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BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION

DEQ LAND QUALITY DIVISION ADVISORY BOARD MEETING
SPECIFICALLY REGARDING REVISIONS TO BLASTING
CERTIFICATION REQUIREMENTS (CHAPTER 6) AND
UPDATE & PRIMER ON VEGETATION RULES PACKAGE

TRANSCRIPT OF PROCEEDINGS

10:30 A.M.

JULY 20, 2006

PURSUANT TO PUBLIC NOTICE given to all parties in
interest, this matter came on for hearing in Room 217
at the College Center, 125 College Drive, Casper,
Wyoming.

LQD STAFF IN ATTENDANCE:

RICHARD A. CHANCELLOR, ADMINISTRATOR
CRAIG HULTS
BECKY BROSIUS

BOARD MEMBERS IN ATTENDANCE:

JAMES A. GAMPETRO, CHAIRMAN
ALAN LINFORD, VICE-CHAIRMAN
CARL R. DEMSHAR, JR.
ROBERT GREEN
JAMES PONTAROLO

* * *

Rebecca S. Doby
Registered Professional Reporter
2334 Main Street
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1 PROCEEDINGS

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3

MR. CHANCELLOR: Let's go ahead and get
4 started. I'll step in and run the meeting real
5 briefly.

6

Since our last meeting a year ago we lost
7 both our chairman and vice-chairman. And so after
8 introductions, the first business item we have to do is
9 election of officers for the board.

10

So with that, we'll go through and do
11 introductions for everybody, including the audience.
12 And if the board members could -- since there's new
13 people here, just give a little bit of background,
14 whether you're a representative of industry or public
15 or applicable subdivision, include that. And we'll go
16 through and do introductions.

17

I'm Rick Chancellor, Administrator of Land
18 Quality Division.

19

MR. DEMSHAR: My name is Carl Demshar. And
20 I'm a public representative. I'm a new member of the
21 board.

22

Just a little bit of a background. I work
23 for FMC in southwestern Wyoming, one of the trona
24 companies, for 34 years. About 29 of that was in the
25 environmental arena. And the last ten years was as the

1 environmental manager of that company.

2 And I'm now presently retired, and my main
3 focus is serving as a city councilman in Rock Springs.

4 MR. LINFORD: My name is Alan Linford. I
5 am a political representative. I'm a county
6 commissioner in Lincoln County. And my background is
7 education, ranching, agriculture.

8 MR. GAMPETRO: My name is Jim Gampetro. I
9 don't know how long I've been on the board now. Five
10 years, four years, something like that.

11 I'm from Buffalo, Wyoming. I'm a public
12 representative. And I own a retail store in Buffalo;
13 appliances and Radio Shack.

14 MR. PONTAROLO: My name is James Pontarolo.
15 And I have been in the farming business for 50 years.
16 And been on the board -- this is my first term. My
17 term will be done in 2007.

18 MR. GREEN: My name is Bob Green. I'm an
19 industry representative with (inaudible) America.

20 A little bit of background. I have been in
21 mining in one way or another in this region for about
22 25 years, part of it with bentonite mining, part of it
23 in the regulatory arena. Worked in the Land Quality
24 Division almost five years. And I've been in coal for
25 about 16.

1 MR. HULTS: Craig Hults. I'm with the Land
2 Quality Division.

3 And my duties include most of the rules
4 development, probably more on -- I guess the form
5 format that I have been -- usually get my hands on
6 somewhere.

7 MR. STAUFFENBERG: Don Stauffenberg, State
8 Mine Inspector.

9 MR. LOOMIS: I'm Marion Loomis, with the
10 Wyoming Mining Association.

11 MR. LIEDTKE: Roy Liedtke, with Cordero
12 Rojo Mine.

13 MR. BENSON: Scott Benson, with Knight
14 Technologies.

15 MS. CRAFT: Lecia Craft, with Thunder Basin
16 Coal Company.

17 MS. HAROIAN: Rose Haroian, with Powder
18 River Coal Company.

19 MR. BETTAS: I'm Nick Bettas, with P & M
20 Coal Mining Company.

21 MS. BROSIUS: Becky Brosius. I'm Rick's
22 assistant.

23 MR. CHANCELLOR: Okay. On the agenda items
24 the next one is the election of officers. We need to
25 do it one at a time, president and vice president --

1 or chairman and vice-chairman. Or if you want to do
2 it -- however you guys want to do it.

3 MR. LINFORD: Would someone like to be the
4 chairman?

5 MR. GAMPETRO: Does anybody want to do it?

6 MR. LINFORD: You have been on the longest.

7 MR. CHANCELLOR: I have a nomination. Is
8 there a second?

9 MR. LINFORD: That's a nomination.

10 MR. GREEN: I'll second that.

11 MR. LINFORD: There's got to be some --

12 MR. GAMPETRO: Well, I haven't done any
13 parliamentary type stuff since I was the student
14 council president in high school. And I don't want
15 to tell you how long ago that was. So my
16 parliamentary procedure probably wouldn't be that
17 great. But if no one else wants to do it ...

18 MR. LINFORD: Well, if that's the only
19 problem, I would so move.

20 MR. CHANCELLOR: Is there a second?

21 MR. GREEN: Second.

22 MR. CHANCELLOR: Are there other
23 nominations? All in favor?

24 (Whereupon, all voting members said
25 "aye".)

1 MR. CHANCELLOR: Okay, Jim, it's up to you.

2 We need a vice-chairman.

3 MR. GAMPETRO: Would you accept?

4 MR. GREEN: I think Alan would be --

5 MR. LINFORD: I don't know.

6 MR. GAMPETRO: You railroaded me.

7 MR. LINFORD: Okay. I would serve.

8 MR. CHANCELLOR: Want to vote? All in
9 favor of Alan as vice-chair?

10 (Whereupon, all voting members said
11 "aye".)

12 MR. CHANCELLOR: Okay. It's Alan.

13 MR. GAMPETRO: The agenda for today.

14 Introduction of new members we've done. Election of
15 officers.

16 Approval of meeting minutes from the last
17 meeting. Has everybody had a chance to look at the
18 minutes? Any changes or additions or corrections?

19 Then I would entertain a motion that we
20 approve the minutes from the last meeting.

21 MR. PONTAROLO: So move.

22 MR. GAMPETRO: Do we have a second?

23 MR. DEMSHAR: Second.

24 MR. GAMPETRO: All in favor?

25 (Whereupon, all voting members said

1 "aye.")

2 MR. GAMPETRO: The minutes are approved.

3 We need an update and preliminary primer on
4 the vegetation rules package.

5 MR. CHANCELLOR: First we're doing --

6 MR. GAMPETRO: I'm sorry, the proposed
7 revisions to the Blasting Certification.

8 MR. CHANCELLOR: Craig put together a short
9 introductory slide show to give us some background on
10 the blasting regulations and to give some background
11 material.

12 And Don Stauffenberg is here, the State
13 Mining Inspector. We have a Memorandum of
14 Understanding with his agency to -- because he also has
15 rules relating to blasting at mines and we have rules
16 concerning coal mine blasting. And we work together to
17 facilitate that. So he's here to give his expertise
18 and some suggestions on rules.

19 But first we'll let Craig go through the
20 slide show.

21 MR. HULTS: I guess I'll just give you a
22 brief introduction, to kind of give you a framework
23 of what the changes were. I won't go into detail
24 much; just give you an idea of how the chapter is
25 changing, where it's changing a little bit, some of

1 the rationale behind it.

2 Just to get everybody in the mood I've got a
3 couple of videos. These are from a Los Alamos testing
4 site where they were doing some seismology experiments
5 and whatnot. I'm sure these aren't representative of
6 what goes on out in the field. But they are from Los
7 Alamos. Just kind of interesting.

8 UNIDENTIFIED MEMBER OF AUDIENCE: How many
9 pounds did they use?

10 MR. HULTS: You know, honestly, the
11 details -- there are from off the website. And there
12 weren't any detail. It just said it was a large cast
13 blast. There wasn't much detail.

14 There are three videos here. And they are
15 all part of that experimental deal that they were doing
16 at different times of the year. I think most of it was
17 related to seismology.

18 MR. GAMPETRO: Looking at that, how many
19 shots were there? I bet you could probably tell.

20 MR. CHANCELLOR: How many drill holes?

21 UNIDENTIFIED MEMBER OF AUDIENCE: I think the
22 average shot in the basin now is probably a million to
23 two million pounds per cast. But we put -- it is -- we
24 use probably over 800,000,000 pounds of explosive a
25 year now in the coal industry in Wyoming.

1 MR. GAMPETRO: So those would have been
2 staggered with the time -- delayed fuses? Because I
3 was wondering if there were like a dozen.

4 UNIDENTIFIED MEMBER OF AUDIENCE: Oh,
5 probably a lot more than that.

6 MR. GAMPETRO: 50 pounds in a hole?

7 MR. GREEN: Oh, it's more than that.

8 MR. GAMPETRO: More than that?

9 MR. GREEN: Yeah. There's basically a
10 formula that outlines, for a given distance, to
11 (inaudible) structure you can only set off so many
12 pounds per (inaudible) at a time. Generally that's
13 how it's laid out.

14 MR. HULTS: This one's a little closer to
15 the blast.

16 UNIDENTIFIED MEMBER OF AUDIENCE: You took
17 this right off their website?

18 MR. HULTS: Yeah. I just did a search for
19 blasting video. And there's a couple from the OSM
20 site. And then these were just on there. There's
21 quite a few pictures. There's some of the seismology
22 experiments, along with doing things like that. They
23 overlaid some of the graphs over the top with the
24 time stamp and everything. So it's just kind of
25 interesting.

1 This package -- it started with Doug Emme.
2 He had some memos originally that he -- he wanted to
3 clarify some of the certification process a little bit.
4 This chapter hasn't been revised since it was initially
5 approved in 1985. There's been a small revision since
6 then, but it was not very involved at all. It was just
7 some updates that needed to be done.

8 The proposed changes that are in this package
9 are to clarify the certification process, some of the
10 requirements, and just improve the readability.

11 It was -- I think the way this chapter
12 initially developed, the certification process came two
13 or three years later after the original blasting rules
14 came out. So I think a lot of it got pushed together
15 and maybe didn't make a lot of sense in the long run.
16 So that was the intent of the changes; limited in
17 scope.

18 MR. CHANCELLOR: For the board's
19 information, Doug Emme is our blasting engineer
20 that -- as a large part of his job he's worked at
21 mine sites. He was in charge of blasting. So he's
22 very knowledgeable as to blasting requirements and
23 regulations.

24 MR. HULTS: I'll just go through a summary
25 of the changes now.

1 The first one we had was we added a
2 definitions section to the chapter. Two definitions
3 were added; one being the Certified Blaster. It was
4 originally in the chapter; however, it was kind of
5 buried and not real clear.

6 The other one we put in was Blasting
7 Experience Required. The way the program has been
8 administered, this regulation that we are proposing
9 mirrors both the statute and the State Inspector of
10 Mine's regulations, as well.

11 The second change we had -- some of these
12 were just grammatical and really limited in nature.
13 Subsection 2(a) was reworded, a few words.

14 2(c) was revised to account for the new
15 definition. There was some language there that was
16 kind of redundant, and that was taken out and the term
17 was placed in place of the language that was taken out.

18 2(f) was added. This is part of our
19 application, as a prohibition against felons working
20 with explosives. It's also very similar to the Safe
21 Explosives Act, which is part of the Homeland Security
22 Act, which was enacted in 2002. So we've just put that
23 in there, as well, to make it a little more clear.

24 2(g) was again a language issue. It just
25 didn't read well.

1 The sections 3 through 6, the only thing we
2 had to do was renumber it. And there weren't any
3 substantive changes made there.

4 This was all related to the certification
5 requirements, so this section didn't have anything to
6 do with that.

7 Section 7. This is where quite a few changes
8 were made. It's the former Section 6, which is
9 administered jointly with the State Inspector of Mines.
10 Here we had initially -- there is a general statement
11 that we will be administering this jointly. Nothing
12 has changed there. It was followed by the definition
13 section, and that's why I moved it up to the front. I
14 think it makes more sense to be up front. The
15 definition itself was incorporated up to the front end
16 there.

