

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Municipal Solid Waste Management and
Resource Recovery Advisory Council (Council)
TCEQ Complex, Building E, Room 201S, Austin, Texas
Thursday, August 19, 2004

Meeting Highlights

MEMBERS PRESENT

Bob Gregory
H. C. Clark, Ph.D.
Robert L. Dow
The Honorable Paul J. Escobar
Donald R. Hatcher, P.E.
William R. Hindman, P.E.
The Honorable D. C. "Chris" King
The Honorable Mayor R. A. "Dick" Nugent
Lisa Perrine
Elena Quintanilla
Charles Rivette, P.E.
Mark Rose
David Stephens
David S. Yanke

MEMBERS ABSENT

The Honorable Commissioner Jack Cobb
The Honorable Hugh L. Landrum
Karen C. Overgaard
The Honorable Annise D. Parker

DIVISION SUPPORT TEAM

Carolyn Mees, Waste Permits Division

TCEQ STAFF

Wade M. Wheatley, P.E., Director, Waste Permits Division
Richard C. Carmichael, Ph.D., P.E., Manager, Municipal Solid Waste Permits Section
Wayne Lee, Municipal Solid Waste Permits Section
Mary Alice Boehm, Public Interest Counsel
John E. Williams, Legal
Edward Block, Environmental Planning and Implementation
Joy Schultz, Small Business and Local Government Assistance
Hector Mendieta, Policy and Standards

GUESTS

Lonnie C. Banks, City of Garland
Ed Myers, RJR Engineering
Kevin Yard, SCS
Donna Pirkle, Lloyd Gosselink, Attys.
Lisa Anderson, NSWMA
Jeffrey Kaplan, City of Corpus Christi
Robert Vickery, Republic Waste
Latrice Hertzler, Future Link Technologies
Brenda Haney, City of Irving
Michael Rice, City of Amarillo
Dan Wittliff, Dan Wittliff Consulting PLLC
Mary Nix, City of Dallas
Tanza L. Smith, RMER
Richard Lowerre, Lowerre & Kelly
Brent Ryan
David Lehfeldt, City of Wichita Falls

- **Welcome and Introduction of Members**

Bob Gregory, Advisory Council President, introduced two of the three new council members, Lisa Perrine, a general public representative, and The Honorable Mayor R. A. “Dick” Nugent, an elected official from a municipality with a population fewer than 25,000. The third new council member, The Honorable Commissioner Jack Cobb, an elected official from a county with any population size, was unavailable to attend the meeting. Mr. Gregory asked TCEQ staff and guests to introduce themselves. A motion was made by Chuck Rivette to approve the June 25, 2004 meeting highlights. The motion was seconded by David Stephens and was approved by unanimous vote.

- **Richard Carmichael, P.E., PH.D., MSW Permits Section Manager’s Report**

Dr. Carmichael welcomed the new members and announced that the 330 Rule Package was not yet ready, therefore they would be unable to go over the draft rules, only highlights and projections. He stated that this is an exciting time for the Advisory Council because this is the first time in ten years that the entire MSW rules have been addressed. He reported that public meetings were held before the re-write of these rules, and that comments from industry are welcomed.

- **Unutilized MSW Permitted Facilities - Wayne Lee**

Wayne Lee advised the members that they had a draft rule copy in their packet. TCEQ Executive Director approval is needed before releasing the drafts. Per the Commissioners’ request, at Advisory Council meetings on March 12 and June 25, the members were asked for comments on these drafts. The third new draft rule reflects the comments from the past meetings. The major change in the new draft rule is the added concept that facilities that have been operating and then stopped for two years can also be picked up as an unutilized permit and would require notification of restarting operation. This would insure no surprise

to neighbors when the facility starts operating again.

Chuck Rivette said maybe a date should be added to the draft rule stating when a facility would need to post a sign showing re-opening.

David Yanke said since the public has to be notified of re-opening, and the permit may be revoked by agency if no public notification is made, put up a sign in order to protect your permit.

H.C. Clark stated, “we agree that those with existing permits and who had not been active for two or more years should have six months after the adoption date to follow the rule. Those with permits who had been inactive within two years before the adoption would have a rolling date for complying with the rule. Chuck Rivette and Dr. Clark drafted language and gave it to Wayne Lee.”

Public Comment

Jeff Kaplan, expressed the feeling that signage on property would have the greatest impact. He suggested that the TCEQ publish a listing of the active and inactive sites around the state. He said that open sites and closed sites are two separate issues. He stressed that public notification can be very expensive and can be a “red flag” to the public which results in calls and questions. Robert Dow agreed with Mr. Kaplan. Mr. Dow asked if it was only the TCEQ that says there is a need for public notice other than signage. He stated that the Council had felt that signage was sufficient. Concern was expressed by Mr. Gregory that a facility that had been permitted a long time ago and hadn’t been operating should have a rule requiring signage, mailout and newspaper notice. Mr. Lee suggested that the overall goal of this rule is “to find middle ground”; to notify people in the neighborhood that a facility would open soon, to protect the public.

