

**TRANSCRIPT OF PROCEEDINGS**  
**AIR QUALITY ADVISORY BOARD MEETING**

*Pursuant to notice duly given to all parties in interest, this matter came for meeting and public hearing on the 23<sup>rd</sup> day of July, 2024, at the hour of 1:00 p.m. The meeting was held through Zoom.*

**In attendance:**

**THE AIR QUALITY ADVISORY BOARD:**

Chairman Chris Fare  
Members: Milford Lockwood  
Island Richards

**THE AIR QUALITY DIVISION OF THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:**

Administrator Nancy Vehr  
Amber Potts  
Mike Morris  
Jonathan Chenchar  
Laura Ballard  
Jordan Carlson

**THE WYOMING ATTORNEY GENERAL'S OFFICE:**

None present

**GENERAL PUBLIC ATTENDEES (in-person):**

John Rutecki – Environmental Defense Fund

**VIRTUAL ATTENDEES:**

Amy Butler

*(Meeting called to order at 1:02 p.m.)*

**Chris Fare:** Hey, good afternoon, everyone. We will call this meeting to order at 1:02 p.m. and we will start with roll call. Myself, Chairman Fare, present. Vice Chairman Lockwood?

**Milford Lockwood:** Present.

**Chris Fare:** Board Member Richards?

**Island Richards:** Present.

**Chris Fare:** Board Member Baldacci is excused. He is not present due to, as we've seen smoke in the air, probably on fire detail. So, we have a quorum of Fare, Lockwood, and Richards.

Moving along in our Agenda, we got Item II(b), which is the agenda. As has been provided as we've been discussing, has everyone received the agenda and had the opportunity to review it?

**Milford Lockwood:** Yes.

**Chris Fare:** Okay, we have some, we have some – yes Nancy?

**Nancy Vehr:** I just wanted to say, one of the items in terms of the agenda that is not listed. Which is we have a presentation by Jordan, who's our intern, and I will offer that up for the board's consideration for Jordan's presentation to be added to the agenda.

**Chris Fare:** Perfect. I think that would be wise of us. We can look to add it as III(c) and add a presentation from Jordan, the AQD Intern. I will entertain a motion to revise, uh, first we must adopt it, I guess, and then we can revise it.

**Milford Lockwood:** I move to accept the agenda.

**Chris Fare:** Okay.

**Island Richards:** Second.

**Chris Fare:** So, we have a motion by Vice Chairman Lockwood and seconded by Board Member Richards. All in favor?

**All:** Aye.

**Chris Fare:** So, the board, the agenda has been adopted and I think as Administrator Vehr has mentioned, we have a good opportunity for an intern to provide a presentation and I think it would be fitting for the III(c) location. With that said, is there any discussion?

Okay. Is that something we need to adopt or that we can just put there?

**Nancy Vehr:** If you have a motion to adopt, then we can add it to that agenda.

**Chris Fare:** Okay, so I will entertain a motion to add Item III(c) for the Air Quality intern's presentation.

**Island Richards:** So, moved.

**Milford Lockwood:** Second.

**Chris Fare:** So, we have a motion to add Item III(c) for the intern's presentation. Motioned by Board Member Richards and seconded by Vice Chairman Lockwood. All in favor?

**All:** Aye.

**Chris Fare:** Okay, motion passes. Moving right along, thank you guys for leading through the April 4<sup>th</sup> meeting. We should have all received and reviewed the meeting minutes. Is there any discussion?

**Island Richards:** Mr. Chairman, I move to approve the meeting minutes for April 4<sup>th</sup>, 2024.

**Milford Lockwood:** I'll second that motion.

**Chris Fare:** Okay, so we have a motion to approve the meeting minutes from April 4<sup>th</sup>, 2024 by Board Member Richards and seconded by Vice Chairman Lockwood. All in favor?

**All:** Aye.

**Chris Fare:** Okay, motion passes. The meeting minutes are approved for April 4<sup>th</sup>.

We are saving lots of time for our presentation and the IBR rulemaking discussion. So, moving into Item III: New Business, bullet point A, Rulemaking Proposal. Let's turn it back to the Air Quality Advisory Board. But, really quick, I wanted to add into that, as we sit fit, and we've had good success in my terms with this, and that is as we have questions we will address them. I don't see that as a significant interruption and we can review them real time with Nancy and her team and at the end we can have some board discussion, followed by any additional public input for the rulemaking proposal, as is provided and to use that format as we get through this section. Okay, go ahead Nancy, it is all yours.

**Nancy Vehr:** Well great, I will turn it over to Mike and then I believe Jon, from our Team Rules section, who will be walking you through. But Mike, are there any preliminary items to note before Jon jumps right in?

**Mike Morris:** I think Jon, Jon Chenchar with the State Implementation Plan and Rule Development Section, is going to give a pretty comprehensive presentation on this. But this particular rule package contains some of the elements of the rulemaking you all reviewed last year as well, with regards to incorporation by reference, and there are some other additional items as well. So, Jon will go ahead and cover that and as questions arise, feel free and we will address those.

**Nancy Vehr:** And with this new speaker and video system that we have, if Jon, if – when you start talking and it doesn't show up, you might need to switch.

**Jonathan Chenchar:** Yeah, no worries.

**Laura Ballard:** Just give me a second, we are having that zoom issue, how I share the screen.

**Nancy Vehr:** We are working through technical, some technical stuff in the room real quick. Oh, there it shows up and there you are.

**Jonathan Chenchar:** Oh yeah. That's cool, the Owl Labs camera.

**Nancy Vehr:** And you've been to the Air Quality Advisory Board Meeting previously?

**Jonathan Chenchar:** Yeah, I've been to a couple.

**Nancy Vehr:** But this is the first presentation?

**Jonathan Chenchar:** Yeah. This is my first presentation.

**Michael Morris:** We are just trying to do the screen share for you all so you can see the presentation.

**Jordan Carlson:** Do you want me to take a look?

**Laura Ballard:** Yeah, I'll take some help.

**Nancy Vehr:** We have a few techies but I am not one of them in the room.

**Jordan Carlson:** And there we go.

**Jonathan Chenchar:** Sweet.

**Nancy Vehr:** And is there a presentation mode that goes from that screen?

**Jordan Carlson:** There should be.

**Nancy Vehr:** Are you able to see on your guys' end, the presentation? Does it show R-37 rulemaking presentation?

**Chris Fare:** Yes.

**Nancy Vehr:** Is that large enough for you guys to see, on the screen?

**Chris Fare:** Yeah, it looks good on my end Nancy.

**Nancy Vehr:** Okay, great.

**Jonathan Chenchar:** Cool, okay, well I am Jon Chenchar and I have been with [the] SIP & Rules [Section] for about a year now, but this is my first go around talking during one of these meetings, so it is good to meet you all and I'll be presenting the changes we will be making with the R-37 rulemaking. So, with that, let's just jump on into it.

Okay so, showing the chapters up for revision makes this rulemaking look like a much more daunting workload than it actually is. Much of the changes are Incorporation by Reference, or IBR, updates like we had in the R-35 rulemaking, and we are updating them to make sure Wyoming's air quality program maintains regulatory primacy over all new federal regulations. This is reflective of our desire to keep the IBR sections as up-to-date as possible to avoid another seven-year gap in regulatory primacy like we had before R-35.

Next slide. Okay, so this slide outlines the key elements of this proposed rulemaking. The biggest changes here will be the updating of the PM<sub>2.5</sub> Primary standard in Chapter 2, Section 2; the incorporation of 40 CFR Part 60, subparts UU and OOOOb, in Chapter 5, Section 2; the removal of the Title V Affirmative Defense provisions from Chapter 6, Section 3; and the removal of the PM<sub>2.5</sub> Significant Impact Levels in Chapter 6, Section 4. Chapter 6 will also have its IBR section updated from 2017. We also have some minor housekeeping revisions in Chapters 3 and 14.