17 Certification Requirements, there's a lot.
18 There were kind of general requirements that more
19 related to blasting as opposed to certification. We
20 moved some of those up into the definition section.
21 Some of the other ones were incorporated elsewhere in
22 the chapter.

23 The Certification Requirements are also --
24 what I did was took the application form that we have
25 and added a lot of these sworn statements at the end of

1 it about your age, how old you are, you're not a
2 Convicted felon, you are physically fit. You're not
3 addicted to narcotic drugs or intemperate use of
4 alcohol, those types of things. Those are already in
5 our application form, and the applicant signs a sworn
6 statement to that effect. So I don't believe that's
7 adding a lot substantively, other than the fact it's
8 codified now and somebody can find it a little easier.

9 The other sections, the Reciprocity and the
10 Training, that was moved just further into the chapter.

11 And that is basically about it.

12 This slide here just kind of describes some
13 of those changes I just went over to maintain the joint
14 administration.

15 This was moved.

16 Certification Requirements.

17 And we have the experience statements. We
18 just wanted to make sure it was clear that that comes
19 in the form of a notarized statement. And make clear
20 that the training is to be completed prior to taking
21 the examination.

22 And the final section was -- a lot of it was
23 just edited for clarity. Some 20 year old language;
24 could use some updating.

25 And that would be it, as far as the

1 organization of the rule package.

2 I think probably the best way to approach the
3 actual rule changes would be to go through our
4 Statement of Reasons and possibly interject comments as
5 we go along, I think.

6 MR. CHANCELLOR: For the board's
7 information, we did receive written comments from the
8 Wyoming Mine Association, which you will find in the
9 front package of your book. You may want to pull
10 that out as we go through this. I'm sure -- that way
11 maybe everybody can discuss it and have the written
12 comments, also.

13 MS. BROSIUS: Should I hand them out?

14 MR. CHANCELLOR: Is there anybody in the
15 audience that needs a copy of that?

16 MR. GAMPETRO: Rick, in your opinion, are
17 there any substantive changes to anything? Or is it
18 mostly reorganization and rewording and clarifying?

19 MR. CHANCELLOR: It depends on your
20 definition of substantive changes.

21 There are some changes that I don't really
22 -- it doesn't take us in a new direction. But I think
23 that hopefully it clarifies what we've been doing for
24 the past 20 years; some of the comments they made.
25 Also made some good questions -- or good suggestions

1 that may help -- some of the comments may help also in
2 the chapter.

3 But any big changes? No. In my opinion, not
4 huge.

5 MR. GAMPETRO: Okay.

6 MR. HULTS: The first section is the
7 Definitions section. I have that up on the screen,
8 too.

9 We defined Blasting Experience as -- it kind
10 of follows, or does follow what the current
11 administration of this is. Two years of full-time
12 experience working on a blasting pattern. And that
13 including measuring holes, loading holes, and tying in
14 the pattern.

15 Or, alternatively, you can use one year of
16 experience as described above plus a Bachelor's degree
17 in mine engineering, engineering geology, civil
18 engineering, or a closely related field.

19 The second alternative is one year of
20 experience as described above that provides the same
21 type of -- you would be working in designing of
22 patterns, drilling blast holes, or more practical
23 experience plus the one year as described in (i).

24 MR. BETTAS: Excuse me, Mr. Chairman. I've
25 got a question.

1 MR. GAMPETRO: Yes.

2 MR. BETTAS: I'm Nick Bettas, with the P & M
3 Coal Mining Company out of Kemmerer.

4 We have a representative work force there.
5 And I guess one of our concerns here is the way this
6 blasting experience is delineated here, we're almost
7 forced to have all of our certified -- all of our
8 blasting experience come from the representative work
9 force, because of the work on tying in the holes or
10 loading the holes.

11 I guess what we would like to see there is
12 some alternative language that says -- for instance, in
13 item 1.(a)(i) that says two years of full-time
14 experience working on or observing work on a blasting
15 pattern including measuring holes, loading holes, and
16 tying new patterns.

17 I guess I'm not sure how consistent that is
18 with OSM or with Don Stauffenberg's regulations. But
19 that gives us an opportunity to have a
20 non-representative person get blasting experience and
21 become a certified blaster.

22 MR. HULTS: We are somewhat limited
23 statutorily. They describe in Mines & Minerals,
24 Title 30, Chapter 2 for mining operations more of a
25 general application. They describe it as two years

1 practical hands-on experience in the type of
2 operation for which is he applying. They also give
3 one year experience credit for two years of mine
4 engineering experience related to shot design and
5 shot planning.

6 MR. BETTAS: And what we're saying is, we
7 agree with that.

8 Where we have the problem is where it says
9 working on a blasting pattern, including measuring
10 holes, loading holes, and tying in the pattern.

11 MR. HULTS: Uh-huh.

12 MR. BETTAS: Then in Items 2 and 3 you
13 reference back to 1.

14 I guess what we'd like to see there is some
15 language that lets us have someone there that is there
16 every day, that observes what's going on, but is not
17 doing the actual work, so that he can get enough
18 experience in order to become a certified blaster.

19 MR. CHANCELLOR: I guess my concern would
20 be observing is a lot different than hands-on -- you
21 know, handling explosives, tying the shot is
22 different than just watching people do it.

23 MR. BETTAS: There is some truth to that,
24 Rick. But I guess what we're seeing today is, as
25 blasting has evolved, it's just as critical to

1 pattern design and some of this other stuff that you
2 can do and not having experience to be a certified
3 blaster because of the delays and how sophisticated
4 some of this stuff has gotten.

5 I guess what we're saying there is that
6 actually tying in the boosters and putting the delays
7 in and where you are at down hole, you can get just as
8 much experience watching somebody physically load a
9 hole as you can by actually tying those boosters and
10 those things on. Especially when you are doing it for
11 a one- to two-year period.

12 MR. LOOMIS: Mr. Chairman, Marion Loomis,
13 with the Wyoming Mining Association.

14 Don't forget that all this does is set you up
15 so you can take the test. You still have to pass the
16 test that Don would give. So all this is is just
17 giving you the background so that you can qualify to
18 take the test.

19 What Nick is describing is they can't -- if
20 they have to supervise their personnel that they wanted
21 to get in to take that test, they can't even -- there
22 is no way they can give them the experience to take the
23 test because they are not the guys that are the union
24 guys that are actually out there tying the test
25 patterns in.

1 MR. GAMPETRO: So none of the people are
2 like promoted from within?

3 MR. LOOMIS: Right. If you are promoted
4 from within and up into management -- if they had
5 that experience you could. But if you hired somebody
6 and -- not in the union and they were in management,
7 there's no way you could ever have them qualify to
8 take the test.

9 MR. GAMPETRO: They couldn't do some of the
10 work leading up to this?

11 MR. LOOMIS: Probably in terms of the union
12 contract it would preclude them from it.

13 MR. DEMSHAR: Exactly.

14 MR. CHANCELLOR: Craig, were you reading
15 from the federal regulations? Where were you reading
16 from?

17 MR. HULTS: Actually, what I was reading
18 from was the state statute on shot (inaudible).

19 MR. LOOMIS: That's Don's.

20 MR. STAUFFENBERG: Mr. Chairman, I'd like
21 to comment -- I'm Don Stauffenberg, State Mine
22 Inspector. I see two things here.

23 In our experience, we have inspection and
24 authority over loading and blasting and explosives.
25 And we exercise that twice a year at every mine. And

1 we see two things involved with supervision.

2 We see some supervisors who are in charge of
3 a blasting crew that are in the office. The blasting
4 crew does the work.

5 We see then -- also, we see supervisors who
6 are on a pattern. And they are saying, with this delay
7 -- we should delay this this way here. They are not
8 actually doing the work, but they are on the pattern,
9 supervising that -- the loading of holes, the measuring
10 of holes, the amount of explosives that go into these
11 holes, and then the setting of (inaudible).

12 So there are two different types of
13 supervision that you could encounter there. I don't
14 know how you delineate that. I know that Doug Emme and
15 I have wrestled with that. It depends on how the
16 application is written.

17 I know some of those folks have been given
18 experience credit along with their degree, if we are
19 satisfied that they have time. If they are there
20 after they have designed the shot -- and especially
21 these complicated cast blast shots -- if they're there
22 after they have designed the shot and then supervise
23 the actual loading of that shot, that's different than
24 sitting in the office.

25 One thing that is missing in the Blasting

1 Experience definition is the fact that this person, by
2 statute, needs two years of experience. He can get one
3 year, and that's -- this doesn't say that. You can
4 have one year experience -- that should read one year
5 experience credit. He has to have two years hands-on
6 experience. But he can get credit for one year for
7 experience described in the Bachelor's degree in mining
8 engineering -- he could get one year's experience
9 described in designing drill and blast holes and that
10 type of thing. But he still has to have that other
11 year in the field. So what you won't have is somebody
12 sitting in the office and -- and not see the blast
13 pattern and be able to take the test.

14 I think this needs to read as the statute
15 does, experience credit, so that along with the
16 engineering degree, or along with the engineering
17 experience designing, that person still has one year in
18 the field, recognizing the hazards of transportation
19 and storage and use of explosives.

20 If this was adopted this way, it wouldn't
21 meet the certification standards in Title 30. And the
22 Memorandum of Understanding says that the rules will
23 meet the certification requirements.

24 So that's one change that I would sincerely
25 recommend. Because it talks about experience credit,

1 rather than allowing this person to take the test just
2 because he has a degree.

3 MR. CHANCELLOR: So Don --

4 MR. GAMPETRO: I have a question. Just
5 step back for a second.

6 We've got this certification process, we've
7 got a job out there where people are blasting. Who has
8 to be certified? Is it required that there is a
9 certified supervisor on the job? Is it required that
10 there is a certified person actually putting the charge
11 in the hole? What is the -- who needs to be certified?

12 MR. CHANCELLOR: The person who is on the
13 pattern supervising the work on the pattern.

14 MR. GAMPETRO: Has to be certified.

15 MR. CHANCELLOR: The people who actually
16 put the explosives in the holes don't need to be
17 certified. But somebody has to be there to watch
18 over it.

19 MR. GAMPETRO: There has to be a certified
20 person supervising the job.

21 MR. STAUFFENBERG: Mr. Chairman, Statute
22 30-2501 deals with blasting and shot firing and says
23 all blasting or shot firing in mines, including the
24 charging and tamping of holes, shall be done under
25 the direct supervision --

1 MR. GAMPETRO: Direct supervision.

2 MR. STAUFFENBERG: -- of a certified
3 blaster.

4 MR. CHANCELLOR: I think this goes back to
5 Don's statement. Direct supervision, I think we can
6 agree, is not a person sitting in an office saying,
7 I'm the supervisor for you guys in the field.

8 Direct supervision means the person has to be
9 on the pattern while they're doing that work.

10 MR. STAUFFENBERG: Mr. Chairman, if I may,
11 while we're on the definition section, in my rules we
12 define direct supervision by saying that the person
13 is directly in charge, has been placed directly in
14 charge of that shot. Certified -- certified mine
15 shot fire, mine blaster. He is in charge of that
16 shot and has been told that he's in charge of that
17 shot.

18 What we run into in many cases is we'll have
19 ten people on the pattern. Every one of them are
20 certified but nobody claims to be in charge. When
21 violations are found, nobody claims to be in charge.

22 So in our definition -- and I would suggest
23 that definition be added here -- that -- and it will
24 come up later.

25 MR. GAMPETRO: Then --

1 MR. STAUFFENBERG: Direct supervision
2 there --

3 MR. HULTS: This is your definition.

4 MR. STAUFFENBERG: And we define -- in
5 these rules, they say it has to be under the
6 direction.

7 I'm under the direction of the Department --
8 Director of the Department of Employment.

9 MR. GAMPETRO: But you agree with this
10 definition.

11 MR. STAUFFENBERG: This is my definition.

12 MR. GAMPETRO: Okay.

13 MR. STAUFFENBERG: Direct supervision. And
14 that excludes needing the foreman to be there. But
15 whoever is there needs to know that they are in
16 charge. And that's worked well for us.

