 rule from our state regulations and not adopt the 2011 final rule that was under reconsideration.

The State opted to rely on the federal implementation of the rule until the reconsideration -- reconsideration was complete, and then we would adopt the reconsidered final rule into our regulations at a later date. Today is that later date. EPA finalized Subpart DDDDD on January 31, 2013, and we were seeking Board approval to adopt by incorporation by reference Subpart DDDDD in Chapter 5, Section 3.

Moving on to page 5-40. We are proposing to adopt Subpart JJJJJJ. NESHAPs for area source, industrial commercial and institutional boilers and process heaters. This adoption by reference keeps our regulations aligned with the Federal Rules providing consistency and clarity for industry. This allows us to maintain enforcement and implementation authority for the universe of boilers and process heaters, whether small or large.

The Division is seeking Board approval to adopt by incorporation by reference Subpart JJJJJJ into Chapter 5, Section 3.

At the bottom of page 5-40, and carried over to

page 5-41, we removed language that adopts by reference from the Federal Register Subpart HH and HHH. These subparts have been incorporated into the 2013 Code of Federal Regulations, and will be adopted by reference in that manner. The Division is requesting the Board to approve the removal of the Federal Register incorporation by reference language for Subparts HH and HHH in section -- in Chapter 5, Section 3.

That concludes proposed changes to NESHAPs in Section 3. We'll finish up with Section 4, incorporation by reference. At the bottom of page 5-46, and the top of page 5-47, this is where we update a reference to the CFR from 2012 to 2013, and just helps keep our regulations up to date. We are asking the Board to approve updating the incorporation by reference from the 2012 CFR to the 2013 CFR for Chapter 5, Section 4.

And that concludes the revisions to Chapter 5. Are there any questions or comments?

BOARD MEMBER HANSON: Yes, Mr. Chair. 5-40, what you removed there that seems to me to be important, so where is it going to show up from now on?

MS. CEDERLE: It shows up on 5-37 and 5-38. And what happened --

BOARD MEMBER HANSON: Uh-huh.

MS. CEDERLE: I should have pointed that

out to you.

BOARD MEMBER HANSON: Yeah.

MS. CEDERLE: When we went through and referenced them to the Federal Register in the last rulemaking, I believe -- there was an oversight. We should have pulled it from 5-37 and 5-38 to have it on 5-40 and 5-41. And then when it became -- got referenced through the Code of Federal Regulations, I should have told you it's in its rightful place now. We're removing the language later.

BOARD MEMBER HANSON: Okay.

MS. CEDERLE: Since it wasn't a change, I didn't cover it, but I should have pointed that out for you.

BOARD MEMBER HANSON: So it was listed double.

MS. CEDERLE: It was doubled.

BOARD MEMBER HANSON: Thank you. I just was concerned that it --

MS. CEDERLE: It was gone.

BOARD MEMBER HANSON: -- didn't disappear.

MS. CEDERLE: It's not gone.

BOARD MEMBER HANSON: Thank you.

MR. DIETRICH: Good question.

CHAIRMAN BROWN: Any comments from the

Board?

BOARD MEMBER HULME: Just a clarification. Why are they removing dates from some titles and adding them to others? Just any reason? Do you know any reason for that?

MS. CEDERLE: I do not have a reason for that. I was actually on the phone with EPA the other day going through some of this, and even the gal at Region 8 was like, oh, we did change that title, because they had sent me something with an old title on it, and I was preparing for this, and I was, "Oh, do you know your title is changing?" So, I'm sorry, I can't provide any clarification for you.

CHAIRMAN BROWN: Any comments from the public? Concerns? No comments?

BOARD MEMBER HULME: I have one other question.

CHAIRMAN BROWN: Okay.

BOARD MEMBER HULME: On page 5-3, the addition of the words for the coal preparation plant to add "and processing," what's -- what is that adding to -- what's processing in this instance? What is that adding to the prep?

MS. CEDERLE: That's a very good question I don't know the answer to.

Cole, would you by any chance?

MR. ANDERSON: Sure. So it's a clarification of what's already contained in Subpart Y. And I think what they're trying to get at is it's not just receiving coal through like a truck dump, which is certainly regulated under that. But it's also some of the crushing and screening activities that happen as they prepare the coal, size it, move it down --

BOARD MEMBER HULME: That wasn't already --

MR. ANDERSON: -- for eventual shipment or something.

BOARD MEMBER HULME: -- covered under prep before?

MR. ANDERSON: It was. Well, it was covered under the subpart.

BOARD MEMBER HULME: Right.

MR. ANDERSON: So they're just clarifying that in the title.

BOARD MEMBER HULME: It's just the title. It's not adding anything other than -- the title is all that's changing.

MR. ANDERSON: Right, nothing --

BOARD MEMBER HULME: This part is still --

MR. ANDERSON: Yeah, they're not changing performance levels or creating new points of regulations.

MR. DIETRICH: I think it's more of a clarification.

BOARD MEMBER HULME: Okay. All right. Thanks.

CHAIRMAN BROWN: Any other comments? Okay. Do we have a motion?

BOARD MEMBER HANSON: Move to adopt the changes.

BOARD MEMBER HULME: Second.

CHAIRMAN BROWN: Okay. It's been moved and seconded to adopt changes in Chapter 5, Section 2, Section 3, and Section 4. All in favor?

BOARD MEMBER WASSERBURGER: Aye.

BOARD MEMBER HULME: Aye.

BOARD MEMBER BONER: Aye.

CHAIRMAN BROWN: Okay. All the changes in Chapter 5, Section 2, 3 and 4 are approved.

So Chapter 6.

MS. CEDERLE: Chapter 6 is where we house our Air Quality permitting requirements. We'll be reviewing Section 3, operating permits; Section 4, the Prevention of Significant Deterioration Program; and Section 14, the incorporation by reference.

Starting with Section 3, on pages 6-19 and 6-20, and Section 4, page 6-59, as these are similar. We are

changing how we incorporate by reference the definition of carbon dioxide -- sorry, carbon dioxide equivalent emissions or CO2e.

The State of Wyoming is now the permitting authority for greenhouse gases. Doing this involves calculating CO2e in tons per year. CO2e is calculated using greenhouse gases such as methane and nitrogen oxides. And that gas's associated global warming potential, or GWP.

On November 29, 2013, EPA updated several of the Global Warming Potentials in a final rule. If the changes are not incorporated into our regulations, we run the risk of dueling results occurring in PSD applications. Or -- to illustrate that potential problem, it could be that an application may trigger PSD under state standards and not trigger PSD under federal standards, or vice versa.

Now, calculating CO2e is way above my pay scale, but it's very important to get the global warming potentials updated, so we had to figure out a way to do that.

On page 6-20 and 6-59, under the definition of CO2e, we strike out the language referencing the 2011 Code of Federal Regulations, and replace it with language referencing the final rule published in the November 29, 2013 Federal Register.

This is very much like what we just talked about

in Chapter 5 regarding the NSPS for LLL, KKK and OOOO, adopting by reference through the Federal Register allows us to incorporate the updated global warming potential necessary to calculate CO2e. This keeps the CO2e definition current and up to date, whereas if we relied completely on the Section 14 2013 incorporation by reference, we would not capture the change.

The final rule amending Global Warming Potential is not included in the published version of the 2013 CFR. It's important to the Division and state facilities that we have the permitting authority to clean up this inconsistency between our state and federal regulations.

We are asking the Board to approve removing the 2011 CFR incorporation by reference and replacing it with the most recent final rule, as published in the Federal Register on November 29, 2013, in Chapter 6, Section 3 and Section 4.

Moving on. Turning to page 6-64 in Section 4, under (iv), the minor source baseline date for PM2.5. Under (D) we have added the Sweetwater County PSD baseline date of December 12, 2012. This means that all minor sources in Sweetwater County need to be included in the increment analysis for PM2.5 PSD demonstrations.

From the baseline date forward, everyone has to account for minor source emissions of PM2.5 regulated under

Wyoming Air Quality Standards and regs, Chapter 6, Section 4. The baseline date is determined by the Division when the first PSD application for PM2.5 is complete for that area. We are asking the Board to approve the addition of the Sweetwater County PSD baseline date of December 12, 2012 in Chapter 6, Section 4.

Flipping to the end of the chapter at -- on page 6-122. Section 14 is the incorporation by reference section. We are changing the CFR date from 2012 to 2013. Again, we do this at the end of most of our chapters to keep our regulations up to date. We are asking the Board to approve updating the incorporation by reference from the 2012 CFR to the 2013 CFR in Chapter 6, Section 14.

And that brings us to the end of Chapter 6. Are there any questions or comments?

CHAIRMAN BROWN: What page was the incorporation by reference? Was that --

MS. CEDERLE: 6-122.

CHAIRMAN BROWN: Okay.

MR. DIETRICH: The very end.

CHAIRMAN BROWN: Yeah.

MR. DIETRICH: Last page.

CHAIRMAN BROWN: I had it highlighted too.

Comments?

BOARD MEMBER HANSON: Just a question. On

page 6-117, among other things, you mentioned municipal incinerators. Do we have any such in the state?

MS. CEDERLE: I'll have to take a look at that reference.

BOARD MEMBER HANSON: I'm just not aware of them. I -- and since I'm involved in municipal affairs, I just wanted to know. 117.

MR. ANDERSON: Mr. Chairman, I can try to answer that question.

CHAIRMAN BROWN: Okay.

MR. ANDERSON: As far as permitting goes, we had authorized one facility in the northeast part of the state. I understand that's no longer operating, so I don't believe we have any active municipal solid waste incinerators.

BOARD MEMBER HANSON: Okay. Thank you.

CHAIRMAN BROWN: Do we have any questions, concerns, comments from the public?

Any more comments from the Board?

BOARD MEMBER HULME: I move adoption of the changes to the Chapter 6.

BOARD MEMBER HANSON: Second. We will play tag.

CHAIRMAN BROWN: Okay. It's been moved and seconded to adopt the change in Chapter 6, Section 3, 4,

14. All those in favor.

BOARD MEMBER WASSERBURGER: Aye.

BOARD MEMBER BONER: Aye.

BOARD MEMBER HULME: Aye.

BOARD MEMBER HANSON: Aye.

CHAIRMAN BROWN: All those opposed. Motion's approved, that includes pages from Chapter -- Section 13 (sic), Section 4, Section 14 in Chapter 6. Section 3. I'm sorry. Not Section 13.

BOARD MEMBER HANSON: Yeah.

CHAIRMAN BROWN: Chapter 7, Monitoring Regulations.

MS. CEDERLE: In Chapter 7, Monitoring Regulations, Section 3, compliance assurance monitoring. On page 7-9, under the definition of CO2e, we strike out the language referencing the 2011 CFR, and replace it with language referencing the final rule published in November 2013 Federal Register. This is to maintain consistency between Wyoming Air Quality Standards and Regs Chapter 6 and Chapter 7. This change is made for the same reasons we just discussed in Chapter 6. We're asking the Board to approve removing the 2011 CFR incorporation by reference and replacing it with the most final -- the most recent final rule, as published in the Federal Register, on November 29, 2013 in Chapter 7, Section 3.

