



## ***DRAFT***

### **NOTICE OF OPEN MEETING**

The meeting will also be streamed live from the Department's website at:  
*[dnr.mo.gov/videos/live.htm](http://dnr.mo.gov/videos/live.htm)*.

**DEPARTMENT OF NATURAL RESOURCES  
HAZARDOUS WASTE PROGRAM  
HAZARDOUS WASTE MANAGEMENT COMMISSION  
AGENDA**

**April 19, 2012**

**Department of Natural Resources, Hazardous Waste Program  
Bennett Springs/Roaring River Conference Rooms  
1730 E. Elm Street  
Jefferson City, MO 65102**

**Note: Persons with disabilities requiring special services or accommodations to attend the meeting can make arrangements by calling the commission assistant at (573) 751-2747 or writing to the Hazardous Waste Program, P.O. Box 176, Jefferson City, MO 65102. Hearing impaired persons may contact the Hazardous Waste Program through Relay Missouri at 1-800-735-2966.**

#### **9:45 A.M. EXECUTIVE (CLOSED) SESSION**

In accordance with Section 610.022 RSMo, this portion of the meeting may be closed by an affirmative vote of the Commission to discuss legal matters, causes of action or litigation as provided by Subsection 610.021(1). RSMo.

#### **10:00 A.M. GENERAL (OPEN) SESSION**

The General (Open) Session will begin promptly at 10:00 a.m., unless an Executive (Closed) Session has been requested; after which, the General Session will start as specified by the Commission's chairman.

#### **Commissioner Roll Call**

1. Pledge of Allegiance – Commissioners
2. Approval of Minutes – Executive (Closed) Session, February 16, 2012 – Commissioners  
Approval of Minutes – General (Open) Session, February 16, 2012 – Commissioners

#### **Information Only:**

3. Rulemaking Update – Tim Eiken, Rule Coordinator – HWP

4. Battery Storage Update – Darleen Groner, Permits Section – HWP
5. Exide Technologies – Spent Battery Trailer Parking Issues – Mr. James Price, Exide Counsel
6. Tanks Risk Based Corrective Action Rule Development Update – Tim Chibnall, Director’s Office – HWP
7. Sunshine Law Update – Kara Valentine
8. Quarterly Report – Larry Archer, Public Information Officer, DNR
9. Legal Update – Kara Valentine, Commission Counsel
  - Administrative Hearing Commission Appeals Updates
10. Public Inquiries or Issues – David J. Lamb, Director, HWP
11. Other Business – David J. Lamb, Director, HWP
12. Future Meetings
  - Thursday, June 21, 2012 – to be held at the Bennett Springs/Roaring River Conference Rooms, 1730 E. Elm Street Conference Center, Jefferson City, MO

Adjournment

**MISSOURI DEPARTMENT OF NATURAL RESOURCES  
HAZARDOUS WASTE MANAGEMENT COMMISSION**

**Meeting Date: April 19, 2012**

**ROLL CALL ROSTER**

	<b>In Person:</b>	<b>By Phone:</b>	<b>Absent</b>
<b>Chairman Jamie Frakes</b>	_____	_____	_____
<b>Vice-Chair Andrew Bracker</b>	_____	_____	_____
<b>Commissioner Elizabeth Aull</b>	_____	_____	_____
<b>Commissioner Michael Foresman</b>	_____	_____	_____
<b>Commissioner Charles Adams</b>	_____	_____	_____
<b>Commissioner Deron Sugg</b>	_____	_____	_____

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 1**

**Pledge of Allegiance**

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 2**

**Approval of Minutes – February 16, 2011, Meeting**

**Issue:**

Commission to review the Executive Session minutes from the February 16, 2012, Hazardous Waste Management Commission meeting.

Commission to review the General Session minutes from the February 16, 2012, Hazardous Waste Management Commission meeting.

**Recommended Action:**

Commission to approve the Executive Session minutes from the February 16, 2012, Hazardous Waste Management Commission meeting.

Commission to approve the General Session minutes from the February 16, 2012, Hazardous Waste Management Commission meeting.

**GENERAL**

**SESSION**

**MEETING**

**MINUTES**

GENERAL SESSION  
HAZARDOUS WASTE MANAGEMENT COMMISSION  
February 16, 2012; 10:00 A.M.  
1730 E. Elm Street  
Bennett Springs/Roaring River Conference Rooms  
Jefferson City, MO 65102

*(Note: The minutes taken at Hazardous Waste Management Commission proceedings are just that, minutes, and are not verbatim records of the meeting. Consequently, the minutes are not intended to be and are not a word-for-word transcription.)*

The meeting was streamed live from the Department's website at: [dnr.mo.gov/videos/live.htm](http://dnr.mo.gov/videos/live.htm).

COMMISSIONERS PRESENT IN PERSON

Chairman James Frakes  
Commissioner Elizabeth Aull  
Commissioner Deron Sugg  
Commissioner Charles Adams

COMMISSIONERS PRESENT BY PHONE

Vice-Chair Andrew Bracker  
Commissioner Michael Foresman

The phone line for the Commissioners calling in to today's meeting was opened at 9:45 a.m.

Chairman Frakes called the General Session to order at approximately 10:07 a.m.

1. PLEDGE OF ALLEGIANCE

Commissioner Aull led the Pledge of Allegiance, and it was recited by the Hazardous Waste Management Commission (Commission) and guests.

A roll call was taken of the Commissioners. Chairman Frakes, Commissioner Aull, Commissioner Adams and Commissioner Sugg were present in person. Vice-Chairman Bracker and Commissioner Foresman participated by telephone.

2. APPROVAL OF MINUTES

- Executive Session minutes from the December 15, 2011, meeting:
- General Session minutes from the December 15, 2011, meeting:

Commissioner Aull made a motion to approve the December 15, 2011, Executive Session minutes. The motion was seconded by Commissioner Sugg.

*A vote was taken; all were in favor, none opposed. Motion carried. Minutes were approved.*

Commissioner Aull made a motion to approve the December 15, 2011, General Session minutes. The motion was seconded by Commissioner Adams.

*A vote was taken; all were in favor, none opposed. Motion carried. Minutes were approved.*

### 3. RULEMAKING UPDATE

Mr. Tim Eiken, Director's Office, Hazardous Waste Program, addressed the Commission and provided a brief update on the Department's current rulemaking efforts. He advised the Commission that the Department was currently developing a rule package that included the Packaging, Marking and Labeling (PM&L) rule, which had been developed through the Hazardous Waste Forum stakeholder process. He noted that a formal request to begin the rulemaking process was working through management at this time, and if it was approved, a Regulatory Impact Report (RIR) would be the next step in the process. Following the usual process, it would have to be published and would be open to a public comment period, and then would be brought before the Commission for a final decision. He noted that, following the usual schedule, the RIR should be in the end of March timeframe, followed by the report being out for public comment.

Mr. Eiken went on to advise that also included in the rule package was language on Satellite Accumulation. He noted that this rule covered different issues than the rule on storage areas. He stated that the language provided for more flexibility, and that this rule language had also been developed with stakeholder input through the Forum process. The Commission was advised that it should follow the same schedule as the PM&L rule.

Mr. Eiken then advised the Commission that the final piece of the current rulemaking package was the Incorporation by Reference of recent Federal rules. Following the same schedule as the other developing rules, he noted that it should be ready to present to the Commission by the October 2012 meeting.

Mr. Eiken provided the Commission with a brief update on a Federal rule that had been under review recently, the zinc fertilizer exclusion. He noted that this provided an exclusion, under certain circumstances, for certain wastes, from the definition of hazardous waste. He noted that exclusion was for certain zinc bearing waste, if it was being used in the manufacturing of zinc fertilizer. Mr. Eiken advised the Commission that the Department had adopted the Federal rule in 2008 and were now looking at adding state specific requirements to make it more protective and to ensure the waste qualified for the exclusion.

Mr. Eiken went on to note another rule related item that he felt the Commission may be interested in, an authorization package to the Environmental Protection Agency. He advised that the Department had submitted a package in October 2010, regarding authorization of rules published in the Code of State Regulations through 2006. He noted that a decision was expected to be published by the 2<sup>nd</sup> quarter of this year, probably by the end of March, in the Federal Register. He advised that this would make our authorization fully effective for our most recent rule packages. He also advised that there would be a federal comment period

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when they are published. Mr. Eiken informed the Commission that he would provide them with any updated information when it was received.

An opportunity was given for the Commissioners to pose any questions they had on the information Mr. Eiken had provided.

Vice-Chairman Bracker noted that he had concerns about the information that had been relayed to them that JCAR was no longer allowing guidance to be incorporated by reference, and that this was a significant change. He asked if his understanding that guidance would no longer be valid, unless it was included in the rule, was an accurate reflection of what that meant. He noted that he believed that this would make the process much lengthier, would require much more detail and would open the process up to an endless stream of changes, making it subject to ongoing amendments and revisions.

- Mr. Eiken responded that Mr. Bracker's understanding was correct, and that it could create the issues he had noted, and that it could create a lengthier process and add considerable effort for the Department.

Vice-Chairman Bracker stated that it would also create additional work for the Commission and that the Commission may need to make a statement to JCAR, or someone, to show how adverse an affect this will have.

#### 4. MISSOURI PETROLEUM MARKETERS & CONVENIENCE STORE ASSOCIATION

Mr. Ron Leone, Executive Director of the Missouri Petroleum Marketers and Convenience Store Association (MPCA), addressed the Commission and provided a presentation on the MPCA's position on Missouri's Tanks Risk Based Corrective Action rulemaking efforts. Mr. Leone provided the Commissioners and Commission staff with a handout containing speaking points, copies of three No Further Action letters that had been issued by the Department on tanks sites and a copy of several pages from the Code of State Regulations regarding the Technical Regulations on Underground Storage Tanks.

Mr. Leone began with background information on Risk Based Corrective Action, noting dates the first tank cleanup rules were developed, dates of guidance documents that had been developed and dates that amendments had been made to existing guidance.

Mr. Leone went on to note that 11,000 tank sites have been cleaned up since 1989 and discussed wording included in the three No Further Action letters, which he advised gave the Department the authority to revisit any site if new or additional contamination is discovered at a site.

Mr. Leone made the point that RBCA standards were designed to quicken cleanups and lower overall costs, and that Missouri has had risk based cleanup rules in effect since 1986. He noted that stakeholder input and negotiations with the Department had led to a compromise that was referred to as the 2004 Tanks RBCA Guidance Document, which he advised was agreed upon by all parties as the language for a rule the Department was supposed to codify.

He went on to state that the Department had failed to follow through with this agreement and that this has resulted in some tank cleanups taking longer and costing more, which was not the intent of RBCA. Mr. Leone referenced legislative action that his group had initiated in 2008, as a result, and the decision by JCAR to disapprove the Commission's RBCA rules in 2009. He also stated that on 12/30/11, the 2004 Tanks RBCA Guidance Document, containing several stakeholder agreed-to amendments, were finalized as rules. He noted that these rules will sunset on 12/31/12.

Mr. Leone noted that his position today was that Missouri currently has RBCA rules in place that he believes are protective of Missouri's natural resources and the health of Missouri citizens; are a compromise between the regulated community and the Department; have been working well, and will sunset on 12/31/12. He stressed again that there have been 11,000 cleanups since 1989, which have returned those sites to productive use, and that the Department still has the authority to revisit these sites should any information arise regarding new or additional contamination be received. He suggested that the Commission take a conservative "if it ain't broke, don't fix it" strategy and asked that they direct the Department to start the rulemaking process to delete the 12/31/12 sunset date. In addition, he asked that they instruct the Department to start with the current RBCA rules, which have been working to date, in any efforts towards developing new RBCA rules; keep the Commission apprised of any unresolved issues that come up in the stakeholder process during the development of these rules and ensure that any problems raised were legitimate.

Mr. Leone advised that his presentation had ended and inquired if the Commission had any questions.

Chairman Frakes thanked Mr. Leone for his presentation and asked if any of the Commissioners had any questions they wished to pose to Mr. Leone.

Commissioner Aull noted that Mr. Leone had spoken about two groups when referring to the parties providing input into the Tanks RBCA rule development: Stakeholders and the Hazardous Waste Program staff. She inquired as to whether citizens were considered in his groups, those people who may be living around or near these potentially contaminated sites.

- Mr. Leone responded that he believed input from this group was important, and noted that the Department made every effort to ensure that the public was given an opportunity to comment and provide input at every stage of the development. He noted that the Department had done a good job at making sure everyone was notified throughout the process.

