

Approved May 17, 2016



COLORADO
Solid & Hazardous
Waste Commission
Department of Public Health & Environment

Summary of Meeting

February 16, 2016

NOTE: These minutes are a summary of the proceedings and motions of the February 16, 2016 Solid and Hazardous Waste Commission meeting. The complete and accurate record is the digital recording of the meeting, available in the Solid and Hazardous Waste Commission Office, Colorado Department of Public Health and Environment, Building A, 5th Floor, 4300 Cherry Creek Drive South, Denver, CO 80246. Any documents referred to in this summary are available by contacting the commission office.

Commissioner Neumann, called the meeting to order at approximately 9:30 a.m.

Members present:

John Kehoe, Regulated Industry; Garrett Clemons, Public at Large; Christopher Neumann, Chair, Academia; Joseph Prinster, Jr., Vice-Chair, Public at Large; Cameron L. Garcia, Secretary, Local Government; Charlotte Pitt, Local Government; and James Wilson, Regulated Industry

Members absent:

Michael Dempsey, Regulated Industry; Randall M. Weiner, Public at Large

Staff present:

Mike Silverstein, Commission Administrator; Jennifer Robbins, Assistant Attorney General; and Brandy Valdez Murphy, Commission Assistant

Old Business: - Approval of the August 24, 2015 and November 17, 2015 Meeting Summaries

The commission reviewed the August 24, 2015 and November 17, 2015 meeting summaries.

MOVED by Commissioner Prinster and seconded by Commissioner Kehoe, to approve the August 24, 2015 and November 17, 2015 meeting summaries as written.

Public Comment (for matters not on the agenda)

Anne Fenerty, Jon Lipsky, Dr. Harvey Nichols, and Theodore Ziegler of the Rocky Flats Technical Group presented written information and oral commentary regarding the proposed Rocky Flats Wildlife Refuge. All members encouraged the commission to support their appeal to federal officials to further study the current environmental state of Rocky Flats and not allow the refuge to open.

Teresa Immel, American Tire Recycling, LLC, presented written comment on the Waste Tire End User Reimbursement Fund. Ms. Immel asked the commission to clarify the language and intent regarding recycled tire bales adopted in November 2014. The commission staff agreed to provide an update to the commission in the future.

Rulemaking Hearing:

***Amendment to 6 CCR 1007-3, Part 100.506(c) - Hazardous Waste Public Notice Requirements**

Joe Schieffelin, Solid Waste and Materials Management Program Manager, provided an overview of the proposed amendments to the public notice requirements of the hazardous waste regulations. The rule currently states that the division shall publish notifications in the newspaper and by public radio broadcast. This amendment will add that the division will post these notifications to the department and division websites and department and division Facebook page as an additional form of notification.

Public Comments:

None.

Commissioner Neumann closed the record and the commission moved into deliberations.

After discussion,

MOVED by Commissioner Prinster and seconded by Commissioner Clemons, to adopt the amendment of 6 CCR 1007-3, Part 100.506(c) - Regulations Pertaining to Hazardous Waste - Hazardous Waste Public Notice Requirements, along with the accompanying statement of basis and purpose.

MOTION CARRIED UNANIMOUSLY

Rulemaking Hearing:

***Amendment to 6 CCR 1007-3, Parts 261, 262, 264, 265, 99 and 100 - Spill Notification Requirements**

Walter Avramenko and Rob Beierle of the Hazardous Materials and Waste Management Division provided an overview of the proposed amendments several parts of the hazardous waste regulations relating to spill notifications. The amendments would require any party engaged in an operation or activity which results in a discharge or spill of a characteristic or listed hazardous waste subject to regulation to notify the division of the discharge or disposal. Proposed changes to Part 100 would clarify that corrective action plans are permits and can serve in place of traditional RCRA permits for corrective action and closure activities.

After several questions, the division asked the commission to allow them to withdraw their proposed changes to Parts 261, 262, 264, 265, and 99. The commission agreed to consider Part 100 amendments separately.

Public Comments:

None.

Commissioner Neumann closed the record and the commission moved into deliberations.

After discussion,

MOVED by Commissioner Prinster and seconded by Commissioner Kehoe, to accept the withdrawal of proposed amendments of 6 CCR

1007-3, Parts 261, 262, 264, 265, and Part 99 - Regulations Pertaining to Hazardous Waste - Spill Notification Requirements.

