



City of Casper
Public Services Department
Casper, Wyoming
82601



State of Wyoming
Department of Environmental Quality (WDEQ)
Solid and Hazardous Waste Division (SHWD)
Attention: Suzanne Engels, SHWD Program Manager
200 West 17th Street
Cheyenne, WY 82002

October 8, 2018

RE: City of Casper Public Comments on Proposed Chapter 4 Rules to Be Presented to WWAB on 10/16/18

Dear Suzanne,

The City of Casper (City) provides the below written comments to the draft proposed changes to Chapter 4 Construction and Demolition Landfill Regulations and has no comments related to the Chapter 6 Transfer, Treatment and Storage Facility Regulations.

1. Suggest changing Section 7(s) to NOT REMOVE 1096 through 1111.
2. Suggest changing Section 8(b)(v)(A) to change line 1279 to “the Administrator may WILL require the operator to analyze groundwater samples for the constituents found in Chapter 2, Appendix A or B. Some or all of these constituents may be added to the detection and/or assessment monitoring program for the facility.
3. Suggest changing Section 8(b)(v)C(l) to change line 1302 to “the Administrator may WILL require the owner or operator to characterize the nature and extend of the release, conduct an assessment of corrective measures, and institute corrective action remedies approved by the Administrator.

The City appreciates you and your team’s work to clarify and standardize the groundwater monitoring requirements which is a significant improvement over the previous rules. However, the current proposed changes to operating standards in Section 7 (s) leaves an unacceptable risk for groundwater contamination at unlined CD landfills. And thus, Section 7 (s) should not be struck to close or line the CD landfill.

Also, the current proposed assessment monitoring language in Section 8 (b)(v)(C)(l) leaves all requirements for characterization of the nature and extent of contamination, assessment of corrective measures, and any appropriate corrective actions, completely at the discretion of the Administrator. Section 8(b)(v)C1 should be revised to at least require nature and extent investigations to confirm the contamination [identified during the detection monitoring program which triggered further requirements under C(l)] is indeed the “worst” of the contamination. It is important to remember a detection monitoring network is designed only to detect a release; there is no certainty any contamination identified during detection monitoring represents the maximum concentrations or all constituents that may be being released from an unlined Construction and Demolition (CD) landfill. Without conducting further investigation, the Administrator may incorrectly conclude that no further action is necessary per current Sections 8(b)(v)(A), and C(l), based on incomplete or inaccurate information.

The need for investigation as noted above is compounded by three (3) other regulatory changes; admittedly, only one (1) of these three (3) regulatory changes is a part of the current rule change. The second and third

changes are, admittedly, not related to the current proposed rule changes to SW Chapter 4 or 6 but do have direct bearing on the proposed rule changes under consideration.

The first change is the proposed removal of the language in this rule change in SW Chapter 4 Section 7(s) that, in the event groundwater quality was altered, would have required leaking units or areas be closed on a schedule approved by the administrator, and any future units either be constructed under a performance-based design concept or with a composite liner and leachate collection. This means an unlined CD landfill that is impacting groundwater above Department standards (per the language proposed for removal) **may be allowed to continue operations with no change at all to prevent further groundwater degradation.**

The second change is the required inspection frequencies in SW Chapter 1 were revised in 2017 such that all requirements have been removed for the Department to conduct any inspections of CD landfills; all inspections are at the discretion of the Administrator. **This means there are no required Department inspections to confirm inappropriate materials are not being disposed.** If only Appendix C constituents are being analyzed for, hazardous constituents, such as VOAs, semi-VOAs, heavy metals, herbicides, pesticides, etc. may be present without detection. This is important because the monitoring requirements proposed in SW Chapter 4 Section 8 (Appendix C constituents of SW Chapter 2) are predicated on the presumption that only constituents from CD waste may reasonably be expected to be present in groundwater if a release occurs.

The third and last change approved in 2014 is **the Administrator may approve disposal of any type of waste into a CD landfill.** If the Administrator does exercise discretion to allow disposal of non-CD wastes, **the monitoring requirements are no longer necessarily adequate to detect a release from an unlined CD landfill.**

In light of the clear and abundant evidence specific to Wyoming that disposal of wastes in unlined areas can and does lead to groundwater impacts it is critical for the Department to pay strict attention to unlined CD landfills, or in a decade or two from now, **the state will be faced with groundwater problems from unlined CD landfills that need to be addressed,** similar to the problem the state is now working on related to municipal solid waste landfills.

The City of Casper believes it is critically important to revise the proposed rules to at least require nature and extent investigations to confirm the contamination is indeed the “worst” of the contamination or the state and unlined CD landfill owners most likely will be facing contamination releases, impacted groundwater, and a funding crisis to clean up the contamination. After reading these proposed rule changes to Chapter 4, I believe the Wyoming Solid Waste & Recycling Association (WSWRA) to consider proposing additional statutory language changes to further ensure we do not have a repeat of history with unlined landfills. Please note the following thoughts related to potential statutory language changes the City of Casper shall discuss with WSWRA board of directors.

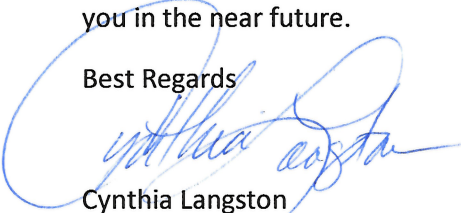
Suggestion to change statutory language, in light of the current proposed CD landfills rules that assigns significant discretionary authority to the Solid and Hazardous Waste Division Administrator to address groundwater impacts from unlined CD landfills, to require routine Department reporting to the Legislature on a biannual basis or similar frequency. The required reporting would include identification of new unlined CD landfills permitted and information on unlined CD landfill regarding whether or not groundwater impacts have been detected at statistically significant levels, whether or not a demonstration has been made to the Department that the impacts are not from the landfill, and what action(s) the Department has required at each leaking unlined CD landfill.

This reporting requirement will help introduce additional accountability to minimize the potential for the State to end up dealing with groundwater impacts from unlined CD landfills similar to the current situation related to municipal solid waste (MSW) landfills.

Also suggest a statutory change be considered CD waste to be included as part of the MSW waste stream, so the current statute for financial responsibility for MSW landfills would also apply to CD landfills. This would allow the Department to require, during permitting, and on an on-going basis, entities that wish to operate an unlined CD landfill demonstrate that the landfill owner is charging adequate fees to fully pay for all reasonably foreseeable costs. This would help ensure that the State is not faced in the future with additional requests from local governments for assistance paying for items such as closure of CD landfills, as is now being done under the MSW Cease and Transfer Program.

Thank you for the opportunity to comment on Chapter 4 and 6 rules changes. Please don't hesitate to contact me if you have any questions about the information contained in this letter and I look forward to visiting with you in the near future.

Best Regards



Cynthia Langston
Casper Solid Waste Manager

Cc: Luke Esch, WDEQ SHWD Administrator
Patrick Troxel, Lander WDEQ
Craig McOmie, Casper WDEQ
Andrew Beamer, Casper Public Services Director
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