

MINUTES
HAZARDOUS WASTE MANAGEMENT ADVISORY COUNCIL
October 10, 2013
Tulsa Technology Center
Riverside Campus, Room A-229
Tulsa, Oklahoma

Official after Approved by HWMAC
On October 9, 2014

Notice of Public Meeting - The Hazardous Waste Advisory Council convened for a Regular Meeting at 10:00 a.m. on October 10, 2013 at the Tulsa Technology Center, Riverside Campus, 801 East 91st Street, Tulsa, Oklahoma. The meeting was held in accordance with the Open Meetings Act, with notice of the meeting given to the Secretary of State on November 16, 2012. The agenda was posted at the Department of Environmental Quality and at the facility at least twenty-four hours prior to the meeting. Mr. Lee Grater, Chair, called the meeting to order. Ms. Quiana Fields called roll and a quorum was confirmed.

MEMBERS PRESENT

Wesley Anderson
Lee Grater
Michael Graves
Earl Hatley
Bob Kennedy
Ray Reaves
Marsha Slaughter
Terry Vandell

DEQ STAFF PRESENT

Stephen Baldrige
Quiana Fields
Traci Kelly
Ryan Kirk
Jon Roberts

MEMBERS ABSENT

Eric Benson

OTHERS PRESENT

Christy Myers, Court Reporter

Chairperson's Report - Mr. Grater stated this is the only meeting for this year and not a lot going on. There are a couple of items on the agenda and no comments by the Council. Mr. Jon Roberts, Environmental Programs Manager, Land Protection Division had no comments.

See transcript pages 4 - 5

Discussion, Amendment, and Roll Call Vote to Approve the Minutes of the October 18, 2012 meeting - Mr. Graves moved to approve and Ms. Slaughter made the second.

See transcript pages 5 - 6

Wesley Anderson	Yes	Ray Reaves	Yes
Michael Graves	Yes	Marsha Slaughter	Yes
Earl Hatley	Yes	Terry Vandell	Yes
Bob Kennedy	Abstain	Lee Grater	Yes

Rulemaking Hearing - Revocation of Subchapter 19, Additional Rules for Recycling Part 1. Requirements for Off-Site Recyclers 252:205-19-5 - Mr. Roberts stated that this rulemaking is a revocation of 205-19-5, which is our state rules dealing with BTU limits on recycling of hazardous waste. The reason for the revocation is the statute that the rule is based on was revoked by the Legislature at the past session. The change in the statute actually takes effect on November 1. The Department is asking the Council to approve revoking the rule to conform the state rules to the Oklahoma Statutes. After a lengthy discussion, Mr. Graves recommended that

the Department in the future look at both the BTU values, permits and combustible ash in a fuel. Following discussion, Mr. Grater called for a motion. Mr. Reaves made a motion to accept approval as recommended. Mr. Graves made the second.

See transcript pages 6 - 32

Wesley Anderson	Yes	Ray Reaves	Yes
Michael Graves	Yes	Marsha Slaughter	Yes
Earl Hatley	Yes	Terry Vandell	Yes
Bob Kennedy	Yes	Lee Grater	Yes

Election of Officers for 2014 - Mr. Reaves made a motion that Mr. Grater remain as Chair. Ms. Slaughter made the second.

See transcript pages 32 - 34

Wesley Anderson	Yes	Ray Reaves	Yes
Michael Graves	Yes	Marsha Slaughter	Yes
Earl Hatley	Yes	Terry Vandell	Yes
Bob Kennedy	Yes	Lee Grater	Yes

Mr. Graves made a motion that Mr. Reaves remain as Vice-Chair. Mr. Grater made the second.

See transcript pages 34 - 35

Wesley Anderson	Yes	Ray Reaves	Yes
Michael Graves	Yes	Marsha Slaughter	Yes
Earl Hatley	Yes	Terry Vandell	Yes
Bob Kennedy	Yes	Lee Grater	Yes

Set Meeting Dates for 2014 - Mr. Grater stated the Council needs to set dates for next year. Following discussion, Mr. Grater proposed to schedule two meetings for 2014 on June 19 and October 9. Mr. Kennedy made a motion to accept the dates proposed. Mr. Graves made the second.

See transcript pages 35 - 37

Wesley Anderson	Yes	Ray Reaves	Yes
Michael Graves	Yes	Marsha Slaughter	Yes
Earl Hatley	Yes	Terry Vandell	Yes
Bob Kennedy	Yes	Lee Grater	Yes

New Business - None

Adjournment - Motion to adjourn was made by Mr. Kennedy and the second by Mr. Reaves. Approval by the Council was with "aye". No one opposed.