17 And we enforce this. The first thing we ask
18 when we walk on to a shot is, who is the certified shot
19 (inaudible) in charge? And somebody better raise their
20 hand. And they do.

21 MR. LINFORD: Mr. Chairman, question for
22 Don.

23 Don, on that (i), as Nick pointed out,
24 full-time experience working and observing. Is that --
25 do you have a problem with that?

1 MR. STAUFFENBERG: You know, as long as
2 that person is working on a pattern -- granted, he
3 can't work. But he can observe and he can supervise.

4 You know, there are probably dirt contractors
5 who have superintendents that never run scrapers. But
6 they know as much about moving dirt as the scraper
7 operator.

8 I think that's kind of what we're getting at
9 here. But we've got to somehow separate that from the
10 fellow who sits in the office.

11 MR. LOOMIS: If he's sitting in the office
12 he couldn't be observing.

13 MR. STAUFFENBERG: Exactly. Present on the
14 site -- you know, present on the shot pattern,
15 something observing -- you can observe from the
16 pickup up on top of the bench and never get out of
17 the truck and never know what's going on. I don't
18 think that guy is any better off than the guy in the
19 office.

20 MR. BETTAS: I guess we would agree with
21 Don as far as either somebody overseeing or
22 supervising.

23 MR. STAUFFENBERG: Supervising -- you know,
24 supervising may be a better word to use.

25 MR. CHANCELLOR: On site.

1 MR. STAUFFENBERG: On-site supervision.

2 That would be a better way to describe that.

3 MR. BETTAS: Yeah.

4 MR. STAUFFENBERG: That would -- you know,
5 because we have three other -- two other union
6 operations.

7 MR. GAMPETRO: So if this says two years of
8 full-time experience working and/or supervising on
9 site -- Rick? Is that where we're headed?

10 MR. CHANCELLOR: Would that fit?

11 MR. STAUFFENBERG: You know, it's better
12 than what it says now for P & M. And it's consistent
13 with what -- you know, what we've done.

14 MR. CHANCELLOR: So maybe go to the screen,
15 Craig, and put in there two years of full-time
16 experience on-site supervision or working on a
17 blasting pattern.

18 MR. LINFORD: Working on or supervising.

19 MR. DEMSHAR: On-site supervising.

20 MS. HAROIAN: I'm Rose Haroian, with Powder
21 River Coal. Could I give a suggestion on language
22 there?

23 MR. GAMPETRO: Sure.

24 MS. HAROIAN: Just say, working on a blast
25 pattern including supervision, measuring holes,

1 loading holes -- then you don't have a lot of extra
2 words.

3 MR. BENSON: Scott Benson, with Knight
4 Technologies.

5 To give you a little background, if you
6 haven't been on a blast in a coal mine, most all mines
7 employ what they call a drilling and blasting team,
8 which typically are employees of the mine. But it's
9 not always that case. Sometimes they have contractors
10 do it, as well. So they have their own drilling and
11 blasting team, and, depending on the size of the mine,
12 that is what they do full-time.

13 But as you get to smaller mines -- which we
14 have in Wyoming -- it's not a full-time job. You know,
15 they only drill and blast when it needs to occur.
16 Which brings up questions with how full-time is going
17 to be interpreted.

18 As the work force starts to age, we get
19 people retiring and need to hire people. So we've got
20 problems with using the word full-time and how that
21 would be interpreted.

22 Anyway, going back to the blast experience,
23 the mine has a drilling and blasting team. They go out
24 and they'll drill the holes all night long. And then
25 typically they have a -- a powder company contract

1 employee that comes in and loads the (inaudible) in the
2 hole. And then the drilling and blasters working for
3 the mine will typically set the delays, tie the pattern
4 in, and -- you know, actually punch the button and
5 detonate the shot. And typically the mines have the
6 certified blaster doing it.

7 But again, that's not universal across all
8 mines. A lot of mines use contractors to do a lot of
9 that work.

10 Anyway, that's just a background. But I
11 think the question comes in with the full-time
12 experience, just how that would be defined with smaller
13 mines, where their full-time job for two years may not
14 be drilling or blasting. They may do it for six months
15 and then let's say move out to the pit and operate
16 equipment.

17 Does that mean they couldn't ever get
18 certified?

19 MR. GAMPETRO: Scott, I guess I would not
20 interpret that that way. I would think that a
21 full-time -- whether they're a contractor or working
22 for the mine -- that's their full-time job, that's
23 their full-time experience.

24 MR. CHANCELLOR: I think what we're trying
25 to avoid is to -- say they work for the mine two

1 years. And like Scott says, only six months of that
2 are spent on the blasting pattern. The mine's
3 (inaudible) would not qualify, because only six
4 months were spent on that pattern.

5 MR. GAMPETRO: And if it's a subcontractor?

6 MR. CHANCELLOR: If it's a subcontractor it
7 would be the same thing. Say he's only there six
8 months, then he goes someplace else for six months.
9 His experience adds up to two years. He could do it
10 that way.

11 But I think that two years full-time --
12 you're talking about you have 24 months accumulated of
13 experience in pattern, not 24 months at the mine where
14 part of your job is to, once in a while, go out and
15 work the pattern. You know, you may only get to do
16 that -- over a one-year period of time, you might be on
17 a pattern maybe two months. In my opinion, that would
18 not qualify for two years.

19 MR. BETTAS: Well, maybe what you need to
20 do, then, is take out full-time and put on-site
21 there.

22 MR. CHANCELLOR: Now what?

23 MR. BETTAS: Delete full-time and put
24 on-site.

25 MR. GREEN: Mr. Chairman, if I might ask a

1 follow-up question.

2 MR. GAMPETRO: Yes.

3 MR. GREEN: Rick, with the approach of
4 taking a look at part-time work on the pattern, that
5 could be very difficult as far as even what we would
6 consider full-time -- a D & B person today -- is not
7 going to be on the pattern eight hours a day, twelve
8 hours a day.

9 MR. CHANCELLOR: I understand that.

10 MR. GREEN: That could be very difficult
11 where that line is, as to what constitutes full-time.
12 If you are going to take a six-month period of time
13 and boil it down to one month for someone who isn't
14 necessarily doing it full-time, that could create a
15 very difficult precedent.

16 MR. CHANCELLOR: That's why I think Doug
17 requires the mine to basically certify that the mine
18 management feels that person has two years'
19 experience.

20 I was trying to address the issue of Scott
21 said -- talking about only being there six months and
22 then moving on to something else, so he's got six
23 months of experience. And so somehow we've got to
24 juggle those two extremes.

25 We're not saying keep track of every hour

1 he's there versus not there. But the mine has to be
2 comfortable that they feel he's been working two years
3 on the pattern. And it may not be a hundred percent
4 job, but a big part of his job. Not just once in a
5 while.

6 MR. GAMPETRO: It seems like there's two
7 issues here.

8 MR. CHANCELLOR: Yes.

9 MR. GAMPETRO: One is whether this is a
10 continuous, full-time -- whatever you want to call
11 it -- occupation.

12 And the other is if you have a subcontractor
13 that is doing this and only works for the mine for six
14 months and works for another mine.

15 It would seem that if it's a subcontractor,
16 as long as he has that continuous full-time experience,
17 irrespective of whether it's with one mine or three
18 mines --

19 MR. CHANCELLOR: Right.

20 MR. GAMPETRO: -- he could be certified.

21 MR. CHANCELLOR: Yes.

22 MR. GAMPETRO: And in terms of the
23 full-time work continuous, obviously you don't blast
24 every single day. So how do you design -- I don't
25 have an answer for that. How do you design full-time

1 or continuous, or whatever you want to call it, for
2 this certification?

3 MR. CHANCELLOR: I think that's why Doug
4 has the mine management make that statement, that
5 they feel that person's been on pattern enough to
6 warrant two years worth of experience. Because
7 otherwise you do get into an accounting nightmare
8 that's hard to do.

9 So we leave it up to the mine -- the mine is
10 put on the spot, saying, this person works for you; do
11 you certify that he has two years of blasting
12 experience on the site? And we leave it up to them to
13 say yes or no.

14 MR. GAMPETRO: Who does that for the
15 subcontractor?

16 MR. CHANCELLOR: Their supervisor at the
17 company.

18 MR. BENSON: I would also note with that
19 discussion, some mines do blast several times a day,
20 seven days a week. So you could be on one mine for
21 six months and you were on 400 or 500 blasts. And
22 another mine -- in a two-year period, you might have
23 only been on a dozen blasts. Depending on the size
24 of the mine.

25 MR. LOOMIS: Mr. Chairman, I wonder why

1 we're putting so much time on this. Because DEQ
2 doesn't do the certification. Don does the
3 certification.

4 MR. STAUFFENBERG: They have a separate
5 blaster certification program.

6 MR. CHANCELLOR: Yeah. We do the coal
7 certification and Don signs the certification
8 certificate. So we'll do the training, we'll do the
9 testing.

10 MR. STAUFFENBERG: It's mandated.

11 MR. LOOMIS: So they are doing double?
12 They get a certification from you --

13 MR. STAUFFENBERG: No. Not coal. Because
14 they go through that.

15 MR. DEMSHAR: Mr. Chairman, taking a look
16 at this and stepping back, maybe we're looking at the
17 wrong criteria as far as determining a certain amount
18 of time. Would it be better defined if we took a
19 look at the number of shots or blasts or whatever
20 that the individual took part in, and came up with
21 that criteria? Because I don't see any resolution
22 without causing a recordkeeping nightmare or
23 accounting nightmare and trying to cover both ends of
24 the spectrum where you have a company or someone can
25 be blasting several times a day and then the other

1 end of the spectrum where it's very intermittent at
2 best. If you try to say that that two-year time
3 frame is equitable, that might be a stretch. I don't
4 know.

5 MR. CHANCELLOR: Mr. Chairman, maybe
6 another way to get around this is that -- I don't
7 know that it's a big problem out there.

8 If Doug requires the company -- or in the
9 case of a contractor, certify this man has experience
10 -- you know, if they -- but I don't know if there's a
11 big controversy out there as far as this issue. So
12 maybe we're beating a horse that doesn't need to be
13 beat. It could be clearer, but we're struggling to try
14 to make it clearer, and the question of whether there's
15 a problem out there -- you know, right now I'm not sure
16 there is.

17 MR. LOOMIS: Don has the stuff. I mean,
18 he's --

19 MR. STAUFFENBERG: You know, it all boils
20 down to it has to meet the statutory requirements of
21 two years of experience. The rules are used to
22 identify how that experience will come about, but it
23 still ends up to be two years of experience.

24 I don't know of any mine that doesn't blast
25 -- any coal mine in this state that doesn't blast five

1 or six times a week. I don't know of any blasting
2 contractor who makes a living loading in one month.

3 So I don't think it's an issue of
4 accumulation of experience. It's an issue of
5 satisfying the experience requirement. I think that
6 the experience can be accumulated.

7 And one thing we have to keep in mind, too,
8 is we're -- this rule is only to certify that person,
9 not to qualify that person.

10 MR. LINFORD: That's right.

11 MR. STAUFFENBERG: You know. So the
12 company is not going to put somebody up for
13 certification who is not qualified -- you know, in
14 our experience.

15 MR. GAMPETRO: So if we keep pretty much
16 the way it is, the verbiage with the change of on
17 site, to ensure that --

18 MR. STAUFFENBERG: Mr. Chairman, one
19 problem there is, there is as much experience gained
20 in transportation and storage that's not included in
21 any of this. All of these explosives come from a
22 magazine. Those magazines are highly regulated. And
23 that's part of the test and part of the experience
24 factor.

25 And so to limit the experience on the blast

1 pattern, you -- you probably, in an eight-hour day,
2 take two or three hours of that experience factor away.
3 But yet you're still handling and dealing with
4 explosives.