Vice-Chairman Bracker advised that he had a question for Mr. Eiken. Chairman Frakes clarified that the question was in regards to the current agenda item, which Vice-Chairman Bracker confirmed that it was. Vice-Chairman Bracker then advised that he was trying to confirm Mr. Leone's point of view that the current Tanks RBCA rules will sunset on 12/31/12.

- Mr. David Lamb, Director, Hazardous Waste Program, responded to the question by noting that during the rulemaking, the Department did incorporate by reference the guidance, and that it would sunset on the date noted.

Chairman Frakes noted that if there were no other questions, the Commission would move on to Agenda Item #5.

No other questions were posed by the Commission.

This was provided as information only and required no action on the part of the Commission.

#### 5. TANKS RISK BASED CORRECTIVE ACTION RULE DEVELOPMENT UPDATE

Mr. Tim Chibnall, Director's Office, Hazardous Waste Program, addressed the Commission and advised that he wished to clarify one point that had been made in Mr. Leone's prior presentation; he noted that the 2004 guidance document was incorporated by reference and that the language notes that the RBCA guidance document "may" be used, not that it "must" or "shall" be used. He advised that the enforceability of this would be a legal point of discussion.

Mr. Chibnall went on to provide an update on the Department's current Tanks RBCA rulemaking process, noting that the Department had asked the Commission for an extension, at the December 2011 meeting, until 2013. He advised that following the Commission's granting of that extension, the Department is on track to bring a final proposed rule before them at the February 2013 meeting. He noted that the Department was currently working on finalizing a revision of the guidance document and planning upcoming stakeholder meetings. He advised the Commission that the proposed rules developed in 2011 incorporate the guidance into rule by reference, and that this will give the guidance the force of a rule, making it enforceable. Therefore, it needs to be complete, clear, and free of errors. He advised the Commission that the primary focus of the first several stakeholder meetings will be on the guidance document. He noted that stakeholder meetings are scheduled to begin in April and occur every other month after that; but, that to keep in line with the schedule, back to back meetings would probably have to be scheduled towards the end of the year, during the October to November timeframe.

Mr. Chibnall went on to advise that a key element in this rule development will involve vapor intrusion; and, as the Commission had been advised during the request for the extension, the U.S. Environmental Protection Agency (EPA) would be coming out with a guidance document on petroleum vapor intrusion. He noted that the EPA was taking a separate, likely significantly different approach and that was one of the reasons the Department requested the extension, awaiting this draft EPA guidance document. He advised that the plan for the April meeting was to start going through the guidance document in "chunks," as there were fourteen sections in addition to the appendices. He stated that he believed they would need to review approximately four sections per meeting. He went on to advise that the Department would explain any proposed changes to and solicit comments from stakeholders, with a deadline,

between each of the stakeholder meetings. The group should be able to get through the guidance and into the proposed rules by October or November 2012.

Chairman Frakes thanked Mr. Chibnall for his presentation and asked if any of the Commissioners had any questions they wished to pose to Mr. Chibnall.

Commissioner Sugg inquired as to why Mr. Chibnall had pointed out the distinction between the “may” and “must/shall” that Mr. Leone had presented.

- Mr. Chibnall responded that there was nothing in the current rules that say “you have to use this RBCA process.”

Commissioner Sugg inquired as to whether the use of the word “may” provided an issue for enforcement.

- Mr. Chibnall noted that it could.

No other questions were posed by the Commission.

This was provided as information only and required no action on the part of the Commission.

## 6. LONG TERM STEWARDSHIP INFORMATION SYSTEM AND MAPPER

Dr. Chris Cady, Ph. D, Environmental Specialist IV, Brownfield/Voluntary Cleanup Section, addressed the Commission and provided a PowerPoint presentation on the Long Term Stewardship Information System and Mapper process that was being developed by the Department.

Dr. Cady began with providing an overview of what long term stewardship entails and noted that the Brownfields/Voluntary Cleanup Program had created a new GIS-based online mapping and information system that represents a quantum leap in providing information about remediated sites with land use controls, as well as active sites. He advised them that the new data system improves the visibility of long-term stewardship information to critical users such as local land use and building permitting authorities, developers and environmental professionals, which will enhance the safety of sites that were closed with contamination left in place and reduce accidental exposures.

Dr. Cady provided real world data on how populated areas have and are encroaching on historically isolated contaminated sites and how the system enhances the level of information available to the general public. This information includes links to key site documents in PDF form, reducing demands on staff to provide copies.

The Commission was advised that the map is automatically updated daily so that information is made available essentially in real time. The system is expected to replace various static maps and data layers which rapidly become dated and require manual updating.

Dr. Cady provided the Commission with an overview of the pilot project for the system, which was conducted with the city of Springfield. He provided slides and information on how the system integrated with their existing systems, and the benefits. Dr. Cady advised that the city of Springfield recognized the benefits of the system and were appreciative of their inclusion in the pilot project. Dr. Cady went on to note that the system is expandable, and sites from other cleanup programs will be added as their data becomes ready. These advantages apply equally to active cleanup sites as well, and the HWP envisions the map will eventually serve as a one-stop shop for information on active and closed sites in various programs.

Chairman Frakes thanked Dr. Cady for his presentation, noting that it was fascinating and that he appreciated the work that had gone in to it. He inquired as to whether there had been any discussion between the Department and other state agencies, utility companies, etc., so that it could become an all-inclusive, comprehensive site. He also inquired as to whether any of the other Commissioners had any questions they would like to address to Dr. Cady.

- Dr. Cady responded that it had not been done yet but that there was a data layer out there that other agencies could use.

Commissioner Aull asked if it just included BVCP sites, or if it was possible to list all the underground storage tank sites in the system?

- Dr. Cady advised the Commission that they were just starting to discuss this with providers of other databases, but that there was a lot of “scrubbing” of databases that will need to be done before they can be incorporated into the system to ensure accuracy of the information.

Commissioner Aull inquired as to the number of man-hours that went in to the project, to which Dr. Cady responded “a bunch.”

Vice-Chairman Bracker commended Dr. Cady on the presentation and noted that this type of system was vital to the Brownfield program. He inquired as to what the cost was to build and maintain this type of program or if there was a way to collect a fee for its use?

- Dr. Cady responded that the BVCP was fortunate that there was statutory authority which would allow them to recover fees. He noted that there were several areas involved so there were several funding sources available and they were being looked at, at this time. He also noted that resources were being evaluated, but that there were limitations.

Commissioner Aull inquired as to what the cost was to develop the system.

- Dr. Cady advised that the cost was unknown at this time, as IT had built the mapper.

- Ms. Hannah Humphrey, Long Term Stewardship Unit Chief, Brownfield Voluntary Cleanup Section, introduced herself and responded that the Department was currently doing cost estimating and that the preliminary findings provided an estimate that long term stewardship at a typical site costs approximately \$78,000.00, over 30 years. She noted that the program was currently authorized to collect a fee ranging from \$5,000 to \$15,000.

Mr. David Lamb, Director, Hazardous Waste Program, formally introduced Ms. Humphrey to the Commission, noting that she was the lead on the newly formed Long Term Stewardship unit. Mr. Lamb noted that additional information would be provided to the Commission in the future.

No other questions were posed by the Commission.

This was provided as information only and required no action on the part of the Commission.

Chairman Frakes called for a short break at 11:25 a.m.

The meeting reconvened at 11:37 a.m.

7. REGISTRY OF CONFIRMED ABANDONED OR UNCONTROLLED HAZARDOUS WASTE DISPOSAL SITES (REGISTRY) IN MISSOURI

Mr. Dennis Stinson, Chief, Superfund Section, addressed the Commission and provided a brief update on the recent Registry. He noted that the Registry was a list of Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites in Missouri, which is maintained by the Missouri Department of Natural Resources pursuant to the Missouri Hazardous Waste Management Law, Section 260.440, RSMo.

Mr. Stinson explained that sites listed on the Registry appear on a publicly available list, and a notice filed with the Recorder of Deeds documents hazardous waste contamination at the site. The use of a property listed on the Registry may not change substantially without the written approval of the Department. He went on to explain that when the presence of hazardous waste disposal is confirmed at a site, the Department notifies the owner(s) of the site that it intends to place the property on the Registry. The notification is sent by certified mail to the owner 30 days before the site is to be added to the Registry. The owner of the site can appeal the proposed placement on the Registry. If an appeal cannot be resolved, the Administrative Hearing Commission may convene a public hearing or assign a hearing officer to resolve the matter. He explained that a site can avoid Registry listing if the property owners elect to remove the contamination. This is achieved by the owner signing a consent agreement and implementing a cleanup with Department oversight. After cleanup of the property is completed, the Department will withdraw the proposal to place the property on the Registry.

The process described by Mr. Stinson noted that according to state law, each site listed on the Registry is placed in one of the following categories:

- Class 1: Sites that are causing or presenting an imminent danger of causing irreversible or irreparable damage to the public health or environment. Immediate action is required.
- Class 2: Sites that are a significant threat to the environment. Action is required.
- Class 3: Sites that do not present a significant threat to the public health or the environment. Action may be deferred.
- Class 4: Sites that have been properly closed and require continued management.

He advised the Commission that the Department publishes the “Missouri Registry Annual Report: Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites” each January. Mr. Stinson explained that there were currently 66 sites listed in the registry and there had been no new ones in seven or eight years. He noted that cleanups were addressed through the EPA, RCRA and Brownfields programs and that there currently were nine registry cleanup agreements in place for sites. A cleanup agreement is done instead of a listing on the registry. He went on to explain that of the listed sites, there have been only three changes since last year, which are the outcome of the Site Assessment Committee that meets each year. He noted that those changes were that the Farmland site in St. Joseph had changed from a Class #2 to a Class #3; that Centrex had changed from a Class #3 to a Class #4 and that the Solid State Circuit site had changed from a Class #4 to a Class #2, due to unknown soil contamination. He advised that in the Registry, the National Priorities Listing is included and that Missouri currently has 32 sites listed, with four of those being federal facilities.

Mr. Stinson advised the Commissioners that copies of the Registry were available if they wished to have them. He noted that they were available in print, on CD, or on-line.

No questions were posed by the Commission.

This was provided as information only and required no action on the part of the Commission.

## 8. LEGAL UPDATE

Ms. Kara Valentine, Commission Counsel, Missouri Attorney General’s Office, addressed the Commission with an update on current Administrative Hearing Commission (AHC) appeals that were pending. She advised that there were just a couple she would mention, that there had been a Summary Injunctive Relief with Doe Run and noted that there was still one (1) appeal with the AHC, for the Buick Recycling Facility, and that a settlement proposal had been sent on that one. She advised that an appeal was expected.

With regards to the Injunctive Relief with Doe Run, Ms. Valentine noted that on December 21, 2011, a decree had been entered. She advised that this had been discussed as far back as October of 2010, but had been in limbo since that time, for approximately the last fourteen months. She went on to explain that the agreement contained the schedules for action and that it was a multi-media, joint effort, involving water, air and land issues. She advised that the agreement was a huge document, approximately 170 pages, with twelve to fifteen attachments and was approximately four inches thick. The agreement included a cost of approximately

\$65 million dollars to Doe Run and included the primary smelter shutting down by 2013, as Doe Run was now looking at new technologies for their processing.

Ms. Valentine advised that there were over 2300 acres affected with tailings and that financial assurance measures had been imposed. She noted that civil penalties were imposed equaling approximately \$7 million dollars, with half of that going to the state and the rest going to the affected counties. She advised the Commission that the agreement was now in effect.

Commissioner Sugg inquired as to what kind of monitoring system was in place to ensure that Doe Run complied with the agreement, and that it was complied with within the established timeframes.

- Ms. Valentine responded that there were stipulated penalties included in the agreement and that there was a schedule and plan submitted to the EPA and to the Department that monitored the deadlines. The stipulated penalties went in to effect if a deadline was missed. She also noted that Doe Run had been proactive in implementing many of the conditions of the agreement.

No other questions were posed by the Commission.

This was provided as information only and required no action on the part of the Commission.

## 9. PUBLIC INQUIRIES OR ISSUES

Mr. David J. Lamb, Director, Hazardous Waste Program, addressed the Commission and noted that no formal requests had been received to address the Commission. Mr. Ron Leone, who had presented earlier in the agenda, asked to speak again briefly.

Mr. Leone addressed the Commission and asked to be able to speak in response to the comment that Mr. Chibnall had made earlier. He advised that he wished to speak about the use of the word “may,” making it seem permissive. Mr. Leone asked that the Commission refer to the copy of the CSR he had provided earlier and noted that the language there was that “owners and operators shall” use RBCA or they could ask the Department for permission to use some other pre-approved risk based action. He noted that this was not permissive, use of the word “may” is not a loophole; everyone uses RBCA. He advised that this was the information he wished to relay to the Commission.