On page 7-19, we discovered a typo at the bottom of the page, under (A). We have language that says, "The draft or final permit shall include, at a minimum, monitoring that satisfies the requirements of Chapter 7. Section 3(h)(i)(C)(I)(2)." The reference to Chapter 7 is incorrect. We are asking for Board approval to change the text to correctly reference Chapter 6, Section 3(h)(i)(C)(I)(2).

Nice and easy. That does it for changes to Chapter 7 today. Are there any questions?

CHAIRMAN BROWN: Any questions from the Board?

Any questions from the public?

BOARD MEMBER WASSERBURGER: Move to adopt the language as presented by staff in Chapter 7.

BOARD MEMBER BONER: Second.

CHAIRMAN BROWN: Okay. It's been moved and seconded to adopt a language from Section 3, Chapter 7. All in favor.

BOARD MEMBER WASSERBURGER: Aye.

BOARD MEMBER HULME: Aye.

BOARD MEMBER BONER: Aye.

BOARD MEMBER HANSON: Aye.

CHAIRMAN BROWN: Moved to adopt the section change language in Chapter 7.

MS. CEDERLE: Okay. We're rounding the bend for home.

Chapter 11, National Acid Rain Program, Section 2, Acid Rain Program. It's through this program the emission of sulfur dioxide and nitrogen oxide are regulated to reduce the adverse effects of acid deposition. The formation of sulfuric acid and nitric acid in the atmosphere and the deposition from the atmosphere can cause harm to natural resources, ecosystems, public health, materials and visibility.

The Acid Rain Program is a big national program managed by the EPA; however, the State is required to keep it up to date, and our regulations so that our Title V permitting program remains federally approvable. Every emission source included in the Acid Rain Program must have permit. Every acid rain permit is a part of a bigger Title V permit.

On page 11-1, I am asking the Board to approve changing Section 2(b), Acid Rain Program Regulations by updating the incorporation by reference from the 2012 CFR to the 2013 CFR.

And that's it for Chapter 11. Are there any questions or comments?

CHAIRMAN BROWN: Any questions, comments from the Board?

BOARD MEMBER HANSON: Move to adopt the change.

CHAIRMAN BROWN: Any questions from the public --

BOARD MEMBER HANSON: Sorry.

CHAIRMAN BROWN: -- concerns, comments? Okay.

BOARD MEMBER HANSON: Move to adopt the change.

BOARD MEMBER BONER: Second.

CHAIRMAN BROWN: Been moved and seconded to adopt the change to Section 2, Chapter 11. All those in favor.

BOARD MEMBER BONER: Aye.

BOARD MEMBER HANSON: Aye.

BOARD MEMBER WASSERBURGER: Aye.

CHAIRMAN BROWN: All those opposed.

Okay. It's been moved and adopted to make changes in Chapter 2 -- Chapter 11, Section 2.

MS. CEDERLE: Great. I want to thank the Board very much for your time today in helping us through these annual updates and minor revisions. It's a good start for the first Board meeting of the year.

And now that the hard work is done, I'd like to introduce Cara Keslar of our AQD monitoring section

supervisor. She'll be presenting information on the five-year review of the Powder River Basin Natural Events Action Plan.

MS. KESLAR: Before I get started, we've already received some comments from the public, so I made copies for you guys.

BOARD MEMBER HANSON: Sure. I can pass them along.

MS. KESLAR: Sure. This is from the Powder River Basin Resource Council.

BOARD MEMBER HANSON: Okay.

MS. KESLAR: We received them a few days ago, so I thought it would be good for you guys to take a look while we're going through.

All right. Like I introduced myself before, I am the ambient monitoring section supervisor. My group is in charge of implementing the Natural Events Action Plan for high wind blowing dust events. These are specifically for mines in the Powder River Basin. Just so that my tongue doesn't get twisted, I'm going to refer to that as the NEAP for the rest of the presentation.

So a quick overview on what I'll be presenting -- and you guys already have access to this presentation, so please, you know, ask questions at any time. I'll just be going over a little bit on why we do PM10 monitoring in the

Powder River Basin at the coal mines, the NEAP background, some background on the Exceptional Event Rule and guidance, and then going over our five-year review conclusion and the next steps.

So Powder River Basin coal mines PM10 monitoring, the AQD requires by permit PM10 monitors at the mine boundaries to determine compliance with our National Ambient Air Quality Standards. This arose because of Section 234, the Clean Air Act, which states that modeling short-term fugitive PM10 is highly inaccurate. We had a 1992 memorandum of agreement with EPA, which established that we would do monitoring for short-term particulate at the mines.

So, you know, I'm not going to go through the map, but this is just a map of the Powder River Basin. As you can kind of see, we have both upwind and downwind monitors at each mine and that's determined on a mine-by-mine basis and approved by my monitoring section, the placement of those. You know, we also go through periodically and review those, that placement, because, you know, mine pits are not -- not a static thing, obviously. So the natural events action plan, the background, this was established by the mining association, Air Quality Division and other stakeholders under the natural events policy. We began to establish this in about the 2004-2005 time frame.

And at the time there were some exceedances of the 24-hour PM10 standard, and this was our way to really commit to the attainment of the PM10 standard in the Powder River Basin.

So the purpose of it is to minimize the effects of wind-blown dust at the Powder River Basin mines. Like I said, we started in 2004, and it was finally approved by EPA March 13th of 2007. So really what it does is it allows to flag monitored data in EPA's database under high wind conditions if the NEAP was followed. And it's really important to note that the actions in the NEAP, the NEAP kind of talks about reactionary controls, some best available control measures, timing, documentation. But that's all voluntary on the mine's part. If they choose to do those actions, then they have the option of flagging.

And it also requires a periodic evaluation of the NEAP every five years. If you do the math, we're a little bit more than five years. We started the review in 2011, and at the same time EPA started to come out with guidance on their Exceptional Event Rule and what to do with high winds in that case. So kind of waited for them to finish that guidance before we finished this five-year review.

So the next slide is about the Exceptional Event Rule and guidance background. 40 CFR Part 50.14 was promulgated March 22, 2007. If you notice, that's just a few days after our NEAP was finally approved. And the

purpose of the Exceptional Event Rule was to outline treatment and monitoring influenced by natural exceptional events. That included high wind events. And allowed for data to be flagged in EPA's database under the rule and a demonstration be provided.

So if you notice, this sounds really similar to what the NEAP was trying to do. The Exceptional Event Rule is kind of an overlap of what's in the NEAP. So -- now, the part that was difficult for us is in the new Exceptional Event Rule, there was no provisions for NEAPs that were already existing. So it was up to the State in the industry to choose whether they kept implementing the NEAP that we just got approved. So we -- we chose to keep implementing this NEAP. And I'll talk about some of the difficulties with that later when I talk about the advantages and disadvantages. So far EPA has issued some general guidance, frequently asked questions and specific guidance for high wind events. That was finalized in May of 2013.

All right. Next I'll move into our five-year review. I'll just talk about some of the exceedances from 2007 until now. Advantages and disadvantages of the NEAP, PRB mine consultation and our five-year review path forward.

So these are the Powder River Basin exceedances

by year. And what I have here -- and please note, I found a typo in the presentation that I provided to the Board, so I updated one of the numbers in this presentation.

So as you can see, 2007 was an extremely windy year. We had a lot of exceedances. You know, the next four years looked really good. And then 2012 we also had an exceptionally windy year with a lot of exceedances. The number that's been updated is the number of AQD-approved packages. So in the chart you'll see the exceedances that we had, and then the number of packets submitted either under the exceptional events rule or the NEAP. You know, there's certain hurdles you have to meet to be able to submit a package, so not all of them always submit packages. And then the number of the AQD-approved packages. So the AQD goes through a process making sure you met all the requirements of the Exceptional Event Rule or the NEAP. So the number that changed was 2012. We had seven approved packages. And then back down to 1 in 2013. And the Powder River Basin has not had any exceedances in 2014 so far.

MR. DIETRICH: So Cara, just for informational purposes, that three- or four-year span we had going there, what happened in 2012 that significantly changed the numbers?

MS. KESLAR: It was windy, and it was also

a very dry and hot year.

MR. DIETRICH: Yep.

MS. KESLAR: I mean, statewide we had a lot more exceedances in 2012. It wasn't just centered on the Powder River Basin. You know, the Exceptional Event Rule specifically bars considering drought, but we know that it is a factor at coal mines.

MR. DIETRICH: We had a lot of fires, too, right.

MS. KESLAR: We did have a lot of fires. Although the next -- the NEAP only deals with high wind events, but, yeah, there were a lot of fires. AQD had a lot of exceedances at our own monitors, as well, due to fire.

BOARD MEMBER HANSON: Question. I understand the number of exceedances, but I don't know what the packets are.

MS. KESLAR: Okay. So the packets -- so like I said before, the NEAP and the Exceptional Event Rule kind of outlines certain things that you need to submit to the Division if you want your data flagged. So this would talk about, you know, what control measures were in place --

BOARD MEMBER HANSON: Okay.

MS. KESLAR: -- so it's basically a

documentation package that you submit saying I want this data flagged. I followed these control measures. I did everything I could to prevent this exceedance. It still happened. Please flag my data.

And so then the number of AQD approved packages is the AQD goes through a process to say, yeah, you had everything -- your ducks in a row. We're going to put the flag on.

BOARD MEMBER HANSON: Okay. Thank you.

MS. KESLAR: Yep.

All right. So I'm going to talk a little bit about the advantages and disadvantages of the NEAP. Obviously, this established a benchmark between Powder River Basin mines, AQD and EPA on appropriate measures for dust control. It affirmed our commitment to attainment of the 24-hour NAAQS for PM10. It establishes a baseline of criteria that must be met for mines that don't have individualized dust action plans to minimize dust during their high wind events.

So a lot of the larger mines and -- and most mines that have come in for permits in the past couple years now have a dust action plan that they work with the Division that's individualized for their mine. But the NEAP gives smaller mines or mines that may not come in for permits as often, you know, benchmark for what they need to

do for reactionary measures.

It also established a working agreement with the National Weather Service to predict high wind and blowing dust advisories in the PRB. It's key to both the NEAP and the Exceptional Event Rule that we're able to inform the public that we have a blowing dust event at hand.

BOARD MEMBER HANSON: I've got a question. Relying on the National Weather Service seems like a good thing. How much lead time would the mines need in order to have preventative measures in place to avoid the blowing dust? The National Weather Service gives you usually whatever, three-day -- two-day, three-day accurate prediction. Is that enough for the mines to do their preventative measure?

MS. KESLAR: You know, that may be a better -- I may have to check with the mines on this.

BOARD MEMBER HANSON: Uh-huh.

MS. KESLAR: But typically those blowing dust and high wind events come out the day before, and that gives them time to start implementing these reactionary measures.

BOARD MEMBER HANSON: So one day is enough?

MS. KESLAR: That's my understanding, is that one day is enough.

