WYOMING MINING ASSOCIATION

Please find attached comments from the Wyoming Mining Association.



June 13, 2019

Ms. Cara Keslar Monitoring Supervisor Air Quality Division Department of Environmental Quality 200 West 17th Street Cheyenne, WY 82002

RE: Comments on Draft Wyoming Ambient Air Monitoring Annual Network Plan 2019

Dear Ms. Keslar:

The Wyoming Mining Association (WMA) is a statewide trade organization that represents and advocates for 26 mining company members producing bentonite, coal, trona, and uranium. WMA also represents 120 associate member companies, one railroad, one electricity co-op, and 200 individual members.

On May 13, 2019, the Wyoming Department of Environmental Quality (DEQ), Air Quality Division (AQD), made public the draft *Wyoming Ambient Air Monitoring Annual Network Plan 2019* (Plan). WMA appreciates the opportunity to provide comment; specifically, on two items that impact the mining industry (Sections 5.1 and 2.2.1.7).

Section 5.1 Permitted Industrial Monitors

Many WMA members operate ambient air monitoring networks that are impacted by changes in regulatory oversight as described in Section 5.1 of the draft Plan.

Revisions to CFR Title 40 Part 58 Appendix A in 2016 shifted much of the regulatory oversight authority of industrial ambient air monitoring from AQD to the Environmental Protection Agency (EPA). Since promulgation, there has been a great deal of disagreement between WY DEQ and EPA regarding the appropriate responsibilities and authorities for each agency in regards to industrial monitoring activities; specifically, in the areas of Quality System Documentation and Technical Systems Audits. WMA appreciates the

opportunities made available to weigh in on these issues and has steadfastly supported a return of authority to the WY DEQ. WMA issued a letter (attached) to EPA Regional Administrator Sopkin on May 23, 2019 requesting EPA's cooperation in returning oversight authority to the State.

Quality System Documentation

Currently, industry's ambient air monitoring quality systems require first, approval of AQD, then of EPA. This arrangement has proven to be inefficient, time consuming, and at times, places the two agencies in conflict. Language in the revised Federal rule clearly allows EPA to designate this authority. Unfortunately, the draft Plan proposes a continuation of joint approval authority. WMA strongly disagrees with this language and urges AQD to fight for sole approval authority.

Technical Systems Audit Program

WMA is concerned that the draft Plan acknowledges that EPA Region 8 has sole authority for Technical Systems Audits (TSA) of industrial monitoring organizations relating to Part 58 compliance. In an August 2018 meeting, EPA Region 8 Administrator Benevento, committed to developing an Agreement granting the responsibility and authority for these TSAs to WY DEQ AQD. It is incumbent on Region 8 and in the best interest of AQD to pursue such an agreement.

Additionally, on page 82 the Air Quality Division describes the procedures applicable in Wyoming for implementation of the PQAO program. For clarification we suggest the following changes. The intent of our recommended wording change is to make the description clearly applicable to each industrial monitoring network, and not to the entire population of monitoring entities.

> "Based on the definition and common factors, the AQD has determined that it is most appropriate to continue to identify any industrial facility, company or group of companies (known as "industrial monitoring entity" from here forward) as the PQAO for its respective industrial monitoring network. Each industrial monitoring entity may elect to operate its station and to perform quality control and quality assurance activities itself or through a contractor of its choosing. These industrial monitoring entities may or may not have common laboratory facilities, standards, QAPPs, data validation practices and management. In 2017, each industrial monitoring entity

proposed how to characterize their PQAO based on the criteria in Section 1.2.1, with approval from the AQD and EPA. The AQD will continue to recognize the current industrial PQAO designations and will continue to accept and approve proposals from industrial monitoring entities who may wish to change their PQAO structure. AQD will forward any PQAO structure change approved by AQD to EPA Regional staff."

