

Waste Management and Radiation Control Board Meeting
Utah Department of Environmental Quality
195 North 1950 West (Conference Room #1015) SLC, Utah
January 14, 2016
1:30 p.m.

Board Members Present: Richard Codell, Danielle Endres, Marc Franc, Jeremy Hawk, Alan Matheson, Steve McIff, Shawn Milne, Brett Mickelson, Dennis Riding (Vice Chair), Vern Rogers, Shane Whitney and Dwayne Woolley (Chair)

Staff Members Present: Brent Everett, Allan Moore, Ralph Bohn, Ed Costomiris, Arlene Lovato, Rick Page, Jerry Rogers, Elisa Smith and Raymond Wixom

Others Present: Les Ashwood, Lonnie Brown

I. Call to Order.

Dwayne Woolley (Chair) welcomed all in attendance and called the meeting to order at 1:33 p.m. Scott Anderson was excused from the meeting (Allan Moore acted in his behalf).

II. Approval of the meeting minutes for the December 10, 2015 Board meeting.

It was moved by Steve McIff and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve the December 10, 2015 Board Meeting minutes.

III. Underground Storage Tanks Update.

Brent Everett, Director of the Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Trust Fund at the end of November 2015 was \$16,697,672.00. The preliminary estimate for the cash balance of the PST Trust Fund for the end of December 2015 is \$16,406,467.00. The PST Trust Fund is managed on a cash balance basis to ensure sufficient coverage for known claims that have been reported. There were no questions or comments on the PST Trust Fund balance.

Mr. Everett reported statistics from the Underground Storage Tank (UST) Program for the 2015 calendar year. During 2015, there were 86 new leaking underground storage tank (LUST) sites reported to the DERR. These sites are now being tracked and managed by the DERR. There were 121 previous LUST sites cleaned up sufficiently to be closed out. There were also 967 compliance inspections conducted. Of the facilities inspected, 86% were in compliance at the time of inspection. Within a 60-day follow-up period, there was a 94% overall compliance rate. The DERR target for follow-up compliance is 90%.

At the last board meeting, Vice Chairman Dennis Riding asked if facility owners are taking advantage of the new rebate program that was instituted as part of House Bill (HB) 138 in 2014. Mr. Everett reported as part of HB 138, the surcharge on petroleum increased from one half cent per gallon to a total of .65 of a cent per gallon beginning January 2015. A surcharge rebate is then available to facilities based on a DERR risk assessment. The legislation also changed the structure of the PST Trust Fund fee that is charged to facilities participating in the PST Trust Fund. In 2015, revenue from the PST Trust Fund tank fee increased to \$750,000.00 from an average of \$350,000.00 over the previous five years. The surcharge revenue for 2015 increased to 5.79 million dollars from an average of 4.72 million dollars over the previous five years. The total amount of rebates claimed for the 2015 calendar

year, to date is \$97,651.00. Facilities have up to three years to apply for rebates, though, so it is anticipated that this number will increase. The potential rebate amount for 2015 is estimated at \$665,000.00. The initial calculations from HB 138 showed an estimated net increase of approximately \$350,000.00 to \$700,000.00 per year to the PST Trust Fund. These calculations appear to be on target for 2015. There were no questions or comments regarding the rebate program or changes to the PST Trust Fund from HB 138.

IV. Hazardous Waste Rules.

A. Approval to proceed with formal rulemaking and 30-day public comment period for proposed Hazardous Waste Rules R315-103, R315-124, R315-260, R315-261, R315-262, R315-263, R315-264, R315-265, R315-266, R315-268, R315-270, and R315-273 (Board Action Item).

Ralph Bohn, Planning and Technical Support Manager, reviewed the proposed changes to R315-103, 124, 260, 261, 262, 263, 264, 265, 266, 268, 270, and 273 for publication in the Utah Bulletin and commencement of a 30-day public comment period. Ralph Bohn provided a power-point presentation (a copy is available with the meeting minutes).

The Utah Hazardous Waste Rules were first adopted in 1984. These rules have been periodically changed to stay current with federal rules and to maintain an EPA-approved hazardous waste program. Adoption by reference was used for some of the changes and others changes were made using EPA or state equivalent language.

