



Note: Subsection 2 of 610.020 RSMo, states that governmental bodies must provide notice of public meetings at least 24 hours in advance-- with the exclusion of weekends-- unless, for good cause, it is impossible or impractical to provide such notice. Due to the time constraints of filing the Order of Rulemaking with the Joint Committee on Administrative Rules, the meeting notice was given less than 24 business hours prior to the meeting, and notice of the meeting was provided as soon as it was reasonably possible on Friday, June 19, 2009. Specifically, after the Hazardous Waste Management Commission adjourned on June 18, 2009, staff were made aware that the deadline for filing the Order of Rulemaking with the Joint Committee on Administrative Rules was June 22, 2009, instead of the June 23, 2009, date referenced during the Hazardous Waste Management Commission. This meeting was held via teleconference, and the meeting call in number was provided to the commissioners. Public participants were provided with the option of attending the meeting via phone or in person.

GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION
June 22, 2009 - 08:30 A.M.
1730 East Elm Street
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 BY PHONE

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

**Note: Commissioner Aull joined the meeting at approximately 8:50 a.m. – after the vote was taken on the agenda item.*

STAFF PRESENT AT MEETING LOCATION

Robert Geller, Director, Hazardous Waste Program
Marty Miller, Legal Counsel, Division of Environmental Quality
John Madras, Environmental Policy Director, Division of Environmental Quality
Tim Eiken, Rules Coordinator, Hazardous Waste Program
Tim Chibnall, Environmental Specialist, Hazardous Waste Program
Salona Parker, Commission Secretary, Hazardous Waste Program
Debra Dobson, Assistant Commission Secretary, Hazardous Waste Program

COMMISSION ATTORNEY PRESENT BY PHONE

Don Willoh, Legal Counsel for Commission, Attorney General's Office

OTHER PARTIES PRESENT BY PHONE

Carol Eighmey, Executive Director, Missouri Petroleum Storage Insurance Fund (PSTIF)

CALL TO ORDER

Chairman Gleason called the meeting to order at approximately 8:34 a.m.

Ms. Debra Dobson read an opening welcome, took roll call and attendance. Roll call/attendance record was as follows:

Commissioner Kessler
Commissioner Frakes
Commissioner Bracker
Don Willoh, Legal Counsel for Commission, Attorney General Office
Chairman Gleason
Carol Eighmey, Executive Director, PSTIF
Robert Geller, Director, Hazardous Waste Program
John Madras, Environmental Policy Director, Division of Environmental Quality
Tim Eiken, Rule Coordinator, Hazardous Waste Program
Tim Chibnall, Environmental Specialist, Hazardous Waste Program
Marty Miller, Legal Counsel, Division of Environmental Quality
Debra Dobson – Assistant Commission Secretary, Hazardous Waste Program
Salona Parker – Commission Secretary, Hazardous Waste Program

1. ORDERS OF RULEMAKING FOR THE PROPOSED RULE TO IMPLEMENT RISK-BASED CORRECTIVE ACTION PROCESS – AS AMENDED

Mr. Robert Geller, director, Hazardous Waste Program, began with remarks to the Hazardous Waste Management Commission (Commission) regarding the mark-up process, noting that the changes made were based upon discussions with staff, counsel, and Commissioner Bracker. He noted that he hoped the modifications met the intentions and needs of the parties involved. He then read the following language the Department proposes to add to the proposed rule at subsection 2(D):

“Where necessary to promote the public benefit of remediating a “brownfield” or other voluntary cleanup site, a remediating party who is substantially in compliance with the EPA All Appropriate Inquiries rule (40 CFR Part 312) and who, along with the property owner or operator if different from the remediating party, did not cause nor contribute to the release or potential release of a hazardous material at the site, may apply the requirements of Sections (8), (11), (14), (15), and (16) and subsections (4)(B), (9)(J), (18)(A), and (19)(A) of this rule, to the property subject to voluntary remediation rather than the entire site.”

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Mr. Geller then noted that the Department had changed “hazardous substance” to “hazardous material” and responded to the commissioners’ inquiries as to the difference, noting that the Department felt the broader term, “hazardous material” was more appropriate.

Chairman Gleason asked if Commissioner Bracker and the State were comfortable with the change.

Commissioner Bracker responded that he was comfortable with the change.