So, work commenced on R-37 soon after R-35 and the R-36 Emergency Rulemaking were finalized. The initial steps were much like R-35, with tracking all the associated CFR changes to parts and subparts that we directly reference in the WAQSR. While still lengthy, this process was not nearly as time consuming as it was for R-35 since there was only one year of updates to consider except for Chapter 6.

We also had a pre-rulemaking review conducted with our AG's Office, which resulted in two non-substantive changes that have no regulatory impact but instead just clean up our regulations and make everything more consistently aligned.

Okay, so since most of us are already aware of how Incorporation by Reference, or IBR, works, I'll keep this explanation high level. That being said, Board Member Richards, since you were the only one not yet on the Board when we presented R-35 last year – if you need additional information on IBR not covered here, please ask away and we will answer any questions that you got.

In essence, IBR is a way to incorporate lengthy federal regulations into the WAQSR to gain regulatory primacy over them without sacrificing the length of our regulations. It's all in the name, we're incorporating federal regulations into the WAQSR, but by reference only. This way, the Air Quality Division can maintain primacy over these subparts without the WAQSR becoming unwieldy, as some of these subparts are dozens, if not hundreds of pages long and would extend the WAQSR by thousands of pages if they were not IBR'd. So, by referencing the different subparts in our regulations and including IBR sections at the end of chapters acknowledging these references, the Air Quality Division can take regulatory primacy over them.

So, this is a list of all the IBR sections being revised in this rulemaking. Once the IBR sections for Chapters 2, 3, 6, and 8 are State effective, they will be sent to EPA for review and implementation into Wyoming's SIP.

As explained earlier, by revising and updating the IBR dates in Chapters 2, 3, 4, 5, 6, 8, 11, and 14, Wyoming will obtain regulatory primacy over all regulations revised in the CFR since last July. Just like with the R-35 rulemaking, AQD has tracked these changes to the best of our ability by using the "Timeline" feature on the eCFR website; and this is included in the 13-page summary reference sheet provided in the docket for today's meeting.

The biggest IBR update for this rulemaking is Chapter 6, Section 14, which was excluded from R-35 for being too unwieldy to track changes and update at that time. Now, with only one year of updates for the other chapters, Chapter 6's IBR date is finally being revised and updated from July 1, 2017 to the most recent date of July 1, 2024 to align with the other chapters.

Alright, so Chapter 2, Section 2 PM<sub>2.5</sub> primary annual standard, these changes occur on pages 2-1 and 2-2 of your redline copy. Straightforward revisions here. EPA finalized a new lower PM<sub>2.5</sub> standard of 9.0 micrograms per cubic meter, down from 12. This new standard was finalized on March 6 of this year, hence its inclusion in this rulemaking. Wyoming has until February 7 of next year to make area designations for the new standard and we expect all counties in Wyoming to be designated attainment/unclassifiable.

Okay, so now let's turn to Chapter 5, Section 2 New Source Performance standards. Our first change occurs on page 5-4 and is the incorporation of 40 CFR Part 60, subpart UU. This subpart specifically details rules affecting saturators, mineral handling and storage facilities at asphalt roofing plants; and asphalt storage tanks and blowing stills at asphalt processing plants, petroleum refineries, and asphalt roofing plants. So, we are incorporating this subpart because a facility informed AQD that it has an asphalt storage tank subject to subpart UU and after evaluation by the Division's Title V and Compliance programs, AQD confirmed this facility is subject to subpart UU. By incorporating this subpart into the WAQSR, the Division will obtain primacy and the facility will interface with our Compliance Program rather than EPA's.

Ok, so now we're going to stay in Chapter 5, Section 2 and go a couple pages forward to 5-6 where we're incorporating 40 CFR Part 60, subpart OOOOb. This subpart is part of the "Methane Suite" of rules, and affects all new, modified, or reconstructed facilities after December 6, 2022. The types of emission sources subject to OOOOb are associated gas from oil wells, both wet and dry seal centrifugal compressors, reciprocating compressors, fugitive emissions from equipment leaks, liquids unloading, sour gas sweetening units, storage vessels, gas plant process units, and pneumatic controllers and pumps using natural gas. This isn't an exhaustive list, but gives an overview of the types of facilities and emission sources affected by the rule.

So, as previously mentioned, OOOOb regulates methane and sets performance standards that make methane emission reductions from a number of different facility types using many different regulatory methods. So, one of these methods is the Super Emitter Program. The Super Emitter Program uses an unprecedented regulatory method where third-parties will use EPA-approved remote sensing technologies such as satellites

and aerial surveys to detect and report any large emission events or “super emitter” events to EPA. These third parties won’t be allowed to physically access facilities. Some other requirements of OOOOb include routine monitoring at all well sites, centralized production facilities and compressor stations; and requirements that tanks and tank batteries reduce emissions by 95 percent.

Finally, reciprocating and centrifugal compressors, storage vessels, and process units at gas plants must be in compliance within 60 days of the publication of OOOOb or upon initial startup, whichever occurs first. The elimination of routine flaring of natural gas will have a two-year phase-in period, and zero-emissions standards for process controllers and pumps will have a one-year phase-in period.

Okay, so, with an effective date of May 7, 2024, some facilities had to be in compliance by July 6. Because of this, the division incorporated the Federal Register version of OOOOb into the WAQSR via the state emergency rulemaking process on May 6, 2024; this was the R-36 rulemaking. This way, all affected facilities could interface with AQD’s compliance and enforcement program rather than EPA, allowing for the quicker turnaround of questions and concerns from facilities regarding the rule. The initial R-36 emergency rule will expire on September 3rd and can be renewed once for an additional 120-day period at that time, which we plan on doing. Then, should this rule proceed through the statutory process it will eclipse the emergency upon finalization. And finally, 40 CFR Part 60, subpart OOOOc –which is for existing sources, unlike OOOOb, which is for new, modified or reconstructed sources–will not be incorporated at this time. Unlike OOOOb which is written and effective as a rule, OOOOc is emissions [guidelines] and involves developing a state plan with the same stringency as the [guidelines] set forth in the subpart. So, the Division still must develop this state plan for the existing sources affected by OOOOc, and is currently initiating this process.

Okay, onward. So, let’s move to Chapter 6, Section 3. You’ll find the changes on page 6-47 of your redline draft. This revision occurs in response to an EPA action ordered by the U.S. Court of Appeals for the D.C. Circuit that found removing the affirmative defense provisions consistent with other recent EPA actions involving affirmative defenses and would harmonize EPA’s treatment of affirmative defenses across different Clean Air Act-programs. The deadline for the removal of affirmative defense provisions was August 21, 2024. However, EPA allowed states to submit extension requests for an additional 12 months after the first deadline, which AQD submitted to EPA on May 17 for a new deadline of August 21, 2025. The removal of these provisions means facilities no longer have affirmative defense exemption during emergencies that result in emissions exceedances.

**Nancy Vehr:** Can I just add something on that one?

**Jonathan Chenchar:** Oh, yeah.

**Nancy Vehr:** So, EPA – we submitted that request for the extension down to EPA Region 8 and they granted that request so our deadline got bumped out a year. So, our hope is through the rulemaking and getting that taken care of, then we can submit that down to EPA within a year. Thank you, Jon.

**Jonathan Chenchar:** Yeah, of course. Yeah, so...

**Chris Fare:** Hey, real quick, Jon.

**Jonathan Chenchar:** Yeah?

**Chris Fare:** Building on what Nancy was just saying there – thank you – is my understanding correct? So, the CFR struck out the affirmative defense, so thus, we have to remove it. That’s why it’s all struck out?

