

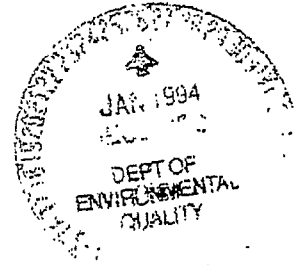


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

JAN 21



Ref: 8ART-TO

Dennis Hemmer
Department of Environmental Quality
Herschler Building, 4th Floor
122 West 25th Street
Cheyenne, Wyoming 82002

Dear Mr. Hemmer:

Please find enclosed two signed originals of the "Memorandum of Agreement on Procedures for Protecting PM₁₀ NAAQS in the Powder River Basin," (MOA) submitted by you on December 22, 1993.

My staff and I appreciate the cooperation of the DEQ personnel who were involved in expediting this agreement, and although this MOA does represent resolution to our immediate problems in the Powder River Basin, Region VIII will continue to remain interested in the quality of this region's air. To this end, I would also recommend that as these permits are reissued, a careful examination be made of the effectiveness of the existing Best Available Work Practices and associated enforcement authorities in meeting the terms of this agreement.

If you have any questions regarding this matter please feel free to call either Larry Svoboda at (303) 293-0962 or me at (303) 293-0946.

Sincerely,

Patricia D. Hull, Director
Air, Radiation and Toxics Division

Enclosure

cc: D. Skie
L. Svoboda



MEDICINE BOW
EXHIBIT J
PRE-HRG MEMO



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DEQ 003569

MEMORANDUM OF AGREEMENT ON PROCEDURES
FOR PROTECTING PM₁₀ NAAQS IN THE
POWDER RIVER BASIN

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MEMORANDUM OF AGREEMENT ON PROCEDURES
FOR PROTECTING PM₁₀ NAAQS IN THE
POWDER RIVER BASIN

1.0 Purpose

The purpose of this agreement is to document the rationale and procedures to be followed by the State of Wyoming and EPA in protecting the National Ambient Air Quality Standards (NAAQS) for PM₁₀ within the Powder River Basin in Wyoming. The approach outlined in this agreement is based on continued ambient air quality monitoring, rather than the implementation of a 30-year life-of-mine modeling study.

2.0 Background

A review of the PM₁₀ ambient monitoring data from the Powder River Basin, and of related actions taken by the State and the coal companies, supports EPA's view that these actions have proven successful in maintaining the PM₁₀ NAAQS in this region. Other factors that have been taken into account, in support of our position, include: 1) the fact that DEQ is including in all permits explicit language identifying best available work practices (BAWP) to implement in the Powder River Basin coal mines. 2) the DEQ is using necessary enforcement to ensure that BAWP are and will continue to be implemented, and 3) the probability of future PM₁₀ NAAQS violations in the area appear to be small.

3.0 Compliance

For these reasons, EPA believes it is appropriate to continue ambient monitoring in place of a 30-year life-of-mine study, provided there are no violations of the PM₁₀ NAAQS. In a letter to EPA dated June 30, 1992, DEQ submitted a proposed ambient monitoring network for the Powder River Basin. This letter reflected an agreement reached between the EPA and DEQ in a meeting on May 20, 1992. This agreement remains in effect, except as amended by the procedure outlined below. If a PM₁₀ exceedance is monitored, the following procedures would become effective:

Procedure I

In the event of an exceedance of the PM₁₀ NAAQS or Prevention of Significant Deterioration (PSD) increment in the Powder River Basin, the State expeditiously uses all necessary compliance tools, including enforcement of Best Available Work Practice (BAWP) requirements in the State permits, to eliminate the likelihood of future exceedances of the PM₁₀ NAAQS or PSD increment caused by the contributing source(s).

Procedure II

If, in the opinion of the EPA, the State does not initiate timely and appropriate action to address these exceedances, or if timely State action does not effectively resolve the issue of exceedances (i.e., a violation of the PM₁₀ NAAQS results following the timely and successful completion of any corrective action required by the State), the EPA will reevaluate the need for the State to implement a 30-year life-of-mine study.

In order for EPA to pursue this approach, the State must agree in writing to the requirements outlined below for best available work practices at mines, enforcement, and PSD increments, and with the monitoring requirements summarized in Section 4.0 below.

4.0 Ambient Air Monitoring

The State will oversee the ambient monitoring networks operated by the mines in the Powder River Basin. The State will ensure that the items in the State-EPA Agreement pertaining to the State's ambient monitoring requirements will apply to the Powder River Basin ambient monitoring network. Attainment of the primary and secondary NAAQS for PM₁₀ in the Powder River Basin will be based on 40 CFR 50.6. The required minimum frequency of sampling for PM₁₀ will be based on 40 CFR 58.13. Violations will be determined by the calculation in 40 CFR, Part 50, Appendix K. The ambient monitoring network will be maintained according to the June 30, 1992 DEQ letter to EPA.

5.0 Best Available Work Practices

The State has informed the EPA that each of the mines within the Powder River Basin have incorporated BAWP into their mining permits. In order to take action on the "ambient air" State Implementation Plan (SIP) among other things, EPA will require verification from the State that the mines are in fact employing BAWP; therefore, please provide EPA with the following:

- 1) a summary of best available work practices for each mine; and
- 2) a description of what State regulation provides you the authority to require and enforce best available work practices.

6.0 Enforcement

The State must provide a written opinion from the State's Attorney General that the State does have the authority to take enforcement action against mines based upon violations of the PM₁₀ NAAQS. The state must provide a description of the enforcement authority and procedures that are available to the State if a violation of the PM₁₀ NAAQS is monitored.


7.0 PSD Increments

The issue of increment consumption has been at least temporarily resolved by the establishment of a new Powder River Basin Section 107 baseline area. This designation effectively "untriggers" the minor source baseline date in the Powder River Basin 107 area, and thus, emissions from coal mines and other minor sources are no longer consuming increment. Dispersion modeling of coal mines for tracking PSD increment may be required at some time in the future, if a new or modified major stationary source again triggers the minor source baseline date in the Powder River Basin or by January 1, 1996 (per the State's definition of "minor source baseline date"), whichever comes first.

8.0 Conclusion

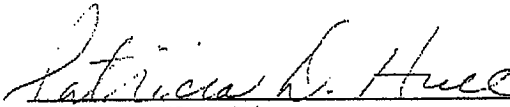
Approval of the "ambient air" SIP was proposed on August 26, 1992 and has not yet been finalized. If this MOA is acceptable to the State and you agree to the conditions set forth in this letter, EPA will issue a supplemental notice of proposed rulemaking concerning our decision to allow ambient monitoring in lieu of the 30-year life-of-mine study. We would then initiate the supplemental rulemaking action on the SIP by the end of FY93. Final rulemaking should occur by spring of 1994. In the interim, the procedures currently in place will remain in effect. If the State and EPA do not reach agreement regarding this MOA, the EPA will finalize its August 26, 1992 proposal.

9.0 Signatures



Dennis Hemmer, Director
Department of Environmental Quality

Date: 12-22-93



Patricia D. Hull, Director
Air, Radiation and Toxics Division

Date: 1-24-94