Robert Dow stated the ramifications of a newspaper ad is not in the cost of the ad, but in the cost of fighting the public. Mr. Gregory commented that the more the public is notified, the more you protect yourself. Mr. Kaplan stated that when you go beyond signage - then you get into public notice - and that is when you get into a lot of issues. He said the most effective way to keep the public notified is for TCEQ to publish an active and inactive facilities list each year on their website, plus put signage on the site. Paul Escobar stated that having a sign on the property is the best form of notification.

- **Special Waste - Informational Letter - Dr. Richard Carmichael**

Dr. Carmichael noted that a letter had been sent out regarding the requirements to dispose remediation wastes as special wastes. Chuck Rivette asked if this letter would override the permit. Dr. Carmichael said the rewrite of the 330 Rule will make it clear, and an annual recertification of generators is reasonable. Wade Wheatley said it was the obligation of the generator to classify waste, and the landfill should have records on site. Any waste other than household waste is a special waste.

- **Site Operating Plan Rules - Discussion and Public Comments**

Rule 330.4

A five-year re-opener exempts MSW facilities that received a permit but never received waste or a Sub- D landfill with no waste from needing a major amendment to re-open.

Rule 330.111

Richard Lowerre suggested to provide an estimate of what you're taking annually. Mr. Wheatley said TCEQ wants them to stay current on personnel and equipment. Mr. Dow asked if the TCEQ needs to regulate that much. If the operator is doing the job, why mess with him?

Rule 330.113

You must update OPP MOD. Mary Nix said the 330 rules need to be flexible; when they become prescriptive, it's difficult. She said waste acceptance rates can change under same ownership. They are hampered by trying to prevent a notice MOD; they have more equipment and more personnel just to be in compliance all the time (even when the quantities aren't at the highest.) Mr. Kaplin said 3 things concern him: equipment, flow control is wrong, and free enterprise (adding layers of bureaucracy).

Rule 330.114

Bill Hindman asked if there needed to be a notice MOD on Waste Acceptance Rate. Mr. Wheatley stated there was a need for the ability to handle it properly which may include a table regarding fluctuations and seasons, etc. He stated that the Commissioners have directed them to have guidance. H. C. Clark suggested that there be an opportunity for electronic communications [receipted email] in order to save costs related to paper and long distance, and to facilitate timely availability of public information. Brent Ryan said the standard OPP wasn't adequate. Mr. Lowery asked if there really was an SOP that is good for the company and the people, to avoid "mushy" situations. Dr. Carmichael responded that they want them to be enforceable.

Rule 330.115

Mary Nix stated that fire protection needed to be implemented upon detection. She said they should be allowed flexibility about fire fighting methods and should have a good plan established. If the fire is put out quickly, she didn't see the need to send a report to TCEQ.

Rule 330.116

Bob Gregory questioned the need to notify the agency when their fence gets broken, if it's fixed immediately. Chris King said this rule should be more "user friendly". Robert Dow asked why the agency needs to know when a fence is down and when it's fixed.

330.117

Kevin Yard said he doesn't see the benefit to these minor word changes; he sees it only as a big cost. It is unattainable to have someone to inspect each load.

330.5 is a definition of unauthorized waste.

330.118

Mr. Kaplan doesn't agree with having landfills open only Monday - Friday. Operators of landfills should not be able to operate until the landfill is in compliance. Dr. Carmichael said you need to make it clear in the application when you're going to accept waste. Mr. Kaplan said the customers don't go by the TCEQ schedule. He said there should be a compromise in the operating hours. All landfills will be closed after acceptance is ended and properly taken care of. He said the TCEQ isn't responding to public needs. Mike Rice agreed that TCEQ needs to be more flexible on hours of operation and the 5 days restriction. David Lehfeltdt said the problem with landfills being closed on Saturday is that restaurants aren't closed on Saturday, and then need pick-up. It was stated that equipment maintenance is needed 24/7. H.C. Clark stated, "it makes sense that work on machinery in the shop would be relatively quiet and fit the intent of the public interest in limited operating hours."

330.119

A sign should be posted showing how to reach the individual with authority for the facility when the site is closed. Also there needs to be a person listed that can be reached 24 hours a day.

330.120

To prevent waste from being blown out of the facility, Mr. Kaplan said a crew needs to work the perimeter once a day. He would like to have plastic bags outlawed.

330.122

Landfill markers and benchmark need to be inspected weekly.

330.133

Mr. Lehfeltdt said to use earthen material instead of topsoil.

330.137

Robert Vickery asked if the Waste Acceptance Plan has to be specific or generic.

330.200

Bill Hindman said the physical ramifications of a new site operating plan to move a stockpile, is going to be very costly. Mr. Kaplan was also very concerned with the costs.

- **Wrap-Up**

Bob Gregory announced that the next Advisory Council Meeting would be held on Dec. 2 and/or 3. The meeting was then adjourned.