

**MINUTES  
HAZARDOUS WASTE MANAGEMENT ADVISORY COUNCIL  
July 18, 2019**

Oklahoma Department of Environmental Quality  
Multipurpose Room  
Oklahoma City, Oklahoma

Official after Approved by HWMAC  
On October 10, 2019

**Notice of Public Meeting** - The Hazardous Waste Management Advisory Council (HWMAC) convened for a Regular Meeting at 10:00 a.m. on July 18, 2019 at the Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma. The meeting was held in accordance with the Open Meetings Act, with notice of the meeting given to the Secretary of State on October 11, 2018. The agenda was posted at the DEQ 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**

Kenneth Ede  
Lyndel Gibson  
Bob Kennedy  
Debra Smith  
Noble Stanfield  
Lee Grater

**DEQ STAFF PRESENT**

Kelly Dixon  
Mike Edwards  
Mike Stickney  
Kole Kennedy  
Lee Dooley  
Ryan Kirk  
Jennifer Handley  
Bruce Adams  
Michelle Wynn  
Lloyd Kirk  
Quiana Fields

**MEMBERS ABSENT**

Wesley Anderson  
Ray Reaves  
Terry Vandell

**OTHERS PRESENT**

Jennifer Kaelin, Court Reporter

**Discussion, Amendment, and Roll Call Vote to Approve the Minutes of the October 11, 2018 meeting** - Mr. Kennedy moved to approve and Mr. Stanfield made the second.

*See transcript pages 4 - 5*

Kenneth Ede	Yes	Debra Smith	Yes
Lyndel Gibson	Yes	Noble Stanfield	Yes
Bob Kennedy	Yes	Lee Grater	Yes

**Director's Report** – Ms. Kelly Dixon, Division Director of the LPD, provided an update on division activities.

*See transcript pages 5 - 15*

**Presentation and Discussion** – Mr. Mike Edwards, Environmental Programs Manager and Ryan Kirk, Environmental Programs Specialist of the LPD, spoke on the incorporation by reference of federal rule changes from the year that ended July 1, 2019. The presentation covered new rules as well as changes needed for RCRA Authorization.

*See transcript pages 15 - 26*

**Presentation, Discussion** – Ms. Jennifer Handley, Environmental Programs Manager of the ECLS Division, gave a presentation and spoke on the proposed highway remediation rule changes.

*See transcript pages 26 - 37*

**New Business** – None

**Adjournment** – Mr. Gibson moved to adjourn and Ms. Smith made the second. The meeting was adjourned at 10:50 a.m.

*See transcript pages 37 - 38*

Kenneth Ede	Yes	Debra Smith	Yes
Lyndel Gibson	Yes	Noble Stanfield	Yes
Bob Kennedy	Yes	Lee Grater	Yes

**Transcript and attendance sheet are attached as an official part of these Minutes.**

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

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HAZARDOUS WASTE MANAGEMENT ADVISORY COUNCIL

PUBLIC MEETING

JULY 18, 2019 - 10:00 A.M.

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Multi-Purpose Room, 1st Floor  
DEQ Building  
707 N. Robinson  
Oklahoma City, OK

REPORTED BY: JENNIFER PAYNE KAELEN, CSR

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1 COUNCIL MEMBERS:

2 Mr. Lee Grater - Chairman

3 Mr. Wesley Anderson - absent

4 Dr. Kenneth Ede

5 Mr. Lyndel Gibson

6 Mr. Bob Kennedy

7 Mr. Ray Reaves - Vice Chairman - absent

8 Ms. Debra Smith

9 Mr. Noble Stanfield

10 Ms. Terry Vandell - absent

11 ALSO PRESENT:

12 Ms. Quiana Fields, Secretary of Board and Council

13 Ms. Kelly Dixon, Director of Land Protection Division

14 Mr. Mike Edwards, Land Protection Division

15 Mr. Ryan Kirk, Land Protection Division

16 Ms. Jennifer Handley, Land Protection Division

17 Mr. Dennis Melton, Environmental Management Incorporated

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1 Ms. Smith.

2 MS. DEBRA SMITH: Here.

3 MS. QUIANA FIELDS: Mr. Stanfield.

4 MR. NOBLE STANFIELD: Here.

5 MS. QUIANA FIELDS: Ms. Vandell is absent.

6 Mr. Grater.

7 CHAIRMAN LEE GRATER: Here.

8 MS. QUIANA FIELDS: We have a quorum.

9 CHAIRMAN LEE GRATER: Thank you.

10 We have Discussion, Amendment, and Roll Call Vote to

11 Approve the minutes. We need discussion and any proposed

12 amendments to the minutes from the previous meeting of

13 October 11th, 2018.

14 Are there any comments? Have time to review them?

15 MR. BOB KENNEDY: I'd like to make the

16 motion approve the minutes from our last minutes, if

17 there aren't any comments.

18 MR. NOBLE STANFIELD: I'll second.

19 CHAIRMAN LEE GRATER: Okay. Motion has

20 been made and seconded.

21 Ms. Fields.

22 MS. QUIANA FIELDS: Dr. Ede.

23 DR. KENNETH EDE: Yes.

24 MS. QUIANA FIELDS: Mr. Gibson.

25 MR. LYNDEL GIBSON: Yes.

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1 CALL TO ORDER - 10:01 a.m.

2 CHAIRMAN LEE GRATER: Call the meeting of

3 the Hazardous Waste Management Advisory Council to order.

4 The July 18th, 2019, regularly scheduled meeting of the

5 Hazardous Waste Management Advisory Council is called in

6 accordance with the Open Meeting Act.

7 Notice was filed with the Secretary of State on

8 October 11, 2018. The Agenda was duly posted 24 hours

9 prior to the meeting at the DEQ.

10 Only matters appearing on the posted Agenda may be

11 considered at this regular meeting. In the event this

12 meeting is continued or reconvened, public notice of the

13 date, time, and place of the continued meeting will be

14 given by announcement at this meeting. Only matters

15 appearing on the Agenda of the meeting which is continued

16 may be discussed at the continued or reconvened meeting.

