



DRAFT

NOTICE OF OPEN MEETING

The meeting will also be streamed live from the Department's website at:
dnr.mo.gov/videos/live.htm.

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

December 20, 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 – General (Open) Session, October 18, 2012 – Commissioners

Action Items:

3. Tanks Risk Based Corrective Action Emergency Rule – Tim Eiken, Rule Coordinator, Hazardous Waste Program

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4. Commission Operating Policies Approval – Tim Eiken, Director’s Office - HWP

Information Only:

5. Rulemaking Update – Tim Eiken, Rule Coordinator – HWP
6. Hazardous Waste Transportation Compliance Activities – Billie Hains, Compliance and Enforcement Section, HWP
7. Quarterly Report – Dee Goss, Public Information Officer, HWP
8. Legal Update – Kara Valentine, Commission Counsel
9. Public Inquiries or Issues – David J. Lamb, Director, HWP
10. Other Business – David J. Lamb, Director, HWP
11. Future Meetings
 - Thursday, February 21, 2013 – 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: December 20, 2012

ROLL CALL ROSTER

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

Missouri Hazardous Waste Management Commission Meeting

December 20, 2012

Agenda Item # 1

Pledge of Allegiance

Missouri Hazardous Waste Management Commission Meeting

December 20, 2012

Agenda Item # 2

Approval of Minutes – August 16, 2011, Meeting

Issue:

Commission to review the General Session minutes from the October 18, 2012, Hazardous Waste Management Commission meeting.

Recommended Action:

Commission to approve the General Session minutes from the October 18, 2012, Hazardous Waste Management Commission meeting.

GENERAL

SESSION

MEETING

MINUTES

GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION
October 18, 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.

The phone lines were opened at 09:40 a.m. for Commissioners participating by phone.

COMMISSIONERS PRESENT IN PERSON

Chairman Michael Foresman
Commissioner Elizabeth Aull
Commissioner Deron Sugg

COMMISSIONERS PRESENT BY PHONE

Vice-Chairman Andrew Bracker
Commissioner Charles Adams

Chairman Foresman called the General Session to order at approximately 10:02 a.m.

Chairman Foresman took a roll call of the Commissioners. Chairman Foresman, Commissioner Aull, and Commissioner Sugg were present in person. Vice Chairman Bracker and Commissioner Adams were present by phone.

1. PLEDGE OF ALLEGIANCE

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

2. APPROVAL OF MINUTES

- General Session minutes from the August 16, 2012, meeting:

Commissioner Sugg made a motion to approve the August 16, 2012, General Session minutes. Commissioner Aull seconded the motion.

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

Chairman Foresman proceeded to the next agenda item and welcomed Deputy Department Director Leanne Tippett Mosby.

3. TANKS RISK BASED CORRECTIVE ACTION RULE DEVELOPMENT UPDATE

Ms. Tippett Mosby, Deputy Department Director, addressed the Commission and advised that the Department had originally requested that this item be placed on the agenda as an “Action Item,” but that the Department does not yet have a solid recommendation. She mentioned that Director Pauley had previously recommended removal of the sunset date on the existing rule, but stated that the Department is currently wrestling with how to best accomplish this from a mechanical perspective. She advised that an emergency rule was being considered in addition to notifications to the regulated community. Ms. Tippett Mosby went on to advise that the Department would bring a more solid package to the Commission during the December meeting; but, it would not include recommendations on Site Characterization or Neighbor Notification.

Chairman Foresman advised that one idea would be to issue guidance. He noted that it would only take a mandate and that language would still allow for requests to the Department on how to use the guidance.

Ms. Tippett Mosby acknowledged that is an option.

Vice Chairman Bracker noted that he had raised a question at the previous meeting on the status of the Vapor Intrusion federal guidance, and information on its promulgation, and inquired as to how this would affect the schedule.

Ms. Tippett Mosby responded that the EPA was still reporting it will be available in November. She further stated that the vapor intrusion Ad Hoc committee continues to meet, but it is unlikely the vapor intrusion changes will be ready by the December meeting.

Vice Chairman Bracker stated that the stakeholder meetings had been suspended for two meetings in a row and he requested an update at the December meeting. Ms. Tippett Mosby responded that the Department will provide an update as requested.

4. FINDING OF NECESSITY

Mr. Tim Eiken, Rules Coordinator, Hazardous Waste Program, addressed the Commission and provided a PowerPoint presentation on the Department’s current request for the Commission to allow the Department to file a group of proposed amendments to update the incorporation by reference of the Code of Federal Regulations, in the code of State Regulations, from July 1, 2010, to July 1, 2012. Mr. Eiken outlined the proposed amendments and noted the benefits of this request. Following his presentation Mr. Eiken provided the Commission with the Department’s recommendation to file the updates.

Commissioner Sugg made the following motion:

“I move that the Commission adopt the Finding of Necessity that the proposed amendments to Title 10, Division 25 are necessary to carry out the commission’s rulemaking authority and that the Department proceed with the filing of the proposed amendments with the Secretary of State.”

Commissioner Aull seconded the motion.

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

5. BATTERY STORAGE TRAILER PARKING ISSUE – COMMISSION INQUIRY RESPONSE

Ms. Kathy Flippin, Chief, Compliance and Enforcement Section, Hazardous Waste Program, addressed the Commission and noted that she was here today as a follow-up to this topic’s inclusion to previous meetings. She advised that the Commission had been provided comments and information from Exide, Doe Run, the U.S. Environmental Protection Agency, and from the Department regarding the trailer parking issue. She noted that the Commission had also been provided rule change motion language by Exide, in addition to a proposed rule from the state of Indiana and a guidance document from Puerto Rico, which they felt supported their position on the issue.