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TRANSCRIPT OF PROCEEDINGS
OF THE HAZARDOUS WASTE MANAGEMENT
ADVISORY COUNCIL MEETING
OCTOBER 10, 2013, AT 10:00 A.M.
IN TULSA, OKLAHOMA

* * * * *

Myers Reporting

Sheet 2 Page 2

MEMBERS OF THE COUNCIL

LEE GRATER
RAY REAVES
WESLEY ANDERSON
ERIC BENSON
MICHAEL GRAVES
EARL HATLEY
MARSHA SLAUGHTER
TERRY VANDELL
BOB KENNEDY

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1 continued or reconvened meeting.
2 Would you please call the roll.
3 MS. FIELDS: Mr. Anderson.
4 MR. ANDERSON: Here.
5 MS. FIELDS: Mr. Benson is
6 absent.
7 Mr. Graves.
8 MR. GRAVES: Here.
9 MS. FIELDS: Mr. Hatley.
10 MR. HATLEY: Here.
11 MS. FIELDS: Mr. Kennedy.
12 MR. KENNEDY: Here.
13 MS. FIELDS: Mr. Reaves.
14 MR. REAVES: Here.
15 MS. FIELDS: Ms. Slaughter.
16 MS. SLAUGHTER: Here.
17 MS. FIELDS: Ms. Vandell.
18 Ms. VANDELL: Here.
19 MS. FIELDS: Mr. Grater.
20 MR. GRATER: Here.
21 MS. FIELDS: We have a
22 quorum.
23 MR. GRATER: Okay.
24 Chairperson's Report. There hasn't
25 been a whole lot going on. This is

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PROCEEDINGS

1 MR. GRATER: Call the
2 meeting to order.
3 This October 10, 2013 regularly
4 scheduled meeting of the Hazardous
5 Waste Management Advisory Council was
6 called in accordance with the
7 Oklahoma Open Meeting Act. Notice
8 was filed with the Secretary of State
9 on November 16, 2012. The Agenda
10 was duly posted 24 hours prior to
11 the meeting at the Department of
12 Environmental Quality, 707 North
13 Robinson, Oklahoma City, Oklahoma,
14 and at this facility. Only matters
15 appearing on the posted Agenda may be
16 considered at this regular meeting.
17 In the event that this meeting
18 is continued or reconvened, public
19 notice of the date, time and place
20 of the continued meeting will be
21 given by announcement at this
22 meeting. Only matters appearing on
23 the Agenda of a meeting, which is
24 continued, may be discussed at the
25

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1 the only meeting we're having this
2 year. We've got a couple of items
3 on the agenda. I don't think
4 there's any other comments or --
5 anybody on the Council have anything
6 they want to add at this point in
7 time? Okay.
8 We'll go ahead and open it up
9 to ODEQ. Jon.
10 MR. ROBERTS: No, I don't
11 have anything.
12 MR. GRATER: Okay. We need
13 to have a motion to approve the
14 Minutes from the last meeting.
15 MR. GRAVES: So moved.
16 MS. SLAUGHTER: Second.
17 MR. GRATER: Okay. Motion
18 has been moved and seconded. Go
19 ahead and call the roll.
20 MS. FIELDS: Mr. Anderson.
21 MR. ANDERSON: Yes.
22 MS. FIELDS: Mr. Graves.
23 MR. GRAVES: Yes.
24 MS. FIELDS: Mr. Hatley.
25 MR. HATLEY: Yes.

Myers Reporting

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1 MS. FIELDS: Mr. Kennedy.
2 MR. KENNEDY: Abstain. I
3 was not present.
4 MS. FIELDS: Mr. Reaves.
5 MR. REAVES: Yes.
6 MS. FIELDS: Ms. Slaughter.
7 MS. SLAUGHTER: Yes.
8 MS. FIELDS: Ms. Vandell.
9 Ms. VANDELL: Yes.
10 MS. FIELDS: Mr. Grater.
11 MR. GRATER: Yes.
12 MS. FIELDS: Motion passed.
13 MR. GRATER: Okay. The
14 item on the agenda today is
15 rulemaking hearing, revocation of
16 Subchapter 19. Additional Rules for
17 Recycling Part 1. Requirements for
18 off-site recyclers. 252:205-19-5.
19 Jon, I believe you have a
20 presentation.
21 MR. ROBERTS: Yeah, it will
22 -- it's going to be short. I
23 appreciate it. Just since it's been
24 quite a while since I've been at a
25 council meeting I'm sitting in for

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1 Mike Edwards today since he's off
2 honeymooning and for some reason
3 didn't want to phone it in. We
4 tried to get him to, he just flat
5 refused. Some excuse, his cell phone
6 wouldn't work or some kind of excuse
7 he was coming up with.
8 Anyway, I know most of you all
9 but I don't think I've met Marsha or
10 Terri yet, so it's nice to meet you
11 two.
12 You know, normally this time of
13 year we do our annual incorporation
14 by reference is the main rulemaking
15 (inaudible) that we do, but as you
16 noticed we don't have one this year.
17 Rather an unusual year as far as EPA
18 goes because they didn't pass any
19 RCRA rules that would effect our
20 program, therefore, we didn't have
21 any new EPA rules that we needed to
22 incorporate. That's the reason for
23 no incorporation by reference this
24 year.
25 The only rule that we do have

