

HIGHLIGHTS

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY Municipal Solid Waste Management and Resource Recovery Advisory Council (Council) TCEQ Complex, Building F, Room 2210, Austin, Texas

December 2, 2005

MEMBERS PRESENT

Charles "Chuck" Rivette
Dr. H. C. Clark
William "Bill" Hindman
Mark Rose
Bob Gregory
Donald Hatcher
David Yanke
Karen Overgaard
Maria "Elena" Quintanilla
David Stephens
The Honorable D. C. "Chris" King
The Honorable Linda Stenbeck-Keller
The Honorable Toni Lawrence
The Honorable Lee Leffingwell

MEMBERS ABSENT

Robert Dow
The Honorable Jack Cobb

DIVISION SUPPORT TEAM

Gary W. Trim, Waste Permits Division
Carolyn Mees, Waste Permits Division

TCEQ STAFF

Jackie Hardee, P.E., Director, Waste Permits Division
Richard C. Carmichael, Ph.D., Manager, Municipal Solid Waste Permits Section
Wayne Harry, P.E., Municipal Solid Waste Permits Section
Jeff Davis, Team Leader, Municipal Solid Waste Permits Section
Heather Parscal, Grant Manager, Municipal Solid Waste Permits Section
Steve Minick, Intergovernmental Relations
Linda Ribble, R&R
Pat Davis, R&R
Jennifer Ahrens, IGR
Barry Kalda, Region 11, TCEQ
Will Wyman, SB&LGA

GUESTS

Ed Myers, RJR Engineering, Austin
John McFarland, Gravis Dougherty, Austin
Chuck Lesniak, City of Austin
Bob Kier, Robert S. Kier Consulting, Austin
Lynn Sherman, Winstead, Austin
Brian Dudley, Cook-Joyce Inc., Austin
Paul Gosselink, Lloyd, Gosselink, Austin
Robert Vickery, Republic Waste, Avalon
Rocky Stevens, Dannenbaum, Houston
Paul C. Moore, Zaphyr Environmental, Houston
Mike Oden, HDR Engineering, Dallas
Mark Roth, Goldes Associates, Houston
Dan Ponder, Goldes Associates, Houston
Kevin Yard, SCS Engineers
Angela Moorman, Russell, Moorman & Rodriquez, Georgetown
Wade Wheatley, Texas Disposal Systems
Eric Allman, Lowerre & Frederick
Marisa Perales, Lowerre & Frederick
Latrice Hertzler, Future Link Technologies, Austin
Joseph Viecel, Ft. Worth
Robin Schneider, TCE

- **Welcome and Introduction of Members - Bob Gregory**

Mr. Gregory, Advisory Council President, welcomed the Council members and guests and introduced the three new Council members. The Honorable Alderperson Linda Stenbeck-Keller, from Bayview, Texas has an Archeology Degree and is a museum director, a glass artist, and raises birds. The Honorable Council Member Toni Lawrence, from Houston, attended UT and owns a manufacturing company. The Honorable Council Member Lee Leffingwell, from Austin, attended UT, was a Navy Pilot, an airline pilot for Delta, and currently serves on the Austin City Council. One position is still vacant.

Mr. Stephens nominated Mr. Hindman as Council Vice President. Mr. Gregory asked for other nominees, and there were none. Mr. Stephens nomination was seconded by Mr. Rose. Mr. Hindman acknowledged his willingness to serve. The vote was unanimous that Mr. Hindman would serve as Council Vice President.

- **Administrative Announcements - Gary Trim**

Mr. Trim welcomed the members and guests. He then introduced Jackie Hardee, new Waste Permits Division Director since October. He announced that Mr. James McQuaid, from Mineral Wells, was appointed as the new “General Public” representative. Mr. Gregory was appointed by Chairman White as Council President for another two-year term. No candidates were received for the twice posted position “an Elected Official

from a municipality with a population between 25,000 and 100,000". Nominations will be solicited in a direct mail campaign to approximately 75 cities.

- **Welcome - Jackie Hardee**

Ms. Hardee stated that she is very interested in what the Council has to say and feels that the Council has an important role because they provide an open forum for discussion. She stated that the revised Chapter 330 rules were still under consideration. Management and the TCEQ Commissioners still needed to be briefed, therefore, staff wasn't able to talk about specifics of the revisions.

PURSUANT TO AGENCY POLICY, THE FOLLOWING HIGHLIGHTS WILL BE BRIEF. AUDIO TAPES ARE AVAILABLE UPON REQUEST.

