

HIGHLIGHTS

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

June 17, 2005

MEMBERS PRESENT

Bob Gregory
William R. Hindman, P.E.
Dr. H. C. Clark
The Honorable Jack Cobb
Donald Hatcher
Maria "Elena" Quintanilla
David Stephens
The Honorable R. A. "Dick" Nugent
Karen Overgaard
Annise Parker
Charles "Chuck" Rivette
Mark Rose
David Yanke

MEMBERS ABSENT

The Honorable D. C. "Chris" King
Robert Dow
Lisa Perrine

DIVISION SUPPORT TEAM

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

TCEQ STAFF

Wade M. Wheatley, P.E., Director, Waste Permits Division
Richard C. Carmichael, Ph.D., Manager, Municipal Solid Waste Permits Section
Wayne Lee, P.E., Municipal Solid Waste Permits Section
Wayne Harry, P.E., Municipal Solid Waste Permits Section
Jeff Davis, Municipal Solid Waste Permits Section
Steve Minick, Intergovernmental Relations
Hector Mendieta, OEPPA
Pat Davis, Registration & Reporting
Linda Ribble, Registration & Reporting
John E. Williams, OLS

GUESTS

Rich Leib, LES
Robin Schneider, TCE
Cheryl Mergo HGAC
Latrice Hertzler, FLT
Bryan Moore, Vinson & Elkins, LLP
Ken Knibbs, USET
David McDaniel, City of San Antonio
Robert Vickery, Republic Waste
Chuck Loy, Potts & Reilly
Angela Moorman, Russell, Moorman & Rodriquez, Georgetown
Trek English, Northeast Austin Action Group
Donna Pirkle, Lloyd Gosselink; Austin
Joyce Best, Northeast Austin Action Group

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

Mr. Gregory, Advisory Council President, welcomed everyone and asked the council members and TCEQ staff to introduce themselves. Mr. Gregory announced that Mr. Hector Mendieta was retiring at the end of June. Before the meeting highlights from the March 31, 2005 meeting were approved, Mr. Gregory said that in the highlights under the 330 rule, there should be a change stating that “the Advisory Council” would take it under advisement. Mr. Hindman moved to approve the minutes as changed, it was seconded by Ms. Overgaard, and approved by the Council.

- **Administrative Announcements - Gary W. Trim**

After welcoming the Council members and guests, Mr. Trim announced that eight vacancies were coming open on the council. Letters have been mailed out to numerous associations, organizations and individuals about procedures necessary to apply for the vacancies. Since Councilman Paul Escobar was defeated in his re-election race, his vacancy would also be available. The deadline for nomination is July 15, 2005. The Commissioners will consider the applications on Aug. 10, 2005. Mr. Trim discussed each position, and said that Council members can be nominated any way you see fit. The following individuals' terms are expiring:

Jack Cobb
Donald Hatcher
David Stephens
Dick Nugent
Annise Parker
Lisa Perrine
Paul Escobar

The TCEQ Chairman will appoint the Council President for a two-year term.

- **Welcome - Wade Wheatley, Division Director**

After Mr. Wheatley's welcome, he encouraged all Council members to reapply if their term on the Council is expiring and if they're interested in another term. He mentioned the reorganization in MSW and the new responsibilities and staff in MSW. He stated that the Executive Director is looking at recommendations that resulted from the Management Advisory Review Audit in December 2004.

- **MSW Section Manager's Report - Richard Carmichael, Ph.D.**

Dr. Carmichael said that MSW has reorganized. Now there are two tech teams and one miscellaneous team. The third team includes the solid waste grants and surface casing programs, along with the library, billing, and data base functions. The team leader for team three is posted. MSW is fully staffed with the exception of one position.

By statute, COGS are required to review MSW permit applications for conformance with their Regional Solid Waste Management Plan. Statute also requires the agency to adopt the Regional Solid Waste Management Plans by rule. Once adopted, each plan has force of rule. There are 24 COGS with 24 different Solid Waste Management Plans. Current rule requires detailed Regional Solid Waste Management Plans. Mr. Wheatley is concerned that current COG plans under review by TCEQ may conflict with TCEQ rules. To address the potential conflict, several items in the Regional Plans will have to be reviewed and culled probably changed. MSW has developed a streamlined plan outline based on statute requirements and requested that the COGS prepare their plans using the streamlined outline. The revised streamlined plans will meet statute requirements and become Volume 1 of the Regional Solid Waste Management Plan. Dr. Carmichael, Mr. Wheatley, and MSW staff met with COG representatives to discuss the preparation of the streamlined plans. Dr. Carmichael stated that they presented the streamline plan idea and benefits and are working with the COGs. The current detailed plans will be treated as guidance documents and become Volume 2 of the Regional Solid Waste Management Plans. (See **Attachment 2**). As discussed earlier, Volume 1 will be developed to meet statute requirements and will then be reviewed and adopted by the TCEQ Commissioners. The adopted Volume 1 Plans will have the effect of Rule. The Guidance Document (Volume 2) will not be adopted by the Commissioners and will only be guidance rather than Rule. Mr. Gregory expressed frustration because it says that facilities have to be consistent with the rules and said the COGs are frustrated as well. There are proposed changes in the 3rd draft Chapter 330 rules that reflect COG changes (See **Attachment 3**). Mr. Gregory encourages open dialog with the community and said this is very important in finding acceptance in the 330 Rules. Mr. Gregory said he needs a copy of the resolution for the next meeting. CAPCO has responded. Ms. Quintanilla asked for a list of the attendees at the COG meeting on May 26, 2005, and Dr. Carmichael supplied the Council with the list (**Attachment 1**).

