

WATER AND WASTE ADVISORY BOARD MEETING
UW OUTREACH CENTER
CASPER, WY
FEBRUARY 19, 2004
MEETING SUMMARY

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

Representatives from the Wyoming Department of Environmental Quality Solid and Hazardous Waste Division (WDEQ) included: Dave Finley, Administrator Solid and Hazardous Waste Division; Carl Anderson, Program Manager for Hazardous Waste Permitting and Corrective Action; Bob Doctor, Program Manager Solid Waste Permitting; Dale Anderson, Solid Waste Program Principal; Ali Tavelli, Voluntary Remediation Program, Program Principal; and Marisa Latady, Senior Environmental Analyst.

The chairperson, Lorie Cahn, reconvened the Water and Waste Advisory Board. She then asked for discussion on the September 8, 2003, Water and Waste Advisory Board meeting summary. Mr. George stated on page 2, second full paragraph a period was needed after the abbreviation for 'Mr.' Mr. George also asked about the discussion on page 3 of the meeting summary regarding Chapter 6, Section 2(c)(x)(B). Mr. George stated that he remembered that the Board members agreed to specific language to this rule requirement. Ms. Latady stated that the agreed upon language appeared at the bottom of page 3 of the meeting summary. The chairperson asked if there was further discussion; hearing none she asked whether there was a motion to approve the meeting summary. Dr. Skinner made a motion to approve the meeting summary as amended. Mr. George seconded the motion. The chairperson called for a vote and all members approved the meeting summary.

The chairperson stated the next item on the agenda was revisions to the Hazardous Waste Management Rules and Regulations specifically Chapters 1, 2, and 10. She asked Mr. Anderson to explain these revisions.

Mr. Anderson explained that the Solid and Hazardous Waste Division has an obligation to adopt rules and regulations equivalent to the federal rules in order to continue to maintain consistency with the federal hazardous waste program. The rules before the Advisory Board were needed to meet a regulatory deadline for the Amendments to Corrective Action Management Unit Rule (2002 CAMU rule). WDEQ must adopt the CAMU rule by August 30, 2004, or lose the ability to implement that rule (referred to as interim authorization). If SHWD loses the ability to implement the 2002 CAMU rule, petitions for new CAMUs at Wyoming facilities would have to be addressed by the Environmental Protection Agency (EPA).

Mr. Anderson stated that the first rule for Board's consideration was the CAMU rule dated January 22, 2002. Mr. Anderson explained that Corrective Action Management Units or CAMUs were areas where remediation waste could be treated, stored or disposed during cleanup. The definition of remediation wastes included solid (waste material) and hazardous wastes. CAMUs were created to provide flexibility in cleaning up contaminated sites. There were reduced requirements for wastes that were treated or disposed in a CAMU. CAMUs have been

allowed under federal rules since 1993. WDEQ was also authorized to designate CAMUs. However, EPA was sued over the 1993 CAMU rule and EPA agreed to amend the rule which resulted in the January 22, 2002, CAMU rule. There were six key differences between the 1993 and 2002 CAMU rules. The first difference was CAMUs designated by a particular deadline were considered 'grandfathered' and could continue to operate under the 1993 CAMU rule. Five Wyoming facilities were grandfathered and included the Amoco Casper refinery, the Texaco Casper refinery, the Union Pacific Railroad Laramie tie plant site and the two Sinclair refineries. The second difference was the types of wastes that could be placed into a new CAMU were designated CAMU-eligible wastes. CAMU-eligible wastes did not include as-generated or process wastes. As-generated or process wastes included sludges. The third difference was new CAMUs were required to meet minimum design and operating requirements. The fourth difference was new CAMUs must meet specific application and public notice requirements. The fifth difference was CAMUs could be designated as only treatment and storage CAMUs. The final difference was wastes placed in new CAMUs must meet minimum treatment requirements. The 1993 rule required minimal treatment of wastes placed in CAMUs.

The 2002 CAMU rule also amends the staging pile requirements to allow mixing, blending and other physical operations to wastes stored in staging piles. Staging piles were originally presumed to be for temporary storage prior to final disposal, but the use of staging piles has changed to include manipulation of the wastes. The 2002 CAMU rule also allows placement of CAMU-eligible wastes in off-site hazardous waste landfills if the wastes meet the treatment standards.

