

GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION (HWMC)
April 16, 2009; 10:00 A.M.
1730 East Elm Street
Bennett Spring / Roaring River Conference Room
Jefferson City, MO 65102

(Note: The minutes taken at HWMC 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

Patrick Gleason, Chairman
Ben Kessler
Elizabeth Aull
Jamie Frakes
Andrew Bracker

CALL TO ORDER

Mr. Patrick Gleason, HWMC chairman, called the General Session to order at approximately 10:05 a.m. Chairman Gleason welcomed the attendees to the meeting and requested that all cell phones be turned off during the meeting.

1. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by the HWMC and guests.

2. CHAIRMAN AND VICE-CHAIRMAN ELECTIONS

Chairman Gleason opened the floor to accept nominations for HWMC chairman. Commissioner Kessler nominated Commissioner Gleason. Chairman Gleason asked if there were any other nominations. No other nominations were made for the position of HWMC chairman.

A vote was taken; all were in favor, none were opposed.

The nomination and vote carried. HWMC chairman will be Patrick Gleason.

The floor was opened to accept nominations for vice-chairman. Commissioner Aull nominated Commissioner Frakes. Commissioner Kessler seconded the motion.

A vote was taken; all were in favor, none were opposed.

The nomination and vote carried. HWMC vice-chairman will be Jamie Frakes.

3. APPROVAL OF MINUTES

A motion was entertained by Chairman Gleason to approve the minutes from the February 5, 2009, Executive Session; the motion was made by Commissioner Bracker, and was seconded by Commissioner Frakes.

A vote was taken; all were in favor, none opposed. Motion carried.

The minutes were approved and were signed by Chairman Gleason.

A revision request had been received to the February 5, 2009, General Session Minutes. A motion was entertained by Chairman Gleason to approve minutes, as revised, from the February 5, 2009, General Session; the motion was made by Commissioner Aull, and was seconded by Commissioner Frakes.

A vote was taken; all were in favor, none opposed. Motion carried.

The minutes were approved and were signed by Chairman Gleason.

4. PUBLIC HEARING ON DEPARTMENTAL RISK-BASED CORRECTIVE ACTION RULE

A statement was read by Chairman Gleason opening the public hearing on the proposed rule.

Mr. John Madras, Environmental Policy Coordinator, Director's Office, was sworn in at approximately 10:07 a.m. by Ms. Roxann Zuniga, Court Reporter from Midwest Litigation Services. Mr. Madras provided the HWMC with a PowerPoint presentation on the proposed rule. He provided information on the following:

- Background.
- Specific aspects of the Risk-Based Corrective Action rule.
- The proposed rule schedule.

Chairman Gleason posed a question about the wording with regards to the tiered assessment, about the individual tiers, and how they progress.

Mr. Madras responded. He provided the commissioners and attendees with a definition for "site", as referenced in his presentation, the extent of contamination, and "the standards of risk", as it related to cancer or non-cancer causing risks. The steps to knowing the sites and the relevant factors were discussed. Dependent on the levels of risk, the process progresses to the next tier, if the target levels are exceeded at each level, i.e., Tier 1 progresses to Tier 2, Tier 2 progresses to Tier 3, et cetera. The Risk

Management Plan was discussed, as it determines how the site is managed. He noted that the progression moves in one direction, and that once you move to the next tier, you cannot go back to a previous tier.

Mr. Madras noted that this process was developed over time with input from stakeholder groups, and that the process is not complete. This rule is a foundation for progress in the future and will improve over time as the discussions continue.

Also discussed were:

- Long-Term Stewardship
 - Use Restrictions
 - Governs use limitations due to contamination left in place which exceeds unrestricted use laws.
 - Public Participation:
 - Notifying those public who may be directly affected by contamination remaining and the restrictions.
 - Letter of Completion
 - The department issues a letter when the Risk Management Plan is implemented; but, it can be rescinded if there is a violation.
- Anticipated Outcomes
 - Protection, consistency, flexibility and cost effectiveness.
- Rulemaking Schedule

Mr. Madras remarked that this is a long process. He expressed thanks to all those who participated throughout the process. He gave a special tribute to Ms. Norella Huggins, a previous seated HWMC commissioner.

Commissioner Kessler posed a question about the Letter of Completion, as it related to it being avoided. Mr. Madras advised that the letter could be avoided.

Chairman Gleason posed a question about who was, ultimately, responsible for LTS costs. Mr. Madras stated that the costs are to be born by the remediating party, but the future buyers liability needs to be negotiated between the buyer and the seller as outlined in the environment covenant issues.

Mr. Madras ended his presentation at approximately 10:31 a.m.

Ms. Carol Eighmey, Executive Director, Petroleum Storage Tanks Insurance Funds (PSTIF), requested permission to address the HWMC for a brief period. She was sworn in by Ms. Zuniga. She stated she had one suggestion regarding the proposed rule. She

noted that the rule applied to a range of items. This process had been developed over time with input from stakeholders groups, and that it is referred to as the, "Department RBCA" process. She noted that this was sometimes confusing, and asked the commissioners to consider going forward with developing a different name for this rule to eliminate any confusion.

Chairman Gleason inquired if there was confusion between the two.

Robert Geller, Director, Hazardous Waste Program, advised that the Department would look at Ms. Eighmey's suggestion and would respond.

Chairman Gleason inquired if there was anyone else who wanted to address the HWMC during this public hearing. After receiving no response, he declared the public hearing closed at approximately 10:36 a.m.