5 MR. GAMPETRO: I think on site would
6 differentiate between somebody out on the job and
7 somebody back at the office.

8 MR. STAUFFENBERG: You know --

9 MR. GAMPETRO: Not necessarily -- that
10 would not exclude somebody that's supervising
11 transportation of the explosives --

12 MR. STAUFFENBERG: Transportation and
13 storage is all part of the big picture.

14 MR. LINFORD: So should that be included in
15 the --

16 MR. STAUFFENBERG: You know, I think
17 that -- you know, the blasting pattern is fine. But
18 there's other things that happen with explosives.

19 MR. GAMPETRO: Would you add those to the
20 verbiage? Storage, transportation?

21 MR. STAUFFENBERG: Yeah. You know,
22 including measuring holes, loading holes, tying
23 patterns, transportation and storage of explosives.

24 MR. GAMPETRO: Okay.

25 MR. STAUFFENBERG: And that would take the

1 shot from first thing in the morning, where they load
2 the truck to take it to the shot pattern, to -- you
3 know, to shoot it and take the excess back. It's all
4 part of accumulated experience, in my mind.

5 MR. CHANCELLOR: So Craig, on -- going back
6 to the proposed language, so after including -- Don,
7 you say the storage and transportation of explosives?
8 Is that where you would put it?

9 MR. STAUFFENBERG: Sure.

10 MR. GAMPETRO: As being considered on
11 site -- we're going to add something about on site,
12 as opposed to in an office.

13 MR. LINFORD: Have Rose give her -- would
14 you say that again?

15 MS. HAROIAN: My suggestion?

16 MR. LINFORD: Your suggestion.

17 MS. HAROIAN: It was working -- okay.

18 Full-time experience on a blasting pattern including
19 supervision, storage -- you could say on-site
20 supervision if you want.

21 MR. STAUFFENBERG: Yes. On-site
22 supervision.

23 MR. BETTAS: Would that still mean, do you
24 think -- the on-site supervision -- you still have to
25 have the tying of holes along with that?

1 MR. STAUFFENBERG: You are supervising the
2 storage, you are supervising the transportation, the
3 measuring of the holes, the loading of the holes --

4 MR. BETTAS: Well, I guess what I'm
5 wondering is, does the supervising fit better right
6 after the -- where it says full-time experience
7 working on --

8 MR. STAUFFENBERG: Or supervising.

9 MR. BETTAS: -- or supervising work on --

10 MR. STAUFFENBERG: You still need to -- by
11 on-site supervising.

12 MR. BETTAS: Well, that's what I'm saying.
13 Instead of full-time -- do we really need full-time
14 there? Or would on-site fit better instead of
15 full-time?

16 MR. BENSON: Mr. Chairman, getting back to
17 Rick's comment -- I mean, I kind of tend to agree.
18 I'm not sure that this has been a problem in the
19 past.

20 What LQD's proposing, as the new definition
21 here, that does not -- it's different, more stringent
22 than the current statute. If there hasn't been a
23 problem in the past, isn't the statute that Craig had
24 up earlier more clear than what they are proposing
25 here? I mean, it doesn't use the word full-time. It

1 -- why can't we just either reference the statute or
2 put the exact words of the statute in?

3 MR. HULTS: In Paragraph A --

4 MR. STAUFFENBERG: Well, if you reference
5 the statute, we're back to our original conversation.
6 You know, that the supervisor --

7 MR. BETTAS: Right.

8 MR. STAUFFENBERG: -- is not --

9 MR. GAMPETRO: There's no supervision
10 there. I don't think -- it says practical hands-on
11 experience. I --

12 MR. BETTAS: The first part says under the
13 direct supervision of.

14 MR. CHANCELLOR: Instead of saying two
15 years full-time just say two years practical hands-on
16 experience, and mimic the words in the statute.

17 MR. STAUFFENBERG: And they could
18 accumulate that over a period of time.

19 MR. CHANCELLOR: Yeah.

20 MR. LINFORD: Two years hands-on?

21 MR. GREEN: That eliminated the supervision
22 there.

23 MR. CHANCELLOR: We say that -- you know,
24 hands-on experience. Including on-site supervision.

25 MR. STAUFFENBERG: Mr. Chairman, I think

1 then you add the definition of hands-on experience,
2 which includes loading -- you know, includes
3 everything that's in the statute there or in the rule
4 there. But -- you know, then you go back and take
5 what we just suggested for the two years and add that
6 to the definition to hands-on experience. And then
7 you let the supervisor supervise.

8 MR. BETTAS: That's what I think. The
9 supervision fits better up where it says working on.
10 Because as you start lengthening out this issue, does
11 that mean they have -- they have to have supervision
12 on storage and transportation, they have to have
13 supervision on measuring holes, on loading holes, on
14 tying in a pattern?

15 MR. GAMPETRO: What you need to say is two
16 years of practical hands-on experience or
17 supervision --

18 MR. BETTAS: Right.

19 MR. GAMPETRO: -- of -- or on-site
20 supervision of storage, blah, blah, blah -- all the
21 rest of it.

22 MR. BETTAS: Yeah. I think the
23 supervision -- doesn't it have to go up there by the
24 working?

25 MR. GREEN: Mr. Chairman, might I suggest

1 that we take a look at the wording that simply says
2 two years of full-time experience supervising or
3 working on.

4 MR. BETTAS: Right.

5 MR. GAMPETRO: That's fine.

6 MR. STAUFFENBERG: Directly supervising.

7 MR. GAMPETRO: On-site, directly.

8 MR. STAUFFENBERG: Because I can supervise
9 and sit in the office.

10 MR. GAMPETRO: Right. We've got to get
11 this part in.

12 MR. STAUFFENBERG: Yeah, be considered a
13 supervisor. That's where we run into the problem of
14 nobody being in charge.

15 MR. GAMPETRO: On-site supervision as
16 opposed to directly. I'm your direct supervisor even
17 if I'm not here.

18 MR. GREEN: If that read experience on-site
19 supervision or working on, would that work? With two
20 years --

21 MR. CHANCELLOR: Maybe a way to stop from
22 tripping over our tongue sometimes is to -- at the
23 end of (i), state or on-site supervision of the
24 above.

25 MR. GREEN: Yeah.

1 MR. CHANCELLOR: That way we're talking
2 about practical hands-on experience doing that stuff.
3 Or, at the very end, on-site supervision of above.

4 MR. STAUFFENBERG: Mr. Chair, then we still
5 have an issue of (ii) and (iii). That can only be
6 experience credit. That cannot take the place of the
7 two years of experience. So it should read something
8 on the order of one year experience credit --

9 MR. BETTAS: That's right.

10 MR. STAUFFENBERG: -- shall be -- you know,
11 and that would fit with -- more with the statute.
12 The statute says that you can have experience credit
13 or engineering degree experience credit for designing
14 shot pattern. But you still end up with one year of
15 doing that and then one year's credit on the shot.

16 MR. CHANCELLOR: So look at (ii). The way
17 it's worded there would be one year of experience as
18 described above, in (i), plus one year of credit for
19 a Bachelor's -- the credit would come after that?

20 MR. HULTS: Yeah.

21 MR. CHANCELLOR: Because we're saying --

22 MR. HULTS: Plus one year's credit -- one
23 year's experience credit would be given for -- then
24 the Bachelor's.

25 MR. CHANCELLOR: Okay. I see what you're

1 saying.

2 MR. STAUFFENBERG: Yes.

3 MR. CHANCELLOR: Okay. One year -- as you
4 were saying, Craig, I think that would work.

5 MR. STAUFFENBERG: Mr. Chairman, my rules
6 say the State Mine Inspector shall give an applicant
7 one year's experience credit for two years of mining
8 experience related to shot design and shot planning.
9 An applicant may receive a maximum of one year's
10 experience credit. I think that needs to be in
11 there, or pretty soon it will be all experience
12 credits and they've never been on a shot.

13 MR. GAMPETRO: So just say a maximum of one
14 year's credit --

15 MR. STAUFFENBERG: Uh-huh.

16 MR. GAMPETRO: -- toward the above.

17 MR. STAUFFENBERG: Or a caveat. Only one
18 year's experience credit will be granted.

19 MR. GAMPETRO: Okay.

20 MR. STAUFFENBERG: And that's what the
21 statute -- the statute says the applicant may receive
22 a maximum of one year's experience credit.

23 MR. CHANCELLOR: Look at 2. and 3. We say
24 they have to have one year experience in (i) plus the
25 other. So that sort of says that they have to have

1 that one year of practical experience.

2 MR. LOOMIS: The credit is for the degree.

3 MR. CHANCELLOR: Right. So I do think we
4 have it covered. Because we're saying there that
5 they have to have one year of on-site practical
6 experience. Then they can get one year Bachelor's
7 degree.

8 MR. STAUFFENBERG: What it -- what it says
9 to me is they have to have two years or one year of
10 experience.

11 MR. CHANCELLOR: On site.

12 MR. STAUFFENBERG: On site. Or one year
13 experience and plus a Bachelor's degree in mining.
14 One year's experience as described above or something
15 to that effect.

16 MR. LOOMIS: I think it's okay.

17 MR. BETTAS: I think your language, Don, of
18 credit would fit then, wouldn't it?

19 MR. STAUFFENBERG: Excuse me?

20 MR. BETTAS: Your suggested language of one
21 year of credit experience, as described above, plus a
22 Bachelor's degree -- that would fit, then, wouldn't
23 it?

24 MR. STAUFFENBERG: Just as a clarification
25 -- you know, they still have to have the one year of

1 experience. And that's there. But that one year's
2 experience --

3 MR. LOOMIS: Well, do we want to put one
4 year of on-site experience as described --

5 MR. STAUFFENBERG: One year of experience
6 as described in 1.(i).

7 MR. GAMPETRO: Rick, would it better if we
8 moved on and you wordsmith this? I believe you
9 understand the intent. Could it be wordsmithed
10 afterwards?

11 MR. CHANCELLOR: Well, I think we have it.

12 MR. STAUFFENBERG: Yeah, I think it's
13 there.

14 MR. CHANCELLOR: Don's concern is that we
15 could get two years of credit for a Bachelor's and
16 another year of credit for design of pattern and
17 never have one year of on-site.

18 What we have written up there -- first of
19 all, we have one year on site plus a Bachelor's, or one
20 year of on-site plus design. So we want to have that
21 one year in there --

22 MR. GAMPETRO: Minimum requirement.

23 MR. CHANCELLOR: -- so there's a minimum
24 requirement that they can't get more than one year of
25 credit for -- so I think we've got it covered.

1 MR. LINFORD: I think we're okay.

2 MR. GAMPETRO: Let's try and move on.

3 MR. HULTS: The second definition is for
4 Certified Blaster.

5 Some of these sections were in the chapter
6 already, like section 1.(c)(i). I moved those into the
7 definition itself. It seemed like those were
8 attributes of a certified blaster that were scattered
9 about previously.

10 So what it reads is, certified blaster means
11 a person directly responsible for the use of explosives
12 in surface coal mining operations or surface blasting
13 operations incident to underground coal mining
14 operations.

15 A certified blaster -- moving to (i) --
16 possesses current knowledge of local, state, and
17 federal laws and regulations applicable to his work,
18 has obtained a certificate of completion of training
19 and qualification as required by the state. And third,
20 has submitted all required application and application
21 support documentation for review and approval by the
22 administrator. And four, has received a passing score
23 on the written and oral examinations as described
24 below.

25 MR. CHANCELLOR: I think Don's -- his

1 definition of a shot firer -- wasn't that where you
2 talked about being -- a responsible person on site?

3 MR. STAUFFENBERG: Yeah. It's contained
4 down in Section 2. And we may want -- you know, we
5 may want to add the definition of -- under the direct
6 supervision. That appears on down -- I don't know
7 whether you want to handle it now or whether you want
8 to go to the context we're talking about and then
9 come back to the definitions.

10 MR. HULTS: What page are you on?

11 MR. STAUFFENBERG: I'm on page 3 of the
12 rules.

13 MR. CHANCELLOR: The proposed rules?

14 MR. STAUFFENBERG: Should be Section 2.,
15 paragraph (d).

16 MR. HULTS: Yeah.

17 MR. STAUFFENBERG: All blasting shall be
18 conducted under the direction of -- the statute says
19 under the direct supervision of. Under the direction
20 is pretty vague. The statute and my rules say under
21 the direct supervision of, and then identifies direct
22 supervision as a person in charge of (inaudible).

