



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG - 8 2003

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Re: *Gearhart v. Whitman*, No. 89-6266-HO (D.Ore.) (decree modified April 8, 2002); Quarterly Status Report

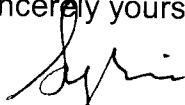
Dear Bill, Nancy and Alex:

As required by paragraph 6 of the modified consent decree in the above-captioned case, please find enclosed a copy of EPA's quarterly report for the quarter ending July 9, 2003. The quarterly report includes the latest information on the status of the ongoing Round Two Sewage Sludge Land Application rulemaking, pursuant to the decree. Also enclosed is a memorandum from Edward Ohanian, Director of the Health and Ecological Effects Division, transmitting his Division's report to me.

Again, while not required under the modified consent decree, the enclosed memorandum also provides an update on EPA's activities with respect to EPA's efforts in responding to the July 2, 2002 report by the National Research Council (NRC) of the National Academy of Sciences entitled "Biosolids Applied to Land: Advancing Standards and Practices," and EPA's review of regulations pursuant to section 405(d)(2)(C) of the Clean Water Act.

If you have any questions regarding any aspect of the report, please feel free to call me, at (202) 564-5511 or Ed Ohanian at (202) 566-1117.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Sylvia Horwitz', written over the typed name.

Sylvia Horwitz
Attorney

Enclosure

cc: Mark Nitzynski, DOJ
Ed Ohanian



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
WATER

MEMORANDUM

SUBJECT: Round Two Sewage Sludge Land Application Rulemaking
Status Report for the Quarter Ending July 9, 2003

FROM: Edward Ohanian, Director *E.O.*
Health and Ecological Criteria Division (4304T)

THRU: Geoffrey H. Grubbs, Director *G. Grubbs*
Office of Science and Technology (4301T)

TO: Sylvia Horwitz, Attorney
Water Law Office (2366A)

Attached is a copy of the quarterly status report for the Round Two sewage sludge land application rulemaking. This report has been reviewed and approved by Geoffrey H. Grubbs, Director of the Office of Science and Technology, and reflects the latest information concerning the status of this rulemaking. Please transmit the report to the Plaintiffs and Intervenors, as required by paragraph 6 of the April 8, 2002 Order, modifying the Round Two Land Application consent decree.

The quarterly report describes EPA's actions during the period from April 10, 2003, through July 9, 2003, towards taking final action on the Round Two proposed rule. The report also discusses whether we are on schedule to meet the consent decree date for the final action on dioxin and dioxin-like compounds in land-applied sewage sludge. This is the fifth quarterly report under the consent decree, as modified by the Order of April 8, 2002.

Although not required by the Consent Decree, as I have in past reports, I would also like to inform the parties of EPA's activities with respect to the study conducted by the National Research Council (NRC) of the National Academy of Sciences to review risks from toxicants and pathogens in biosolids applied to land. On July 2, 2002, the NRC issued a report entitled, *Biosolids Applied to Land: Advancing Standards and Practices*. EPA published a proposed strategy in the Federal Register (68 FR 17379) on April 9, 2003, explaining how it plans to respond to the recommendations in the NRC report. In addition, the Agency announced the preliminary results of its review of the existing rule at 40 CFR Part 503 for the purpose of identifying additional toxic pollutants that may warrant future regulation.

On July 8, 2003, the public comment period closed for the proposed strategy and preliminary regulatory review results. Staff and contract support will begin reviewing and sorting the comments submitted during the next quarter.

The next step in identifying chemicals that may warrant regulation is to conduct a screening analysis of those chemicals for which adequate data are available and for which there is evidence that they may occur in sewage sludge. This activity will satisfy the statutory requirement under Section 405(d)(2)(C) of the Clean Water Act, which requires the Agency to conduct this review biennially. On April 16, 2003, three Intra-Agency subworkgroups began work to identify chemicals to be screened, determine the scope of the analyses, and develop the analysis model. Staff and contract support will begin the screening analyses during the next quarter.

Please let me know if you have any questions about this status report.

Attachment

ROUND TWO LAND APPLICATION OF SEWAGE SLUDGE REGULATIONS
QUARTERLY STATUS REPORT

August 8, 2003

As required by paragraph 6 of the consent decree in Gearhart v. Whitman, No. 89-6266-HO (D.Ore.), as modified by order of April 8, 2002. EPA is reporting on the status of the ongoing Round Two sewage sludge land application regulation subject to the modified consent decree.

A. Actions taken during the quarterly period April 10, 2003 through July 9, 2003

Staff in Office of Science and Technology (OST) and contract support made progress addressing public comments submitted on the December 23, 1999, Proposed Rule (64 FR 72045) and the June 12, 2002, Notice of Data Availability (67 FR 40554) and developed draft responses to comments.

On April 10, 2003, the Options Selection briefing was held for the Agency's Assistant Administrators. Subsequently, an informational briefing was held for the Acting Administrator on July 3, 2003. The Intra-Agency Workgroup, with representatives from the Office of Water's OST and Office of Wastewater Management, Office of Solid Waste, Office of Research and Development, Office of Children's Health, Office of Policy, Economics and Innovation, and the Office of General Counsel met four times to discuss technical and policy issues to finalize the proposed rule regarding dioxins in land-applied sewage sludge. In addition, the Agency's Science Policy Council met twice to discuss the possible science implications of the Draft Dioxin Reassessment on the final action.

B. Future Steps Toward Taking Final Action on Round Two Regulations

An informational briefing for the Office of Management and Budget (OMB) was scheduled for July 15, 2003. It is expected that the Federal Register package will be submitted to OMB for an informal review during the next quarter.

The Intra-Agency workgroup plans to meet for the last time on August 6, 2003. This meeting will serve as workgroup closure. The Final Agency Review process is scheduled to begin on August 14, 2003, and culminate on September 4, 2003.

Based on management feedback, staff will finalize the response to comments for the December 23, 1999, Proposed Rule (64 FR 72045) and the June 12, 2002, Notice of Data Availability (67 FR 40554) and finish drafting the final action for publication in the Federal Register. Staff will also continue work on finalizing the technical support document.

Inter-agency review of EPA's Draft Dioxin Reassessment Document continued during this reporting period.

C. Description of Delays or Obstacles and Plans for Overcoming Them

The Agency is on schedule to meet the deadline of October 17, 2003, for final action in the Round Two rulemaking for dioxin and dioxin-like compounds in land-applied sewage sludge.