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1 is revocation of 205-19-5 which is
2 our state rules dealing with BTU
3 limits on recycling of hazardous
4 waste. The reason for that
5 revocation is that the statute that
6 that rule is based on was revoked by
7 the Legislature at the past session.
8 The change in the statute actually
9 takes effect on November 1st, so
10 technically it's not in effect quite
11 yet but will be in a few weeks.
12 And so all we're doing today is
13 asking you to approve revoking the
14 rule -- state rule that was put into
15 effect and is basically is a result
16 of that statute since we no longer
17 have the statute as a basis for the
18 (inaudible).
19 MR. REAVES: Can I ask a
20 question?
21 MR. ROBERTS: Sure.
22 MR. REAVES: Maybe there's
23 something I'm missing but we're being
24 asked to approve something the
25 Legislature has passed?

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1 (Reporter asks for Member to speak
2 louder)
3 MR. REAVES: We're being
4 asked to approve an item that the
5 Legislature has passed?
6 MR. ROBERTS: No. The
7 Legislature revoked 211-18,
8 Paragraphs (B) and (C) which deal
9 with a 5,000 BTU limit on recycling
10 hazardous waste. That was the
11 statutory requirement that you
12 couldn't recycle hazardous waste or
13 burn it for fuel, I should say,
14 unless it had at least a 5,000 BTU
15 limit. But the Legislature has
16 revoked that statute so that limit is
17 no longer in effect. So what we're
18 wanting to do is just repeal our
19 rule that implemented that statute.
20 Since the statute is no longer there,
21 there's no longer a need.
22 MR. REAVES: So we're
23 working with our rule and not theirs?
24 MR. ROBERTS: Yes, that's
25 correct.

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<p>Sheet 4 Page 10</p> <p>1 MR. GRAVES: We're trying to 2 make our rules conform to the 3 statutory (inaudible). 4 MR. REAVES: Going to the 5 statutory, okay. 6 MR. GRAVES: Right. 7 MR. ROBERTS: It would be 8 very nice if maybe we could change a 9 few statutes. 10 MR. REAVES: Yeah, I was 11 going to say, if we don't do that, 12 let's look at some others. 13 MR. ROBERTS: Right. 14 MR. HATLEY: Well everybody 15 knows my confusion by now that I've 16 passed through the DEQ about all of 17 this. I kind of fell back to the 18 '80s in this one when I read it 19 because I helped push the statute -- 20 MR. REAVES: I remember 21 working with you and -- just go 22 ahead. 23 MR. HATLEY: -- you know, 24 and back then when we didn't have 25 regulations on this burning these low</p>	<p>Page 12</p> <p>1 burn any kind of hazardous waste. 2 MR. HATLEY: So we're still 3 conforming with the BIF rules? 4 MR. ROBERTS: Yes. We've 5 adopted those by reference and those 6 will still be in effect (inaudible). 7 MR. HATLEY: Yeah. I 8 remember that we did, I'm just having 9 a hard time finding it. I don't 10 remember who I was online with but 11 we were both having trouble finding 12 it. 13 MR. ROBERTS: The actual BIF 14 rules are in -- and Lee, correct me 15 if I'm not right -- it's like 266 -- 16 MR. HATLEY: Yeah. 17 MR. ROBERTS: -- Subpart H, I 18 think, or something like that. 19 MR. HATLEY: Yeah. 20 MR. ROBERTS: And I -- 21 (inaudible) incorporated those by 22 reference. 23 MR. HATLEY: Yeah, I was 24 with -- online and we were both 25 trying to find it and having trouble.</p>
<p>Page 11</p> <p>1 level fuels was being counted as 2 recycling and -- so we wanted to put 3 a stop to that because of the 4 emissions that were happening. 5 Now there is still a bit of 6 confusion and I'm willing to vote to 7 drop these -- this statute and I 8 understand that burning fuel has to 9 have a value of 5,000 BTU, and the 10 EPA allows for blending low level 11 waste with the 5,000 or higher BTU 12 waste and call it recycling or 13 burning it or calling it a fuel. 14 I'm kind of confused about industrial 15 boilers and furnaces as to what they 16 can burn -- if they can burn a lower 17 BTU or not. But what we're doing is 18 just kind of opening it up and 19 allowing EPA's regs to stand in here, 20 I think. And I don't know if we're 21 lowering our regulations below EPA or 22 if we're conforming with this. 23 MR. ROBERTS: Of course, the 24 BIF rules will continue in effect 25 which basically require a permit to</p>	<p>Page 13</p> <p>1 So I just want to make one 2 point while we're on this subject and 3 I'll make it quick, hopefully. And 4 that is I want to make a statement 5 about pollution prevention and that 6 is we seem to be comfortable with 7 all of this and this goes on and it 8 -- you know, people produce their 9 waste and we have this way of 10 dealing with it and, you know, we 11 make regulations that make it easier 12 and more streamlined as we go along, 13 but what we're not doing is we're 14 not reducing our output of the waste 15 that we're putting out. Back in 16 1990 I was pushing really hard for a 17 pollution prevention program by 18 statute in Oklahoma that would 19 incrementally get us down, and it 20 failed but it ended up with a 21 volunteer of pollution prevention 22 program starting in 1990. And I was 23 working with Tinker at the time on 24 this and they -- they became the 25 model and started dedicating a</p>

