

## **HIGHLIGHTS**

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

**March 31, 2005**

### **MEMBERS PRESENT**

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

### **MEMBERS ABSENT**

Annise Parker  
The Honorable Paul Escobar  
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  
Beecher Cameron, Air Permits Division  
Joy Schultz  
Will Wymen, SBCGA

### **GUESTS**

Bryan Moore; Vinson and Elkins LLP; Austin  
Angela Moorman; Russell, Moorman & Rodriquez; Georgetown  
Ed Myers, RJR Engineering; Austin  
Daren Laine; LLSI; San Antonio  
Latrice Hertzler, Future Link Technologies; Austin  
Pierce Chandler; PLC; Rockwall  
Robert C. Vickery; Republic Waste; Avalon  
Mike Oden; HDR Engineering; Dallas  
Mark Ross; LETCO; Dallas  
Troy Leitschuh; IESI; Fort Worth  
Keith Helmers; Capcog; Austin  
Krystal Beckley; Lloyd, Gosselink; Austin  
James Kean; Squire Sanders/Stericycle; Houston  
Trek English; North East Action Group; Austin  
Paul Gosselink; Lloyd Gosselink; Austin  
Leigh Ing; Allied; Austin  
Bob Kier; Robert S. Kier Consulting; Austin  
Eric Allmon; Lowerse & Frederick; Austin

- **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. A motion was made by Mr. Rivette to approve the January 20-21, 2005 meeting highlights. The motion was seconded by Ms. Overgaard and was approved by unanimous vote.

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

After welcoming the Council and guests, Mr. Trim encouraged the Council to register for the up-coming Environmental Trade Fair. Council members would not be charged a registration fee. He also announced that several Council vacancies were coming open on August 21. His process is to draft a notification to various organizations to get the word out. A Council member needs to reapply even if his/her term is expiring. He encouraged people to wait until he sends information on the process. You can get nominated anyway you want to, but be sure to get it in before the deadline. You'll be thrown into the pool with other people. The appointments will be in 6 year terms.

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

After Mr. Wheatley's welcome, he stated that there had been several large meetings on the Chapter 330 re-write, and that they are working to take care of all the unintended consequences that have resulted from the re-write. He encouraged everyone to please continue to meet with him and his staff on the rules, and said that these meetings are his priority. When asked about the Division Audit that was completed in December, he said that he doesn't know the results..

Mr. Lee said the deadline for comments on the second draft of the Chapter 330 Rule re-write was due April 2. Ms. English stated that she had a problem with the April 2 deadline for comments and asked for an extension. Dr. Carmichael responded that he could meet with her next week.

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

Dr. Carmichael indicated that a copy of the rule changes was in the member's packets (**ATTACHMENT A**), and said that they had tried to incorporate all the comments. He said that the notification for highway clean-up is being taken out since there were many negative comments. Also enclosed in the packets is a short synopsis of the March 29 Stakeholder Meeting (**ATTACHMENT B**).

- **Unutilized MSW Permits Rule - Wayne Lee & Richard Carmichael**

The proposal came out on Dec. 17, 2004 and is scheduled to be adopted on May 11, 2005. No adoption language is available yet.

- **Major Modification Rule - Wayne Lee & Richard Carmichael**

Mr. Lee stated that they are on target to go to agenda for proposal on July 27 or possibly late on the August agenda. They want to get more Advisory Council input in June. In the early drafts, there were 4 changes in rulemaking: 1) a new category for permit major mods, 2) significant change to registration in Major MOD, 3) address transfer in permits and registration MOD, and 4) temporary authorizations can be other than minor changes. They may want to address Subtitle D by full amendment.

Mr. Gregory asked if two sets of rules can be open at a time, and Mr. Wheatley said they could as long as they don't overlap. Mr. Gregory responded that you can hardly do one without doing the other.

- **PUBLIC COMMENTS**

Ms. English said she needed more clarification on what can be addressed in minor mods. She discussed a drainage mod that was issued with no public input. She showed pictures of the drainage areas to highlight what can happen when there is no public input. Ms. English stated that the permit was not adequately reviewed. A drainage issue should be an amendment - or some public input is needed. She asked how can they justify giving a drainage mod that causes the problem to be worse. Mr. Dow's response back to her was that the TCEQ has done a good job.

- **Chapter 330 Rules Re-write**

Dr. Carmichael went over the changes made to the 330 rules. Details of the changes are in Attachment A. Due to the length and complexity of this discussion, details are available in the tape recordings of the meeting.

- **Chapter 330 Rules Re-write (Action Items/Resolutions)**

Mr. Gosselink was asked at the last meeting to work on the wording of COG issues. The Advisory Council is to take them under consideration since applicants have to deal with these issues. The Texas Railroad Commission position is still not resolved when someone wants to drill oil and gas within the footprint area. The goal is to coordinate between the interests involved. The agency that receives the application needs to talk to the other agency and the landowner. Now, the notice is backwards. There needs to be better coordination between the Texas Railroad Commission and the TCEQ. Mr. Gregory thinks this idea should go to Legal. Dr. Carmichael said he would like to review Mr. Gosselink's comments with Legal, and Mr. Gregory would like Dr. Carmichael to give the Advisory Council a response.

