

MINUTES
HAZARDOUS WASTE MANAGEMENT ADVISORY COUNCIL MEETING
Department of Environmental Quality
Multi-Purpose Room
707 North Robinson
Oklahoma City, OK 73102
January 24, 2002

This meeting of the Hazardous Waste Management Advisory Council was convened in accordance with the requirements for regularly scheduled meetings of the Open Meetings Act, Section 303 of Title 25 of the Oklahoma Statutes. The agenda for this meeting was posted on the main entrance door, the southwest entrance door and the meeting room door of the Department of Environmental Quality (DEQ) Building, 707 North Robinson in Oklahoma City a minimum of 24 hours prior to the meeting in accordance with Section 311 of the Open Meetings Act.

Agenda Items 1 and 2 – CALL TO ORDER and ROLL CALL:

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. Wesley Anderson, Mr. David Bradshaw, Mr. Bruce Elwell, Mr. Michael Graves, Mr. Douglas Hawkins, Mr. Gerald Ihler, Mr. Bob Kennedy and Ms. Jody Reinhart. Absent was Mr. Steve Tomberlin. It was determined that a quorum was present.

Agenda Item 3 - DISCUSSION, AMENDMENT AND ROLL CALL VOTE TO APPROVE OFFICIAL MINUTES OF May 3, 2001 HWMAC MEETING:

Ms. Reinhart asked if anyone had comments or changes for the minutes of the May 3, 2001 HWMAC meeting. Mr. Bradshaw requested a change to indicate he was present at the May 3, 2001 meeting. Mr. Bradshaw made a motion to approve the minutes with this change and Mr. Hawkins seconded the motion. A roll call vote was taken with Mr. Anderson and Mr. Kennedy abstaining. The motion carried. (After the January 24, 2002 meeting the DEQ reviewed the voting records of the May 3, 2001 meeting, which revealed that Mr. Bradshaw was absent from the May 3, 2001 meeting. During a subsequent phone conversation with the DEQ, Mr. Bradshaw stated he was not present during the May 3, 2001 meeting.)

In addition to the council, the following individuals were present at the January 24, 2002 meeting:

Bob Rabatine, Environmental Management, Inc.	Pat Davenport, Enercon
Catherine Sharp, DEQ	Jerry Sanger, DEQ
Barbara Rauch, DEQ	Pamela Green, DEQ
Mary Johnson, DEQ	Martha Penisten, DEQ
Rita Kottke, DEQ	Scott Thompson, DEQ

Agenda Item 4 – CHAIR PERSON'S REPORT:

Ms. Jody Reinhart stated that she did not have a report. Ms. Reinhart asked Catherine Sharp if she had any remarks to make on behalf of the DEQ. Catherine Sharp noted that the rules the Council would be discussing were pretty routine in nature and were not likely to impact any generators or TSDs in the State at this time. Ms. Sharp stated the following: Oklahoma is a part of the Central Interstate Low-Level Radioactive Waste Compact Commission (Commission). With the retirement of H.A. Caves, she (Ms. Sharp) is now the Commissioner representing Oklahoma. For years, the Commission has been trying to site a disposal facility as part of the compact agreement. Nebraska had been selected as host state, but then declined to approve the permit application. After many years, it looks as though this issue is set to go to trial in Lincoln, Nebraska the first week in June.

Regarding hazardous waste, the DEQ continues to work with the (U.S.) EPA in the RCRA program. They still periodically review our program to see how we're doing. The Land Protection Division continues to get really high marks and the program continues to function well. The big areas in the RCRA program continue to be corrective action and compliance monitoring and enforcement. While many other states are beginning to struggle with resource problems and difficulty in matching their federal grants, we (the DEQ) still seem to be relatively stable and healthy.

Mr. Bob Rabatine, EMI, asked if the public could anticipate changes from EPA in electronic manifesting to cut down on paperwork and passing rules to simplify the TSD permitting process. Ms. Sharp stated that these elements probably will be a part of the Oklahoma program. Any rule that EPA passes on the permit simplification, DEQ will embrace.

Agenda Item 5 - ELECTION OF CHAIR PERSON AND VICE-CHAIR PERSON

Mr. Bradshaw made a motion to elect Ms. Jody Reinhart as Chair Person for the coming year. Mr. Graves seconded the motion and it carried unanimously. Mr. Bradshaw made a motion to elect Mr. Michael Graves as Vice-Chair Person for the coming year. Ms. Reinhart seconded the motion and it carried unanimously.

Agenda Item 6 - FORMAL RULEMAKING HEARING AND VOTE ON PROPOSED NEW RULES AT OAC 252:220-11-1 THROUGH 11-11 [NEW].

