

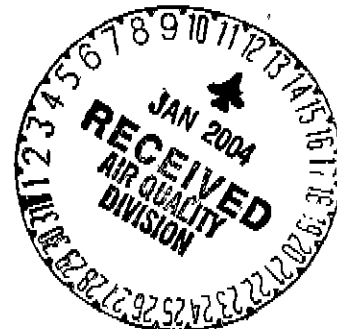
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January 9, 2004

Wyoming Air Quality Advisory Board
Attn: Dan Olson
Air Quality Division
122 W. 25th Street
Herschler Building
Cheyenne, WY 82002



RE: Draft Chapter 10 Smoke Management Revisions Comments

Dear Mr. Olson:

Belle Fourche Pipeline Co. (BFPL) offers the following comments regarding the proposed changes to the WAQD Chapter 10 Smoke Management rules and regulations (ver. 12/12/03). BFPL is not the only one of the True companies that may be affected by these proposals. BFPL proposed changes to the draft Chapter 10 regulation are shown in **BOLD** font.

In general, the proposed revision to the Chapter 10 regulation is significantly and unnecessarily more stringent than the current rule and will impose a significant impact on emergency response spill cleanup activities as well as on agricultural farm and ranch operations. Members of the Environmental Quality Council during a December 2003 meeting similarly voiced many of the BFPL concerns listed below.

Section 2(a) Definitions

(iv) Population means the total number of individuals **not involved with the actual burn activity** occupying a fixed area. Fixed areas include, but are not limited to dwelling units, **places of employment**, and **improved** recreation areas, **but do not include areas or buildings under control of the person conducting the open burn.**

These changes help clarify that those individuals assisting in the burn activity should not be counted as part of the area population. As proposed, virtually all of Wyoming would constitute a "recreation area" and as such would be counted in the population determination. Inclusion of "improved" recreation areas clarifies that concern and should protect those populations that the definition intended.

(v) Prohibited Materials - It is requested the definition specifically exclude the burning of household waste products, petroleum products burned in conjunction with emergency spill response cleanup activities and, temporary flares that are associated with oil and natural gas exploration and production activities. As burning of these types of materials may cause “dense smoke discharges” they would be defined as a prohibited material.

Rural farming and ranching operations necessarily burn household refuse (i.e., burn barrels) as a means of waste management. Historically, WAQD has authorized this activity and to avoid confusion, the definition should be modified to allow this activity to continue without any regulatory requirement.

Following the accidental or unintended release of a petroleum product, one of the most effective mechanisms to clean up the release is to promptly burn the non-recoverable residual petroleum product. The proposed definition may preclude this activity.

Section 2 (b) Compliance with requirements

(ii) “Authorized representatives of the Division shall be given permission by the person or organization conducting an open burn to enter and inspect a property, premise or place on or at which an open burn is or was located.....” As access to a proposed burn site may cross several different individuals private properties, the person(s) conducting the burn may not be able to obtain and provide the Division with the necessary authorization to trespass across third parties property. The necessity for this requirement is questionable, as it seems unlikely that in the past the Division has been precluded from site visits by third parties or by the burner. It also seems unlikely that in the past the Division researched land ownership and access agreements prior to a site visit in order to verify a lawful and legal entry was obtained.

(d) Restrictions on refuse burning

(d)(i) “The nearest population is at least ~~600~~ **150** feet away from the refuse burn”. As long as only refuse is burned, 150’ is a more reasonable and practical buffer distance for these types of activities, especially for the typical farm and ranch barrel burns. It is also recommended that a definition of “refuse” be included in the regulation.

(d)(ii) “The refuse burn is **should be** conducted during the daytime hours from one hour after sunrise until two hours before sunset.” While it is understood that burning during this period of time allows for optimal dispersion, it may not always be practical or possible to complete the burn within this window. In the event that the burn is not completed within 2 hours of sunset, it seems impractical and unreasonable to require the extinguishing of the fire and then to again restart the burn one-hour after sunrise the following day. This contradicts the current practice of the counties for allowing open burning which advocates burning very early in the morning when the air is still.

(d)(iii) “The person conducting the open burn shall attend and observe the refuse burn at **all times** (emphasis added) to determine the dispersion, direction and impacts of the smoke.” Are records

documenting the dispersion, direction and impacts of the smoke required to be kept? How will this observed data be used by the Division? How are dispersion and impacts measured? What is the burner expected to do if any of these three variables changes? In the event of small, de minimis contained burns, it is ludicrous to require the burner to attend and observe this activity. Application of this requirement to burn barrels, as currently written is unnecessary. This requirement should be deleted.