Section 2.2.1.7 Powder River Basin PM2.5

In this section, AQD states its intention to decommission two of the four monitoring sites that make up the Powder River Basin (PRB) fine particulate monitoring network; Black Thunder and Buckskin. WMA commented on this proposed action in a January 21, 2019 letter. At that time, WMA concluded that the Antelope site no longer represented background and the Buckskin site should be maintained as background. AQD has not adequately responded to this. In the AQD's May 7, 2019 response to WMA's comments, the agency states that the Buckskin site correlates well with Belle Ayr. While this may be true, correlation is not equal and does not justify the elimination of the Buckskin site. AQD's response also states that the Buckskin monitor was not selected for use as background; this is false. Given the bimodal nature of wind direction in the PRB, the Buckskin site was chosen to provide background concentrations when winds are from the SW through NE; approximately 56% of the time at Buckskin.

In its comments, WMA also objected to the use of the Antelope site as background for the PRB based on the extensive increase in oil and gas activity in the area. AQD has not addressed this comment. Recent data collected from the Antelope site demonstrates higher concentrations consistent with increased activity. These higher concentrations are statistically significant. Based on a paired t-test on the last 9 years of data, we can state with a 91.4% confidence level that Antelope measures higher annual averages than Buckskin.

It is essential to the mining industry to have a representative background monitor for the PRB. In addition to the air quality permitting process, these data are used for leasing actions by federal agencies, among other uses. WMA urges AQD to reconsider retaining the Buckskin PM2.5 monitor.

In conclusion, WMA is very supportive of the AQD's efforts to return regulatory oversight of industrial ambient air monitoring to the State of Wyoming as it will simplify the process as long as the agency has sufficient resources to conduct

TSAs. WMA encourages AQD to continue to seek an Agreement with EPA Region 8 to clearly return these authorities to the State. Also, WMA requests that the AQD reevaluate their plan for modifying the Powder River Basin fine particulate monitoring network. WMA appreciates the opportunity to provide these comments.

Best regards,

This Set:

Travis Deti Executive Director

Attachments (2)



January 21, 2019

Darla Potter Air Quality Resource Program Manager Air Quality Division Wyoming Department of Environmental Quality 200 West 17th Street Cheyenne, WY 82002

RE: Powder River Basin PM2.5 network Proposed Modification

Dear Ms. Potter:

Thank you for allowing the Wyoming Mining Association (WMA) the opportunity to comment on the Air Quality Division's proposal to modify the Powder River Basin PM_{2.5} monitoring network. As you know, the network was established by the WMA two decades ago to efficiently demonstrate compliance with the National Ambient Air Quality Standard for fine particulates, show that fine particulate is a regional pollutant, and provide baseline data for permitting and leasing activities. The network has met these objectives.

The WMA appreciates AQD's need to reallocate resources and concurs that reducing the size of the PRB PM_{2.5} network is justified. Meeting with AQD staff Monday, January 14th, WMA Air Quality Subcommittee members heard two alternative proposals. The first proposal was the elimination of PM_{2.5} monitoring at three of four sites (Buckskin Mine, Black Thunder Mine, and Antelope Mine). The second proposal eliminated PM_{2.5} monitoring at only two sites (Buckskin Mine and Black Thunder Mine). Both proposals included continued monitoring at Belle Ayr Mine.

When the network was originally designed, the Belle Ayr Mine site was chosen as the likely highest impact site and monitoring results have proven that out. WMA agrees that continued operation of the instruments at Belle Ayr is important to demonstrate continued compliance with the NAAQS. This site has also been very reliable and provided consistent data.

Additionally, WMA urges the AQD to continue operation of a second fine particulate monitoring site that represents background. Background data is essential to industry when modifying air quality permits and leasing additional mineral. AQD's New Source Review section recognizes the value of a background site and has recommended the retention of monitoring at the Antelope Mine. WMA requests instead, that AQD consider retaining the monitoring site at Buckskin Mine as the background site, rather than Antelope Mine for the following reasons:

- Recent extensive oil and gas development in northern Converse County has created a situation where the Antelope Mine monitoring site no longer represents true background. The oil and gas impacts are only expected to grow, further eroding the claim that this sampler represents background.
- The data set from Antelope Mine has not been reliable and has shown the greatest variability of all monitoring sites; the Buckskin data set has been much more reliable.
- The Buckskin Mine monitoring site is upwind of the Powder River Basin for many meteorological conditions. In addition, the site is located on a hill that minimizes inversion effects.
- There are many fewer fine particulate emission sources near the Buckskin site which could impact the monitor.
- The Buckskin site is closer to Gillette and is easily accessible which results in lower operational costs.
- There is value to having monitoring sites in both the north and south regions of the Powder River Basin because this provides compliance data for both regions and also provides better background data of this regional parameter for the entire PRB.