Rita Kottke, of the Land Protection Division of the DEQ, made the presentation. The proposed new rules would allow Brownfields applicants to obtain low interest loans from the Brownfields Cleanup Revolving Loan Funds (BCRLF). The DEQ would receive funds from USEPA under a BCRLF Cooperative Agreement to Administer the BCRLF Program. These rules are necessary for the DEQ to implement the BCRLF Cooperative Agreement in Oklahoma.

Dr. Kottke made the following statement: Brownfields is a concept that started about 1994. The EPA offered pilots and cooperative agreements to implement the program. The EPA encourages states to have their own voluntary Clean-up/Brownfields programs. Since 1995 Oklahoma has had a legislative program in place and a grant from EPA that helped the state pay its cost of developing the program. Last year the DEQ applied for and received a Brownfields Clean-up Revolving Loan Fund grant which is funded by EPA with CERCLA

money. The rules we're discussing today will codify requirements for the expenditure of the grant money. The money will be available to private parties, as well as governmental entities. The Pilot grant is for three years and the Department of Commerce will be the Fund Manager.

Ms. Barbara Rauch, attorney for the Land Protection Division, stated the following: The Environmental Quality Board meets March 1, 2002. If these rules are not presented to the Board at that time, it will be sometime next year before we could get these rules in place. She also explained that everything stated in this rule came from the contract with EPA.

After discussion and further questioning and amendments by the council, Mr. Hawkins made the motion to recommend the amended Brownfields rules to the Board for approval. Mr. Graves seconded the motion. After a roll call vote, it carried unanimously.

Agenda Item 7 – FORMAL RULEMAKING HEARING AND VOTE ON PROPOSED PERMANENT CHANGES TO OAC 252:205-3-1, INCORPORATION BY REFERENCE [Amended]. Pamela Green, of the Land Protection Division of DEQ, made the presentation, explained the details of the proposed rules and made the following statements: The purpose of the proposed amendment 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, 2001. The new regulations being incorporated include: 1) correction of technical errors regarding the Hazardous Air Pollutant Standards for hazardous waste combustors, 2) addition of two new listed hazardous wastes generated by the chlorinated aliphatics industry, 3) deferral of Land Disposal Restriction Phase IV Standards for PCBs as a constituent subject to treatment in soil, 4) conditional exemptions for low-level mixed wastes from hazardous waste transportation, treatment, storage, and disposal regulations, 5) retention of and revisions to the mixture rule and derived-from rule, 6) correction of an error published in the June 8, 2000 federal register (65 FR 36365), and 7) change in official mailing address of the United States Environmental Protection Agency.

Mr. Bradshaw made a motion to approve the rule changes with a minor amendment suggested by Mr. Sanger to correct a typographical error found in 40 CFR. Mr. Hawkins seconded the motion and it carried (after a roll call vote) unanimously.

Agenda Item 8 - FORMAL RULEMAKING HEARING AND VOTE ON PROPOSED PERMANENT CHANGES TO OAC 252:205-3-2 INCORPORATION BY REFERENCE [Amended]. Ms. Green briefed the council on these proposed rule changes and made the following statement: The purpose of the proposed amendment at 252:205-3-2(b) is to remove the following obsolete language: "In 260.33(a) delete 'in the region where the recycler is located'." The purpose of the proposed amendment at 252:205-3-2(i) is to delete the phrase "and 268.44(m) through (p)" due to changes in Title 40 of the Code of Federal Regulations (40 CFR). The new language to be added at 252:205-3-2(d), "and 262.42(b)", is recommended by the EPA's Incorporation by Reference Guidance Document for the current version of the 40 CFR. The purpose of the proposed amendment at 252:205-3-2(f) is to adopt by reference the Federal Register published July 3, 2001, [66 FR 35087 - 35107] as recommended

by the United States Environmental Protection Agency. This Federal Register corrects mistakes that were made at the federal level.

Mr. Bradshaw made a motion to accept the permanent changes to OAC 252:205-3-2. Mr. Graves seconded the motion. After the roll call vote, the motion carried unanimously.

Agenda Item 9. NEW BUSINESS¹

Mr. Sanger stated that there were rules in 252:205 subchapter 17 dealing with tax credits and that the statutory authority for some or all of these rules had been repealed. Mr. Sanger suggested that the council may wish to review those rules and vote to repeal them as appropriate at the next HWMAC meeting. Members of the Council agreed and asked that this issue be added to the next HWMAC meeting agenda for a vote.

Agenda Item 10. ADJOURNMENT

Motion by Mr. Hawkins to adjourn with a second by Mr. Elwell. After an aye vote the meeting adjourned at 12:03 p.m.

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).