No other questions were posed by the Commission.

This was provided as information only and required no action on the part of the Commission.

10. OTHER BUSINESS

Mr. David J. Lamb, Director, Hazardous Waste Program, addressed the Commission and advised them that the legislature was back in session and that there were currently two bills that had potential effects to the Department that he wished to speak about at this time.

Mr. Lamb advised that the first bill he wished to discuss, House Bill 1135, provided for sunset dates for regulations. He noted that, under the current language, the Department would have to go back every five years and ask for an extension, providing for a significant impact to the Program and the Commission. He advised that the current bill had passed the House. He went on to advise that there was also a Senate version of the bill, Senate Bill 469, which provided a requirement that agencies develop a report every five years, to JCAR, attesting to and justifying the continued need for the rules. Mr. Lamb noted that this was the more palatable of the two versions, although care would need to be taken to ensure the report was filed in a timely manner as this bill would void rules that were not reported within the established timeframes.

The second bill that Mr. Lamb discussed, Senate Bill 645, which had been introduced by Senator Schaeffer, concerned the Administrative Hearing Commission. This bill would remove the timeframes associated with appeals and would enforce statutory deadlines on permit applications. Mr. Lamb noted that this would be of benefit to the AHC and to the Commission as the current timeframes for decisions were a little tight, and this would be an improvement.

Mr. Lamb went on to advise the Commission that the governors recommended budget had come out in January, and was similar to FY12, with no significant impact. He noted that it did include a 2 percent pay increase for staff, which is something it has not included in several years. This would go into effect in January 2013 if it were to pass. He advised that the budget had been introduced in the House, was currently House Bill 2006, but that it had not had a hearing yet as it was still in the early stages.

Mr. Lamb also advised the Commission that the National Tanks Conference was being held in St. Louis in March. He noted that it was a joint effort between the Department and several other entities and that it was a good opportunity for staff and contractors to work together on underground storage tank issues.

Chairman Frakes inquired as to whether HB1135 had passed.

- Mr. Lamb responded that it had made it through the House but that the Senate had not taken up the House Bill; they had substituted their own version.

No other questions were posed by the Commission.

This was provided as information only and required no action on the part of the Commission.

Chairman Frakes addressed the Commission and staff and noted that he and Commissioner Aull's terms were set to expire on April 13, 2012, just a few days prior to the date of the next meeting. He noted that he had enjoyed his work with the Commission and advised that unless something happened between now and then, they hoped to be back for the April meeting.

11. FUTURE MEETINGS

Chairman Frakes noted that the next meeting was scheduled for April 19, 2012, and would be held in the Bennett Springs/Roaring River Conference Rooms at the 1730 E. Elm Street building.

Commissioner Aull made a motion to adjourn the meeting, which was seconded by Commissioner Sugg.

*Chairman Frakes adjourned the meeting at 12:02 p.m.*

Respectfully Submitted,

\_\_\_\_\_  
Debra D. Dobson, Commission Assistant

APPROVED

\_\_\_\_\_  
James Frakes, Chairman

\_\_\_\_\_  
Date

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 3**

**Rulemaking Update**

**Recommended Action:**

Information Only.

**Presented by:**

Tim Eiken, Rules Coordinator, HWP

## Missouri Hazardous Waste Management Commission Meeting

April 19, 2012  
Agenda Item # 4

### Battery Storage Requirements – Update

#### Issue:

This is an update requested by the Missouri Hazardous Waste Management Commission regarding requirements for battery storage and the state's "24-hour Rule."

#### Information:

- 40 CFR 260.10 Definition of Battery - "Battery means a device consisting of one or more electrically connected electrochemical cells, which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. **The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.**"
- RCRA Online 14147 states, "The current Federal regulation is intended to exempt those who generate, transport, or collect **intact** spent lead-acid batteries from RCRA hazardous waste management requirements, including the requirement to manifest off-site shipments of spent batteries. See 40 CFR Section 266.80.....Indeed, only the management of intact spent batteries prior to their reclamation is exempted from RCRA regulatory controls by this provision." If the batteries are not intact (i.e. cracked, uncapped or broken), they must be managed as a hazardous waste (i.e. over packed, packaged, marked, labeled, and properly manifested). The August 2011 EPA Definition of Solid Waste Compendium Volume Q: Spent Lead-Acid Batteries has further EPA regulations and interpretations regarding the proper management of lead-acid batteries.

<http://www.epa.gov/wastes/hazard/dsw/compendium/q-slab.pdf>

- 40 CFR Part 266 – Standards for the Management of Specific **Hazardous Wastes** and Specific Types of **Hazardous Waste Management** Facilities - Subpart G - Spent Lead-Acid Batteries Being Reclaimed – requires a hazardous waste permit for the storage of the batteries when they are received at the final reclaimer.
- 10 CSR 25-7.264(2)(A)(3)-further clarifies that hazardous waste (which includes batteries) "shall not be stored or managed outside an area or unit which does not have a permit or interim status for that waste for a period which exceeds twenty-four (24) hours." (24-hour rule)
- Batteries are also required to be shipped in accordance with U.S. Department of Transportation (DOT) requirements. See attachment 1 for information from DOT regarding efforts to improve compliance and transportation safety of spent batteries. This document was addressed to all battery recyclers and battery collection points and related associations.

- Exide's own Recycling Material Identification Guide (see attachment 2) identifies the proper way to package and secure used batteries.

<http://www.exide.com/Media/files/Revised%20guide%20Rev%200609.pdf>

- Exide states that they occasionally receive non-conforming trailer loads of batteries. This means cracked, uncapped, broken batteries that are not in compliance with DOT, Missouri Hazardous Waste Management Facility Permit requirements, or federal or state hazardous waste management requirements. As stated above, federal hazardous waste regulations require any broken battery to be managed as a hazardous waste whether they are stored at the reclaimer or elsewhere.
- Exide continues to claim that the 1998 enforcement discretion that allowed them to store these trailers for up to seven days in the parking lot without a permit was "environmentally superior to conditions imposed by the current permit under which Exide turns away non-conforming trailers."
- The Department has not required Exide to reject loads (this is the company's business decision). We agree that rejecting and sending these non-conforming trailers back onto the road is not safe and against DOT regulations. Exide's permit allows any leaking containers (which includes batteries) to be processed immediately or over packed and managed properly in the permitted storage area.
- The Department has admitted multiple times that this enforcement discretion should not have been allowed as it was not in conformance with EPA or Department regulations.
- When the Department was preparing the permit renewal and working with Exide to permit this parking area, we stated that it would not require much more than the current management plan except for a closure plan, cost estimate and financial assurance, which Exide provided. However, the Department was not aware that non-conforming loads were being received and stored in this area. Loads in compliance with DOT would have been perfectly acceptable for permitted storage for up to one year.
- Department staff met with Exide on February 1, 2012, and discussed all the regulatory requirements noted above regarding batteries and to discuss Exide's suggestion for seeking a variance from the "24-hour rule" and a subsequent change to the "24-hour rule." It was explained that the Department cannot be less stringent than EPA in the regulation/management of batteries, and therefore a variance from federal requirements would not be an option and a change in the "24-hour rule" would not help to resolve Exide's concerns related to battery management. Exide told us that they plan to contact EPA Region 7 regarding our interpretations of the EPA rules regarding batteries. In a letter to the Department dated March 14, 2012, Exide indicated that they decided not to contact EPA.
- Also during the February 1, 2012, meeting, Exide gave the Department proposed rule language for changes to the "24-hour rule" that we shared with EPA Region 7. EPA Region 7 responded that the proposed language appeared to be less stringent than the current 266 Subpart G standards and may pose a problem.

- Throughout the years, the Department has suggested various options to Exide to help resolve their issue of receiving non-conforming trailers which include the following:
  1. Have someone whose job it is to inspect trucks and manage the batteries as received (for weekends and after hours).
  2. Like other businesses, have contracts with all those who ship to require that they “close” open batteries and over pack any batteries that are in poor condition, so that they are DOT compliant during shipment and receipt. Include a clause in the contract stating that if batteries are in poor condition (open, damaged, leaking) and are not over packed for the shipment, future shipments will not be accepted from that supplier.
  3. Like other companies, provide DOT compliant containers as a service, and for a charge, provide to those who ship with training and instructions on how to use these for open, damaged and leaking containers. Again, there should be tracking of noncompliant loads and follow up with those who ship without following instructions or using the compliant containers.
  4. We have made suggestions for Exide to create an off-site universal waste location where batteries can be stored under universal waste handler requirements prior to shipment to Exide.

All of these suggestions were made in an attempt to help Exide to limit receiving noncompliant shipments or managing them to avoid any future violations and liabilities. The Department does not require or condone the return of non-conforming trailers to the roadways for the safety reasons that Exide has noted.

- On April 3, 2012, I contacted Mr. Jim Lanzafame, Environmental and Health Manager, with the Buick Resource Recycling Facility, the other secondary lead smelter operating in Missouri. I asked if he has issues with receiving broken batteries (non-conforming). He said “no,” and that if there was a broken battery on a trailer load, his facility would process them immediately or properly over pack them and place them into permitted storage.
- I also asked Mr. Lanzafame if they had an off-site battery storage facility and he said that they do not.
- I told Mr. Lanzafame that the Hazardous Waste Management Commission wanted the Department to look into revising the “24-hour rule” regarding battery storage. He indicated that it would be good for the rare occasion when there is a holiday and someone wants to deliver batteries. Right now the trailers have to sit outside of the facility until they open.
- He also stated that he knows that if we extended the “24-hour rule” to maybe 72-hours, the batteries “absolutely cannot be broken during this storage time.”
- The Department has concluded that revising the “24-hour rule” to allow additional unloading time for batteries is not warranted as it does not address the core problem of non-conforming shipments being delivered to Exide and related environmental and human health concerns. In essence, open, damaged, leaking batteries should not be transported unless properly over packed or they violate U.S. DOT requirements. If the non-conforming batteries are shipped and received by Exide, federal hazardous waste regulations require that they be processed timely, or stored as the permit allows. The Department remains open to a proposal from Exide to reduce or eliminate the delivery of non-conforming trailers. In this proposal, Exide

would note how it would react to such deliveries in a manner that is more protective to the environment than rejecting the loads and returning them to the roadways.

**Recommended Action:**

Information only.

**Presented by:**

**Darleen Groner, P.E., Chief, Operating Facilities Unit, Permits Section, Hazardous Waste Program**



U.S. Department  
of Transportation

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

**Pipeline and Hazardous  
Materials Safety Administration**

April 3, 2009

To: All battery recyclers and battery collection points and related associations.

Based on recent investigations conducted by the U.S. Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA), and based on recent incidents, this letter is generated to convey our findings and our ongoing effort to improve compliance and transportation safety. PHMSA has noted an ongoing trend of serious safety problems and non-compliance regarding the classification, packaging, marking, labeling, documentation, and transportation of spent batteries in commerce. PHMSA has great concern over the lack of compliance with and understanding of the transportation requirements for batteries. PHMSA recognizes the breadth and scope of the battery recycling and disposal industries. However, due to several incidents resulting in serious consequences, PHMSA pledges its efforts to reduce this risk by enforcing the safety standards and increasing awareness. In order to magnify its safety and compliance efforts, PHMSA feels this letter will help increase the awareness and provide a means of contact for the prescribed safety requirements to the appropriate battery recycling and disposal transportation streams.

PHMSA is concerned that many persons who ship batteries for recycling or disposal do not appreciate the hazards posed by batteries during transportation. PHMSA has documented numerous shipments that were not in compliance with requirements in the Hazardous Materials Regulations (HMR, 49 CFR Parts 171-180).

Common violations and safety problems noted during these investigations include:



**(Primary lithium batteries with unprotected terminals)**

1. Large numbers of used batteries, of many different types, are collected in large containers that do not adequately prevent damage to the batteries or prevent their release during transportation.
2. Outer packages are not marked and labeled as required to indicate that they contain batteries; the shipments are not described as

required on accompanying shipping documents.

3. No action is being taken to prevent a short circuit, such as *separating the batteries by placing each one in a separate plastic “baggie” or taping the terminals of the battery.*

These types of violations appear to have directly led to a November 2006 incident in which a shipment of used, rechargeable lead acid batteries caused a fire that completely destroyed the vehicle transporting the batteries.

PHMSA has also investigated two additional parcel carrier delivery truck fires. These incidents occurred in April and of July 2008. Both of these incidents involved batteries destined for recycling.