23 MR. CHANCELLOR: So if we go that route, we
24 would change this to direct supervision --

25 MR. STAUFFENBERG: Under the direct

1 supervision of a certified blaster. That would clean
2 that up.

3 MR. CHANCELLOR: And then go back to the
4 definitions here.

5 MR. STAUFFENBERG: Go back to the
6 definitions --

7 MR. CHANCELLOR: And add direct
8 supervision.

9 MR. STAUFFENBERG: But identify direct
10 supervision. And it's identified in my rules as
11 shall mean supervision by any Wyoming certified shot
12 firer who is physically present on blasting or shot
13 firing site and has been notified that he is the shot
14 firer in charge of that blasting or shot firing
15 operation.

16 MR. BETTAS: Mr. Chairman, I would agree
17 with Don's insertion of that language. I think it
18 even becomes more important when we get back here and
19 start talking about blaster certification. Because
20 that, in turn, then comes back and references these
21 items in Sections 1. and 2.

22 MR. CHANCELLOR: Yeah. I would agree that
23 we include the definition of direct supervision and
24 just change Don's language, shot firer, to certified
25 blaster. And I think that really makes a stronger

1 rule.

2 MR. GAMPETRO: I think we need to make sure
3 it's understood that they are there on site.

4 MR. CHANCELLOR: Right. I think Don's
5 language --

6 MR. STAUFFENBERG: And if you add the
7 definition of direct supervision, then it's specific
8 that they are on the site and have been told that
9 they are in charge of the shot.

10 MR. CHANCELLOR: Right.

11 MR. GAMPETRO: Scott?

12 MR. BENSON: Mr. Chairman, one of the
13 comments the Wyoming Mining Association had -- or one
14 of the intents of the comments was to try to clarify
15 in Chapter 6 just who was responsible for what.

16 There is numerous places currently in Chapter
17 6 where they use the word permittee or they use the word
18 operator or they use the word applicant. Obviously
19 throughout Chapter 6 they use the word certified
20 blaster.

21 The mines take real seriously the safety
22 concerns involved with blasting. And there have been
23 numerous violations issued over the past several years
24 relating to blasting violations. And this becomes even
25 more apparent with the increased use of contractors to

1 conduct blasting.

2 And I don't know if it needs to be addressed
3 necessarily in a rule. But at least in the Statement
4 of Reasons, if we could just clarify who is responsible
5 for what.

6 Like this statement says, the certified
7 blaster's directly responsible. The question comes up,
8 what does that mean? If -- if there is a violation --
9 if something goes wrong, something didn't happen right,
10 who gets the violation? Does the mine get the
11 violation? Does the certified blaster get the
12 violation? Does the applicant? Does the operator?

13 It almost appears to me the intent of the
14 rules is the certified blaster calls the shots about
15 blasting.

16 MR. GAMPETRO: In a practical sense, I
17 guess, who gets the violation?

18 MR. CHANCELLOR: We do not issue violations
19 to a certified blaster. We issue violations to
20 either the permittee or the operator.

21 The Mining Association does have a point,
22 that through Chapter 6 we sometimes say the permittee
23 shall do this, and sometimes we say the operator.

24 But there is a distinction that -- okay. The
25 responsibility of the certified blaster is really for

1 the safety and conduction of the blast in a safe
2 manner. And so if he does his job in a way that he
3 shouldn't be certified, we can pull his certification.
4 But we do not issue a violation to that person. We
5 issue it to either the operator or the permittee. It
6 depends on who has the license to mine -- the
7 responsibility for that part of the operation.

8 MR. GAMPETRO: Should we say then, in the
9 Statement of Reasons, as Scott indicated, that
10 violations will still be issued -- even though the
11 certified blaster is responsible, any violations will
12 be issued to the people that hired him?

13 MR. CHANCELLOR: I don't think we need to
14 really -- in my opinion, the discussion of violations
15 and certified blaster is totally a separate issue. I
16 don't think it needs to be in the Statement of
17 Reasons that we don't issue violations to certified
18 blasters.

19 But they have a point as far as if you go to
20 page 2 of our proposed rules, in Section -- new Section
21 2.(a) says the permittee shall comply.

22 MR. GAMPETRO: Right.

23 MR. CHANCELLOR: If we put operator there
24 it's just as good. Because sometimes the way we work
25 it, we issue a permit to a company or whatever. They

1 get a license to mine or to operate under that
2 permit. They may hire a contract miner to operate
3 under that permit and he gets the license to mine.
4 So he, in our view, is an operator.

5 We do not view a certified blaster as an
6 operator. He may work for an operator. The operator
7 is responsible for that person. So we -- so violations
8 are issued to the operator, not to the certified
9 blaster.

10 So we do maybe need to clarify to the mine
11 and to our staff that when -- if you have a contract
12 miner who arranges for a third party to come in as --
13 as blasting, and that blast goes wrong, they do it
14 wrong -- if that contract miner has a license to mine,
15 we issue it to him. And that just needs to be
16 clarified with the mines and with our staff, that
17 that's why we have a license to mine, to identify the
18 operator and who's responsible for violations. Because
19 sometimes you have a license to mine just for part of
20 the operation but not the whole operation.

21 So we have to look at what's going on at the
22 mine site, to determine who's the responsible operator
23 for that part that got the violation. We just need to
24 do a better job of explaining that to the mines and to
25 our staff.

1 MR. GAMPETRO: Scott? Happy?

2 MR. BENSON: Yeah. I think that would
3 clarify things, if we use the word operator rather
4 than permittee and applicant.

5 MR. HULTS: Just so everybody's aware, I
6 did add the direct supervision. And that's verbatim
7 from the -- from Don's regulations. And that should
8 help clarify.

9 This section here --

10 MR. CHANCELLOR: Craig?

11 MR. HULTS: Yes.

12 MR. CHANCELLOR: Go down to 2.(a), where it
13 says permittee.

14 MR. HULTS: Yes.

15 MR. CHANCELLOR: In response to the comment
16 from the Mining Association, I'm okay changing that
17 to operator.

18 MR. HULTS: Operator?

19 MR. CHANCELLOR: Yes.

20 MR. HULTS: Okay.

21 MR. CHANCELLOR: Because the permittee is
22 also an operator in some cases. But sometimes the
23 operator is not the permittee.

24 MR. HULTS: The change here that I did was
25 beside that was we just reworded the way regulations

1 are labeled.

2 The next change was section number was
3 updated to reflect the proposed changes below.

4 In Section (c) I removed an experienced,
5 trained, and competent person who understands the
6 hazards involved. That was a remnant from when we
7 first put this language in there.

8 And the way the federal regulations read,
9 this section that was struck out was who had to be in
10 charge of the blasting until we had our certification
11 program up. Now that we do, we can just use the term
12 certified blaster and remove that.

13 MR. BENSON: Is that section now -- I mean,
14 isn't it completely redundant with (d) below? Don't
15 they say the exact same thing?

16 MR. HULTS: I don't believe so. Now that
17 we've added the direct supervision -- the one -- you
18 could be working on and not actually I guess
19 conducting the blasting operation.

20 The reason I say it's different is because I
21 envision somebody that was helping with the operation.
22 And that would be working with, not necessarily
23 conducting.

24 MR. BENSON: Okay.

25 MR. HULTS: But I'm certainly flexible.

1 MR. GAMPETRO: I don't think a little
2 redundancy will hurt us, as long as it's not
3 conflicting.

4 MR. HULTS: Section (d) took out the having
5 a minimum of two years blasting experience. A
6 certified blaster would have that, so it's under the
7 direct supervision of that person. And he would have
8 two years of experience.

9 Added the term certified before blaster, to
10 be consistent.

11 Section (e) was formerly 6(c)(iv). And it
12 seemed like it fit the context better here.

13 Section (f) was the convicted felon section
14 and cite to the Homeland Security Act. Not really
15 adding anything new here. Restating.

16 Section (g). Again, reorganization. Change
17 some of that. Just made it read a little bit better, I
18 think.

19 And then (h) and (i) were just renumbered.
20 In (i), I also added capitalized letters for signs for
21 Blasting Area.

22 Section 3 -- or Rule Amendment 3, the only
23 thing I did in these sections was renumbering of 4.,
24 5., and 6. I also changed on to at.

25 MR. CHANCELLOR: This is one of those areas

1 where we say the applicant or permittee, and then we
2 say the operator. And they want to use operator
3 consistently through this one.

4 MR. HULTS: Now, is that the operator is
5 conducting the preblasting survey?

6 MR. CHANCELLOR: Yes. Because if we call
7 it operator -- you know, it very well could be the
8 permittee.

9 MR. HULTS: Sure.

10 MR. BENSON: Up above it, too, Craig.

11 MR. HULTS: Thank you.

12 MR. HULTS: That looks like all of them.

13 Sections 3 which are now 4., 5., and 6. just
14 renumbering. I would have to look at those
15 individually to see if we have that same
16 permittee/applicant issue. But that could be changed,
17 as well.

18 MR. BENSON: Mr. Chairman? We had a
19 comment on Section 3.(c), a suggested change.

20 The Wyoming rules allow somebody to request a
21 survey be made before you conduct a blast. The Wyoming
22 rules say that survey can come in up to three days
23 before the initiation of blast.

24 The federal counterpart has the cut-off at
25 ten days.

1 And we question the logic why the state --
2 you know, especially if you've got to load holes,
3 you've got -- if the public comes in and requests a
4 survey be made, and you're getting ready to shoot the
5 blast, that doesn't give you a lot of time. So you're
6 sitting there with loaded holes while you go out and
7 conduct a survey. We just question the logic if -- if
8 Wyoming should allow what the federal rules allow,
9 which is ten days.

10 MR. GAMPETRO: Rick?

11 MR. CHANCELLOR: I have no -- no history of
12 why we have three days or ten. But the federal rules
13 have ten. I don't know why we have three.

14 MR. GAMPETRO: Fix it?

15 MR. CHANCELLOR: Yeah.

16 MR. HULTS: Where is that?

17 MR. CHANCELLOR: 3.(c).

18 MR. GAMPETRO: That's not listed here.

19 MR. HULTS: I've got the full language of
20 the stricken underlined up here. I'll just make sure
21 our Statement of Reasons ...

22 MR. GAMPETRO: Okay.

23 MR. HULTS: The fourth area we're dealing
24 with was split up into subsections. The first part
25 here is basically just helping out the organization.

1 Here we have the general section which was followed
2 by definitions. Now that we've moved the definitions
3 up to the front of the chapter, the general is kind
4 of unnecessary at that point.

5 If you look at (i), it's unnecessary, also.
6 I can just roll that into section (a). There weren't
7 any substantive changes. Continue to administer this
8 jointly with Don.

9 The definition of what was here for blaster
10 or shot firer was moved to Section 1.

11 Certification requirements -- these first
12 sections that were in the chapter originally have
13 either been moved -- it looks like all of them have
14 been moved, actually. Yeah. So those are in Section
15 2. now, which addresses more general requirements for
16 blasting.

17 These next sections, 1 through 4 -- 5, 6 I
18 guess it is -- these come from -- 1 through 4 are from
19 the application that we have, our form. The applicant
20 signs a sworn statement to these effects here.

21 MR. GREEN: Mr. Chairman? Can I raise a
22 question on this point?

23 MR. GAMPETRO: Yes.

24 MR. GREEN: I realize that these are good
25 questions for an application. But has the attorney

1 general looked at these yet, for inclusion in the
2 rules --

3 MR. HULTS: Yeah.

4 MR. GREEN: -- relative to whether or not
5 they would be enforceable, whether or not the
6 state --

7 MR. HULTS: He's reviewed it.

8 MR. GREEN: Okay.

9 MR. HULTS: And his sticky tabs, which I
10 have right here --

11 MR. GREEN: Like on intemperate use of
12 alcohol.

13 MR. HULTS: Actually, the intemperate use
14 of alcohol is actually in the federal regulations,
15 also.

16 MR. GREEN: That's fine. I just wanted to
17 make sure that we weren't encumbering our rules.

18 MR. HULTS: Well, looking at his comments,
19 no. There's nothing that's talked about there.

20 MR. GREEN: Okay. I appreciate that.

21 And in 5., if I can suggest just a small
22 editorial --

23 MR. HULTS: Yes.

24 MR. GREEN: -- Mr. Chairman?

25 MR. GAMPETRO: Yes.

1 MR. GREEN: On the second line, from
2 current, I think it should be and/or past employers.

3 MR. HULTS: Section 6 just describes the
4 fact that you would take your training before the
5 examination.

6 The final section was that training. The
7 first section merely took out the word as. Section 2.
8 is removed and put further down into the chapter.
9 The examination section was just renumbered.