As a consequence of the use of adoption by reference, the hazardous waste rules, as they currently exist, require the reader to have the Utah Rules and 20 different years of the Code of Federal Regulations (CFRs), and in some years, two different volumes for a total of 26 different CFRs, dating from 1990 through 2011. In addition, the current hazardous waste rules have adopted by reference several different rules using a federal register reference, requiring the reader to have access to Federal Registers from 1986 to 1998.

The proposed rules will follow the federal numbering system which will make it easier for readers and will make it easier to make changes when federal rules change. The proposed rules also incorporate all the changes to the federal rules that have been made up to the current date. These changes are required to meet both the federal requirement that the Utah rules be at least as stringent as the federal rules and the Utah requirement that the rules be no more stringent than the federal rules.

The proposed changes include adding two new wastes to the Universal Waste Rules.

Dennis Riding asked if the addition of the two wastes to the Universal Waste Rules (antifreeze standards and the aerosol can standard) is consistent with EPA requirements. Ralph Bohn stated that EPA has standards on a list that include items such as lead acid batteries, fluorescent lights, mercury switches and states can also include other items to the list such as antifreeze and aerosol cans. Approximately 15 to 20 other states have included antifreeze to their lists. Mr. Riding asked if by adding these items to the universal waste stream makes Utah more restrictive than what EPA requires. Mr. Bohn explained that it does not make Utah more stringent than the EPA to include these two items to the Universal Waste Rules.

It was moved by Shawn Milne and seconded by Brett Mickelson and UNANIMOUSLY CARRIED to approve for formal rulemaking and a 30-day public comment period the proposed changes to Hazardous Waste Rules R315-103, R315-124, R315-260, R315-261, R315-262, R315-263, R315-264, R315-265, R315-266, R315-268, R315-270, and R315-273.

B. Approval to proceed with formal rulemaking and 30-day public comment period for repeal of Hazardous Waste Rules R315-1, R315-2, R315-3, R315-4, R315-5, R315-6, R315-7, R315-8, R315-9, R315-12, R315-13, R315-14, R315-16, and R315-50 (Board Action Item).

Ralph Bohn, Planning and Technical Support Manager, reviewed the proposed repeal of Hazardous Waste Rules R315-1, R315-2, R315-3, R315-4, R315-5, R315-6, R315-7, R315-8, R315-9, R315-12, R315-13, R315-14, R315-16, and R315-50.

These rules need to be repealed because, as previously explained in a separate action, the Board is being asked to approve, for publication in the Utah Bulletin, new hazardous waste rules. Accordingly, the current hazardous waste rules identified above must be repealed. The proposal to repeal the current rules needs public notice and an opportunity for comment.

If the new hazardous waste rules to replace the current rules are approved and made effective, the repeal of the current rules will also be made effective at the same time. The repeal of the current rules will not take place until the new rules are in affect. The changes to the rules consist only of renumbering and reformatting. This change is designed to help the reader by putting all of the rules in one place and by following the EPA numbering system, eliminating the need to reference several different documents.

It was moved by Shawn Milne and seconded by Richard Codell and UNANIMOUSLY CARRIED to approve for formal rulemaking and a 30-day public comment period repeal of Hazardous Waste Rules R315-1, R315-2, R315-3, R315-4, R315-5, R315-6, R315-7, R315-8, R315-9, R315-12, R315-13, R315-14, R315-16, and R315-50.

V. Presentation on X-Ray Program.

Lisa Mechem, Environmental Scientist, Planning and Technical Support Section, provided a power-point presentation on the X-Ray Program that included detection equipment, data collection, x-ray machines, postings, R313-28-140 Qualifications of Mammography Imaging Medical Physicist, and certificates including qualified experts (a copy is available with the meeting minutes).

Dwayne Woolley asked about the process the Division uses to know what machines are in use. Ms. Mechem explained that the State of Utah requires manufacturers to notify the Division when they sell their equipment to companies. For medical equipment/instruments, a Federal Form 2579 is required to be submitted to the Division. The State of Utah rules also require the same standards for the sale of industrial equipment. Mr. Woolley asked about procedures regarding transfer of equipment between states. Ms. Mechem stated that scenario does not happen that often. However, reciprocity rules are in place that require notification to the Division Director when equipment will be brought into the State for less than 30 days. If it is going to be in the State for more than 30 days, companies are required to register their equipment, even if their main offices are located out of state.