**(July 2008 truck fire in Jackson, MI)**

The following is a brief summary of the requirements that apply to ground shipments of batteries for recycling or disposal. These requirements also apply to shipments of batteries from battery manufacturers, equipment manufacturers, distributors and retail sales outlets. While additional requirements apply to air shipment of batteries PHMSA is not aware of used batteries being shipped by air.

**All batteries** are subject to requirements in the HMR because they have two types of hazards: (1) the chemicals or other materials contained in the battery, and (2) the electrical potential of the battery.

**All batteries** must be packaged for transportation in a manner that prevents short circuiting and damage to the battery or its terminals. This may be achieved by packing each battery in fully enclosed inner packagings made of non conductive material or separating the batteries from each other and other conductive material in the same package and pack to prevent damage and shifting while in transport.



(Individually packaged batteries to prevent short circuits)

**Lithium batteries** (including lithium-ion batteries) are “Class 9” miscellaneous hazardous materials, and are subject to requirements in § 173.185. Note that “small” and “medium” sized lithium batteries may be shipped by ground under the requirements in § 172.102 Special Provisions 188 and 189.

**Batteries, wet** including batteries containing electrolyte acid or alkaline battery fluid are “Class 8” corrosive hazardous materials, and are subject to requirements in § 173.159. This section allows for reduced requirements when the batteries are shipped by ground by themselves (*i.e.*, no other hazardous materials on the same vehicle).

**Batteries containing sodium** are “Division 4.3” dangerous when wet hazardous materials, and are subject to the requirements in § 173.189.

**Batteries, dry, containing potassium hydroxide solid** are class 8 corrosive hazardous materials, and are subject to requirements in 49 C.F.R. § 173.213.

**Batteries, dry**, include the common household type alkaline batteries. Additionally, these include nickel cadmium (NiCad), nickel metal hydride (NiMH) and silver-zinc batteries. These “dry” batteries unless specifically covered by another entry in the Hazardous Material Table (HMT) are not subject to the HMR provided they are in conformance with § 172.102 Special Provision (SP) 130. SP 130 prescribes they are to be securely packaged to prevent the dangerous evolution of heat and protect against short circuits. Insulating the exposed terminal ends and securely packaging the batteries is an effective means for complying with SP 130.

On January 14, 2009, PHMSA published a Final Rule in the Federal Register under Dockets HM-215J and HM-224D titled “Revision to Requirements for the Transportation of Batteries and Battery-Powered Devices; and Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions”.

Except as specified in §§ 171.14, 171.25, 172.102, 172.448, and 178.703 as amended, compliance with the amendments adopted in this final rule will be required beginning January 1, 2010, with a voluntary compliance date of January 1, 2009.

This final rule:

- Requires reporting of incidents involving batteries and battery-powered devices that result in a fire, violent rupture, explosion, or dangerous evolution of heat. Immediate notice is limited to air transport of batteries and battery-powered devices.
- Clarifies the requirement that batteries and battery-powered devices and vehicles be offered for transportation and transported in a manner that prevents short-circuiting, the potential of a dangerous evolution of heat, damage to terminals, and, in the case of transportation by aircraft, unintentional activation.
- Includes several examples of packaging methods that meet the requirement to be packed in a manner that prevents short circuits.



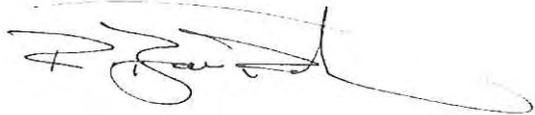
(November 2006 truck fire in Galesburg, IL)

DOT encourages and supports the safe recycling and disposal of used batteries. However, we take an aggressive approach to swiftly investigate and enforce the safety requirements in the HMR for complaints and transportation incidents such as the parcel carrier delivery truck battery incident in November 2006.

Persons who violate the HMR may be subject to significant civil penalties and criminal fines and imprisonment. The maximum penalties depend on several factors, including the nature and circumstances, extent and gravity, and severity of the consequences of the violation, but can range up to \$100,000 for a civil penalty and \$500,000 and ten years in jail for a criminal penalty. In a recent enforcement case, PHMSA assessed a total civil penalty of \$360,000 for multiple violations of the HMR relating to the improper shipment of used batteries for recycling or disposal.

More detailed information on the requirements in the HMR governing the shipment of batteries and additional guidance are available on DOT's Hazmat Safety web site: <http://www.phmsa.dot.gov/hazmat>. The HMR are also accessible through our website, and you can obtain answers to specific questions from the Hazardous Materials Information Center at 1-800-467-4922 (in Washington, DC, call 202-366-4488).

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Ryan Posten', with a long horizontal flourish extending to the right.

R. Ryan Posten  
Director, Office of Hazardous Materials Enforcement

# Packaging and Securing Used Batteries / Cells

WAFFLEBOARD OR SHEETS OF CARDBOARD\*

BATTERIES

WAFFLEBOARD PREFERRED\*  
(MINIMIZES POTENTIAL FOR POST PENETRATION AND SHORT CIRCUIT)

BATTERIES

WAFFLEBOARD PREFERRED\*  
(MINIMIZES POTENTIAL FOR POST PENETRATION AND SHORT CIRCUIT)

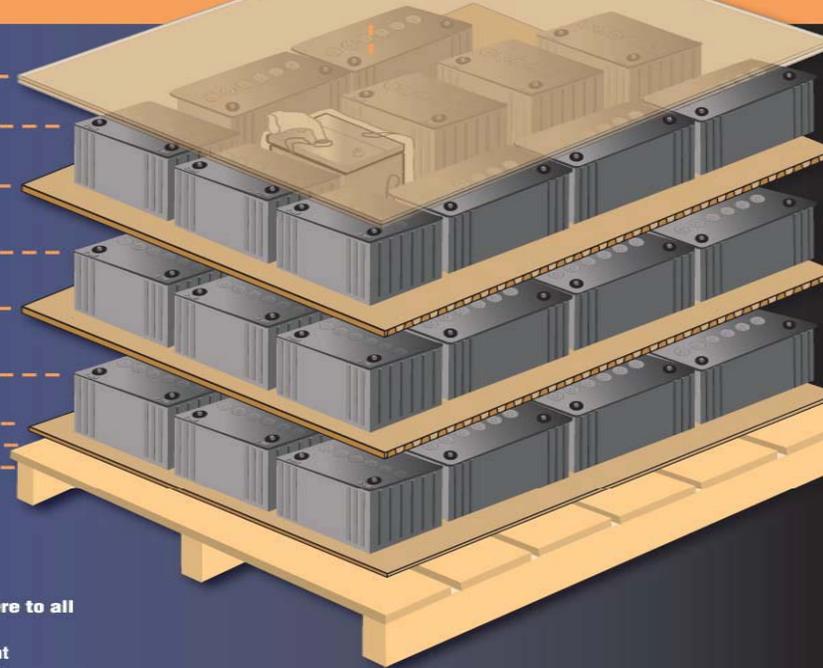
BATTERIES

CARDBOARD

SKID BOARDS

RUNNERS

\* See Item 4 and 7 under Stacking Pallet Instructions



## IMPORTANT GENERAL HANDLING REQUIREMENTS

Before handling battery/cell(s), please read and adhere to all of the following requirements:

- Wear the appropriate personal protection equipment
- Handle all returned batteries with the same responsible care as new batteries
- Keep batteries upright at all times. Do not tip over on side or upside down (Except Non-Spillables)
- Do not drop batteries. Put batteries carefully down on skid/pallet
- Only lead-acid batteries may be returned
- Do not double stack cells or batteries on skid/pallet
- Terminals must be protected with non-conductive caps, tape or other insulating material (e.g. waffleboard, cardboard) to prevent shorting
- Total height of package not to exceed 1 1/2 times the skid/pallet width
- Any damaged or cracked cell must be free of electrolyte and placed in a heavyweight clear polyethylene plastic bag (min. 6 mil) that is securely closed.
- All vent caps must be in place

## IMPORTANT SKID/PALLET SPECIFICATIONS

- Use a skid/pallet provided with a new shipment to return used motive batteries if possible
- Maximum skid/pallet sizes: 48" x 44" or 48" x 40"
- Skid/pallet boards: 5/8 inch thick minimum preferred
- Skid/pallet must be constructed with a minimum of three bottom runners
- Skid/pallet sturdy and durable enough to handle the weight of battery load

Instructions courtesy of Battery Council International.

**EXIDE** Start Positive. Stay Positive.™

7



Information provided for reference only, please consult your Buyer or designated Transportation Specialist prior to shipment

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 5**

**Exide Technologies – Spent Battery Trailer Parking Issues**

**Information:**

In a letter dated March 14, 2012, Exide Technologies, represented by Mr. Jim Price, requested to be heard before the Hazardous Waste Management Commission at the April meeting, regarding spent batter trailer parking issues at their Canon Hollow Recycling Center.

**Recommended Action:**

Information Only.

**Presented by:**

Mr. Jim Price, Spencer Fane Britt & Browne LLC - Legal Counsel, Exide Technologies



Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

## DEPARTMENT OF NATURAL RESOURCES

[www.dnr.mo.gov](http://www.dnr.mo.gov)

VIA ELECTRONIC MAIL AND U.S. MAIL

April 3, 2012

Mr. James T. Price  
Spencer Fane Britt & Browne  
1000 Walnut Street, Suite 1400  
Kansas City, MO 64106

RE: Exide Technologies, Inc. Request to be Heard Before the Hazardous Waste Management Commission.

Dear Mr. Price:

In response to your March 14, 2012, letter, Exide Technologies, Inc. will be included on the agenda for the April 19, 2012, meeting of the Hazardous Waste Management Commission (Commission).

The open meeting will begin at 10:00 a.m., unless an Executive (Closed) Session is requested as per Section 610.022, RSMo, to which the meeting may be closed by an affirmative vote of the Commission to discuss legal matters, causes of action or litigation as provided by Subsection 610.021(1), RSMo. The open meeting will be held at the Missouri Department of Natural Resources' Hazardous Waste Program Conference Center, Bennett Springs / Roaring River Room, located at 1730 East Elm Street, Jefferson City, Missouri.

Although your attendance is not required, your written request to speak to the Commission has been received. You are invited to attend. A copy of the draft agenda is enclosed for your convenience. If you find that you no longer wish to address the Commission, please notify me as soon as possible so that the agenda may be revised for the April meeting.

If you have questions, please contact me at 573-751-2747, or in writing to the Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176.

Sincerely,

HAZARDOUS WASTE MANAGEMENT COMMISSION

A handwritten signature in black ink, appearing to read 'Debra D. Dobson', written over a circular stamp or seal.

Debra D. Dobson  
Commission Assistant

DDD

Enclosures: Draft Agenda

c: Hazardous Waste Management Commission  
Mr. David J. Lamb, Director, Hazardous Waste Program

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 6**

**Tanks Risk Based Corrective Action (RBCA) Rulemaking Update**

**Information:**

Update on the Tanks Risk Based Corrective Action Rulemaking

**Recommended Action:**

Information Only.

**Presented by:**

Tim Chibnall, Directors Office, Hazardous Waste Program

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 7**

**Sunshine Law Update**

**Issue:**

Briefing to the Hazardous Waste Management Commission on Sunshine Law guidelines, requirements, exceptions, etc.

**Recommended Action:**

Information Only.

**Presented by:**

Kara Valentine, Commission Counsel – Missouri Attorney General's Office

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 8**

**Quarterly Report**

**Recommended Action:**

Information Only.