In a related discussion, WMA representatives noted (and Air Quality Division personnel acknowledged) that there are other users of the data that may be affected by shutting down one or more of these samplers in the PRB. In particular, our conversation focused on the Bureau of Land Management (BLM) and the coal leasing program. The BLM, like the AQD New Source Review Section, relies on the PM_{2.5} data that has been generated at these samplers to make regulatory and permitting/leasing decisions. This may also be true of other federal agencies such as the US Forest Service. Similarly, many non-governmental organizations make decisions or take actions based upon these data.

The AQD has performed statistical, economic, and efficiency evaluations in reaching the decision to eliminate some of these samplers. These evaluations have led to conclusions that the AQD can rely on a reduced data set to continue administering their regulatory program effectively. The other users of these data need to reach the same conclusions. WMA respectfully requests that AQD document the ultimate decision, the reasons for the decision and be prepared to assist and encourage other government agencies to reach the same conclusion, i.e., the reduced data set still meets their regulatory needs. This will also help to prevent non-governmental organizations from reaching inappropriate conclusions about the same data set.

Best regards,

Tinis Abt.

Travis Deti Executive Director

CC: Cara Keslar



May 23, 2019

Mr. Gregory Sopkin Region 8 Administrator Environmental Protection Agency 1595 Wynkoop Street Denver, CO 80202-1129

Dear Administrator Sopkin:

The Wyoming Mining Association (WMA) is a statewide trade organization that represents and advocates for 26 mining company members producing bentonite, coal, trona and uranium. WMA also represents 120 associate member companies, one railroad, two electricity co-ops, and 200 individual members.

Many members of the WMA are required to operate ambient air monitoring networks as a condition of their air quality permits to show compliance with the National Ambient Air Quality Standards. These industrial Monitoring Organizations (MO) are concerned with the ongoing disagreement between US Environmental Protection Agency (EPA) Region 8 and Wyoming Department of Environmental Quality (DEQ) Air Quality Division (AQD) regarding the implementation of 40 CFR 58 Appendix A, Quality Assurance Requirements for Monitors used in Evaluations of National Ambient Air Quality Standards. This disagreement persists after numerous discussions, and more than three years since promulgation of the rule.

As you know, the industrial MOs in Wyoming have chosen to form individual Primary Quality Assurance Organizations (PQAO) for each facility. Industrial MOs have invested substantial resources to develop quality systems that meet the requirements and the spirit of Appendix A.

Region 8 has made it clear that EPA would prefer a single PQAO that includes the AQD's network and all industrial networks in the state. The WMA does not see any authority in Section 1.2.2 for EPA to require this preference. This section specifically states that final approval of any consolidation is the authority of the EPA Regional Office but the rule does not give EPA the authority to require a certain outcome.

Further, Section 1.2.1 details the common factors required for each PQAO:

(a) Operation by a common team of field operators according to a common set of procedures;

(b) Use of a common quality assurance project plan (QAPP) or standard operating procedures;

(c) Common calibration facilities and standards;

(d) Oversight by a common quality assurance organization; and

(e) Support by a common management organization (i.e., state agency) or laboratory.

A consolidated PQAO consisting of multiple private industries and a public agency (as EPA would prefer) will not satisfy a single one of these factors, whereas the current situation of individual PQAOs satisfies every one of the required common factors.

WMA requests that EPA Region 8 cease trying to force a consolidated PQAO. During a meeting in August 2018 with AQD and the WMA, EPA committed to finding a solution that would allow AQD to implement the rule with appropriate oversight by EPA. The AQD has reviewed and approved all of the industrial quality management documents which were then submitted to EPA for their review and approval. We urge the EPA to move forward and meet their obligations of Appendix A and the verbal commitments made in the meeting of August 2018.

Thank you for your kind consideration.

Best regards,

Tinis tot.