10 MR. STAUFFENBERG: Mr. Chairman, if I may,
11 I'd like to comment on the examination section.

12 MR. GAMPETRO: I think one thing here. We
13 used to always do and I think we need to start doing
14 it, for the recording purposes. Everybody just
15 identify themselves.

16 MR. STAUFFENBERG: Don Stauffenberg.
17 Excuse me, Mr. Chairman.

18 I'd like to comment on the examination
19 section, (i), where it says that the applicant -- the
20 candidate must receive a passing score.

21 What's a passing score? In our rules, a
22 passing score is 75 percent on the written portion and
23 75 percent on the oral portion.

24 I think that the candidate deserves to know
25 what a -- what a passing score is, when that test is

1 being graded.

2 MR. GAMPETRO: Okay.

3 MR. STAUFFENBERG: That's my only comment.

4 MR. GAMPETRO: Rick?

5 MR. CHANCELLOR: I don't know what Doug
6 does in this part, whether he uses 75 percent all the
7 time or what. I don't know.

8 MR. STAUFFENBERG: Mr. Chairman, I'm -- I
9 carry Doug's certification -- in fact, all of my
10 deputies do also.

11 But I -- in that certification, you test
12 once. And then if you -- then you have to every five
13 years go back for 24 hours of training, or accumulate
14 experience. But if you -- you know, you don't have to
15 retest.

16 So I don't know what the test score
17 requirement is. I tested the first time and then just
18 -- you know, the rest is just on experience credit.

19 MR. CHANCELLOR: Yeah. I tried to call
20 Doug last night and this morning. He's on vacation
21 and I was not able to contact him.

22 So I don't know for certain if he uses 75
23 percent. If he does -- like you say, it's in your
24 rules, right?

25 MR. STAUFFENBERG: Yeah. And -- you know,

1 I think we could defer this to Doug. But I think a
2 passing -- whatever explanation of a passing score
3 should be put in the rules.

4 MR. GAMPETRO: Any problem with that, Rick?

5 MR. CHANCELLOR: I have no problem with
6 that.

7 MR. STAUFFENBERG: Okay.

8 MR. CHANCELLOR: It very well could be that
9 since it's in Don's rules already that Doug uses that
10 as the score. We just need to clarify that. So
11 we'll put a note that we'll insert whatever the score
12 Doug uses.

13 MR. GAMPETRO: Okay. Moving forward.

14 MR. HULTS: Section (e) was revised
15 slightly, just to clarify the steps that it would
16 take and when a certification would be issued.

17 Those who receive a passing score on the exam
18 and then meet all the training and administrative
19 requirements.

20 The reciprocity section I moved from above in
21 Section 2. Again, that was just edited grammatically.

22 The renewal, revocation, and maintenance were
23 just renumbered.

24 And that was the end of the package.

25 MR. CHANCELLOR: With the board's

1 concurrence, I understand that -- if I understand
2 right, we'll go through the rest of the parts of this
3 chapter and look for permittee versus operator versus
4 applicant and make that consistent as appropriate,
5 rather than trying to read through them all today.
6 If that's okay with the board.

7 MR. GAMPETRO: Any other comments?

8 MR. BENSON: We have one more -- or a
9 couple more comments.

10 Currently with Chapter 6 it's the only
11 chapter in the -- not the only chapter, but it is a
12 chapter in the coal rules where the performance
13 standards are not in Chapter 4, which is where all the
14 other performance standards in the rules are.

15 That's the organization that the OSM rules
16 take. It keeps all the performance standards together.
17 And we question the logic of keeping the performance
18 standards in -- with OSM's structure, this chapter
19 refers just to blaster certification. Here's what you
20 have to do to be a certified blaster. And then Chapter
21 4 is the performance standards which show the
22 requirements; here's what you have to do when you are
23 blasting. And we just question if maybe that has been
24 some of the confusion in the past, where there has been
25 violations, because they're -- you know, not

1 necessarily potentially -- you know, hard to find
2 because they're in a whole different section. And
3 that's one of our comments. Maybe it would make sense
4 to separate these two sections out and have this one
5 blaster certification and have performance standards
6 moved to the rest of the performance standards.

7 Then another comment we just had, if these
8 changes are incorporated, there is cross-references in
9 Chapter 2 that reference Chapter 6. But those
10 cross-references now need to be changed if this chapter
11 is changed.

12 MR. CHANCELLOR: Mr. Chairman, Craig will
13 look at those cross-references and make sure they are
14 correct.

15 As far as changing the performance standards
16 in Chapter 6 and moving them to Chapter 4, we are
17 reluctant to do that at this time. Chapter 4 is part
18 of a real large vegetation rewrite. And Chapter 4 is
19 changing a lot. So if we stop now and reorganize
20 Chapter 6, Reorganize Chapter 4, it has the potential
21 to delay that large rule package.

22 We'll keep that in mind and we'll look at it
23 some more. But I'd rather not address reorganizing
24 Chapter 6 at this time.

25 MR. GAMPETRO: Rick, could it be made a

1 little more clear by referencing in Chapter 4 to
2 Chapter 6 for certification?

3 MR. CHANCELLOR: We already -- I'm trying
4 to think what's in Chapter 4. I think --

5 MR. GAMPETRO: And vice versa?

6 MR. CHANCELLOR: Yeah. I guess my, my view
7 of it is, I don't see it as being confusing to
8 anybody. Because blasters -- anything to do with
9 blasting we go to Chapter 6 basically. And there is
10 cross-references, as Scott noted.

11 I'm not convinced, I guess, that there is a
12 big problem here, that we need to move a large part of
13 this over into Chapter 4. Because it is very unique to
14 just blasting.

15 I'm willing to look at that, but I'd just
16 rather not do it with this rule package because it may
17 have a down effect on that big rule package, and I
18 don't want there to be any more delays there.

19 MR. GAMPETRO: Anything else before we move
20 on?

21 MR. LIEDTKE: One other item that the WMA
22 had mentioned was -- I'm not sure where it's at in
23 the proposed rules. In the current rules it's under
24 the section for blast standards on the blast design.
25 The section says the blast design shall be prepared

1 and signed by a certified blaster.

2 We suggested it makes more sense that
3 generally the certified blaster does not prepare the
4 design and he should do the shot report. But that
5 certified blaster is not always the one preparing the
6 design.

7 The records section already says it has to be
8 signed off on by a certified blaster.

9 MR. CHANCELLOR: The records?

10 MR. LIEDTKE: Yeah.

11 MR. BENSON: I think part of the confusion
12 comes in with the use of the word blast design. I
13 think what they are referring to -- at least on the
14 federal side -- is the blasting plan. And again,
15 that comes in the current LQD rules in Chapter 2,
16 which are your permit requirements for your mine and
17 rec plan. And it says, you have got to give us a
18 blasting plan, how you plan to conduct blasting.

19 Now, in Chapter 6 it says that blasting plan
20 has to be prepared by the certified blaster, which I
21 don't think makes sense. It should be the operator
22 that prepares the plan. And then it's the certified
23 blaster that is responsible to prepare the shot report,
24 which is different than the blast plan.

25 I think part of that confusion comes in by

1 using the word blast design and not being clear are
2 they talking about the shot report or are they talking
3 about the blasting plan in Chapter 2.

4 MR. CHANCELLOR: Mr. Chairman, I looked at
5 this real quickly after we got the comments. I
6 believe there is a difference between blasting plan
7 and the blast design. To me, the blast plan covers
8 more issues than the design of the blast pattern.
9 You know, the spacing, the burden in the holes, the
10 decking and stemming.

11 So I -- my first response, before reviewing
12 it in more detail, is that the plan should be the
13 responsibility of the -- in this case, it would be the
14 applicant or permittee in this case. The design -- I
15 think it should be a certified blaster doing the
16 design.

17 But I have not looked at it in detail, to
18 look at it closer. But I believe there's a difference
19 between blast plan and blast design, and we may want to
20 keep that distinction.

21 MR. GAMPETRO: Scott?

22 MR. BENSON: I would agree exactly.

23 But right now, with these proposed rules in
24 Section -- where is it? Section 5.(c)? The new
25 Section 5.(c) is labeled blast design. And it says,

1 permit requirements pertaining to blasting are located
2 in Chapter 2, Section 2.(b)(d).

3 So to me, that means that when they call
4 blast design, they are talking about blasting plan
5 required in Chapter 2. So if you will, they're
6 defining blast design there. And then in the next
7 section it says that blast design is certified by the
8 certified blaster. And I think that's where the
9 confusion is coming in.

10 MR. GAMPETRO: I guess Rick will take a
11 look at it. I guess my understanding would be that
12 the blast plan would be a more gross overview of
13 what's going to happen with the actual pattern, blast
14 pattern, design where the holes go and the shots and
15 all of that, the timing and the amount of the charge
16 and the depth of the charge. All of that would be
17 the one that the certified blaster would do.

18 MR. CHANCELLOR: I think the confusion
19 is -- and if we look at our -- it would be 5.(c), I
20 believe it is -- that the blast design -- then they
21 threw a statement in there about permit requirements
22 are in Chapter 2. The rest of this section, though,
23 gets into the actual design of when you are close to
24 a building or those type things.

25 So most of this I think is talking about

1 blast design. But this one statement -- like Scott
2 says, it's probably referring to blasting plan. And so
3 maybe we can make that distinction between what this
4 first sentence refers to versus the rest of it where
5 you have certified blaster on the design.

6 MR. GAMPETRO: So we can clarify that.

7 MR. LIEDTKE: Just to take that a step
8 further, I think we agree on the concept. But the
9 existing rules -- again, on the design, just a couple
10 paragraphs up from the part that says shall be
11 prepared and signed by the certified blaster -- it
12 says that the blast design may be presented as part
13 of a permit application or at a time before the blast
14 approved by the administrator.

15 So I think that that should probably be
16 revised. Because I don't think Rick wants to approve
17 every blasting design.

18 MR. CHANCELLOR: My thought on that is
19 probably the first two when a blast design is
20 required -- like within a thousand feet of a
21 building, or 500 feet of an active underground
22 mine -- I think it's referring just to that part.

23 But I agree it needs to be clarified.

24 If the board will allow us, we'll do some
25 review and talk to Doug and try to -- and look at the

1 federal rules and try to clarify the plan versus the
2 design, keep that distinction clear.

3 MR. LIEDTKE: Thank you.

4 MR. GAMPETRO: Before we move on to the
5 next section then do we require a vote here?

6 MR. CHANCELLOR: The board's -- I guess the
7 option for the board is to recommend we move forward
8 with the rule package, with the clarifiers that we'll
9 look at the applicant/permittee question, that we'll
10 look at this section on blast plan versus blast
11 design, and tell us to go ahead and work on that and
12 move forward to the council. Or the board may say,
13 we want to see it again before we go to the council.
14 So that's your choice, whichever way you want go on
15 that.

16 MR. GAMPETRO: What say you all?

17 MR. GREEN: Mr. Chairman, I would move that
18 we would accept the rules with the revisions that
19 we've incorporated today, plus the potential
20 revisions based on the review that LQD will conduct.
21 And I don't believe that we need to see it again,
22 provided those revisions are incorporated.

23 MR. GAMPETRO: Is that a motion?

24 MR. GREEN: Yes.

25 MR. LINFORD: I would second that motion.

1 MR. GAMPETRO: All in favor?

2 (Whereupon, all voting members said
3 "aye".)