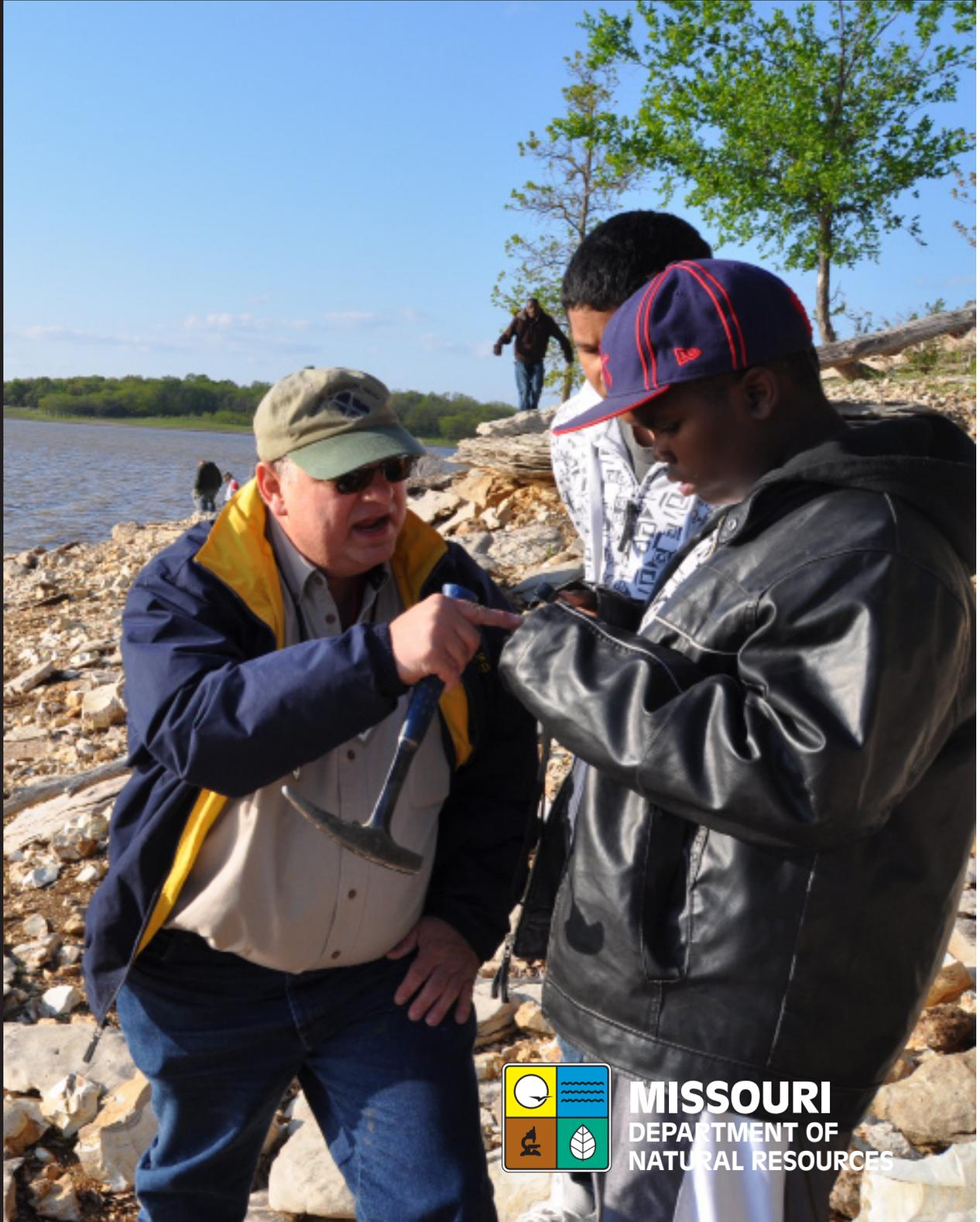
**Presented by:**

Larry Archer, Public Information Officer, DNR

# Hazardous Waste Management Commission Report

October through December 2011

Quarterly Report



**MISSOURI**  
DEPARTMENT OF  
NATURAL RESOURCES

*A Missouri Department of Natural Resources employee works hands on with students participating in the Science Camps.*

## **Hazardous Waste Management Commissioners**

James T. "Jamie" Frakes, Chair

Andrew Bracker, Vice-Chair

Elizabeth Aull

Michael R. Foresman

Charles "Eddie" Adams

Deron Sugg

***"The goal of the Hazardous Waste Program is to protect human health and the environment from threats posed by hazardous waste."***

### **For more information**

Missouri Department of Natural Resources

Hazardous Waste Program

P.O. Box 176, Jefferson City, MO 65102-0176

[dnr.mo.gov/env/hwp/index.html](http://dnr.mo.gov/env/hwp/index.html)

Phone: 573-751-3176

Fax: 573-751-7869

Past issues of the Hazardous Waste Management Commission Report are available online at  
[dnr.mo.gov/env/hwp/quarterlyreport.htm](http://dnr.mo.gov/env/hwp/quarterlyreport.htm)



**Missouri Department of Natural Resources  
Hazardous Waste Program**

## December 2011 Program Update

Challenges? Sure, there were plenty in 2011. But even with the unexpected trials that seem to accompany hazardous waste issues, the Hazardous Waste Program realized many, many successes. Some of our 2011 successes were:

**UST ARRA Project Completion:** The Tanks Section submitted the final report for the American Recovery and Reinvestment Act, Leaking Underground Storage Tank project in April, ahead of the September deadline. The approximately \$3.254 million in recovery act funds the department received for this project was used to conduct assessments, site characterizations and cleanup activities at more than 60 abandoned tank sites.

**Long-Term Stewardship Activities:** The Hazardous Waste Program launched a Long-Term Stewardship Unit within the Brownfields/Voluntary Cleanup Program. This consolidated "one-stop shop" for long-term stewardship is intended to address the program's obligation to provide stewardship for the 500+ (and growing) Missouri properties that have undergone risk-based cleanups in various cleanup programs.

**New Operational Tanks Rules:** The Hazardous Waste Program successfully completed revisions to the underground storage tank operational regulations. These regulations had not been updated in more than 20 years.

**Hazardous Waste Fee Extended:** Missouri Hazardous Waste Fees and the Battery Fee sunsets were extended from Dec. 31, 2011 to Dec. 31, 2013. These fees apply to all Missouri hazardous waste generators and permitted treatment storage and disposal facilities.

The Drycleaner Environmental Response Trust Fund sunset was extended to Aug. 28, 2017.

**Brownfield's Milestones:** Since its inception in 1994, the Brownfields/Voluntary Cleanup Program has provided oversight for the cleanup of more than 6,000 acres of land put back to productive use and issued 636 Certification of Completion letters.

The Drycleaning Environmental Response Trust Fund Unit exceeded the \$1.5 million mark in reimbursements of eligible costs to its participants during 2011.

**Hazardous Waste Forum:** We reinvigorated our Hazardous Waste Forum and held seven meetings during 2011.

The daily tide of work and priorities often pulls us away from celebrating our successes. But the dedicated staff I get the pleasure to work for and with don't keep plugging away for pats on the back. They believe in something much larger than themselves. They believe in the department's mission, in the program's mission.

And with that, I want to take the opportunity to thank the staff of the Hazardous Waste Program and the Hazardous Waste Management Commission for a successful 2011. I look forward to what we can accomplish in 2012.

Sincerely,



David Lamb



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## Pilot Science Camps

Debbie Brunner, the department's education coordinator, met Mike Szydowski, K-12 Science Coordinator for Columbia Public Schools, at an education conference. It didn't take long before they explored the possibility of Columbia participating in a department pilot science camp. Szydowski has taken students to the Grand Tetons and Yellowstone National Park, so he jumped at the chance to provide his new district with environmental education.



Department staff began developing a course description and brochure for the teachers at Lange Middle School in Columbia. Science teachers at Lange

received the camp brochure that included a list of potential classes and selected four to be taught during their camp. The classes included Energy, Hazardous Waste, Air Quality, Water Quality, Solid Waste, Soil and Water Conservation, Geology and Land Survey and Historic Preservation.

A teacher advisory committee was created to help develop a curriculum guide for department employees to follow while teaching their subject material. Nine educators met with Brunner in October to discuss the curriculum design for the camp pilot.

Students in Missouri are tested in science at the end of 5th and 8th grades. Missouri schools have the option of teaching earth and life sciences in 7th or 8th grade. It was decided by the Education Committee that schools should have the choice of sending 7th or 8th graders to camp. The educators all agreed the camp should be taught by natural resource experts from the department and the curriculums should align with Missouri's state educational standards.

The pilot department science camps offered 678 students from Columbia an opportunity to learn about their natural, cultural and energy resources in a beautiful Missouri State Park. At the same time, the camps hosted 96 adults, which includes the teachers and parent chaperones. The nine camps took

place at Mark Twain State Park and Lake Ozark State Park.

Feedback from the students and teachers was overwhelmingly positive.

The department will be holding one more pilot camp in May 2012.



The Missouri Department of Natural Resources issued certificates of completion for four Brownfields/Voluntary Cleanup Program sites during October through December.

Brownfields are real property, the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

Through the Brownfields/Voluntary Cleanup Program, private parties agree to clean up a contaminated site and are offered some protection from future state and federal enforcement action at the site in the form of a “No Further Action” letter or “Certificate of Completion” from the state.

### **Loughborough Commons - Outparcel E - St. Louis**

The Missouri Department of Natural Resources’ Brownfields/Voluntary Cleanup Program issued a Certificate of Completion for the Loughborough Commons - Outparcel E site, located at 950 Loughborough Ave. in St. Louis. Outparcel E of the Loughborough Commons site was formerly the location of the Phelen Faust Paint Manufacturing Co. While researching historical uses of the site, it was discovered several oil and gasoline tanks had been used. A Nordyne Inc. facility was also across the street from Outparcel E and manufactured heating and cooling machinery.

Initial site characterization of the Loughborough Commons Site identified the presence of petroleum and lead contamination in the soil above the Missouri Risk-Based Corrective Action, or MRBCA, default target levels. Groundwater analysis identified the presence of petroleum hydrocarbons in excess of the target levels.

Site investigations showed levels of petroleum products, lead and mercury above the Missouri Risk-Based Corrective Action default target levels in soil and groundwater at the Loughborough Commons site. A risk assessment was conducted that demonstrates contaminants on Outparcel E of the Loughborough Commons site are below the MRBCA target levels for residential use. The department determined the site is safe for its intended use.

Outparcel E is part of the larger Loughborough Commons site developed into a retail center.

### **Farm and Home Savings Association Building – St. Louis**

The Missouri Department of Natural Resources’ Brownfields/Voluntary Cleanup Program issued a Certificate of Completion for the Farm and Home Savings Association Building site, located at 1001 Locust St. in St. Louis. The building is a vacant, six-story structure with a basement and attic. Past uses of the building were mostly office spaces, retail and residential. It was most recently used as the Farm and Home Savings Association headquarters. Contaminants include asbestos-containing material, lead-based paint, fluorescent bulbs and ballasts, mercury in thermostats and various quantities of misc chemicals (e.g., paints, cleaners, solvents). Owners intend to develop site into retail spaces and residential lofts.

The Farm and Home Savings Association Building project included removal of asbestos-containing material, except for a pre-existing vapor barrier (tar paper) on the first through sixth floors located beneath the new concrete and a layer of wood floor. Lead-based paint in the building was addressed by demolition and encapsulation techniques. All painted surfaces within the building were assumed to contain lead-based paint for the purposes of demolition. The structural columns, core and perimeter

walls remained in place after demolition activities on the first through sixth floors. All core and perimeter walls that remained in place were scraped flush to the substrate and tested negative for lead-based or encapsulated. Most of the main subfloors of the building contained acoustical fly ash fill material containing lead located between wooden floor joists and was encapsulated with concrete ceilings and floors. The department determined the site is safe for its intended use.

In December 2008, the owner of this site was awarded more than \$603,000 in Brownfields Remediation Tax Credits.

### **Sam`s Fina Service (former)**

The Missouri Department of Natural Resources' Brownfields/Voluntary Cleanup Program issued a Certificate of Completion for the Sam`s Fina Service (former) site, located at 4190 Delmar Blvd. and 619 N. Whittier St. in St. Louis. The Land Reutilization Authority of St. Louis has owned the site since 2001 and took title by quit claim deed as the result of tax foreclosure. Environmental site assessments indicate the site was used as a filling station and automobile repair facility between 1938 and 1995.

Site investigations revealed the presence of petroleum contaminated soil and groundwater at the site had adversely affected the subsurface. Approximately 1,548 tons of petroleum impacted soil and six underground storage tanks were removed and were properly disposed off-site. Results from the groundwater monitoring events indicate petroleum contamination is not present on the site above the Residential Land Use Risk-Based Target Level, Indoor Inhalation of Vapors, for Type 1 soils. The department determined the site is safe for its intended use.

The city intends to reuse the site for residential purposes.

### **Sisters of the Most Precious Blood Convent – O'Fallon**

The department's Brownfields/Voluntary Cleanup Program issued a Certificate of Completion for the Sisters of the Most Precious Blood Convent site, located at 204 North Main St. in O'Fallon. The site has been a convent for the Sisters of the Most Precious Blood since 1872. It consists of eight former convent and senior citizen housing buildings constructed between 1872 and 1976. Asbestos-containing materials and lead-based paint were detected in the buildings, including friable asbestos in excess of the regulated threshold. Fluorescent lightbulbs and ballasts, older air conditioners containing freon, a medical facility, printing presses, transformers and hydraulic machinery were also at the site.