**Jonathan Chenchar:** Yeah, I believe so, right?

**Mike Morris:** That is correct. Consistent with a court decision, Chris.

**Chris Fare:** Okay.

**Jonathan Chenchar:** Alright, cool. Okay, any other questions? Okay. So, staying in Chapter 6, let's now turn to Section 4 and look at pages 6-66 and 6-67 of your redline drafts. Here, you will see the proposed removal of the PM<sub>2.5</sub> Significant Impact Levels, or SILs. PM<sub>2.5</sub> SILs were originally promulgated by EPA rulemaking in 2010. And, in trying to stay ahead and do our due diligence, WDEQ incorporated the SILs into the WAQSR and SIP in the R-19 rulemaking in 2012. One year later, the D.C. Circuit Court vacated the original rule and remanded the PM<sub>2.5</sub> SILs to EPA. So, since then, EPA has released a series of Guidance documents on the PM<sub>2.5</sub> SILs, but no rules. In each of these Guidance documents, the SIL values have differed from the original values that WDEQ incorporated in 2012. So, since the Guidance values still vary from the values in the WAQSR, and because the EPA has not proposed a new SIL rulemaking, the Division is proposing the removal of the SILs from the now-vacated 2010 rule.

Okay. Onto some of the miscellaneous revisions. So, these were identified during the Wyoming Attorney General's Office review and are the correcting of the spelling of 'canceled' in Chapter 3, Section 8, from, as they called it, "The 'ye ol English version'" of 'cancelled' with two l's to the modern version with one. Other changes include the changing of the language pertaining to the electronic CFR in Chapter 6, Section 14 to match the updated language in the other chapters' IBR sections, and the changing of the font sizes of the URL in Chapter 14, Section 5.

Let's see. So, the public comment period for this rulemaking opened at 8:00 a.m. on June 21<sup>st</sup> and will end today at 5:00 p.m. So far, the Division has received two comments on this rulemaking.

**Mike Morris:** Chairman Fare, we've actually received three comments on this rulemaking.

**Jonathan Chenchar:** Oh, really?

**Mike Morris:** Yeah. Sorry, Jon.

**Jonathan Chenchar:** Now three. (laughter) Fun times.

Okay, and then – questions from the Board?

**Nancy Vehr:** And I was going to say, in terms of the comments, Mike, if you could just give the Board...since one of them just came in, I think, late yesterday. If you could just give an overall – who the commenters were and if there is anything to know.

**Mike Morris:** Yes, I would be happy to. Chairman Fare and other members of the Board, I believe I emailed copies of these comments over to you this morning. We've actually posted them up on the Division's website, as well under the Proposed Rules and Regulations page, so that members of the public can access them. But, we received three comments on the proposed rule. One from Rocky Mountain Farmer's Union. One from the Environmental Defense Fund. And one from Wyoming Outdoor Council.

And just, actually, going back a couple of slides, as well – just a note of clarification. And Jon did a great job on this presentation, by the way. I just wanted to point out one note of clarification that in OOOOc, which is for existing sources, it's actually Emission Guidelines rather than Emission Guidance. There's, I

guess, a little bit of a distinction there from a regulatory perspective. But, I think that was just one distinction I wanted to make. And with that, I think that concludes the formal part of the R-37 presentation.

**Nancy Vehr:** Yeah, I think Jon had said, if you guys have any questions or clarifications...that was a really...I was thinking you were going to have to take a sip of water in all that to get through it. But that's a lot of information to cover. Again, with the incorporation by reference pieces being kind of, I'll call it, more of a routine nature on how we do things. And then, there were just a couple of the specific. So Jon, thanks for highlighting those for us. But, if the Board has any questions on any of the rulemaking, happy to take those.

**Chris Fare:** Thank you. Yeah, Jon, thanks for good work on that presentation. I appreciate your effort and you took time to put that together to make it quite seamless. To the Board, is there any discussion regarding the proposed R-37 rulemaking?

**Island Richards:** I don't have anything, Mr. Chairman.

**Milford Lockwood:** I don't have anything, Mr. Chairman.

**Chris Fare:** Yeah, the only question that I had, I asked there through that midpoint on that slide. I guess, seeing that there's no questions from the Board...as I said, right before the introduction, of allowing additional public input...yes, thank you for that, Mike, for walking through those three letters that we received. I reviewed them. I know that Milford and Island had taken a look at that, as well. So, thanks getting that out this morning. Seems to be straightforward, what their support of the R-37. Are there any members of the public on the call that have any input in regards to this R-37 rulemaking, specific. Before I open that, one thing is, should you have input...let's just please hold that to 3-5 minutes and we can move forward.

**Mike Morris:** Chairman Fare, we actually have a member of the public who is attending in person today.

**Chris Fare:** Oh, perfect.

**Mike Morris:** And, I believe, anticipates providing public comment. And so, if the opportunity is good right now, I think we can turn the floor over and allow our member of the public to introduce himself and provide comment.

**Chris Fare:** Yeah, please introduce yourself and provide your comment. Thank you.

**John Rutecki:** I appreciate it. I did revise it a little bit. I did submit the full comments but revised it to make sure I stayed within the time limits to be aware, be cognizant of that. But, good afternoon, Chairman Fare, members of the Air Quality Advisory Board. I'm John Rutecki, I'm manager of regulatory and legislative affairs for the Environmental Defense Fund. So, EDF and its partners in Wyoming applaud Wyoming DEQ's efforts to revise their air quality rules to implement new source methane standards that would reduce emissions and help Wyoming maintain its primacy. So, thank you, obviously, for the opportunity. Reducing methane emissions from oil and gas operations is an amazing opportunity for Wyoming to improve their air quality and help Governor Gordon meet his carbon neutrality goals. Methane has an elevated short-term impact and cutting its pollution is the quickest and most cost-effective way to slow the rate of warming in the near-term and avert its worst impacts. So, reducing methane emissions will also protect Wyoming residents from health-harming pollution and since methane is the primary component of natural gas, these efforts will reduce energy waste, ensure fair returns to tax payers and mineral owners, and keep Wyoming's energy industry competitive in the global market. It is important that Wyoming producers remain competitive as the global market is demanding cleaner sources of energy.



Reducing methane emissions can improve the safety, health, and economic competitiveness. The cost-effective technical solutions that deliver these reductions are ready for use, with a proven, successful track record in other states. And many leading operators are already deploying them in the field and creating “Made-In-America” jobs in the process. So, I don’t look at this as a problem, I look at it as an opportunity. So, I will focus the rest of my testimony on the three vital benefits of the methane standards: protecting public health, reducing waste, and growing the Wyoming economy.

Wyoming can quickly reap these benefits with smart, cost-effective policies that cut oil-and-gas methane pollution and waste. In the U.S., oil and gas is the largest industrial source of methane. And oil-and-gas operations also release dangerous air pollutants such as volatile organic compounds and oxides of nitrogen. They contribute to ground-level ozone, or smog, that worsens respiratory diseases. In the American Lung Association’s most recent State of the Air report, failing grades were given to Natrona, Sweetwater, Fremont, Teton, Converse, Big Horn, and Johnson for their poor air quality, with Laramie, Campbell, Albany, and Sublette all receiving “F” grades for high ozone days. Reducing methane and co-emissions keeps Wyoming’s air free, clear from these unhealthy pollutants that makes life harder for the vulnerable.

So, methane, the potent greenhouse gas with over 80 times the warming potential of CO<sub>2</sub> in the near-term. So, these human-made emissions of methane drive about one-third of the current global temperature increase, which we are experiencing, which leads to severe weather conditions, longer, more-intense wildfire seasons, and water insecurity via drought due to decreasing snowpack. Methane, the main component of natural gas, is also a valuable energy resource. So, U.S. companies are apparently wasting enough methane to meet the annual needs of more than 12 million households. In 2019, Wyoming had the third-highest volume, 13.9 Bcf of wasted gas from public lands. This resulted in a loss of \$5.2 million in State revenue.

