

MINUTES
Solid Waste Management Advisory Council
January 14, 2021 Regular Meeting
Department of Environmental Quality
Multipurpose Room 707 N. Robinson
Oklahoma City, Oklahoma

Official SWMAC Approval
at July 8, 2021 meeting

Notice of Public Meeting - The Solid Waste Management Advisory Council convened for its Regular Meeting at 9:00 a.m. on January 14, 2021, in accordance with the Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes. Notice of Regular Meeting was filed to the Office of the Secretary of State on November 4, 2020. Agendas were posted on the entrance doors at the Department of Environmental Quality (DEQ) Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Mr. Jeff Shepherd, Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present. Mr. Shepherd welcomed new Council members, Mr. Robert Joyce and Ms. April Sacha to the Council.

MEMBERS PRESENT

Todd Adcock
Rodney Cleveland
Robert Joyce
Jim Linn
Jody Reinhart
April Sacha
Jeff Shepherd

DEQ STAFF PRESENT

Kelly Dixon
Kole Kennedy
Patrick Riley
Karen Jayne
Michele Woods
David Cates
Jeff Biddick
Quiana Fields

MEMBERS ABSENT

Brenda Merchant
Greg Phillips

OTHERS PRESENT

Tammie Shipman, Court Reporter

Approval of the Minutes for the September 10, 2020 Solid Waste Management Advisory Council Meeting – Mr. Linn moved approval of the September 10, 2020 Minutes and Mr. Adcock made the second.

See transcript pages 6 – 7

Roll Call

Todd Adcock	Yes	Jody Reinhart	Yes
Rodney Cleveland	Yes	April Sacha	Yes
Robert Joyce	Abstain	Jeff Shepherd	Yes
Jim Linn	Yes		

Director’s Report – Mr. Patrick Riley, Environmental Programs Manager of the LPD, provided an update on Division activities.

See transcript pages 7 – 16

Discussion of proposed changes to Chapter 517 Disposal of Coal Combustion Residuals from Electric Utilities – Mr. Riley stated the Department, in response to changes to 40 CFR 257 Subpart D, is proposing to amend OAC 252:517 to change the classification of “clay-lined” CCR surface impoundments to “unlined,” revise certain closure deadlines for surface impoundments, provide alternative closure provisions, establish groundwater protection standards for four Appendix B constituents, add a summary requirement to the annual groundwater report and make other non-substantive changes. Following questions and comments by the Council and by

the public, Mr. Shepherd called for motion. Mr. Linn moved to approve the changes and Ms. Reinhart made the second.

See transcript pages 16 – 50

Roll Call			
Todd Adcock	Yes	Jody Reinhart	Yes
Rodney Cleveland	Yes	April Sacha	Yes
Robert Joyce	Yes	Jeff Shepherd	Yes
Jim Linn	Yes		

Discussion of subcommittee review of Closure and Post-Closure Cost Estimates – Mr. Riley stated that the Subcommittee formed to conduct the five year review of unit costs required by OAC 252:515-27-4(a) will present information for discussion and potential action by Council. The item was just discussed for informational purposes only and no action was taken.

See transcript pages 51 – 54

Public Forum – No public issues were raised.

New Business – None

Adjournment – Mr. Shepherd adjourned the meeting. The meeting was adjourned at 10:13 a.m.

See transcript page 57

Transcript and Attendance Sheet are attached as an official part of these Minutes.

DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT ADVISORY COUNCIL

SOLID WASTE MANAGEMENT ADVISORY COUNCIL MEETING

JANUARY 14, 2021 - 9:00 A.M.

REPORTED BY: TAMMIE SHIPMAN, CSR

Page 2

1 COUNCIL MEMBERS PRESENT:
2
3 MR. JEFFREY SHEPHERD, CHAIRMAN
4 MR. TODD ADCOCK
5 MR. RODNEY CLEVELAND
6 MR. JIM LINN
7 MS. JODY REINHART
8 MR. ROBERT JOYCE
9 MS. APRIL SACHA
10 MS. BRENDA MERCHANT - Absent
11 MR. GREG PHILLIPS - Absent
12
13
14
15 Also Present:
16 Ms. Quiana Fields, Secretary of Board and Council
17 Mr. Patrick Riley, Environmental Programs Manager
18 Mr. David Cates, Engineer Manager, Solid Waste
19 Permitting
20
21
22
23
24
25

Page 4

1 MS. FIELDS: Mr. Joyce?
2 MR. JOYCE: Here.
3 MS. FIELDS: Mr. Linn?
4 MR. LINN: Here.
5 MS. FIELDS: Ms. Merchant is absent.
6 Mr. Phillips is absent.
7 Ms. Reinhart?
8 MS. REINHART: Here.
9 MS. FIELDS: Ms. Sacha?
10 MS. SACHA: Here.
11 MS. FIELDS: Mr. Shepherd?
12 CHAIRMAN SHEPHERD: Here.
13 MS. FIELDS: We have a quorum.
14 CHAIRMAN SHEPHERD: All right.
15 Introduction of new Council members. We'd like
16 to welcome Robert Joyce and April Sacha.
17 Is that right?
18 MS. SACHA: Yes.
19 CHAIRMAN SHEPHERD: Robert -- Bob Joyce
20 is a chemical engineer and environmental
21 attorney, and is a shareholder with McAfee and
22 Taft Law Firm. Bob received his BS in Chemical
23 Engineering from the University of Tulsa in
24 1981. He started working for City Service
25 Company in 1978 while still at TU, and then

Page 3

1 (Meeting began at 9:00 a.m.)
2 CHAIRMAN SHEPHERD: All right. We'll
3 get started. This is the January 14th, 2021,
4 regular meeting of the Solid Waste Management
5 Advisory Council was called in the accordance
6 with the Open Meeting Act. Notice was filed
7 with the Secretary of State on November the 4th,
8 2020. The agenda was duly posted on the doors
9 of the DEQ, 707 North Robinson, Oklahoma City,
10 Oklahoma, at least 24 hours prior to the
11 meeting.
12 Only matters appearing on the posted
13 agenda may be considered at this regular
14 meeting. In the event that this is continued or
15 reconvened, public notice of the date, time, and
16 place of the continued meeting will be given by
17 announcement at this meeting. Only matters
18 appearing on the agenda of a meeting which is
19 continued may be discussed at the continued or
20 reconvened meeting.
21 We'll call roll.
22 MS. FIELDS: Mr. Adcock?
23 MR. ADCOCK: Here.
24 MS. FIELDS: Mr. Cleveland?
25 MR. CLEVELAND: Here.

Page 5

1 moved his city's NGL engineering group to work
2 at the process and project engineers.
3 Bob graduated from law school in 1988
4 and began his environmental law practice at the
5 firm of Boone, Smith, Davis and Hurst. He later
6 moved in-house as senior attorney and manager of
7 environmental compliance for Hilti, Inc. In 1993
8 Bob joined the Tulsa Office of Gardere and
9 Wynne, and subsequently became shareholder and
10 managing partner for the firms Tulsa office.
11 In 2000 Bob and several colleagues
12 started their own environmental boutique law
13 firm, Joyce, Paul, Carson and McDaniel. After
14 ten years Bob's firm joined Oklahoma's largest
15 law firm, McAfee and Taft. Bob continues to
16 practice law with McAfee in the environmental
17 regulatory and compliance area, as well as in
18 oil and gas environmental litigation. Welcome
19 Robert.
20 MR. JOYCE: Thank you.
21 CHAIRMAN SHEPHERD: April Sacha. I'm
22 going to read this in -- so it's going to be
23 weird, because I'm going to read it -- it says,
24 I'm currently a senior environmental consultant
25 that does the RCRA and water permitting

