

Wyoming Air Quality Advisory Board Meeting
December 11, 2006, 10:00 AM
WDEQ Casper Office – Conference Room
152 N. Durbin, Suite 100
Casper, Wyoming

Board Members Present: Ronn Smith, Darrell Walker, Jefferson (Jeff) Snider,
Joe Reichardt, William (Bill) Boger

Others Present: Dave Finley, Administrator, Air Quality Division
Tina Anderson, Air Quality Division
Nancy Vehr, Assistant Attorney General
Chris Hanify, Air Quality Division
Lori Simkins, Air Quality Division
Naveen Chennubhotca, Marathon Oil Company
Eddie Baker, PacifiCorp Energy
Kevin Chartier, IML
Gary Austin, BP America Production Co

I. Call to Order

The meeting was called to order by Chairperson Ronn Smith.
The Advisory Board members introduced themselves.
Ronn Smith welcomed Bill Boger, as this is his first meeting as an Air Quality
Advisory Board Member, representing the mining industry.
Ronn indicated that we are expecting Jeff Snider from Laramie to join us.

II. Approval of Meeting Minutes for July 10-11, 2006 Meeting.

III. Old Business

A. Staff Activity.

Dave Finley: Dave handed out some documents to the Air Quality
Advisory Board. The first document I gave you, the Air Quality Division
Organization Chart, we update every year. This year it was updated to
represent ten new positions that were given to us by the legislature. We
have hired more than six people, however, we have also had people depart
during that interim. We have made repeated offers to folks to fill those
positions. No one has been able to accept the salary. One of those
positions is a senior permitter. The position was vacated by Cortnie
Morrell. As we have told you before, we like to bring people in directly
out of college, we train those people and as they become more capable and
competent, and able to handle more complex projects, we promote them

As we move forward with the Regional Haze Rule ... Wyoming sources certainly aren't impacting ambient levels, we will see some discussions among regional haze. It's not that we're ignoring it...

The next area that I want to talk about today is Adoption by Reference. I originally mailed to you Chapters 3, 5 and 11. We attempt to do this annually, update all of the rules that we adopt by reference, those that we determine to be cumbersome or expensive to actually pull into the rules. In the past I have brought up the Code of Federal Regulations in here. We are now up to, I think, six volumes of CFRs, two for NSPS, so there's a pretty good stack. However, after we put this all together and sent it out to you, Nancy Vehr and I had a discussion with the Legislative Service Office, and a presentation given by the Legislative Service Office in conjunction with the Attorney General's Office have made it very clear that they are going to get very picky in ways that we had not anticipated. So, Nancy started looking at some of our regulations and has found where we are probably going to have problems and so, to help us out, she has identified some of those areas. Since the point where you got the regulation and now, we have issued a new draft Chapter 3. We are working on one for 5 and 11 is a concern. What I would like to do is go through what I had originally proposed for 3 and 5 and 11 and then go back and show you what our new concerns are. That way we can keep all the drafts separate. Let's first look at 10-27-06 for Chapter 3. The first change is on Figure 1 on page 3-6. Figure 1 is actually redone. We had originally noticed in this Figure 1 (this is a really old figure), that it deals with existing fuel burning equipment. It has been used for years. In the process of converting the typed regulations back in the dark ages into word processing, Word Star and to WordPerfect and now to Word, some of the parts of the table got knocked off and it wasn't until someone actually opened it up and started using it again they noticed it was missing parts. So we redid it on the version you have for 10-27, only to realize we still hadn't gotten it right. So, I guess for expediency you might as well jump to the one for 11-17 on the single page. We tried to clean it up so it looks like we know what we are doing. We bracketed the material that actually needs to be bracketed. You can see from that last statement there the input greater than 10 to the 6th and less than 10,000 million Btu per hour, we had a silly little statement in there before that all of the input was less than both of those ranges, which made no sense. I think most people knew what it meant. We also took dust off of the Y-axis. Dust is a pretty primitive term for particulate. So, we hope this table is finally up to our professional standards. No change in the intent.

Jeff Snider: Tina, I hate to be picky, but on the Y-axis doesn't that have to be expressed in terms of a rate as well?

Tina Anderson: These are pounds of particulate matter per million btu of input. So, that is the answer. It's on the Y-axis. That's what you are looking for. That's the allowable. For so many pounds of particulate allowed for every one million Btu heated. So for every 10 million Btu you would have 0.6 pound allowed. Does that make sense?

Jeff Snider: I guess what was confusing me is that the X-axis is at crest as an amount of heat per hour and so I was wondering whether the particulate matter allowed should be expressed as an amount of particulate matter per amount of heat per hour.

Tina Anderson: No. These are typically how these standards are set throughout.

Tina Anderson: So, that takes us to page 3-11, under Section 6 you will see that we are attempting to update the definition of VOCs. As Dave explained to you earlier, VOCs are a photochemical reactant to the formation of ozone. This definition is tied into that part of air quality. What the VOC definition does beyond tell you that it is a photochemical reaction is a whole list of VOCs that are not significant reactors. So, EPA, every once in a while will find a new one or industry finds a new one and petitions EPA to take them off the list. Rather than try to create that list ourselves, we simply adopt that by reference. We do this, typically once a year. We have tried to also, improve the language a bit there to make sure that it is obvious that these are available for public inspection and that copies can be obtained at cost. We provide them for free, but we are trying to comply with what the statute says so it doesn't get hung up in the Legislative Services Office. Nancy did indicate to me that it's less than 1,000 words in the VOC definition, but we believe that we can make the defense that it would be too expensive for someone to sit there and make sure that all of those chemical formulas are copied exactly correctly. There are two columns of VOCs. It's a lot. It would be a lot of manpower to make sure that this is accomplished. I think we should still adopt it by reference. It doesn't fit under the cumbersome definition.