17 Ms. Fields, call the roll.

18 MS. QUIANA FIELDS: Mr. Anderson is absent.

19 Dr. Ede.

20 DR. KENNETH EDE: Here.

21 MS. QUIANA FIELDS: Mr. Gibson.

22 MR. LYNDEL GIBSON: Here.

23 MS. QUIANA FIELDS: Mr. Kennedy.

24 MR. BOB KENNEDY: Here.

25 MS. QUIANA FIELDS: Mr. Reaves is absent.

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1 MS. QUIANA FIELDS: Mr. Kennedy.

2 MR. BOB KENNEDY: Yes.

3 MS. QUIANA FIELDS: Ms. Smith.

4 MS. DEBRA SMITH: Yes.

5 MS. QUIANA FIELDS: Mr. Stanfield.

6 MR. NOBLE STANFIELD: Yes.

7 MS. QUIANA FIELDS: Mr. Grater.

8 CHAIRMAN LEE GRATER: Yes.

9 MS. QUIANA FIELDS: Motion passed.

10 CHAIRMAN LEE GRATER: Next item on the

11 Agenda is the Director's Report.

12 Ms. Dixon.

13 MS. KELLY DIXON: Good morning.

14 CHAIRMAN LEE GRATER: Good morning.

15 MS. KELLY DIXON: Kelly Dixon, Director of

16 Land Protection Division.

17 I like to come here at least once a year and give

18 you guys an update and sort of a flavor of what's going

19 on agency-wide, not just what's going on in the hazardous

20 waste world, so I'm going to talk for a few minutes about

21 some things that are going on.

22 If you remember, last year we embarked on a

23 strategic plan as an agency that we call "Leading the

24 Way," and it's pretty ambitious. We surveyed our

25 regulated community, we surveyed our own employees, we

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1 surveyed the public, and based on the results of those  
2 surveys, came up with some plans. So one thing I wanted  
3 to highlight to you today that we're working on is to  
4 reduce our permit timelines by 25 percent. The chief  
5 engineers in all the divisions are working together on  
6 that initiative and so it's in progress, and I think  
7 that's a worthwhile goal for our agency.

8 We also, Monday, started a brand new web page. So  
9 our web page was very dated and clunky and we're hoping  
10 that it's new and improved and a lot better. It's  
11 intended to be very user-focused, so take a look at it if  
12 you haven't already.

13 We also did what we called the "DEQ Legislative  
14 Dashboard," which has story maps and it shows -- it  
15 highlights good news stories and things that are going on  
16 in all the divisions. And you can find that on the web  
17 page by going to the GIS data viewer and there's a link  
18 you can click. So if you haven't heard of that or seen  
19 that, you might go navigate and see if you can find it.

20 Our agency was impacted by legislative action this  
21 year. Our budget was increased 23 percent by  
22 appropriated dollars and that appropriated money went for  
23 laboratory equipment, rural water programs, and employee  
24 pay raises. Those pay raises are effective this month.

25 We also were -- had a sweep of money from our

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1 revolving fund of \$6 million. This has happened almost  
2 every year. That money in the revolving funds is fee  
3 money that regulated entities pay in.

4 So what that means for us, in our division, is it's  
5 going to impact our ability to do and to complete  
6 projects. Because that sweep was FY '19 money. So  
7 projects that cross fiscal years we're going to have to  
8 use FY '20 money to complete those projects. So it may  
9 impact our ability to complete projects and everything we  
10 had planned. But we are projecting our revenue to be  
11 similar as it was last year, so we're hoping that we will  
12 be able to do everything that we want to do. So we'll  
13 just have to watch it very closely.

14 Also, on the revenue front, there was several bills  
15 that passed that increased legislative oversight of all  
16 State agencies in the name of transparency. And what  
17 that means for our agency is that it's just more of an  
18 increased reporting burden for our agency.

19 One bill that passed, that you guys might be  
20 interested in that, that will affect the regulated  
21 communities and hazardous waste, is the Oklahoma  
22 Environmental Health and Safety Audit Privilege Act. I  
23 don't know if you're familiar with it. I think it's  
24 House Bill 1003.

25 This Act allows companies to perform self-audits and

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1 then to keep those audits privileged. And it's modeled  
2 after a law that's been in place in Texas for over 20  
3 years that's been successful.

4 I think the thinking is, is that companies that do a  
5 self-audit are going to be much more thorough than an  
6 inspection and they're going to be able to return to  
7 compliance sooner. Now, that doesn't mean that if -- if  
8 you find something in your audit that's reportable under  
9 law, you still have to report it.

10 So our agency is working on an implementation  
11 guideline for that bill, and that's in progress right  
12 now. So stay turned on that one. You'll probably hear  
13 more.

14 We also wanted to bring your attention to a bill  
15 that passed -- I'm reading this -- to a bill that passed  
16 during the 2019 legislative, Senate Bill 1027, sunsets  
17 the Hazardous Waste Management Advisory Council on  
18 July 1, 2020. This is obviously not something the DEQ  
19 asked for and we are developing more information to  
20 educate legislators about the value of our councils and  
21 about the transparency and expertise that you provide to  
22 the rulemaking process.

23 As that information gets developed, we will share it  
24 with you and ask that you educate -- help educate others.  
25 We are optimistic that this will be corrected and we will

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1 keep you informed.

2 CHAIRMAN LEE GRATER: Okay.

3 MS. KELLY DIXON: So now to the fun stuff.

4 I was going to talk a little bit about projects that the  
5 agency is doing.

6 The most notable project, I think, that's impactful  
7 is Water Quality -- Water Quality Division's water loss  
8 audits. They've been going out to communities and  
9 performing audits to identify sources of leaks and water  
10 loss and helping communities find financing to fix those  
11 when they find them. And what they're -- what they've  
12 been able to do is really help identify significant  
13 savings both in water and in dollars.

14 The interesting thing is they're using drone  
15 technology to look to go to water towers, which is safer  
16 and it's more efficient. So that's a really, really good  
17 program.