Page 6

1 compliance, along with the environmental training
 2 program for the Phillips 66 Ponca City refinery.
 3 She previously worked in the Conoco Phillips 66
 4 midstream business unit and did multimedia, air,
 5 RCRA, water, permitting, compliance for
 6 pipelines and terminals in multiple states,
 7 Oklahoma, Texas and Missouri.
 8 Other environmental programs she has
 9 been responsible for include air programs,
 10 asbestos, CEMS, immissions inventory, engines,
 11 GDMACT, GDGACT.
 12 You may have to explain that at some
 13 point.
 14 Greenhouse gas, refrigerants, tanks, et
 15 cetera. NIFA, emergency response, cleanup,
 16 remediation, spill, prevention controls and
 17 counter measures, adsara (phonetic) 311, 312,
 18 toxics release inventory and toxic substances
 19 control act and waste management.
 20 Prior to working in the oil and gas
 21 industry, she worked as a GPMS analysis in
 22 commercial and environment laboratories, and
 23 then had the environmental consultant on federal
 24 superfund site projects. Welcome April.
 25 All right. Moving on, approval of the

Page 8

1 agency updates to provide at this time, since
 2 she just provided an update at the last council
 3 meeting in September. So she left it to me to
 4 mention a few things that may be of interest to
 5 you, so I'll share just a little bit.
 6 First of all, I want to thank you for
 7 being here. You're all volunteers but you take
 8 your commitment very seriously. I know it's not
 9 especially convenient or pleasant during the
 10 times of the pandemic to show up to an in-person
 11 meeting, so I -- I really appreciate you being
 12 here.
 13 Last year you remember there was a
 14 legislative effort to do away with the Solid
 15 Waste Management Advisory Council and other
 16 councils. And it was partly due to your effort
 17 and the effort of your organizations to share
 18 that the work that we do as a council is
 19 valuable and necessary. And so that -- that
 20 legislation was defeated and we remain as a
 21 body.
 22 And I can share that I -- personally,
 23 for the work that we do and the rules that we
 24 pass, I feel much more confident sharing those
 25 with you and getting your input before we push

Page 7

1 minutes for the September 10th, 2020, Solid
 2 Waste Management Advisory Council meeting.
 3 MR. LINN: I'll move that.
 4 MR. ADCOCK: Second.
 5 MS. FIELDS: Mr. Adcock?
 6 MR. ADCOCK: Yes.
 7 MS. FIELDS: Mr. Cleveland?
 8 MR. CLEVELAND: Aye.
 9 MS. FIELDS: Mr. Joyce.
 10 MR. JOYCE: I'll abstain.
 11 MS. FIELDS: Mr. Linn?
 12 MR. LINN: Yes.
 13 MS. REINHART: Ms. Reinhart?
 14 MS. REINHART: Yes.
 15 MS. FIELDS: Ms. Sacha?
 16 MS. SACHA: Yes.
 17 MS. FIELDS: Mr. Shepherd?
 18 CHAIRMAN SHEPHERD: Yes.
 19 MS. FIELDS: Motion passed.
 20 CHAIRMAN SHEPHERD: All right. Item
 21 Number 5, Director's Report. Patrick.
 22 MR. RILEY: Well, we usually reserve
 23 the agenda item for the Land Protection Division
 24 director, Kelly Dixon. I think I saw her come
 25 in. She told me she doesn't have a lot of

Page 9

1 them forward to the Environmental Quality Board,
 2 so just a thank you to you.
 3 A few notes of the DEQ COVID response.
 4 In March we moved to remote working as an
 5 agency, which was no small effort. But since
 6 then we've worked hard to try and continue with
 7 the business of the DEQ. A lot of that was
 8 accomplished through a shift to virtual
 9 platforms for meetings with facilities and other
 10 customers, community involvement meetings,
 11 council meetings. As you recall, in September
 12 we had a council meeting virtually. Hazardous
 13 Waste Council and Radiation Management Advisory
 14 Council also met remotely.
 15 We've shifted to mostly electronic
 16 review of documents, which is kind of a pleasant
 17 surprise. You know, we did it by necessity, but
 18 it's become a very valuable tool for real time
 19 collaboration of peers and others to review the
 20 documents electronically, and it kind of just
 21 added to our efficiency and the speed at which
 22 we review documents. So I think that's a
 23 practice that we're going to continue even after
 24 a routine return to the office. So that was
 25 kind of a pleasant outcome of this experience.

Page 10

1 Inspections, we've -- we've tried to
2 continue to accomplish compliance inspections
3 either by phone or other electronic means or
4 other virtual means as necessary. And it's been
5 particularly helpful for our Tire group who has
6 to document compliance inspection before they
7 pay out reimbursement for processed recycled
8 tires. So it's allowed us to continue to meet
9 our obligations and yet continue to pay the
10 processors for the work that they do.

11 And finally I'd just like to ask, you
12 know, a lot of you, you're customers of the DEQ.
13 And my question to you would be, as we have
14 shifted to this remote environment, virtual
15 environment, are your expectations being met?
16 And you can think about that now, and certainly
17 I'll take your comments. But I would also
18 encourage you, as you think about that, if
19 things -- if ideas or questions come to mind
20 later, please let me know. Because it's our
21 goal to make sure that we're meeting your
22 expectations.

23 The next thing I'll point out is that
24 conferences and trainings, we typically have a
25 SWANA conference in the spring, and that is

Page 12

1 think. Brand new.

2 CHAIRMAN SHEPHERD: Brand new.

3 MR. RILEY: I'm looking forward to
4 seeing it.

5 And the last thing I have to share is
6 about draft legislation that the DEQ has
7 prepared for PFAS, so poly or per-fluorinated
8 substances. I'm sure it's all on your mind.
9 It's becoming a -- it's an emerging contaminate
10 of concern. We know it's an interest to your
11 industry. DEQ is concerned that other states
12 are taking action to regulate PFAS waste. And
13 if Oklahoma is not aware of what's happening and
14 proactive in taking measures to ensure proper
15 regulation and management of this type of waste,
16 that Oklahoma may become a -- a dumping ground
17 for out of state PFAS waste.

18 So there is some drafted legislation
19 that's being proposed this year that would allow
20 the DEQ to regulate PFAS disposal. I can tell
21 you that it's not the DEQ's goal to manage or
22 regulate incidental amounts of PFAS that is
23 present in all or many consumer -- consumer
24 waste, some industrial waste, and that's not
25 what we're concerned with. We're concerned with

Page 11

1 canceled for this year, the Oklahoma chapter.
2 We had a successful conference last year where
3 Oklahoma and Texas got together for a big
4 conference and that -- we were looking forward
5 to something like that again, but that has been
6 canceled for 2021.

7 DEQ will host waste exclusion plan
8 training. As you know, that's a requirement for
9 landfill operators to have annual refresher
10 training, and that will occur virtually sometime
11 in the spring, so watch for that. There will be
12 notices and we will continue to provide that
13 service.

14 Finally, there will be a national
15 Brownfields conference in Oklahoma City this
16 year, in September. The end of September, 27th
17 through 30th, and it's going to be at the new
18 convention center here in Oklahoma City. I'm
19 assuming that will have the ability to meet in
20 person, so watch for more details about that.

21 CHAIRMAN SHEPHERD: Is that going to be
22 the first -- is that going to be the first
23 conference hosted at the new facility?

24 MR. RILEY: I don't know. Surely it
25 would be -- it may be one of the first, I would

Page 13

1 large amounts of industrially generated PFAS
2 waste, aspect firefighting foam, remediation
3 cleanups, that type of thing.

4 So it may, you know, very early in the
5 process. You know, I didn't know of this until
6 the end of December, so it's -- it's quickly
7 evolving. I would expect that the language in
8 that bill will evolve as well throughout the
9 session.