5. FINDING OF NECESSITY

Mr. Tim Eiken, Rules Coordinator, Director's Office, Hazardous Waste Program, provided the HWMC with a PowerPoint presentation on the Finding of Necessity for the E-Scrap rule. He noted that this rule would implement the statute that had passed and noted that this rule:

- Had statutory background.
- There were authorizing statutes for E-Scrap rulemaking.
- Was necessary.
- That there was supporting evidence and statutory directives.
- Was developed from stakeholder input.

Mr. Eiken advised the commissioners that he was recommending that they approve this Finding of Necessity to begin the process.

Chairman Gleason asked if everyone was "buying in to this", and how the rule would stop the retailer from selling items that did not comply?

Commissioner Kessler inquired as to what other states had similar legislation in place?

Ms. Candace Bias, Compliance & Enforcement Section, Hazardous Waste Program, addressed the HWMC, and responded that there were other states that have different legislation that directs this, but that there was only one other that had the advance fee process.

Commissioner Kessler noted that the market does not work well with products that the manufacturer cannot use parts off of for other products.

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Commissioner Bracker noted that each manufacturer has to have a plan on file, although we do not know at this time exactly what that will entail.

Ms. Bias responded that the details, i.e., drop off sites, verification of no consumer fee, et cetera, will need to be in the plan.

Commissioner Bracker inquired as to what the minimum was that a manufacturer can do?

Ms. Bias responded that the plan has to be "reasonably convenient" to the consumer. It must be as easy to return the product as it was to purchase it originally. She noted that different states deal with it differently, depending on the way their governing statutes were developed. She also noted that this tasks the Department with educating the consumer on the availability of free recycling.

Commissioner Kessler inquired about large amounts of equipment in a large business.

Ms. Bias responded that this law only applies to household and small business computers.

Mr. Robert Geller interjected that everyone was asked to participate in the stakeholders group and that there has been a positive response from the manufacturing section.

Commissioner Kessler inquired if we had been communicating with Texas to see how it is working in their state.

Mr. Geller responded affirmatively, that we have been in contact with Texas and other states for feedback.

The commissioners posed several other questions and comments on how this will affect cities that border a state with this type of law, how to educate the public on the fact that computers are hazardous waste, and different suggestions were discussed on mock plans being developed to present to manufacturers to consider. The advantages and possible disadvantages of the new program for individual recyclers was also discussed between the commissioners. Performance bonding and Resource Recovery Certification were discussed as options.

Commissioner Frakes made the motion to approve the Finding of Necessity.

Commissioner Aull seconded the motion. Comments were solicited, none were received.

A vote was taken; all were in favor, none opposed. Motion carried.

Chairman Gleason called for a short recess at 11:04 A.M.

The meeting resumed at 11:15 A.M.

6. RULEMAKING UPDATE

Mr. Tim Eiken, HWP Director's Office, provided the HWMC with an overview and schedule of the current rulemaking process. He noted that the federal rule package will be published on May 31, 2009, and will be come effective June 1, 2009. No comments were received from the Joint Committee on Administrative Rules (JCAR), and there will be no more updates.

The public hearing for the departmental rule was held today. On the Tanks rule, we did receive input from the Secretary of State's office and JCAR regarding the formatting. The rule was revised and resubmitted.

The E-Scrap rule will not meet the statutory deadline. Prior to the deadline, we will file an emergency rule as a placeholder.

Chairman Gleason inquired as to how the federal rule changes affect our rules.

Mr. Eiken responded that these were discussed with the stakeholders groups during the Forum last week. He noted that there were fewer changes than was originally thought and provided an overview of the changes.

Mr. Geller and Chairman Gleason discussed the different rule timelines.

Commissioner Bracker inquired as to when the comparison between the Proposed Tanks Rule and PSTIF's submission would be complete.

Mr. Geller responded that the comparison is nearly complete. He advised that we will have to provide the comparison to management before it can be released, and that there will be an update at the June meeting.

7. QUARTERLY REPORTS

Mr. Robert Geller, Director, Hazardous Waste Program, provided highlights from this quarters report submission. He noted that this was the fourth report submitted in this format. He inquired as to whether it met the needs of the HWMC. He stated that any suggestions were welcomed.

Commissioner Aull complimented the report and advised that it got better each time.

8. PUBLIC INQUIRIES

Mr. Robert Geller, Director, Hazardous Waste Program, opened the podium up to anyone wishing to address the HWMC.

Mr. David Valentine, from the Truman University in Columbia, Missouri, addressed the HWMC, and noted he had an exchange student from Korea with him who was studying public participation. They were in attendance at this meeting to see how different issues were handled with regards to public participation.

9. OTHER BUSINESS

Mr. Robert Geller, Director, Hazardous Waste Program, addressed the HWMC reminding them that the Missouri Ethics Commission had recently contacted the Department regarding the Personal Disclosure Financial Statements that are required to be completed by HWMC members.

He also noted that there were currently two expired commissioner terms, and two that were unfilled. The Department was still encouraging the Governor's office to fill these positions.

The Brownfields Voluntary Cleanup display was set up in the HWMC meeting area, which was left after the recent HWP Forum (Forum). Mr. Geller noted that there were over 70 participants at the Forum, and gave an overview of the topics discussed.

Mr. Roger Walker, Regform, addressed the HWMC, and complimented the Department on the type of issues that were being discussed at the Forum meetings.

10. FUTURE MEETINGS

Mr. Robert Geller, Director, Hazardous Waste Program, noted that the next meeting was scheduled for June 18, 2009.

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ADJOURNMENT

A motion was made to adjourn the meeting.

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

Meeting adjourned.

Respectfully Submitted.

(Original signed by Salona Parker)

~~Salona Parker, HWMC Secretary~~

APPROVED:

(Original signed by Patrick Gleason)

~~Patrick Gleason, Chairman~~

10/15/09

Date