BOARD MEMBER HANSON: Yeah. Thank you.

MS. KESLAR: All right. So I finished the advantages. Now I'm going to go into some of the disadvantages of the NEAP.

Like I said before, with the issuance of the Exceptional Event Rule, there's now no regulatory mechanism for NEAPs. So PRB mines, AQD and EPA has said verbally that they're honoring the NEAP voluntarily. So this creates a dual structure for making demonstrations. If a mine wants a data point flagged, they must follow the exceptional events rule at this point, and they may follow the NEAP if they choose to.

EPA may not review a demonstration submitted under the NEAP or exceptional event, depending on their prioritization. EPA has a large backlog of these demonstrations at their offices, and typically they ask us to prioritize them. And it's -- it's been a long time since EPA has actually reviewed one of our packages after they've been approved.

Disadvantages, continuing, during the five years of NEAP implementation, many of the control strategies that were best available control measures are now considered to represent best available control technology, and are being included in permits. And then many mines now have individualized enforceable dust action plans to use as reactionary controls.

More disadvantages. We don't discuss fire events and what issues can arise when high wind may coincide with smoke from wildfires. And the timing requirements in the NEAP create inconsistencies with AQD report -- reporting requirements, and the Exceptional Event Rule as well.

It also creates some inconsistencies with how the coal mines in Wyoming are treated outside of the Powder River Basin. We don't have similar evaluation of appropriate controls for the mines that are outside of the PRB, and we don't have the public notification procedures outside of the PRB as well.

So that's kind of the conclusion of advantages and disadvantages. When the AQD concluded our internal review, we decided to meet with the Powder River Basin mines, since they were a key player in developing the Natural Events Action Plan. We met with them twice for consultation in the fall of last year. The PRB mines made it clear that the NEAP was a useful tool, but it had lost some of its teeth with the introduction of the Exceptional Event Rule and Exceptional Event Guidance.

The mines also endorsed the continuation of the blowing dust health advisories from the National Weather Service, and then the mines also continued use of their high wind threshold that was developed specifically for the mines in the PRB.

So our conclusions. Our conclusions, first of all, the NEAP had been a useful tool for controlling dust. It created a mutual agreement between the PRB mines, AQD and EPA. Perhaps one of the most important points is that it's able to notify the public when high wind and blowing dust events occur. However, regulation and technology changes have made the NEAP outdated and create inconsistencies with some current practices. And we consider the discontinuation of the NEAP, with the preservation of certain elements, to be the best option going forward.

So like I said before, the -- the elements that we want to preserve would be continuing to work with the National Weather Service to retain those high wind blowing dust notifications. We also continue the support of -- support the use of high wind threshold for the PRB. And then also the mines had asked if we would compile a list of demonstration and package elements to use as a reference for industry of -- of elements that have been presented in the past. So we're going to do that for them.

So our next steps. Today we're accepting written and oral comments through today, 4/22. Like I said, we had gotten one written comment so far from the Powder River Basin Resource Council. At the end of today we'll compile and respond to the public comments, and then we'll -- we'll

send out a notification of our conclusions to EPA and our stakeholders.

So does the Board have any further questions?

CHAIRMAN BROWN: Go ahead.

BOARD MEMBER HANSON: Yeah. The question that came to my mind, reading especially also this document, was what was the reason that we now have an EER, the Exceptional Event Rule? Does that have to do with cross state line blowing dust? I would presume, because it came federally, rather than locally.

And the one thing that -- I mean, that makes some sense, you know, that you have a -- a regulation that goes across the state lines, because I presume with westerly winds and where the Powder River mines are located, it blows into Nebraska, whatever. And what seemed to be kind of nebulous to me is why the two regulations couldn't be melded together to take the best parts of both of them and make it enforceable in some fashion, instead of saying NEAP is no longer valid because the other one supersedes it. That I didn't understand.

MS. KESLAR: Well, the Exceptional Event Rule is a national rule.

BOARD MEMBER HANSON: Correct. I understand that.

MS. KESLAR: And just to give you -- and

what preceded it was this natural events policy, which was also national, but it was a policy. It wasn't a rule. Within that policy, it allowed states and entities to make these Natural Events Action Plans. And that was a useful tool until they decided to put this rule in place.

What we -- one of the things we were waiting for, you know, is EPA put out some high wind guidance, and we were waiting to see if they would give us a mechanism to fold the NEAP somehow into the Exceptional Event Rule.

BOARD MEMBER HANSON: Uh-huh.

MS. KESLAR: And they didn't seem to do that. They only made some provisions for new areas that would want to make a similar sort of plan, which they call a high wind action plan instead of a NEAP. But it -- the provision is really only available through -- for new areas and none existing ones. So we were hoping they would give us some sort of mechanism to be able to do that, but that didn't end up coming out in their guidance.

So at this point, you know, we think that the mines still feel like a lot of these best available control measures and reactionary measures are useful to control dust at the mines, and I think they're still interested in -- in, you know, not having exceedances of the standard, so they'll use some of the tools that were presented in there. But I think it's -- it's maintaining that

document -- the document itself just creates kind of confusion in a dual structure. So I think those elements are still available to them, it's just the official document will be discontinued.

CHAIRMAN BROWN: Is there any intent of conflicting regulation or conflicting -- you know, between the two plans?

MS. KESLAR: You know, the NEAP is actually more prescriptive, so what we found is when mines -- when mines do follow the NEAP, they typically meet all the provisions in the Exceptional Event Rule.

CHAIRMAN BROWN: Okay.

MS. KESLAR: So the Exceptional Event Rule is very broadly written -- written, and what you have to meet in there is highly subject to interpretation. The NEAP is way more prescriptive, so...

CHAIRMAN BROWN: And -- I'm sorry. So that was one of the concerns, because I did have a conference call with some concerned entities and need for some protective rules versus subjective is what's really important to them.

MS. KESLAR: Right. I agree the Exceptional Event Rule is -- is very vague. It's less than a page.

CHAIRMAN BROWN: Yeah. That leaves too

much for interpretation.

MS. KESLAR: Right.

CHAIRMAN BROWN: Or subjective --

BOARD MEMBER HANSON: Isn't it -- I mean, it's a common rule. I know that from federal, state and local governments. What supersedes what? In other words, NEAP, if it is more prescriptive and more restrictive, can be enforced as far as EEP -- EER is concerned, because it's more restrictive, not more liberal, in its rulemaking. So can't it just be maintained and say it -- it has some rules? For example, the National Weather rule that I -- you alluded to, can be maintained because it is a -- it is a state rule, and it doesn't conflict with the EER, because it's not even mentioned in the EER. I don't see the problem there.

MS. KESLAR: Well, things like the public notification we're going to continue.

BOARD MEMBER HANSON: Yeah.

MS. KESLAR: And for the Exceptional Event Rule, there is -- I think it's Subpart Y, you do have to do public notifications.

BOARD MEMBER HANSON: Uh-huh.

MS. KESLAR: So what we're doing meets that.

BOARD MEMBER HANSON: Yeah.

MS. KESLAR: So I -- you know, the Natural Events Action Plan was never -- never required for anyone to follow. It's all been voluntary.

BOARD MEMBER HANSON: Uh-huh.

MS. KESLAR: So it's really up to the mines whether they follow it or not anyway.

BOARD MEMBER HANSON: But EER is required now as a rule.

MS. KESLAR: If they want to data point flag, they must follow the Exceptional Event Rule.

MR. DIETRICH: So one difference -- I was trying to follow your question, Klaus.

BOARD MEMBER HANSON: Uh-huh.

MR. DIETRICH: Exceptional Event Rule is actually a regulation, whereas the Natural Event Action Plan is a policy. So when you get to your question about what is authoritative than the other, from the federal to the state to the local, the first you have to look at is what is a regulation and what's a policy. Regulation always has more authority than a policy --

BOARD MEMBER HANSON: Than a policy.

MR. DIETRICH: -- before you even get to the federal versus the state versus the local regulations themselves.

Now, can we be more restrictive within an

Exceptional Event Rule of our own? Certainly.

BOARD MEMBER HANSON: Certainly, yeah.

MR. DIETRICH: So it would tend to be more restrictive, but it can't be any less restrictive than what the federal put out.

BOARD MEMBER HANSON: I understand that. And so because NEAP is just a policy, it can --

MR. DIETRICH: Well, and it has some good qualities to it that Cara just went through, and the industry really liked as well. But because it's a policy, it's more of a voluntary thing. And you need to get everybody -- all the mines in Wyoming participating, let alone a larger group of mines nationally. Whereas the Exceptional Event Rule, everybody recognize it's something they have to use if they want to get data flagged in the system.

BOARD MEMBER HANSON: So basically we would have to change NEAP to -- not to punish here -- NEAR, and be a regulation, rather than a policy.

MR. DIETRICH: Right. That's correct.

BOARD MEMBER HANSON: Okay.

BOARD MEMBER BONER: When you're talking about preserving elements of the NEAP, is that going to be a policy as well? I mean, I guess how is that going to work moving forward --

MR. DIETRICH: What Cara explained what can be done with the plan going forward is one of the things is some of the elements are going to try to be preserved with the National Weather Service notification. And some of those elements Powder River Basin mines in particular are going to continue to do, but then our -- Air Quality is going to put together a list of some of the useful items that in a way could help preserve those methods that could be used for Exceptional Event Rule packages in the future. Am I getting that right?

MS. KESLAR: Right. Correct.

MR. DIETRICH: So in a way some of those good -- good things that are still useful are going to try to be preserved outside of the rule.

BOARD MEMBER BONER: Okay.

BOARD MEMBER HULME: I have a question what is -- there's a comment here that Division supports continued use of the high wind threshold. What is the threshold?

MS. KESLAR: The threshold is 20 miles an hour on an hourly basis. The -- the public notification actually starts when they predict a 30-mile-an-hour threshold.

BOARD MEMBER HULME: Okay. So which ones -- which thresholds do you evaluate the packet on,

then? Or would EPA be evaluating the packets now? I'm not clear on that either.

MS. KESLAR: Right.

BOARD MEMBER HULME: Is that right?

MS. KESLAR: So we -- we're kind of the first pass in evaluation, because we know the source the best.

BOARD MEMBER HULME: Right.

MS. KESLAR: You know, so we go through and make sure they meet the provisions of the Exceptional Event Rule, and if they want it -- you know, and if they have followed the NEAP, we make sure that they follow the NEAP as well.

At that point we send it to EPA, because technically, under the Exceptional Event Rule, that data point does not get taken out until the EPA administrator approves of it.

BOARD MEMBER HULME: Okay. I was going to ask that, too, who makes the final determination on whether points --

MS. KESLAR: Right. EPA does. So when we evaluate, it's the 20-mile-an-hour threshold for the mines. You know, and if you actually go through and read the plan, there's a section that talks about actually -- between 20 and 30 miles an hour, you know, only 6 percent of the time

you actually have an exceedance of the standard. So it's very rare that you would get an exceedance between 20 and 30 miles an hour.

