

MINUTES
HAZARDOUS WASTE MANAGEMENT ADVISORY COUNCIL MEETING
SOUTHERN OKLAHOMA TECHNOLOGY CENTER
Room B1-B2
2610 Sam Noble Parkway
Ardmore, Oklahoma 73401
May 3, 2001

This meeting was convened in accordance with the requirements for regularly scheduled meetings of the Open Meeting 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 Seminar Center, Rooms B-1 and B-2 of the Southern Oklahoma 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 10:00 a.m. and asked Mary Johnson, secretary, for a roll call of members present. Members present included Mr. Bruce Elwell, Mr. Michael Graves, Mr. Douglas Hawkins, Mr. Gerald Ihler, Ms. Jody Reinhart and Mr. Steve Tomberlin. Absent were Mr. Bob Kennedy, Mr. David Bradshaw, 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 January 30, 2001:

Ms. Reinhart asked if anyone had comments or changes for the minutes of the January 30, 2001 meeting. There were none. Mr. Graves made a motion to approve the minutes and Mr. Ihler 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
Debbie Taylor, DEQ/ECLS

Agenda Item 4 - CHAIRPERSON'S REPORT:

Ms. Jody Reinhart reported that the incorporation by reference action the Council took at the January 30, 2001 meeting was presented at the Environmental Quality

Board meeting in Norman on February 23, 2001. The proposed permanent changes to OAC 252:205-3 passed with no problems.

The next Council meeting is scheduled for July 10, 2001 in Fairview, Oklahoma. The need for a meeting then will be determined by how quickly the discussions go on the Hazardous Waste Fund Act today. With the assistance of Mr. Elwell, a room has been reserved at the Northwest Technology Center, 801 S. VoTech Drive, Fairview, Oklahoma.

Ms. Reinhart asked if the Council would like to change the October meeting from Thursday, October 4th at the Tulsa DEQ to Wednesday, October 3, 2001 and meet at the DEQ offices in Oklahoma City. This would be just prior to the EFO meeting. Council members agreed unanimously to this change.

Ms. Reinhart also asked how everyone felt about scheduling the council meetings throughout the State. Mr. Graves agreed that the concept of traveling around was good but it did not seem to generate the interest from the public that was originally thought. If people do not turn out for the Forums one has to question the value of an early morning drive to distant locations. Ms. Sharp agreed that most of the generators who might be interested in attending this council's meetings tend to be located in the metropolitan areas. Ms. Reinhart asked that the council members keep this in mind when it comes time to make decisions for next year.

Catherine Sharp mentioned that the date for the August Board meeting has been changed from August 28 to August 21 and will be held in Ardmore. The rules that the council is considering today, if approved, will go to the Environmental Quality Board meeting to be held June 26 in Weatherford.

Ms. Sharp stated that there wasn't much to report in the Hazardous Waste area but there's a good bit of action in Superfund and a lot of energy is going into Tar Creek. There are two new listings of Superfund sites in Oklahoma.

Agenda Item 5 - FORMAL RULEMAKING HEARING AND VOTE ON PROPOSED PERMANENT CHANGES TO OAC 252:205-3-3, INCORPORATION BY REFERENCE [Amended]. The purpose of the proposed amendment to OAC 252:205-3-3 is to incorporate by reference new or superseding amendments to 40 CFR contained in 65 FR 81373-81381, published December 26, 2000, which temporarily defers the requirement that polychlorinated biphenyls (PCBs) be considered a constituent subject to treatment when they are present in soils that exhibit the toxicity characteristic for metals.

Pamela Green, of the Land Protection Division of the DEQ, made the presentation. The purpose of the proposed amendment to OAC 252:205-3-3 is to incorporate by reference the Federal Register published December 26, 2000, that temporarily defers the requirement that PCBs be considered a constituent subject to treatment when