18 Our laboratory -- some staff on our laboratory have  
19 started doing a little YouTube video series called  
20 "Science in 60 Seconds." It's very engaging and  
21 informative, and it's really a 60-second video. I don't  
22 know if you guys follow DEQ on Facebook. But if you do,  
23 you'll see these "Science in 60 Seconds" videos and  
24 they're really fun.

25 Our Air Quality Division has a portion of --

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1 Oklahoma's portion of the VW Settlement money, and they  
2 have a grant program to award that money. And right now,  
3 the applications for some of that money are for  
4 converting school buses to alternate fuels and for  
5 electric car charging stations. So all of these projects  
6 will help improve the air quality in Oklahoma.  
7 And in our division, in Land, we have a Superfund  
8 site in Collinsville that was called the Tulsa Fuel  
9 Manufacturing site. It was a smelter site that was  
10 covered with heavy metals and smelter debris. It was  
11 cleaned up last year. And part of the cleanup was to  
12 consolidate the material, cap it on site, and then  
13 vegetate it.  
14 So the interesting thing about this site, it was a  
15 very successful project -- we got it done on time -- is  
16 that a local beekeeper decided that he wanted to put his  
17 beehives on this cleaned-up site because there's a lot of  
18 clover and really nice vegetation growing there. So it's  
19 a reuse of the Superfund site that got some press  
20 recently and is really pretty interesting. I actually  
21 bought some honey from them. It's not from the site yet.  
22 I think it's going to be another year before those bees  
23 produce honey from the site, but it's kind of exciting.  
24 We have another reuse story in Henryetta. It was  
25 another smelter site that was cleaned up years ago and

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1 redevelopment has been very slow. But last year a rural  
2 health authority -- healthcare authority got a federal  
3 grant, and they worked really closely with us, and the  
4 City of Henryetta, to redevelop it safely. And so now  
5 they've got Regional Healthcare, which is a really great  
6 facility. We toured it last year. It was really neat.  
7 We also -- I was -- we were looking at our cleanup  
8 programs. We have a variety of cleanup programs where  
9 voluntary -- responsible parties come in and they  
10 voluntary cleanup -- voluntarily clean up property. And  
11 if you look at projects from 2014, there's about 14 sites  
12 across Oklahoma, mostly Oklahoma City and Tulsa, where  
13 contaminated sites are now concert venues. Wheeler Park  
14 is a really good example of that one. So that's kind of  
15 fun to think about, that redevelopment and reuse.  
16 Another thing on the cleanup side is the Tar Creek  
17 Superfund site. That's a site that's in far northeast  
18 Oklahoma that's been a Superfund site since 1980. It was  
19 hardrock mining for lead and zinc and it contaminated  
20 groundwater, surface water, soil, and people. And we've  
21 been working on this cleanup with EPA ever since 1980.  
22 We're still working on it. We've made a lot of progress.  
23 People have been bought out and yards have been  
24 cleaned up, and so people are out of harm's way, and  
25 we're focused on the big mountains of chat or mining

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1 residue that's left on the surface.  
2 So the interesting thing about that project is our  
3 agency took the lead, which means we're contracting the  
4 work instead of EPA doing it. And we've contracted --  
5 this is the first in the nation. We contracted with the  
6 Quapaw Tribe, so it's the -- or it's the Quapaw Nation  
7 now. So it's the first time a state has ever contracted  
8 with a tribe for Superfund cleanup.  
9 And there's another first at this site where EPA  
10 has -- is giving money to the Tribe directly to do  
11 cleanup work on restricted lands. So EPA is aggressively  
12 funding that project and we're working really hard to  
13 keep things moving.  
14 And in our Solid Waste Program, we -- we have a lot  
15 of local government projects that we fund including trash  
16 cops that help make sure that litter is picked up and  
17 avoided all across Oklahoma.  
18 Sustainable Tulsa, which is a business-to-business  
19 organization that we support, and they work on  
20 sustainability issues, and it's a really, really neat  
21 model for how to -- for businesses to be sustainable, and  
22 I think they're trying to see if it would work here in  
23 Oklahoma City.  
24 And we, also, in our tire program, work with  
25 Keep Oklahoma Beautiful on cleanup in small communities

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1 where they do tire cleanup and trash cleanup and have a  
2 little award program for that.  
3 And then on the hazardous waste front, we still have  
4 our voluntary self-certification program that's available  
5 to small quantity generators if they want to use that. I  
6 think the universe of participants has held steady around  
7 17 percent of the universe, and I don't think we expect  
8 it to really grow. We've tried several avenues to  
9 increase participation and it just hasn't been  
10 successful. But it's there as a tool if people want to  
11 take advantage of it.  
12 The other notable thing about the hazardous waste  
13 program is part of that strategic plan, one of the things  
14 we were tasked to do was to look at ways that we can  
15 enhance compliance other than enforcement. So we have  
16 some staff that are looking at making short informational  
17 videos targeted to large quantity generators that we can  
18 put out on YouTube and hopefully that will get the  
19 message out about some compliance requirements that  
20 people may not know about.  
21 And then the one last thing I wanted to talk to you  
22 about, and I think Mike Edwards talked about this at our  
23 last council meeting, was we've been pondering getting  
24 rid of the disposal plan requirement and the associated  
25 fees. That requirement predates RCRA. It's obsolete.

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1 We're a little bit concerned about doing that because of  
 2 revenue and what that might do to our revenue. It would  
 3 probably require an increase in our per-tonnage disposal  
 4 fee. So it's tricky and complicated, so we're just still  
 5 thinking about it. We'll probably bring it to our upper  
 6 management later this year and we'll have more  
 7 information for you on direction that we are going to go  
 8 in the October council meeting.

9 So that's all on my report, and I would entertain  
 10 questions if you have any.

11 MR. NOBLE STANFIELD: Kelly --  
 12 MS. KELLY DIXON: Yes.  
 13 MR. NOBLE STANFIELD: -- what's -- in the  
 14 EPA cleanup or the Tar Creek or the Osage (sic) Nation,  
 15 what are they intending to do with these chat piles?  
 16 What do they do with them?

17 MS. KELLY DIXON: Well, there's a  
 18 repository, which is like a landfill, basically, where  
 19 the chat that's not sellable or usable goes.