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1 pollution prevention program with a
2 goal of getting off the number one
3 spot in the top ten of the TRI list
4 by 2000. And they did it. And
5 everyone was looking at that, and so
6 we have people taking on the same
7 goals -- their company's taking on
8 the same goals, and really got with
9 it. And I don't know what happened
10 but what I would like to instill is
11 that given -- and probably nobody
12 here agrees with me, but given that
13 we're past or under the parts per
14 million of carbon in our atmosphere
15 and what that is meaning does not
16 give us the right to just go on and
17 continue to burn and produce more
18 carbon into the atmosphere. And so
19 with everything else that we're
20 doing, I think this is something that
21 we can begin to stop, or at least,
22 slow down with utilizing different
23 techniques substituting different
24 ideas for what we're generating, and
25 what we're burning. And so, I just

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1 want to get that out there while I
2 had the opportunity. Thank you.
3 MR. REAVES: If I could
4 just --
5 MR. GRATER: Sure.
6 MR. REAVES: -- someone
7 could make your discussion -- between
8 Earl and I, we've been -- that's
9 what we do is discuss, we've been
10 doing this since 1984. And when 40
11 years of environmental problems
12 became my fault on Tinker Air Base
13 because I had been there about two
14 months, and Mr. Synar (phonetic) came
15 in -- if anyone remembers Mr. Synar
16 -- came in and was making an example
17 of Tinker. And what he was talking
18 about is what Tinker has done. So
19 we put together a program which --
20 the GAO released and said that we
21 were -- as you said -- the model of
22 Department of Defense and all others
23 should (inaudible) what we're doing.
24 And that program is still going.
25 And obviously the place is cleaning

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1 up. But as far as the carbon
2 portion of it, I don't -- we haven't
3 reduced the carbon portion. Most of
4 our fuel goes to the transportation,
5 when I was there, and we turned over
6 -- we had transitioned into natural
7 gas and so there's a big effort
8 going on there. And this argument
9 about the carbon, Earl is not
10 finished, we're still discussing it.
11 And I just wanted to put that out to
12 you. Okay. That's all I have.

13 MR. GRATER: Jon, I have
14 a couple of questions. As I read
15 this rule -- first of all, there's a
16 long history of dealing with the
17 issues of federal regulations coming
18 down and programs handing primacy to
19 the states. And the basic rule is
20 the state can revise those federal
21 rules to make theirs more restrictive
22 than the federal regulations but not
23 less restrictive. And in this case
24 I see the feds kind of turning this
25 -- the game around and making their

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1 regulations less restrictive than a
2 lot of the state's.
3 One of my concerns is it says
4 it no longer prohibits blending low
5 BTU materials. So let's say you
6 have a really good fuel source, a
7 waste oil, clean waste oil, that's
8 about 17,500 BTUs per pound. You
9 can blend in a low specific gravity
10 sludge with no BTU value at all,
11 about two to one, and still come up
12 with a 5,000 BTU fuel. And is that
13 really the intention of the federal
14 rule change to allow that?

15 MR. ROBERTS: Well, first
16 off, I mean, there wasn't a -- and
17 this was a statutory change, but a
18 5,000 BTU thing was never actually
19 incorporated into federal, it is a
20 state rule, so it was just --

21 MR. GRATER: I'll buy that.

22 MR. ROBERTS: -- EPA
23 guidance. And there is a 5,000 BTU
24 limit, I believe, from interim
25 status.

Myers Reporting

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1 For instance, we don't have any
2 interim status because in Oklahoma
3 (inaudible).

4 MR. GRATER: So the State
5 still has the option -- does the
6 State still have the option to write
7 a BTU -- a low limit BTU value into
8 a BIF permit?

9 MR. ROBERTS: We could, we'd
10 still have the ability to do that as
11 a permit condition if we wanted to.
12 One of the conditions, of course,
13 they would have to meet is the -- in
14 addition to the RCRA permit, they
15 have to have an air quality permit.

16 MR. GRATER: Right.

17 MR. ROBERTS: And so
18 whatever is being fed into that, you
19 know, has to be burned and
20 (inaudible) or meet their -- the air
21 emission permits. So, you know, they
22 could theoretically blend the low BTU
23 stuff with the high BTU stuff and
24 they would have to demonstrate that
25 they're going to meet their air

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1 emissions standard in Tulsa. So
2 theoretically, yes, (inaudible).

