

Solid Waste Advisory Committee February 25, 2009

Mission Statement: *To enhance communication and the working relationship between the Department and the solid waste management facility owners/operators, through the discussion of issues and the exchange of ideas.*

Committee members in attendance:

Chairman, Doug Sparrow – City-County Sanitation
Sherrel Rhys – Lewis & Clark County
Barb Butler (by phone) – City of Billings
Joe Aline – Shumaker Trucking & Excavating
Max Bauer - Allied Waste Systems
Bob McWilliams - Beaverhead County
Mark Nelson - Lake County
Tom Barth – Coral Creek
Steve Johnson – City of Bozeman
Rick Thompson – DEQ

Others in attendance:

Barry Damschen - Barry Damschen Consulting
Dave Duffy - City-County Sanitation
Mike Vogel - Montana State University
David Seeberger – Allied Waste Systems
Robert Church – Great West Engineering
Pat Crowley – Crowley Consultants
Jim Chilton – Flathead SW District
Ed Thamke - DEQ WUTMB
Brian Spangler – DEQ Recycling Program
Lou Moore – P2 Program
Norm Mullen – DEQ Legal Department
Elois Johnson – DEQ Legal Department
Joe Blaine – DEQ Solid Waste Department
Darrrell Stankey – DEQ Solid Waste Department
Martin Van Oort – DEQ Solid Waste Program
MaryLouise Hendrickson - DEQ Solid Waste Program
Mark Hall – DEQ Hazardous Waste Department

Call to Order: Doug Sparrow – 1:34 pm, Helena, Montana.

Minutes were read and approved.

Solid Waste Issues From Previous Meeting:

- Update on Building Code Requirements for Container Sites.

Sherrel Rhys reported that MACo has put together a working group that includes the county commissioners, members from MACo, Mark Nelson and she, and an insurance

representative. They are looking at the building requirements. This came to be due to the trials from accidents at building sites. The building code requirements were not the issue when it went to court. Liability is the issue. One of the goals was to look at how to reduce the liability by increasing the safety at the sites. With that, MACo will be looking at other states to see what they are doing at their sites. They will meet again in a couple of months, hoping to have recommendations.

The first meeting was strictly organizational, setting goals.

- Solid Waste Sub-Chapter 5 rules Update:

Rick Thompson reported that the rules will be filed on Thursday, February 26, 2009. They will be published the next week for public comment. Any comments received today from this group will be for the record. There is over a month in which to present comments. Hopefully, all areas will be completed by mid May.

Rick brought attention to the rule packet that was supplied in each folder. Stating the booklet form is how it will look when published by the Secretary of State office. It was reduced to this format due to the cost of mailing. The rules can be sent electronically if anyone chooses.

Sherrel asked if the SWAC would be reviewing the rules page-by-page as before. Rick stated this format contained the information discussed at the last meeting. Nothing was changed. He did not anticipate having to review in this way. But, if the group has any comments, feel free to email them to the Program.

The question was asked, if there is one-hundred comments and these comments suggested changes, is there a set number that would trigger re-advertisement. How would this be done?

Norm Mullen responded that just because we receive a certain number of comments on the same issue, that would not necessarily trigger a new publication. The only thing that would trigger a new notice would be if it was considered beyond the scope of the rule making.

Barry asked if he sent in a comment, would he get a response back. Norm stated that would be up to the Department. He (Norm) was explaining the legal aspects of the process.

Pat Crowley asked what the procedure was to request a physical impact analysis of this rule. Norm quoted from a copy of MAPA. Quoting Section 2-4-405 of the Montana Procedure Act.

Doug went back to the inquiry that Sherrel had about reviewing the rules page-by-page. She stated, that as she has been looking through the pages at this time, there are some parts that are confusing, parts that she thought had been changed doesn't seem to be. Sherrel thought it would be important for someone to go through it. Rick explained that

we had until April 17 for each one to go through it. She asked that there be volunteers to review the rules. The suggestion was made for there to be a question and answer session at the training that is to be held in Bozeman in two weeks. That was thought to be a possibility.