Dennis Riding asked about the frequency of inspections and compliance rates. Ms. Mechem stated the inspection timeframes vary from one to five years, depending on the type and out-put of the machine. The low output industrial machines (dental/veterinary/podiatrist offices) are required to be inspected

every five years and industrial equipment (CT Scans/fluoroscope/industrial type of equipment) inspections vary from one to five years depending on the type and output of the equipment. The output is determined when the registration form is received.

Regarding the compliance rate, Ralph Bohn explained that, in the past, the compliance rate averaged around 90%. However, it was noted this number will change because, in the past, the Division had not recorded as “non-compliance,” issues associated with signage and other requirements. Instead, facilities were given a “verbal warning.” Now, however, every deviation is being documented and tracked as “non-compliance.” Regarding the output of the machines, the compliance rate is around 90%.

Dwayne Woolley asked how many staff members are assigned to conduct the inspections. Ms. Mechem stated two staff members are responsible to conduct the inspections and administer the program. To date, there are approximately 8,700 pieces of equipment registered and approximately 2,800 facilities registered as an x-ray facility.

Dwayne Woolley asked if the facility is required to notify the Division when a tube is taken out of the machine. Ms. Mechem explained that the rules require a facility to notify the Division within two weeks of a change in x-ray equipment. However, often times, it is not addressed until they go out and inspect the facility and see the old equipment has been replaced or gone. Often times, the Division is notified by the installers that the facility is changing out their equipment.

Dwayne Woolley asked if there are any issues associated with disposal of old x-ray machines. Ms. Mechem stated that unless the equipment is plugged in and switched “On” there is no concern with their disposal. Usually, the old x-ray machines become scrap steel and up to 10 x-ray tubes can be disposed at the landfill each time. However, if the equipment contains PCBs, they are required to be disposed of differently.

VI. Other Business.

A. Misc. Information Items

Allan Moore, Solid Waste Section Manager, provided the following update regarding potential legislation:

Legislation is being proposed to address concerns the Nuclear Regulatory Commission noted in a recent review of the Waste Management and Radiation Control Program. Senator Adams is the sponsor of this bill.

Waste Management, Scrap Metal Recycling. Scrap metal facilities do not want metal to be considered “waste” and see themselves as dealing with commodities. This could include an effort to define “recycling” in the code and potentially create a tiered process of regulations depending on the risk of the facility. Meetings have been conducted with a number of the facilities and they would like the term “recycling” more clearly defined. Representative Oda is the anticipated sponsor of this bill.

Waste Management, Mattress Recycling. This proposal would create a mattress recycling program patterned after the waste tire recycling program. This bill would impose a fee, at the time of purchase, to fund a program to recycle mattresses and limit the number of mattresses that a citizen could dispose of at a waste facility at any one time. The sponsor is unknown at this time.

H.B. 20, Lead Acid Battery Disposal Sunset Reauthorization, sponsored by Representative Perry. The bill modifies the sunset date of the Lead Acid Battery Disposal Act from July 2016 to July 1, 2026.

H.B.138, Consumer Electronic Device Recycling Report Amendments, sponsored by Representative Perry. This bill modifies the Department of Environmental Quality consumer electronic device recycling reporting requirements. The bill requires manufacturers to submit reports and other information regarding recycling options for their electronic devices. The Division is required to compile the reports and present a summary annually to the Natural Resources, Agriculture, and Environmental Interim Committee and the Public Utilities and Technology Interim Committee. This bill eliminates the requirement to report to the two interim committees.

Dwayne Woolley stated that he is aware of legislation being proposed regarding plastic bag recycling. The bill would include a fee charged to the consumer for each plastic bag used at the time of purchase.

B. Next Board Meeting.

The next Board meeting has been scheduled for February 11, 2016.

VII. Adjourn.

The meeting adjourned at 2:20 p.m.