

Despite its name, *Waste 101* resists a narrow focus and tackles many of the non-air-related issues driving today's industry, including waste, water, and remediation. This month's column has broad application to all environmental fields.

by Cindy Smiley

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Forward-Thinking in

For many environmental professionals, monitoring, record-keeping, and advising on a wide variety of regulatory issues is more than enough to fill their busy days. The environmental laws governing air, waste, and water quality have been in place for several decades. In fact, the earliest versions of the federal Clean Air Act, Solid Waste Disposal Act, and Clean Water Act were passed in 1963, 1965, and 1948, respectively. After all these years, with a multitude of rules now in place, one might wonder whether the role of an environmental professional would have become a routine, hum-drum kind of existence.

The answer is a resounding "NO." The responsibilities of today's environmental professionals are certainly not boring or routine. In some ways, the long history of these laws and programs creates a challenge all of its own.

The need to rely upon guidance, rules, and agency decisions dating back to the 1970s, 1980s, and 1990s presents some interesting situations. For example, when looking for guidance on the federal air program, environmental professionals may refer to the U.S. Environmental Protection Agency (EPA) publication dated July 1991, entitled "Guideline for the Regulatory Application of the Urban

Airshed Model," for recommendations on air modeling for certain emissions (see www.epa.gov/ttn/scram/guidance/guide/uamreg.pdf). It seems highly likely, however, that the modeling and other aspects of this guidance have advanced since 1991.

Similarly, EPA's "Development Documents" for various effluent limitations guidelines have long been an important source for insight into the potential scope and applicability of wastewater discharge limits for various industry categories. Information on these national standards for wastewater discharges from certain types of sources, many of which were written in the 1970s, can be



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found by exploring EPA's Web site (see <http://water.epa.gov/scitech/wastetech/guide/industry.cfm>). Importantly, these standards are technology-based standards. As a result, although practitioners look to these rules and the related documents to determine which effluent limitations may be imposed in a wastewater discharge permit, the technologies that formed the basis for the limitations may now be more than 30 years old.

In years past, practitioners looked to the RCRA "Hotline" or the "RCRA Permit Policy Compendium" for guidance on the interpretation of solid waste issues under the Resource Conservation and Recovery Act (RCRA). To obtain agency guidance, we called an actual "RCRA Hotline" with a toll free phone number and spoke with a real person about our question. Later, the questions and answers from those calls to the Hotline were typed up and made available on paper. Sometimes we were able to obtain them from EPA (and its contractors) by fax transmittal. If we were able to obtain a copy of the RCRA Compendium, we treasured it and kept it safely in our offices. Thankfully, today's world of online communications has overcome these comparatively archaic ways of communicating and the documents of years past have been captured electronically (see www.epa.gov/epawaste/inforesources/online/index.htm).

Although the volume of guidance and rules has grown substantially through the years, the constantly changing science and technology in the environmental field may not track with the established body of rules and guidance. The following real-world examples illustrate some of these challenges.

Consider a recent discussion between the representatives of a company holding an air permit that authorizes emissions of industrial flue gas and the representatives of an innovative new technology that will remove certain constituents from the authorized flue gas emissions at the industrial facility. In this situation, where should the permittee place its emissions monitoring devices? Should the permittee locate its monitors upstream or downstream of the innovative technology? Which emissions should be monitored for permit compliance and

reporting purposes? And what are the regulatory implications for the industrial facility and its permitting limits in the future?

Or consider the continually evolving definitions of solid and hazardous wastes. As people continue to think of creative uses for secondary materials and to invent technologies that affect the generation and management of wastes, the laws may not adapt so quickly. The RCRA statute dates back to 1976, and the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) dates back to 1980, but waste generation, waste management, and the science of risk assessment have evolved and advanced since then. Recent research may provide more facts on the potential consequences of a constituent's presence in the environment, and it may suggest that risks are lower than anticipated. Conversely, newly emphasized risks may trigger a reopening of waste sites that were "closed" many years ago, and those closed sites may be reassessed.

The clash between the old and new may also be observed in the water quality program. When a company recently reviewed the potential applicability of the federal effluent limitations to its proposed industrial process, it looked back to the industry category's development document for a description of the technologies subject to the rules. The company observed that the technologies described in the rules are no longer prevalent in the industry, and the rules were found to be irrelevant. EPA appears to be in the process of reviewing and updating these historic documents, so that the technology-based standards can reflect today's technologies.

What can we learn from these examples? That many of the guidance documents and rules that are in effect today were written several decades ago and may contain outdated information. As a result, today's environmental professionals are not facing a dull or predictable existence. Instead, thoughtful, proactive, and "forward-looking" professionals in today's regulatory world are frequently asked to identify, reconcile, and resolve a steady stream of interesting and challenging issues. **em**

