

DRAFT
Output from HB 1341/1298 Public Health, Welfare and Environment Workgroup
Meeting #2: January 23, 2008

Facilitator: Doug Robotham

Participants: See attached list

Meeting Highlights

Stormwater Management

- Discussion began with a brief overview by Water Quality Control Division staff of the state's current stormwater discharge permit process. WQCC staff emphasized that no changes are being considered in the pre-draft rulemaking proposal with respect to stormwater construction permits, which will continue to be required for activities that impact more than one acre.
- State agency staff indicated that, in addition to a stormwater discharge permit for a well's construction phase, there should also be in place a program to prevent/control runoff and erosion, and to minimize surface disturbance. Such a program would incorporate common sense, good housekeeping practices in accordance with written plan, and would be functional during a well's production phase.
- State agency staff noted that existing COGCC rules have general requirements to use BMPs to minimize erosion and offsite sedimentation by controlling stormwater runoff, and a requirement to control dust. However, state agency believe that a more carefully developed and described stormwater management program during a well's production phase is needed because:
 - Operations are moving into higher altitudes and steeper terrain. More cut and fill is required for well pads, access roads, pipelines and production facilities. Implemented BMPs are often inadequate to handle spring snowmelt run on and runoff, which results in offsite sedimentation and spills/releases to surface water and to adjacent properties.
 - Activity is increasing statewide, resulting in more acres of disturbed land, creating greater potential for erosion and sedimentation in surface water, with the potential to impair water quality and wildlife habitat, including habitat for the Colorado River cutthroat trout.
 - Additional oil and gas traffic statewide results in tracking mud from unpaved lease roads onto other roads, creating potential for sedimentation from stormwater runoff into surface water.
 - Truck traffic at low water crossings cause additional erosion and sedimentation in surface water.
 - Interim reclamation requirements often not suited to address even the limited number of activities during operational phase that could produce stormwater management issues.
- Discussion continued around several questions and observations, including:

- Would the stormwater management program resemble or perhaps even duplicate SPCC requirements?
- Could documentation of program be kept in a field office as opposed to onsite?
- Should topographically flat areas of the state be exempt?
 - It was noted that stormwater impacts more than just water bodies; stormwater runoff to adjacent properties can result in weed infestations in areas throughout the state.
- The stormwater management program should not be a duplication of regulations already in place from other agencies, jurisdictions.
- It would be helpful if a management program covered off-site impacts.
- It was noted that BMPs for production phase activities differ from those for construction phase. During production, the emphasis should be on maintenance of equipment and prevention of erosion, spills, etc. An effective stormwater management program could be very short.
- Discussion Question: What tools can the state make available to help operators develop a stormwater management program?
 - Provide guidance documents.
 - Be sure there are no inconsistent practices.
 - Identify activities that create the problems.
 - Recognize barriers to some BMPs.
 - Draw on BMPs already in existence within industry.
 - Allow companies to develop their BMPs.
 - Provide a “laundry list” of BMPs for smaller companies.
 - Provide enough flexibility so BMPs can improve as technology improves.
- Discussion Question: How should industry attest that a program is in place?
 - Keep documentation in field office.
 - Review BMPs as part of inspection process.
 - For transparency, plan should be filed with COGCC.
 - Only require problem areas to file plan.
 - Provide access at local level.
 - Submit plan when requirements of construction stormwater permit are met.

Exploration and Production Waste Management

Spills and Releases

- Discussion of spills and releases began with a summary of current rules and proposed changes. State agency staff indicated that the pre-draft rulemaking proposal proposes a new table of soil standards to replace Table 910-1. State agency staff indicated that this change is warranted because:
 - There is an opportunity to make one set of standards that apply to all situations are that are protective of ground water, surface water, human and non-human animals. This would simplify the review process by COGCC staff to assess whether spills and releases have been adequately remediated. It would also protect the operator and current and future surface owners.

- It would bring cleanup standards for oily wastes in line with those standards used for wastes with similar constituents regulated by other agencies.
- Charles Johnson (HMWMD) described how the Division developed cleanup criteria that eliminated risk assessment and produced a set of remediation goals for unrestricted land use. The conservative cleanup standards are appropriate as Colorado experiences significant changes in land use from agriculture or vacant land to urban sprawl and rural residential development. In addition to being protective of groundwater, such criteria provide a means for limiting long-term liability.
- Cautious support of the approach was expressed because
 - it lessens the potential for future litigation;
 - it makes sense;
 - it minimizes testing;
 - it is simple;
 - it provides flexibility, not in standards but in methods for remediation;
 - when the remediation goal is achieved there is closure.
- Discussion Question: How do we protect public health, safety and the environment, but also limit long-term liability?
 - Many meeting participants expressed a strong desire for more information before they would be in position to offer more definitive reactions.
 - Many meeting participants requested state agency to articulate standards.
 - The new Soil Cleanup Table would set remediation goals.
 - What studies are being used to determine what is protective and what is a threat? (Industry doesn't want to have to do research to figure out standards. If HMWMD has numbers, please share.)
 - How will smaller spills be managed?
 - There is a trend in the industry to prepare plans for spill *prevention* and response.

Waste Management

- Discussion of waste management began with a summary of the proposed changes. There was little discussion of the proposal to increase the length of time for operators to maintain records from 3 to 5 years. However, the proposal to lower the TDS concentration from 5,000 mg/l to 3,500 mg/l for produced water used in dust suppression on lease roads generated several comments.
- Justification for the lowering of TDS concentration centered around bringing the level into alignment with the level currently allowed by the WQCD.
- There doesn't seem to be clear evidence that 5,000 mg/l produces an adverse effect over 3,500 mg/l.
- The alternative to using produced water for dust suppression is a product that is more detrimental to the environment. Because produced water is a waste product, it falls under the jurisdiction of the COGCC and WQCD, while other dust suppression products do not.
- The Division expressed its interest in looking into the issue further.

Other Issues

- There was a request for consideration of flexibility in the rules for storage and temporary management of drill cuttings.
- A question was raised about whether new requirements for pit lining would be applied to existing pits.
- The discussion of pits was moved to next week's meeting, January 30, 2008.

Agenda Items for January 30, 2008

- Pits
- Odor Management
- Well Completion
- Aesthetic / Visual Measures