But, Wyoming does have a history of policy leadership and innovation in this space. In 2015, Wyoming adopted forward-thinking rules to cut emissions in the Upper Green River Basin. In December 2016, Wyoming forged ahead by adopting EPA’s methane rules for new oil-and-gas sources. Looks like your universities get involved, as well. In June 2023, the University of Wyoming joined Colorado State University and Penn State University to demonstrate that high-frequency sampling can be used to create inventory emissions estimates that accurately reflect the emissions in the Basin. And, the University of Wyoming has been involved in several high-profile measurement campaigns in places like the Permian Basin. In addition to protecting respiratory health and stopping unnecessary waste of energy resources, State-led efforts to cut methane pollution also support job creation in the rapidly-growing methane mitigation industry. Now, this is the industry that provides goods and services to help companies measure and reduce their emissions. And, Wyoming, as of 2021, had 12 manufacturing facilities and one service location employing thousands of people right here in Wyoming. More than 75 percent of these firms say they expect to create additional jobs with strong methane policies in place.

These rules are needed to keep Wyoming’s oil-and-gas industry up to date as foreign and domestic markets are demanding cleaner sources of energy. In May, the European Union adopted a new law to impose methane intensity limits on oil and gas imports. And, to date, 158 countries have signed the Global Methane Pledge to reduce their emissions 30 percent from 2020 levels by 2030. Wyoming oil and gas operators and regulators must act if Wyoming wants to stay competitive in these markets. The good news is EPA estimates that, when fully implemented, these protections will cut pollution from covered sources by 80 percent, delivering vital health, climate, and economic benefits to Wyoming communities.

These requirements are also extremely cost-effective for producers. According to EPA’s economic analysis, compliance costs are estimated to make up less than 1 percent of the annual revenue for producers. EPA

also estimates that compliance costs will make up similarly low percentages of revenue for smaller operators. This is because methane mitigation is overwhelmingly cost-effective and would require just a small fraction of the record profits that oil and gas companies have experienced in recent years.

Some leading operators in Wyoming have already prioritized methane emissions reductions in their operations and show that significant pollution reductions are feasible. But, not all producers have made these choices. So, implementing these safeguards will raise the bar in Wyoming, provide regulatory certainty, and ensure that all producers control their pollution. Wyoming can provide this certainty and EDF, and myself, are ready for meaningful stakeholder engagement to ensure this rule's benefits are fully realized here. So, thank you for the opportunity to provide my testimony.

**Chris Fare:** Thank you.

**Nancy Vehr:** And there is nobody online, Chris, for comments.

**Milford Lockwood:** Chris, I have a comment.

**Chris Fare:** Yes, go ahead, Vice Chair.

**Milford Lockwood:** Yes, Mr. Chairman. I'd like to commend some of the operators in the Upper Green River Basin. They've made great strides in putting a lot of effort into methane mitigation. And I think they need to be commended for that.

**Chris Fare:** Received. Yes, sir. I'm in agreement with you. Okay. Seeing that we have no other input, it's not necessarily a means for a motion to approve – rather, an advisory board advising. So, we have a statement that I'll read. And if we're in concurrence, we can move that forward, in essence giving the Division the...proceed. So, here's what I have for a statement for us. The Air Quality Advisory Board recommends adoption of the proposed revisions to advance the DEQ Rules of Practice and Procedure. Oh, excuse me. That's the wrong one.

**Nancy Vehr:** It's R-37.

**Chris Fare:** Yes. The Air quality Advisory Board recommends the adoption of the proposed revisions as provided in R-37 to the Environmental Quality Council. So, Board, are we in agreement with providing the recommendation to move R-37 to the EQC?

**Milford Lockwood:** Do you need a motion for that, Chris?

**Chris Fare:** We don't necessarily need a motion, but I think – let's just - I would entertain a motion to advise the Air Quality Division to move the R-37 rules to the EQC.

**Milford Lockwood:** So moved.

**Chris Fare:** And I see Board Member Richards has seconded.

**Island Richards:** Second. Yes.

**Chris Fare:** There we go, we have a second. So, we have a motion to advise the Air Quality Division to move the R-37 rules to the EQC. All in favor?

**Chris Fare, Milford Lockwood, Island Richards (simultaneously):** Aye.

**Chris Fare:** Okay. So, well done, Jon. Thank you, Mike. Let's move this forward – the R-37 – to the EQC for the rulemaking.

**Nancy Vehr:** Thank you.

**Mike Morris:** Excellent, thank you.

**Chris Fare:** Okay. Sorry, I didn't revise the statement I had. I just had it in front of me. On line with our agenda – I'm going to poke him back up here. Onto III. b., Air Quality Hot Topics Presentation.

**Nancy Vehr:** Thank you. This is Nancy Vehr, the Air Quality Division Administrator. I'm going to walk through these updates. I'll start with – you'll notice the presentation template is different than it was at the last meeting. And that's because the Air Quality Division, which is part of DEQ...DEQ had been celebrating its 50<sup>th</sup> anniversary. And that ended on June 30 of [2024]. So, we're back to normal times now. So, you'll notice the presentation is for regular DEQ in that.

Can everybody see the slide?

**Chris Fare:** Looks good over here, Nancy.

**Nancy Vehr:** Okay, Laura – ready to advance. We'll walk through. I wanted to start off...and I know that the slides can be, trying to put a lot of information can be a little bit challenging to read all of the fine print. But the gist of the graph there is to show that Wyoming is a member of an organization called the Association of Air Pollution Control Agencies. It's a nationwide organization. And they compile a report there on the right called the State Air Trends & Successes. And, a lot of times, in the news, you'll hear about poor air quality. And, I think it's really important to recognize – and I'm from a couple generations difference than a lot of the folks here in the room – but the improvements over air quality for the last, I'll call it, 50 years. This slide is from 2000 until 2021. And it basically shows that the economy has been able to grow as emissions have gone down. Additional detail is in that that State Air Trends report. So, I just wanted to say before I jump into the details, don't lose sight of the improvements that have been made in air quality over the past decades. Air quality continues to improve. There are always challenges and they are balanced. Again, the work that we do, the rules that go forward balance economic growth and prosperity and our citizens' needs along with air quality improvements. So, that's the gist of that slide.

The updates are going to be focused – and this hasn't changed over the last several meetings that we have provided these updates to the Air Quality Advisory Board – but right now, over the few years, our updates have all been driven by EPA's priorities. And EPA's priorities are on climate, environmental justice, and their rulemaking schedule. Sometimes, that is referred to as their Unified Agenda. Earlier this year, we talked about EPA and the number of rules that they were proposing for air quality. And they just updated their Unified Agenda. We're still going through it. Some rules, they moved forward and anticipate getting done before the end of this administration. So, basically, by the end of December. And then, they have other rules that will peek into the next administration timeframe. So, basically, '25 and going forward. So, still a lot more to come on air quality rules getting finalized.

On that rulemaking schedule, as of – if you go to this Rules.gov – you can find out what the status of any EPA rulemaking is. And, as of May 23, 2024, EPA, for all their media – air, water, solid & hazardous waste, and others – they had published 121 rules and had 98 rules proposed. 79 air quality rules are what they thought they would get done in 2024. And they are underway on that. They're not going to get all 79 done. But, they're getting a good chunk of them done. And 11 of those rules are major/significant rulemaking. Air Quality Division has participated in review and comment on all of these rules as they're coming out.

So, this is – that’s why it’s a real challenge to bring everything together. But, a significant workload that Team Rules has done. I think it’s unprecedented in the time that I’ve been here with the Air Quality Division.

We’re going to talk about power plants, some of the EPA rules associated with power plants. But, again, this came out of that StATS report that our collection of air quality agencies put together. And it basically shows, for carbon dioxide, sulfur dioxide, and nitrogen oxides, that emissions have trended down. You can see, on the more recent timeframe, they’ve kind of flattened out. But, the overall trend has been down over the past two decades.