Travis Deti Executive Director

Cc: Ms. Nancy Vehr, Administrator, Wyoming Department of Environmental Quality – Air Quality Division Mr. Todd Parfitt, Director, Wyoming Department of Environmental Quality Mr. Doug Benevento, Environmental Protection Agency



June 13, 2019

Ms. Cara Keslar Monitoring Supervisor Air Quality Division Department of Environmental Quality 200 West 17th Street Cheyenne, WY 82002

RE: Comments on Draft Wyoming Ambient Air Monitoring Annual Network Plan 2019

Dear Ms. Keslar:

The Wyoming Mining Association (WMA) is a statewide trade organization that represents and advocates for 26 mining company members producing bentonite, coal, trona, and uranium. WMA also represents 120 associate member companies, one railroad, one electricity co-op, and 200 individual members.

On May 13, 2019, the Wyoming Department of Environmental Quality (DEQ), Air Quality Division (AQD), made public the draft *Wyoming Ambient Air Monitoring Annual Network Plan 2019* (Plan). WMA appreciates the opportunity to provide comment; specifically, on two items that impact the mining industry (Sections 5.1 and 2.2.1.7).

Section 5.1 Permitted Industrial Monitors

Many WMA members operate ambient air monitoring networks that are impacted by changes in regulatory oversight as described in Section 5.1 of the draft Plan.

Revisions to CFR Title 40 Part 58 Appendix A in 2016 shifted much of the regulatory oversight authority of industrial ambient air monitoring from AQD to the Environmental Protection Agency (EPA). Since promulgation, there has been a great deal of disagreement between WY DEQ and EPA regarding the appropriate responsibilities and authorities for each agency in regards to industrial monitoring activities; specifically, in the areas of Quality System Documentation and Technical Systems Audits. WMA appreciates the

opportunities made available to weigh in on these issues and has steadfastly supported a return of authority to the WY DEQ. WMA issued a letter (attached) to EPA Regional Administrator Sopkin on May 23, 2019 requesting EPA's cooperation in returning oversight authority to the State.

Quality System Documentation

Currently, industry's ambient air monitoring quality systems require first, approval of AQD, then of EPA. This arrangement has proven to be inefficient, time consuming, and at times, places the two agencies in conflict. Language in the revised Federal rule clearly allows EPA to designate this authority. Unfortunately, the draft Plan proposes a continuation of joint approval authority. WMA strongly disagrees with this language and urges AQD to fight for sole approval authority.

Technical Systems Audit Program

WMA is concerned that the draft Plan acknowledges that EPA Region 8 has sole authority for Technical Systems Audits (TSA) of industrial monitoring organizations relating to Part 58 compliance. In an August 2018 meeting, EPA Region 8 Administrator Benevento, committed to developing an Agreement granting the responsibility and authority for these TSAs to WY DEQ AQD. It is incumbent on Region 8 and in the best interest of AQD to pursue such an agreement.

Additionally, on page 82 the Air Quality Division describes the procedures applicable in Wyoming for implementation of the PQAO program. For clarification we suggest the following changes. The intent of our recommended wording change is to make the description clearly applicable to each industrial monitoring network, and not to the entire population of monitoring entities.

> "Based on the definition and common factors, the AQD has determined that it is most appropriate to continue to identify any industrial facility, company or group of companies (known as "industrial monitoring entity" from here forward) as the PQAO for its respective industrial monitoring network. Each industrial monitoring entity may elect to operate its station and to perform quality control and quality assurance activities itself or through a contractor of its choosing. These industrial monitoring entities may or may not have common laboratory facilities, standards, QAPPs, data validation practices and management. In 2017, each industrial monitoring entity

proposed how to characterize their PQAO based on the criteria in Section 1.2.1, with approval from the AQD and EPA. The AQD will continue to recognize the current industrial PQAO designations and will continue to accept and approve proposals from industrial monitoring entities who may wish to change their PQAO structure. AQD will forward any PQAO structure change approved by AQD to EPA Regional staff."

Section 2.2.1.7 Powder River Basin PM2.5

In this section, AQD states its intention to decommission two of the four monitoring sites that make up the Powder River Basin (PRB) fine particulate monitoring network; Black Thunder and Buckskin. WMA commented on this proposed action in a January 21, 2019 letter. At that time, WMA concluded that the Antelope site no longer represented background and the Buckskin site should be maintained as background. AQD has not adequately responded to this. In the AQD's May 7, 2019 response to WMA's comments, the agency states that the Buckskin site correlates well with Belle Ayr. While this may be true, correlation is not equal and does not justify the elimination of the Buckskin site. AQD's response also states that the Buckskin monitor was not selected for use as background; this is false. Given the bimodal nature of wind direction in the PRB, the Buckskin site was chosen to provide background concentrations when winds are from the SW through NE; approximately 56% of the time at Buckskin.