10 What it means to you as a body is that
11 at some point we will bring rules to you for
12 consideration to pass onto the environmental
13 quality board for proper management and disposal
14 of PFAS waste. So it may be premature to talk
15 about the details of that now, but I wanted to
16 give you a heads up so that you can watch for
17 that and become involved as you see it necessary
18 at the legislative level.

19 Any questions about that?

20 CHAIRMAN SHEPHERD: I think it's
21 important to note that, as it relates to PFAS,
22 it's not the landfills or the transfer stations
23 that are actually generating that waste, so
24 let's not put the burden on them to have to deal
25 with it.

Page 14

1 MR. RILEY: Right.
2 CHAIRMAN SHEPHERD: This waste is being
3 generated every day, by everybody, and it's --
4 It's everywhere, so just be thinking about that.
5 MR. RILEY: And I don't have the -- I'm
6 not prepared to speak on it, the details of the
7 bill. But I know that there's awareness that
8 the generator -- there's an awareness and the
9 desire to not remove liability from the
10 generator of the waste.
11 CHAIRMAN SHEPHERD: Okay.
12 MR. RILEY: So that the generator would
13 maintain responsibility for -- for that. So I
14 think that is kind of what you're talking about.
15 CHAIRMAN SHEPHERD: Yeah.
16 MR. RILEY: Okay. Any -- any
17 discussion or questions about that information
18 from the director's report?
19 CHAIRMAN SHEPHERD: How are you
20 completing your quarterly inspection reports?
21 MR. RILEY: So --
22 CHAIRMAN SHEPHERD: Quarterly
23 inspections, really.
24 MR. RILEY: Yeah. A couple of
25 different ways. One is, if we can -- if we can

Page 16

1 can drive around the facility easily in a pickup
2 truck.
3 Some of the things that are harder are
4 the hazardous waste inspections where you have
5 to go inside a building or being in a closed
6 area. So those are kind of the limits and the
7 things that we're thinking about as we figure
8 out how to do these.
9 CHAIRMAN SHEPHERD: Any other
10 questions?
11 Thanks, Patrick.
12 MR. RILEY: Sure.
13 CHAIRMAN SHEPHERD: All right. Item
14 Number 6, Rulemaking. Discussion of Proposed
15 Changes to Chapter 517 Disposal of Full
16 Combustion Residuals for Electric Utility. The
17 department in response to changes to 40 CFR 257
18 Subpart E is proposing to amend OAC 252:517 to
19 change the classification of clay lined CCR
20 surface impoundments to unlined. Revised
21 certain closure deadlines for surface
22 impoundments, provide alternative enclosure
23 provisions, establish groundwater protection
24 standards for four Appendix B constituents, add
25 a summary requirement to the annual groundwater

Page 15

1 send an inspector to the field and maintain
2 social distance, they will do a physical
3 inspection. And a lot of times they will show
4 up and do a -- just an independent inspection
5 unaccompanied by -- by facility personnel or
6 personnel staying at a distance. So that's one
7 way we've done it.
8 The other ways we've done it, we've
9 done it by phone, gone through the checklist --
10 inspection checklist, asked questions, requested
11 photographs or videos to document certain
12 things. So that's -- that's how we're
13 continuing to do that.
14 We -- one of the things that I didn't
15 mention is that early on in the process we
16 recognized that there was going to be concern
17 with physical -- physically going out to sites.
18 So we prepared a field manual, some guidelines
19 to maintain how you could accomplish an
20 inspection while be protective of both the
21 facility, personnel, and then DEQ personnel.
22 And, really, for some -- some
23 facilities are easier than others. You know,
24 it's easier to do a solid waste landfill
25 inspection because it's -- you're outside, you

Page 17

1 report, and make other non-substantive changes.
2 MR. RILEY: Sounds like a lot, doesn't
3 it?
4 CHAIRMAN SHEPHERD: Here we go. Every
5 meeting, man. The old combustion ash.
6 MR. RILEY: Yeah, that's the ways we
7 feel as well, so I'll offer a little context.
8 And also I want to present and talk through a
9 summary, a fact sheet about CCR. And it's a
10 recent addition. It wasn't e-mailed to you but
11 it appears in your packet, and I'll talk about
12 that in just a minute.
13 But each time that we talk about the
14 CCR and you have to go back to the history and
15 try and remember all the things that have
16 happened. And it's become so -- the effort has
17 continued for so long and there's been so many
18 changes, it's hard to -- my institutional memory
19 is being stained. So we catalog some of the
20 changes in the fact sheet, and I'll talk about
21 that.
22 A few things to point out is the
23 federal standard for combustibile coal ash first
24 became final on April of 2015. DEQ first had CP
25 rules -- CCR rules in 2017, and we have -- we

Page 18

1 have regulated the disposal of coal ash from
2 utilities for decades under the Solid Waste
3 rules. But according to the new federal
4 standards, there are new requirements. So we
5 have specific CCR rules that came out in October
6 of 2017.

7 DEQ received approval from EPA to
8 manage our program, in lieu of the federal
9 program, in June of 2018. So now our rules
10 operate instead of the federal rules, so there's
11 certain -- which is good. And we talked about
12 this, that we feel strongly that Oklahoma
13 regulations -- that Oklahoma facilities should
14 be regulated by Oklahoma regulatory agencies
15 rather than the federal agency.

16 There are a lot of advantages to that,
17 in both to the regulated community and to the
18 citizens of Oklahoma. And we think we're more
19 responsive and more effective at regulating on a
20 local level. So that's why we undertook the
21 effort, and we -- we were the first state to
22 receive that approval, and that's something that
23 we're very proud out of.

24 It does not come without strings
25 attached, however. Those strings include

Page 20

1 helps us catalog and chronical the changes and
2 helps describe what we're doing.

3 So if you look at the -- at the summary
4 sheet there's some background provided about the
5 CCR rule, more specific information. The dates
6 that I mentioned, when the rules -- the
7 standards first became effective on the federal
8 level and then our state implementation and
9 approval.

10 As -- as anything, when the rule is
11 first written, it wasn't perfect on the federal
12 level, and they have made some revisions over
13 time. That's not unexpected and it's not
14 necessarily a bad thing. They want to improve
15 it as they go along. They've had the benefit of
16 time to receive input from industry and other
17 stakeholders, and they made changes.

18 So -- so changes have occurred. We
19 expect more changes in the future. There's a --
20 this list here talks about changes that occurred
21 in 2018, and then additional changes that
22 happened in 2020. Again, we have three years to
23 catch up, so this 2018 deadline is -- is
24 becoming close for us to go through our
25 legislative process and pass the rules and then

Page 19

1 updating the rules -- a requirement to update
2 our rules when the federal rules change; to
3 maintain our rules to be at least as protective
4 or stringent as the federal level. So that's
5 why we come to you so often, to share
6 information, and at this time, as we've done
7 sometimes in the past, present rules to catch up
8 to the federal changes.

9 It's -- the rules are long. They
10 are -- we incorporated them as closely as we
11 could to the federal language. So when you look
12 at how these Oklahoma rules are written for CCR,
13 they look different than how we would have
14 written them if we did them ourselves. So
15 they're longer -- and I'm going to editorialize
16 a little bit here, but they seem longer, a
17 little more convoluted. There's a lot of depth
18 to the organization, so it gets a little
19 confusing.

20 So as we talk about these changes, I
21 want to refer you to the fact sheet that we
22 have, the summary outline. It's behind tab 7.
23 And I want to thank the engineering manager,
24 David Cates, for putting this together. It's
25 very comprehensive and detailed and, I think,

Page 21

1 go back to EPA and ask for approval of our
2 changes.

3 So these different bullet points -- I
4 want to point out, some of the things that we're
5 doing, that we decided to do and some that we
6 didn't. Again, if it's something that's more --
7 where the federal rule change would be more
8 stringent, then we have to incorporate that if
9 we want to maintain our program.