- **MSW Section Manager's Report - Dr. Richard Carmichael**

Dr. Carmichael stated that there were two vacancies in the MSW Section. The Grants Program (COGS) is now under the MSW Section. A new Division chart was provided to the members and public attendees.

- **Updates - Dr. Richard Carmichael**

Chapter 305 Rules

Dr. Carmichael answered numerous questions specific to the revised rules.

Mr. Gregory asked if the time line was still the same for the Chapter 305 rules. Dr. Carmichael said the intent was to use the same rule package number, but the rules have been delayed until May or June. A new proposal will be developed.

Robin Schneider, Texas Campaign for the Environment, asked a question on landfill capacity. Dr. Carmichael answered that if they want lateral expansion and don't have approval, it would be a major amendment..

Status of Site Operating Plans

A handout "Municipal Solid Waste Site Operating Plan Call-in Update" was distributed. The first call-in group in July consisted of 16 large landfills. The second round of call-ins, (Type 4) are in-house now, and the third round will be called in soon. A 42 page guidance document has been approved and will be issued next week. Operating plans for landfills are site specific and have requirements. They hope to have the first round approved in the near future.

Mr. Gregory asked if SOP call-ins were taking a lot of staff time. Dr. Carmichael stated that MSW had received extra staffing because of this process.

Dr. Clark asked if there were points in the SOP application that were contentious. Carmichael said the following proactive approach is suggested: educate the public, send information to supply station haulers, provide signage, and have spotters where waste is disposed. Staffing levels for facilities should be based on daily waste acceptance rates-

Universal Waste Rule

This rule proposes to adopt the federal rule that mercury containing switches (convenience switches) in automobiles will be universal waste. A voluntary program used by auto salvage yards to limit the mercury emissions in steel mills was discussed. It allows auto manufacturers to make the program available to auto salvage yards and to make it convenient for manufacturers to take off the switches. It's cheaper to remove the switches before they go to the furnace. Buckets to collect the switches can be sent to salvage yards in Texas. On the transfer side, this is making them aware how to handle the material properly.

Mr. Gregory asked what the definition of Universal Waste was. Answer - it is a subset of hazardous waste designated by EPA and TCEQ (car batteries, thermometers).

- **MSW Grants Program - Dr. Richard Carmichael, Heather Parscal**

Introduction of the Staff

Dr. Carmichael introduced the following MSW Grants Program staff : Teres Jimenez, Team Leader, Cheryl Untermeyer, Heather Parscal, and Steve Hutchinson are Grants Managers, Josalyn Rawlins is the Financial Manager, and Ed Block pulls together the information for the MSW annual reports.

Program Presentation

Ms. Parscal stated that the grant categories are: local enforcement, source reduction and recycling, technical studies, local solid waste management plans, small registered transfer stations, citizens' collections stations, household hazardous waste management, litter and illegal dumping cleanups, community collection events, and education projects. The planning group also work with the COGs on the regional solid waste management plans and the closed landfill inventory. The Texas Association of Regional Councils (TARC) would like to provide and receive information from the Council meetings. Advisory Council member King said he really appreciated the good work of the COGs. Advisory Council member Quintanilla said she understands the advantage to have updates from COGs at the meetings. King said that funding available to the COGs is a good program right now, as long as they do the screening. He said he didn't think the legislature should try to increase tipping fees.

- **Legislative Update - Steve Minick**

Mr. Minick reported that TCEQ is implementing 172 bills that were passed during last legislative session. HB 39 and SB 1710 both relate to outdoor burning and have implications for management of municipal solid waste. HB 580 and HB 2120 authorize county governments to respond to hazardous waste releases. HB 1053, relating to landfill siting (affects only Montgomery County) and provisions of HB 1609, relating to waste receipt limits at arid exempt landfills, are both being implemented by way of revisions to the Chapter 330 rules. Other provisions of HB 1609, related to public meetings, are being implemented through separate rulemaking. HB 2131 provided more flexibility to local districts operating landfills in how they can meet financial assurance requirements.

- **Chapter 330 Rules - Wayne Harry, Dr. Richard Carmichael and Jeff Davis**

Dr. Carmichael said that he would share comments that had been received concerning the Chapter 330 Rules rewrite, but they couldn't discuss the final version with the Council. They could identify who made the comment.

Mr. Gregory said that Chairman White had asked him for comments from the Council. He stated that the Council had asked for a copy of the rule package in August, but had not yet received it. He said he isn't ready to move forward with discussions since the Council members can't get the rule package.