4 MR. GAMPETRO: Opposed? Okay.

5 MR. CHANCELLOR: Thank you.

6 MR. GAMPETRO: I have one question before
7 we walk away from blasting.

8 Are there rules out there regarding
9 transportation of explosives in caps; separate vehicles
10 and such?

11 MR. STAUFFENBERG: Mr. Chairman, the Bureau
12 of Alcohol, Tobacco & Firearms regulates
13 transportation of explosives on interstate highways.
14 DOT regulates transportation of explosives on
15 highways. Mine Health & Safety Administration and my
16 agency regulate transportation explosives on mine
17 sites. And there are different regulations on mine
18 sites as to the separation of initiating devices and
19 (inaudible).

20 MR. GAMPETRO: Thank you.

21 MR. CHANCELLOR: I'd just like to thank Don
22 Stauffenberg for coming today. I think his expertise
23 and his knowledge of his rules has been very helpful.

24 MR. GAMPETRO: Thank you very much. Yes.

25 Shall we take a quick break, or do you want

1 to move forward?

2 MR. CHANCELLOR: With what we have left on
3 the agenda, I would say it will probably take about a
4 half hour, 45 minutes to do. Depends on the number
5 of questions, of course.

6 (Whereupon, there was a discussion off
7 the record, after which a short recess was taken.)

8 MR. CHANCELLOR: Mr. Chairman, if I may,
9 we've prepared a brief update on the large revision
10 to our vegetation regulations in our coal program.
11 It's been ongoing now for like three years. It is a
12 huge process, and some of the folks here have been
13 involved off and on with that process.

14 So I'd like to give you -- the board an
15 update. Because we do plan to come to the board this
16 year with that rule package and start giving some
17 background information so when you do see the rules you
18 have some indication or knowledge of what has gone on
19 before and where we're at.

20 A little bit of history on the rule package.
21 We have guidelines that help both our staff and
22 operators know how to comply with requirements of the
23 rules. And Guideline 2, concerning vegetation, was
24 first developed in 1976. In '77 a national law was
25 passed.

1 In '80 a state program was approved. But
2 part of this state program approval were some
3 requirements from the feds that certain information
4 that we had in our guideline be made rules. And the
5 state took the easy way out and just made the
6 guidelines an appendix to the rules and said, these are
7 rules. And that's the focus of all the problem, is
8 that the language in the guideline is written like a
9 guideline, so it doesn't really fit rule language and
10 it's not good.

11 Then in '96 was -- we changed the guideline
12 Appendix A to include the shrub standard rule. So
13 basically, Appendix A has not had a revision since back
14 in the late '70s or early '80s, except for the shrub
15 part.

16 There is language talking about, you should
17 do this instead of you shall, just like a rule would
18 require. OSM may approve the rule. They interpret
19 should to be shall.

20 Also, when OSM approved our program they
21 looked at that, they identified certain areas that they
22 said these do not fit, they're not as effective or as
23 stringent as the fed program, so you have to make
24 changes. So they identified some problems with
25 Appendix A. So in the process -- we had talked a long

1 time about we need to revise Appendix A.

2 Well, at the same time both DMA and Land
3 Quality Division worked on some rules. DMA actually
4 beat us to the punch. And we met -- the advisory board
5 met in August 2003 to talk about that. And the board
6 recommended that we sit down with DMA, look at the two
7 versions, and come back to them with a clearer version
8 or where we agreed or disagreed.

9 And we started that process. And it was
10 really difficult, because our approaches to the rules
11 were very different, and it was really hard sometimes
12 to see how they fit.

13 So after much discussion we finally got back
14 on track. I'd think we met like 17 times with a large
15 group to get things going. And then we finally decided
16 to basically start from scratch almost.

17 We went back to Appendix A, went through
18 there basically line by line and identified where we
19 agreed that some language could be deleted totally; we
20 didn't need it in the rules. We identified some
21 language that we said, this should go into the rule,
22 and identified language that would go into the future
23 guideline, the revised guideline, and agreed to move
24 requirements into appropriate chapters.

25 This is an example of what we did. This is a

1 portion of the Appendix A. And where the different
2 color is, we used that to identify rules -- or to
3 identify language in Appendix A that would go into the
4 rules and language in Appendix A that goes into the
5 guidelines and language that we just dropped totally.
6 And we color coded everything -- we called them
7 buckets. We had a rule bucket, a guideline bucket, and
8 a delete bucket. And we used that as a starting point
9 to help us work through this whole process. Because it
10 was quite an involved process.

11 So two years later after we started we got to
12 the point where we went over everything pretty much and
13 agreed what would go in the rules, what would not go in
14 the rules.

15 We selected a team to review the drafts that
16 we would work on. And that team was in charge to make
17 sure that the agreements we made with the larger group
18 were -- we held to, and to identify where we just still
19 disagreed from DMA and Land Quality Division.

20 The members were two Mining Association
21 members, Bob Green and (inaudible) Piper; two Land
22 Quality members, Bob Giurgevich and Mark Moxley. And
23 we also had (inaudible).

24 And that team met eleven times, in less than
25 a one-year period. So they were given (inaudible),

1 they would look at the rules, take it to the large
2 group discussion. And Bob was on that team, so he
3 could probably discuss more clearly what they did. But
4 they spent a lot of time working on those rules.

5 Mostly Carol and I wrote the rules and gave
6 them to a small group to review and make sure that we
7 stayed true to the large agreements, and tried to
8 identify the areas of agreement or disagreement. And
9 sometimes it worked out where once we disagreed we
10 worked out language which we felt we could agree to.

11 So now we're here. And we put the portions
12 of Appendix A in Chapters 1, 2, and 4. Chapter 1 is
13 definitions, Chapter 2 is permit application
14 requirements, and Chapter 4 are standards.

15 What we're doing right now is that we are
16 getting ready to send out I think in August a final
17 (inaudible) of all those parts we've worked on for the
18 past three years -- put them into one large package
19 send it out to the members of the large group that
20 initially met and say, here it is, and then have a
21 meeting with that large group in September, to look at
22 did we hold true to the agreements that the large
23 group met, make sure that we stayed true to form.

24 Based on that meeting, we'll go back and
25 we'll -- we imagine there will be some tweaking to that

1 large package -- and we will come to the board in the
2 fourth quarter of this year.

3 What we have in rules -- in the vegetation
4 requirements there's three types of information. There
5 is a baseline. Prior to mining the mine goes out and
6 collects what's there right now before it's disturbed.

7 We haven't required interim monitoring, but
8 after the reclamation has started we would monitor the
9 reclamation to see how it's progressing toward final
10 release, make sure it gets to the point it should or
11 make a decision that it's not going where it should be
12 and they should replant and start over.

13 And the last part is revegetation success;
14 verification to show, yeah, we met the standards, we
15 are successful, we can go for final bond release.

16 We took some of the definitions that were in
17 Appendix A and put into Chapter 1. During this process
18 we determined that there are some phrases that we
19 developed that we feel should be defined. And those
20 are brand new definitions.

21 One thing we also added to Chapter 1, there
22 is five regulatory category time frames throughout the
23 history of mining that, over the years, have been new
24 laws, new regulations in place that sort of shifted the
25 focus or requirements. There's five broad categories.

1 And we had worked with the Mining Association several
2 years ago to define those better so everybody would be
3 on the same page. And we decided it would be good to
4 put those five categories in our rules so everybody --
5 it's part of our rules and everybody is clear on that.

6 Chapter 2, basically when we started
7 inserting all the stuff in Appendix A, we found that it
8 didn't fit very good. And so we reorganized the
9 chapter from the left-hand version to the right-hand
10 version, to make the vegetation baseline requirements
11 their own section. And I think it's a lot clearer and
12 better than it was, than just sticking that stuff in
13 there and it getting lost in all the other stuff. This
14 way you can go to that section and find out what you
15 need.

16 The main changes that we did, we dropped some
17 of the staffing requirements for baseline. One of the
18 basic agreements was that if we don't use it for bond
19 release or don't use it to develop seed mix, why sample
20 it? So we went through and deleted some things to make
21 it more streamlined for both operators and us to use.

22 One of the things with the shrub sampling is
23 we gave the operators the option that when we look at
24 their shrub lands and they say, yeah, I've got more
25 shrubs than who knows what, instead of sampling and

1 counting all the shrubs or doing that process, he can
2 just say, I admit I've got a lot of shrubs. And they
3 just -- they will commit to doing -- instead of
4 sampling, they'll just say they've got it. It saves
5 them a lot of time. Because if you look at it you just
6 know there are a lot of shrubs. And you can go to the
7 section on how to then deal with those in the
8 reclamation plan.

9 And of course we moved the baseline studies
10 from Appendix A to Chapter 2.

11 Again, the reclamation plan, we took some
12 stuff from Chapter 4 that talked about the plan and
13 moved into Chapter 2. Because Chapter 2 is the permit
14 application. And that's where the plan is put. And so
15 we moved some of those things from Chapter 4 to Chapter
16 2.

17 Pretty self-explanatory, the rest of the
18 stuff there.

19 Chapter 4 was a lot bigger issue to tackle,
20 because that's where a lot of the detail was. We
21 revised some -- we put a new section in the
22 revegetation performance standards, to split things out
23 to make it clearer. We had a lot of stuff previously
24 in Chapter 4 in Section 2.(d), under revegetation. We
25 separated that out into individual components.

1 You see 3.(a) we took some stuff from 2.(d)
2 originally in the rule and added some new things that
3 the group decided that we needed. And 3.(b) we took
4 some stuff in the old rule, Appendix A, plus some new
5 stuff.

6 We basically reorganized a lot of the
7 chapter. Because there's so much information going in
8 there that you look through our rules and how we go
9 from section to subsection to subsection, it gets
10 indented across the page and pretty soon you're across
11 the page with the rule. And so we thought it best to
12 give some things their own section.

13 We also added a couple appendices to that
14 chapter, because they are sort of -- I'm trying to
15 think of a good way to put it -- like the shrub
16 standard, Appendix 4-2. We took that straight from
17 Appendix A. And that really includes some discussion
18 on how to calculate the different options for -- the
19 mines have for determining what shrubs they put back
20 and the standards. And we put some examples in there.
21 Instead of putting that in the rule body we just put
22 it in the appendix so people can read through that and
23 see examples.

24 I think the same is true for statistical
25 methods. We put some examples in there to help people

1 run through and do that work.

2 So we did put these things in appendices so
3 they fit better, rather than doing a whole rule type
4 language.

5 Reclamation performance success standards.

6 One thing new in here under normal husbandry practices,
7 normal husbandry practices are those things that the
8 mine can do toward reclamation that won't restart the
9 bond clock. (inaudible) reclaim things a ten-year
10 bond clock. And these practices can be used to massage
11 the reclamation and not start all over. So we had to
12 be clear on what things were normal and what things did
13 not reset the bond clock versus things that would
14 restart the bond clock. So we added a new section
15 there to address this issue, and most of that was
16 written by the Mining Association. And also, the
17 rational and justification for that also came from
18 them.

19 The standards, one thing different there is
20 that we separated the standards by land use.
21 Historically, our rules really addressed grazing land
22 land use. That's what we mostly have. But there are
23 land uses in our regulations that have different
24 standards, and they're really not addressed very well.
25 So we developed these -- we separated the standards out

1 by land use and it went that way. That way, each land
2 use has its own discussion on what those standards are.
3 I think will be helpful in the future if people do try
4 to go into some of the land uses that we have.

5 Performance standards continued. We have a
6 section on methods for how you evaluate your success.
7 The methods in the pink were sort of outdated, so we
8 revamped that quite a bit.

9 One new section is the requirement for
10 submittal, what you need to submit to us to show that
11 your methods and sampling were adequate and successful.
12 Before, we did not have anything on there as far as --
13 I mean, they would submit to us what they would submit.
14 And so we put that in the rules so it's clear and
15 everybody is doing the same thing.