20 MR. NOBLE STANFIELD: Okay.  
 21 MS. KELLY DIXON: But part -- a portion of  
 22 the remedy is to sell the chat as aggregate for asphalt,  
 23 and that's -- there are chat sales going on in the area.  
 24 Chat sales are complicated because some chat piles  
 25 are -- might have over 100 owners that have undivided

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1 interested and some are Native American and some are not.  
 2 It's very complicated.

3 MR. NOBLE STANFIELD: I see.  
 4 MS. KELLY DIXON: Yeah.  
 5 MR. NOBLE STANFIELD: Thank you.  
 6 MS. KELLY DIXON: All right. Thank you,  
 7 guys.

8 CHAIRMAN LEE GRATER: The next item on the  
 9 Agenda is Presentation and Discussion of the  
 10 incorporation by reference of federal rule changes from  
 11 the year that ended on July 1st, 2019. This presentation  
 12 will cover the new rules as well as changes needed for  
 13 RCRA authorization.

14 Mr. Edwards, Mr. Kirk.  
 15 MR. MIKE EDWARDS: Yes. We decided we're  
 16 going to -- Ryan Kirk and I are going to tag-team this  
 17 part a little bit, and so I just wanted to introduce Ryan  
 18 real quick. Because this is, I think, his first council  
 19 meeting where he's actually going to speak. We like to  
 20 punish our long-time employees by making them do public  
 21 speaking. Ryan has been around in RCRA for 17 years, so  
 22 it's high time he was punished, so...  
 23 Having said that, he's going to do the incorporation  
 24 by reference part, and then I'll talk a little bit about  
 25 authorization related to the rulemaking, so...

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1 MR. RYAN KIRK: All right. Thanks, Mike.  
 2 Again, I'm Ryan Kirk and I'm going to be more  
 3 involved in the future in rulemaking, so I'm looking  
 4 forward to it.

5 There's two rules that are going to be up for --  
 6 we're going to discuss today. One of them deals with a  
 7 conditional exemption for airbag waste. I'll just go  
 8 ahead and talk about that first. I'm just going to give  
 9 a brief summary in case -- in case you need a -- if  
 10 you're not aware in case you need an update on this.

11 The Takata -- as you probably remember, Takata  
 12 issued a massive airbag recall in 2015. And EPA  
 13 recently, on November 30th, 2018, issued an interim final  
 14 rule to address all these airbags that are basically in  
 15 storage at a lot of car dealerships and a lot of other  
 16 places.

17 If you can imagine, an undeployed airbag can be --  
 18 if it deploys unexpectedly or as somebody is working with  
 19 it, it can be very dangerous. People have been injured  
 20 and killed, so that's -- that's kind of the reason for  
 21 this, the reason that they issued it as an interim final  
 22 rule.

23 The two major, I think, advantages to this would be  
 24 it gives a -- it gets the airbags out of the hazardous  
 25 waste regulatory pathway until they get to the final

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1 destination, so that gives a little more clarity to the  
 2 facilities. Mostly car -- a lot of times it will be car  
 3 dealerships will be dealing with this.

4 And then the second part of it is it does not affect  
 5 a lot of these facilities in hazardous waste generator  
 6 status. A lot of them are going to be very small quality  
 7 generators. So it's -- like I said, it's going to be  
 8 exempt until they -- until they get it to where it needs  
 9 to go.

10 And just so you'll know, it -- the airbags, they're  
 11 going to be reactive. I think they might even be  
 12 ignitable under some situations, so they would normally  
 13 fall under the -- under the umbrella of hazardous waste,  
 14 so that's what that's about.

15 Any questions on that?  
 16 MR. LYNDEL GIBSON: Do we know the volume  
 17 that might be here in the state?  
 18 MR. RYAN KIRK: We really don't. Really  
 19 don't. I can -- I can look that up, see if anybody  
 20 knows.  
 21 MR. MIKE EDWARDS: I have no idea the  
 22 volume in the state. But just anecdotally, I've heard  
 23 that one of the motivations for this was that there  
 24 were -- and don't ask me the questions, this is pure  
 25 speculation or vague memory. But two or three enormous

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1 warehouses in the country that have millions upon  
2 millions of these airbag modules and they didn't know  
3 what to do with them. And so that was part of the  
4 motivation for this lessening of the regulations with  
5 regard to the airbags specifically, to help them  
6 essentially clear out those warehouses.  
7 And I -- I guess the warehouses became so full  
8 because all the car dealers, you know, that were  
9 participating in the recall were sending them to the --  
10 these warehouses, so that's just a little more  
11 backgrounds.  
12 MR. LYNDEL GIBSON: So we may not have any  
13 here in this state?  
14 MR. MIKE EDWARDS: I -- I feel pretty  
15 certain we do have some still at the dealerships.  
16 Because I -- I think the warehouses became full and so  
17 the dealers -- you know, as -- as the recall expanded,  
18 they essentially ran out of space to store them. And you  
19 can't store hazardous waste indefinitely, so it was  
20 subjecting a huge industry to hazardous waste, you know,  
21 noncompliance basically. So I guess you could say it's  
22 EPA's attempt to help that situation.  
23 We're not -- technically we're not required to adopt  
24 it, also, because it is a less stringent aspect of RCRA.  
25 MR. RYAN KIRK: But strongly encouraged.

