

**Summary Minutes
Solid Waste Management Advisory Council (SWAC)
May 17, 2006
Orange Township Trustee Building
1680 East Orange Road,
Lewis Center, OH 43035**

The Following Members Announced Their Attendance at Roll Call:

Erv Ball, Health Departments
Brad Biggs, ODOD's Director's Designee
James Gilliland, Counties
Tim Wasserman, Joint County Solid Waste Management District
Ralph Jennings, Townships
Kathy Trent, Private Solid Waste Management
Joe Sykes, Townships

Andrew Booker acknowledged Mr. Sykes and Gilliland for their contributions to SWAC since this would be their last meeting serving for the council.

The following members arrived at 10:15:

Karl Graham, Municipalities
Jean Byrd, Public Representative

It was determined that there was not a quorum for this meeting. For this reason, it was determined that the minutes for the February 16 SWAC meeting would be voted for approval/disapproval at the next meeting to be held on August 17 at Highbanks Metropark.

Andrew Booker, Update on Legislative/DSIWM Issues

An announcement of the upcoming series of one-day Landfill Fire conferences was made. The conference is a collaboration by health departments, US, California, and Ohio EPAs, as well as firefighters. The dates for the conferences are June 10, 11 and 12 in Canton, Bowling Green and Hamilton, respectively.

Mr. Booker explained that the new fee rules are being processed. These rules include the state disposal fees, host community fees, and SWMD fees. One new requirement included in the rule package is that transfer facilities will now be required to collect the State and SWMD fees as well as landfills (whichever receives the waste first). Before, only landfills were required. He stated that the rules were expected to be filed in June.

An update on tire clean-ups was then discussed. Mr. Booker explained that we are entering the final stages of the Kirby Tire site, where 18,600,00 PTEs have already

been cleaned-up. Environmental Quality Management should complete the clean-up of the remaining fire residuals and remaining tires before winter. Mr. Booker then described how Ohio EPA is now targeting smaller tire sites, between 100 and 2000 tires. Ohio EPA is hoping to find more sites where a consensual agreement can be easily done, and he mentioned that we have copies of the agreement if anyone is interested. Questions were asked concerning the requirements for the sites, and it was stated that the information was included in the agreement.

Members of SWAC were reminded that the state now offers a higher mileage reimbursement rate. As of March 1, 2006 the rate is now \$0.40 per mile for cars.

Industrial Rule Update (Annette DeHavilland, DSIWM)

The presentation started by explaining how currently industrial waste rules fall under two different sections of code, solid waste and water pollution. The current task is create a new chapter that specifically deals with industrial waste to try and lessen the complexity. The new rule chapter is OAC 3745-525 and would only apply to new facilities or expansions. This rule divides industrial waste into 3 categories: landfilled waste, waste lagoons and waste that is beneficially used. For the waste categorized as beneficial use the industry must prove why they do not need to landfill the waste. The waste that is placed in lagoons is not a treatment of the waste; rather it is a method of disposal. There is no sludge removal involved, and a lot are unlined or have only a clay liner. For the landfilled industrial waste there will be a continuum based upon the type of waste to be disposed. On one end of the continuum, for waste that is mostly inert material, no liner will be required. On the other end, "bad" waste will be more toward the requirement of landfills, with requirements for composite and clay liners, ground water monitoring (GWM) and a 30 year contingency plan. For the waste in the middle of the continuum, less requirements are applicable, sometimes only a clay liner. The new chapter will also have requirements for testing, siting and closure.

C&DD Rule Update (Melissa Musko, DSIWM)

The presentation started with an overview of House Bills (HB) 397 and 432. In general, HB 397 implements new siting criteria and requires rules to be adopted governing ground water and leachate monitoring, closure and the post-closure care (PCC), pulverized debris, and rejected load reporting. The bill also requires the issuance of a permit-to-install (PTI) for a proposed or expanding construction and demolition debris facility. HB 432 primarily improves funding support to approved health district C&DD programs through a new C&DD disposal fee. It also authorized Ohio EPA to create an additional fee to support GWM programs at C&DD facilities.

Ohio EPA intends to develop permitting standards and procedures similar to those for other Ohio disposal facilities and that would only be required for new facilities or expansions. Owners and operators of all other facilities would continue to operate under C&DD licenses and would only have to make minor changes to update their facility design plans.

The new siting criteria would only affect new facilities or expansions as well. New criteria include setbacks from perennial streams or certain wetlands, the facility's property line, residential or public water supply wells, certain parks, natural areas, certain lakes or reservoirs, state forests, historic landmarks, and occupied dwellings. In addition, the limits of C&DD placement are to have an isolation distance of not less than five feet from the uppermost aquifer system, among other requirements.

For the GWM requirements, Ohio EPA intends to address these in a separate rule chapter. The GWM requirements will be made applicable by rule through a self-implemented GWM program and would not be included in the permit.

Also, Ohio EPA intends to include operational requirements in HB 432 and HB 397. To accommodate the new legislation, some modifications to the current operational requirements are needed. New requirements include: facility inspections on each day debris is accepted; best management practices - written narrative submitted to licensing authority annually; written contingency plan for fire and explosion; written contingency plan for hydrogen sulfide or other gases; a sampling and analysis plan for leachate; annual operational report; placing select debris as the first layer of debris to protect the liner from intrusion of objects; and rejected debris shipment notification. Other requirements include compliance disclosures as well as facility closure and PCC.

HB 432 authorizes the director to levy a GWM fee of not more than five cents per cubic yard or ten cents per ton on the disposal of C&DD. Ohio EPA is creating a rule that will start levying the GWM fee beginning January 1, 2007. The fee will be collected in the same manner as the other C&DD fees.

