

MINUTES
HAZARDOUS WASTE MANAGEMENT ADVISORY COUNCIL MEETING
GREAT PLAINS TECHNOLOGY CENTER
Room 301A – Building 300
4500 W. Lee Boulevard
Lawton, Oklahoma
January 30, 2001

This meeting was convened in accordance with the requirements for regularly scheduled meetings of the Open Meetings Act, Section 311 of Title 25 of the Oklahoma Statutes. The agenda for this meeting was posted on the main entrance door and the southwest entrance door of the Department of Environmental Quality Building, 707 North Robinson in Oklahoma City; and the main entrance door and the meeting room door of the Worley Seminar Center (Building 300) of the Great Plains Technology Center a minimum of 24 hours prior to the meeting in accordance with Section 311 of the Open Meetings Act.

Agenda Items 1 and 2:

Ms. Jody Reinhart, Chairperson, called the meeting to order at approximately 10:05 a.m. and asked Mary Johnson, secretary, for a roll call of members present. Members present included Mr. David Bradshaw, Mr. Bruce Elwell, Mr. Michael Graves, Mr. Douglas Hawkins, Mr. Gerald Ihler and Ms. Jody Reinhart. Absent were Mr. Steve Tomberlin, Mr. Bob Kennedy and Mr. Wesley Anderson. It was determined that a quorum was present.

Agenda Item 3 - DISCUSSION, AMENDMENT AND ROLL CALL VOTE TO APPROVE OFFICIAL MINUTES OF August 24, 2000:

Ms. Reinhart asked if anyone had comments or changes for the minutes of the August 24, 2000 meeting. There were none. Mr. Graves made a motion to approve the minutes and Mr. Bradshaw seconded the motion. A roll call vote was taken and the motion carried.

In addition to the council, the following individuals were present:

Catherine Sharp, DEQ
Martha Penisten, DEQ
Mary Johnson, DEQ

Jerry Sanger, DEQ
Pamela Green, DEQ

Agenda Item 4 - CHAIRPERSON'S REPORT:

Ms. Jody Reinhart noted that we are now in the twenty-first century and reflected upon how much waste management has changed and evolved. RCRA was instituted in 1976 and in twenty-five years we have made phenomenal changes and improvements on how to dispose, especially, in hazardous waste. We can look forward to the future and even more improvements that will be better for our environment and people, as well.

Ms. Reinhart reported that she attended the Environmental Quality Board meeting in November 2000, which met in Hooker, Oklahoma. The actions that this council took on August 24, 2000 about the non-delegable tasks and the CFR corrections, as well as the additional transporter requirements, were presented and passed with no problems. There were no questions or discussion from the council.

Catherine Sharp brought the council up to date on recent news from the Division. Most everyone already knows that Scott Thompson is the new Division Director. He was planning to come today but wasn't able to make it. Also, the Waste Management Division is now called the LAND PROTECTION DIVISION. This change was effective the first of this year. The new name reflects what our Executive Director and others believe is a change in the emphasis for the Division, as we are doing more land restoration, land clean-up, remediation projects and overseeing the Brownfield's program. Much of RCRA is now focused on corrective action.

The Environmental Quality Board meeting will be held February 23, 2001 in Norman. The rules that the council is considering today, if approved, will go to this meeting. Catherine also announced that Steve Mason, formerly of the Solid Waste Advisory Council, will replace Cheryl Cohenour on the Environmental Quality Board.

Agenda Item 5 - ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

Mr. Bradshaw made the nomination of Ms. Jody Reinhart for Chairperson and Mr. Michael Graves for the position of Vice-Chairperson. It was seconded by Mr. Elwell and carried unanimously.

Agenda Item 6 - FORMAL RULEMAKING HEARING AND VOTE ON PROPOSED PERMANENT CHANGES TO OAC 252:205-3, INCORPORATION BY REFERENCE

[Amended]. The purpose of the proposed amendments to 252:205-3-1 is to adopt by reference the federal hazardous waste regulations found in Title 40 of the Code of Federal Regulations (40 CFR) revised as of July 1, 2000. The purpose of the proposed amendments to 252:205-3-2 is to delineate what hazardous waste regulatory duties will remain with the U.S. Environmental Protection Agency and to clarify requirements found in 40 CFR revised as of July 1, 2000. The proposed amendment to 252:205-3-2(b) provides for the operation of the State-delisting program in lieu of the Federal Program. Proposed revisions to 252:205-3-3 involves revoking the incorporation of new or superseding amendments, which are now contained in the 40, CFR revised as of July 1, 2000.

Pamela Green, of the Land Protection Division of the DEQ, made the presentation. The proposed amendment in 205-3-1 is to adopt the 40 CFR revised as of July 1, 2000. There were seven different federal rulemaking actions that came out involving hazardous waste between July 1, 1999 and June 30, 2000. A page summarizing each of these seven rulemaking actions is provided, though only five will be voted on today.

- Checklist 181 – Spent hazardous waste lamps are added to the list of universal wastes.