EPA's rule on power plants, we call it Clean Power Plant 2.0. They got proposed in May, we commented, and then it got finalized on May 9th is when it was published. It repealed the Affordable Clean Energy rule that was put forward in the Trump Administration. It established New Source Performance Standards. And then shorthand, we call those 111(b) standards for new gas turbines. It proposed standards for existing coal, and we call those 111(d) standards.

And then for existing gas, EPA did not finalize their proposal, but said that they are developing a new proposal. So, they just had a non-regulatory docket where they got input so that they can look at doing an existing gas rule proposal sometime, I'll say in the next six to eight months.

Under that existing source rule for coal fired power plants, or the 111(d) plan, this kind of gives a good summary for coal-fired power plants. What actions would need to be taken, as Mike had talked about and Jon, in the previous rulemaking, you've got emission guidelines that are the federal requirements, and we have to develop an existing-source plan.

So, these are what EPA's emission guidelines are for those existing units and timeframes. And basically, as for a coal-fired unit, they have to commit to shut down by a date certain. And if they are going to keep operating, then they have requirements to meet the Best System of Emission Reduction, which is a carbon capture with 90% capture by January 1, 2032.

We have to develop, under 111(d), the state has to develop an existing source state plan. And, we have to do that by May 9 of 2026. So, we have to look at each of the power plants in our state and come up with what that Best System of Emission Reduction is that meets EPA's emission guidelines.

If we're not going to be able to meet that, we have to go through a Remaining Useful Life and Other Factor consideration so that we can justify what that looks like. For specific facilities, the rule does provide some one year, I'll call it, extensions or adjustments if we can meet certain factors. And then we have to go through and do meaningful engagement. That means we're going to be talking to regulated entities, the power plants, we'll talk to communities around the state that have power plants. We are just now starting to look internally at what our plan might be to go out and engage and get feedback on our development of a plan.

And so, we're just in the internal discussions side of things now, but we have a very short time frame to turn this around. If we do not submit by May, what is it, (May) 9, 2026, then the federal plan goes into effect.

So, we'll be, these folks will be, really busy. And you'll see more of that work come through the air quality advisory board. I already talked about the after the final rule, our plan development.

Another thing that happens a lot right now when EPA finalizes rules, everything seems to be ending up in litigation. And so, this rule was finalized. And I think that very same day litigation was filed in the D.C.

Circuit Court of Appeals under the Clean Air Act, when there is nationwide applicability of a rule, that's the court that is assigned for that litigation. Wyoming is a member of a multi-state coalition that is challenging EPA's final rule.

So, after they filed the litigation, we filed for a stay, which would put a pause on that rule. And the court on July 19. So, this is hot off the press, the court denied that stay. And so, now, the litigants are trying to decide, do they move forward with trying to appeal it higher up? What action do they take?

In the meantime, the Court has asked them to come up with what's called a briefing schedule. That's where you get to the merits of the meat of the case. So, the litigation is going forward at the same time that we'll be trying to develop the state plan. Another thing that happened once EPA issued the final rule is that Congress, both the House and I believe the Senate, not positive on that, introduced what's called a Congressional Review Act on June 5th. And that's a joint resolution where Congress can take a look at a rule, doesn't have to be just from EPA, but a rule. And if they don't want it to move forward and it passes, then it goes up to the president and then the rule is done with.

I think in the current state of Congress and the President, they've already indicated they would veto if a bill got, or this joint resolution got to the President's desk. But just to let you know, all the pieces and parts of play, that's one of them.

Any questions on power plan, Clean Power Plan? Okay.

The next one is Oil and Gas Methane Rule. So, Jon touched on this during his presentation that EPA had done the Oil and Gas, I'll call it, Methane Rule, the OOOO, OOOOa, OOOOb, OOOOc. And that's part of this suite.

Here are some of the other rules that are part of that suite.

One is called the reporting rule, Greenhouse Gas Reporting Rule or Subpart W. That is not a rule that the State administers, but I put it on here because it affects the sources we regulate. And all of these rules get intertwined when you're talking about an oil and gas operation.

So, the Subpart W reporting rule specifies the calculation methodologies of reporting requirements for greenhouse gases, including methane. In August of 2022, the Congress enacted the Inflation Reduction Act, and it required EPA to revise that Subpart W. They proposed action last year and they finalized the rule in May. They've been doing some webinars. The rule will be effective on January 1, 2025. And there are certain sources that can do reporting for calendar year 2024. But that's, it kind of goes into effect on January 1, 2025.

The next rule in this Methane Suite is the fee rule, Methane Fee Rule, or it's referred to as the Waste Emissions Charge. And January of this year, EPA proposed that. The proposal it would apply for over oil and gas sources with greater than 25,000 metric tons per year of CO<sub>2</sub>, and it would impose a fee of \$900 per ton on those methane emissions. They have different thresholds in the rule. EPA's final rule is pending. So, we don't know where that one will fall. And then we have BLM, which is not EPA, but they have a Venting and Flaring rule. It had gotten overturned several years ago and they re-proposed it. It's final and litigation is filed. The State of Wyoming is participating in that litigation.

And so, the whole suite of rules, there's a lot of pressure in the oil and gas industry on compliance with a lot of different rules that go on that have economic consequences. For the Air Quality Division, we're focused on the rules that affect air quality.

So, the rules that Jon had mentioned, we're going to incorporate by reference. We'll go under the next slide that'll touch base on that a little bit, a little bit more. Jon already covered the, I think, old back one slide, I think. Jon already covered kind of the rulemaking.

One update I would add is that on June 11th, EPA proposed a direct final rule of technical corrections. What we were proposing in our R-37 package is the rules that are in the Code of Federal Regulations as of July 1st.

So, what you can see here is that EPA's technical corrections rule goes forward. We'll end up having to come back through the board likely next year to capture those technical corrections. We're not going to hold up the rule process on that. On a direct final rule, if nobody submits comments opposing that direct final rule, then it will go into effect automatically. If there are comments, then that rule, EPA might have to go back through the regular rulemaking process on that.

The pre-publication version of the corrections is 299 pages. So, we haven't made it through that yet. It's not hit the Federal Register. On the oil and gas methane rule, and this is the OOOO, I'll call it OOOOa, OOOOb, OOOOc, that is in the EPA's jurisdiction, litigation got filed right after EPA proposed, or excuse me, finalized its rule.

We, Wyoming is part of a multi-state contingent in that rule. We asked for a stay of the oil and gas methane rule, the EPA rule, and on July 9th, the court denied that stay. So, that rule is in effect, and it's going through briefing right now.

On the OOOOb, which are the new sources, Jon covered all that in his presentation. On the OOOOc, which are the existing sources that predate that December 7th date, we have to follow that process to develop an existing source plan.

We have two years to do that and get it to EPA, or we have to follow EPA's admission guidelines will go into effect. So, you can see from both the Clean Power Plan 2.0 and the Oil and Gas Methane Rule that the State's going to be doing a lot of meaningful engagement, developing plans, and these are going to be happening simultaneous.

So, it's a lot of action in a very short period of time that has significant impacts to industry and citizens within the state of Wyoming. Any questions on oil and gas methane rules?

**Chris Fare:** Hey Nancy, would you have Mike send the board the those stay determinations, those denials, just so that we can educate ourselves on what they read?

**Nancy Vehr:** Sure, they're actually very brief. A lot of times when a court issues, denies something, they can either go on for pages or these ones are very brief, but we'll get you those. Thank you.

**Mike Morris:** I think as a point of clarification too, I think it might actually be March 7th, 2026. So, it's actually two months sooner than what we've got.

**Nancy Vehr:** My apologies. I got the May 7th with the emergency roll in my March. So, we have less time than what we thought.

**Chris Fare:** That's not the silver lining I was looking for, Mike, thanks.

**Nancy Vehr:** My apologies. I'll get that corrected and put the new slides back up. On PM<sub>2.5</sub> ambient standard, again, Jon mentioned this is in his presentation, and that got finalized.