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1 MR. MIKE EDWARDS: Yeah, strongly  
2 encouraged.  
3 MR. LYNDEL GIBSON: Thank you.  
4 MR. RYAN KIRK: Okay. And the other rule  
5 is the new pharmaceutical rule, which has been talked  
6 about for a long time. And as you know, facilities and  
7 we, as regulators, have long struggled with how to deal  
8 with hazardous waste pharmaceuticals.  
9 RCRA, as it was originally conceived, is well-suited  
10 for addressing waste generated during the manufacturing  
11 process, pharmaceuticals. But it was never really  
12 well-suited for addressing dealing with pharmaceuticals  
13 at the retail level. And so we see a lot of these at the  
14 pharmacies, you know, some at hospitals and at retail  
15 pharmacies; CVS, Walgreens, and so forth.  
16 And so this rule, which was published in the  
17 Federal Register on February 22nd of this year  
18 establishes a regulatory framework that is designed  
19 specifically for healthcare facilities and reverse  
20 distributors, and so it really -- it really streamlines  
21 that whole -- that whole regulatory process.  
22 A couple -- that's kind of in a nutshell. There are  
23 some specific things I also want to mention that are kind  
24 of a little bit outside of that. There's also a  
25 prohibition on the sewerage. Within this new rule,

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1 there's a prohibition on sewerage of hazardous waste  
2 pharmaceuticals, so that is no longer allowed.  
3 There's a conditional exemption for DE -- not DEQ --  
4 DEA, controlled substances. There was some duplicate  
5 regulation there and so that has been clarified.  
6 There's a new definition for RCRA empty  
7 pharmaceutical containers. And this has been an issue  
8 where sometimes you'll get a -- a vial of something that  
9 really has nothing in it but, you know, you have to count  
10 the -- a pharmacy would have to count the weight of the  
11 whole vial, which when you're dealing with certain  
12 hazardous chemicals can really -- really cause problems  
13 with their generator status.  
14 And the other one is a revision of the hazardous  
15 waste listing description for certain nicotine  
16 replacement therapies, so you get a lot of nicotine gum  
17 that would get pulled into this.  
18 And so as far as adoption goes, the sewerage --  
19 prohibition on sewerage was promulgated under HSWA  
20 authority and it will become effective in all 50 states  
21 on August 21st. So that's -- that's regardless of -- of  
22 anything else.  
23 The nicotine listing, it is less stringent than --  
24 than the current rules, so state adoption is not  
25 required. But we will be proposing we adopt this rule

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1 incorporated by reference. Everything else we're  
2 required to adopt in the process, so it is required that  
3 we -- that we adopt it.  
4 So that's basically a brief overview. Anybody have  
5 any questions on pharmaceuticals?  
6 MR. NOBLE STANFIELD: More of what you're  
7 talking about at the pharmacies will be the pills that  
8 are -- that they drop on the floor or something? Is that  
9 what you're talking about?  
10 MR. RYAN KIRK: Could be. It could be  
11 that. It could be something is returned or --  
12 MR. NOBLE STANFIELD: Expired or --  
13 MR. RYAN KIRK: -- expired or customer  
14 returns, yeah.  
15 MR. NOBLE STANFIELD: Okay. Thank you.  
16 MR. RYAN KIRK: And a lot of -- we had a  
17 lot of -- a lot of these pharmacies -- I'll use CVS as an  
18 example. We have a lot of notified large quantity  
19 generator notified CVS pharmacies and others who are only  
20 a large quantity generator because of the previous rule,  
21 or the rule that's still in effect currently. But this  
22 will really clear out a lot of our -- our inspections  
23 that we have to -- we're required -- we have to do a  
24 certain percentage of -- of large quantity generators, so  
25 this will free us up to do that.



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1 I think everybody would agree that it's more  
2 important than doing a lot of inspections of pharmacies  
3 and so forth. So we're really -- we're really excited  
4 about it.

5 DR. KENNETH EDE: I mean, this also may  
6 really affect hospices. Because many times in a hospice  
7 kind of situation, when the patient passes away, they  
8 have a tremendous amount of medication there and many  
9 times they do not know the appropriate disposal.

10 So from ODEQ's perspective, this would be a  
11 wonderful avenue to also -- to inform them. Because the  
12 ones that I have seen unfortunately have used the sewer.

13 MR. RYAN KIRK: Absolutely.

14 CHAIRMAN LEE GRATER: Okay. Thank you.

15 Just as a -- kind of an ancillary subject to the --  
16 to the pharmaceutical rules, has there been any impact on  
17 the Land Protection Division as far as having to deal  
18 with residue from the medical marijuana activities;  
19 clippings, strippings, stems, whatever?

20 MR. MIKE EDWARDS: I don't see any  
21 volunteers coming up to answer that. There hasn't been  
22 in the hazardous waste compliance realm. You may or may  
23 not know this, but I happen to be married to the solid  
24 waste compliance manager, so I do know that they've had a  
25 lot of meetings, internal meetings, meetings with the

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1 Bureau of Narcotics and other agencies.

2 I don't believe that they -- I think they fielded a  
3 number of inquiries related to that, but I don't think  
4 they've had any actual situations where people had waste  
5 that they were trying to get rid of yet. But clearly,  
6 it's going to happen. It's coming.

7 DR. KENNETH EDE: In other states, what I  
8 have read, it's not been the plant itself because there's  
9 nothing in the plant chemically that is a hazardous waste  
10 under RCRA. It is all the solvents that are used to  
11 extract the Delta-9 THC that -- so they can make hashish  
12 or hash oil. So that's what other states have had real  
13 problems with of taking those solvents and disposing of  
14 them in dumpsters.

15 MR. MIKE EDWARDS: Yeah. So I think we're  
16 ready to move on to the next aspect related to  
17 incorporation by reference. I don't know how much the  
18 council members know about the authorization process, but  
19 I definitely don't want to go into a whole lot of detail  
20 about it just because it's extremely tedious and  
21 complicated.

22 But the short -- shortest way to put it is that when  
23 EPA puts out new rules, they require authorized states to  
24 adopt those new rules and they do it in clusters. So  
25 when we submitted our application for cluster 25, which

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1 involves some rulemaking from a year or two ago, we ended  
2 up getting a three-page list of comments resulting from  
3 their -- from EPA's review process.

4 You may -- you may note that I don't think anyone  
5 has ever mentioned EPA comments to one of our  
6 authorization packets in a previous council meeting  
7 because it's never happened before. They basically  
8 review our submittal and approve it, and they've -- in  
9 the time I've been doing it, they've never given us any  
10 comments. So it was surprising, to say the least, when  
11 we got a three-page list of -- I don't know if you've  
12 looked at this, but it's quite detailed. A lot of  
13 comments.