There were two differences between the WDEQ proposed rule and the federal rule. The first difference was CAMUs could be authorized under a remedy agreement issued through the Voluntary Remediation Program. This additional administrative mechanism was allowed under Wyoming law. WDEQ has been informed by EPA this provision is equivalent to the federal rule. The second difference between the WDEQ proposed rule and the federal rule was in placing CAMU-eligible wastes in off-site landfills. The State of Wyoming did not have any permitted commercial landfills. CAMU wastes placed in an off-site landfill would have to be placed in a commercial hazardous waste landfill in other states. WDEQ added language that required the landfill to meet EPA or state equivalent minimum design requirements and to allow the State Director to decide whether to accept the CAMU wastes into the commercial landfill. The state revisions have been reviewed by EPA and are considered equivalent.

The second rule before the Board concerns certain wastes generated and reclaimed in the mineral processing industry. EPA promulgated a rule in May 1998 (known as the Land Disposal Restrictions Phase IV rule) which identified certain characteristic sludges and by-product generated and reclaimed within the mineral processing industry as hazardous waste and subject to new land disposal treatment standards. Characteristic hazardous wastes include toxic, ignitable and corrosive wastes. The EPA rule also required manufactured gas plant wastes be tested using a leaching procedure to determine whether these wastes were characteristic hazardous wastes. EPA was challenged on these two rule provisions and the US Court of Appeals in Washington D.C vacated both provisions. EPA then promulgated a rule to conform to the district court decision (dated March 13, 2002). WDEQ did not propose to adopt those portions of the May 1998 rule subject to the lawsuit. WDEQ is now proposing to adopt those

provision in the May 1998 rule which were not vacated and the new rule that conforms to the district court decision. These revisions changed the definition of waste material and added an exclusion to Chapter 2 for spent materials reclaimed within the mineral processing industry. The conditions of the exclusion included the material must be legitimately recycled, not accumulated speculatively and stored in tanks, containers or building meeting minimum standards. The exclusion also did not include waste that were listed as hazardous waste. The WDEQ Director may also determine whether it is appropriate to store spent materials on pads and also requires notice to the Director regarding the type of materials recycled, type and location of storage units and recycling processing and the annual quantities of waste expected to be placed in land based units. In addition, the proposed rule added a parenthetical phrase (Chapter 2, Section 3(e)(i)) that states a leaching procedure used to determine if waste were toxicity characteristic hazardous waste can not be used to determine whether manufactured gas plant waste were hazardous waste. There was one difference between WDEQ proposed rule and the EPA rule regarding the term 'decision-maker'. WDEQ replaced decision-maker with the term WDEQ Director. This change is considered equivalent.

The third rule affected the mixture and derived from rules. EPA promulgated a rule in October 2001 to revise these rule provisions. The mixture rule states that a mixture of a hazardous waste and a solid waste (waste material in Wyoming's rules) is still a hazardous waste. The derived from rule states that any solid waste (waste material) generated from the treatment, storage, or disposal of a listed hazardous waste remains a regulated hazardous waste. Leachate from a landfill is an example of a derived-from waste. EPA in a May 2001 rule inadvertently excluded some language regarding exemptions to the mixture and derived from rules. EPA in the October 3, 2001, rule added that exemption language back along with a clarification. WDEQ has already presented this Board with the May 2001 rule; however, WDEQ knew about the mistake and did not remove the exemption language. WDEQ is only proposing to adopt the clarifying note to the definition of waste material. The note states that mixtures consisting of certain excluded wastes commonly referred to as Bevill wastes and listed hazardous wastes that have been listed solely for the characteristic of ignitability, corrosivity, and/or reactivity are exempt once the characteristic for which the hazardous waste was listed has been removed. There were no differences between the state and federal rule.

WDEQ revised Chapter 1, Section 1(e) to cite federal laws as of 2003 rather than 2002. WDEQ also added Section 32 (Waste Munitions) to Chapter 11 in a previous rulemaking, but did not change the citation in the rules to include this new section. Finally, WDEQ is correcting a number of typographical errors. WDEQ is requesting a recommendation to advance these rules to the Environmental Quality Council.

David Barbour at the Cheyenne video site asked if WDEQ revisions to the CAMU rule regarding off-site disposal would require further revision once a Wyoming commercial hazardous waste landfill was permitted. WDEQ replied that rule was modified to account for the circumstance that if a permitted Wyoming commercial hazardous waste landfill were opened CAMU wastes could be placed in it.

Several Board members asked questions about the editing of the proposed rules which WDEQ answered to their satisfaction. One Board member asked if WDEQ received any written

comments. Mr. Anderson replied no written comments were received. The chairperson stated that she supported the changes to the CAMU rule. She then asked for a motion to approve the proposed rules. Dr. Skinner made a motion to recommend the rules be advanced to the Environmental Quality Council. Mr. George seconded the motions. All Board members approved the motion. The Board adjourned for lunch.