they are present in soils that exhibit the toxicity characteristic for metals. EPA requires that soil contaminated with hazardous waste meet land disposal restriction (LDR) requirements if the soil is going to be land disposed. The May 26, 1998 Phase IV LDR rules established alternative treatment standards to remedy the disincentive for treating contaminated soil. When PCBs were present in soils that exhibit the toxicity characteristic for metals, the PCBs were to be treated to a standard of 100 ppm or 90% reduction of total PCB concentration. The LDR requirements can be avoided by treating the soil in place or other remedies in which the soil is not removed for land disposal. EPA has found that the rule regarding PCBs is discouraging cleanup of contaminated soil. Even with the deferral of this rule, soils still must be treated to meet LDR standards for all hazardous constituents. RCRA prohibits disposal of halogenated organic compounds >1000 ppm. TSCA requires soils containing >50 ppm PCBs to be disposed in a TSCA or hazardous waste landfill. EPA is further studying metal-contaminated soils containing PCBs and investigating how best to integrate the LDR requirements for PCBs with cleanup programs.

The Council questioned whether there was a time deadline for EPA's final resolution of this matter. It was determined that there was not. There was no further discussion by the public or the council. Mr. Graves made a motion to approve these changes. Mr. Hawkins seconded the motion and it carried unanimously.

Agenda Item 6 – CONSIDERATION AND VOTE ON FINDING OF EMERGENCY WITH RESPECT TO ITEM 5.

It was noted that this would make these rule changes emergency and permanent and would get them in place quicker. 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 asked if there were any places in the State that have been affected by this. It was reported that most PCB contamination projects are not in this area at this time but it would be good to have this in place in case the situation arises.

Mr. Hawkins offered the motion to recommend 252:205-3-3 as an emergency rulemaking action. The second was by Mr. Graves. The motion passed unanimously after a roll call vote.

Agenda Item 7 - FORMAL RULEMAKING HEARING AND VOTE ON PROPOSED PERMANENT CHANGES TO OAC 252:205-23 [NEW], Hazardous Waste Fund Act Projects. The purpose of the new proposed language at 252:205-23 is to outline the criteria by which monies from the Hazardous Waste Fund will be allocated.

Martha Penisten, attorney for the Land Protection Division, made the presentation. Ms. Penisten stated that the purpose of these rules is to implement the Oklahoma Hazardous Waste Fund Act. The Act, itself, provides that the money in the fund is to

be spent for specific purposes, such as State contribution to CERCLA site cleanup, emergency response, enforcement action costs and matching grants to local governments. Because there is rarely, if ever, more money available than is needed for the CERCLA contributions, we've tried to establish spending priorities in the rule. Should funds be available for local projects, the proposed rule prioritizes eligibility.

Ms. Reinhart asked how many counties in the State have off-site hazardous waste facilities. Less than six were named. Some areas were specifically named, but the point was made that this is not opening up a new source of money. Depending on the time of year and the projects pending, communities could make application.

Mr. Graves suggested that we would encourage people to contact the DEQ before actually making application, in order to better understand the process. Therefore, paragraph (b) of 252:205-23-2 should be changed to read:

(b) Local projects are eligible for funding on a first-come, first-served basis if monies are available. **Applicants are encouraged to contact the DEQ to arrange a pre-application conference prior to submitting an application.** If funds are not available, applicants will be notified in writing.

Ms. Reinhart asked that the wording be changed to include the purchase of equipment for emergency response, not limited just to training and protective equipment. Therefore, a Section (e) should be added to 252:205-23-3 to read:

(e) The term, "protective equipment", as used in this section, is not limited to personal protective equipment.

After additional discussion, it was decided to change the wording in **252:205-23-4 Annual Report** to read, as follows:

Applicants who are awarded funds under this subchapter shall submit a written report, outlining accomplishments and expenditures, on or before December 15 of each year ~~for three consecutive years following the award or until~~ **the** funds awarded are fully expended.

Mr. Elwell made the motion to approve the specified changes. Mr. Graves seconded the motion and it carried unanimously after a roll call vote.

Mr. Graves moved to accept the proposal as amended. Mr. Hawkins made the second and there was a roll call vote. Motion carried without opposition.

Agenda Item 9. NEW BUSINESS¹

None

Agenda Item 10. ADJOURNMENT

Mr. Graves offered a motion to adjourn. Mr. Tomberlin made the second. An “Aye” vote was taken and the meeting was adjourned.

Agenda Item 11 - OPEN FORUM SESSION

There was 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).