14 And I -- I think the explanation is simply that EPA  
15 is under more scrutiny with the way that they oversee  
16 authorized states. So they applied additional scrutiny  
17 to our application for cluster 25 and identified a number  
18 of issues in our state rules that are -- where they're  
19 not equivalent to the federal rules. And you can imagine  
20 how this occurs when EPA changes their rules every year  
21 or frequently and changes citations, and we have various,  
22 let's say, relics of past rulemaking going back 20 years  
23 sometimes. So especially if you think about it in the  
24 context of the generator improvement rule, which changed  
25 a lot citations, you can imagine that our state rules

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1 have become slightly fragmented and maybe incorrect in  
2 certain ways.

3 So in response to these comments, we -- I went  
4 through the state rules basically comment by comment, and  
5 I -- I think you have the other document, which would be  
6 a draft of our proposed state rule changes that we would  
7 put to you in October for a rulemaking meeting.

8 I don't really have any intention of going through  
9 line by line or comment by comment, but we certainly can  
10 if anybody wants to, or if you have any questions about  
11 any specific comments. It's really fixing typos and  
12 fixing inconsistencies between the state rules and the  
13 federal rules, so there's really nothing substantive in  
14 any of those comments.

15 So that's really it in a nutshell. You know,  
16 normally when we do incorporation by reference, we -- we  
17 change the date in Subchapter 3-2. So in October, we  
18 will be bringing changes to 3-2, I think 3-3, 3-4, I  
19 believe. Okay. 3-3- is revoked. So 3-4, and that's it.  
20 So a couple of additional subchapters we will present  
21 some modifications in order to address these comments.

22 So that's basically it. If you have any questions  
23 about this, I can try to answer them. And there's -- who  
24 knows what may happen between now and the October  
25 meeting. It's possible that something may -- we may

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1 become aware of something else that we need to change in.  
2 the state rules, so this is a draft and we'll have the  
3 final versus prior to the October meeting.  
4 CHAIRMAN LEE GRATER: Any questions or  
5 discussion from Council?  
6 (No response.)  
7 CHAIRMAN LEE GRATER: Are there any  
8 questions or discussion from the public?  
9 (No response.)  
10 CHAIRMAN LEE GRATER: If not, the next item  
11 on the Agenda is Presentation, Discussion, on the  
12 proposed highway remediation rule changes.  
13 Jennifer.  
14 MS. JENNIFER HANDLEY: I need to turn on  
15 the projector and it could be a little blinding for you  
16 guys.  
17 CHAIRMAN LEE GRATER: Okay.  
18 MS. JENNIFER HANDLEY: Good morning. My  
19 name is Jennifer Handley. I am the manager over the  
20 Agency's Highway Spill Remediation Program. I know that  
21 most of you probably were not on the council when the  
22 original rules went in -- were approved in 2007, and so I  
23 just wanted to give you guys just a little brief  
24 presentation on why we -- why the rules are there and  
25 proposed changes that we're looking at making.

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1 So the first question really is, "Why are the rules  
2 necessary?" Every day Oklahoma experiences spills on our  
3 public roadways and often environmental contamination  
4 results from industrial products, commercial products,  
5 diesel fuel, and other motor vehicle fluids from involved  
6 vehicles, all of which contaminate soil, potentially  
7 reach storm drains, drainage ways, our bar ditches, water  
8 bodies contaminating Oklahoma's water and land.  
9 DEQ currently regulates businesses, their  
10 owners/operators and employees or contractors, and the  
11 cleanup of spills and releases to ensure they're cleaned  
12 up and contaminated materials are disposed of properly,  
13 while we also ensure that those involved in the cleanup  
14 have the proper training to be involved with hazardous  
15 materials or potentially hazardous materials.  
16 Currently, DEQ has 31 licensees and remediators,  
17 which must meet specific requirements to ensure the  
18 protection of Oklahoma's public health and environment.  
19 You have a copy, which you just recently received,  
20 of the proposed draft rules with the changes. Those  
21 changes include issues related to definitions, general  
22 provisions, licensing requirements, eligibility  
23 reporting, and recordkeeping. I know you guys probably  
24 have not had much of a chance to review those. The good  
25 news is they're short. They are out for industry review

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1 now, but they just went out so the industry hasn't had a  
2 chance to take a look at them yet, but they're going to  
3 be able to have that opportunity now.  
4 The Corporation Commission and the Highway Patrol  
5 have both had some input on the draft as it is now. And  
6 then these rules will be ready once we have some input  
7 from the industry and go through the public notice period  
8 and be ready for your review and approval in October and  
9 will hopefully be in effect next September at least.  
10 Do you guys have any questions at this time? I know  
11 it's probably a surprise. If not, I have my business  
12 cards with me and I'll be happy to answer any questions  
13 if you guys have anything at any time. Feel free to  
14 contact me by phone or e-mail.  
15 DR. KENNETH EDE: I have one question. On  
16 definition --  
17 MS. JENNIFER HANDLEY: Yes, sir.  
18 DR. KENNETH EDE: -- it says here  
19 "completion of remediation." It means all actions taken  
20 to remediate a site that it's been completed and no  
21 further remediation is necessary.  
22 MS. JENNIFER HANDLEY: Yes.  
23 DR. KENNETH EDE: So we have a tanker and  
24 it's full, let's say a thousand gallons of sodium cyanide  
25 solution --

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1 MS. JENNIFER HANDLEY: Uh-huh.  
2 DR. KENNETH EDE: -- and it spills on our  
3 highway, who makes that decision when the remediation is  
4 complete, at what part per million? What is the  
5 criteria?  
6 MS. JENNIFER HANDLEY: So the materials  
7 that are spilled, obviously, have -- there's sampling  
8 involved. As the remediators move through that process,  
9 they're cleaning up areas, they are excavating soils.  
10 They are pulling samples, and we -- they provide those to  
11 us for review.  
12 Once they get down under whatever the required  
13 limits are for that particular material, then we would  
14 say it's technically complete.  
15 So part of the reason for that definition being  
16 added is because we've had some trouble getting the final  
17 reports. The remediators submit the final reports to us  
18 by request, and a lot of them will hold them for a period  
19 of time, and it causes our field staff to have to keep --  
20 or even our hazardous waste investigators to keep those  
21 spill incidents open in our system, and they have to  
22 continue to check on them. Whereas if we could just get  
23 a copy of the report for our records, we could close them  
24 and finalize that file.  
25 DR. KENNETH EDE: Sure. But who makes the