3 MR. GRATER: Okay.

4 MR. REAVES: Just as comment
5 about DEQ, I know that at the time I
6 was working with the DEQ, my
7 understanding was we're one of the
8 few states where you're allowed to
9 speak for the EPA. Is that still
10 the case?

11 MR. ROBERTS: I'm not sure
12 I understand what you mean. Allowed
13 to speak for -- I mean, our RCRA
14 program is authorized by EPA so we
15 can run our program in lieu of EPA.

16 MR. REAVES: Okay.

17 MR. ROBERTS: You know, all
18 but maybe four or five states have
19 that authority, so --

20 MR. REAVES: Oh, okay.

21 MR. ROBERTS: -- so we
22 don't have anything unusual --

23 MR. REAVES: Well at the
24 time I thought that it was unusual
25 but that was in the '89/'90 -- it

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1 was briefed to me that it was
2 unusual for you to have that -- that
3 we're one of the few states. Now I
4 don't know, certainly that's changed,
5 I guess.

6 MR. ROBERTS: Yeah. And I
7 don't know how many states like that
8 can (inaudible) in the '80s for
9 something we're authorized to have
10 the RCRA programs operate in lieu of
11 EPA. But at least right now, like I
12 said, there's only maybe four or five
13 states that don't have that
14 authorization.

15 MR. GRAVES: If I remember
16 correctly, Oklahoma was one of the
17 first states to receive (inaudible).

18 MR. REAVES: I think that's
19 what --

20 MR. GRAVES: And we adopted
21 -- we went ahead and adopted what
22 was EPA's proposed rule because they
23 didn't have the finals out and that's
24 why we have that crazy non-hazardous
25 waste -- non-hazardous industrial

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1 waste provision in there because that
2 was in the EPA's proposed rules, they
3 took it out and we left it in. So
4 we -- we're the only state in the
5 country that does it that way.

6 MR. REAVES: I know at the
7 time we didn't -- there were not --
8 and Earl can remember this, a lot of
9 these statutes, we wrote them out
10 there for the EPA and we had
11 meetings that the EPA came to -- and
12 they didn't. For the cleanup they
13 didn't have it written and so we
14 held meetings five days a week for
15 about two or three years and had the
16 EPA sign the Minutes, they didn't
17 want to do that so we could get
18 started with the cleanup. But that's
19 one of the times that -- shortly
20 thereafter, just like you say, I
21 think you were first -- the State of
22 Oklahoma was the first to be given
23 the --

24 MR. ROBERTS: I think we
25 were authorized in '85 or something

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1 like that.

2 MR. REAVES: Yeah. Okay.

3 Right at '85 -- let's see, '84 is

4 when we started the cleanup of

5 Tinker.

6 MR. GRAVES: I have a

7 (inaudible) question. The proposal

8 is to revoke this particular rule,

9 but there isn't the proposal in front

10 of us to adopt the federal regs

11 through 2013 by reference. Is that

12 because they didn't change?

13 MR. ROBERTS: Yes, that's

14 correct.

15 MR. GRAVES: When somebody

16 goes to look it will still have the

17 2012 date?

18 MR. ROBERTS: That's

19 correct.

20 MR. GRAVES: Okay. I mean,

21 I would prefer to do it even if it

22 didn't mean anything just so you

23 don't get phone calls from people

24 saying, how come you're out of date

25 on that?

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1 MR. ROBERTS: Well industry

2 (inaudible) have to explain

3 (inaudible) between '12 and '13

4 (inaudible) 2012 (inaudible).

5 MR. GRATER: Yes, Earl.

6 MR. HATLEY: So if I

7 understand it correctly then --

8 because I couldn't find anything but

9 the interim status BIFs in the EPA

10 rule, that the industrial boilers and

11 furnaces still have to burn at a

12 5,000 BTU; is that correct?

13 MR. GRATER: You have to

14 follow the (inaudible) of their

15 permit; correct?

16 MR. ROBERTS: Yes. And

17 that would only -- the 5,000 BTUs as

18 I understand only applies for interim

19 status. We don't have any

20 (inaudible) -- so there actually is

21 the 5,000 limit spelled out in the

22 regulation for interim status.

23 (Inaudible) which we don't have in

24 Oklahoma.

25 MR. HATLEY: So new -- the

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1 ones that we do have, now they --

2 MR. ROBERTS: They don't

3 have the 5,000 BTU -- at least not

4 by regulation, I don't think. We

5 only have the one (inaudible) which

6 is the cement kiln up in Tulsa.

7 MR. HATLEY: So that's the

8 only rule following that through?

9 (Inaudible comment)

10 MR. HATLEY: But it's

11 required to burn at 5,000 BTUs?

