

Kentucky Environmental Quality Commission

Meeting Minutes

January 15, 2004

Department for Environmental Protection, Conference Room 2A and B
Frankfort, Kentucky

EQC Commissioners Present

Lindell Ormsbee, Chair

Gary Revlett

Betsy Bennett

Gordon Garner

Patty Wallace

Commissioners not attending

Aloma Dew

Speakers/Representatives Present

Sean Alteri, Division for Air Quality

Larry Taylor, Department for Environmental Protection

Lloyd Cress, Department for Environmental Protection

Bill Gatewood, Division of Water

EQC Staff Present

Leslie Cole, Executive Director

Frances Kirchhoff, Executive Secretary

Opening Remarks

Lindell Ormsbee, Chair of the Environmental Quality Commission opened the meeting at 1 p.m. The first order of business was to approve the December 18 minutes. It was moved by Betsy Bennett, seconded by Gary Revlett, and passed unanimously by voice to approve the minutes.

The Chair welcomed and introduced the newly appointed Commissioner for the Department of Environmental Protection, Mr. Lloyd Cress. Mr. Cress indicated he looked forward to working with EQC.

Mr. Ormsbee moved onto the regulation review portion of the meeting.

Brownfields Regulation

The first regulation EQC reviewed was from the Division of Waste Management concerning environmental performance standards -- 401 KAR 100:030. Reviewing the regulation was Larry Taylor with Commissioner's office of the Department for Environmental Protection.

Mr. Taylor explained that the regulations were developed through a consensus building process that took several months and the Cabinet believes the final product will address brownfield redevelopment needs. He reviewed the regulations as follows:

- **Scope of the Regulation.** This regulation establishes a framework for all voluntary cleanups (brownfield and otherwise) addressed by KRS 224.01-400, 224.01-405, 224.01-450 to 224.01-465, and 224.01-510 to 224.01-532. This includes sites that receive a Notice of Completion letter, a No Further Remediation letter, or a Covenant Not to Sue (CNTS).
- **Screening Values.** U.S. EPA Region 9 Preliminary Remediation Goals (PRGs) are used as screening levels for all sites. The regulation also acknowledges their use as screening levels to screen out sites that otherwise do not require action under 224.01-400 and for sites that do not require cabinet oversight. If a site does require cabinet oversight, the regulation requires evaluation of chemical interactions including additively, identification of Applicable or Relevant and Appropriate Requirements (ARARs), ambient background levels when

demonstrating compliance with the remedial options. The regulation also identifies how the Region 9 PRGs may be used to establish the final cleanup levels for contaminants based on site-specific conditions.

- **Target Risk in Corrective Action Options.** A cumulative Target Risk level of 1×10^{-6} and a Hazard Index of 1.0 for unrestricted use are set as endpoints for No Action Necessary. The Target Risk levels are set as goals for Management in Place. The party or applicant must demonstrate that the remedy is appropriate in light of eight criteria when the remedy will not achieve the Target Risk level at the point of exposure. In applying these eight criteria, an emphasis is placed on protection of human health and the environment, compliance with ARARs, long-term effectiveness and permanence, and reduction of toxicity, mobility or volume of the contamination.
- **Background.** For No Action Necessary, ambient background is considered primarily inorganic in nature, but allows for a demonstration for cases where organic constituents are naturally occurring or not attributable to releases on the property. Statistical procedures are provided to assist in comparing sites to background. Background comparison can be based on generic statewide values in the guidance document or based on site-specific background samples.
- **Ecological Assessment.** Ecological evaluation is based on two U.S. EPA guidance documents. An eight-step process for ecological evaluations includes decision points throughout the steps and involves stakeholders and decision makers. It allows for a tiered approach, including screening ecological assessments.

EQC Commissioners commended the Cabinet for the hard work on the regulation and it was moved by Gary Revlett to approve 401 KAR 100:030 and seconded by Gordon Garner. The regulation passed unanimously by voice.

Open Burning Regulation

Chair Orsmbee next introduced Sean Alteri from the Division of Air to discuss proposed administrative regulation amendment 401 KAR 63:005 concerning open burning.