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1 decision as far as the criteria regarding, "Is it clean  
2 or not? Can I reopen this road and let the public  
3 travel?" Who makes that decision as far as at what part  
4 per million?  
5 MS. JENNIFER HANDLEY: Those are all  
6 generally provided for in RCRA. There are contaminate  
7 levels that are, you know, considered not hazardous waste  
8 anymore. And so we -- we use all of those parameters  
9 depending on the material spilled.  
10 DR. KENNETH EDE: So, Mike, did you use the  
11 TCLP analysis?  
12 MR. MIKE EDWARDS: It would depend on the  
13 material.  
14 MS. JENNIFER HANDLEY: Yeah, it -- for a  
15 diesel spill, we would use like a TPH with a BTEX.  
16 DR. KENNETH EDE: Okay.  
17 MS. JENNIFER HANDLEY: That's -- all of  
18 those are part of the sampling. Depending on the  
19 materials spilled, we -- we ask them to pull different  
20 types of samples, so...  
21 DR. KENNETH EDE: So you work with ODEQ to  
22 determine when it's clean?  
23 MS. JENNIFER HANDLEY: The remediators  
24 will, yes.  
25 DR. KENNETH EDE: Yes.

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1 MS. JENNIFER HANDLEY: Yeah.  
2 MR. MIKE EDWARDS: I'll just add -- and  
3 Kelly might want to add to this. But you know we have  
4 voluntary cleanup program.  
5 DR. KENNETH EDE: Sure.  
6 MR. MIKE EDWARDS: I suspect that they're  
7 reviewing most of this using risk-based --  
8 DR. KENNETH EDE: Okay.  
9 MR. MIKE EDWARDS: -- evaluations --  
10 DR. KENNETH EDE: Yeah. Very good.  
11 MR. MIKE EDWARDS: -- probably for  
12 industrial cleanup levels.  
13 MS. JENNIFER HANDLEY: We work with  
14 Ray Roberts --  
15 MR. MIKE EDWARDS: Right.  
16 MS. JENNIFER HANDLEY: -- who's the manager  
17 for the voluntary cleanup program, a lot.  
18 MS. KELLY DIXON: One other thing I can add  
19 is that a lot of times this -- it's hard to get  
20 everything in the spill. And so once the spill response  
21 is done, it -- and the road is open, they still may have  
22 corrective action to do. And that comes to our division,  
23 and it usually lands in the voluntary cleanup program,  
24 and they work with us to get to whatever level is a  
25 risk-based level for this certain situation.

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1 DR. KENNETH EDE: Do you think what you've  
2 just said should be reduced to writing in the rule so if  
3 I was a contractor, I would know that I would have to go  
4 to risk-based level? Because it doesn't say anything in  
5 the rule concerning this?  
6 MS. JENNIFER HANDLEY: Okay. I -- I see  
7 where you're -- where you're taking that, and we could  
8 certainly add that.  
9 DR. KENNETH EDE: Okay.  
10 MS. JENNIFER HANDLEY: It's definitely  
11 something we should discuss.  
12 DR. KENNETH EDE: Yeah. And I believe a  
13 risk-based level is appropriate specifically for  
14 highways. But it would be nice, for lack of a better  
15 term, to close the loop on this, to say, "Remediation  
16 complete upon ODEQ's approval," or something like that.  
17 Yeah.  
18 MS. JENNIFER HANDLEY: Thank you very much.  
19 DR. KENNETH EDE: Just a suggestion.  
20 MS. JENNIFER HANDLEY: Oh, no.  
21 DR. KENNETH EDE: Yeah.  
22 MS. JENNIFER HANDLEY: All suggestions are  
23 definitely welcome.  
24 Yes, sir.  
25 MR. NOBLE STANFIELD: I have a question on

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1 suspension or revocation.  
2 MS. JENNIFER HANDLEY: Yes.  
3 MR. NOBLE STANFIELD: And I see there are  
4 six different reasons for revocation and/or suspension.  
5 But it doesn't say specifically what -- which one of the  
6 rules would be for suspension and which for revocation.  
7 And it says -- talks about a hearing. Is this determined  
8 in the hearing?  
9 MS. JENNIFER HANDLEY: Yes.  
10 MR. NOBLE STANFIELD: All right.  
11 MS. JENNIFER HANDLEY: Yeah. It would be  
12 based on a violation. We've actually never suspended or  
13 revoked anybody's license.  
14 MR. NOBLE STANFIELD: Yeah, I noticed, you  
15 know, there's a pretty significant dollar figure involved  
16 if the license is revoked.  
17 MS. JENNIFER HANDLEY: Well, if it's  
18 revoked and then they're out of --  
19 MR. NOBLE STANFIELD: Uh-huh.  
20 MS. JENNIFER HANDLEY: -- you know,  
21 obviously, they have to wait a year to be out of  
22 compliance.  
23 MR. NOBLE STANFIELD: Okay.  
24 MS. JENNIFER HANDLEY: And so to renew that  
25 fee, it would be significant. And it's one of the things

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1 that we take into consideration before we would ever  
2 suspend or revoke a license. But there would be  
3 certainly an administrative hearing involved before we  
4 did such a thing.

5 MR. NOBLE STANFIELD: Something like  
6 dishonesty, fraud, misrepresentation probably would lead  
7 to a revocation?

8 MS. JENNIFER HANDLEY: Potentially.  
9 MR. NOBLE STANFIELD: Yeah.  
10 MS. JENNIFER HANDLEY: And probably  
11 depending on how egregious it was, it may not happen on a  
12 first offense. You know, you -- they would be put on  
13 notice that you -- "Listen, that's improper and you  
14 cannot do that." And if it happened again, they would --  
15 we'd probably look more seriously at a suspension or a  
16 revocation.