Mark thought that before the final comment period the Board should review the changes. Barb was asked what her opinion was about reviewing the rules. She did not want to look at the rules personally. Sherrel thought there were things that needed to be looked at because of the new format and things that were confusing. Rick assured them that the content had not changed since going through it in September. He assured them that the paralegal staff reviewed all the rules and that any concerns raised in the comments will be addressed.

Doug suggested there be a formal motion from SWAC for reviewing the rules and the formal comments. No one responded at this time.

Ed read concerning comments from the rule packet, page 247, number 7. Stating that the the process, not to submit comments to Rick or himself or Bob. But, if there is something someone wants to be a matter of record, it to be addressed to the appropriate person as directed in the rule notice. One shows up at the hearing where there has been a hired court recorder where one can be a part of the transcript or submit comments to Elois. We have to go by the rule.

Pat asked if New Rule I, as an example, applies to alternative final cover. He thought this to be a big question. Doug thought this was a good concern.

Bob asked if there was three or four things that SWAC agreed on to change, if that would make any more of an impact with the Department. If, SWAC as a group said they would like to see these three or four changed verses each one commenting individually, if that would have an impact.

Rick stated whether it came from an individual or from SWAC as a group, it would still be a comment. Sherrel still thinks that all needs to be gone through.

New Agenda Items:

- New definition of Federal Solid Waste – Mark Hall

This rule making flows from a long history of rule making from back in 1980 in an associated case law. There were two law suits in 2000 and 2002 which remanded the old concept of federal definition of solid waste back to EPA. What we are seeing is the product of the 20 something years of rule making. Hazardous waste must first be a solid waste. What has been done with this rule making in response to the law suits that he spoke of is they have written the rule such to encourage the recycling of hazardous secondary materials that would otherwise be disposed of as a hazardous waste at a commercial hazardous waste facility by changing the definition of solid waste. For examples, where this would be beneficial would be for waste stream such as spent furnace brick, like from ASARCO, some air pollution control sludges, foundry sands,

etc. An important fact is that this is not one of those mid-night rule makings from the Bush Administration that is subject to an automatic review by the Obama Administration. But, to be aware that the Sierra Club has already filed suit in the DC circuit on this particular rule making. This law suit was filed on January 29. This will be going back to Federal Court over this issue.

As a Program, we have been looking at the benefits of this particular rule making for Montana hazardous waste generators. Frankly, we don't see that many. We are taking our time with adopting this rule; we don't really want to adopt a rule that is going to be remanded yet again to the EPA. If we do adopt it, it will be sometime in the future. Late this year at the earliest. Reread this rule, it doesn't appear to us that it diverts any of the normal solid waste from or to the municipal solid waste landfills. It appears not to have a direct impact on daily business despite that somewhat confusing title definition of solid waste.

- MACo/ DEQ MSU Extension Solid Waste Training – Curriculum for the next biennium.

Rick gave an update stating with putting this on the agenda is to give the people that regularly attend an input as to what goes on the curriculum for the next biennium. There has been about 20 percent of the renewals in. Five facilities have responded to the questionnaire as to what kind of training they would want. It is this way each year, so Mike and Rick have to decide what is presented for the training in the contract.

Steve had suggestion to give operator education at the existing facilities. Operators that work with the problems are not getting the training they need. Make on-site training part of the education.

Sherrel commented that this could be a Neil Bolton class for the training. He will explain how to design a landfill cell. This is the whole thought process of designing a landfills.

Max does an oral class landfill review twice a year for his operators. He has corporate people come in to do this review. He too, thought the ground training would be a good idea.