BOARD MEMBER HULME: Okay.

MS. KESLAR: I think when we -- it also talks about in there, you know, for the Weather Service, they didn't want to overdo the alerts to make sure that they had some meaning to the public. And so that's -- that's part of the reason why they started 30 miles an hour.

BOARD MEMBER HULME: And industry was fine with those thresholds, or --

MS. KESLAR: Yeah. Industry supports the 20-mile-an-hour threshold.

BOARD MEMBER HULME: Okay. Thank you.

MS. KESLAR: If the Board doesn't have any more questions, can we --

CHAIRMAN BROWN: I don't have any more questions, but I believe we do have some public comment after this.

MS. KESLAR: Okay.

BOARD MEMBER HANSON: I'd like to ask a question that is peripherally related to that.

CHAIRMAN BROWN: Okay. Go ahead and go to the podium. Introduce yourself and your affiliation.

MR. DOWNING: Thank you. Is that going through okay?

BOARD MEMBER HULME: That's not on. You have to speak louder.

CHAIRMAN BROWN: Just speak louder.

MR. DOWNING: Speak louder. Okay.

I'm Jonathan Downing. I'm the new executive director with the Wyoming Mining Association. And I'd like to thank you for the opportunity to comment here today.

I would just echo some of the concerns the Department had had regarding NEAP. I won't regurgitate all of that that's in this letter here, but I did want to point out a couple of areas where our members would like to participate in the process, as well as appreciate the Department's work on NEAP, as well as the Exceptional Event Rule.

And as the new guy, if we get into super technical detail, then I'll be deferring to some of our other folks that are here from Regulatory Affairs Committee.

In terms of the highlights, as far as what we'd like to see be expanded as far as addressed between NEAP and the Exceptional Event Rule is mainly getting a clear definition of qualifying high wind dust event that's consistent with EPA high wind event guidance; detail about

technical elements required to make a demonstration acceptable to Air Quality Division; a clear standard for an acceptable demonstration based on elements from the previously accepted demonstrations; a clear statement that a flagged exceptional event is validation from Air Quality that the operator has adequately controlled emissions from the facility during the exceptional event; reasonable timelines to allow for proper preparation or -- of the demonstration; guidance for exceedances caused in part or in whole by wildland fires, and I think you saw them in those 2007 exceedances when we had a lot of fires around the state in the region; a mechanism for appeal of Air Quality's determination. Mainly as far as when we get into that process as far as it's a little bit difficult right now as far as whether you can appeal or not.

And the main piece, as far as where the industry is, and I'd say our members, is mainly that we'd like to work with the Department to continue to take the good pieces of these elements here, and, likewise, essentially build something that we can utilize that's going to be in a fair and transparent manner, if you will. And with that I'd be open for any questions.

BOARD MEMBER HULME: I have a question. The reasonable timeline to allow for proper preparation of demonstration -- it may be question for the Division, I

don't know. Is there a set like you have two weeks, 30 days, or something, to get a packet in after a demonstrated event, or what's the -- what's the time frame?

MS. KESLAR: So the NEAP had in it 30 days after an event.

BOARD MEMBER HULME: Okay.

MS. KESLAR: And we agree that that's too short of a time frame. Validated data isn't even due to the Division until 60 days after the end of a quarter, so that's when we ask for an initial demonstration. But that's -- that's not hard and fast. We do accept, you know, if an industry's willing to work with us and say we need more time to put this together, we'll accept demonstrations after that.

BOARD MEMBER HULME: Thank you.

CHAIRMAN BROWN: Any more questions?

BOARD MEMBER HANSON: That's pretty well I think what we discussed before on this list.

CHAIRMAN BROWN: Thank you. Next comment.

MS. GOODENOUGH: Thank you. My name is Beth Goodenough. I'm with Western Fuels Association, and I brought some written comments that pretty well echo what the Wyoming Mining Association brought today.

BOARD MEMBER HANSON: I'll pass them along. Thank you.

MS. GOODENOUGH: Thank you.

Western Fuels Association -- oh, my name is Beth Goodenough, by the way -- appreciates the opportunity to comment on the Wyoming Air Quality Division five-year review of the Natural Events Action Plan.

Western Fuels is a not-for-profit cooperative that manages coal mining procurement and delivery of primarily Wyoming PRB coal to cooperative rural utilities throughout the West and Midwest. Because Western Fuels operations are impacted either directly or indirectly by the proposed abandonment of the Natural Events Action Plan, we have substantial interest in this issue and find it necessary to identify the concerns described below. The list is not intended to be exhaustive.

As stated by the Air Quality Division, and confirmed by the Wyoming Mining Association, the Natural Events Action Plan has been a successful tool used by PRB coal mines and other industries in Wyoming to identify and flag PM10 data that is in excess of the natural Ambient Air Quality Standards due to exceptional events such as high winds and wildland fires. The NEAP provides a practical and clear list of control measures the industry could implement to prepare for and respond to high wind events.

The NEAP also provided a clear path for providing the documentation to the Wyoming Air Quality Division in

the event of exceedances due to the exceptional events caused by high winds. If the Wyoming Air Quality Division found a demonstration adequate, they would then forward it to the EPA with a recommendation that the data be flagged as an exceptional event in their database.

Flagged data would then not be used for compliance determinations. While we understand the reasons for abandoning the NEAP, we are concerned that the Exceptional Event Rule guidance provided thus far by the Wyoming Air Quality Division is not robust enough to replace the NEAP mechanism. We are concerned that the lack of guidance in the current EER guidance document will lead to inconsistencies among Wyoming Air Quality reviewers regarding whether an exceptional events documentation is adequate to be flagged.

Such inconsistencies cause unnecessary delays, costly repeated submittals, lost available staff time, both Wyoming Air Quality Division and industry staff time. And have sometimes led to unnecessarily -- unnecessary controls being implemented to try to justify a flagging. All these concerns and costs ultimately lead to unnecessarily higher cost of coal to our member utilities which include the rural consumers of Wyoming PRB coal. Therefore, we support efforts -- and I think that's what everybody in this room is saying today -- to standardize the components necessary

for successful documentation of a qualifying flagged exceptional event submittal.

We are concerned -- we are also concerned that there's currently no mechanism for appeal of the Wyoming Air Quality Division flagging decision. Wyoming Air Quality guidance document entitled Exceptional Event Packet Submittal Flagging and Review Process for Industrial Monitors November 2012 states the Division's actions to flag, not flag, remove a flag, modify a flag, submit, not submit or request EPA action on any substantial exceptional event packet are not final agency actions subject to administrative or judicial review, nor are such actions rulemaking under the Wyoming Administrative Procedure Act.

We believe the operators should be allowed to appeal their case to the Wyoming Environmental Quality Council, and that this is in the best interest of the State of Wyoming to allow them to do so. We urge the Wyoming Air Quality Division to work with industry to add this mechanism into the program.

In conclusion, there needs to be a strong, thorough standardized program in place in the NEAP program. We support expanding the EER guideline to provide a clear standard as -- of what is a qualifying flagged event and the necessary controls that need to be in place to comply with permits and exceptional events guidance -- guideline

obligations.

With a more robust EER guideline, the operators in Wyoming Air Quality will be able to streamline the submittals and reviews reducing the staff time they both now dedicate to these submittals. We appreciate your -- Wyoming Air Quality Division's consideration of these recommendations.

And then I also have a statement from Westmoreland Kemmerer that they asked me to provide to the Board. That pretty well mimics what we're saying -- what the rest of us have been saying.

BOARD MEMBER HANSON: Thank you.

MS. GOODENOUGH: So I won't read their statement.

Are there any questions?

CHAIRMAN BROWN: I have a general question.

MS. GOODENOUGH: Sure.

CHAIRMAN BROWN: And maybe it doesn't affect you directly. But I was just wondering, from start to finish through the flagging process, what's the typical time frame?

MS. GOODENOUGH: I'll defer to the ones who have more --

CHAIRMAN BROWN: Yeah, I was just wondering --

MS. GOODENOUGH: -- experience with it.

CHAIRMAN BROWN: -- you know, when we've had exceptional event, it's submitted --

MS. KESLAR: Typically, so there's a requirement in the Exceptional Event Rule to put an initial flag on the data by July 1st of the following year. So the Division -- you know, so 60 days after the end of the quarter you collect your data. We'll have a packet. The Division will initiate its review, have an opportunity to go back to the companies two times --

CHAIRMAN BROWN: Okay.

MS. KESLAR: -- to request more information. We make our determinations and try to get all those demonstrations down to EPA prior to that July 1st of the following year.

CHAIRMAN BROWN: Okay.

MS. KESLAR: So it can take up a year to get it down there.

CHAIRMAN BROWN: Right. Thank you. That was for my own curiosity.

Thank you.

Do we have any other comments from the public?

MS. CRAFT: My name is Lecia Craft, and I'm with Thunder Basin Coal Company. We have two mines in the Powder River Basin, Black Thunder and Coal Creek. And then

we also have two other mines in the Hanna Basin.

Thunder Basin Coal Company has utilized the NEAP on a couple of different occasions, and it has worked really well. I have written comments, and it really reiterates what Beth has said. We support Wyoming Mining Association's comments.

And I think probably one of the biggest things that we see between the NEAP and the Exceptional Event Rule is the NEAP was really clear and concise as to what was required and what was needed in a demonstration. The Exceptional Event Rule doesn't have that guidance. We'd like to work with the Air Quality Division to come up with some clear guidance taking part of what was in the NEAP, and trying to make it work under the new rule.

The other thing that we've seen is since 2008, Air Quality Division has approved various NEAP packages and Exceptional Event Rule packages, but there has not been any concurrence from EPA on any of those packages since that time. So I think it's important that as we work with the Air Quality Division, we try and establish the mechanism so that EPA will be able to review these and facilitate that flagging so that these exceptional events can't be used in nonattainment in various regions around the Powder River Basin and Wyoming.

I apologize. I only brought two sets of

comments, so I'll put one there and send one up here.

MS. CEDERLE: Actually, I can go ahead and get copies of these to you guys --

BOARD MEMBER HANSON: Make copies, sure.

MS. CEDERLE: -- at a later date.

MS. CRAFT: I'd be happy to try to answer any questions, if you have any.

Thank you for the opportunity to comment.

CHAIRMAN BROWN: Thank you.

BOARD MEMBER HANSON: Well, Mr. Chair, not to criticize the federal government, but I think they screwed it up, because we had a workable rule, from what I hear from you folks, and now you don't have anything that you can work with. And I don't know how to solve that problem, except what I said before, change NEAP to NEAR, or something like that, to have a rule that is enforceable or doable in some fashion.

I said before that I wanted to remark on something that is related to it, because it came up within the National League of Cities meeting, the last national meeting, which was held in Seattle, the Powder River coal is, of course, of great interest to China, and is being imported into China. The transport takes place via rail to the West Coast, and then it's shipped. And the West Coast cities in the United States have objected, because of the

dust, the coal dust, even though apparently the cars are being sprayed so it wouldn't fly, but it wasn't enough for them.