10 Other things we're incorporating
11 because we see benefit. It's a -- it's a common
12 sense change that -- that is a benefit to our
13 regulating community or the citizens. So let me
14 point out just a few things as we go through
15 here, and then we can look at the rules as a
16 whole and the changes, and I think it will make
17 a lot more sense.

18 So under the changes from 20 -- August
19 of 2018, establishing alternative groundwater
20 protection standards, this is something that --
21 that is a benefit for facilities, if they get
22 into a situation where something shows up in the
23 groundwater above background, for these
24 parameters that did not have groundwater
25 protection standards established, the federal

Page 22

1 rule adds some in and it will -- in the event
2 that something were to show up, having these
3 groundwater protection standards is a benefit.
4 So we're adding that in, or proposing to.
5 The next two bullet points, one is for
6 the -- an allowance for the state director to
7 issue a certification in lieu of a PE. We are
8 not recommending that that be part of the rules.
9 We don't want to be in the business of approving
10 your work, the work of regulating facilities,
11 but we would rather have professional engineers
12 make that certification.
13 The third bullet point, allowing for
14 participating state director to approve
15 suspension of groundwater monitoring if a
16 demonstration of no migration can be made. We
17 are not proposing to incorporate this, because
18 the federal rules were written to apply to all
19 areas of the United States, some which have a
20 geology that is much different than Oklahoma.
21 The standards that they have written to
22 demonstrate no migration of groundwater would
23 never apply in Oklahoma, according to our
24 review. Our professional opinion, professional
25 opinion of geologists, is that even if we added

Page 24

1 that's more stringent and we're plugging that in
2 as a whole.
3 And then the last two things, the
4 changes that we're incorporating also. They
5 require an executive summary for groundwater
6 monitoring and correction action reports. From
7 discussions I had with folks at EPA, they found
8 that some of the information that was being
9 prepared in the reports was hard to interpret by
10 the public, so they had -- they have added this
11 requirement for an executive summary, to make it
12 more user friendly, to allow -- make it easier
13 to understand.
14 And then the last thing is some
15 requirements for the publically accessed
16 websites. That is a requirement, so they
17 tightened that up a little bit.
18 So all those things we're building into
19 our rules, and that's what you'll -- we'll go
20 through those changes real quick and I'll show
21 you where those things that I just described
22 show up in the rules.
23 The rest of the information on this
24 sheet, we're not -- I'm going to skip that for
25 now. You can take this home, read it over the

Page 23

1 these things into our rules, there is no way a
2 facility could take advantage of it. So if it's
3 not applicable to Oklahoma, so we're not
4 proposing that be included.
5 The next bullet point refers to some
6 changes in deadlines. That was actually revised
7 in the next set of changes that came out in
8 2020, so we'll pass that down to the next group.
9 So the first bullet point from
10 September 2020, there was a decision -- the
11 federal change removed the allowance of clay
12 lined surface impoundments, so -- so if it's --
13 a clay lined impoundment is no longer considered
14 to be lined, so that is a change that's more
15 stringent and we have to incorporate that.
16 Changes some deadlines for initiating
17 closure, we're adding that. The next one is a
18 change in deadline that we see as a benefit, so
19 we're adding that.
20 Revisions to alternative closure
21 provisions. Alternative closure provisions are
22 valuable and make -- make sense to allow that.
23 What the federal changes that happened in
24 this -- in September did was to spell out lots
25 of criteria for how you get that approval. So

Page 25

1 weekend, study it before the next meeting if you
2 want. It will be there the next time we have to
3 go through all the federal changes or proposing
4 more changes to the CCR. So that document is
5 going to be with us. And we'll update it as we
6 go along.
7 All right. So all that being said,
8 let's look behind tab 4. And this is the
9 redline strike out version of the rule, and I
10 think that it's -- having the text in red helps
11 us identify where the changes occur.
12 And if you'll indulge me, I'll go
13 through these rules and point out where those
14 changes are happening and what they are. And
15 then as you have questions, we can go back and
16 talk about anything in specific detail.
17 So starting on page two, we're adding
18 some definitions. Eligible online surface
19 impoundment, and then later on page six some
20 definitions for technically feasible and
21 infeasible. These are terms that show up with
22 some of the new rules that are proposed by the
23 federal language. We didn't have them in there
24 before, so we're adding them in now.
25 At the bottom of page six and the top

Page 26

1 of page seven we're adding some language about
2 permit upgrades. This is the mechanism that DEQ
3 uses in our rule, or at least the Solid Waste
4 rules and CCR rules, that when we make changes
5 to rules that facilities have to incorporate,
6 this is the mechanism by which we allow that to
7 occur. So we give facilities 180 days to update
8 their permits; that's what this language is
9 referring to.

10 Initially we talked about CCR landfill
11 permits. We have added this new text in D about
12 changes for permit upgrades for both
13 landfills -- CCR landfills and surface
14 impoundments.

15 On page eight, the section that talks
16 about the groundwater report, the summary for
17 groundwater reporting. To make it easier to
18 understand, that's the federal language that
19 we're incorporating. On he page ten we're
20 striking language that refers to online CCR
21 impoundments, which are no longer allowed, so
22 pulled that out.

23 Top of page 11 there's a typo or a
24 change. Because of stricken language, we have
25 to change our citation numbering, so there's --

Page 28

1 didn't feel like we had to do it, but our guys
2 really wanted to do that. You know, it's our
3 commitment to excellence, and also, we're like,
4 yeah, hey, we're not the only ones that make
5 typos.

6 Page 22, there's a -- and 23, there's
7 some other adjustments to citations and some
8 typographical errors. Again, on page 24 -- you
9 know, the thing is, with these rules, they're so
10 complex and so many sections, if you refer to
11 other sections, if you change one thing, you
12 have to renumber it all, and it is -- it is kind
13 of a nightmare.

14 25. So the next -- so starting on page
15 25, there is a whole lot of text that
16 incorporates the changes -- the alternative
17 closure provision changes that happen on the
18 federal level. All we've done here is take the
19 language, the federal language, and insert it as
20 a block.

21 And, again, these are criteria that
22 they have established for alternative closure
23 requests. It is more stringent than Oklahoma
24 rules currently, so we are required to
25 incorporate that if we want to maintain

Page 27

1 there's a change there. You'll see that occur
2 from time to time.

3 Page 13. There's language that refers
4 to an online impoundment that has to be
5 stricken. The top of page 14, this is the
6 groundwater protection standards that are being
7 added in for those four constituents. The next
8 change refers to liner criteria for clay line
9 impoundments, which, again, are not considered
10 to be lined and have to be stricken.

11 The top of page 15 is the deadline
12 change, and you'll see some language that refers
13 to technically feasible. That's where we have
14 to add in that definition. The middle of page
15 15 there's some -- there was some differences
16 that the feds added for closure provisions that
17 related to not being able to meet locations
18 restrictions. So there's changes there that
19 became more specific. So because they were more
20 stringent, we're adding that in too.

21 The next change is on 19. 19, I'm
22 pleased to say that this is a typo that happened
23 by EPA. This was something that -- a mistake
24 that they made, that we were -- that we are
25 fixing on their behalf. We didn't know -- we

Page 29

1 permitting approval.

2 On page 38, this section of the rules
3 refers to all of the reporting requirements of
4 facilities. Because they were new rules added
5 before, we now have more reporting requirements.
6 So that's what's going on there.

7 Some more language in reporting
8 requirements. Some changes in citations on page
9 42. Page 43 is the website changes that we
10 talked about. Page 45 talks about notification.
11 So you have reporting requirements and then
12 notification requirements, so those are the new
13 ones that show up because of the rule changes.
14 And then finally on page 46 we're making some --
15 the last things are sudden changes to citations
16 that make everything fit.