- Checklist 182 – Finalizes air emission standards for hazardous waste combustors.
- Checklist 183 – Corrects errors in previous rules regarding Phase IV LDR.
- Checklist 184 – Extends the accumulation time on-site without a permit for wastewater treatment sludge from electroplating operations if it is being recycled for metals recovery.
- Checklist 185 – Withdraws the listing of certain organobromine wastes as hazardous waste. This is only relevant to states that adopted Checklist 165 and is not relevant to Oklahoma.
- Checklist 186 – Modifies EPA's procedures for terminating RCRA permits, streamlining permitting procedures to eliminate redundant language. EPA is not authorizing states on this rule.
- Checklist 187 – Corrects a typographical error.

Proposed language at 205-3-2(b) will remove the exception to incorporate by reference 260.20 and 260.22, allowing the DEQ to operate the delisting program in lieu of the EPA.

Remaining proposed language at 205-3-2 was voted upon at the August HWMAC as emergency only. The amended language delineates what hazardous waste duties will remain with the EPA not delegable to states.

- 205-3-2(d) – exception is regarding governmental functions not delegable to the states regarding exports.
- 205-3-2(f) and (g) – exception is for site-specific rulemaking that only applies to Virginia and West Virginia; remove the exception of Appendix VI of Part 264 because EPA references it in 264.181(a) and 270.14(b) 11 which has been adopted by reference.
- 205-3-2(i) – remove the exception because it is reserved by EPA.

Mr. Graves commented that it was very useful to have the summaries and packet of material. He appreciated the help in making decisions for the council.

There was no further discussion by the public or the council. Mr. Hawkins made a motion to approve these changes. Mr. Graves seconded the motion and it carried unanimously.

Agenda Item 7 - CONSIDERATION AND VOTE ON FINDING OF EMERGENCY WITH RESPECT TO ITEM 6.

It was noted that this would make these rule changes emergency and permanent and would get them in place quicker. Mr. Graves offered the motion to recommend 252:205-3-1; 3-2; 3-2(b); and 3-3 as an emergency rulemaking action. The second was by Mr. Bradshaw. The motion passed unanimously after a roll call vote.

Jerry Sanger, attorney for the Land Protection Division of the Department of Environmental Quality, asked the council if the purpose for the finding of an emergency action is "To avoid discrepancies between federal and state rules that could cause confusion and unnecessary expenses to the regulated community." The council agreed that this statement accurately reflected its finding of an emergency.

(Mr. Anderson arrived for the council meeting.)

Agenda Item 8 - DISCUSSION - PROMULGATING RULES PURSUANT TO SECTION 2-7-306 OF THE OKLAHOMA HAZARDOUS WASTE FUND ACT. Section 2-7-306 of the *Oklahoma Hazardous Waste Fund Act* states that the Environmental Quality Board shall promulgate rules to implement and administer the Act. The DEQ has made a commitment to the state legislature to work on these statutorily-required-but-heretofore-unpromulgated rules during the 2001 calendar year. The goal is to submit rules to the Environmental Quality Board for promulgation in November 2001 to implement and administer the Act.

Martha Penisten, attorney for the Land Protection Division, stated that it was necessary to make the council aware of rules to be submitted later this year. Earlier this year, the department submitted to the Legislature a commitment to promulgate rules in certain areas, based upon statutory language. The Hazardous Waste Fund Act has two primary purposes: to provide Superfund match money for National Priority Sites and to assist with emergency cleanups conducted in the state in situations where a responsible party cannot be identified.

Ms. Penisten stated that rules will be drafted and presented at the May council meeting for consideration. One issue, which might be anticipated, is that of municipalities or counties requesting departmental money from the fund to develop emergency plans and for personnel training, as that is also provided for in the statute.

Mr. Graves asked about the number of times it was necessary to obtain funds for emergency response. Ms. Sharp stated that it had been done several times, generally when there is an acute hazard, such as leaking or abandoned drums in an area where people could be exposed. In response to another comment, Ms. Penisten and Ms. Sharp clarified that the reason for promulgating these rules is not necessarily because the state legislature is going to fund this, but the requirement to promulgate rules is in the statute.

Ms. Sharp invited comments and suggestions in the coming weeks and agreed to provide electronic copies to council members well before the next meeting. With the time element, it would be important to get past the first draft before the May meeting.

Agenda Item 9. NEW BUSINESS¹

None

Agenda Item 10. ADJOURNMENT

Mr. Hawkins offered a motion to adjourn. Mr. Graves made the second. An “Aye” vote was taken and the meeting was adjourned at 10:41.

Agenda Item 11 - OPEN FORUM SESSION

There was no one in the audience and no Open Forum participation.

Oklahoma Administrative Code, Hazardous Waste Management Rules are available at the Land Protection Division office, located at 707 North Robinson, Oklahoma City, or by calling that office at (405) 702-5100. Current rules are also available through the DEQ web site at <http://www.deq.state.ok.us>

¹ New business means any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda (at least 24 hours prior to the meeting).