So a big employment opportunity, of course, with reloading -- having the trains go to the West Coast and then being shipped to China went to Canada. And I know this is not directly related to this, because it's out of state. But it is related to this issue of blowing dust. And I don't know what kind of a solution we could come up with. It's maybe too late for a solution anyway, because the export revenue that was going to come is going up north.

And I just wanted to point that out. It's a -- it's related dust issue here. Thank you very much.

CHAIRMAN BROWN: Okay. Any other comments?

BOARD MEMBER HULME: I have a comment.

So what are -- what are the chances of EPA turning this program over to states for EER? Is that being talked about at all?

MR. DIETRICH: You want to address that, Darla? Cara?

MS. POTTER: So the issue here with flagging the data is that the data that needs to be flagged is the responsibility of the Environmental Protection Agency, once it's submitted into their system. So any

consideration of the monitoring data in respect to compliance with the National Ambient Air Quality Standards, any flags associated with that when a new standard comes out and that data's evaluated, all of the data is considered, unless it has an exceptional event flag, in this case in the database, that EPA has concurred with them.

So there's no -- there's no mechanism for the State of Wyoming to issue the official concurrence. It still has to go to EPA for that concurrence.

CHAIRMAN BROWN: Yep. Right.

MS. POTTER: So I think that's -- you know, we've heard a number of these concerns expressed. We very much, when we evaluate the packets, strive to evaluate the packets based on the language in the Exceptional Event Rule, not based on the guidance that EPA puts out. We advise the industrial facilities, and we ourselves are familiar with the guidance that EPA puts out, because earlier in the discussions Steve pointed out the 2012 events and the mention of fire was made. Periodically the Division has to submit packets to EPA as well. If we have an exceedance at one of our samplers, we're responsible for those packets.

We strive to be aware what's in those -- the guidance, but we, first and foremost, are held to what's in

the rule. We've considered the requests of the mining association. And as Cara went through, we believe that documenting and preserving those elements that were good and then coming up with a document to identify elements that have been submitted to the State of Wyoming. And those packets is something that we can do, but I'm not sure that developing a State of Wyoming Exceptional Event Rule would actually have any practical effect, because the data ultimately has to be concurred on by EPA.

But we definitely will go back and consider all the written and the oral comments that we've received. You know, Cara passed out to the Board the comments from the Powder River Basin Resource Council. We'll take those into consideration as well. And our path forward will be to consider all of those and respond in writing to them, as she indicated earlier.

MR. DIETRICH: Also, the last commenter that got up and spoke talked about when these packages are submitted to EPA, they take a long time, if ever, to approve. And it's really because they don't have a set timeline to approve them.

Now, do they ask us -- and I think Cara mentioned earlier, they ask the states to help prioritize all the packages that are sent down. And I'll give you an example. What we may put at a high priority is if all of a sudden

this data is not flagged for this event, it could mean a nonattainment scenario for that area. We may put that on higher priority than another package that doesn't. And that kind of helps EPA prioritize their backlog that they have.

MS. KESLAR: EPA has also said they were coming out with revisions to the rule. Now, like with every other rule they have, their time lines have probably slipped way past when they originally thought they were going to come out with that, but -- I mean, they said they are considering changes to the rule and will be coming out with that at some point.

CHAIRMAN BROWN: So is there a chance for a vacuum like between, you know --

BOARD MEMBER HULME: Right.

CHAIRMAN BROWN: I just don't know if something's going to just sit somewhere, unfortunately.

MR. DIETRICH: It's frustrating to the industry when they prepare a packet. It could be frustrating to us as well. All the effort that goes into making these perfect packages and go down there and making them very approvable, just to have EPA not act on them is frustrating.

BOARD MEMBER HULME: So if it takes them that long to make a determination, what does that mean for

compliance, potentially, for some facilities who --

MR. DIETRICH: Good question. Good question, because usually if it goes beyond a three-year period, for most of these packages, it kind of falls off the radar screen to some degree with EPA, because it doesn't mean a nonattainment scenario could happen, necessarily.

However, it's just the kind of thing we like not to leave hanging. So it may end up being EPA may not act on them, but we may need to address them with the facility, and it may come back to the facility through Air Quality from an enforcement perspective rather than an Exceptional Event Rule.

BOARD MEMBER HULME: Will we continue to receive updates on this?

MR. DIETRICH: Sure.

BOARD MEMBER HULME: You guys weren't requesting any action from us on this point, correct?

MR. DIETRICH: More of an informative education-type discussion today.

CHAIRMAN BROWN: Any other comments?

How about we take about 10, 15 minutes for a quick break, then come back with general updates from the Division on ozone and greenhouse gas.

MR. DIETRICH: Sounds good.

(Meeting proceedings recessed 10:44 a.m. to 10:59 a.m.)

CHAIRMAN BROWN: All right. Let's reconvene, please, with general updates from the Division. First one is Darla Potter with ozone.

MR. DIETRICH: By way of introduction, I was just going to introduce Darla, what she's going to talk about today.

Each of the last several advisory boards we've been giving updates -- providing you updates on ozone particularly so that the Board can keep abreast with all of the things that we're trying to accomplish and how our effort has evolved.

Today Darla is going to give that ozone update. If you will remember, that the Upper Green River Basin was designated by the EPA as marginal nonattainment for the 8-hour ozone standard which is 75 parts per billion. And they designated that on July 20th of 2012. It's been a heck of a lot of work that's been done to address the ozone nonattainment status prior to this designation, and this work continues. And so it continues now in the form of the Upper Green River Basin Ozone Strategy. It was originally released in March of 2013, and the Upper Green River Basin Ozone Strategy has been revised in September of 2013.

The completion of all the elements in the -- in

the ozone strategies are all important, because it continues to lay the groundwork for all of the efforts to try to get that area of Wyoming back into attainment for the standard.

And because of that, the strategy has always been intended to evolve. And Darla's going to bring you up to date with not only the 2014, this past winter ozone season itself, she's going to talk about the status of the Upper Green River Basin Ozone Strategy dated September of 2013, the evolution of the Upper Green River Basin Ozone Strategy to the new document that's out officially today, and then EPA obligations that we have, and finally plans for post-winter ozone season public meeting that we had planned.

So with that, I'll turn it over to Darla.

MS. POTTER: Thank you, Steve.

Steve covered it perfectly. We come back to you periodically and do these updates so that when we bring an action before the Board for your consideration and your recommendation, primarily rulemaking, we don't have to go from 0 to 60 in about 60 seconds to get to the meat of the bull.

So by all means, we're not covering all of the background and the history of ozone in the Upper Green River Basin. We're just trying to maintain what has

happened since the September meeting. Andrew Keyfauver did the update for you at the September meeting. All of the work on ozone that is done by the Air Quality Division is orchestrated by a team. We call it the ozone team. It's a cross-disciplinary team. So I am on that for the Air Quality Resource Management Program. Cara Keslar, who spoke to you earlier, is on that with her monitoring expertise. Jeni Cederle brings her rulemaking and State Implementation Plan expertise. And Andrew Keyfauver, who presented the update at the last board meeting, is on that team as well, and he brings the New Source Review Program expertise.

That core group of folks drives the work within the Division, and we identify those with expertise within the Division, other staff, as well as consultants that we need to communicate with to accomplish everything that we'll be going over today.

So that's the mechanism by which all of this work gets done. I'll have the Board just turn around a little bit. I think you can see this. We've opted not to kill trees to print out the presentation for you.

So as Steve mentioned, I'll give you an update on the winter ozone season in the Upper Green River Basin. It's winter ozone formation that is of concern. And our winter ozone season are the months of January, February and

March. So we've just completed another winter ozone season, so we'll let you know how that went.

The ozone strategy that was introduced to the Board in September of 2013, we can now let you know what elements of that strategy were complete and give you a high-level overview of that. And as Steve mentioned today, we are releasing the next iteration of that ozone strategy. And I'll give you the highlights of what is in that strategy.

As with all things concerning the National Ambient Air Quality Standard, there are obligations that the United States Environmental Protection Agency has, and we'll highlight you in regard to what those obligations remain at this point in time. And then plans for a post-winter ozone season public meeting in the Upper Green River Basin.

So let's go into this past winter. Ozone contingency plans are plans that are voluntarily developed. They are to contain short-term emission reduction actions. They can be implemented on very short notice. For implementation of these contingency plans, they get a 24-hour advance notice from the agency.

In preparation for this winter ozone season, the Division made a concerted effort to promote the development of contingency plans by all stakeholders, not just the oil

and gas industry. This year 36 plans were developed. That's up from 31 last year. And this year we finally have plans that were developed by governmental agencies and entities. Four of these 36 plans were by those entities. So we're very encouraged by the growth of that program, even though it's a voluntary program.

From January 2nd through March 28th, staff internal to the Air Quality Division, with the assistance of contract meteorologists, issued daily forecasts on a daily basis. Those meteorologists look at the potential for weather conditions -- conditions that may be conducive to elevated ozone formation based on the elevation we've seen in past years.

This year, in addition to issuing a forecast for the conditions expected for today and tomorrow, they also went out a third day for an extended forecast. In the hopes that not only for industry, but as well as the public, if we were expecting elevated ozone formation, that would give folks an additional day to plan.

We had a great year. A great year for us is that we did not issue any ozone action days. And an ozone action day being issued is what would trigger the implementation of an ozone contingency plan. So with no ozone action days, the contingency plans were developed, but they were not implemented.

In addition, during the winter ozone season, we do a lot of monitoring. That monitoring is called the Upper Green Winter Ozone Study. We continue our regulatory monitoring of ozone, oxides of nitrogen, NOx; volatile organic compounds, VOCs; and then we supplement that regulatory monitoring with additional locations throughout the basin. The great news this year was that we did not monitor any exceedances of the Ozone Ambient Air Quality Standard.

And if I can get this to go forward -- what you have here is a summary of winter exceedances per year, since we've been monitoring in the Upper Green River Basin, starting in calendar year 2005 for that winter. These are just limited to the months of January, February and March, but what you can see is three winters in a row, 2012, '13 and '14, where we did not exceed the level of the air quality standard. We are very excited about that, but as wintertime ozone formation is extremely complex in a relatively new area of scientific study, it is very hard to guess exactly why ozone didn't form at levels that exceeded the standard.

We know that meteorological conditions have a large role in the Upper Green River Basin. We monitor those very closely, but there are a lot of different factors that go into it. So it's very difficult just to

point at the meteorological conditions and say that's exactly why it did not form.

We did have snow in the basin. We had snow particularly in the northern portion of the basin that was quite extensive. We, however, did not have a uniform snowpack throughout the entirety of the basin. So we're still unsure as to the complete role that that plays.

So we'll transition from this winter to an update on the ozone strategy dated September 24th of 2013. Andrew Keyfauver, at your last board meeting, introduced this strategy that was new at that point in time. This strategy evolved from the initial ozone strategy that had been developed in March of 2013. In developing the strategy, we considered information that had become available in that six-month time frame that had passed, considered the elements that had been completed under the March strategy and developed this strategy to -- for work to be guided through March of 2014. So the strategy just came to a close.