And then of course the litigation got filed challenging that standard. Wyoming is participating in that litigation as a member of a multi-state coalition.

In addition to changing the standard, the Air Quality Index, EPA made some changes to that. So, some of you, when you look at monitor data, like on our wide visit, our monitor information, you'll see color coding like green, yellow, as air quality worsens, it goes into the orange, purple, and red tones. And EPA changed the cutoff points on their Air Quality Index.

The Air Quality Index does not mean a monitor right there is reading it. We, on our wide visit, you will see the actual locations of where we have actual regulatory air quality monitoring data. And that we know is the exact reading of air quality at that specific location.

A lot of times that you'll have an app on your phone, or you'll have EPA through its air quality index, takes information, runs it through their model or algorithms to estimate what air quality is like. And so, you'll get these broad squats of yellows or greens or orange or whatever the color is, but only where you see that actual monitor location is the data.

And the reason I'm emphasizing that is EPA changed its Air Quality Index and that algorithm that EPA uses, other commercial companies that, you know, publish on your app, this is what the air quality like in your area, we've been receiving a lot of calls from people because they're saying that the Air Quality Index is reading extremely unhealthy in this, I'll call it red, purple color. The closest monitors we have aren't showing that.

And so, EPA is looking at this for us. So, we always try to direct people back to the air quality information because, excuse me, air quality information, our wide business network because the other is an estimation. So that's one of the other challenges with that particular rulemaking that came out. It'll be fixed, but it's just in the implementation.

Additional work for the Air Quality Division is that by February 7th of 2025, we have to, Governor Gordon has to make a recommendation to EPA of whether Wyoming should be designated as attainment or unclassifiable. Again, it's based on monitored data. And the part of that process involves something called exceptional event demonstrations.

So, I'm not sure where all the board members are located, but here in Cheyenne today, for example, it's hazy as all get out. And it's because we've got wildfire smoke coming from a couple of different locations into the state. And so, a lot of the PM<sub>2.5</sub> exceedances that we have are due to wildfires. And wildfires can qualify as an exceptional event.

So again, this team is pulling together the designation recommendations, and our monitoring group is working on exceptional event demonstrations that have to get down to EPA. Yesterday, we had some ozone exceedances again from wildfire. So, wildfire can do PM<sub>2.5</sub> and exceptional events and ozone. In February of 2026, EPA will make the designations. So, they designate air quality across the nation. We anticipate Wyoming will be, as Jon mentioned, attainment/unclassifiable.

We're all areas of Wyoming. That's why we're in that light green color. And then after that, we have to do what's called a transport or Good Neighbor plan. We have to make a demonstration to EPA that we in the State of Wyoming, our emissions are not causing or contributing to PM<sub>2.5</sub> nonattainment elsewhere in the nation. So, a lot of work. And so, you'll see this PM<sub>2.5</sub> updates for a while.

Yeah. EPA is working on secondary standards for particulate matter, nitrogen oxides and sulfur oxides. They've issued a proposal, Wyoming commented, and they will have a final rule before December 10th, 2024, as that's a consent decree deadline that they have to follow. And secondary standards are welfare-based standards. Primary standards like the PM<sub>2.5</sub> rule that was going forward. That's a health-based standard. So, we'll see EPA's gotten comments on a wide spectrum. So, we'll just have to wait and see what the final rule has.

On ozone, on the 2015 Ozone Standard, on the transport step, we got approved – after litigation, EPA remodeling and a whole bunch of work – in December. So, Wyoming's Ozone Transport or Good Neighbor State Plan, EPA did final approval. The reason I have this slide still up here is that there were other states that EPA had denied, excuse me, disapprove their State Implementation Plans and imposed a Federal Implementation Plan.

Some of those states were able to get court stays so that it wasn't in effect in their rule. And the Supreme Court on June 27th, right at the end of their term, granted a stay for certain states of the effect of that ozone transport rule. So, it's not relevant to Wyoming, but it is relevant to the body of air quality law that we have to pay attention to.

Regional Haze. Another thing that Team Rules is working on. So, just to give you context when the map you see there, the class 1 areas one thing you'll notice is most of the Class I areas which are your national parks, wildlife, er, wilderness areas, are in the west. So, we have the most Class I areas in the West as compared to the eastern half of the United States. EPA had a Regional Haze rule, we filed our first State Plan, a couple versions of it, in that 2011-2012 timeframe. EPA denied parts of it and it's been in litigation since 2014 until August of 2023, the 10<sup>th</sup> Circuit held up our decision in regards to Naughton. They also, EPA had also proposed denial of our plan with respect to WyoDak, and the 10<sup>th</sup> circuit overturned EPA's decision and remanded it back to them to say they have to come up with a different basis. They have to come up with a decision for WyoDak, either approving it or denying it but not using the same basis they had before. So, that's still pending with EPA on Regional Haze Round 1. The other Regional Haze Round 1 action we have is we proposed a plan revision that affected the Jim Bridger facility. EPA has proposed approval comment period has ended, and we're awaiting EPA final action on that, and that will take care of Round 1 when we get WyoDak and Jim Bridger.

Now we move on to Regional Haze Round 2. We submitted our State Plan in August 2022, EPA determined it was complete. They have one year from the time they determined it was complete to take action, they did not. So, we filed the 60-day notice of intent to sue, one year later and then we followed that up with the lawsuit in October of 2023. In the meantime, the National Parks Conservation Association had filed a suit in the District Court of Columbia in D.C. and they amended their complaint after we had filed suit and added Wyoming to that case. We were not a party to that case; we don't want to go out to D.C. because we have to deal with life here in Wyoming. We wanted to stay here. However, EPA got to the end that we agreed with in terms of coming up with a date to act with Wyoming's State Implementation Plan. They proposed settlement in March and the court approved the EPA deadline on July 12. We did submit a comment because we're concerned when we have Regional Haze Round 2 action going on and EPA still has work to do on Regional Haze Round 1. We think things should proceed sequentially. Under that court-approved deadline, EPA asked to take final action by November 22, so they should be getting a proposal out pretty quick to meet that final action by November. And in the meantime, on Regional Haze Round 2, we have a progress report that Team Rules has already started working on that has to be submitted to EPA in January 2025. So, again, lots of moving parts here.

And I'll just add one note, we don't have to change slides but one note on Regional Haze Round 3, EPA is already looking, our plan would be due in 2028 and they're looking at, they opened a nonregulatory docket,



we submitted comments, because they're looking at do they need to revise that Regional Haze Rule, and so more to come in the future.

Wanted to give an update on our fees and budget. The fees portion we already covered at the last meeting, so we won't discuss that, but I think it's important to put into context. Our budget went into effect when the legislature approved it in the spring, it went into effect on July 1<sup>st</sup>, and we had talked to the Legislature about all of the EPA actions and are high Air Quality Division vacancy rate. For two years we've been running between 20-25% vacancy in the Air Quality Division. Last August-September, Todd had received some direction from Joint Appropriations Committee and Governor's Office support that we could do what's called the step increase for our positions that are 8's, 9's, and 10's, which is the bulk of our staff doing the work here in the Air Quality Division. We put those bump-ups in place, the State had also, through our A&I personnel section, had also authorized if we had money in our budget to do sign-on bonuses and some moving assistance. And these are hard to fill positions. We were able to drop our vacancy rate to about 13-14% with those changes. When we got the new positions that the Legislature had authorized starting July 1, our vacancy rate bumped up temporarily hopefully to 20% but we're still dealing with vacancies in the Air Quality Division. Our new positions are for permitting, Title V permit writers, one more member for team rules to assist with the, I'll call it "rule process" as well as the existing source plan development. And then we had 4 compliance assistance positions. All of these rules, the power plant rule, the oil and gas methane rule, these are not short rules when you look into the I think Jon mentioned, can be in the hundreds of pages long for each rule, and so as companies go through and try to implement these, we needed to be able to provide compliance assistance so very grateful for those to carry forward. We also received dollars to do what are called Kaizen, so people call them weening events or streamlining events, and we are going to do this for our Title V program and our NSR program because industry funds these programs through these fees so we're going to ensure these are efficient as possible for these events. We are going out for an RFP: request for proposals and try to have those events occur at least by first quarter 2025. The Legislature also gave us funds, as I mentioned before, to do exceptional events. Those are the demonstrations that allow us to show that we're below the regulatory standards and actually have accurate design values for each of our monitors out there, and then to do Regional Haze modeling. This modeling is not something we can do in house. All the western states participate. So, very grateful for the Governor's support and the Legislature's support for these find to do this work in air quality.