Asbestos-containing material, lead-based paint and miscellaneous hazardous materials were identified in the buildings. Most of the asbestos-containing material and lead-based paint and all the miscellaneous hazardous materials were removed and properly disposed of, but some asbestos-containing material and lead-based paint was left in place.

Asbestos-containing material left in place was enclosed and lead-based paint was either enclosed or covered with an encapsulant. An operations and maintenance plan that governs inspection and maintenance of remaining asbestos-containing material and lead-based paint was filed in the chain of title for the property. Sampling was also conducted to assess possible releases from a transformer, hydraulic lift and elevator oil reservoir. No contamination above action levels was found. The department determined the site is safe for its intended use.

The Sisters of the Most Precious Blood Convent has been redeveloped into The Village of St. Mary's. This community will provide senior apartments, assisted living and skilled nursing care to both the Sisters and seniors in the area. The redevelopment was aided by Brownfields remediation tax credits from the Missouri Department of Economic Development.

**Sites in Brownfields/Voluntary Cleanup**

	<b>Active</b>	<b>Completed</b>	<b>Total</b>
OCTOBER	268	635	903
NOVEMBER	269	635	904
DECEMBER	266	637	903

**New Sites Received**

October

- Reed Rubber Company (former), St. Louis
- Gotham Apartments, St. Louis
- Kirkville Toastmaster Site,
- Victorian Manor - O`Fallon, O`Fallon

November

- Mr. Furniture, Springfield

December

- History Museum - Springfield, Springfield
- Horace Mann School, Kansas City

**Sites Closed**

October

- Loughborough Commons - Outparcel E, St. Louis
- Farm and Home Savings Association Building, St. Louis

November

December

- Sam's Fina Service (former), St. Louis
- Sisters of the Most Precious Blood convent, O`Fallon

# Missouri Department of Natural Resources - Hazardous Waste Program

## Brownfields/Voluntary Cleanup Section

### Drycleaning Environmental Response Trust Fund

The department's Drycleaning Environmental Response Trust, or DERT, Fund provides funding for the investigation, assessment and cleanup of releases of chlorinated solvents from dry cleaning facilities. The two main sources of revenue for the fund are the dry cleaning facility annual registration surcharge and the quarterly solvent surcharge.

#### Registrations

The registration surcharges are due by April 1 of each calendar year for solvent used during the previous calendar year. The solvent surcharges are due 30 days after each quarterly reporting period.

Calendar Year 2010	Active Dry Cleaning Facilities	Facilities Paid	Facilities in Compliance
Jan. - March 2011	221	113	51.13%
April - June 2011	221	186	84.16%
July - Sept. 2011	221	202	91.40%
Oct. - Dec. 2011	221	207	93.67%

Calendar Year 2011	Active Solvent Suppliers	Facilities Paid	Suppliers in Compliance
Jan. - March 2011	11	10	90.91%
April - June 2011	11	11	100%
July - Sept. 2011	11	11	100%
Oct. - Dec. 2011	11	9	81.82%

#### Cleanup Oversight

Calendar Year 2011	Active	Completed	Total
Jan. - March 2011	23	9	32
April - June 2011	23	9	32
July - Sept. 2011	21	10	31
Oct. - Dec 2011	22	10	32

#### New Sites Received

##### November

Ma Ma Bessie's Cleaners (former), Columbia

#### New Sites Closed

No new sites closed

# Missouri Department of Natural Resources - Hazardous Waste Program

## Brownfields/Voluntary Cleanup Section

### Reimbursement Claims

The applicant may submit a reimbursement claim after all work approved in the work plan is complete and the fund project manager has reviewed and approved the final completion report for that work. The fund applicant is liable for the first \$25,000 of corrective action costs incurred.

	Received	Under Review	Paid/Processed
October	3	9	2
November	2	5	2
December	5	5	3

	Received	Under Review	Paid/Processed
October	\$19,596.50	\$82,602.11	\$41,429.20
November	\$747,562	\$124,966.12	\$13,087.76
December	\$56,703.60	\$31,796.10	\$15,128.50

### Reimbursement Claims Processed:

American Cleaners - Dorsett Rd.	Maryland Heights	\$1,434
American Cleaners - University City	University City	\$13,087.76
Busy Bee Laundry	Rolla	\$34,411.46
Yorkshire Cleaners	Marlborough	\$8,800

**DERT Fund Balance as of Dec. 31, 2011: \$1,511,844.20**

## Inspections and Assistance

### Regional Office Hazardous Waste Compliance Efforts

- Conducted 145 hazardous waste generator compliance inspections:
  - 12 at large quantity generators.
  - 79 at small quantity generators.
  - 48 at conditionally exempt small quantity generators.
  - Six at E-waste recycling facilities.
- Conducted six compliance assistance visits at hazardous waste generators.
- Issued 68 Letters of Warning and one Notice of Violation requiring actions to correct violations cited during the 145 inspections conducted.
- Received and investigated 38 citizen concerns regarding hazardous waste.

### Hazardous Waste Compliance and Enforcement Efforts

- Conducted 13 inspections of commercial hazardous waste treatment/storage/disposal facilities.
- Conducted one inspection of a non-commercial hazardous waste treatment/storage/disposal.
- Conducted one focused compliance inspection.
- Conducted one case development inspection.
- Conducted two compliance assistance visits (Hazardous Waste Program-Permits Section).
- Conducted two operation and maintenance (Hazardous Waste Program-Permits Section).
- Issued three penalty negotiation offer letters.
- Worked with the Attorney General's Office to prepare two settlement agreements.
- Resolved and closed seven hazardous waste enforcement cases.
- Received eight new enforcement cases and issued two letters of intent to initiate enforcement action.

### Tanks Compliance and Enforcement Unit

The new underground storage tank regulations are now in effect. The Tanks Compliance and Enforcement Unit worked with the regulated community, the Missouri Petroleum Storage Tank Insurance Fund and the Missouri Petroleum Marketers and Convenience Store Association to draft rule changes pertaining to the operational aspects of underground storage tanks.

With the rapid development of new equipment in recent years, this effort updated the underground storage tank regulations to better align with the industry of today and to help prevent future releases.

These changes also include expanded oversight authority for new tank installations, required closure for all out-of-use tank systems, better assessments for steel tanks to remain in use, more detailed reporting of underground storage tank system tests and evaluations, and clarification of vague or ambiguous language.

Unit staff continues to try to help owners, operators and contractors understand the new regulations through webinars, a new Web page, email, during inspections and through mail notifications. The unit will continue to provide outreach and assistance to those with questions.

The Environmental Protection Agency recently proposed changes to the underground storage tank regulations as well. The department is drafting comments to these proposed changes.

The Missouri Legislature recently passed a bill that initiates action by the Petroleum Storage Tank Insurance Fund for underground storage tank operator training. A member of the unit will be serving as the liaison with the fund on this project, with staff from the unit, the tanks section and other department sections providing input and support.

The department continues the effort to inspect every new tank installation. The effort has been very successful in confirming and documenting the equipment installed, ensuring installations are conducted in accordance with manufacturer requirements and industry standards and in developing a great working relationship with the companies doing the installations.

In addition to compliance and operational issues, the unit continues to use the expedited enforcement process previously approved by the Hazardous Waste Management Commission. Staff who send notification letters and prepare calls for referral to the Attorney General's Office when necessary have reduced the number of facilities without a documented financial responsibility mechanism. During October through December 2011, the tanks section referred 14 facilities with financial responsibility violations to the unit for enforcement action. Unit staff resolved nine enforcement cases, seven of which had financial responsibility violations. The unit also referred one facility to the Attorney General's Office for enforcement action for a continuing financial responsibility violation.

#### **Polychlorinated Biphenyl Inspector**

The inspector conducted 12 compliance inspections at various types of facilities throughout the state. The inspector's reports are forwarded to U.S. EPA Region 7, which has authority for taking any necessary enforcement action regarding PCBs according to the Toxic Substances Control Act.

#### **Hazardous Waste Transporter Inspector**

The inspector conducted 25 commercial vehicle inspections, during which four vehicles were placed out of service. As part of the Commercial Vehicle Safety Association's protocol, the department sends the reports to the Missouri State Highway Patrol. The transporter must certify to the patrol the violations were corrected.

The inspector also did two compliance assistance visits to commercial transporter facilities during this quarter.

The inspector sent 22 letters to companies that were inactive, unregistered or conditionally exempt small quantity generators that shipped either small or large quantities of hazardous waste. These facilities are required to register as generators with the department.

As of Dec. 31, 2011, there were 221 licensed hazardous waste transporters in Missouri.

#### **Heartwood Acres LLC, dba Green Hill Recyclers - Laclede**

Heartwood Acres LLC, dba Green Hill Recyclers, is an electronics recycling facility in Laclede. Inspectors found the facility failed to:

- Determine if waste was hazardous.
- Use a licensed hazardous waste transporter.
- Use a permitted treatment, storage or disposal facility.
- Document cathode ray tubes meet the exclusion.
- Demonstrate legitimate recycling.

The facility also operated as an unpermitted treatment, storage or disposal facility by using cathode ray tube and cathode ray tube glass in a manner constituting disposal and also performed cathode ray tube processing outside a building as required.

As a result of the department's actions, the facility ceased accepting cathode ray tubes and disposing them in the trash and sent all cathode ray tubes and associated glass to a recycler.

The penalty was \$13,800, of which \$9,800 is suspended contingent on the facility not committing any repeat or Class I violations for two years following the effective date of the settlement agreement. The remaining penalty of \$4,000 was to be paid in four quarterly payments of \$1,000 each. However, Green Hill Recyclers submitted full payment of the up-front \$4,000 penalty with the signed settlement agreement.

#### **Custom Auto Center - Maryland Heights**

Custom Auto Center is an auto repair and maintenance facility in Maryland Heights. The facility is a conditionally exempt hazardous waste generator that failed to properly identify and manage its hazardous waste by:

- Failing to make a hazardous waste determination.
- Accumulating hazardous waste in quantities that require registration as a generator, and beyond the storage time allowed for a generator in order to accumulate a full drum.
- Failing to meet all generator requirements for management of hazardous waste and used oil.

As a result of the department's actions, the facility arranged to ship the drum of hazardous waste it had accumulated and arranged it would ship frequently enough that it would no longer accumulate regulated quantities of hazardous waste. Custom Auto Center also corrected its management of used oil.

The penalty was \$2,000, of which \$1,000 was suspended contingent on the facility not committing any repeat or Class I violations for two years following the effective date of the settlement agreement. The remaining \$1,000 penalty was paid in one check, which was sent to the Attorney General's Office.



*New tank installation in Joplin, MO*

### 2011 - A Year in Review

Each year the Permits Section coordinates with the Environmental Protection Agency to prioritize activities at facilities subject to the section's oversight. The section and EPA jointly negotiate general activity goals for the section. The Performance Partnership Grant Work Plan, an overarching plan that covers the department's air, water and hazardous waste programs, contains these general goals. The Permits Section and EPA's hazardous waste staff negotiated specific current and future goals published in a related document called the *Multi-Year Facility Planning Strategy*. These documents collectively guide the section in planning resources and executing activities for the current and future federal fiscal years.

The *Multi-Year Facility Planning Strategy* is an "idealized" document that includes goals to accomplish if the program is able to fill all of the section's staff positions and all projects go relatively smoothly. The *Multi-Year Facility Planning Strategy* is a living document. Staff routinely updates projected tasks and project completion dates for a variety of reasons, such as staff turnover and resources, facility bankruptcy, permit appeals, corrective action dispute resolution, investigation findings leading to additional work, public comments and intervening short-term priorities. The section routinely updates EPA with the status of the section's goals, updated with the most recent information available and routinely coordinates new completion dates with EPA for any delayed goals.

At the end of each federal fiscal year, the section reports to EPA about all planned and unplanned activities accomplished during the year. The report to EPA focuses primarily on permitting, corrective action and groundwater inspection and evaluation activities. The following information is from the 2011 federal fiscal year report to EPA.

### Federal Fiscal Year 2011 Hazardous Waste Permitting Activities

The section coordinated, both internally and with EPA, about the priority of individual projects and tasks as dictated by the National Corrective Action Prioritization System and Overall Priority Ranking System ranking for each facility, as well as goals established by the federal Government Performance and Results Act of 1993. The section periodically revises facility rankings to reflect current environmental and state/EPA project priorities. During 2011, the section did not adjust any facility rankings, but did adjust certain priorities in response to the Government Performance and Results Act goals.

During federal fiscal year 2011, the section completed the following permitting-related activities:

- One Permit renewal: Beazer East Inc. (post-closure/corrective action).
- Ten Class 1 permit modifications without prior director approval.
- 17 Class 1 permit modifications with prior director approval.
- One Class 3 permit modification.