Dave Finley: What's the 1,000 word requirement?

Tina Anderson: That's set by statute.

Dave Finley: Our statute?

Tina Anderson: Yes.

Dave Finley: So our statute says if it's less than 1,000 words it shouldn't be adopted by reference it should be printed in the State rule?

Nancy Vehr: The statute says if it's too expensive or too cumbersome you can adopt it by reference. The Secretary of State's Office defined cumbersome to mean greater than 1,000 words, or greater than 5,000 words. So if it's not too cumbersome, then you have to meet the "too expensive". So if you have five people having to review this and you have to re-print this, a lot of times that meets the cumbersome rule.

Dave Finley: I guess my question is, is this going to go to LSO and is it going to get bumped?

Tina Anderson: They have never made an issue of this before. They would have to dig out the CFR to even see this.

Nancy Vehr: You make the demonstration that it is too expensive.

Tina Anderson: On page 3-12 and going on to 3-13 and 3-15 you will see that we simply crossed out all of the numbering in the definitions of the asbestos regulations. We were in there, we are only doing this because we have done this in all of our other regulations. We are no longer numbering the definitions. It is too difficult whenever you revise or add a definition. That's all we've done in this version of Chapter 3.

Tina Anderson: That moves us on to Chapter 5, National Emission Standards, Section 2, New source performance standards and Section 3, National emission standards for hazardous air pollutants: 10-27-06 draft. Page 5-1 Updating the New Source Performance Standards. For both the standards and the appendices brushing up the language to meet the requirements of the Legislative Service Office. Look on Page 5-5. You'll see that we bumped out all the language referring to stationary gas turbines. We are simply removing it from an adoption from the Federal Register and put it back into an adoption from the Code of Federal Regulations. For those of you who were here last year, I stuffed those in through a Federal Register adoption because there were several standards that we used a lot and I wanted to get them into our body of regulations and I wanted to get them into our body of regulations so we could enforce within our own State. We used a slightly different format the whole year past, they are part of the Code of Federal Regulations, just moved them from that section into the listing.

Dave Finley: So should the thing above that 40 CFR part 60 Subpart GG Standards of Performance for Stationary Gas Turbines, should that be highlighted?

Tina Anderson: The standard had actually been modified, so we had one in there and then we added the revisions that they made through the Federal Register. So those are only revisions. You pull out the revisions and what should remain is the new standard adopted.

Tina Anderson: That takes us up to Page 5-8. Adopting the appendices up through 2005. Next change goes all the way up to Page 5-38. These are the NESHAP standards. These are national standards that we have to comply with. If we didn't have this regulation, the sources would have to comply with these standards anyway. By bringing them into our regulations we can enforce on these rules through the State of Wyoming enforcement process.

Tina Anderson: The next change is on Page 5-44. This is one of the new NESHAPs, plywood and composite wood products. We don't have any sources at this time. We have, obviously wood product industries in the state, but we don't have any of that magnitude.

The next change is on the bottom of 5-46, top of 5-47. This is industrial, institutional, commercial boilers and process heaters that we adopted through the Federal Register last year that we moved into the listing this year. Unlike gas turbines, this was a preexisting

category. If you turn the page to 5-48 you will see that we crossed out the boilers. The appendices are adopted on the bottom of 5-48 and then one small change on the bottom of 5-53 on the table of the air toxics.

Chapter 11, National Acid Rain Program, Section 2, Acid rain program. Draft 10-27-06 on page 11-1 we have done the same thing to change the date from 2004 to 2005 and spiffed up the language. That is what we intended to talk to you about today, however, it got more complicated when the LSO stepped in. I have given you a new Chapter 3 dated 12-04-06. One of the concerns the LSO may have is that we have references to the CFR all over our regulations. This is the way we have been doing business since the 70's (for 30-some years). Now every reference has to be adopted by reference. Also, the ASTM standards we reference, we have to do the same thing, we have to incorporate by reference. ASTM standards are way out of date. We are in the process of updating them. Everything that we adopt by reference must be available to the public for viewing and purchase. CFR is not a problem, we have those in the Cheyenne office and can make copies. However, ASTM standards are copyrighted. We are going to purchase them for the Division for viewing and then if someone wants to purchase the ASTM standards we will purchase them and they will purchase them from us.

Tina Anderson: On the back page we have cross-referenced a rule that doesn't exist, so we will have to fix that too.

Tina Anderson: That's our effort at fixing three, five. We will have to move all of that stuff to the back, but do it in a way that the staff finds it useful. We would ask, however, that you make a recommendation for us to proceed with making corrections to Chapters 3 and 5 to address the concerns of the LSO and take those corrections to the EQC for adoption.

Dave Finley: Not chapter 11?

Tina Anderson: Chapter 11 does not have any adoption by reference.

Dave Finley: In paragraph A the reference to the Clean Air Act, the LSO is not going to ask for adoption by reference?

Tina Anderson: Deferred to Nancy. Nancy indicated "no".

Ronn Smith: Are you able to stagger that effort?

Tina Anderson: Yes, I'm sure we have committed this error, over and over again. That's all I have today.

Darrell Walker so moved. Jefferson Snider seconded. The Board passed the movement unanimously.

- V. Schedule Next Meeting
 - Election of Officers
 - Oil & Gas BACT Guidance
 - Trading Rule for SO₂
 - Backstop Trading Program
 - Regional Haze SIP - Sharing with WRAP Class I Areas
 - On the horizon – PM regulations

Springtime (April/May) As long as we're not held fast, we will check with Cynthia.

Meeting Place: Rock Springs.

- VI. Meeting adjourned by Ronn Smith.