

less than 70 days in the last 3 months. We have done that at the same time that we have reduced our permit backlog from around 350 to less than 100. People had high hopes of the Kaizen process and I just wanted you to know that the staff appears to be delivering.

#### D. Update on Previous Board Activities and Other Old Business

None.

### IV. New Business

#### A. Proposed Changes Relevant to the 309 SIP

1. Chapter 14, Emission Trading Program Regulations, Section 2, Western backstop sulfur dioxide trading program and Section 3, Sulfur dioxide milestone inventory

Tina started by going over the rule changes (latest changes dated 9/11/07). Back in 2003 we submitted a plan to address Regional Haze impairment in Class I areas concentrating on the Colorado Plateau, which are the 16 Class I areas down in the Four Corners region. That was our Stage 1 of Regional Haze. Wyoming participated in that. The cornerstone piece of that SIP was the SO<sub>2</sub> milestone program and Brian will talk more about the details and how we're modifying that, but basically we committed to, as a region, staying under certain levels between now and 2018 with regard to actually two emissions. Since we submitted that, litigation has ensued. The players in the program have changed, and we have had to revise our rule. The rule process takes longer so we are bringing the rule to you first, then we will be back with the corresponding changes to our plan, probably after the first of the year, so I wanted to go through the specific changes so we could go to the EQC and get those changes done first. The other thing to know about the rule is that all of the participants in the SO<sub>2</sub> program are using the same information and the same language in their state rules so these all came from a model rule, which we, then, modified slightly so that it would fit our state requirement. So the requirements that I'm going to go over with you today that we've modified, every other state has done the same thing.

Page 14-4 is the first change: We have added a definition for "Special Reserve Compliance Account". Let me back up a

little here. Not all of you were on the Board when we started this rule. This rule is a backstop trading rule. It does not come into play unless we actually do not hit those milestones. So, it is in place and is designed to fall into place if we do not hit the milestones. Hopefully, we will never use this rule, but we still are required to have it set up. "Special Reserve Compliance Account" is not a new concept, it was already in here, and we just didn't have a definition for it. But basically what it is, it's an account for SO<sub>2</sub> sources that do not run CEMs (Continuous Emission Monitors) where you can clearly monitor what's coming out of the stack. These are sources like copper smelters where you have lots of fugitive SO<sub>2</sub> emissions and the only way you can figure out what's coming from the source is to estimate it and then come up with that estimate for the year and then next year estimate again based on cost, so it's a lot less confident about these types of sources. As a result, when those sources are given an allocation, there's a lot less confidence about whether or not those sources will be above or below what they've been allocated. Therefore, those types of sources are not allowed to trade any excess or anything above or below what they've been allocated. A utility that participates in this program may have a very good year and not need all of what they've been allocated and they can then trade on the program with those emissions, but these types of sources are not allowed to do that because of the confidence level.

**Bill Boger:** On the fugitive sources, you say it's a modeling exercise?

**Tina:** We inventory all of the sources that are participating in the program, these are all 100 tonners, and we are already inventorying those in our inventory program. Most of them have CEMs on them so they are just recorded through their annual and quarterly CEM reports. They are all point sources.

On the bottom of the page, it is not indicated, but there's a definition for Wyoming Regional Haze SIP, here we have referenced a specific date. That was the date we submitted the first SIP. We are probably going to need to adopt this, our own SIP, by reference. This is something that I hadn't thought about before this morning. I'm just going to let you know this, probably a change I'm going to have to make between now and when I take it to the EQC, there's a couple of places where we reference the SIP. If there is some way I can take out the reference, I will, to avoid that. But I think I'm going to

have to include it. I just wanted you to take note that I may have to modify that to include an "adoption by reference" because it's adoption that we reference it outside the rule.

On Page 14-5 there are some very minor words missing.

On Page 14-12 under Allowance Allocations: There is a provision for if a source elects to bring their emissions down further for more allocations. Their allocations are guaranteed at the beginning of the program, they will be rewarded with more allocations because they cleaned up their facility further. This is actually a provision that we included in our State Implementation Plan (SIP) that didn't make the corresponding change in the rule because of the timing of the two documents. So, I'm catching up here on this one. I should have had this one in here before. Basically what it says is that if you are going to install something that brings your emissions down for the early reduction bonus, it has to be a significant change. In the case of the non-utilities we are talking some kind of new control technology for a utility. We are talking below BACT level. This is something that's in each and every one of the other rules that are in the program. Something that we hadn't concluded before and will now be part of the program. The reason we have one for non-utility and one for utility is because many of the other states don't have minor source BACT programs so there's no guarantee that their sources would be coming in with at least BACT levels.

**Bill Lawson:** How do you define BACT?

**Tina:** Good question. I suppose it would be at the time that you would make the reduction to apply for the early bonus allocation there would be some BACT determination to be appropriate at that time. The other thing to remember is that, hopefully, we won't trigger this program and we won't have to answer that question.