It had four groups of activities, all geared towards directing that work for the Division. There were eight elements completed under this strategy. In addition to the 11 completed in the March strategy, the Division feels that these are all important in continuing to build a foundation to bring the area back into attainment.

As this area is a marginal classification for ozone nonattainment, the Division has until December 31st of 2015 to bring the area back into attainment. From a monitoring perspective, that would be for us the winters of -- the winters of concern for us would be 2013, 2014 and 2015. So while it's great that we have '12, '13 and '14 without exceedances, we need to get through the winter of 2015 as well at this point.

So a high-level summary of what's been complete. Forecasting for the winter ozone season was part of the strategy. And as I already covered, you know, that was done daily. We had a component of the strategies that was titled for ozone action days. That was really geared at the development and implementation of ozone contingency plans. And we've already spoken about that.

The other element that was to be done by the end of March was a development of a request for proposal to study produced water tank emissions. That request for proposal was completed. The contract to begin that work was actually issued in January of 2014. So the contract is underway to research and quantify emissions from produced water tanks in the Upper Green River Basin.

And the next grouping that we were anticipating being worked on through the end of March and going into subsequent time periods after that, we have three things

that were complete. In terms of the Upper Green River -- Upper Green Winter Ozone Study, the monitoring phase of that's complete. We monitored January, February and March. At this point we now need to quality assure all of the data collected by contractors. That's part of their contract. And then a recording of that. So the data and recording piece is still underway, but the monitor's been complete and was a success this year.

In respect to numbers 4 and 5 -- and the numbering coincides back to the numbering in the strategy -- these elements were identified separately within the strategy; however, in execution we've actually handled them together.

Our emissions inventory program developed an inventory improvement recommendation that addressed both the assessment of the control effectiveness of combustors. And in respect to the emissions inventory study plan, the focus went in the direction of fugitive emission sources.

So the path forward was actually the development of a statewide request for proposals to address both of those together so that we could get some economics of scale by one contractor addressing both of those. The request for proposal process has closed. We had five proposals, and we are currently in the process of contract negotiations with the contractor that was selected by the

review team. So upon issuance of that contract, that work -- that fieldwork will start to assess the control effectiveness of the combustors and to evaluate fugitive emission sources to be able to quantify those emissions as well.

And then the final actions should look familiar to those of you who have been on the Board. These are rulemaking subject to areas that the Board was directly involved with. The first was to proceed through the statutory process to incorporate the New Source Performance Standards and the National Emission Standards for hazardous air pollutants related to the oil and gas industry into the Wyoming Air Quality Standards and Regulations. Jeni went through some of those today, where we're now transitioning through the incorporation into the -- by Code of Federal Regulations instead of the Federal Register notice.

So that rulemaking went through the Advisory Board and then the Environmental Quality Council, and the rulemaking was effective in November of 2013. And then following that, Jeni and the rules group sent down a delegation request to EPA in January of this year.

In addition, another rulemaking action that was brought before the Board was for an Ozone Emissions Inventory Rule. An Ozone Emissions Inventory Rule is one of the requirements under the Clean Air Act that applies to

all ozone nonattainment areas, including marginal ozone nonattainment areas.

So this was a requirement for sources that operate in the ozone nonattainment area for actual emissions of NOx and VOCs. This rule was also effective in November of 2013. So with the -- with that process, we've completed that requirement at a state level under the Clean Air Act for that area.

So that completes all eight of the elements that were completed under the September strategy. Timing just worked out perfectly to be able to bring forward to you the revision to the ozone strategy that's dated today. We're releasing that today and are taking advantage of the board meeting to introduce that new strategy to you and give you an idea of what's included in that.

As with the September strategy, this strategy is an evolution. We took into consideration the status of the elements in the September strategy. We also took into account new information that's become available since September. So this document will continue to evolve as we move forward.

This strategy has been developed to cover a six-month timeframe, so this will cover work that the Division needs to do through the end of September of 2014, and then we'll continue to go through this evolution process.

One of the things that's important to keep in mind in regard to these strategies is that there's a logical sequence of events that the Division needs to take, and these strategies capture that. The strategies really start with the shorter-term elements. Those are truly intended to establish a foundation so that we can move forward and take on longer term elements and elements that are much more complex. And with the strategy that's being released today, we're getting into some of those elements that have been worked on over the course of the past year, and we're now ready to move forward with them in more detail.

For purposes of brevity, I'm not going to go through the 20 ongoing items because they're ongoing. These are things the Division needs to continue to do whether it's winter ozone season or not. But we really want to highlight the things out of the first three groupings.

So the first group will be worked on through the end of September. We've briefed the Board previously on Ozone Advance. That's a voluntary program that the Division participates in that was an opportunity afforded by EPA. One of the recommendations under -- or one of the requirements, excuse me, under Ozone Advance is that the Division needs to provide an annual status update to EPA in

regard to what we are doing under Ozone Advance. And so that's on -- on this list for this time frame.

New to the strategies is the development of an Emissions Inventory Query Wizard. This development will not be just restricted to inventories for the Upper Green River Basin. This will be a statewide tool. The intent of this tool is to allow users to obtain quality-assured actual emissions inventory data without submitting a request for information from the Division. So we're hoping that statewide this has great benefit, not just in the Upper Green River Basin.

Also underway are improvements to our wyvisnet website. Wyvisnet is the website where we have a lot of our data from continuous monitors throughout the state that streams. You can also get past reports that have been quality assured and data. Improvements that are being made will update the look, feel and functionality to be able to access that monitoring information. And we're anticipating that that will be released prior to September of 2014. Again, another improvement that will benefit statewide in addition to the Upper Green River Basin.

We've already touched on Upper Green River -- Upper Green Winter Ozone Study. The monitoring is complete, but the data and reporting still need to occur. So that's retained in this portion of the strategy.

We talked a little bit earlier about produced water tanks and a development of a request for proposal. There is a lot of interest and a lot of work that needs to be done to quantify emissions from produced water ponds. It is not nearly as easy to study produced water ponds as it is tanks. And so a separate request for proposal will be developed, and that will occur in this time frame.

And finally in this grouping -- in the previous two strategies, we have been working to collect information that has already been obtained by the Environmental Protection Agency Office of Research & Development through some of their studies that they have done in the Upper Green River Basin. Cara has been working closely with them to obtain that data. What we'll embark on in this strategy is to actually review and evaluate that data that they have collected, and we'll look at it for relevance to monitoring emissions inventories modeling and control strategies that would be unique to the Upper Green River Basin. So now that we've got the data, the real -- although getting the data was real work, now Cara and her group get to actually review that.

We have two items that will be worked on through the end of September of 2014. But they'll go past that time frame as well, so they're in a different group. Under the September strategy, I mentioned the produced water tank

request for proposal. Now we're transitioning within the strategy to actually do in-the-field study to research and quantify those emissions from the produced water tanks. And that will work -- work will occur in this time frame.

I also mentioned, under the September strategy, the request for proposal for the assessment of the control effectiveness of the combustors, as well as quantifying emissions from fugitive sources. That field study will also be done in this time frame and go beyond that. So now that we've secured, the contractors are in the process of finalizing those for that oil and gas production site study. The real work begins, to actually go out into the field and collect this information.

The final -- the final grouping is rulemaking. So this is something that you will see in the future. Not just an update, but a rulemaking will come before you.

This particular area with existing sources has been something that the Division has been working on over the term of the past two strategies. Over the term of the past two strategies, the staff have been evaluating information. That evaluation of information has indicated that the emission reactions from existing sources may not be as large as some may have anticipated. So under the September strategy, we changed our approach. We broadened our horizon, and we took time to look more -- and

internally evaluate more -- more control strategies and regulatory options, given some additional information that we were take -- able to take into consideration.

So based on that, we're now ready to be more specific about the rulemaking that we are embarking on. The first one is a Phase I technology-based control strategy and regulatory option to reduce emissions from existing upstream and midstream oil and gas sources. The focus on that is rulemaking to do that while preserving the current New Source Review permitting processes.

What the Division has done and will continue to do is we're continuing our internal review process of this rulemaking, and that will continue until we initiate the statutory rulemaking process. That will be initiated with a public notice that will start mid-June of 2014 with a board meeting to occur mid-July of 2014. That board meeting will be scheduled so close to this one, because the direction from Todd Parfitt, DEQ director, is that this rulemaking be targeted to be complete by the end of January of 2015. For that statutory rulemaking process, we then take into account when the Environmental Quality Council is meeting as well.

This is a phased approach. The technology-based focus of Phase I is really driven by the expertise of the New Source Review Permitting Program, and their expertise

with those oil and gas sources in the Upper Green River Basin.

We will be doing additional work that is geared at Phase II. Phase II is actually the evaluation of an emissions budget based control strategy and regulatory option to reduce emissions from the existing upstream and midstream oil and gas sources. This is a new more specific element to the strategy that has not been in there before.

In this evaluation, we will consider more permanent mechanisms to address new source growth within the Upper Green River Basin that will function effectively and preserve the New Source Review permitting within Wyoming Air Quality Standards and Regulations, Chapter 6, Section 2.

There is still a lot more work to be done in development of -- of a rule and a program that can be brought before the Air Quality Advisory Board, but this is the direction that the Division is moving in regard to addressing existing emission sources in the Upper Green River Basin.

And the final two pieces under Rulemaking really support the Phase II development. The first of those is gathering information on how an incentive program can be coordinated with the rulemaking process. The anticipation is that an incentive program that is coordinated with

rulemaking could accelerate emission reductions within the nonattainment area prior to completion of that statutory process.

And, finally, integration of stakeholder involvement. It will be key in gathering and evaluating information that may be used in that emission budget based option.

And that concludes the overview of the April 2014 ozone strategy. Again there are 20 ongoing activities. And you know, once the Board has an opportunity to look at that, if you have questions, please feel free to contact the Division. We'll be happy to answer those.

Transitioning to EPA obligations. There are a lot of them. I'd like to tell you that we've seen movement since September. Unfortunately, we have not.

So items on this list, EPA had proposed the federal ozone implementation rules. We still have not seen a finalization of those. We're not anticipating there to be many requirements that apply to a marginal ozone nonattainment area based on the proposal, but we still need that to be finalized.

The federal ozone monitoring rules have been stagnant since a proposal in 2009. We have been advised that most likely any proposal for ozone monitoring rules will now be tied to a federal proposal on the ozone NAAQS

review. We have also been advised that regarding that NAAQS review, there is litigation in the courts regarding the time frame. EPA would like to propose that review of that standard in early 2015. The other parties would like that proposed by EPA in late 2014. So currently we're in a holding pattern, awaiting a final court decision on exactly when we might anticipate that proposal.

We are still anticipating that the ozone standard will be proposed to be lower. Once there's a proposal that's released, we can then evaluate monitoring data statewide and give the Board an idea of, based on where that proposal might be finalized, what other areas of the state may be of concern for ozone.