12 MR. ROBERTS: I don't know

13 if it's necessarily -- is

14 specifically spelled in the permit

15 that it has to be 5,000 BTUs or

16 above to make it burn. I think the

17 main driver on their permit is what

18 it takes to satisfy their air

19 emissions. I can double-check and

20 find out for sure.

21 MR. HATLEY: Yeah.

22 (Inaudible). I think it will still

23 (inaudible). Yeah, if you don't

24 mind.

25 MR. ROBERTS: Sure.

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1 MR. HATLEY: So, yeah, that

2 is kind of what is giving me

3 heartburn, is that they're taking low

4 level waste and they're mixing it

5 with whatever and they're burning it

6 -- I realize that they have to

7 maintain their air quality permit.

8 But if more and more stationary

9 sources pop up, then we're just

10 putting more and more up, and this

11 just becomes a way for companies to

12 dispose of their waste rather than

13 actually disposing it, and it becomes

14 fuel rather than disposal.

15 Anyway, I guess there's nothing

16 we can do but I would like to see

17 pollution prevention become the norm

18 rather than a voluntary afterthought.

19 MR. KENNEDY: So this

20 Oklahoma statute, (B) and (C), it's

21 referenced here but we don't have a

22 copy of the actual language, correct,

23 or am I missing something?

24 MR. ROBERTS: Was that not

25 in the packet?

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<p>Sheet 8 Page 26</p> <p>1 MR. KENNEDY: Actual statute 2 language?</p> <p>3 MR. ROBERTS: I've got a 4 copy of the bill that was passed.</p> <p>5 MR. KENNEDY: What prompted 6 that statute change?</p> <p>7 MR. ROBERTS: As I 8 understand it, you know, when the -- 9 when the Lafarge permit was going 10 through its permitting process it -- 11 one of the comments that was brought 12 up as a result of that dealt with 13 that statute. And, unfortunately, I 14 don't know all of the history.</p> <p>15 MR. KENNEDY: Okay. But 16 the statute was originally put in 17 place to come along side the EPA's - 18 - and again it wasn't a rule but 19 their -- I forget the term but --</p> <p>20 MR. ROBERTS: (Inaudible) 21 try to --</p> <p>22 MR. KENNEDY: -- the 23 suggested BTU.</p> <p>24 MR. ROBERTS: Suggested BTUs 25 to prevent the Sham recycling.</p>	<p>Page 28</p> <p>1 But if you challenge it, there's no 2 underlying statutory authority, 3 you're out.</p> <p>4 MR. KENNEDY: Sure. 5 MR. ROBERTS: I would have 6 to defer that question to our legal 7 counsel.</p> <p>8 MR. BALDRIDGE: Well in my 9 opinion as long as the statute was 10 in place, which is now revoked, the 11 regulation itself is superfluous 12 because it just basically repeated 13 what the statute said. But now the 14 statute is revoked.</p> <p>15 MR. GRAVES: That gets you 16 to a really interesting piece, 17 because under the Oklahoma 18 Administrative Procedures Act if you 19 have something that is more stringent 20 than the rule (inaudible) the law, 21 you have to go through a whole other 22 process including doing -- basically, 23 an economic impact statement and it 24 gets -- you have 30 days for the 25 comment and then it goes -- you have</p>
<p>Page 27</p> <p>1 MR. KENNEDY: Sham 2 recycling.</p> <p>3 MR. ROBERTS: You know, back 4 in the '80s.</p> <p>5 MR. KENNEDY: So we've got 6 -- I mean, that started that statute 7 basically and now it's --</p> <p>8 MR. HATLEY: Sham recycling 9 is the operative word (inaudible) 10 actually.</p> <p>11 MR. KENNEDY: Sure. I'm 12 just trying to track the birth and 13 the death of the statute, so to 14 speak, here along the line. So it's 15 obvious what we have to do makes 16 sense because even if we left 17 something in here there's no way you 18 can enforce a 252:205 rule if there's 19 not a statute to support that. So - 20 - correct, so --</p> <p>21 MR. ROBERTS: Yeah --</p> <p>22 MR. GRAVES: They could 23 enforce it but you'd have an ironclad 24 defense. You would win. If you 25 challenge it. If you challenge it.</p>	<p>Page 29</p> <p>1 all kinds of weird things to do. I 2 don't think we want to go there.</p> <p>3 MR. GRATER: Well it looks 4 like to me that we're in a situation 5 where we really -- we're essentially 6 out on a limb and EPA has sawed it 7 off for us. So we don't have much 8 choice but probably to proceed to 9 revoke.</p> <p>10 I would ask that the Agency 11 continue to look both at -- in 12 permit clauses for any combusters 13 that are going to blend waste or 14 burn waste. There's a number of 15 ways around the rule already besides 16 the 5,000 BTU thing. To my 17 knowledge, that's never actually been 18 a hard and fast rule, it's just been 19 a guideline referenced in a number of 20 context.</p> <p>21 One of the ways around it, is 22 you get somebody to take your waste 23 for a penny a pound and you're now 24 buying it for fuel, it's no longer a 25 waste. That's been done in a number</p>