Page 14-13 under (B), when you are establishing your floor level allocation that the methodology used for the monitoring, when you come in, has to be the same as the methodology as described as this program. You can't have a separate methodology and then compare it to all the methodologies that are being used to fit in the program. It's an apple to apples requirement. It's got everyone using the same methodology to compare allocation to level the playing field.

At the bottom of the page there's another change regarding new sources coming into the program. If you come into the program as a new source the requirement is that the control level is equivalent to a BACT level. For Wyoming, I don't even think this is an issue because all new sources in Wyoming will have BACT on them because we have a minor source BACT program. Obviously, anything that's in the PSD program's going to have BACT by rules, again not all states participating in the program have a minor source BACT program.

Page 14-14. Very minor addition of citations. Again, this is something that EPA wanted us to put in there. It doesn't give me any heartburn, just clarification.

Page 14-17. Under (II)(2.), "if the unit is a gas- or oil-fired combustion device the excepted monitoring methodology...", there are a number of these in here. We got the model rule, went through and crossed out all of the "excepted" and put in "accepted" because that looked like it was grammatically correct and then we were told we were incorrect because these were monitoring methodologies with "exceptions". So, we had to go back through and change them to "excepted".

Page 14-34, Compliance with Allowance Limitations. Small changes. The State of Wyoming does not hold any of the allowances. The second change is a little more significant. The allowance goes into a special reserve account.

Page 14-35, addition of paragraph (III). Basically, it says that if you compare the emissions that you were given with what you actually demonstrated in the year and show that you've exceeded your allowances that you are subject to the allowance deduction penalty.

Page 14-37, Allowance deduction penalty. We have two kinds of penalties in this program if you exceed your allowance allocation. The first kind has to do with the program is up and running and you exceed your allocations for the year, the penalty used to be in the previous version, first you got hit with a \$5,000 per ton penalty and then you also got hit with a 2:1 offset allowance deduction penalty. So, for every ton that you went over that you were allowed, they took 2 for the next year's allocation from you in penalty. This sounds stiff, but the idea was to make it stiff enough that people would take it seriously enough to not exceed their allowance allocation. In the midst of this process we got into a big wrangle with EPA

about what if the penalties were automatic enough, the States all took the position that we could seek a \$1,000 penalty but we couldn't automatically take \$5,000 from a company. It would have to go through the same process that all of our other penalties do and that is to allow them to litigate if necessary and go through the whole process. All of the states in the program had the same issue. EPA was pretty insistent that it happen automatically and a stiff penalty. The way that we resolved that was first, take the financial penalty out so there is no financial penalty there is only an allowance deduction penalty, and it was changed from a 2:1 offset to a 3:1 offset. This trading rule is an alternative to BART and so EPA has written specific rules about how you do that. In October of 2006 those came out and that's where the 3:1 offset came about. So what you see in the first paragraph, 14-37 is the 3:1 offset laid out and then in paragraph (B) you will see the financial penalty stricken.

Page 14-38. There is a special penalty for the year 2018. 2018 is the end of the Trading Program as defined right now. Because it is the end of the program, you can't very well do an offset if someone has excess emissions because the program is over, so what good does it do to take allocations from a future year? So, then we are back to the issue of financial penalties. We have a financial penalty for anything in that special 2018 year and to get around this issue of the automatic penalty, we have created language that starts on Page 14-39.

Page 14-39. Wyoming will seek a \$5,000 per ton penalty and then the source may resolve this excess emission violation by agreeing to a streamlined settlement. It's a voluntary response. We can't make them do an automatic penalty payment, but if they agree to it, then we get around that issue. So if they agree to pay up front \$5,000 within 90 days of your Notice of Violation, that's the end of it. If you can not resolve the violation that way, then we go back to the normal procedure and you may end up paying more than the \$5,000 because on top of that there would be the State's regular penalty provision instead of Wyoming's \$10,000 per day per violation. It could get more costly. So the incentive there is to pay quickly up front.

**Bill Lawson:** So, you are still paying a financial penalty?

**Tina:** Yes, but it would only be in those years from 2018 and beyond. The earlier years it would only be the allowance deduction penalty.

**Ronn Smith:** What happens if the milestone reduction penalty exceeds the amounts available? It seems like the 3:1 ratio, that scenario would be quickly curbed and if they continued to violate each year, they could go negative.

**Tina:** I don't know, Ronn, I hadn't thought about that one. On a practical situation this is 2008, it takes about five years to get this thing in place once you exceed the milestone, so that takes us up to 2013 and we pretty much know we won't exceed the milestone in the short term ...

**Bill Lawson:** So that means that we know what the milestones are?

**Tina:** They are not final yet. We have talked about them among the states and had the utility stakeholders involved, but they have not gone all the way out to EPA yet. On a practical matter, I don't think it's going to happen. It takes about 5 years to get the program up and running. If we bumped it in 2011, we wouldn't even have it going until 2015, 2017 and that's almost the end of the program.