P2 Program Legislative Updates: (lapse in tape) Department of Energy Stimulus Money - Lou Moore stated there were fourteen different things the monies could be used for by the local government. One is recycling education. Other things are retrofitting buildings, putting bike-ways and pedestrian walk-ways, etc. The communities that are larger than and including Miles City, will get grants from the Department of Energy. We do not know what that amount will be yet, but could be as small as \$20,000 or even larger. Communities that are smaller than these, DEQ will get money to send out to them. To receive this funding, communities will have to fill out an application.

There is another program that could impact the recycling in the state of Montana. That is the state energy program. This is one that has been managed for 30 years. There have been a lot of good things done with this program. For the stimulus package it will have to

show jobs. The primary use of that money in the state of Montana will be on state buildings. There are several buildings that need work. This will be our priority. There is quite a range of opportunity, in a five million dollar range we are not sure if it's coming to us or not. What would we do if we get the maximum amount of funding this bill is allotting to the state? We would like to take most of that money and put it into recycling intra-structure. Not sure how we will do that, but we will have to do it quickly. We see the need to possibly create new jobs.

Robert Church made comments on the stimulus money. Bob stated that wastewater SRF revolving fund will be receiving some stimulus money. Landfills are eligible for that program. SRF is possibly for eligible projects that are ready to go. They would do 50 percent loan grants.

P2 Program Update: Brian stated there had been a very successful e-waste event in Missoula. Great Falls will be having a recycling event in conjunction with Earth Day on April 25; Billings has an event scheduled for May 2; an e-waste event is scheduled for April 16-17 at the Gallatin County fair grounds. And the University of Montana Western at Dillon is organizing also holding an e-waste event for April 18, this is their first event.

Dusti continues to work on the pesticides class with the Department of Ag.

2009 Legislation: Lou stated that there was a piece of legislation on recycling that had made it out of the House, Representative Dickinson, HB 21 has passed to the Senate. The reason this has moved forward, it is an expensive physical rule. We are watching this one.

Ed gave a run-down of the bills that are still being tracked.

- HB 75, is an account that is set up currently and is used to clean up hazardous waste sites and old mining sites. The purpose of this bill is to include solid waste sites. This made it out of the House to the Senate on March 9.

- HB 401, provides meth clean-up laws. Basically, it would expand the meth clean-up program from presently where the department cleanup labs to cleaning up property where meth was smoked. If this law passes, landfills will probably see more meth cleanup waste. It was heard in the House Judicial Committee, passed that committee, went to the House floor where it also passed. It was subsequently referred back to the House appropriations and was heard last Monday. No executive action was taken at that time. Since it is a revenue bill, they have until March 26 to make a decision.

- HB 418, authorizes investor owned livestock slaughtering and processing plants. This one has been sent to the Senate.

- HB 560, this one was tabled on February 20.

- HB 68, this is the road kill bill. It has made it out of the Senate Ag. It has been referred to House Ag. Not yet scheduled for a hearing. It looks pretty good.

- SB 424, this one controls disposal of mercury thermostats. This is an industry bill. It has a real shot, no opposition coming out of the Senate. It has been referred to the House.

- SB 451, this is to repeal the mega landfill act. Made it through the Senate. Has been referred to the House Natural Resources. It has not been scheduled for hearing in the House. No opposition on this one as well.

- SJ 28, which would create a study on recycling and solid waste recovery. This one has been introduced by Jim Peterson. It is a joint resolution of the Senate and House requesting an interim study to evaluate methods to increase recycling and solid waste recovery within the state of Montana.

Announcements/ Training Opportunities:

- MSU Extension SW Related Training, Outreach & Publications:

Mike Vogel – Held the Class III & IV training in Bozeman March 10,11 at the Hilton Garden Inn. May 20 in Butte OSHA, location still to be determined.

Agenda for next meeting: Election of Officers.

S.W.A.C. will meet again on Wednesday, May 6, 2009 at 1:30 pm at LCG Building, Room 112.

Adjourn: 3:32 pm