17 So that is our world wind tour through
18 CCR federal changes incorporated into Oklahoma
19 change -- in Oklahoma rules. I'm happy to
20 answer any questions or I'm happy to let David
21 Cates answer any questions related to details
22 about any of this.

23 CHAIRMAN SHEPHERD: How many CCR
24 facilities are clay lined in Oklahoma?
25 MR. RILEY: So we only have two

Page 30

1 facilities that have impoundments, surface
2 impoundments, and they are both closing for
3 other reasons. Because they were unable to meet
4 the location restriction for distance from
5 groundwater, they would have to close anyway.
6 So the ironic thing about all these changes in
7 eliminating clay lined impoundments is that
8 it -- all these changes won't effect the
9 facilities that are in operation now.
10 Is that fair to say, David?
11 MR. CATES: (Nodded head.)
12 MR. RILEY: So, yeah. The universe of
13 CCR facilities in Oklahoma are is fairly small.
14 The universe for those that operate impoundments
15 is even smaller. It's a lot of work for a few
16 facilities, but it is a lot of waste that
17 goes -- CCR is one of the largest waste streams,
18 and it's -- it's important, and we feel strongly
19 that we want to maintain control of the program.
20 MR. JOYCE: So there are no
21 requirements that have been added that are
22 anymore stringent that the federal requirements?
23 MR. RILEY: No.
24 MS. REINHART: So I'm representing
25 enviromental organization. Will we be adjusting

Page 32

1 clarifying, you know.
2 So on Section 517-9 -- well, let me
3 give you the page number. It will be easier.
4 Page 14. So the opening phrase for the
5 following constituents, he recommended having it
6 say, For the following EPA established health
7 based levels for regulated CCR facilities in
8 Oklahoma, and then the levels that are listed
9 there.
10 And then the second change is on page
11 26. So instead of saying "undergoing" title
12 that section CCR Landfills: Permanent cessation
13 of coal fire boiler by a certain date. Just to
14 make certain it's really clear that -- you know,
15 so it's consistent with the federal rule and it
16 makes the language clear what's going on that
17 situation.
18 It -- right now it appears that the
19 landfill's undergoing permanent cessation versus
20 the boiler, so we just want to put that clarity
21 into the rule.
22 MR. RILEY: And can you read -- can you
23 read that again?
24 MS. REINHART: Yeah. Paragraph B would
25 be "CCR Landfills:", and just strike the word

Page 31

1 the regulations for those comments, David? I
2 mean, I'm -- does that make sense on that
3 behalf?
4 MR. CATES: Are you saying -- are you
5 asking if we received comments on these rule
6 changes as or --
7 MS. REINHART: Yes.
8 MR. CATES: The only comments were from
9 enviromental organizations, the LEAD agency.
10 MS. REINHART: Through Bud Ground?
11 Through Bud Ground?
12 MR. RILEY: I don't believe that we
13 received those.
14 MS. REINHART: Okay. I have a copy of
15 the e-mail that he sent to you, so --
16 MR. CATES: When was at.
17 MR. RILEY: Yeah, when was it?
18 MR. CATES: Was it sent late?
19 MS. REINHART: January 12th, so it
20 would be Tuesday. Have you not seen that yet?
21 MR. CATES: I am not familiar with it,
22 no.
23 MS. REINHART: Okay. It's just a -- he
24 just had a few editorial comments to make, but
25 they're not -- you know, they're just

Page 33

1 "undergoing" and start with capital P, Permanent
2 Cessation of a coal fire boiler by a certain
3 date -- by a date certain. So just striking the
4 word "undergoing".
5 MR. RILEY: One of the -- one of the
6 challenges here is that this language has been
7 taken verbatim from the federal language.
8 MS. REINHART: Right. And I understood
9 that to be you all's discussion. I didn't know
10 if we had that latitude to be able to do that,
11 just to make certain it gives clarity. I mean,
12 we've done a few other things, you know, through
13 what you've talked about, so I didn't know if we
14 were going to be able to do that, have that
15 latitude.
16 MR. RILEY: We can certain -- we can
17 make changes. The problem or the potential
18 problem would be is if we -- if we change
19 language in a way that EPA believes changes the
20 intent of their meaning --
21 MS. REINHART: Absolutely.
22 MR. RILEY: -- then when we present
23 this language -- we'll have to put this package
24 together and send it to EPA for approval. And
25 there's -- there's potential that our

Page 34

1 interpretation may be different than theirs.
2 It's -- for things that we change when we
3 deviate from their language. So that would be
4 the only -- that would be the potential downside
5 of deviating from the federal language.
6 MS. REINHART: And we're -- I
7 understand that. And so if that is something we
8 shouldn't do, then we're fine with that.
9 MR. CATES: If we do decide to make
10 some changes, would we have to decide on that
11 change today before it could go to the --
12 MS. REINHART: Yeah, that's what I'm
13 saying.
14 CHAIRMAN SHEPHERD: Are we voting on
15 these?
16 MR. RILEY: Yes.
17 MS. REINHART: Yeah. Yeah, that's
18 what --
19 CHAIRMAN SHEPHERD: Is this the first
20 time you've presented these?
21 MR. RILEY: Yes.
22 MS. REINHART: That's the criticality
23 of a decision such as this.
24 CHAIRMAN SHEPHERD: Don't we normally
25 present them once and then the next meeting we

Page 36

1 CHAIRMAN SHEPHERD: Okay. Is it
2 necessary that it go through this legislative
3 session:
4 MR. RILEY: So the three -- so a couple
5 of things. The three-year window that we have,
6 going back to the 2018 changes in the federal
7 rule, if we want to be in a good position to get
8 approval from EPA within that three-year window,
9 it would make -- it would be better to do that
10 now.
11 If we wait a year, then the changes
12 from 2018 are not incorporated, the -- and it
13 may not -- and if we are in process, EPA may --
14 may give us latitude in that, okay, we're
15 working toward these changes so that, you know,
16 your program is still in good standing.
17 The other thing I would point out is
18 that, because we operate in lieu of the federal
19 programs, those changes that are advantageous to
20 the facility -- for instance, the groundwater
21 protection standard, adding those in -- before
22 we change our rules, even though they changed on
23 the federal level, they will not be effective in
24 Oklahoma until we change ours.
25 So if there were a facility that wanted

Page 35

1 vote on them?
2 MR. RILEY: It's our standard practice
3 to present drafts rules to you early on, say,
4 September, so you can consider them before you
5 have to vote.
6 CHAIRMAN SHEPHERD: Uh-huh.
7 MR. RILEY: The timing is such that we
8 thought it was important to move forward.
9 CHAIRMAN SHEPHERD: Okay.
10 MR. RILEY: So this is the first time
11 that you're seeing it. So if you -- so the
12 timing is that if you decide not to pass these
13 rules, then we'll be -- we'll come back in a
14 year.
15 CHAIRMAN SHEPHERD: Okay.
16 MR. RILEY: And we'll do it again in a
17 year from now.
18 CHAIRMAN SHEPHERD: We can't do it at
19 another meeting this year?
20 MR. RILEY: We have to pass -- to get
21 the rules on the agenda of the Environmental
22 Quality Board and then before the legislature
23 for approval, we have to make the decision now
24 to make -- for it to go through this legislative
25 session.