**Chris Fare:** Hey, Nancy?

**Nancy Vehr:** That's it. Huh?

**Chris Fare:** Thank you. Back there on the last slide, can we run back what that Kaizen, I didn't quite catch what that process was.

**Nancy Vehr:** Yeah, it goes by, some people call it "continuous process improvement" or "lean sigma." It's basically streamlining, taking a look at your process. So if I was a permit writer and one of the steps was handing it off to Mike and I was running down the hallway to do that with a piece of paper, they may say "oh, you can make that process more efficient through a different mechanism" or "Mike's not necessary, he's just gonna take that piece of paper and hand it to Jon, it'd be easier to hand it to Jon directly."

**Chris Fare:** Excellent. And another question: how is the, is there any, it's good, it's positive to hear that for several years since 2020 you've been a dozen people short, that 20% mark or better. Is Appropriations in the interim, is there any more discussion and supporting of the division on getting this halved in the Legislature?

**Nancy Vehr:** So, we haven't gone in front of Joint Appropriations yet. Typically, in the non-budget years we might go in December or January just to give an update and that we don't have anything that we submitted for the supplemental budget.

**Chris Fare:** Yep.

**Nancy Vehr:** That will be considered in Spring of 2025. Any other questions? It's a lot of information.

**Chris Fare:** Any other questions from the Board?

**Nancy Vehr:** And, I'd say, for future board meetings we'll keep you updated on the significant things from an air quality perspective, but for each of you if you think of questions or items you'd like us to cover in a presentation, feel free. We have great expertise throughout the division that can address all sorts of questions that you might hear from the perspectives that you bring to the table. You may have your own questions. So, feel free.

**Chris Fare:** Yeah, thank you, I really, I appreciate back there on slide two when you were talking about the phone and the algorithms related to air quality warnings and how those are managed. It's a lot of misinformation to a significant extent of, "oh, it's terrible outside," but the common person doesn't understand that it's a far reach based on a little piece of data so that you for expanding on that discussion.

**Nancy Vehr:** There is, and I'll call it there's misinformation out there. There's also information used for different purposes. We're the regulatory agency so we have to meet the health-based standards so there's lots of data and requirements to meet those standards. There are other purposes for maybe having non-regulatory monitors giving you an indication of air quality. So, there's some good tools but it gets very complicated like he said in challenging to communicate to people some of the pitfalls of using one tool versus another tool.

**Chris Fare:** Alright, moving along. We'll move forward with our amended agenda item 3(c), the intern presentation.

**Jordan Carlson:** Yeah, good afternoon, Chairman Fare and the rest of the Air Quality Advisory Board. I thank you for this opportunity to speak in front of the board. I will be giving a presentation on the regulatory history of greenhouse gas emissions from fossil fuel-fired power plants. This is in light of the new Clean Power Plan 2.0, as Nancy Vehr was discussing, and as soon as we get the presentation up and running, I'll go ahead and get started.

**Nancy Vehr:** Yes, and I'm gonna do a quick introduction of Jordan. We are absolutely thrilled that Jordan came to the Air Quality Division and is doing an internship with us. We have two interns, and I don't remember, Amber do you remember us having interns?

**Amber Potts:** No.

**Nancy Vehr:** Yeah, so this is a first for the Air Quality Division, to have interns, and we have one intern that's working with our monitoring program his name is Chase, and then we have Jordan who is here with Team Rules doing an internship. Both of them have the same last name: Carlson. So, that's also a coincidence I think, that our first two interns have the same last name. We're just thrilled to have each of them. Jordan is a law student going into his second year at University of Wyoming School of Law, so the regulatory arena is a fantastic fit for him, and he's also, you might also give some background on your studies at UW, Jordan.

**Jordan Carlson:** Yeah, so I've been at UW the past five years. I have a bachelor's degree in Environment and Natural Resources and also outdoor recreation and tourism management. Someone who's very passionate about the environment and the work that I've done this summer has been very eye-opening. I'm also getting my Master's through the Haub School right now through their joint degree program in environment and natural resources and it's great to be here and it's great to learn. I've been with the Division since May and will continue through fall. So, very excited.

**Chris Fare:** Thank you.

**Jordan Carlson:** Yeah, so we can go ahead and get started at the Board's pleasure.

**Chris Fare:** You can go ahead, Jordan.

**Jordan Carlson:** Yep, we're just having some technical difficulties.

**Chris Fare:** Okay.

**Jordan Carlson:** Trying to get it on that next slide. But I'm basically going to be taking us through the history of greenhouse gas emissions, so we're going to start with the statutory foundation from Congress and the Clean Air Act. We're going to move into some relevant case law that has occurred over the years. We're then going to turn and see what the EPA has done in response to this statutory foundation and the case law mainly by the supreme court. We're then going to see what happened with those regulations through litigation and what I like to call regulation spaghetti and we'll see a little bit more of that when we get there. And then, we'll talk about what's currently happening with current regulations and the current litigation space like Nancy touched on. So, go ahead.

So, to begin, the Clean Air Act was enacted in 1963 by Congress. This was the first law regarding air pollution control and it authorized basically funding into techniques of monitoring and pollution control for air pollution. In 1970, President Nixon created the Environmental Protection Agency through executive order, and Congress during the same year expanded the clean air act to allow for federal and state regulations to limit emissions from both stationary and mobile sources, really utilizing the monitoring research that was funded in 1963. There was another Clean Air Act amendment in 1977 but that wasn't as relevant to these power plants. The next one that's going to be relevant for us is in 1990, Congress amended the Clean Air Act to expand and modify EPA's enforcement authority. This enhanced the permitting requirements and programs such as Title V and the PSD program. And then, most recently, in 2022, in the Biden Administration, Congress amended the Clean Air Act again with the enactment of the Inflation Reduction Act. It's important to note that this didn't make any substantive changes to the clean air act, it was more so a budget bill and it is giving funding to the programs under the EPA's authority in reducing greenhouse gas emissions and it is finally recognizing greenhouse gases as air pollutants, which we'll see on the next slide why that was important.

So, as we can see here, there's been a lot of case law over the years. The first big case, though, that really brings in power plants even being regulated with CO<sub>2</sub> gases is *Massachusetts v. EPA*. In this case, the Court held that greenhouse gases qualify as air pollutants and they remanded to EPA to determine if greenhouse gases are harmful to humans and the environment and should be regulated under that manner. The EPA finally decided that it was harmful, and so they started regulating in 2015, but before we get there, I'll talk about these other cases first. So, this next case, the *American Electric Power Co. v. EPA*, the Court held the Clean Air Act displaced any federal common law rights to compel reduction in CO<sub>2</sub> emissions. So, this is going to be the federal common law right of nuisance; it was no longer available, so the only way to effectively control the emissions coming from the power plants was going to be under the Clean Air Act's authority under Section 111. And then, the *Utility Air Regulatory Group v. EPA* case held that stationary

sources are not required to get a Title V or PSD permits on the sole basis of having greenhouse gas emissions, but they are going to be required to if they're an "any way" source, which means that they omit other sources that must be required under that program.