We continue to encourage EPA to establish emission controls for nonroad engines. Nonroad engines are of a particular concern to the State of Wyoming, as we do not have regulatory authority over those. So nonroad engines are prevalent in the oil and gas industry in utilization on drill rigs on the completion -- completions as well.

And so while we have done as much as we can voluntarily with the oil and gas industry in the Upper Green River Basin, there is interest in addressing those engines by industry in other portions of the state. So we continue to encourage EPA to do more there.

And we continue to encourage EPA to do more in wintertime photochemical grid modeling development. The tool of choice by EPA in a nonattainment State Implementation Plan is to show that you can attain through model -- running a photochemical grid model.

At this point, as a marginal nonattainment area, we are not required to do that. However, we have been investing time and money into that, and getting that model to work correctly in the Upper Green River Basin for wintertime formation has not been successful. So we're not an agency that embarks on model development or chemical mechanism development that is key to that. So federal involvement in advancing that is really necessary, not only for the state of Wyoming, but for other areas that may have wintertime ozone formation.

If we would be bumped up to a moderate classification, we would be required to use that tool, and right now we know that tool does not work for that area.

MR. DIETRICH: To add to what Darla was saying is all of the models that are available for ozone nonattainment are for summer ozone, which addresses most of the nation, with the exception of a few places like Wyoming and Utah and now Colorado that have seen winter ozone events. So those models wouldn't help us.

MS. POTTER: And, finally, Steve mentions

we will be -- oh.

MR. DIETRICH: How did you do that?

MS. CEDERLE: Magical.

MS. POTTER: I won't touch it anymore.

We will be -- Director Todd Parfitt has made a commitment to those in the Upper Green River Basin that we will do public meetings in the basin twice a year. We'll do those pre winter ozone season and post winter ozone season. So we are due for a post winter ozone season public meeting. That is scheduled for Thursday, May 22nd in the evening. It will be an open house format with multiple stations, and we're still working through the specific topics that we'll cover in those multiple stations. So if you are interested in more information and more detailed information and the opportunity for exchange, you know, we welcome anybody that would like to attend that public meeting. And with that, that concludes the ozone update for today.

CHAIRMAN BROWN: Any questions for Darla?

BOARD MEMBER HANSON: Three questions. The last -- I start with the last one.

MS. POTTER: Okay.

BOARD MEMBER HANSON: Attainment through Photochemical Grid Model, how can you attain anything through a model? I didn't understand that.

MS. POTTER: So you're correct, we can't attain through a model, but the model is the tool that is used. We would adjust the emissions that are within the model to reflect certain control strategies that would be implemented.

BOARD MEMBER HANSON: As a result --

MS. POTTER: You then run the model, and the model needs to identify that the -- the predicted concentrations would be lower than the level of the National Ambient Air Quality Standard. So that's how -- that's how one would use that model.

BOARD MEMBER HANSON: So you use the model to adjust the figures.

MR. DIETRICH: That's one way it can be used. It can also be used in a perfect world as a predictor. If you're successful in using the adequate control strategies, you can actually somewhat predict what the ambient monitors are going to show.

BOARD MEMBER HANSON: Okay.

MR. DIETRICH: In a perfect world, that's how it's supposed to work, but you know how that works.

BOARD MEMBER HANSON: Thank you.

What is it, wyvis improvements, what does -- what do they show? I didn't understand that.

MS. POTTER: Okay. So wyvisnet is our

website.

BOARD MEMBER HANSON: Net, yeah.

MS. POTTER: And that -- that website has been developed over a number of years.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: And we're -- we're doing a lot behind the scenes to make that website function better, but we're also updating the look and feel of the website in the hopes that it makes it easier for a user to go to the website, see what the monitoring data is in their area, and be able to get the monitoring data back off if they chose to look more in depth at it.

BOARD MEMBER HANSON: What does it monitor? Ozone or --

MS. POTTER: So it depends on the site across the state of Wyoming.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: So at our continuous stations they have ozone, nitrogen oxides.

BOARD MEMBER HANSON: Okay.

MS. POTTER: A number of them have continuous particulate matter, meteorological conditions. I think almost all of them have cameras at them that take an image every 15 minutes that goes up on the website. So that's the data that comes out.

And then if a station has a sulfur dioxide sampler, it shows that data as well.

BOARD MEMBER HANSON: How many stations are there within the state?

MS. KESLAR: We have, you know, at any one time somewhere between 15 and 20. We do have some what we call mobile stations that we can move from place to place for like a year at a time or so.

BOARD MEMBER HANSON: Okay. Thank you.

Third and last question. Produced water tank emissions. You said they were tanks, enclosed, I presume. What do they emit if they are enclosed? And first off, the question what is produced water? It is water that has been used in an industrial process, I presume.

MS. POTTER: So I'll -- so I'll try to give a high-level answer, and then if you want more, Cara's the program manager --

BOARD MEMBER HANSON: Okay.

MS. POTTER: -- project manager for that study.

In oil and gas production, there is water that is also produced as they are producing the natural gas --

BOARD MEMBER HANSON: Gas. Sure. Yeah.

MS. POTTER: -- and also as they produce the condensate that comes out.

BOARD MEMBER HANSON: Yes.

MS. POTTER: In the process, they separate the condensate from the gas, from the water.

BOARD MEMBER HANSON: Correct.

MS. POTTER: The water then goes into a produced water tank.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: And our belief is there is a certain amount of carryover of condensate that actually goes into the produced water tank. What we're currently lacking is good information on what the emissions might be from those produced water tanks.

BOARD MEMBER HANSON: So we don't even know whether there are any emissions and what they are.

MR. DIETRICH: So, Klaus, the VOC is what we're targeting.

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: Right. So based on work through new -- the New Source Review program, with oil and gas operators, depends on the operator you speak with.

BOARD MEMBER HANSON: Yeah.

MS. POTTER: We have some operators that state it's water and water only, and there should be no emissions. We have other operators that are, in fact, routing the vapors from those tanks into their control

devices that they use on their condensate tanks. So we believe that there are emissions from those produced water tanks that are somewhere between no emissions and enough that they have need to be routed to the control device to control. We need to find out where -- where they're actually at in that continuum.

BOARD MEMBER HANSON: And how does the water release these possible emissions? Through sunlight on it or -- I mean normally I would assume that --

MR. DIETRICH: Change in pressure.

MR. ANDERSON: Okay. Yeah.

BOARD MEMBER HANSON: Pressure?

MR. ANDERSON: Yes.

MS. POTTER: You've gone beyond my area of expertise.

MR. ANDERSON: It was a very complicated question, so knew it was going to get into the weeds quickly. So no separation is perfect, why we do the separation of oil, water, condensate. And so that carryover gets into the tank. There's a pressure difference, like Steve said, so you're going from a high pressure to a low pressure. When you do pressure differential like that --

BOARD MEMBER HANSON: It separates.

MR. ANDERSON: -- you get the gases coming

out of the liquid. And then on top of this, the carryover that's coming over is lighter liquids to begin with. We're not talking about the heavier crudes. It's, you know, a condensate, which is very light oil and can volatilize easy. And then there's holes in the tank where they have valves and seals where the --

BOARD MEMBER HANSON: Where it escapes.

MR. ANDERSON: Yeah.

BOARD MEMBER HANSON: Sorry to be asking this question. I had no idea what this was all about.

MS. POTTER: No. I would prefer that you ask, because as we move forward with ozone nonattainment --

BOARD MEMBER HANSON: Uh-huh.

MS. POTTER: -- the topics before the Board will become more complex. So as we do these studies --

MR. DIETRICH: Right.

MS. POTTER: -- and we find out more, then there may be other --

BOARD MEMBER HANSON: Sources.

MS. POTTER: -- there may be other things that are brought before you in terms of New Source Review, permitting requirements or other rulemaking action. So it's -- it is better to -- it is better to ask. And that's the purpose of doing these updates --

BOARD MEMBER HANSON: Thank you.

MS. POTTER: -- so we don't completely lose every single one of you when we bring something forward. So it's good to ask.

MR. DIETRICH: You remember, I said you guys help us advise. You're also a little bit of our testing grounds on how we're actually trying to explain this to the public with a new rule we're going to go forward with, and this is no exception to that.

BOARD MEMBER HANSON: Well, if you explain it to me, you've explained it to second grade.

MR. DIETRICH: Okay. Okay.

BOARD MEMBER BONER: Beginning of this presentation, the ozone action days triggering the contingency plans, I just want to make sure I understand correctly, those contingency plans are optional, right?

MS. POTTER: That's correct.

BOARD MEMBER BONER: All right. So it's up to the producer to -- to --

MS. POTTER: It's up to the producer. So among the variety of oil and gas operators, they're by far our largest participant in this program. Each operator customizes that plan based on their operations and what works for them.

BOARD MEMBER BONER: Okay.

MS. POTTER: And we allow that latitude.

So there are -- there's a certain amount of streamlining that has gone into the development of those plans. So we've got a checklist. We try to encourage people to identify things that can fall into the same categories. So from a staff perspective, it's easier for us to identify what things are being implemented, but there's a lot of latitude on those for them to customize those or identify why it is applicable or isn't applicable for their company and add more. So they -- they pick and choose what works for them based on their operations.

BOARD MEMBER BONER: Good.

BOARD MEMBER HULME: Cara, Darla, the Inventory Query Wizards, is that tracking all pollutant emissions or just ozone precursors?

MS. POTTER: That will be for any pollutant that is reported to the Air Quality Division through the correction of actual emissions inventories.

BOARD MEMBER HULME: Okay.

MR. DIETRICH: Really it's all about making it more publicly visible and accessible.

BOARD MEMBER HULME: Uh-huh. Sounds good. I didn't know --

THE REPORTER: I'm sorry. I can't hear.

BOARD MEMBER HULME: I didn't know if it was limited to just the ozone precursors, since it's under

the ozone plan or not.

MS. POTTER: No, it will be statewide. But one of the areas -- one of the areas of particular concern by the task force members -- that task force had been formed and they put forward a series of 10 recommendations to the Division. Some of those recommendations revolved around providing better and more accessible information, emissions inventory as well as monitoring. So we keep all of those recommendations in mind, as well as the requirements that the Division has to meet, you know, within nonattainment area.

So we're developing it to be statewide, but we want to highlight it in the strategy, because we think it will directly tie back to some of the -- those task force recommendations in terms of improvement of accessibility to that information.

CHAIRMAN BROWN: Anyone else?

BOARD MEMBER HANSON: No.

CHAIRMAN BROWN: Thank you.

MS. POTTER: Thank you for your time today.

BOARD MEMBER HANSON: Thank you.

MR. DIETRICH: So that just leaves Cole Anderson to give us information about the greenhouse gas permitting authority that we now have.

MR. ANDERSON: I am Cole Anderson, New

Source Review Program Manager.

And greenhouse gas regulation is not like ozone when it comes to EPA and how they react. Greenhouse gas regulation happened very quickly, and it caused a lot of entities within the state to put their best foot forward, and I think we got a lot of actions that happened as far as rule development. And as far as putting in place those things that we needed to arrive to December 23rd of last year, which was the day when Wyoming became the permitting authority for the state, and we were delegated by EPA.