(e) Restrictions on open burning

“Any person or organization intending to engage in such open burning shall file a request to do so with the Division, on a form provided by the Division”. Previously, industry was able to obtain emergency verbal burn permits for petroleum spill cleanups. In these cases, time is of the essence and if industry is required to prepare and submit a form and then wait for written approval by the Division, additional damage to the environment will result. It is requested that language be added to specifically allow the Division to verbally authorize burn permits for emergency response activities. Does the Department seriously expect anyone burning weeds in irrigation ditches and along fence lines to write them for permission prior to conducting such activity? How far in advance does the Department require these requests to be submitted, what is the anticipated turn a round time? Burning is often conducted spontaneously when the winds are calm.

As proposed, this section could also apply to the “temporary” flaring of natural gas or liquid hydrocarbons (e.g., trade wastes) associated with oil and gas exploration and production activities. These activities are presently regulated by the WOGCC and are routine in their nature and very important to industry. There is no benefit in the WAQD also regulating this activity. It is requested that specific language be placed in the regulation that exempts “temporary” flares that are associated with oil and natural gas exploration and production activities from complying with the open burning requirements of this sub-section.

(iv) “The open burn shall only be conducted during the daytime hours from one hour after sunrise until two hours before sunset, and at least ~~600~~ 150 feet from a population”. It is requested that a second sentence be inserted to read: “Unless otherwise approved by the Division for emergency response burn activities.” As the efficacy of a petroleum release cleanup activity is greatly influenced by the initial response effort, the responder should not be precluded from burning in the evening. The buffer distance is also proposed to be decreased to 150 feet for consistency with other distances. See previous comments in (d)(ii), above. (v) “The person conducting the open burn shall attend and observe the open burn at all times to determine the dispersion, direction and impacts of the smoke.” Same comments as (d)(iii).

(f) Restrictions on vegetative material open burning

(ii) “Open burning of vegetative material may be conducted provided that burning of areas of non-piled vegetative material does not exceed ten acres in size per day and burning of piled vegetative material does not exceed 1,000 cubic feet of pile volume per day”. It is unclear from the regulation what the practical basis for the 10-acre/1000 cubic feet of pile burn area is.

(ii)(A-C) Given the de minimis nature of the burns authorized under this section, it seems excessive to require notification (written?) to Division and local fire authorities for each burn event. Additionally, as the noted burn areas are small, dispersion should not be a significant issue and evening burns should be allowed if necessary. It is requested these three subsections be deleted. See comment in (e), above.

(ii)(C)(I) “The open burn shall only be conducted when it is located at least ~~600~~ **150** feet from a population”. The proposed setback distance of 600 feet may preclude the burning of ditches or other areas under certain circumstances. It is suggested based on comments provided at the December EQC meeting that a setback of 150’ is more reasonable. Additionally, it is requested that waivers to this requirement may be obtained verbally prior to ignition of the burn. Written prior approval should not be required. See comments (e), above.

(ii)(C)(II) “The open burn shall only be conducted when the wind speed is greater than three miles per hour and there is no population within 0.5 miles of the open burn in the downwind trajectory”. The rationale for the 0.5-mile downwind trajectory should be explained. As the burn front will continually advance, it may be difficult for the burner to maintain the required 0.5-mile setback. Given the very broad definition of “population”, this subsection will be difficult to comply with. Additionally, for many farmers it will be impossible to ever conduct a controlled burn in any of their fields as there may be “populations” in all directions within a 0.5-mile area. Wind directions routinely change in Wyoming and this downwind trajectory requirement will essentially require the burner to maintain a 0.5 mile buffer in all directions at all times in order to accommodate a change in wind direction. This requirement is simply impractical and unnecessary. Due to the nature of the vegetative burn material, and the small areal extent that is authorized to be burned, it is suggested the 0.5-mile downwind trajectory requirement be removed.

(D) “The person conducting the open burn shall attend and observe the open burn at all times to determine the dispersion, direction and impacts of the smoke.” Same comments as (d)(iii).

Section 4 Smoke Management Requirements

(a) Definitions

(xi) Population- See Section 2 comment.

(xv) Vegetative material - What is meant by “agricultural plant residue”?

(b) Applicability - BFPL concurs with the EQC that the proposed 10 acres/day or 1000 cubic feet of pile volume/day size is too conservative. A more reasonable threshold for this level of regulation is **100 acres/day or 5000 cubic feet of pile volume/day**.

(d)(ii) Same comments as Section 2(b)(ii).

(e & f) Instead of establishing a threshold based on an arbitrary area or pile volume size, the determining criteria should simply be based on PM₁₀/day emissions. Ultimately, PM₁₀ emissions

are the major concern, not the size of the source proposed for burning. BFPL concurs with the EQC that use of 2 tons of PM₁₀/ day emissions is overly conservative and supports increasing the threshold emission rate to less than 5 tons PM₁₀/day emissions and greater than 5 tons PM₁₀/day emissions for the criteria in determining SMP-I or SMP-II status.

In summary, BFPL believes that significant changes to the proposed rule are necessary before it should be considered by the Environmental Quality Council for promulgation as a final rule. Thank you for your time and consideration of our comments.

Sincerely,


Renee C. Taylor
Environmental Coordinator

File: WAQD Comments