

## **Hazardous Materials Commission**

### **Draft Minutes**

Planning and Policy Development Committee

July 19, 2023

#### **Members and Alternates:**

**Present:** Jonathan Bash, Mark Hughes, Jim Payne, George Smith, Frank Qin (alternate)

**Absent:** Mark Ross, Soheila Bana, Drew Graham (represented by alternate)

**Staff:** Michael Kent, Adam Springer

**Public:** Jan Warren

#### **1) Call to Order, Announcements:**

Commissioner Hughes called the meeting to order at 4:08.

Michael Kent announced:

- DTSC released a draft Hazardous Waste Management Report on July 17<sup>th</sup> for a two-month comment period, with a workshop planned for August 9<sup>th</sup>.
- DTSC is planning a pilot Cumulative Impacts study of North Richmond to address the requirements of SB 673.
- There will be no August P&P meeting or full Commission meeting
- CAER will hold their next Safety Summit on August 17<sup>th</sup> at the Shell Clubhouse.
- The next Board of Supervisors ISO/CWS Ad Hoc committee meeting will be on July 27<sup>th</sup> at 10:30.
- Commissioners all received an e-mail about a mandatory implicit bias training they are required to take.

#### **2) Public Comments: None**

#### **3) Approval of Minutes:**

The minutes from the May 17, 2023 meeting were moved by Commissioner Smith, seconded by Commissioner Hughes and approved by a vote of 3 -0-2 with Commissioners Qin and Payne abstaining.

#### **4) Old Business:**

##### **a) Continue review of Hazardous Materials-related proposed State Legislation**

The committee reviewed the status of the bills they previously reviewed.

#### **4) New Business:**

##### **a) Overview of the enforcement process for the Hazardous Materials Program with considerations for future approaches**

Adam Springer, Hazardous Materials Program Assistant Director, gave the report. He began by explaining that the Hazardous Materials Program does about 3000 inspections a year and 500 re-inspections per year of businesses for compliance with the hazardous waste management laws. An enforcement process is initiated if an inspector cites a facility for an infraction of the hazardous waste management laws. They currently are working on approximately 1000 open violations and have closed about 1000 violations this year. Of those, 1364 were considered minor, 823 were considered moderate, and 28 were considered major or Class 1 violations. There are ones where willful impact to the environment is suspected and are enforced upon.

Mr. Springer then explained that there are two types of enforcement approaches. Administrative Enforcement Orders are done internally through the Health and Safety Code and can impose monetary penalties. Cases can also be referred to the District Attorney for prosecution.

Most Class 1 cases are for violations of Underground Storage Tank laws, either owners don't have permits or are not in compliance with their requirements.

Commissioner Hughes asked where the penalty money goes. Mr. Springer said that if the District Attorney prosecutes a case which results in a penalty, most of that money stays with the District Attorney's Office, but the Hazardous Materials Program can get some for the costs they incurred. This funding goes into the Hazardous Materials Program budget for programs such as training. He said that all penalty money generated by Administrative Enforcement Orders goes to the Hazardous Materials Program.

Commissioner Smith asked if they compare their violation approach to how it is done in other parts of the State. Mr. Springer said that the CERS data base system they use to collect their inspection data has a standard violation list to use for enforcement purposes. A goal of the CUPA Forum Board is to keep enforcement consistent throughout the State. He further said that the Administrative Enforcement Order process is being revised. He said that not many have been done in the last five years. He said that County Council is working with the State to try to be consistent in how these are done.

Jan Warren asked who has the authority to increase the size of fines. Mr. Springer said this is controlled through legislation and the State recently increased the size of fines that can be levied. He added that appeals of fines go to Administrative Law Judges.

Commissioner Qin asked what the major reason was behind the Class 1 penalties they usually see. Mr. Springer said that they usually involved Underground Storage Tank violations because of funding issues with small operators. He said minor violations are usually given 30 days to comply and Class 2 violations can be given up to 180 days to comply if there is going to be construction involved.

Michael Kent asked if the Hazardous Materials Program had done any analysis of their enforcement history patterns to determine if there was any evidence of implicit bias in their enforcement program. Mr. Springer said that they are working on a Dashboard of where violations occur within the County that will also show the enforcement activity of individual inspectors. But they have not done an analysis of citing practices. He thought it would be very interesting to compare current enforcement practices using State guidelines to enforcement practices that occurred before the current guidelines were in place, when information was all collected on paper files and there were no guidelines.

- 5) **Reports from Commissioners on matters of Commission interest:** None
- 6) **Plan Next Agenda:** The committee will look at hazardous waste management and enforcement issues again and start discussion their priorities for 2024.
- 7) **Adjournment** – The meeting was adjourned at 5:30.