



GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION (HWMC)
February 21, 2008; 08:45 A.M.
1730 East Elm Street
Bennett Spring / Roaring River Conference Room
Jefferson City, MO 65102

(Note: *The minutes taken at Hazardous Waste Management Commission proceedings are just that, minutes, and are not verbatim records of the meeting. Consequently, the minutes are not intended to be and are not a word-for-word transcription.*)

COMMISSIONERS PRESENT

Ben Kessler, Acting Chairman
Patrick Gleason
James Frakes
Andrew Bracker
Elizabeth Aull

CALL TO ORDER

Commissioner Ben Kessler, Acting Chair, called the General Session to order at 8:45 a.m.

EXECUTIVE SESSION

Request for a closed session was made by Ms. Shelley Woods, Attorney General's Office. Motion to go into closed session to discuss litigation or possible litigation was made by Commissioner Gleason and seconded by Commissioner Frakes. Closed session began at approximately 8:49 a.m. The roll call vote was as follows:

Commissioner Aull	Yes
Commissioner Frakes	Yes
Commissioner Gleason	Yes
Chairman Kessler	Yes
Commissioner Bracker	Yes

GENERAL SESSION

Commissioner Ben Kessler, Acting Chair, called the General Session to order at 9:45 a.m.

1. INTRODUCTION OF NEW COMMISSIONERS

Mr. Robert Geller, Director, Hazardous Waste Program, introduced and welcomed Commissioner Elizabeth Aull and Commissioner Andrew Bracker to the Hazardous Waste Management Commission.

2. NOMINATIONS FOR CHAIRMAN AND VICE-CHAIRMAN

Commissioner Kessler, Acting Chair, opened the floor to nominations and a vote for Chair and Vice-Chair.

Commissioner Patrick Gleason was nominated as Chairman by Commissioner Kessler, which was seconded by Commissioner Frakes.

A vote was taken, all in favor. Motion carried.

Commissioner Andrew Bracker was nominated as Vice-Chairman by Commissioner Aull, which was seconded by Commissioner Frakes.

A vote was taken, all in favor. Motion carried.

Commissioner Kessler, Acting Chair, noted that Commissioner Gleason would officially take the Chairmanship immediately.

3. APPROVAL OF MINUTES

A motion was made by Commissioner Frakes, and seconded by Commissioner Kessler to approve the December 13, 2007, General Session minutes.

Motions carried. The General Session Minutes were approved and were signed by Commissioner Kessler, Acting Chair.

4. LEGISLATIVE UPDATE

Mr. Earl Pabst, Deputy Director – Division of Environmental Quality, provided a brief update regarding the department's legislative concerns. He distributed a handout to the Commissioners, which listed the department's proposed bills, a brief description of the bills, and the status of the bills.

Mr. Pabst particularly mentioned two items that may be of specific interest to the Commission. These were HB1499 and SB895, which contained proposed legislation on e-scrap. Mr. Pabst mentioned that SB895 was voted out of the committee. He also mentioned SB907, which includes provisions relating to liability issues that tank owners, prior to December 2007, would be responsible for as it related to contamination.

During Mr. Pabst's discussion on SB907, Ms. Carol Eighmey, PSTIF, interjected her assessment on what the bill would do in regards to the 2017 sunset issue, and noted that the bill was focused on owners who had reported in December 1997.

Mr. Pabst was providing information only.

4.5 REQUEST TO REFER THE FOLLOWING FACILITY TO THE AGO IN ORDER TO COMPEL COMPLIANCE AND TO PURSUE AND ASSESS A CIVIL PENALTY FOR THE NON-COMPLIANT OPERATION AS A HAZARDOUS WASTE GENERATOR

Ms. Patricia Chapman, Compliance and Enforcement Section, provided an overview regarding Park-Mark, Incorporated. She informed the Commission that Mr. Toman, of Park-Mark, Incorporated, had plans to attend the meeting, but was not able due to inclement weather.

Ms. Chapman provided a PowerPoint presentation, highlighting the main concerns with Park-Mark, Incorporated. These centered on the excessive buildup of waste on the property, with considerable time between shipments.

The Commission inquired as to the reason for the buildup, which was responded to by Ms. Chapman. She noted the cost of shipping as being the most obvious reason at this time. Waste was being stockpiled until a large shipment could be made.

Commissioner Kessler moved to refer Park-Mark, Incorporated (MOD981704455), to the AGO in order to compel compliance and pursue and negotiate a civil penalty.

The motion was seconded by Commissioner Frakes.

A vote was taken, all in favor. Motion carried.

5. CONTINENTAL CEMENT VARIANCE PETITION

Ms. Shelley Woods, AGO, informed the Commission that a 30-day public notice had been posted, and that the Hazardous Waste Program had received a Public Hearing request. Ms. Woods gave an overview of the variance request process, noting the request process for a public hearing and the protocol.

Ms. Woods asked the Commission if they wanted to hear the evidence at the Public Hearing or if they preferred that a Hearing Officer be appointed to hear the matter.

Commissioner Gleason noted that this was the 3rd request that Continental Cement had made for a variance and that there was an eventuality that the rule could change that governed the issue in question.

Other questions were asked and answered regarding the process and authority of a Hearing Officer.

