

**MINUTES  
of the  
FIRST MEETING  
of the  
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE**

**June 8, 2004  
Santa Fe**

The first meeting of the Radioactive and Hazardous Materials Committee was called to order at 10:20 a.m. on Tuesday, June 8, 2004, by Representative John A. Heaton, chair.

**PRESENT**

Rep. John A. Heaton, Chair  
Sen. Richard C. Martinez, Vice Chair  
Sen. Phil A. Griego  
Rep. Manuel G. Herrera  
Sen. Carroll H. Leavell  
Rep. Pauline J. Ponce

**ABSENT**

Rep. Donald E. Bratton  
Sen. Mary Jane M. Garcia  
Sen. Gay G. Kernan  
Sen. Don Kidd  
Rep. Antonio Lujan  
Rep. Jeannette O. Wallace

**Advisory Members**

Rep. Thomas A. Anderson

Sen. Clinton D. Harden, Jr.  
Sen. William H. Payne  
Sen. John Pinto  
Rep. Avon W. Wilson

**Staff**

Gordon Meeks  
Jeret Fleetwood

**Guests**

The guest list is in the original meeting file.

**Tuesday, June 8**

Representative Heaton began the meeting by providing some background on the history and purview of the committee and by having committee members introduce themselves.

**DEPARTMENT OF ENVIRONMENT LEGISLATIVE INITIATIVES**

Ron Curry, secretary of environment, noted that the major piece of legislation the department of environment (NMED) will introduce during the 2005 legislative session is statutory authority to assume primacy for enforcement of the federal Environmental Protection Agency's (EPA) standards to certain surface waters, primarily storm discharges. He explained that New Mexico's assumption of primacy offers a number of advantages, including faster storm water discharge permit processing. These permits are required of many small businesses, contractors and some local governments. Mr. Curry also noted that New Mexico is the only state in EPA Region 6, which includes Louisiana, Arkansas, Oklahoma and Texas, without primacy.

Finally, Mr. Curry addressed concerns that such a program would be too costly by stating that research shows the program is cost the state an additional \$1 million to \$1.2 million, and that most of that cost would be to create additional jobs for permit writers.

Questions and comments from the committee addressed:

- permit fees going to the department rather than into the general fund; and
- the stringency of NMED standards in comparison to EPA standards.

Mr. Curry also briefly described several other bills the department will bring to the legislature. The first such bill relates to the regulation of water and utility operators. Mr. Curry explained that the current situation regarding water and utility operators amounts to an unfunded mandate from the federal government.

Mr. Curry also stated that the bills introduced last year concerning de novo hearings for both air quality and water will be reintroduced for the 2005 session. Tracy Hughes, general counsel for NMED, explained that the agreement between the parties involved in the bill regarding de novo water hearings that was in place for the 2004 session should still be in place for the 2005 session. She also said that the parties involved with the de novo air quality hearings will be meeting soon to work out some sort of compromise.

#### **DEPARTMENT OF ENERGY WASTE RECLASSIFICATION**

Representative Heaton began by providing some background on the classification of waste, explaining that there are different storage requirements for high- and low-level waste and that some low-level waste could contain high levels of radioactivity and vice versa.

Paul Detwiler, acting manager of the Waste Isolation Pilot Plant (WIPP), explained that there is some debate about where to draw the line between high- and low-level waste. He went on to note that low-level waste can simply be defined as waste that has a measurable level of radioactivity while high-level waste has more to do with its source and concentration of radioactive waste than with radiation measurements. For example, he explained that the material resulting from the reprocessing of nuclear fuel would be classified as high-level waste.

Mr. Detwiler went on to note that while the Department of Energy (DOE) has agreed not to ship or store high-level waste at WIPP, material from a number of storage tanks at the Hanford Reservation technically does not meet the criteria for high-level waste and, therefore, may be transported to and stored at WIPP.

Mr. Curry noted that this discussion began at an April energy summit where Governor Richardson asked for reclassification of materials that are appropriate to send to WIPP. Mr. Curry also noted that the language the federal government has used for reclassification of waste is likely not the best solution to the conflict between DOE and NMED.

Both Mr. Detwiler and Mr. Curry agreed that the DOE, WIPP and NMED must work together to seek solutions to the problems of high-level, low-level and transuranic waste

disposal.

### **WIPP RCRA PERMIT MODIFICATIONS**

Mr. Curry provided the committee with a list of regulatory decisions pending before NMED that are of particular importance. He discussed the items on the list with committee members, noting the date each item was brought before NMED and the number of days that have elapsed since those dates. The committee expressed some concern over the length of time some items have been on the list with no decision. Mr. Curry said that he expects shorter permitting times in the future, as the reclassification of waste has pushed NMED's plans back a bit. He also noted that NMED plans to reinstate its DOE Oversight Bureau in Carlsbad. The DOE Oversight Bureau, Mr. Curry explained, will have full-time oversight of WIPP, which should improve communication and permitting times considerably.

However, Charles Lundstrom of NMED also noted that there is no definite time line on pending decisions, but that NMED has a number of new staff members and that they are working as quickly as possible.

### **MEETING SCHEDULE AND WORK PLAN**

The committee discussed meeting dates, locations and likely agenda items for each date. Proposed meeting dates are July 6 in Los Alamos, September 20 in Santa Fe and November 4 and 5 in Carlsbad.

The committee adjourned at 12:35 p.m.