Mr. Gosselink drafted a resolution on how the COGs should limit their power (**ATTACHMENT D**). Ms. Overgaard said she thought COGs was a way the local people could have input as to what goes on in their region.

Dr. Kier said that where the use of a model would become problematic is where there is no aquifer. There are some landfills that have no aquifer that you could produce from.

- **Legislative Reporting - Wayne Lee**

Mr. Lee handed out a legislative report on "Bills Reviewed by MSW Permits Section" (**ATTACHMENT C**).

Mr. Clark stated that HB2758 would eliminate the opportunity for contested case hearings. Mr. Harry said that HB 2176 requires review of permits and allows MSW to become parties in contested permit hearings.

Mr. Gregory inquired as to whether someone could come tomorrow with a listing of bills in the legislature that are pertinent. Mr. Lee said there would be a short briefing on bills during the afternoon meeting.

- **Wrap-Up - Bob Gregory**

The meeting was adjourned until tomorrow morning.

**HIGHLIGHTS (meeting continued)**  
**April 1, 2005**

**MEMBERS PRESENT**

Bob Gregory  
William R. Hindman, P.E.  
Donald Hatcher  
David Stephens  
Karen Overgaard  
Charles Rivette  
The Honorable D. C. "Chris" King

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Beecher Cameron, Air Permits Division  
Steve Akers, Municipal Solid Waste Permits Section  
Jack Oswald, Surface Casing

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Latrice Hertzler, Future Link Technologies; Austin  
Troy Leitschuh; IESI; Fort Worth  
Keith Helmers; Capcog; Austin  
Bob Kier; Robert S. Kier Consulting; Austin  
Eric Allmon; Lowerse & Frederick; Austin  
Chris Pepper, LG Law

- **Welcome and Introduction - Bob Gregory**

Mr. Gregory welcomed everyone to the second day of the Advisory Council Meeting.

- **Air Permits Presentation - Beecher Cameron**

Mr. Cameron discussed Subchapter U, and stated that they support type 1 mix up to 20%. Mr. Akers said there was no limit on class 2 and class 3 waste, and the limit on class 1 is 20%.

It was noted that in Subchapter T, Q 1-A, there was a need to come up with a good definition of a closed landfill. Dr. Kier said that if it's not closed under the certain definition, it could be a candidate for lateral expansion.

Mr. Cameron said it needs to be 165 ft from the source of receptor to property line, and there are no size exceptions from bio-pads. There is a 500 foot set-back (removed for diesel). Bio-reactors would not be authorized under standard permit, but would like to include them. Mr. Wheatley said that with 100,000 gallons a day, you could generate more gas. Mr. Rivette said he had been working with EPA for 3 years on a bioreactor project. Unless you have a Title 5 permit, you are ineligible for a bioreactor project.

Mr. Cameron said that misters put water and deodorant in the air, and you get immediate dispersion. It regulates air contaminants. He said that Air doesn't regulate on-site roads. Trucks park there for long periods of time. On-site roads at a transfer station are not normally regulated.

- **Chapter 330 Rules Re-write -continuation of discussion**

A red-line version of the rule update was passed out, and public comments were asked for. **(ATTACHMENT E).**

Dr. Kier asked if there was a time period when everyone has to go to the new rules. Ms. Moorman asked if each subchapter say specifically the effective date. Mr. Wheatley said some rules are effective immediately, and some are effective when you make changes. Mr. Gregory said maybe a document should be made to say when each change will take place and put it in the next draft.

Mr. Oswald, from Surface Casing, said he makes groundwater recommendations to the Texas Railroad Commission when they receive a request to drill a well. Digital maps show them where landfills are located. When they locate a new drill location and it falls near a landfill, they notify the Texas Railroad Commission. They are required to work together to be sure groundwater is protected.

Mr. Harry said that medical waste, treated and untreated, is special waste, and it has to be handled in the same manner. They spoke with the Texas Health Department from a bio-hazard point of view, and they don't think we should regulate it. They could find no reason

to call a crime scene waste, special waste.

- **Public Comments**

Mr. Leitschuh questioned the facility operating hours of 7-7, Monday-Friday. His site would like to operate on Saturday, and they would like to change to M-Saturday. Mr. Wheatley responded that the M-F times were in SOP rulewriting. Mr. Leitschuh said the rules say that the grid system for landfill markers should be a series of letters and numbers. His facility would like to change to “an alternate making system”. Mr. Harry agreed to that.

Ms. Moorman asked what changes didn't get included. Mr. Harry told her that the permit for life will be inserted later. He also said another thing that didn't get included is that in an application the applicant has to submit something saying they are compliant with storm water regulations.

It was announced that comments on the second draft ended on April 18. It will be determined if there will be a third draft. Mr. Wheatley said he will continue to have meetings on the rules re-write. Mr. Gregory encouraged feed-back on the re-write progress.

Meeting was adjourned.