In its comments, WMA also objected to the use of the Antelope site as background for the PRB based on the extensive increase in oil and gas activity in the area. AQD has not addressed this comment. Recent data collected from the Antelope site demonstrates higher concentrations consistent with increased activity. These higher concentrations are statistically significant. Based on a paired t-test on the last 9 years of data, we can state with a 91.4% confidence level that Antelope measures higher annual averages than Buckskin.

It is essential to the mining industry to have a representative background monitor for the PRB. In addition to the air quality permitting process, these data are used for leasing actions by federal agencies, among other uses. WMA urges AQD to reconsider retaining the Buckskin PM2.5 monitor.

In conclusion, WMA is very supportive of the AQD's efforts to return regulatory oversight of industrial ambient air monitoring to the State of Wyoming as it will simplify the process as long as the agency has sufficient resources to conduct

TSAs. WMA encourages AQD to continue to seek an Agreement with EPA Region 8 to clearly return these authorities to the State. Also, WMA requests that the AQD reevaluate their plan for modifying the Powder River Basin fine particulate monitoring network. WMA appreciates the opportunity to provide these comments.

Best regards,

This Set:

Travis Deti Executive Director

Attachments (2)



January 21, 2019

Darla Potter Air Quality Resource Program Manager Air Quality Division Wyoming Department of Environmental Quality 200 West 17th Street Cheyenne, WY 82002

RE: Powder River Basin PM2.5 network Proposed Modification

Dear Ms. Potter:

Thank you for allowing the Wyoming Mining Association (WMA) the opportunity to comment on the Air Quality Division's proposal to modify the Powder River Basin PM_{2.5} monitoring network. As you know, the network was established by the WMA two decades ago to efficiently demonstrate compliance with the National Ambient Air Quality Standard for fine particulates, show that fine particulate is a regional pollutant, and provide baseline data for permitting and leasing activities. The network has met these objectives.

The WMA appreciates AQD's need to reallocate resources and concurs that reducing the size of the PRB PM_{2.5} network is justified. Meeting with AQD staff Monday, January 14th, WMA Air Quality Subcommittee members heard two alternative proposals. The first proposal was the elimination of PM_{2.5} monitoring at three of four sites (Buckskin Mine, Black Thunder Mine, and Antelope Mine). The second proposal eliminated PM_{2.5} monitoring at only two sites (Buckskin Mine and Black Thunder Mine). Both proposals included continued monitoring at Belle Ayr Mine.

When the network was originally designed, the Belle Ayr Mine site was chosen as the likely highest impact site and monitoring results have proven that out. WMA agrees that continued operation of the instruments at Belle Ayr is important to demonstrate continued compliance with the NAAQS. This site has also been very reliable and provided consistent data.

Additionally, WMA urges the AQD to continue operation of a second fine particulate monitoring site that represents background. Background data is essential to industry when modifying air quality permits and leasing additional mineral. AQD's New Source Review section recognizes the value of a background site and has recommended the retention of monitoring at the Antelope Mine. WMA requests instead, that AQD consider retaining the monitoring site at Buckskin Mine as the background site, rather than Antelope Mine for the following reasons:

- Recent extensive oil and gas development in northern Converse County has created a situation where the Antelope Mine monitoring site no longer represents true background. The oil and gas impacts are only expected to grow, further eroding the claim that this sampler represents background.
- The data set from Antelope Mine has not been reliable and has shown the greatest variability of all monitoring sites; the Buckskin data set has been much more reliable.
- The Buckskin Mine monitoring site is upwind of the Powder River Basin for many meteorological conditions. In addition, the site is located on a hill that minimizes inversion effects.
- There are many fewer fine particulate emission sources near the Buckskin site which could impact the monitor.
- The Buckskin site is closer to Gillette and is easily accessible which results in lower operational costs.
- There is value to having monitoring sites in both the north and south regions of the Powder River Basin because this provides compliance data for both regions and also provides better background data of this regional parameter for the entire PRB.