16 Species diversity standard. In the current
17 rule species diversity is pretty vague, and every
18 permit has basically a different way of doing it. Some
19 are good and some are bad and some are horrible. So we
20 worked with the association and tried to develop a
21 numeric standard so that it's clear-cut, it's no longer
22 subjective to your reviewer. Because everybody looks
23 at things differently and we're trying to get away from
24 being subject to an actual number. That's a new
25 section here.

1 The shrub standard rule we just moved from
2 Appendix A, basically.

3 The statistical methods is new in the
4 appendix. Also a disapproval there.

5 One thing to note here on statistical
6 methods, OSM is in the process of changing the rules,
7 to allow states not to have that in the rule, but have
8 it as, say, a guideline. And so that may come up
9 before this issue is over, whether it's in a rule or in
10 a guideline. And it's still being debated and it may
11 take another rule package before you get it.

12 A few issues. On most things we have
13 conceptual agreement. But are some things that the
14 large group has not seen or even the small group has
15 not seen to go over. Some of those are some of the
16 definitions were not finished before we quit the small
17 group. We had some specific disagreements on
18 mitigation of wetlands. We think we came up with some
19 language that will satisfy both parties.

20 The same with normal husbandry practices and
21 the shrub option choice. The issue there was that we
22 think that has to do with permitting and choosing what
23 option you want to go on the bond release. The mines
24 say, well, because of things we can't control, we may
25 want to change later on. (inaudible) saying, you can

1 change it; not a problem. So I think we've got that
2 problem clarified in the rule, that either the mine has
3 to put in the permit what they're planning for, but
4 with the option to change the permit later on if they
5 feel, through natural conditions, things went this
6 other way. So we made clear in the rule that they had
7 the option to change their permit.

8 A big disagreement -- or most likely -- is
9 minimum sample size for statistics. That's probably
10 one area that we just could not agree to. We will
11 probably have a lot of discussion on that.

12 What's next? Again, we're scheduled for --
13 we're looking at the 25th or 26th of September for a
14 final meeting with the large group, to go over the
15 combined consolidated rule package. We will work on
16 the final draft and come to you in the fourth quarter.

17 The question to help us move forward is: How
18 do you want to look at this big package? It's very
19 big, it's very complicated. Those who were here -- we
20 did the (inaudible) rules. That was a long process,
21 too, and very -- maybe not as complex as this rule
22 package, but still pretty big. Our options are to do a
23 one multi-day meeting, maybe two days, and see how far
24 we get. Or to do several meetings spread out over
25 several months and take a chunk at a time. Or to do

1 another preliminary meeting, to give you more detail
2 and background information of issues that we see. Or
3 to do a combination.

4 So we'd like to have some input from you as
5 to how you think best to tackle this big monster.

6 MR. GREEN: Mr. Chairman, if I might
7 respond to Mr. Chancellor's question, I have worked
8 on this group. And due to the complexity of the
9 rules, I would recommend that we take a look at the
10 approach of having preliminary meeting to go over the
11 key points in a day, but then schedule a multi-day
12 meeting to go through the entire rule set. It is so
13 integrated that my concern is if we try to piecemeal
14 it we're going to lose it. Or lose track of it.

15 MR. CHANCELLOR: I would agree with
16 Mr. Green, that it is so integrated between Chapter 2
17 and Chapter 4 and the definitions that it's hard to
18 take one of those at a time. Because it is very
19 woven together.

20 MR. GAMPETRO: How many multi-days?

21 MR. CHANCELLOR: We probably won't know
22 that -- I think we'll have a good feel of that once
23 we go to the big group and have that discussion. At
24 that time we'll have a good feel for that, if there
25 is a lot of disagreement yet on that. Because,

1 unlike the Land Quality Division, where someone who
2 is in control will say, this is what we're going to
3 do -- you know, basically independent companies. And
4 those companies may decide on this issue they're not
5 in agreement, and then we may bring up other issues
6 and another company -- so they try real hard to be
7 united. But there are some differences there that
8 they just can't be totally united. But at the large
9 group I think we'll have a good feel for how many of
10 those things we have.

11 It may -- if things go smooth, it may just
12 take one day. Bob was saying have a preliminary
13 meeting to get ready, then a one-day meeting. I think
14 maybe -- definitely in two days I think we can get
15 through it. If we do a one-day meeting we should
16 probably come that night before and so get an early
17 start and go the whole day. We could do that.

18 MR. GAMPETRO: What say you all?

19 MR. PONTAROLO: I would say go probably for
20 a two-day thing.

21 MR. DEMSHAR: Sounds good. I would say,
22 because of the complexity of it, I would agree that
23 once we get in there and start looking at it we need
24 to follow through with it, rather than break it up
25 and try to ...

1 MR. GAMPETRO: So go with the one
2 preliminary meeting and possibly a two-day meeting
3 following that.

4 MR. CHANCELLOR: Okay. We'll plan it that
5 way.

6 MR. GAMPETRO: Okay.

7 MR. CHANCELLOR: Probably between now
8 and -- we'll have that preliminary meeting before the
9 fourth quarter, because I don't want to lose the
10 fourth quarter. So probably either late this quarter
11 or early fourth quarter we'll have the preliminary
12 meeting to get ready for more details and stuff and
13 then have a fourth quarter meeting.

14 MR. GREEN: If I might raise a point of
15 order. This is a little unusual.

16 I have been involved in this project from the
17 very beginning and throughout the small review team, as
18 well. I would, however, like to be able to vote as we
19 go through the review. I don't believe that my
20 participation in this will bias that vote. But I would
21 like to raise that as a point before the board.

22 MR. GAMPETRO: Is there any rule regarding
23 that?

24 MR. CHANCELLOR: Not in Land Quality or the
25 coal practices for DEQ.

1 The statute does require an industry person
2 be on the board. And so they do envision that a board
3 member would be -- representative for industry voting
4 for -- would represent their interests.

5 So my personal feeling -- I've know Bob for
6 20 some years, and I trust that he will be discrete in
7 his use of his office.

8 MR. GAMPETRO: Anyone else have a problem
9 with it? Okay.

10 MR. GREEN: Thank you very much.

11 MR. CHANCELLOR: With that --

12 MR. LIEDTKE: I would just request that if
13 the large group meeting is September 25th or 26th, if
14 DEQ could please give the proposed rules to the WMA
15 at least a few weeks ahead of time.

16 MR. CHANCELLOR: I think we're shooting for
17 the end of August.

18 MR. HULTS: Yeah.

19 MR. LIEDTKE: Okay. Great.

20 MR. CHANCELLOR: It may not be a full
21 month, but we'll try to get it there more than two
22 weeks.

23 MR. LIEDTKE: Thank you.

24 MR. CHANCELLOR: It is a big package.

25 Real briefly, then, next is update of IT

1 project. And the legislature gave us some money to try
2 to bring the DEQ and all of DEQ into the computer
3 century. We're pretty behind on that. And we are
4 making progress. We'll go back to the legislature this
5 next session and say, here's where we are right now,
6 here's our plan to move forward, here's what we
7 estimate the cost of doing what we think needs to be
8 done, and the estimated number of people to do that.
9 And so -- you know, it's millions of dollars, and takes
10 a number of people to do that. So we're moving on that
11 project.

12 We're looking at doing a couple of pilot
13 projects next year; one in Air Quality, probably one in
14 Water Quality, to test the system that's been designed.
15 But we're making progress. It could have a big impact
16 on the Division as far as how we do things. We'll
17 probably do a lot more electronic submittals and keep
18 track of stuff electronically a lot better.

19 The workload for the next several years at
20 the Division -- one thing you may have heard in the
21 paper that the uranium market is heating up. The price
22 of yellowcake uranium is \$46 now. It was, at one time,
23 down in the \$7 range. So it's gone up quite a bit.

24 There is discussion around the world of new
25 nuclear power plants, including the United States. And

1 the usage of the power plants versus production right
2 now -- they are using more than what is being produced.
3 There's a lot that's been stockpiled but the stockpiles
4 are going down. So there's a lot more interest in
5 uranium mining. We've had discussions with several
6 operators on new in situ permits, where they inject
7 into the ground water and pump out the uranium. We've
8 also had discussion of one or two conventional mining
9 operations starting up.

10 If they all come together at one time, all
11 the mines submit to us at one time, we could be hurting
12 as far as reviewing those applications. If they're
13 spread out over several years we could probably handle
14 it. So we're trying to watch that very closely.

15 The coal mines are mining bucou (phonetic)
16 amounts of coal. There's lease applications in.
17 There's discussion with BLM for another 3 billion tons
18 of coal, which seems like a lot of coal. But we mine
19 over 400 million tons a year, so that's not too many
20 year's worth of coal statewide. So that will keep us
21 very busy. And also the mines keep us very busy.

22 One thing that really hasn't hit us hard yet
23 but I think is still coming is more bond release
24 applications.

25 So we're trying to watch all these things

1 come down the track. And hopefully we'll have enough
2 sightings to avoid a train wreck. But the next couple
3 years could be very interesting for the Division as far
4 as workload.

5 MR. GAMPETRO: Is that it for the workload?

6 MR. CHANCELLOR: Yes.

7 MR. GAMPETRO: Any other items for
8 discussion? Where do we want to meet next, and when?

9 MR. CHANCELLOR: When is always a big
10 question. Do we want to meet -- I guess maybe a
11 question for the Mining Association: Do you think it
12 would be worthwhile to meet before or after the large
13 group meeting?

14 MR. LOOMIS: I would think after.

15 MR. CHANCELLOR: My guess would be after.

16 Not too long after, because we want to be able to
17 have time to get our fourth quarter meeting in after
18 that. So it would be early October.

19 Any dates in October that do not work for the
20 board?

21 MR. GAMPETRO: We're talking about for this
22 preliminary discussion?

23 MR. CHANCELLOR: Right. The preliminary
24 discussion. Any dates that are better than other
25 dates?

1 MR. GAMPETRO: That's getting into elk
2 season.

3 MR. CHANCELLOR: I know. Is there like one
4 day of the week that's better than another day of the
5 week?

6 MR. GAMPETRO: I'll have to go home and
7 check with my wife.

8 MR. CHANCELLOR: I visualize this as being
9 a -- just being similar to today, but maybe a little
10 longer. We could drive to the meeting location, have
11 the meeting, drive home that night. That's what I
12 envision for the preliminary meeting. So I think
13 just a one-day trip.

14 Location? Is Casper fine?

15 MR. GAMPETRO: Fine with me. Kind of
16 centrally located.

17 MR. LINFORD: Right.

18 MR. GAMPETRO: For some people.

19 (Whereupon, there was a discussion off
20 the record.)

21 MR. CHANCELLOR: Just tentatively let's
22 look at the week of the 16th of October. That will
23 give us a couple weeks to get our act together after
24 meeting with the large group.

25 Does that work?

1 MR. GAMPETRO: That's about opening day.

2 MR. LINFORD: The 15th is opening.

3 MR. CHANCELLOR: So before --

4 MR. GAMPETRO: Before then.

5 MR. CHANCELLOR: We'll look for the week of
6 the 9th.

7 MR. LINFORD: I'm tied up on the 11th and
8 12th with a grizzly bear meeting in Jackson. So
9 earlier in the week.

10 MR. CHANCELLOR: Would the 10th work?

11 MR. LINFORD: I could do it the 10th.

12 MR. CHANCELLOR: We'll tentatively schedule
13 it for the 10th. And at that meeting we'll talk more
14 about when to have the multi-day meeting because
15 we'll have a good idea how contentious the issues are
16 or whatever. But we're probably looking at -- since
17 we have to do a public notice, we're looking at early
18 December, probably, for a meeting. We need to have
19 time to get notice in the paper and that.

20 So keep early December in mind as you plan
21 your holiday activities. Thank you.

22 MR. GAMPETRO: I guess we're all done.
23 I'll entertain a motion to adjourn.

24 MR. PONTAROLO: Make the motion.

25 MR. DEMSHAR: Second.

1 MR. GAMPETRO: Moved and seconded. All in
2 favor?

3 (Whereupon, all voting members said
4 "aye".)

5 MR. GAMPETRO: Motion passes. We're
6 adjourned.

7 (Whereupon, the meeting was adjourned,
8 at 12:50 p.m.)

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July 30, 2006

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