

WATER AND WASTE ADVISORY BOARD MEETING
THE STATE TRAINING SCHOOL
LANDER, WY
SEPTEMBER 8, 2003
MEETING SUMMARY

The Water and Waste Advisory Board members present for this meeting included: Lorie Cahn, Gene George, Glenn Sugano and Quentin Skinner.

Dave Finley, Administrator for Solid and Hazardous Waste Division (SHWD); Carl Anderson, Program Manager for Hazardous Waste Permitting and Corrective Action and Marisa Latady, Senior Environmental Analyst represented the Department of Environmental Quality.

The chairperson, Lorie Cahn, reconvened the Water and Waste Advisory Board. She then asked each of the video conference sites to identify participants present for the hearing on the proposed Hazardous Waste Management Rules and Regulations. Diane Connolly was present at the Cheyenne location, Bob Dundas was present at the Casper location. There were no participants at the Gillette, the Green River, the Jackson, the Lander or the Worland video conference locations.

The chairperson stated that the first item of business was approval of the April 23, 2002 meeting summary regarding the proposed hazardous waste rules. Mr. Sugano made a motion to accept the meeting summary. His motion was seconded by Mr. George. The Board members voted to approve the meeting summary.

The chairperson then introduced Mr. Carl Anderson with SHWD. Mr. Anderson provided a recap of the rule making process to date. SHWD presented proposed rules to the Advisory Board in April 2002. The Department of Defense (DOD) presented comments to the Advisory Board at that meeting. The Advisory Board members asked SHWD to work with the DOD to resolve their comments. SHWD did work with DOD, revised the rules and sent those revisions to Environmental Protection Agency (EPA). EPA responded that several provisions were less stringent and could not be adopted by SHWD. SHWD provided the Department of Defense a copy of EPA comments and informed them SHWD could not adopt any rule provision less stringent than the corresponding federal rule.

Mr. Anderson stated the proposed rule package before the Advisory Board today was developed in consideration of the DOD comments, EPA comments and revisions deemed necessary by SHWD. The proposed rule package consisted of revised pages containing edits made by SHWD since the April 2002, Advisory Board Meeting; a table explaining the revised pages; the April 23, 2002, meeting summary; and a memorandum explaining the actions taken by SHWD to resolve comments. SHWD was asking the Advisory Board to approve the proposed rules presented at the April 2002 meeting which were not revised, approve the 2003 revisions including removing portions of the Hazardous Remediation Waste Management Requirements also known as HWIR-Media rule and to approve the memorandum explaining the actions SHWD took to resolve comments.

As background information for the new Advisory Board Members Mr Anderson provided an

overview of why the hazardous waste rules are periodically amended. SHWD has an obligation to adopt federal rules unless the rules are considered to be less stringent than the present federal rules. Less stringent federal rules are considered optional rules. States may choose to adopt optional rules. States may also be more stringent than federal rules. The proposed rule package before the Advisory Board contained optional, equivalent and more stringent proposed rules. Once rules are adopted, SHWD must go through authorization to implement an equivalent hazardous waste program in lieu of EPA.

The rest of Mr. Anderson's presentation consisted of a discussion of the significant changes to the 2003 proposed rules. The significant changes included revisions to the military munitions rule, revisions to the HWIR-Media rule, a revision to Chapter 6, Section 2 and a revision to Chapter 10, Section 10. Mr. Anderson asked the Advisory Board Members whether they wanted to review each revision to the military munitions rules now or later in his presentation. The members stated later.

Mr. Anderson stated SHWD was proposing to adopt only part of the HWIR-Media rule. SHWD was proposing to adopt rule provisions related to staging piles, a new type of unit for temporary storage of remediation waste. SHWD was not proposing to adopt rule provisions related to remedial action plans. SHWD took this action because the Voluntary Remediation of Contaminated Sites Program (VRP) implemented cleanups through remedy agreements. A remedy agreement under the VRP was equivalent to a remedial action plan under the federal HWIR-Media rule. SHWD signed a memorandum of understanding (MOU) with EPA regarding the VRP. The MOU stated cleanups conducted under the VRP would be consistent with the federal corrective action program under the Resource Conservation and Recovery Act (RCRA). The MOU applied to volunteers in the VRP also subject to RCRA corrective action requirements.

Wyoming treatment, storage and disposal facilities will be affected by these proposed revisions to the HWIR-Media rule. SHWD sent letters to them regarding the revisions. They were asked to contact SHWD with any concerns. No facilities contacted SHWD.