During federal fiscal year 2011, the section made progress on the reissuance of 15 hazardous waste management facility permits. The section also spent considerable time and resources on three hazardous waste management facility permit appeals:

- Doe Run Buick Smelter.
- Exide Technologies.
- American Airlines.

The American Airlines appeal issues were resolved and the appeal withdrawn. Though not completely resolved at the end of federal fiscal year 2011, the Exide appeal was resolved during the early part of federal fiscal year 2012. Resolving the Doe Run appeal saw progress with the hope it will be fully resolved during federal fiscal year 2012.

### Federal Fiscal Year 2011 Corrective Action Activities

During federal fiscal year 2011, the section made progress on many corrective action activities related to site investigation, monitoring and remediation. The section completed one final remedy decision and one final remedy construction at Louisiana Steel in Louisiana, Missouri.

The section approved an interim measures work plan for Bayer CropScience - Kansas City and interim measures reports for the following:

- Browning Ferris Industries, Missouri City.
- Safety Kleen, St. Charles.
- Union Pacific Railroad, Sedalia.

Staff changed the planned interim measures report goal for 3M - Columbia to an interim measures remedial design work plan, which was also approved during federal fiscal year 2011.

EPA, in coordination with the States, previously developed a format for facility "ready for anticipated use" determination to demonstrate environmental progress at facilities. EPA requested the section incorporate Ready for Anticipated Use documentation preparation goals in the current Performance Partnership Grant Agreement. Staff added the commitment to prepare ready for anticipated use documentation to the Performance Partnership Grant Agreement but not the Multi-Year Facility Planning Strategy. The section continues to track ready for anticipated use status and prepare ready for anticipated use documentation for facilities during the corrective action process. The ready for anticipated use determinations are one of a continuum of ongoing EPA initiatives that are essentially an unfunded federal mandate.

The section continues to participate in monthly national EPA/State teleconferences including RCRA Reuse and Brownfields Prevention Workgroup, RCRA/TSCA Remediation, National Enforcement Strategy for Corrective Action, RCRA Info/Change Management, RCRA Permit Writers and Hazardous Waste Combustion.



*Interim Corrective Measures were approved for the former BFI hazardous waste landfill.*

### **Federal Fiscal Year 2011 Groundwater Activities**

As part of the Performance Partnership Grant Work Plan, the state is obligated through its EPA hazardous waste program authorization to conduct periodic groundwater evaluations at selected hazardous waste facilities, primarily facilities with active and closed land disposal units such as landfills and surface impoundments, where groundwater contamination is present or needs monitoring to detect releases. These evaluations come in two forms; the Comprehensive Groundwater Monitoring Evaluation and the Operation and Maintenance inspection. The Comprehensive Groundwater Monitoring Evaluation is an overarching evaluation of the facility's groundwater monitoring systems and programs. The Operation and Maintenance inspection focuses on the examination of groundwater sampling plans, procedures and monitoring well maintenance issues. In each case, the section assesses compliance with the applicable groundwater monitoring regulations and permit conditions. The section continues to coordinate these evaluations with the department's Division of Geology and Land Survey and Environmental Services Program. Each evaluation includes the collection of split groundwater samples to compare and verify the results of samples collected and analyzed by the facility.

Staff typically schedule five operation and maintenance reports for each federal fiscal year. During federal fiscal year 2011, the section completed one Operation and Maintenance report originally scheduled for federal fiscal year 2009 and three 2011 Operation and Maintenance reports. There are four pending and five new operation and maintenance reports scheduled for federal fiscal year 2012.

In addition to Operation and Maintenance reports and Comprehensive Groundwater Monitoring Evaluations, the section routinely performs a detailed review of groundwater reports submitted by the facilities, using comprehensive internal checklists. These reviews identify both minor and potentially significant shortcomings with report content or project issues.

Since there has been a long history of these reviews and feedback to facilities, any shortcomings from current reviews are usually minor. Staff handles this by including the findings in the facility's next operation and maintenance report or comprehensive groundwater monitoring evaluation.

When discovered, the section sends significant issues that might influence the representative nature of samples or data, regulatory compliance or otherwise affect project progress to the facility rather than waiting until the next operation and maintenance report or comprehensive groundwater monitoring evaluation. Regulatory compliance issues are of major concern and promptly handled. During the 2011 federal fiscal year reporting period, the section completed 16 groundwater report reviews.

### **Financial Assurance Activities**

Owners and operators of facilities actively handling hazardous waste as a permitted treatment, storage or disposal facility and facilities with post-closure care or corrective action obligations under other regulatory instruments (e.g., consent orders) are required to meet certain financial assurance and third party liability requirements. This ensures they will have enough funds set aside to close their facility, cleanup any releases of hazardous wastes or hazardous constituents and compensate third parties for bodily injury or property damage resulting from the release of those wastes or constituents, even if the facility declares bankruptcy.

The facility owners and operators submit closure, post-closure or corrective action plans, as applicable, cost estimates based on those plans and financial assurance instrument documents to the department. The section monitors the facility's financial health and conducts annual financial assurance reviews to make sure enough funding is available to cover the cost estimates for their

activities. The section's goal was to conduct 43 financial reviews by the end of federal fiscal year 2011. The section exceeded this goal by conducting 63 financial reviews. In addition to these reviews, the section conducted seven resource recovery financial assurance reviews and one in-depth cost estimate review. More information concerning financial assurance requirements is available in the March 2009 Hazardous Waste Management Commission Report, located online at [www.dnr.mo.gov/env/hwp/commission/docs/hwmc-qt-rpt-2009-1st.pdf](http://www.dnr.mo.gov/env/hwp/commission/docs/hwmc-qt-rpt-2009-1st.pdf).

### Data Management Activities

The section tracks, both internally and externally, all section activities and accomplishments. The section uses the Master Task List database and the Division of Environmental Quality's Permit Action Management System database to do internal tracking. External tracking is through EPA's Resource Conservation and Recovery Act Information, or RCRAInfo, database. EPA relies almost exclusively on the information entered into RCRAInfo to assess project progress and achievement of regional and national Government Performance and Results Act goals.

The section enters permitting, corrective action, financial assurance, inspection, enforcement, institutional control and GIS information into RCRAInfo for all state- and joint-lead activities. The section negotiates additional data entry obligations with EPA and outlines them in the Performance Partnership Grant Work Plan. The section typically enters data in RCRAInfo as soon as achieving a milestone or goal, but in no case more than 30 days after the event has occurred or receiving documentation regarding the event.

The section assesses the accuracy of historical state and EPA data when making new entries. The section corrects errors for State and joint database entries and forwards potential corrections for EPA's database entries to EPA's Missouri State Coordinator for reconciliation by EPA.

### Other Activities

The section uses the multi-year facility planning strategy process to identify and prioritize major tasks associated with individual projects. The *Multi-Year Facility Planning Strategy* document does not capture "unplanned" activities that occur during the year. These activities can include facility-proposed permit modifications and incremental/phased work done in support of the multi-year facility planning strategy goals. Allowing substitution of some of the completed unplanned work for equivalent planned work can address federal grant requirements for formal multi-year facility planning strategy goals not completed as planned.



*The work on bankruptcy issues provided funds to continue work at the former Kerr McGee Chemical LLC cresote woodtreating site in Springfield. This is a recovery well for remediation of contaminated ground water.*

In addition to facility proposed permit modifications and phased/incremental work, unplanned activities include such things as facility-proposed interim measures, newly-identified Solid Waste Management Unit and area of concern investigations, ongoing involvement in national permitting and corrective action initiatives, permit modifications, state resource recovery certification and modification activities and marketing to facilities considering entry into the expedited corrective action program. The section reports all planned and unplanned activities completed or in progress to EPA in attachment to the dection's comprehensive annual report.

During federal fiscal year 2011, the section worked on several issues related to facility bankruptcies, including preparing cost estimates in support of bankruptcy claims, developing agreements with facilities to perform post-bankruptcy activities using funds recovered as part of bankruptcies and providing technical support to department legal and the Missouri Attorney General's staff regarding bankruptcy-related issues. The section spent considerable time and resources on bankruptcy issues related to the following companies:

- Doe Run (formerly ASARCO) Glover Smelter.
- Greenfield Environmental Trust LLC (formerly Tronox) - Kansas City.
- Greenfield Environmental Trust LLC (formerly Tronox) – Springfield.
- U.S. Liquids (formerly City Environmental) - Kansas City.

The Missouri Department of Natural Resources' invites the public to review the list of all approved hazardous waste permit modifications for calendar year 2011. The permit modifications list is online at [www.dnr.mo.gov/env/hwp/permits/publications.htm](http://www.dnr.mo.gov/env/hwp/permits/publications.htm).

For more information or a hard copy of the permit modifications list, contact the department's Hazardous Waste Program at 800-361-4827. Hearing and speech impaired individuals may reach the department through Relay Missouri at 800-735-2966.

### **Our Missouri Waters pilot project**

In November, the Missouri Department of Natural Resources announced Our Missouri Waters, a new watershed-based approach that will change the way the department conducts water resource management.

Stakeholders, partnering agencies and the public will play a critical role throughout the initiative. The department has established a Watershed Advisory Committee that will provide expertise and insight to the department as it works to develop, implement and evaluate this new approach. Working with these partners, the department will work to improve watershed planning, identify issues within watersheds and use tools best suited to address those watershed-specific issues.



Citizen participation and cooperation is also crucial for successful watershed management. "Local citizen participation is a key element to the success of Our Missouri Waters initiative. When citizens better understand the issues within their watershed, they become more invested in the future of their community and together we can develop the most effective solution to benefit the state's water resources for generations to come," said department Director Sara Parker Pauley.

The department selected three pilot watersheds to be included in the department's first phase of the Our Missouri Waters initiative. The department evaluated all watersheds throughout the state and selected Spring River watershed, Big River watershed and the Lower Grand River watershed due to their diversity and opportunities. When selecting the three pilot watersheds, the department examined issues such as water quality, water quantity, high-quality waters for preservation and local stakeholder interest.

The department will begin implementing the pilot projects in early 2012 and will continue the planning process into 2013. These pilots will allow the department to analyze how well this watershed-based approach works and to make adjustments before implementing a statewide effort expected to be launched in 2013.

The Hazardous Waste Program has long been involved with these areas, particularly through Superfund and natural resource damages activities. Staff from these programs have been and will continue to be involved in planning and implementation of the watershed-focused activities.

### **Big River Watershed**

The Big River Watershed includes Superfund sites in St. Francois, Washington and Jefferson counties. Historic mining and milling operations, most of which were in the upper reaches of the Big River Watershed, has resulted in large chat piles and tailings impoundments covering thousands of acres. Superfund actions have been focused on stabilizing these upstream piles to reduce contaminants loading into the Big River. From 2000 to the present, eight of 12 large waste piles have been stabilized. Work on the remaining piles is ongoing and expected to be completed over the next several years. This should reduce contaminants loading to the Big River floodplain downstream of the piles, particularly in Jefferson County. Contaminants of concern are dominantly lead, zinc and other metals from the processing of metal ores. Investigation of contamination in the Big River and its floodplain is ongoing.

The Natural Resource designated Trustee (i.e., department director) is charged with assessing and restoring injured natural resources. Natural resources, which the state has trusteeship for includes, but is not limited to land, fish, wildlife, biota, air, water and supporting habitats. The Missouri Trustee Council has conducted numerous assessments in the Big River Watershed including crayfish, mussels, sediment, birds and floristic quality assessments. A number of assessment activities are ongoing.

In 2007, the Natural Resource Trustees filed a terrestrial and aquatic natural resource damages claim in the ASARCO bankruptcy, resulting in a \$40 million settlement. This settlement will be used to restore, replace, rehabilitate or acquire the equivalent of the natural resources injured as a result of the releases of heavy metals to the environment. As a result of the receipt of this settlement, the Missouri Trustee Council will develop a regional restoration plan, solicit restoration projects and oversee implementation and monitoring of projects to ensure success.

### **Spring River Watershed**

The Spring River and its tributaries flow through, near or adjacent to areas heavily impacted by mining, including two Superfund sites in Jasper and Newton counties. Lead, zinc, and cadmium ores were mined in these areas from the mid 1800s through the late 1960s.