Ms. Hardee stated that some Council members had already given comments, but she thinks it would be beneficial if all Council members offered comments for today's meeting for our future consideration.

Mr. Gregory said he thinks everyone that has given comments should have the information. He would like everyone to have input, but doesn't know how to do it since they can't see the final document.

Dr. Carmichael said they could discuss some of the following most controversial issues:

1. Applicability. There is an issue concerning effective dates - whether to use new rules or old rules if administratively complete.

2. Mineral Interest. Mr. McFarland, representing mineral owners, stated that applicants should make an effort to notify mineral rights owners. Council member Rivette doesn't think it's a statewide issue and doesn't think a statewide rule should be written for a small percentage of the properties that are affected. Mr. McFarland thinks a mineral owner must accommodate the needs of the surface owner of the land. President Gregory wants both the state and the applicant to be in agreement, and thinks there needs to be something done to recognize that it is an issue.

3. **Surface Casing** - you can drill through a landfill.
4. **Grease Trap Waste Processors** - You can get a registration instead of a permit under certain conditions (10 % solids from the grease, etc).
5. **Term Limits** - states that permits are for the life of the facility.
6. **Noise Regulation** - consideration for design of a transfer facility.
7. **Medical Waste** - need more rules for mobile waste treatment units.
8. **Buffer Zones** - said 50 feet buffer zone is inadequate
9. **Analytical Quality Assurance and Quality Control**
10. **Ground water issues** concerning monitoring well spacing. Filtering the samples need stricter rules.
11. **Cover Material.** Mr. Gregory said Class 1 waste shouldn't be used as a daily cover. Dr. Kier discussed run-off on daily cover.
12. **Posting applications** on the Internet.

- **Highlights** - from the August 12, 2005 meeting were unanimously approved. Council member Overgaard made the motion, and Council member King seconded the motion for approval.
- **Public Comments - General Public/Visitors**

Mr. Lesniak, City of Austin, thinks the new definition in Subchapter T about what constitutes an abandoned landfill is a big issue for Austin and thinks the new rule causes problems. The existing rule says any place that has waste is a landfill, and the new definition is that it has to have defined boundaries. There are 32 in Austin with no boundaries.

A gentleman from the City of Lubbock was concerned with the impact of HB 1609 pertaining to the 40 tons per day rule. He wanted to limit the ability to dispose of waste only from their area and not be allowed to take in waste from other areas, which would require them to comply with Subtitle D rules, which creates a concerned about competition from smaller area landfills.

Ms. Rather said the TCEQ isn't moving the state into the current century because of a lack of addressing certain things such as floodplane language, radioactive waste, and bio-reactors.

Dr. Kier said the TCEQ was not addressing waste acceptance rates, location of interior road ways, impact on surrounding areas, administrative completeness, fire fighting, unloading waste, erosion, leachate condensation, timing of alternate course demonstration, assessment monitoring in all wells, background wells comparison, and cost estimates on closure.

- **Council Member Comments**

Mr. Gregory spoke about unauthorized waste and who is responsible for it when it comes in. He said the Council has a chance in this re-write to make the generator responsible for notifying the landfill of prohibited waste. He said there needs to be some protection for the landfill operator to know what's in the containers. Landfill owners and transfer stations are at the mercy of the generator. They need to know more about exempt and non-exempt generators.

Mr. Gregory inquired about dates for the rules. The rules will be filed with the Chief Clerk on January 6 and will go to agenda on Jan 25.

- **Old Business - Action Items/Resolutions - Dr. Richard Carmichael, Jackie Hardee**

Ms. Hardee provided a list of workshops/training for generators. Dr. Carmichael said a notice was to be mailed to unutilized facilities, permitted and not constructed, and a letter was prepared and will go out next week.

Developing a resolution regarding Chapter 330 Rules was discussed. There was a concern whether or not the Council was ready to approve the rules, and it was decided that they weren't yet ready to give their approval. A resolution to this affect was submitted by Council member Hindman. He moved to accept the resolution and Council member Rose seconded the motion. There was a unanimous vote of approval.

Mr. Shepherd said the Council should be able to get a copy of the rules by January 6.

Council member Dr. Clark and others drafted a letter to Wade Wheatley to thank him for all his efforts in working with the Council. Council member Hindman will sign the letter.

- **2006 Meetings: input from Council members - Bob Gregory**

Monday, January 23 will be a special called Council Meeting. Council meetings in 2006 will be in March, June, September, and December. The exact dates will be determined after everyone turns in a list of days they would be unavailable to meet.

Closing remarks were made by Mr. Gregory, and the meeting was adjourned.