Page 37

1 to rely upon those changed groundwater standards
2 when they're reviewing their assessment
3 monitoring plans or potential cleanup
4 requirements, they would not have benefit of
5 those -- that rule change until we pass it.
6 MS. REINHART: So would the first
7 language change, would that -- that's not going
8 to effect how we move forward today, but the
9 second one, because it is straight from the
10 federal registered one, that could possibly
11 effect this. Am I understanding this correctly?
12 MR. RILEY: Oh, I'd need to look back
13 at the --
14 MS. REINHART: Yeah.
15 MR. RILEY: -- at the groundwater
16 standards and what your proposed change was.
17 MR. CATES: I'm pretty sure both are
18 from the -- directly from the changes that were
19 made in the federal register.
20 MS. REINHART: Okay.
21 MR. CATES: Copy and paste, basically.
22 MR. RILEY: And I can -- and I'll add
23 that --
24 Go ahead, David.
25 MR. CATES: You know, with a few

Page 38

1 changes to fit into our citation format, so --
2 MS. REINHART: Okay.
3 MS. SACHA: I'd like to make a comment
4 to that. I know as part of -- this is April.
5 As part of the regulated community,
6 when we have questions regarding how the DEQ
7 interprets something or the way it reads
8 straight from the federal regs, and you just
9 copy and paste it down into the state regs, we
10 always feel very comfortable coming to DEQ and
11 asking, is this what this meant or are we
12 interpreting this correctly? So there's that
13 constant conversation back and forth.
14 So if it were a little unclear at all
15 on our behalf, we always felt comfortable coming
16 to DEQ and saying, now this level over here, is
17 that the EPA, ECL, or something like that. So
18 if it's not a substantial change, we always feel
19 comfortable doing that, if that helps any.
20 MR. JOYCE: And I think those specific
21 facilities or -- has submitted comments or --
22 MR. RILEY: No.
23 MR. JOYCE: -- or raised any concerns?
24 MR. RILEY: Correct.
25 THE REPORTER: Mr. -- can you speak

Page 40

1 MR. RILEY: Correct, because they have
2 set a date for closure of the boiler.
3 CHAIRMAN SHEPHERD: Gotcha.
4 MR. RILEY: So that gives them the
5 advantage of an alternative closure deadline.
6 CHAIRMAN SHEPHERD: Okay. And you've
7 approved that?
8 MR. RILEY: We have approved that.
9 MS. REINHART: Okay. If -- you know,
10 if this is going to cause, you know, a complete
11 derailment of the situation, then I -- you know,
12 I think we'll be fine with the language there.
13 Okay.
14 I would just ask that we be given more
15 time in the future about these type changes so
16 we can -- just like, you know, Sherman (sic)
17 Shepherd mentioned, we should see these before
18 they have to go through the board and, you know,
19 through the legislature is preferable.
20 MR. RILEY: That's our preference as
21 well, and we'll commit to that effort as much --
22 as often as possible. You know, I think that --
23 CHAIRMAN SHEPHERD: When's the board
24 meeting that these will have to be presented at?
25 MR. RILEY: February and this --

Page 39

1 into your microphone? I'm not hearing you.
2 MR. JOYCE: I'm sorry.
3 THE REPORTER: That's okay. Can you
4 say that again, please?
5 MR. JOYCE: Yeah. I was just asking if
6 any specific facility had expressed any concerns
7 with the wording of the rules.
8 MS. REINHART: So we do have somebody
9 that is a -- do we know which -- I mean, which
10 companies are affected by this, I guess is what
11 I'm asking. You mentioned there are two in
12 Oklahoma. What companies are represented there?
13 MR. RILEY: Well, we have -- we have
14 one -- we have one facility that, what we know
15 of, that has approached closure by cessation of
16 a coal fired -- coal fired boiler by date
17 certain, which we have already entertained that
18 request and approved it to my knowledge.
19 Is that right?
20 MR. CATES: I believe so.
21 MR. RILEY: Before these -- under this
22 previous rule. So in that sense then, I don't
23 know of any facilities that would rely on this.
24 CHAIRMAN SHEPHERD: So the facility's
25 closing because the boiler's closing?

Page 41

1 Do you know, Karen?
2 CHAIRMAN SHEPHERD: Do you know the
3 date?
4 MS. JAYNE: I don't know.
5 CHAIRMAN SHEPHERD: There could be a
6 problem with that.
7 MS. JAYNE: It's in February, and then
8 we have to get the whole -- February 19th, we
9 have to get the whole rulemaking package to the
10 legislature -- this is Karen, by the way. To
11 the legislature, I think, by April 1st. So in
12 any other circumstance we would have brought it
13 to you twice, but because we're playing catch up
14 with the federal rules, we hoped we could make
15 an exception.
16 CHAIRMAN SHEPHERD: We hope.
17 Do you have some more comments?
18 MS. REINHART: No, that's the only two
19 that I have.
20 CHAIRMAN SHEPHERD: Okay. Does anybody
21 -- any other council member have any other
22 comments?
23 Questions, comments and discussion by
24 the public, does anybody want to speak?
25 MR. LAZARSKI: Tom Lazariski, Enercon

Page 42

1 Services, former Solid Waste Management Advisory
2 Council member.

3 A little clarification on the comments
4 on the groundwater standards. So in the -- the
5 reason why the comment was put in is -- well,
6 the relationship between DEQ and OWRB when they
7 established --

8 THE REPORTER: Sir, I'm sorry.
9 MR. LAZARSKI: Oh, I'm sorry.

10 So the issue there is how DEQ works
11 with OWRB when they establish and implement
12 groundwater protection standards. These are not
13 MCLs, they are EPA health base levels. So the
14 question comes in, if somebody's reviewing your
15 rule, they may see these standards and go, geez,
16 do I need -- can I apply these to other
17 locations?

18 And the usual question that comes in,
19 these only apply to CCR landfills. So that's
20 the reason why that came into play, is just to
21 clarify. And I don't know if that helps explain
22 that one.

23 Then the second one, the cessation. So
24 that language is verbatim out of the federal
25 register in the final rules that Jodi

Page 44

1 federal register, but today I didn't.

2 MR. RILEY: So you're asking us to
3 trust you?

4 MR. JOYCE: Or just doublecheck
5 consistency with the federal register.

6 MR. LAZARSKI: Yeah, good
7 recommendation. Verify, check it, and then it's
8 based on what you guys decide. Say based on
9 those changes and verification that guys can go
10 forward.

11 MS. REINHART: But will we not have to
12 vote on that today? I mean, the actual
13 language, we'd have to actually vote on that?

14 CHAIRMAN SHEPHERD: So we're going to
15 vote on a semicolon?

16 MR. RILEY: Semicolon and a word
17 strike.

18 MR. CATES: And the addition of health
19 based.

20 MR. LAZARSKI: So that -- again, that
21 the groundwater standards, when I look at
22 different rules -- in fact, a lot of times when
23 I'm out looking, if I have an issue out there, I
24 say, all right, what are the other standards,
25 other rules we have? And so if I'm the casual

Page 43

1 referenced. So it does say the -- in fact, here
2 it says, "For the CCR landfills; permanent
3 cessation of coal fire boilers by a date
4 certain." That is the language verbatim out of
5 the federal regs.

6 So when you read yours, it almost
7 appears it's the landfills undergoing closure,
8 not the boiler. So that's the reason why that
9 was just -- just a clarification, to make sure
10 it was clear.

11 CHAIRMAN SHEPHERD: So landfill is
12 going -- is closing because of the boilers
13 closing, right?

14 MR. LAZARSKI: True. But if you're
15 going verbatim, for the federal register, which
16 in the rule, that's what the rule says.

17 CHAIRMAN SHEPHERD: Okay.

18 MR. RILEY: So, Tom, what's you're
19 saying is this language that's being proposed
20 by -- or the comment was that to add a semicolon
21 after secure landfills and strike undergoing --

22 MR. LAZARSKI: Yes.

23 MR. RILEY: -- is the final language --

24 MR. LAZARSKI: Yes. Yes. And I didn't
25 bring my -- usually I would have brought my

Page 45

1 reader and I go out and I find this, and I say,
2 oh, does this potentially apply to my facility,
3 even though I'm not coal ash facility?