MOTION CARRIED UNANIMOUSLY

After further discussion,

MOVED by Commissioner Prinster and seconded by Commissioner Clemons, to adopt the amendment of 6 CCR 1007-3, Part 100.10(a)(8), 100.10(e), 100.26(a) - Regulations Pertaining to Hazardous Waste - Clarifying Corrective Action Plans are Permits, along with the corresponding section of the statement of basis and purpose.

MOTION CARRIED UNANIMOUSLY

Rulemaking Hearing:

***Amendment to 6 CCR 1007-3, Parts 260 and 261 - Definition of Solid Waste (DSW)**

David Foster, Hazardous Materials and Waste Management Division, provided an overview of the proposed amendments to the definition of solid waste. In 2015, U.S. EPA finalized modifications to the federal DSW rule. This amendment incorporates new requirements of the 2015 rule including: the prohibition of sham recycling, the definition of legitimate recycling, accumulation date and tracking requirements, and changes to solid waste variance and non-waste determinations. Several definitions were also updated.

Public Comments:

None.

Commissioner Neumann closed the record and the commission moved into deliberations.

After discussion,

MOVED by Commissioner Wilson and seconded by Commissioner Kehoe, to adopt the amendment of 6 CCR 1007-3, Parts 260 and 261 - Regulations Pertaining to Hazardous Waste - Definition of Solid Waste, along with the accompanying statement of basis and purpose, with the following amendments:

- At lines 380-381: delete language that reads “or 261.4(a)(23), 261.4(a)(24), or 261.4(a)(27).”
- At line 484 in the statement of basis and purpose: delete the word “current” and replace with “2008 DSW”.

MOTION CARRIED UNANIMOUSLY

Rulemaking Hearing:

***Amendment to 6 CCR 1007-3, Part 261 - Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators (CESQGs)**

David Foster, Hazardous Materials and Waste Management Division, provided an overview of the proposed amendments to Section 261.5. The amendments correct an inconsistency in paragraph (b) that was created when amendments to Part 263 (Transfer Facility Regulations) were adopted in 2010.

Pursuant to the current wording, CESQGs are not subject to the Part 263 requirements. These amendments would correct the unintended omission and provide consistency with Part 263.

Public Comments:

None.

Commissioner Neumann closed the record and the commission moved into deliberations.

After discussion,

MOVED by Commissioner Wilson and seconded by Commissioner Garcia, to adopt the amendment of 6 CCR 1007-3, Part 260, Section 261.5 - Regulations Pertaining to Hazardous Waste - Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators, along with the accompanying statement of basis and purpose, and finding therein that the rule is necessary to protect the public health and environment of the state.

MOTION CARRIED UNANIMOUSLY

Rulemaking Hearing:

***Deletion and replacement of 6 CCR 1007-3, Part 7 - Procedural Rules for the Solid and Hazardous Waste Commission**

Jennifer Robbins, Assistant Attorney General, provided an overview of the proposed deletion and replacement of the commission's procedural rules. The proposed changes are intended to assure that procedures and hearings before the commission are fair and impartial, comply with the Colorado Administrative Procedures Act, the Colorado Hazardous Waste Act, and the Colorado Solid Waste Disposal Sites and Facilities Act, and to minimize burdensome procedures.

Public Comments:

None.

Commissioner Neumann closed the record and the commission moved into deliberations.

After discussion,

MOVED by Commissioner Prinster and seconded by Commissioner Kehoe, to adopt the amendment of 6 CCR 1007-3, Part 7 - Procedural Rules for the Solid and Hazardous Waste Commission, along with the accompanying statement of basis and purpose.

MOTION CARRIED UNANIMOUSLY

New Business:

Informational briefing:

***Colorado Household Medication Take-Back Program**

Greg Fabisiak and Cary Ruble of the Division of Environmental Health and Sustainability presented an overview of proposed new regulations for the Colorado Household Medication Take-Back Program. The

new regulation will establish a statewide collection program which would allow the collection of controlled substances. The division will bring the proposed regulation for hearing in May 2016.

Informational briefing:

***Rocky Flats discussion**

Carl Spreng, Hazardous Materials and Waste Management Division, gave a brief overview of the clean-up history of Rocky Flats. He answered several questions from commissioners.

Informational briefing:

***Annual commission fee**

Mike Silverstein, Commission Administrator, informed the commission that the fee structure of the commission will not be modified in May. A hearing will be held to update the fiscal year of the current fee structure.

The meeting adjourned at approximately 2:30 p.m.

The next meeting of the commission is Tuesday, May 17, 2016 at 9:30 a.m.