In a related discussion, WMA representatives noted (and Air Quality Division personnel acknowledged) that there are other users of the data that may be affected by shutting down one or more of these samplers in the PRB. In particular, our conversation focused on the Bureau of Land Management (BLM) and the coal leasing program. The BLM, like the AQD New Source Review Section, relies on the PM_{2.5} data that has been generated at these samplers to make regulatory and permitting/leasing decisions. This may also be true of other federal agencies such as the US Forest Service. Similarly, many non-governmental organizations make decisions or take actions based upon these data.

The AQD has performed statistical, economic, and efficiency evaluations in reaching the decision to eliminate some of these samplers. These evaluations have led to conclusions that the AQD can rely on a reduced data set to continue administering their regulatory program effectively. The other users of these data need to reach the same conclusions. WMA respectfully requests that AQD document the ultimate decision, the reasons for the decision and be prepared to assist and encourage other government agencies to reach the same conclusion, i.e., the reduced data set still meets their regulatory needs. This will also help to prevent non-governmental organizations from reaching inappropriate conclusions about the same data set.

Best regards,

Tinis Abt.

Travis Deti Executive Director

CC: Cara Keslar



May 23, 2019

Mr. Gregory Sopkin Region 8 Administrator Environmental Protection Agency 1595 Wynkoop Street Denver, CO 80202-1129

Dear Administrator Sopkin:

The Wyoming Mining Association (WMA) is a statewide trade organization that represents and advocates for 26 mining company members producing bentonite, coal, trona and uranium. WMA also represents 120 associate member companies, one railroad, two electricity co-ops, and 200 individual members.

Many members of the WMA are required to operate ambient air monitoring networks as a condition of their air quality permits to show compliance with the National Ambient Air Quality Standards. These industrial Monitoring Organizations (MO) are concerned with the ongoing disagreement between US Environmental Protection Agency (EPA) Region 8 and Wyoming Department of Environmental Quality (DEQ) Air Quality Division (AQD) regarding the implementation of 40 CFR 58 Appendix A, Quality Assurance Requirements for Monitors used in Evaluations of National Ambient Air Quality Standards. This disagreement persists after numerous discussions, and more than three years since promulgation of the rule.

As you know, the industrial MOs in Wyoming have chosen to form individual Primary Quality Assurance Organizations (PQAO) for each facility. Industrial MOs have invested substantial resources to develop quality systems that meet the requirements and the spirit of Appendix A.

Region 8 has made it clear that EPA would prefer a single PQAO that includes the AQD's network and all industrial networks in the state. The WMA does not see any authority in Section 1.2.2 for EPA to require this preference. This section specifically states that final approval of any consolidation is the authority of the EPA Regional Office but the rule does not give EPA the authority to require a certain outcome.

Further, Section 1.2.1 details the common factors required for each PQAO:

(a) Operation by a common team of field operators according to a common set of procedures;

(b) Use of a common quality assurance project plan (QAPP) or standard operating procedures;

(c) Common calibration facilities and standards;

(d) Oversight by a common quality assurance organization; and

(e) Support by a common management organization (i.e., state agency) or laboratory.

A consolidated PQAO consisting of multiple private industries and a public agency (as EPA would prefer) will not satisfy a single one of these factors, whereas the current situation of individual PQAOs satisfies every one of the required common factors.

WMA requests that EPA Region 8 cease trying to force a consolidated PQAO. During a meeting in August 2018 with AQD and the WMA, EPA committed to finding a solution that would allow AQD to implement the rule with appropriate oversight by EPA. The AQD has reviewed and approved all of the industrial quality management documents which were then submitted to EPA for their review and approval. We urge the EPA to move forward and meet their obligations of Appendix A and the verbal commitments made in the meeting of August 2018.

Thank you for your kind consideration.

Best regards,

Tinis tot.

Travis Deti Executive Director

Cc: Ms. Nancy Vehr, Administrator, Wyoming Department of Environmental Quality – Air Quality Division Mr. Todd Parfitt, Director, Wyoming Department of Environmental Quality Mr. Doug Benevento, Environmental Protection Agency