Chat piles, tailings, development and waste rock piles, subsidence ponds and contaminated soils are widespread. Much of the waste is highly contaminated with hazardous substances, including lead, zinc, cadmium, copper and selenium. Former underground mines have flooded exposing mineralized areas to oxygen and contaminating groundwater. All removal actions have been completed for the mine waste and residential areas and remedial actions and investigations are ongoing. Work on the Spring River Watershed will not begin until all remedial actions are completed in Jasper and Newton counties. An overbank sediment deposition study has been planned for the Spring River in 2012. Data about sediment and aquatic life continues to be collected by various agencies as part of the investigation of the watershed to determine the best course of action for remediation of the Spring River and its tributaries.

The Missouri Trustee Council has conducted numerous assessments in the Spring River Watershed including crayfish, sediment and bird assessments. A number of assessment reports are nearing completion.

In 2007, the Natural Resource Trustees filed a terrestrial and aquatic natural resource damages claim in the ASARCO bankruptcy, resulting in a \$20 million settlement. This settlement will be used to restore, replace, rehabilitate or acquire the equivalent of the natural resources injured as a result of the releases of heavy metals to the environment. As a result of the receipt of this settlement, the Missouri Trustee Council is developing a regional restoration plan and will release the plan for public comment in the near future. The Trustee Council will also solicit proposals and oversee implementation and monitoring of restoration projects.

### **Annual Underground Storage Tank, or UST, Sources and Causes Report**

Subsection (c) of Section 1526 of the Energy Policy Act amends Section 9002 in Subtitle I of the Solid Waste Disposal Act to add requirements for states to maintain, update and make available to the public a record of underground storage tanks regulated under Subtitle I. The Environmental Protection Agency requires each state receiving funding under Subtitle I to meet the public record requirements. Subsection (d) of Section 9002 in Subtitle I requires EPA to prescribe the manner and form of the public record and says the public record of a state must include:

1. The number, sources and causes of underground storage tank releases in the state.
2. The record of compliance by underground storage tanks in the state with Subtitle I or a state program approved under Section 9004 of Subtitle I.
3. Data on the number of underground storage tank equipment failures in the state.

The Missouri Department of Natural Resources' Tanks Section *Annual Public Record Report* for the period of Oct. 1, 2010, through Sept. 30, 2011 was completed in December 2011. The department has placed this report on the Tanks section website at [dnr.mo.gov/env/hwp/tanks/tanks.htm](http://dnr.mo.gov/env/hwp/tanks/tanks.htm). The report is located under the quick links. This report will also be made available by request to those that do not have Internet access.

The first section of the report describes the number of underground storage tank facilities, individual regulated tanks, compliance rates in Missouri and an individual breakdown of the sources and causes of releases opened in federal fiscal year 2011.

### **Tanks Accomplishments for 2011**

The Tanks section held the fourth annual UST workshop as part of the Missouri Waste Coalition Conference in June. The topic of the workshop was the Ricker Method of Plume Stability and other comment tank related reporting issues. Compliance and Enforcement also held a one day workshop about compliance as part of the conference.

The section completed the American Recovery and Reinvestment Act Abandoned Sites Project Final Report in April 2011. The section conducted site investigation and cleanup activities at several abandoned underground storage tank sites. The department sent out a total of 66 projects to consultants on the contract through the recovery act project. The consultants have completed all contracted work at the sites. The department is currently at 100 percent obligated and 100 percent spent. The project was completed approximately 12 months prior to the grant guideline deadline of September 2011.

The section continued an expedited review process ensuring that remediation reviews of high priority sites are completed in a timely manner.

The section continued an initiative for closing tank sites open for more than 20 years. The goal is to help provide additional information to the consultant to facilitate completion of these projects and help to achieve no further action status for these sites.

With co-operation between the department's tanks section and the Division of Geology and Land Survey, the department finished an investigation into the source of MTBE contamination previously discovered within the city of Miner's public drinking water supply system. The source appears to have been an old gas station that has been investigated, remediated and a no further action issued. The city will continue to monitor for impacts, but the investigation will be closed.

The Tanks Section continues to investigate drinking water contamination in Portageville and will conduct an investigation to determine the source of contamination.

## Missouri Department of Natural Resources - Hazardous Waste Program Tanks Section

In Potosi, the section is currently determining the source of drinking water contamination. The section is working to try to help people with a filter to provide safe drinking water.

The section applied for and received a grant of \$94,000 to work with communities along historic Route 66 to provide assessments of abandoned gasoline stations for petroleum contamination. This would consist of Phase I and Phase II environmental assessments.

The section applied for and received a grant of \$43,000 to conduct cleanup activities at seven former gasoline stations previously investigated with recovery act funds for which a responsible party does not exist. At these sites, action by the department is necessary to mitigate unacceptable human health and environmental risks posed by petroleum underground storage tanks on the sites. This project would fund work by the department and the departments hired contractors to reduce risks associated with these sites.

The section continued to refine the system for tracking financial responsibility to identify sites that previously could have fallen through the cracks. A compliance rate of 98.2 percent was achieved for facilities with acceptable financial responsibility. Met with the attorney general's office to further to refine this system to help provide them with tracking information to speed up the process on their end.

The section worked on developing an Automated Registration Form. After the form is finished the user will be able to generate a prefilled registration from a button in the tanks database. This feature will be of great assistance to both department staff and the public.

Locational data has been improved due to ongoing efforts of Geocoding and mapping reviews. Approximately 80 percent of all tank sites have adequate coordinates

The section generated, processed and mailed the large fee cycle invoices for 2010 - 2015. Extra effort was made to reach the facilities and owners. Out of 321 invoices, only two facilities still have a balance due, resulting in a success rate of revenue collection of 99.4 percent.

Remediation mail was added to the sections tracking system to ensure correspondence is dealt with in a prompt and consistent manner. This tracking system is directly linked to the mail log so as soon as the mail is received and entered the project manager is immediately notified

The section continued a temporary closure initiative aimed at ensuring non-upgraded tanks are not in temporary closure beyond the 12 months allowed. This has led to permanent closure at many of these sites and a reduction of temporary closed tanks.

The section continues to participate in an historic highways revitalization project and has identified several opportunities in Missouri for EPA targeted Brownfields assessments.

The section produced the fourth annual *Public Record Report* to EPA in December 2011. This report includes the sources and causes of releases of tanks in Missouri.

The section continued participation on the Underground Storage Tank Association of State and Territorial Solid Waste Management Officials, or ASTSWMO, Federal Rulemaking Group. This group is tasked with providing regulatory and state input into rulemaking involving federal UST regulations.

The section continued participation on ASTSWMO UST Task Force. This task force is responsible for providing the states viewpoint to EPA about tank issues. Also as a task for this responsibility, the tanks section continued to participate in the ASTSWMO Program Information Exchange Committee to help plan ASTSWMO meetings.

## Missouri Department of Natural Resources - Hazardous Waste Program Tanks Section

### Tanks Section

The section's Laura Luther continued to participate in the ASTSWMO Leaking Underground Storage Tank, or LUST, Task Force. This task force is responsible for providing the states viewpoint to EPA about tank cleanup issues.

The section participated in the planning of a LUST/State Fund Workshop in Chicago in September 2011.

Staff continued use of contractors to help reduce turn-around times and conduct additional remediation reviews.

Over the last two years, the section has reduced average remediation document review times from 96.4 days to approximately 36 days.

During calendar year 2011, the department accomplished the following work related to petroleum storage tanks:

- Properly closed 363 tanks.
- Reviewed 183 closure reports.
- Approved 103 closure notices.
- Conducted 47 closure inspections.
- Conducted four site investigations.
- Responded to 17 emergencies involving petroleum releases.
- Oversaw completion of 143 remediation sites.
- Issued 311 certificates of registration.
- Remediation staff received 1,833 remediation documents and generated 1,791 response letters.
- Staff received notification about 68 new installations at tank sites and 39 new site registrations.
- Financial responsibility compliance was at 98.2 percent. This number reflects insurance coverage from both the Petroleum Storage Tank Insurance Fund and other private policies and statements.
- The department currently regulates 3,572 facilities with 9,388 active underground storage tanks.

Missouri Department of Natural Resources - Hazardous Waste Program  
Tanks Section

Petroleum Storage  
Tanks Regulation  
September 2011

Staff Productivity	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	TOTAL
Documents received for review	189	194	153	168	188	162	0	0	0	0	0	0	1,054
Remediation documents processed	137	159	171	165	144	171	0	0	0	0	0	0	947
Closure reports processed	14	8	11	8	8	4	0	0	0	0	0	0	53
Closure notices approved	9	6	2	7	11	10	0	0	0	0	0	0	45
Tank installation notices received	10	5	5	10	3	0	0	0	0	0	0	0	33
New site registrations	3	1	2	0	3	2	0	0	0	0	0	0	11
<b>Facility Data</b>													
Total active and closed USTs	40,222	40,236	40,261	40,267	40,299	40,320	0	0	0	0	0	0	
Total permanently closed USTs	30,808	30,839	30,878	30,904	30,925	30,930	0	0	0	0	0	0	
USTs active and temporarily closed	9,412	9,395	9,395	9,375	9,386	9,388	0	0	0	0	0	0	
USTs in temporary closure	870	853	834	817	819	821	0	0	0	0	0	0	
Total hazardous substance USTs	395	395	395	395	395	395	0	0	0	0	0	0	
Facilities with active USTs	3,578	3,568	3,569	3,566	3,569	3,572	0	0	0	0	0	0	

Closures

Underground Storage Tanks	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	TOTAL	All Yrs
Closure Reports Reviewed	14	8	11	8	8	4	0	0	0	0	0	0	53	
Closure Notices Approved	9	6	2	7	11	10	0	0	0	0	0	0	45	
Number of Tanks Closed (Closure NFA)	23	48	57	29	21	15	0	0	0	0	0	0	193	

Cleanup

Underground Storage Tanks	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	TOTAL	All Yrs
UST release files opened this month	2	2	3	1	0	0	0	0	0	0	0	0	8	6,268
UST cleanups completed this month	4	15	21	5	6	8	0	0	0	0	0	0	59	5,434
Ongoing UST cleanups	864	851	834	830	827	816	0	0	0	0	0	0		
<b>Aboveground Storage Tanks</b>														
AST release files opened this month	0	1	0	0	0	0	0	0	0	0	0	0	1	414
AST cleanups completed this month	1	0	6	1	0	1	0	0	0	0	0	0	9	250
Ongoing AST cleanups	168	170	164	163	164	164	0	0	0	0	0	0		
<b>Both UST and AST</b>														
Total release files-both UST & AST	0	0	0	0	0	0	0	0	0	0	0	0	0	74
Cleanups completed-both UST & AST	0	0	0	0	0	1	0	0	0	0	0	0	1	43
Ongoing cleanups-both UST & AST	31	31	31	31	31	30	0	0	0	0	0	0		
<b>Unknown Source</b>														
Total release files-unknown source	3	6	3	5	2	5	0	0	0	0	0	0	24	310
Cleanups completed-unknown source	1	2	1	1	3	0	0	0	0	0	0	0	8	197
Ongoing cleanups-unknown source	110	113	113	115	111	116	0	0	0	0	0	0		
<b>Documents Processed</b>	137	159	171	165	144	171	0	0	0	0	0	0	947	
<b>ed Remediation Cases</b>	0	0	0	0	1	0	0	0	0	0	0	0	1	78

Effective December 2008 tanks with unknown substance will be included in total figures. Some measures are re-calculated each month for all previous months to reflect items added or edited after the end of the previous reporting period.

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 9**

**Administrative Hearing Commission Appeals  
Status Update-Information Only**

**Issue:**

Buick Resource Recycling Facility appeal status update.

**Information:**

- The Notice of Appeal and Motion to Stay was filed on March 18, 2010.
- The Department and Buick Resource Recycling Facility filed a joint motion for cancellation of appeal hearing on December 6, 2011, and the Administrative Hearing Commission approved the motion on December 7, 2011.
- A joint status report was due to the Administrative Hearing Commission on April 7, 2012.
- The Department and Buick Resource Recycling Facility are currently in negotiations to resolve the appeal.

**Presented by:**

Kara Valentine, Commission Counsel – Missouri Attorney General's Office

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 10**

**Public Inquiries or Issues**

**Recommended Action:**

Information Only.

**Presented by:**

David J. Lamb, Director, HWP

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 11**

**Other Business**

**Recommended Action:**

Information Only.

**Presented by:**

David J. Lamb, Director, HWP

**Missouri Hazardous Waste Management Commission Meeting**

**April 19, 2012  
Agenda Item # 12**

**Future Meetings**

**Information:**

**Meeting Dates:**

Date	Time	Location
Thursday, June 21, 2012	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, August 16, 2012	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, October 18, 2012	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, December 20, 2012	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, February 15, 2013	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, April 18, 2013	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101

**Recommended Action:**

Information Only.