4 And so it's just to make sure that
5 other -- for example, I think the only one of
6 those would be a cobalt led molly lithium. The
7 OWRB, I think, has a standard for led that's
8 much higher, and I can't remember if it's for
9 tissue, fish tissue, maybe, or something. But
10 the OWRB has not established anything for those
11 other parameters.

12 So that's why I was just making sure
13 we're careful with -- in terms of how others may
14 interpret that in the state. So in general I
15 support, I think, all of your changes with just,
16 you know, a little bit of a tweak. And that's
17 all I have, unless anyone else has any other
18 questions.

19 CHAIRMAN SHEPHERD: I do not.

20 MR. LAZARSKI: All right. Thank you.

21 MR. RILEY: I think we're looking at
22 federal language then.

23 MS. REINHART: Sure.

24 (Off-the-record discussion had.)

25 MR. RILEY: Well, so -- so we're not

Page 46

1 seeing that change.
2 MS. REINHART: So you're not seeing
3 that in the federal register, that language,
4 with the semicolon?
5 MR. CATES: So in the federal register
6 it was a little bit different than what we have
7 here, in that it had a dash instead of a colon.
8 And it had a number one, which would have --
9 let's see, which we, I guess, moved down to that
10 first -- the next level of -- and then we added
11 the undergoing -- the word "undergoing".
12 CHAIRMAN SHEPHERD: So what should it
13 read, CCR landfills dash?
14 MR. CATES: Permanent cessation.
15 CHAIRMAN SHEPHERD: And permanent
16 cessation of coal fire boilers by a day certain
17 is number one?
18 MR. CATES: No. It had "CCR
19 landfills-1, permanent cessation".
20 CHAIRMAN SHEPHERD: So 1, is it like
21 (1), and then the one -- the number (1) that you
22 have there becomes number two?
23 MR. CATES: No, it -- we moved that
24 to -- we moved it from the title down to the
25 first indentation to fit our formatting.

Page 48

1 established under 40 CFR 141 for that. So we're
2 clearly talking about federal standards and not
3 OWRB standards. So it would be a stretch to try
4 and apply these from the CCR rules that are
5 referring to federal standards, to imply that
6 they were somehow OWRB standards. If that's the
7 concern for what -- so just for your
8 consideration.
9 MS. REINHART: I'm fine with that. You
10 know, I'm good.
11 CHAIRMAN SHEPHERD: Anymore questions
12 or comments from the public?
13 MR. CATES: Oh, I did -- I did get this
14 one e-mail from Earl Hatley from the LEAD
15 Agency, Riverkeeper from the LEAD Agency in
16 response to providing, you know, a copy of our
17 rule changes. He couldn't find it on our
18 website. But he replied, he looked it over. I
19 really appreciate your help with this. Reading
20 through it, "I'm happy to see the changes
21 requiring the liner. I hope you are successful
22 in getting it through. Take care, Earl."
23 CHAIRMAN SHEPHERD: Okay. So, to
24 summarize, what changes are being made at this
25 meeting before we vote; is that fair? So what

Page 47

1 CHAIRMAN SHEPHERD: Okay.
2 MS. REINHART: But if we just say, "CCR
3 landfills - permanent cessation of coal fire
4 boiler by a certain date," that's exactly how it
5 looks and reads in the federal register?
6 MR. CATES: Yeah. And modified
7 slightly to fit our citation.
8 MS. REINHART: Right. Yeah. Yeah. So
9 I think we could go with that, and strike the
10 word undergoing and just put a dash there.
11 MS. REINHART: So I'm going to ask you
12 about the change of language that Mr. Lazarski
13 talked about on page 14, the MCL versus the
14 (inaudible). Do you think that would be
15 confusing to the regulating community? Because
16 you deal with all the legal issues of that.
17 MR. JOYCE: Well, first of all, I think
18 it's clear that it applies only to CCR, so I --
19 I wouldn't be confused by it. I don't think --
20 MS. REINHART: Okay. Appreciate that.
21 MR. RILEY: I think also if you look at
22 it as a whole, if you look at the section just
23 before the changes occurring in parentheses two,
24 but if you look at parentheses one just before
25 it talks about constituents that have been

Page 49

1 are we doing? What are we changing?
2 MR. RILEY: What was the language --
3 we're only proposing to change that one section.
4 CHAIRMAN SHEPHERD: "CCR landfills -",
5 and then striking the word "undergoing." That's
6 it.
7 MR. CATES: And then capitalize P for
8 permanent.
9 CHAIRMAN SHEPHERD: Okay. Does
10 everybody understand that?
11 MS. REINHART: Yeah, I'm good.
12 CHAIRMAN SHEPHERD: Do I have a motion
13 to approve?
14 MR. LINN: So moved.
15 MS. REINHART: Second.
16 MS. FIELDS: Mr. Adcock?
17 MR. ADCOCK: Yes.
18 MS. FIELDS: Mr. Cleveland?
19 MR. CLEVELAND: Aye.
20 MS. FIELDS: Mr. Joyce?
21 MR. JOYCE: Yes.
22 MS. FIELDS: Mr. Linn?
23 MR. LINN: Yes.
24 MS. FIELDS: Ms. Reinhart?
25 MS. REINHART: Yes.

Page 50

1 MS. FIELDS: Ms. Sacha?
 2 MS. SACHA: Yes.
 3 MS. FIELDS: Mr. Shepherd?
 4 CHAIRMAN SHEPHERD: Yes.
 5 MS. FIELDS: Motion passed.
 6 CHAIRMAN SHEPHERD: So the next step is
 7 for us to present them to the board on the 19th.
 8 Are they going to -- and then from there they go
 9 to the legislature?
 10 MR. RILEY: Yes.
 11 CHAIRMAN SHEPHERD: All right.
 12 MR. RILEY: And then if approved, we
 13 prepare a package for EPA to approve our
 14 changes, to maintain approval to implement our
 15 program. EPA will follow the same process that
 16 they use for the initial approval of our CCR
 17 program, and that will require publication. I
 18 think there's notice in the federal register and
 19 then opportunity. Or they may have a --
 20 automatically have a hearing. That's my
 21 understanding.
 22 And I think that David actually wrote
 23 that up into your Fact sheet. So if we want to
 24 go back and review that, it's all in that,
 25 behind tab 7 in your packets, the process as I

Page 52

1 were no unit costs.
 2 That created a lot of uncertainty
 3 around the accuracy of these estimates, so DEQ
 4 commissioned a consulting study to determine how
 5 there might be a way to establish uniform tasks
 6 and unit costs. And so that was done. It was
 7 adopted and rolled into the 515. So now we have
 8 worksheets that prescribe tasks and unit costs.
 9 So also as part of that engineering
 10 study, the recommendation was made to update the
 11 unit costs every year for inflation, and then to
 12 do a more comprehensive review every five years
 13 for economic forces outside of inflation that
 14 may swing costs one way or the other.
 15 So as you recall, at our September
 16 meeting we talked about establishing a
 17 subcommittee as a council and DEQ staff to
 18 review the closure costs and make
 19 recommendations that would be a part from in
 20 inflation, that if anything was needed -- if we
 21 needed to make adjustments, we would do that.
 22 So, Mr. Shepherd, you and Ms. Merchant,
 23 Mr. Adcock, and members of DEQ staff met, what
 24 was it, twice, reviewed the worksheets, and the
 25 recommendations were --