So, now we get to the start of the regulations for power plants. In 2015, under the Obama Administration, the EPA released and finalized both the 2015 New Source Performance Standards and the 2015 Clean Power Plan. These rules respectively regulated newly constructed, modified, or reconstructed fossil fuel fired EGUs, or fossil fuel fired power plants and existing sources under that Clean Power Plan. The Clean Power Plan most notably included generation-shifting. So, this was moving from fossil-fuels to more renewable types of energy. This was heavily litigated and there was actually a stay in 2016, and so, I know for the Division, at the time, they didn't do a whole lot of work with this rule just because of how quickly it was stayed. It was then removed and replaced with the ACE Rule in 2019 under the Trump Administration. As you can see, with administration changes, we definitely get a lot of changes with the agencies, and the ACE Rule removed the Best Systems of Emission Reduction from generation shifting to heat rate improvements alone, which was a huge shift from their original Clean Power Plan.

As we can see, on this next slide, there's a lot still to go. So, in 2015, we can look at that New Source Performance Standard; this rule was proposed, it was finalized, but it's still being held in abeyance in litigation currently. So, even though sources are currently following these guidelines, it's still in litigation and it's pretty unclear what's going to happen next. The reason that case is being held in abeyance is because of the 2018 New Source Performance Standards revisions that the EPA proposed, and this was actually withdrawn with the enactment of the Clean Power Plan 2.0, and so, it's unclear what's going to happen here, but we should be seeing some action shortly. Next, with the Clean Power Plan, in 2015; as I said, this was proposed and finalized, but then it was stayed by the Court. The ACE Rule came in and replaced that, but then that was challenged by *American Lung Association v. EPA* in the D.C. Circuit in 2021, this court held that the ACE Rule shouldn't have replaced the Clean Power Plan, so they repealed it, putting the Clean Power Plan back into place, which was then litigated through *West Virginia v. EPA* at the Supreme Court level, which finalized taking out the Clean Power Plan and really put restrictions on what the EPA needed to do. So, they vacated that and remanded back to EPA to come up with the new rule, which we see is the Clean Power Plan 2.0. That was supposed to be within the limits of the West Virginia decision. It's currently being litigated if that is actually the case.

So, we can go ahead to the next slide. As we can see here, this is what we have left. So, the 2015 NSPS and the 2024 Clean Power Plan 2.0. They've both been proposed, they've both been finalized. As Nancy mentioned with the Clean Power Plan 2.0, the motion to stay was denied last Friday, and the Court is getting ready to start hearing briefs and getting that schedule put together. So, yeah, with that, that's my presentation. Again, I appreciate the Board for its time and I'm ready for any questions you may have.

**Chris Fare:** Thank you, Jordan. Who assigned you this duty?

**Jordan Carlson:** I was assigned this duty from Mike Morris

**Chris Fare:** Perfect. Yeah, good. Thank you for taking the time to put that together, it was very informative because we go back through and this spaghetti, as you call it – we've been through this the last several years. So, thank you for taking the time to put that together for us.

**Jordan Carlson:** Of course.

**Chris Fare:** Any other questions from the Board?

**Island Richards:** Chairman, Jordan, I don't see this in our documents packet. Could you forward that slideshow to us?

**Jordan Carlson:** Yes, I can, I'll be sure that gets your way.

**Island Richards:** Appreciate it.

**Chris Fare:** Perfect. Okay, keeping with the agenda, Item IV: old business. Section (a.), terms. Amber?

**Amber Potts:** Sure, so—

**Chris Fare:** Or, Mike?

**Amber Potts:** Yeah, I don't know, Mike do you want to take it?

**Mike Morris:** Sure. Well, we – on the subject of terms, I think we do have of course one vacancy on the Board and a second board member, Baldacci, who I believe terms out September 27 or September 30 or something this year. So, obviously, today we have a quorum but it's dependent on the remaining composition of the Board assuming those vacancies aren't filled, so we anticipate, of course, trying to fill that secondary vacancy in addition to the one we're currently trying to fill. And hopefully, we'll have some movement on that front.

**Nancy Vehr:** So, the current vacancy is the public interest vacancy?

Mike Morris: I believe, correct – I believe they both are public-at-large.

Nancy Vehr: Colin's?

**Mike Morris:** Correct. They're both – when Colin does term out. So, yes, with that said, certainly if there are any candidates out there that you're aware of that come to mind, feel free to certainly put it onto their respective radar if you know folks who are public-at-large members who might be informed folks who might be interested in serving. The Governor's Office Boards and Commissions staff fills these vacancies after they receive applications and the potential members are considered. In any case, that's our pathway forward on that front.

**Chris Fare:** Thank you, Mike. Appreciate you bringing us up to speed on that. Any other discussion or questions, moving to Item 5, from the Board or from the Division before we move towards adjournment?

**Nancy Vehr:** I would just say, Mike, in terms of the Board, you mentioned that, hey, once Colin terms out, we'll have the remaining three Board members. Can you give them a sense of from now till the end of the year, do you think we'll be bringing forward another rules package or kind of what is the crystal ball and what will it look like going into the fall and early winter of possible Board meetings?

**Mike Morris:** Yes, I'd be happy to. I think, with regards to proposed rulemakings, obviously this rule package that you heard today will move forward into the statutory rulemaking process and go before the Environmental Quality Council, I believe, in November or late October. I think is actually the window where that's scheduled. In the third quarter I wouldn't anticipate any additional rule package that we would bring before you. quarter four/quarter one of next year, there may be some additional rulemaking work that does come before the Board, and then, also Nancy touched on in her presentation, as well. We'll have that Regional Haze progress report that goes to EPA, due January 31<sup>st</sup>. So, we'll have updates on that front and some other items forthcoming later in the year, but that's a little bit of a prospectus, I would say.

**Chris Fare:** Excellent, thank you. I like to hear that and I think that the – looking at what the next several months look like as we move toward the end of the year, I think it would just be helpful for the Board to have an extra update towards maybe the middle of the fourth quarter, or right near the end of the fourth quarter. Looking that we don't have much for rulemaking in front of us, but yet, all the activity, especially anticipating any prospective uptick in activity that may occur, similar to how it occurred at front end of the current administration, what may occur at the rear before the election there in November, just to stay educated on the topics at hand, but not make it a burden on the Division, Nancy and your team.

**Nancy Vehr:** That sounds great.

**Mike Morris:** Chairman Fare, elaborating a little bit. As our respective sections looks at workload that we're taking on in the next 6-8 months, a lot of it pertains to those Clean Air Act 111(d) state plans that Nancy talked about for both oil and gas facilities and power plants, those existing facilities. And so, there will be significant work load on that front forthcoming in our shop. It's just work that's going to take time to formulate and a lot of public outreach and all sorts of elements to it. And so, we'll have more updates for the Board when we meet in the fall and certainly in quarter four, as well, on those fronts.

**Amber Potts:** I think we can definitely keep you all in the loop when we do come out to your areas to do any public engagement during this process.

**Chris Fare:** Yeah, Absolutely, thank you, Amber. That's been something I've told you for several years; my intention to be in the room with you and life hasn't let that happen but, this e-system has been a blessing. Anything else from the Board? Okay, well, seeing none, we will adjourn the meeting at 2:36.

**Nancy Vehr:** Thank you very much, and before you all sign off, I just thought of one another thing. We introduce a lot of new people but we need to also say farewell to Laura. So, Laura's been a member of Team Rules and I think this will be her last Board meeting as she goes on to other places. But, we've really enjoyed you being part of Wyoming and the work that you've done for the Board and others.

**Laura Ballard:** Thank you.

**Chris Fare:** Yeah, Nancy, thank you for taking the time and Laura, thank you for your service and support making this all come together.

**Nancy Vehr:** Thank you, Chris. Thank you, Board members.

**Milford Lockwood:** Thank you.

**Island Richards:** Thank you.

**Chris Fare:** Alright, we'll adjourn at 2:37.

*(Meeting adjourned at 2:37 p.m.)*