Page 14-40, Section 3(a)(iii). This is the emission inventory section. The program doesn't work unless everyone follows the same inventory program. Everybody has to report. Everybody that's an SO<sub>2</sub> emitter of 100 tons or more has to report every year what their actual emissions for the year were. We had thrown in a small provision that if you could show an enforceable emission limitation of 50 tons per year or less, then you were exempt from the program, but you can't do that, because it's actual emissions. So, if your actual emissions are over 100 tons you are in the program. You probably have other problems. What I'd like to consider that I don't have in here is to have a provision that keeps you from going into the program if you just have a one-time problem (for example). We have an enforcement program that handles those kinds of situations. This program was not meant to be a penalty for a small-time operator that had an exceedance that put them over 100 tons. Those are not the types of sources that are meant to be in this program in the first place. I need to kind of think that through and see what some of the other states are doing. That might be a revision that we might make

between now and the EQC. That, and I know that the EPA wants us to put in a date certain for facilities modifying their monitoring plans. Monitoring is critical to this as well. We have told them that we already are on top of what they do when they modify their monitoring plans. It looks like they want a date certain in there. So, I've got to gather with the other states and figure out what that date would be. I don't think it's a big issue. There are three things I am looking at: adoption by reference in regard to SIP, some kind of date certain for monitoring modification and then maybe something under Section 3 to deal with these one-time excursions for small operators. Those are the changes to Chapter 14. That's 90% of what we'll be taking to the EQC. I really need to get this kicked off so I can get it pushed through the process.

**Tina:** Any comments or questions? None.

Bill asked, all in favor? Board voted unanimously in favor.

**NOTE:** On October 16, 2007, Tina Anderson spoke with Bill Boger, Chairman of the AQAB, regarding Adoption By Reference language in Chapter 14 requested by the Legislative Service Office per an Administrative Rule Review Report dated October 24, 2006. Mr. Boger agreed that this was a minor change and that the Division could make this correction and proceed with rulemaking.

2. Preview of 309 SIP Changes. Brian.

Brian introduced himself. I am Brian Bohlmann; I am the Regional Haze and Emission Inventory Coordinator for the Air Quality Division. Tina helped out on the presentation doing the regulatory development and Vanessa Buyok also assisted in putting the presentation together. The topics that we are going to go over here, Tina has the revisions of Chapter 14 and we have some overviews of 309 SIP Revisions. The BART programs, which other states refer to as 308, it actually falls under 309(g) of the regulations. Then we will provide some training on using the WRAP's Technical Support System (TSS) for projections on Regional Haze. There's been quite a bit of money and effort put forth into the TSS to develop this to show improvements and projections for what we're doing for the Regional Haze Rule. Brian presented a PowerPoint presentation on Regional Haze issues in Wyoming. The presentation is attached to these minutes.

There was discussion about the fact that the 2018 URP is below the 2018 value of 10.99 and the contributing factors to

**Air Quality Advisory Board Meeting  
Sheridan Wyoming  
September 13, 2007**

**ATTENDEES**

<b>Brian Bohlmann</b>	<b>Wyoming DEQ, AQD</b>	<b>Cheyenne, WY</b>
<b>Dave Finley</b>	<b>Wyoming DEQ, AQD</b>	<b>Cheyenne, WY</b>
<b>Lori Simkins</b>	<b>Wyoming DEQ, AQD</b>	<b>Cheyenne, WY</b>
<b>Nancy Vehr</b>	<b>Wyoming AG's Office</b>	<b>Cheyenne, WY</b>
<b>Tina Anderson</b>	<b>Wyoming DEQ, AQD</b>	<b>Sheridan, WY</b>
<b>Vanessa Buyok</b>	<b>Wyoming DEQ, AQD</b>	<b>Sheridan, WY</b>
<b>Mike Warren</b>	<b>Wyoming DEQ, AQD</b>	<b>Sheridan, WY</b>
<b>Brad Steidley</b>	<b>Wyoming DEQ, AQD</b>	<b>Sheridan, WY</b>
<b>Mike Mackey</b>	<b>PacifiCorp Energy</b>	<b>Dave Johnston Plt</b>
		<b>1591 Tank Farm Rd.</b>
		<b>Glenrock, WY 82637</b>
<b>Cathy Wollums</b>	<b>MidAmerican Energy Holdings Co</b>	<b>106 E 2<sup>nd</sup> St.</b>
		<b>Davenport, IA 52801</b>
<b>Bill Lawson</b>	<b>PacifiCorp Energy</b>	<b>1407 W North Temple</b>
		<b>SLC, UT 84014</b>
<b>Vanessa Cameron</b>	<b>E3 Consulting</b>	<b>333 S Bannock St.</b>
		<b>Englewood, CO 80170</b>
<b>Joe Girardin</b>	<b>Wyoming EQC</b>	<b>Cheyenne, WY</b>
<b>Bruce Pendery</b>	<b>Wyoming Outdoor Council</b>	<b>440 E 800 N</b>
		<b>Logan, UT 84321</b>
<b>Jim Sewell</b>	<b>Shell</b>	<b>Denver, CO</b>
<b>David Stewart</b>	<b>Encana</b>	<b>Denver, CO</b>
<b>Ted Rasmussen</b>	<b>Wyoming Machinery Co</b>	<b>Casper, WY</b>