Mr. Wheatley said that in the long term, the new 330 Rules will reduce workload, but there will be a spike in work right before the Rules come into effect. Mr. Wheatley does not want to request more staff until it is needed. Mr. Gregory offered assistance to staff from the Council.

Dr. Carmichael expects 16 SOP Modifications to come in from the initial call request, and has formed three person teams to look at the approaches on the first SOPs.

Dr. Carmichael said that landfills are doing some very innovative things. He is hoping that the agency will start seeing some of these approaches and will suggest to landfills to use some of these approaches. He is looking for something reasonable and enforceable that can be monitored and can be used in these first two rounds of the SOPs.

- **Legislative Report - Steve Minick, Intergovernmental Relations**

Mr. Minick said that this session is significant for legislation that did not pass. No major bills were passed. (See **Attachment 4** - Bills Passed.)

State agencies will be required to remove mandatory public meeting time frames in HB 1609. Under the current bill, there is a mandatory 45 day time frame and sometimes this is not enough time. There is concern about not holding public meetings; there is a requirement that someone ask for a public meeting before there is one. Mr. Wheatley, after a discussion with the Office of Legal Services, said we won't deny a public meeting if there is interest. In the past you had to have a public meeting whether or not one was requested, but now you only have one if there is interest for the public meeting. They are reviewing all the bills that passed to see how to implement. Mr. Minick will come back to the next meeting.

- **Major Modification Rule - Wayne Lee and Dr. Richard Carmichael**

Jeff Davis stated that the major modifications, like the Class 3 modifications in IHW, would be processed in a similar manner to a new permit application and would go to Permits Administrative Review prior to beginning technical review. Anything currently considered a major amendment could be considered as a Major MOD, but unlike a Major Amendment it would not open up the entire permit. There would be three potential modifications: Minor or "J" modifications, a modification with Notice or "K" mod, and the major modification with an Opportunity for Contested Case Hearing. The purpose is to identify a particular item and allow that item to be changed without having to open the entire permit.

- **Public Comments - General Public/Visitors**

Ms. Schneider expressed concern that many changes are being done as MODs, and that permits have no expiration date. The only time a landfill can be reviewed is when it has major amendments, and this is eliminating landfill review. She said you need to have some time frame to review these landfills, and that it is never thoroughly reviewed if it doesn't have an amendment. She said a thorough review won't occur with this new rule.

Ms. English stated that she wants statistics from the landfill that is 1.1 miles from her home.

She said she has never received notice of anything that happened at this landfill. She wanted statistics on how many people have been notified when there was a change of hours.

- **Unutilized MSW Permits Rule - Wayne Lee and Dr. RICHARD Carmichael**

Mr. Lee said this petition was filed Oct. 17, 2003, and resolution was received. Rule making was proposed December 1, 2004. Comments were due January 17, 2005 and were available to the public on April 22, 2005. It went into effect June 2, 2005. No member of the public was present the day it was adopted. The Commissioner asked the question about the practitioner making comments, and the practitioner made no comments and did not attend any meetings. Mr. Clark asked if people had been notified of the new rule, and Mr. Lee said they are working on notification by letter.

- **Chapter 330 Rules Re-Write - TCEQ staff and MSW Advisory Council Members**

See **Attachment 5** - Draft Chapter 330 Changes from Current Rules)

Mr. Gregory complimented MSW for getting information to the public in various ways. He wants the Council and audience to be able to ask questions and get answers and hopefully go with a specific recommendation. It should go to the Commission and be published in the Texas Registry in August. As a group, he doesn't think that Chapter 330 rules are ready to go to the Commission. If it requires more time than this meeting, he feels there's still some issues to be discussed. From a legal basis, once it's in the Texas Registry, it has to be approved in six months. Ms. Schneider wants to make the rules applicable immediately on approval, not six months later. Mr. Rich Lee said he would like to see the MSW Advisory Committee look at the conformity in reporting of grit or grease trap waste.

- **Public Comments - General Public/Visitors**

Mr. Gregory said to be aware of public comments that are on the website. He asked Mr. Wheatley if there was going to be another draft, and the answer was "No". Mr. Gregory said applicability issues are huge. Depending on how these rules are applied can make a significant difference. Mr. Gregory asked the Council if they felt like they should meet in August for further discussion. Mr. Clark said he shares discomfort because it's a work in progress and he is willing to come back. Mr. Rivette said he thinks if they come back, they need to cover other ground instead of the same issues. Mr. Gregory was told that the agenda version would be ready August 5. Mr. Gregory said they would need to meet between Aug. 5 and Aug. 24. The Council agreed to meet on Friday, August 12.

Mr. Gregory honored Mr. Mendieta, who is retiring after many years with the Agency. Mr. Gregory said that "Hector is history". He knows the history of solid waste and should be greatly commended for his ability to put together the program. He helped other states form

a solid waste program like Texas. A resolution was drafted by Mr. Gregory on behalf of Mr. Mendieta. It was agreed that Hector's mission was "To Protect The State Of Texas".

Ms. Overgaard moved for adjournment. The motion was seconded by Mr. Hatcher. The vote was unanimous.