17 MR. NOBLE STANFIELD: Okay. So it's  
18 determined at a hearing pretty much?

19 MS. JENNIFER HANDLEY: Yes.  
20 MR. NOBLE STANFIELD: Thank you.  
21 CHAIRMAN LEE GRATER: To clarify something  
22 on cleanup levels, correct me if I'm wrong, you would  
23 normally operate on, first of all, the de minimis  
24 quantities listed for any -- any given hazardous waste in  
25 CFR.

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1 MS. JENNIFER HANDLEY: Correct.  
2 CHAIRMAN LEE GRATER: And second of all,  
3 you would be looking at human health risk-based  
4 assessments set up by EPA that are -- that are in the  
5 regulations and codified based on -- on the land use,  
6 whether it's a restricted area, whether it's a -- a  
7 public access area or whether it's a childcare unit?

8 MS. JENNIFER HANDLEY: Yes.  
9 CHAIRMAN LEE GRATER: And those -- those  
10 levels would be set based on existing regulations as  
11 appropriate?

12 MS. JENNIFER HANDLEY: That's correct.  
13 CHAIRMAN LEE GRATER: All right.  
14 MS. JENNIFER HANDLEY: That's how we handle  
15 that now.

16 CHAIRMAN LEE GRATER: Is there any other  
17 comments from the council?  
18 (No response.)  
19 CHAIRMAN LEE GRATER: Are there any  
20 comments on this matter from the public?  
21 MR. DENNIS MELTON: Yes.  
22 CHAIRMAN LEE GRATER: Sir.  
23 MR. DENNIS MELTON: Hi. My name is  
24 Dennis Melton. I'm an employee at Environmental  
25 Management Incorporated up in Guthrie. We're a highway

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1 spill remediation company. And I like your website that  
2 you guys changed recently. It looks good. I got a  
3 chance to use it yesterday.

4 One of the things that Terry Bobo asked me to ask  
5 this morning was if -- if there was a notification to the  
6 licensees that the -- the rules were going to change or  
7 that we were invited to this meeting regarding those rule  
8 changes. If anybody has a -- excuse me.

9 MS. JENNIFER HANDLEY: Those notifications  
10 went out yesterday but probably in the afternoon, so they  
11 just went out probably -- they'll go out in our mail  
12 today. So you guys are going to have an opportunity to  
13 comment before we have the actual official public comment  
14 period prior to the rulemaking process in October.

15 MR. DENNIS MELTON: Okay.  
16 MS. JENNIFER HANDLEY: So you'll have  
17 plenty of time to comment and make changes, and we can  
18 have some meetings set up if you like. Well, we're  
19 already planning on having meetings set up probably  
20 sometime in September for the public comment period. But  
21 we figured we would have the industry meeting prior to  
22 that.

23 MR. DENNIS MELTON: Okay. Good. All  
24 right.  
25 If I could say one more thing. Yeah. We work

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1 closely with DEQ, you know, once it's reported because  
2 we -- we report almost everything -- petroleum products  
3 25 gallons. But we use RCRA to base the reporting limit  
4 on what RCRA says. But the petroleum products especially  
5 we use the 25-gallon mark, so...

6 Thank you.

7 CHAIRMAN LEE GRATER: The next item on the  
8 Agenda would be new business limited to any matter not  
9 known or which could not have reasonably foreseen prior  
10 to the time of posting the agenda 24 hours before the  
11 meeting. Is there any such new business to be brought?  
12 (No response.)  
13 CHAIRMAN LEE GRATER: Council does not have  
14 anything?  
15 (No response.)  
16 CHAIRMAN LEE GRATER: DEQ does not?  
17 (No response.)  
18 CHAIRMAN LEE GRATER: Public does not?  
19 (No response.)  
20 CHAIRMAN LEE GRATER: That concludes the  
21 agenda for today. And is there a motion to adjourn?  
22 MR. LYNDEL GIBSON: I'll make the motion to  
23 adjourn.  
24 MS. DEBRA SMITH: I'll second.  
25 CHAIRMAN LEE GRATER: Motion has been made

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1 and seconded.  
2 Ms. Fields.  
3 MS. QUIANA FIELDS: Dr. Ede.  
4 DR. KENNETH EDE: Yes.  
5 MS. QUIANA FIELDS: Mr. Gibson.  
6 MR. LYNDEL GIBSON: Yes.  
7 MS. QUIANA FIELDS: Mr. Kennedy.  
8 MR. BOB KENNEDY: Yes.  
9 MS. QUIANA FIELDS: Ms. Smith.  
10 MS. DEBRA SMITH: Yes.  
11 MS. QUIANA FIELDS: Mr. Stanfield.  
12 MR. NOBLE STANFIELD: Yes.  
13 MS. QUIANA FIELDS: Mr. Grater.  
14 CHAIRMAN LEE GRATER: Yes.  
15 MS. QUIANA FIELDS: Motion passed.  
16 CHAIRMAN LEE GRATER: Thank you.  
17 (Meeting adjourned at 10:50 a.m.)  
18 \* \* \* \* \*  
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24  
25

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1 CERTIFICATION  
2 I, Jennifer Payne Kaelin, a Certified Shorthand  
3 Reporter within and for the State of Oklahoma, do hereby  
4 certify that I was present at the Hazardous Waste  
5 Management Advisory Council had July 18, 2019; that I  
6 recorded in stenotype notes all of said meeting; and that  
7 I thereafter transcribed my notes so taken and reduced  
8 same to typewritten form; and that foregoing transcript  
9 of meeting is full, true, correct and complete, to the  
10 best of my skill and ability, along with corrections made  
11 by the Department of Environmental Quality's staff.  
12 I further certify that I am not an attorney for  
13 nor relative of any of said parties or otherwise  
14 interested in the outcome or event of said action.  
15  
16 IN WITNESS WHEREOF, I have hereunto set my hand  
17 and affixed my official seal this 29th day of July, 2019.  
18 *Jennifer Payne Kaelin, CSR*  
19 \_\_\_\_\_  
20 Jennifer Payne Kaelin CSR#1748  
21 Official Court Reporter  
22  
23  
24  
25



# HAZARDOUS WASTE MANAGEMENT ADVISORY COUNCIL

Attendance Record

July 18, 2019

Oklahoma City, Oklahoma

**CHECK BOX TO COMMENT**

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