Page 51

1 recall. That would be the process.
 2 CHAIRMAN SHEPHERD: Okay. So the PFAS
 3 stuff will just change everything.
 4 MR. RILEY: And then we can add that as
 5 a standing agenda item, and we can leave CCR
 6 behind for a while and concentrate on something
 7 else.
 8 CHAIRMAN SHEPHERD: PFAS stuff is a
 9 mess.
 10 Item Number 7, Discussion of
 11 subcommittee review of closure and post-closure
 12 cost estimates. The subcommittee formed to
 13 conduct the five-year review of unit costs
 14 required by OAC the 252:515-27-4(a) will present
 15 information for discussion of potential action
 16 by council.
 17 MR. RILEY: All right. So a little
 18 context here. As you recall, financial
 19 assurance for closure and post-closure of
 20 landfill facilities prior to our current solid
 21 waste rules, 515. So this is pre 2000. There
 22 was no uniformity established -- or prescribed
 23 on how you would establish your closure costs.
 24 So there's no tasks specified, other than in the
 25 rules to general closure requirements, and there

Page 53

1 Mr. Shepherd, would you like to share?
 2 CHAIRMAN SHEPHERD: We're doubling
 3 everything.
 4 MR. RILEY: We might want to confirm
 5 that with Mr. Adcock.
 6 MR. ADCOCK: I dispute that.
 7 CHAIRMAN SHEPHERD: No, we didn't make
 8 any changes.
 9 MR. RILEY: Yeah, we decided --
 10 CHAIRMAN SHEPHERD: Decided to leave
 11 everything as is.
 12 MR. RILEY: So this five-year review
 13 has been accomplished in accordance with our
 14 rules and with no recommended changes.
 15 CHAIRMAN SHEPHERD: Is there anybody
 16 that has any comment on that?
 17 MR. JOYCE: I guess it's still applying
 18 to the inflation factor though.
 19 CHAIRMAN SHEPHERD: Yes.
 20 We don't need to vote on anything, do
 21 we?
 22 MR. RILEY: No. No. No action
 23 required.
 24 CHAIRMAN SHEPHERD: All right. If
 25 nobody has any questions or comments on that,

Page 54

1 we'll move to Item Number 8., Open Discussion.
2 Does anybody have anything they want to
3 discuss?
4 MR. JOYCE: Just one quick question
5 back to the PFAS issue. Are preliminary drafts,
6 any of that proposed legislation available for
7 review?
8 MR. RILEY: Yeah. And I don't --
9 Karen, do you know if the bill has been
10 filed yet?
11 MS. JAYNE: No, I do not. In fact, I
12 didn't know there was legislation until you told
13 us.
14 CHAIRMAN SHEPHERD: Do we know who's
15 sponsoring the legislation?
16 MR. RILEY: I don't know who the
17 sponsor is either. But we can -- we can secure
18 a draft and make that available to Council.
19 CHAIRMAN SHEPHERD: This is coming from
20 the DEQ?
21 MR. RILEY: This is -- my understanding
22 is, yes, it's initiated by DEQ, and they have
23 found a sponsor. I don't know who that is, who
24 will sponsor the bill. Or if it's been filed
25 yet.

Page 56

1 think some of those details need to be worked
2 out.
3 CHAIRMAN SHEPHERD: Okay.
4 MR. RILEY: But the idea is to focus on
5 high concentrations and high volumes of PFAS
6 waste, not incidental waste streams, household
7 waste streams, commercial waste streams that
8 contain incidental amounts of PFAS products.
9 CHAIRMAN SHEPHERD: Do we see a lot of
10 the high concentration PFAS waste, a lot of it?
11 MR. RILEY: I don't know that --
12 CHAIRMAN SHEPHERD: Is there a lot of
13 off-spec firefighting foam that's being disposed
14 of?
15 MR. RILEY: As regulations change, that
16 may change as well. I don't know that we're
17 seeing a lot of it now. That may change in the
18 future, especially when other states take action
19 to prohibit disposal of certain things. Now, if
20 that were to occur -- I think this is an attempt
21 for Oklahoma to be poised and to be ready to
22 write rules as necessary to ensure the proper
23 disposal and management of this type of waste,
24 if it were to occur.
25 CHAIRMAN SHEPHERD: Okay.

Page 55

1 MS. JAYNE: We can certainly find out
2 and then make it available.
3 CHAIRMAN SHEPHERD: Is the wastewater
4 people, they're -- they're going to be impacted
5 by PFAS as well. What is -- is this legislation
6 going to only deal with PFAS waste?
7 MR. RILEY: Yes.
8 CHAIRMAN SHEPHERD: Or is it going to
9 impact -- because the -- the big -- it -- I
10 mean, if you don't really know PFAS and PFOS,
11 it's -- it's everywhere. It's in the carpets,
12 it's in our clothes, it's -- it's everywhere.
13 So it is coming out in wastewater discharge from
14 treatment plants. Is that going to be --
15 something going to be done about that?
16 MR. RILEY: I don't -- I don't know,
17 specifically.
18 CHAIRMAN SHEPHERD: Okay.
19 MR. RILEY: I know that the legislation
20 proposes to define what PFAS waste would be, and
21 one component of that might be like activated
22 carbon containing PFAS from water treatment
23 processes. I don't know if that includes
24 municipal wastewater treatment process or just
25 industrial wastewater treatment process. I

Page 57

1 MR. RILEY: It may not be a problem.
2 It may not -- I mean, this may be more worry
3 than is necessary, but it makes sense for us to
4 be positioned so that we can be protected as
5 needed.
6 MR. JOYCE: There's a lot of kind of
7 not-in-my-backyard associated with these wastes.
8 And, you know, one that might be in the middle
9 between the high volume waste and the wastewater
10 discharges is the sludge from these municipal
11 POTWs. You know, that's becoming a much bigger
12 issue, too, so I don't know if that will be
13 addressed or not.
14 MR. RILEY: And there will certainly be
15 a lot of that to manage.
16 MR. JOYCE: Yes.
17 MR. RILEY: So it will be something to
18 look forward to as a council, to make sure that
19 we write good rules.
20 CHAIRMAN SHEPHERD: Okay. New
21 business? Any new business?
22 All right. Then I guess we are
23 adjourned. Thanks everybody for coming.
24 Appreciate it.
25 (Meeting adjourned at 10:13 a.m.)

C E R T I F I C A T E

STATE OF OKLAHOMA)

)

COUNTY OF TULSA)

I, Tammie Shipman, Certified Shorthand Reporter
in and for the State of Oklahoma, do hereby certify
that the foregoing proceedings are a true and correct
transcript of the record of the machine shorthand
notes taken by me and transcribed into written form
under my supervision, direction and control.

I further certify that I'm neither related to nor
attorney for any interested party in the named action,
nor otherwise interested in the outcome of said
action.

WITNESS MY HAND, this 22nd day of January, 2021.

Tammie Shipman

Tammie Shipman

Shorthand Reporter

CSR #1564



**SOLID WASTE MANAGEMENT
ADVISORY COUNCIL**
Attendance Record
January 14, 2021
Oklahoma City, Oklahoma

CHECK BOX TO COMMENT

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address and/or Phone and/or E-Mail</u>
Kate Kennedy DEQ	Kate.kennedy@deg.ok.gov
Judy Reinhardt EFO	judy@environmentalok.org
Dave Smith EFO	dave.w.smith@a9.com
THOMAS LAZARSKI ENERCON	tlazariski@enercon.com
Quinn Fields DEQ	
APRIL SACHA P66	APRIL.K.SACHA@P66.COM
Todd Cleveland Cleveland	tcleveland@clevelandcountyok.com
Todd CD	todd@c.../direction
JIM LINN CITY OF OKC	Jim.Linn@OKC.GOV
BOB JOYCE McAFEE & TAFT	ROBERT.JOYCE@MCAFEETAFT.COM
Jeff Biddick DEQ	jeff.biddick@deg.ok.gov
David Cates DEQ	david.cates@deg.ok.gov
Karen M. Jayne DEQ	Karen.jayne@deg.ok.gov
Jeff Everett OGE	evretj@oge.com 405.533.3177
Kelly Dixon DEQ	kelly.dixon@deg.ok.gov