Mr. Anderson listed the HWIR-Media rule provisions which would be removed or amended from the proposed rules. They were: Chapter 1, Section 1(f)(i) definitions for facility, remedial action plan, remediation waste and remediation waste management site; Chapter 1, Section 1(j); Chapter 3, Section 2(b)(v); Chapter 7, Section 1(h); Chapter 7, Section 2; Chapter 10, Section 1(a)(xi); Chapter 10, Section 5(d)(ii)(Q); Chapter 10, Section 6(l)(iv); Chapter 10, Section 18(b)(i); Chapter 10, Section 18(c)(xii); and Chapter 11, Section 2(d)(i). All these proposed rule provisions referred to remedial action plans.

The next significant change to the 2003 proposed rules concerned Chapter 6, Section 2(c)(x)(B) regarding hazardous waste combustors subject to RCRA and Clean Air Act permitting requirements. Hazardous waste combustors were required to make revisions to their RCRA permits to comply with new Clean Air Act Maximum Achievable Control Technology (MACT) within three years as required by the federal regulations. The Wyoming proposed rules stated that any permit modification to comply with a MACT standard was presumed denied if the Director did not respond within 90 days.

Ms. Cahn asked Mr. Anderson what recourse the applicant had after the denial of the permit modification.

Mr. Dave Finley responded that SHWD objected to the automatic approval. SHWD would work with the applicant to resolve any disagreements and such a provision could be inserted into the proposed rule. Ms. Cahn suggested that SHWD develop language to resolve her concern.

The other significant change to the 2003 proposed rules concerned Chapter 10, Section 10 (b)(xii). SHWD corrected a typographical error, but decided to further explain this rule provision in the 2002 proposed rules. SHWD added RCRA statutory language into the proposed rules. The RCRA statutory language required a surface impoundment be upgraded or stop using the impoundment if hazardous constituents could migrate to groundwater. Mr. Anderson explained the land disposal restrictions (LDR) contained a provision that allowed surface impoundments to continue to operate for four years before being required to upgrade or close the impoundment.

Finally, Mr. Anderson stated that the revisions made to the state military munitions rule were categorized as: DOD proposed less stringent rule provisions where SHWD recommended the original 2002 rule language; DOD proposed rule provisions which SHWD agreed were appropriate, and the proposed language was recommended; DOD comments were already addressed by SHWD and no action was recommended; and DOD decided not to pursue certain rule changes, thus no action was recommended.

Mr. Anderson's presentation concluded at 1:30 pm and Ms. Cahn requested public comments. Diane Connolly responded that DOD was satisfied with proposed rules and requested Advisory Board approval of the state proposed military munitions rule. Mr. Dundas responded he had no comments. There were no participants at the Gillette, Green River, Jackson, Lander or Worland video conference sites.

The Advisory Board voted to close the public comment period and opened the discussion to Advisory Board Members. Ms. Cahn asked why text on page 10-4 was proposed for removal. Ms. Latady responded that SHWD was not proposing to adopt the definition of remediation waste management site thus the permit requirements contained on page 10-4 through 10-6 for a remediation waste management sites were not needed and must be removed.

Ms. Cahn asked Mr. Anderson to explain again why SHWD was adopting RCRA statutory language contained in Chapter 10, Section 10(b)(xii) on page 10-92. Mr. Anderson stated that RCRA statutory language allowed SHWD to act if a surface impoundment threatened groundwater. Ms. Cahn was satisfied with the response.

The final concern expressed by Ms. Cahn and several other Advisory Board Members was the language contained in Chapter 6, Section 2(c)(x)(B) regarding a permit modification to meet MACT standards. After some discussion the Advisory Board Members and SHWD agreed to the following language:

The Director shall respond to the request within 90 days of receiving it. The Director may, at his or her discretion, extend this 90 day deadline one time for up to 30 days by notifying the facility owner or operator.

Mr. Sugano made a motion to recommend proposed Chapters 1 through 14 of the Hazardous Waste Management Rules and Regulations as amended at this meeting of the Water and Waste Advisory Board for consideration by the Environmental Quality Council. Mr. George seconded the motion. The Water and Waste Advisory Board voted unanimously to forward the proposed rules to the Environmental Quality Council.

The Water and Waste Advisory Board did not set a date or time for the next Advisory Board meeting. The meeting was adjourned at 2:02 pm.