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1 of cases. There's a lot of ways
2 around the rules unfortunately.
3 I would ask that the State in
4 the future look both at BTU values
5 and permits, and also in non-
6 combustible ash in a fuel.
7 Other than that, I suppose the
8 rest of this discussion we could be
9 here the rest of the week. So --
10 unless somebody else has a comment, I
11 move to -- I'm sorry.
12 Is there any public comments or
13 discussion.
14 MS. JIM: I am very
15 interested in this. But I'm having
16 difficulty hearing everything.
17 MR. GRATER: I'm sorry.
18 REPORTER: Can you tell me
19 who you are?
20 MS. JIM: My name is
21 Rebecca Jim.
22 REPORTER: Thank you.
23 MR. GRATER: Do you wish to
24 comment?
25 MS. JIM: No.

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1 MR. GRATER: Okay.
2 MS. JIM: Other than I hope
3 -- I'm confused about which one is
4 what and you're putting in
5 (inaudible) I just want you to be
6 protecting the environment and our
7 people's health. I know that's what
8 you want to do too.
9 MR. GRATER: Right. Any
10 other comments from the public?
11 Anyone want to make a motion
12 to accept?
13 MR. REAVES: I make a
14 motion to accept the recommendation.
15 MR. GRAVES: Second.
16 MR. GRATER: Motion has been
17 made to accept the recommendation,
18 and it has been seconded.
19 Call the roll, Ms. Fields.
20 MS. FIELDS: Mr. Anderson.
21 MR. ANDERSON: Yes.
22 MS. FIELDS: Mr. Graves.
23 MR. GRAVES: Yes.
24 MS. FIELDS: Mr. Hatley.
25 MR. HATLEY: Yes.

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1 MS. FIELDS: Mr. Kennedy.
2 MR. KENNEDY: Yes.
3 MS. FIELDS: Mr. Reaves.
4 MR. REAVES: Yes.
5 MS. FIELDS: Ms. Slaughter.
6 MS. SLAUGHTER: Yes.
7 MS. FIELDS: Ms. Vandell.
8 Ms. VANDELL: Yes.
9 MS. FIELDS: Mr. Grater.
10 MR. GRATER: Yes.
11 MS. FIELDS: Motion passed.
12 MR. GRATER: Okay. The
13 next item on the Agenda is election
14 of officers for 2014.
15 We have the Chairman's position
16 and the Vice-Chairman position open,
17 I believe.
18 Any nominations for -- open the
19 floor to nominations.
20 MR. REAVES: Let me ask a
21 question.
22 MR. GRATER: Certainly.
23 MR. REAVES: Why is the
24 Chairman's position open?
25 MR. GRATER: I don't know.

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1 I assume it is.
2 MR. GRAVES: It's open every
3 year.
4 MR. GRATER: It's open every
5 year, that's my understanding.
6 MR. KENNEDY: I know some
7 councils, they hang on for a long
8 time but our -- at least Hazardous
9 Waste Advisory Council has always
10 been open every year.
11 (Comments)
12 MR. REAVES: I'll make a
13 motion to keep the same Chairman.
14 MS. SLAUGHTER: Second.
15 MR. GRATER: Motion has been
16 made and seconded.
17 Any objections? Call the roll,
18 Ms. Fields.
19 MS. FIELDS: Mr. Anderson.
20 MR. ANDERSON: Yes.
21 MS. FIELDS: Mr. Graves.
22 MR. GRAVES: You bet.
23 MS. FIELDS: Mr. Hatley.
24 MR. HATLEY: Yes.
25 MS. FIELDS: Mr. Kennedy.

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1 MR. KENNEDY: Yes.
2 MS. FIELDS: Mr. Reaves.
3 MR. REAVES: Yes.
4 MS. FIELDS: Ms. Slaughter.
5 MS. SLAUGHTER: Yes.
6 MS. FIELDS: Ms. Vandell.
7 Ms. VANDELL: Yes.
8 MS. FIELDS: Mr. Grater.
9 MR. GRATER: Wouldn't do me
10 any good to vote no, so I'll vote
11 yes.
12 MS. FIELDS: Motion passed.
13 MR. GRATER: Okay. Who is
14 the Vice-Chair?
15 (Discussion)
16 MR. KENNEDY: He made a
17 motion to keep things as is, didn't
18 he?
19 MR. GRAVES: I make a
20 motion that Mr. Reaves be elected
21 Vice-Chair.
22 MR. GRATER: I'll second
23 that.
24 MS. FIELDS: Mr. Anderson.
25 MR. ANDERSON: Yes.