Commissioner Bracker moved to appoint a Hearing Officer and have a recommended decision provided to the Commission by March 21, 2008. Commissioner Kessler seconded the motion.

A vote was taken, all in favor except Commissioner Aull – who abstained. Motion carried.

6. BASF VARIANCE PETITION

Ms. Jackie Hicks, Permits Section, presented information to the Commission regarding a variance request from BASF, regarding the portion of the rule that governed the requirement of a confirming bank. She noted the regulation that would, typically, address the issue, was in the process of being revised. Ms. Hicks recommended BASF be granted the variance ONLY for that portion of the regulation--that the variance be granted with conditions.

Commissioner Frakes moved to approve the variance with conditions. Commissioner Kessler seconded the motion.

A vote was taken, all in favor. Motion carried.

BASF is granted a variance only from the portion of Missouri Hazardous Waste Management Regulation 10 CSR 25-7.264 (2)(H)(6) that relates to the confirming bank requirement. BASF remains subject to the portion of the regulation that reads:

This paragraph modifies the requirements for letters of credit per 40 CFR 264.143(d), 40 CFR 264.145(d), and 40 CFR 264.147(h), incorporated in this rule. Letters of Credit shall be issued by a state- or federally-chartered and regulated bank or trust association.

Chairman Gleason called for a five minute break at 10:40 a.m.

The meeting resumed at 10:45 a.m.

7. RULEMAKING UPDATE

Mr. Tim Eiken, Rules Coordinator, gave an update to the current rulemaking efforts of the program. He noted the two current rules in the process:

- The regulation regarding the 72 hour rule relating to the staging of railcars; and
- The Financial Assurance, amendment to the rule, regarding the issue of the confirming bank.

Commissioner Bracker expressed concern regarding the staging of railcars and the variance petitions that had been granted previously that related to this issue.

Commissioner Gleason and Kessler responded with background information with regard to the staging issues.

8. QUARTERLY REPORTS

Mr. Robert Geller, Director – Hazardous Waste Program, and Ms. Ramona Huckstep, Hazardous Waste Program, presented the Commissioners with the Hazardous Waste Management Commission Quarterly Report in its new format. The report was not completed in time to send out with the Commission pre-mailing, so the Commissioners were asked to review the format and advise if this new format presented the information they needed in a manner that was acceptable to them. This report will be discussed at the next Commission meeting.

9. PUBLIC INQUIRY OR ISSUES

Robert Geller, Director – Hazardous Waste Program opened the floor to anyone requesting to speak to the Commission.

Carol Eighmey, Petroleum Storage Tank Insurance Fund addressed the Commission and gave an overview of the Fund, an update on the Financial Responsibility Initiative and the Cooperative Inspection Process.

Roger Walker, RegForm, addressed the Commissioners noting appreciation for the Program for its efforts with the Hazardous Waste Forum and the positive impact it has had. He suggested that small group discussions be considered in the next Forum.

10. OTHER BUSINESS

Robert Geller, Director – Hazardous Waste Program, noted the Health Profile Workgroup meeting had been scheduled.

Chairman Gleason asked that the HWP Commissioner Web site appointment information and term expiration dates be updated and kept current.

Mr. Geller noted a Financial Disclosure Statement was provided in the Commissioners packets, and gave a brief overview of the requirement for submitting the information within the prescribed timeframe. He also noted the term limits of the Commissioners and provided copies of the applications for re-appointment for those Commissioners whose terms would be expiring, but who wished to apply for re-appointment.

Commissioner Kessler noted that his business – Cash’s Scrap Metal – had been highlighted on a recent episode of “*Dirty Jobs*” on the Discovery Channel. He noted that they had also been on an earlier episode. We will attempt to acquire a copy of the episodes.

11. FUTURE MEETINGS

The Commission was informed that the next meeting is scheduled for April 17, 2008.

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Commissioner Bracker requested the Commission consider starting the meetings later in the day to avoid incurring an overnight stay in Jefferson City the night before the meeting. Chairman Gleason asked the Commissioners to think about it for discussion at a later time. Commissioner Aull requested that seasonally adjusted changes also be considered.

Chairman Gleason advised that the next meeting will start at 10:00 a.m., with any Closed Session beginning at 9:45 a.m.

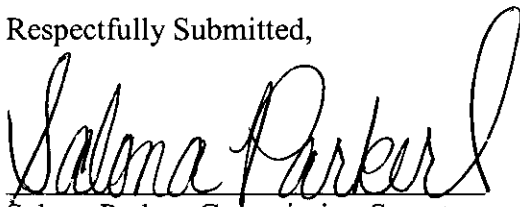
ADJOURNMENT

Commissioner Kessler made a motion to adjourn the meeting.
Commissioner Aull seconded.

A vote was taken, all in favor. Motion carried.

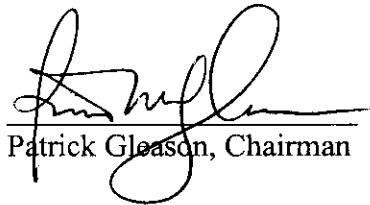
Meeting adjourned at 11:20 a.m.

Respectfully Submitted,



Salona Parker, Commission Secretary

APPROVED



Patrick Gleason, Chairman

6/26/08
Date