So just to kind of take you through, I just have some timelines here to talk about the milestones that got us to where we are today, and then I'll give you an update of just how permitting -- the New Source Review permitting, which is construction and modification, and our Title V group, which is our operating permit, how all of those permitting actions are being handled today.

So going back to April 2, 2007, that was a famous decision from the U.S. Supreme Court in Massachusetts versus EPA, where the Court said that EPA could regulate greenhouse gas emissions. And the EPA had to follow a process in order to do so. And so after April of 2007, the EPA undertook that process.

And December 15th of 2009, EPA then issued the endangerment finding, and in cooperation with that, a cause

and contribute finding. These are two pieces that EPA needs to do in order for them to establish rules.

Then those rules came May 13th of 2010. They issued the tailoring rule, which was limited to large stationary sources and excluded smaller factories, restaurants and farms. The tailoring rule, kind of by its name, is a rule designed to apply to a specific source or group of sources. And these would be the large sources of GHGs. They went through and determined what appropriate emission levels of greenhouse gases would be for them to regulate.

So the tailoring rule came out. Then December 13th of 2010, EPA issued a SIP call. A SIP call is where basically EPA tells the states we recognize that there's now a new rule you can implement through state implementation plans, and we would like you to address whether or not you are able to regulate those under your current state implementation plans.

And then December 29th of 2010 -- so you're looking at 16 days later -- EPA issued a finding of failure to submit state implementation plan revisions, which were due to EPA, according to them, in response to their SIP call. So you have them asking for information, and 16 days later saying you didn't give it to us, now you're -- you have to go through the finding of failure.

So in context of finding of failure, that's their avenue to institute a federal implementation plan. And a federal implementation plan is the federal government functioning in the role of the state, and they would then be issuing the permits through the region. In this case it was Region 8 who was issuing greenhouse gas permits for the state of Wyoming.

And that federal implementation plan came into effect on December 30th of 2010. So between December 15, 2009 and December 30, 2010, they really came at us, asked for information, determined we didn't give it to them, and many had federal implementation plan in place. That's pretty fast for EPA, in my opinion.

So going back to the rule that was put in place, the tailoring rule. On January 2, 2011, EPA's emission standard for light duty vehicles took effect. And this is EPA's avenue for saying that permitting has to be addressed for stationary sources if there's an existing requirement for some other group of sources to control their emissions?

So in this case, these are mobile sources, light-duty vehicles that aren't regulated under Wyoming, but they did trigger emission controls and regulation under EPA's rules, so then they broadly applied the requirement to get permits to stationary sources as well. So now they're looking at permitting your power plants, refineries, all

those stationary sources.

On January 2, 2011, they also addressed the biomass issues. That will come up little bit later at the end of this timeline. Biomass is something that EPA is currently in the process of addressing. They're looking at what is the overall carbon benefit or penalty for burning biomass. And at this point, they don't have clear direction on if you burn tree waste or yard waste, you know, what is the net climate effect of something like that.

So then July 1, 2011, we had a second set of standards -- or I should say a second set of implementation that affected new sources.

So stepping back in January of 2011, they had the requirement to get a permit for sources that were already subject to permitting actions called PSD actions, prevention of significant deterioration. So if you're already going through that process, then you have to also address greenhouse gases.

Then in July, then they started saying, well, you can trigger permitting just on greenhouse gas emissions. So we called that the second step in which you can trigger permitting just for that pollutant.

Then moving on. In 2012, the legislature passed a bill that directed the DEQ to adopt regulations to amend

our Clean Air Act state implementation plan, and our Title V operating permit program to the extent necessary to obtain state primacy over the regulation of greenhouse gases by the U.S. EPA. At that point they had directed us to develop those regulations; however, we were not authorized to submit those to EPA for approval.

Then the 2013 Wyoming legislature authorized the Wyoming DEQ to submit an amended state implementation plan for approval to EPA. So a year later we were given approval to submit those regulations. We submitted them on March 8, 2013, and EPA acted on June 24, 2013 with a proposal to approve our SIP. November 22nd of 2013, they made a final action where they decided to approve our SIP, and they removed the federal state implementation plan.

The effective date of their final action was December 23rd of 2013, and that's the day when we acquired full permitting authority both state and federal for greenhouse gas emissions.

Currently we have four PSD permit applications in-house that we're working on. We're aware that a fifth is coming. This is some new territory for the New Source Review Program. We have yet to issue our first permitting action; however, we think that's going to happen here in the next two months. So we will have our first greenhouse gas permitting action that was performed by the State.

Just a couple of things here to note. Even though we're the permitting authority, we're addressing them both in the construction and the operating permit programs. EPA is still looking forward, and they're evaluating additional regulations. One of those is they are undertaking a study to determine if greenhouse gas permitting for smaller sources is necessary. Earlier I just mentioned that EPA, in the tailoring rule, focused on the large sources. The small sources are still being scrutinized by EPA for possible regulation.

And then finally, as promised, biomass comes back into the picture. There's an ongoing effort there to determine how best to regulate biomass. And in the future we look for some sort of guidance from EPA on that.

So that's all I have on the PSD permitting authority for greenhouse gases. Do you have any questions?

CHAIRMAN BROWN: Questions?

BOARD MEMBER HULME: Cole, what types of facilities are the four or maybe the five that --

MR. ANDERSON: That are in-house right now?

BOARD MEMBER HULME: Yeah. Uh-huh.

MR. ANDERSON: Okay. Sure. So I've got -- without naming names --

BOARD MEMBER HULME: Yes.

MR. ANDERSON: -- a trona facility, a

refinery, a fertilizer plant. Let me see. Oh, a lime kiln that's coming and possibly another refinery. So we may end up with two. That's the one that's hanging out there.

BOARD MEMBER HULME: Thank you.

MR. ANDERSON: Sure.

CHAIRMAN BROWN: Anyone else? No questions?

BOARD MEMBER HANSON: The place we visited, does that fall under this, because you have emissions.

CHAIRMAN BROWN: Last year on the tour?

BOARD MEMBER HANSON: Yeah.

CHAIRMAN BROWN: Yes. We're subject to that, yeah.

BOARD MEMBER HANSON: Which is not a refinery, it is a --

CHAIRMAN BROWN: It's a trona and soda ash processing facility.

BOARD MEMBER HANSON: Soda ash, yeah.

MR. ANDERSON: I can go into a lot more detail if you'd like to know about each specific action, but I can do that offline.

BOARD MEMBER HANSON: I just realized we were there last year. It was interesting.

MR. DIETRICH: It's interesting that Cole took us through that whole evolution in that circuitous

path, if you will, to try to get authority in Wyoming to regulate greenhouse gases. So for a couple years we had dual permitting going on, it really concerned the industry and us, Wyoming, on how that was actually going to help or hinder the permitting process.

It took two legislative sessions to give us the authority we needed to get primacy, because the statute had to be changed that was in there since 1999 prohibiting us regulating greenhouse gases. And so that took a while, but it happened, and then here we are.

You know, Cole touched on the fact that EPA is evaluating the next level of thresholds that will need greenhouse gas permits. We're really watching that, too, because that does directly affect permitting workload.

CHAIRMAN BROWN: How many dual permits are out there?

MR. ANDERSON: Okay. So in the November 22nd final action, they delegated two permits to us that EPA had issued themselves. So we're the implementation authority for that. There is one that was issued after that that still needs to be delegated to us. And then we have a situation where one application went all the way out to public notice. EPA made a proposed decision on that, and that decision, in the 11th hour, there were comments submitted on that, and EPA was looking at addressing those

comments.

This was all happening as Wyoming was getting authority to implement the greenhouse gases, and that applicant has since decided to withdraw their permit application from EPA, and they will file it with us to work on. That's actually one of the four mentioned, so...

CHAIRMAN BROWN: Any other comments?

BOARD MEMBER HANSON: Just a question. We always hear that, for example, normal cars emit, of course, a lot of greenhouse gas -- some greenhouse gas. And you mentioned that at this point only large facilities are regulated. So if the smaller producers, motors, or whatever, would be finally regulated, what impact would that have on --

MR. ANDERSON: Sure.

BOARD MEMBER HANSON: -- vehicles being sold in this state?

MR. ANDERSON: First of all, unfortunately I'm not an expert on vehicle regulation.

BOARD MEMBER HANSON: Yeah.

MR. ANDERSON: I can kind of put it together in --

BOARD MEMBER HANSON: Uh-huh.

MR. ANDERSON: The context I was talking about for the large sources, those are stationary sources,

the refinery, power plants.

BOARD MEMBER HANSON: Sure.

MR. ANDERSON: The mobile sources, like the cars, it was the light-duty vehicle regulations that EPA originally proposed that got us into this where we're actually issuing permits for power plants. And so EPA is already looking at those. And at this point I have not seen them come up with control requirements yet for cars, but if that happens, you know, it's going to be from the federal government down to the manufacturers, and, you know, it probably will just be on our cars when we purchase them, so...

BOARD MEMBER HANSON: It's going to be somewhat similar to the original introduction of lead-free gasoline or something like that.

MR. ANDERSON: Uh-huh.

MR. DIETRICH: Similar, because it's a mobile source. EPA regulates mobile sources. So they would look at how it's regulated and how it's manufactured at the plant to establish those emissions standards. That's why it's called the tailpipe rule.

BOARD MEMBER HANSON: Yeah.

MR. DIETRICH: And we wouldn't be regulating that.

BOARD MEMBER HANSON: Yeah. Thank you.

CHAIRMAN BROWN: Thank you.

MR. ANDERSON: Thank you.

CHAIRMAN BROWN: Let's see. Next on the schedule is the next meeting. That has already been set?

MR. DIETRICH: I think Jeni's been sending out some information, getting queries from you guys about possible dates.

And have you got that set?

MS. CEDERLE: The date of the next meeting is July -- Monday, July 14th.

BOARD MEMBER HANSON: Bastille Day.

MR. DIETRICH: There you go.

MS. CEDERLE: Yes, Bastille Day. There's going to be fireworks.

And right now we're at Rock Springs -- we're looking at Rock Springs, Wyoming, and securing a location for that. I would anticipate an all-day meeting. We'll start at 9:00, is my goal.

MR. DIETRICH: Darla mentioned that some of that rulemaking could actually start going forward about that time.

CHAIRMAN BROWN: Okay. Any other closing comments, questions?

Steve?

MR. DIETRICH: No.

BOARD MEMBER HULME: Move to adjourn.

CHAIRMAN BROWN: Second.

BOARD MEMBER BONER: Second.

CHAIRMAN BROWN: Okay.

BOARD MEMBER HANSON: We're coming back for a tour this afternoon?

CHAIRMAN BROWN: This meeting is adjourned.

(Meeting proceedings concluded 12:01 p.m., April 22, 2014.)

C E R T I F I C A T E

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

Dated this 8th day of May, 2014.


KATHY J. KENDRICK
Registered Professional Reporter