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1 MS. FIELDS: Mr. Graves.
2 MR. GRAVES: Yes.
3 MS. FIELDS: Mr. Hatley.
4 MR. HATLEY: Yes.
5 MS. FIELDS: Mr. Kennedy.
6 MR. KENNEDY: Yes
7 MS. FIELDS: Mr. Reaves.
8 MR. REAVES: I guess I'm
9 forced to say yes.
10 MS. FIELDS: Ms. Slaughter.
11 MS. SLAUGHTER: Yes.
12 MS. FIELDS: Ms. Vandell.
13 Ms. VANDELL: Yes.
14 MS. FIELDS: Mr. Grater.
15 MR. GRATER: Yes.
16 MS. FIELDS: Motion passed.
17 MR. GRATER: Okay. Next
18 item on the Agenda is to set meeting
19 dates for 2014.
20 Discussion by the Council? We
21 traditionally set four meeting dates
22 quarterly. Traditionally, we have
23 only met on the last quarter of the
24 year.
25 MR. GRAVES: Yeah, nothing

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1 has come up.
2 MR. GRATER: Nothing else
3 has come up. Do you -- does your
4 crystal ball show anything on the
5 horizon, Jon?
6 (Discussion)
7 MR. GRATER: I think it's
8 possible to get Mr. Edwards on his
9 cell phone in Ireland and asked him
10 for his input.
11 (Comments)
12 MR. GRATER: So Mr. Roberts
13 has suggested that we set the second
14 quarter and fourth quarter meetings.
15 (Comments)
16 MR. KENNEDY: And if there's
17 an incorporation by reference issue
18 next year -- I know you have to have
19 time to get things -- is it always
20 best to have it the first week of
21 October?
22 (Comments and discussion)
23 MR. GRATER: The proposal is
24 to schedule two meetings for next
25 June 19th and October 9, 2014.

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1 MR. KENNEDY: I make a
2 motion that we accept those dates.
3 MR. GRAVES: Second.
4 MR. GRATER: Motion has been
5 made and seconded.
6 Call the roll, Ms. Field.
7 MS. FIELDS: Mr. Anderson.
8 MR. ANDERSON: Yes.
9 MS. FIELDS: Mr. Graves.
10 MR. GRAVES: Yes.
11 MS. FIELDS: Mr. Hatley.
12 MR. HATLEY: Yes.
13 MS. FIELDS: Mr. Kennedy.
14 MR. KENNEDY: Yes.
15 MS. FIELDS: Mr. Reaves.
16 MR. REAVES: Yes.
17 MS. FIELDS: Ms. Slaughter.
18 MS. SLAUGHTER: Yes.
19 MS. FIELDS: Ms. Vandell.
20 Ms. VANDELL: Yes.
21 MS. FIELDS: Mr. Grater.
22 MR. GRATER: Yes.
23 MS. FIELDS: Motion passed.
24 MR. GRATER: Okay. Last
25 item on the Agenda is New Business.

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1 Does anybody have any new business to
2 present to the Council?
3 MR. KENNEDY: I motion that
4 we adjourn.
5 MR. REAVES: Second.
6 MR. GRATER: Motion has been
7 made and seconded.
8 Can we do this by acclamation?
9 All in favor say aye.
10 ALL MEMBERS: Aye
11 (unanimously).
12 MR. GRATER: Opposed.
13 (No response)
14 MR. GRATER: Thank you for
15 coming.
16 (Proceedings concluded)
17 (Meeting adjourned)

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1 C E R T I F I C A T E
2 STATE OF OKLAHOMA)
3) SS:
4 COUNTY OF OKLAHOMA)
5 I, CHRISTY A. MYERS, Certified
6 Shorthand Reporter in and for the
7 State of Oklahoma, do hereby certify
8 that the above proceeding is the
9 truth, the whole truth, and nothing
10 but the truth; that the foregoing
11 proceeding was taken down in
12 shorthand and thereafter transcribed
13 by me; that said meeting was taken
14 on the 10th day of October, 2013, at
15 Tulsa, Oklahoma; and that I am
16 neither attorney for, nor relative of
17 any of said parties, nor otherwise
18 interested in said action.
19 IN WITNESS WHEREOF, I have
20 hereunto set my hand and official
21 seal on this, the 20th day of
22 October, 2013.
23 Christy A. Myers
24 Christy A. Myers, CSR
25 Certificate No. 00310



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

HAZARDOUS WASTE MANAGEMENT ADVISORY COUNCIL

Attendance Record

October 10, 2013

Tulsa, Oklahoma

CHECK BOX TO COMMENT

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
Quiana Fields DEQ	
Traci Kelly DEQ	
Lynn Kirk DEQ	
Earl Stanley Council	
Stephen Boldridge DEQ	
RAY REAVES COUNCIL	
Jon Roberts DEQ	
MARSHA SAUSHTER Council	
Terry Vandell Council	
Bob Kennedy Council	
Mark [unclear] Council	
Walter Anderson Council	
Rebecca Sims	19257 S. 4403 DE VINITA OK 74301