Mr. Geller, responding for the State, advised that he was comfortable with the change.

Commissioner Bracker then inquired as to the wording of the final motion to incorporate the change. The issue was discussed between the commissioners and Mr. Don Willoh. No new wording was recommended. Rather, the proposed language would be incorporated into the previous motion. Chairman Gleason responded that it would be similar to the wording from the June 18, 2009, meeting with “as amended” noted.

Commissioner Bracker read the following motion:

“I move that the Commission adopt with the modifications the proposed *Order of Rulemaking* on the proposed rule 10 CSR 25-18.010 Risk-Based Corrective Action process, proposed in the March 2, 2009, *Missouri Register*, and that the Department proceed to file the Order with the Joint Committee on Administrative Rules and the Secretary of State. In accordance with Sections 260.370, 260.470, and 260.905, RSMo Supp. 2008 and Sections 260.437, 260.465, 260.500, 260.510, 260.520, 260.567, 260.573, 644.143, RSMo 2000, the members of the Missouri Hazardous Waste Management Commission certify the adoption of the *Order of Rulemaking* to adopt the new rule as proposed in the March 2, 2009, edition of the *Missouri Register* (Volume 34, pp. 527-541), including pages 527-541--as amended--by the teleconference meeting of June 22, 2009.”

Commissioner Frakes and Commissioner Kessler seconded the motion simultaneously.

Mr. John Madras addressed the Commission, making note that the Department had modified Section 4(B) of the rule by reinserting the previously deleted language: “of other residential levels.” The change was discussed between the Commission and Mr. Madras, with agreement being made on the language. Commissioner Bracker noted that this change had been discussed during their conversations the preceding Friday and he was aware of the change.

Chairman Gleason noted that it would be more appropriate for the original motion to be tabled and a vote taken on this change first.

Commissioner Kessler made a motion to table the original motion so the change could be voted on. Commissioner Frakes seconded the motion.

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A vote was taken:

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

All voted in favor, none opposed. Motion carried.

Commissioner Bracker made a motion to accept the new language proposed for subsection 2(D) of the rule. Commissioner Frakes seconded the motion.

A vote was taken:

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

All voted in favor, none opposed. Motion carried.

Chairman Gleason then brought the original motion (to adopt the *Order of Rulemaking*, as amended) back to the table for a final vote.

All voted in favor, none opposed. Motion carried.

Mr. Geller addressed the Commission expressing gratitude to them and all those involved in working through and resolving this issue, giving specific thanks to Commissioner Bracker for his diligence in getting this resolved.

Commissioner Frakes also commended Commissioner Bracker for his efforts.

Chairman Gleason stated that this was a "Win-Win"--the best part of all negotiations."

Mr. Geller advised the Commission that they would be provided copies of the amended rule.

Commissioner Bracker inquired as to the schedule of the Commission meetings in relation to the Tanks RBCA rules to ensure that adequate time will be available, if issues arise during the public comment period that require discussion and/or review.

The schedule was discussed between Chairman Gleason, Mr. Tim Chibnall, Mr. Geller, and Commissioner Bracker. All agreed the schedule allows for sufficient time to address issues that might arise.

Commissioner Aull joined the teleconference at this time expressing apologies for her late involvement. She was advised of the issue being discussed currently. She was also advised that a vote had been taken on the agenda item, with the Commission having approved the motion.

Chairman Gleason asked that the commissioners receive copies of the comments and responses regarding the proposed Tanks RBCA rules within 30 days of the end of the comment period (the comment period ends August 27, 2009). Mr. Geller responded that the Department would comply with his request.

Chairman Gleason also noted that, if needed, a teleconference could be scheduled prior to the next meeting, if issues needed to be discussed.

Commissioner Aull asked that all comments regarding the Tanks RBCA rules received by the Department be forwarded to the commissioners versus a summary of the comments that was provided regarding the departmental RBCA rule. Mr. Geller agreed to provide all of the comments and responses to the commissioners.

2. ADJOURNMENT

Commissioner Gleason made a motion to adjourn the meeting.

Meeting adjourned at approximately 8:56 a.m.

Respectfully Submitted,

(Original signed by Salona Parker)

Salona Parker, Commission Secretary

APPROVED

(Original signed by Patrick Gleason)

Patrick Gleason, Chairman

8/20/09

Date