Byproducts Beneficial Use Summit (Jeff Martin, DSIWM and Erv Ball)

Mr. Martin started the discussion by stressing that beneficial use is an integral part of industrial waste. However, it is necessary to consider what exactly beneficial means. He used aggregate as an example, citing examples where industrial waste may be used in lieu of traditional materials. It is necessary to study how the waste products perform compared to ASTM standards, as they should perform just as well or better than traditional materials (rather than just a way to get rid of them). Other factors that need to be considered are how the waste materials could potentially affect groundwater and surface water, as well as the lack of control of what third parties would use the product for. Overall, it is exciting to find ways to reuse materials because of the large economic and environmental benefits achieved.

Mr. Ball continued with a presentation which gave an overview of what byproducts are and the laws/regulations that apply to them. He cited the Resource Conservation and Recovery Act (RCRA), especially the second major emphasis which was "recovery of Energy and Resources," and explained how we need to go back to that focus. He also noted that global prices of raw materials, which have been strained by growth of developing countries, should drive that recovery as well.

The tools available through Ohio EPA's Office of Compliance Assistance and Pollution Prevention were outlined. In addition, he provided comparisons to what other countries are doing and practices that were used historically, using Anheuser Busch as an example. Initiatives achieved by USEPA were outlined as well, including the many partnerships that have been formed with industries. The changes that are needed to facilitate beneficial use include removing unnecessary regulatory barriers and the need for trust and openness. It was stressed that Ohio needs to move forward with the C&DD waste stream as far as finding a beneficial use for it rather than disposal.

Proposed Mercury Legislation (Andrew Booker, DSIWM)

The presentation started by providing information about the environmental and health risks associated with mercury. It was also identified that Ohio is the only Great Lakes State without legislation banning the sale of certain mercury-containing items (such as thermometers, thermostats and novelty items) and a ban of mercury-containing items in schools. The proposed mercury legislation was introduced on May 9, 2006 (H.B. 583 and S.B. 323). It was stated Ohio EPA strongly supports passage of the legislation, and it was proposed that SWAC pass a resolution to support the legislation as well. A discussion was held about who would be for or against the legislation, and Karl Graham moved that the resolution be adopted. It was determined that this was not possible since the Council did not have a quorum. Mr. Graham asked if it was possible to pass a resolution outside of a meeting and that the by-laws should be examined to determine if it is viable.

2005 Imported Solid Waste Update (Nick D'Amato, DSIWM)

It was made clear that the information in the presentation was in draft form at this point because there was potential for some landfill report corrections and because the export data to West Virginia was not available as of yet. Detailed information was provided showing waste flows to and from individual states. The total amount imported into Ohio was 3,023,033 tons, with the largest amounts coming from New York and New Jersey. The total amount exported from Ohio was 1,112,039 tons. Trends and additional details were then provided using various bar graphs and pie charts. One of the pie charts showed the amount received by individual facility, with BFI Carbon Limestone Landfill receiving the most (33%). The impact of rail transport on the amount of waste imported was discussed as well, and it was pointed out that the new Apex Landfill should increase the number for 2006 since it has a major rail spur.

Proposed TEL Amendment, will it affect SWMDs? (Brad Cole for Suzanne Dulaney, CCAO)

Mr. Cole started by explaining that the proposed Tax Expenditure Limitation (TEL), also known as the Taxpayer Bill of Rights (TABOR), is a proposed constitutional amendment that is slated to be on the November Ballot. CCAO is opposed to the amendment. TEL is sponsored by Citizens for Tax Reform, for which Ken Blackwell is the Honorary Chairman. The major components of TEL include a state spending cap and creation of

a rainy day fund for excess state revenues as well as a local government fund. The amendment also contains an unfunded mandate language for political subdivisions and imposes a spending cap for political subdivisions (any county, municipality, village, township, education district, library district, other special district, or any other taxing district of the state which is directly supported by tax funds). The amendment trumps other provisions of the constitution that may conflict with the provisions. It also gives standing to taxpayers to sue the state and political subdivisions in order to force compliance with the provisions.

The spending cap for political subdivisions is 3.5% of the previous year's expenditures or sum of the rate of inflation plus population growth. If a political subdivision was to exceed the cap, levy a new tax, or increase the rate of an existing tax, they must first obtain voter approval of the "majority of electors." This wording is different than state language that says, "majority of electors voting at such an election."

There are exceptions to the expenditures that are subject to the cap. These are monies received by the federal government, monies for refunds of any kind, monies received as grants, gifts or donations, or expenditures made pursuant to an emergency. This implies that all funds expended by a solid waste management district would count towards the cap unless those expenditures fit into the limited exceptions. Most likely disposal fees and generation fees will be considered a "tax" that would require voter approval. A discussion of specific things SWMDs would not be able to do took place. Examples of expenditures subject to the cap would be routine road maintenance and hiring a new sanitarian.

A discussion then took place concerning other states that have passed such amendment, such as Colorado's TABOR. Overall, the results were not favorable with such examples as increased costs for any items subject to taxes and a significant reduction in the authority of elected officials to make decisions.

Potential Future Agenda Topics

1. From the discussion pertaining to adopting a resolution outside of a meeting, a presentation concerning the by-laws of SWAC was recommended.
2. A presentation covering the waste flows by SWMD.
3. Revisit the possible mercury resolution.
4. Jean Byrd recommended a presentation highlighting specific recycling processes, such as Anheuser-Busch's.

The next meeting is scheduled for August 17, 2006 to be held at Highbanks Metropark from 10:00 a.m. to 1:00 p.m.

Meeting Adjournment

Kathy Trent motioned to adjourn the meeting. Because there was not a quorum, there was no move to second the motion.

Respectfully submitted: _____
Erv Ball, Vice Chair

Minutes approved on: _____

Certified by: _____
Kathy Trent, Secretary