Mr. Alteri said the Division for Air Quality proposed to amend 401 KAR 63:005 - Open burning, to clarify several issues concerning open burning in the State of Kentucky. During February of 2003, ice storms generated an enormous amount of storm debris. The disposal methods for the debris varied from county to county. The use of air curtain burners for disposing storm debris is addressed in the amendments to 401 KAR 63:005. In addition, fire training is limited to ensure that fire training is conducted properly and not solely used as a disposal method of buildings and structures, including mobile homes.

Storm Debris

- Severe weather events in the Commonwealth during 2003 created issues concerning the disposal of debris generated by these storms. These issues include both the types of debris that has been generated and the methods involved for dealing with this issue.
- Regulation 401 KAR 63:005, Section 3(11) specifies that fires can be used for disposal of only natural growth related to land clearing, and trees, or tree limbs felled by storms.
- The Division for Air Quality is proposing amendments to allow for the burning of storm debris consisting of untreated lumber.

Air Curtain Burners

- An air curtain burner is an incinerator like device that uses increased airflow into the combustion chamber to enhance burning efficiency.
- When properly maintained and operated, air curtain burners are an effective disposal alternative. However, there is no method for assessing their emissions, as there is no stack at which to sample. Determining if hazardous or toxic pollutants have been emitted would be difficult.
- The Division is proposing amendments to allow the use of air curtain burners to dispose of storm debris that consists of felled trees and limbs and untreated lumber.

Fire Training

- The Division concurs that fire training is necessary for the protection of fire fighters and the citizens of the Commonwealth. However, the Division is concerned that buildings and structures including mobile homes, are being burned as a disposal method rather than bona fide fire training. These structures contain hazardous materials and chemicals, and when they are burned, hazardous air pollutants such as dioxins, furans and asbestos are released into the atmosphere.
- The Division is proposing that the current regulation be amended to limit structural burnings to legitimate fire training.

Mr. Alteri informed the commissioners that cabinet failed to submit its statement of consideration to LRC within the allowable timeframe and the amendment is no longer in effect. EQC took no action on this matter.

Wastewater Treatment Proposed Amendment

Mr. Bill Gatewood reviewed an amendment to the Division of Water's wastewater treatment program. This amendment revises 401 KAR 5:005 to exempt the following building sewer systems from the requirements of this administrative regulation:

Gravity sewers which:

- Have a diameter of less than eight (8) inches and discharge directly to the sewer main;
- Serve single-family residence buildings with four (4) dwelling units or less; or
- Serve a single office building or a single mercantile building with an occupant load of less than thirty (30) persons.

Force main sewers, regardless of the location of the pump station which:

- Have a length of less than 500 feet and discharge directly to a gravity sewer main;
- Serve single-family residence buildings with four (4) dwelling units or less; or
- Serve a single office building or a single mercantile building with an occupant load of less than thirty (30) persons.

This proposal also amends some cross-references in this regulation that are no longer valid.

It was moved by Gary Revlett to approve 401 KAR 5:005 permits to construct, modify or operate a facility and seconded by Betsy Bennett. The motion passed unanimously by voice to approve.

Other Business

Children's Environmental Health Resolution

EQC Director Leslie Cole reviewed draft recommendations concerning children's environmental health in Kentucky. The recommendations were developed based on the Oct. 2003 public forum held by EQC as well as input from federal and state agencies. The recommendation is attached

and made a part of these minutes. It was moved by Betsy Bennett, seconded by Patty Wallace, to approve the children's health resolution. The motion passed unanimously with a voice vote.

Finalize EQC 2004 Priorities

Commissioner members met with Sec. Wilcher prior to the public meeting to discuss EQC priorities for 2004. EQC will continue to work with the Secretary to identify both short and long term priorities in order to coordinate efforts. It was obvious that having a celebration for Earth Day 2004 is very high on the priority list. Other priorities are the legislative session and the drinking water initiative.

EQC Budget

Ms. Cole reviewed the EQC budget. She reported that the current budget shows that 47 percent of the budget has been spent and 50 percent of the year has expired. The Governor has reduced the EQC budget by \$1,500 due to budget shortfalls.

The next meeting of EQC is scheduled for March in Frankfort. With no further business, the meeting adjourned at 3:30 p.m.

Signed Lindell Ormsbee, Chair

Date