Ms. Flippin advised that the Department had reviewed these documents and had prepared a recommendation for consideration after all the information was heard. Following this review of the background information, Ms. Flippin requested the opportunity to introduce Mr. Andrew Brought, Exide counsel, and to allow him to address the Commission on behalf of his clients, while also requesting to be able to speak again to respond to comments made. Chairman Foresman advised that the Commission would hear from Ms. Flippin again, following Mr. Brought’s presentation.

Mr. Andrew Brought, Spencer Fane, addressed the Commission and thanked them for having continued the discussions with his clients on this issue. He noted that discussions had been ongoing for over two years and they appreciated the dedication to a resolution that the Commission had afforded his clients. Mr. Brought went on to note that Exide had submitted a position paper for this meeting, which outlined the history of the issue and their recommendations for moving forward. He began with referencing the Indiana rule language and directed the Commission’s attention specifically to the language related to staging. Mr. Brought noted that the Indiana rule language was more lenient than what Exide had proposed to date, as it allowed for a fourteen day staging period while Exide was proposing a seven day staging period. Mr. Brought advised that the Indiana rule language also proposed weekly exterior inspections while Exide had proposed daily exterior inspections, noting that this proposal was far more stringent than the Indiana rule language.

Mr. Brought went on to state that discussions would continue until the Commission started the rulemaking process and that what Exide had proposed was in compliance with all federal laws and mirrored what was seen in other EPA regions. He also stated that it was in line with other state’s environmental agencies standards. Mr. Brought broached the question to the

as to whether or not they were looking to support recycling; that these types of facilities could not operate if they were constantly subjected to enforcement actions regarding staging operations. Mr. Brought thanked the Commission again for their time and relinquished the floor to Ms. Flippin.

Ms. Kathy Flippin addressed the Commission and began with advising them that the intent of the Indiana rule language, which was directed at retailers, re-claimers, owners and operators, was to set standards for safe storage. She noted that although retailers have their own set of standards, separate from this rule language, the Indiana rule language does define “staging.” She went on to quote that their definition was “...holding whole spent acidlead batteries...” and that was where the issue lay. She advised that Indiana’s intent was that these batteries would meet these requirements. She stated that 40 CSR 264 – Permitted Storage, also included this definition. Ms. Flippin went on to outline the issues that were included and excluded from the references on the Indiana rule and noted that although their rule language has been published and has gone through the public comment period, as of a discussion with a representative of Indiana just prior to this meeting, Indiana would be making changes to their rule language. Ms. Flippin went on to state that the Puerto Rico rule also detailed that batteries must be in good condition. Ms. Flippin advised that she believed that it was important that the Commission have the opportunity to hear what the Department of Transportation (DOT) had to say on the issue of defining “received,” and that the Department would also like to comment on that issue. She noted that due to the fact that the Department had not received the information from the DOT she was recommending against the Commission signing the Certification of Decision that Exide was proposing, at this time. She noted that the Department would prefer to define a “leaking trailer,” remove the wording “weather permitted,” and note that batteries must be in good condition or be properly packaged or be processed immediately. She went on to state that the existing rule already allows for storing batteries up to a year if they meet those conditions.

Commissioner Aull commented that she did not believe that asphalt was a good choice of surface and noted a need to change the wording on “staging.”

Chairman Foresman advised that he believed the best choice would be to direct the Department to start, to begin the rulemaking process; which would include public hearings, testimony, etc., to get this issue resolved.

Commissioner Adams advised that he concurred, that this needed to move forward.

David J. Lamb, Director, Hazardous Waste Program, requested the opportunity to be heard. He noted that there was a timeline issue with this direction; that if the Department were to be directed to start a rulemaking, it could prevent them from meeting the statutory timeframes required by the HV1251 (“no stricter than”) legislation that had recently passed.

Chairman Foresman stated that he believed the direction could be given and a timeline worked out later.

Commissioner Sugg read the following motion:

“I move that the Commission, having heard testimony and receiving material and data provided by the parties presenting before this Commission, direct the Department to propose a rulemaking package of regulations adopting the language and specific approach presented in the attached set of proposed revisions to Missouri Hazardous Waste Management regulations addressing temporary staging of in-bound trailers of lead-acid batteries pending processing at battery recycling and reclamation facilities.

The proposed revisions affect:

- ***24 –hr rule 10 CSR 25-7.264***
- ***Missouri Part 266 regulations 10 CSR 25-7-266***
- ***Missouri Universal Waste Regulations 10 CSR 25-16-273***

Proposed additions are shown in underlining; deletions are shown with strike-throughs. The rulemaking is to be in compliance with the public notice, comment, and other requirements for adopting regulations under the Missouri Hazardous Waste Management Law.”

Commissioner Adams seconded the motion.

A vote was taken; all who voted were in favor; Commissioner Bracker recused himself, none opposed. Motion carried.

Commissioner Aull addressed the Commission and noted that she would like to make a change to the wording; Chairman Foresman and Commissioner Sugg advised that it had already been voted on and passed.

6. UPDATING COMMISSION OPERATING POLICIES

Mr. Tim Eiken, Rules Coordinator, HWP, addressed the Commission, and gave a brief overview of the changes that had been received to date. He also provided an overview of the changes that had been suggested by the Petroleum Storage Tank Insurance Fund and REGFORM. Copies of these suggested changes had been provided to the Commissioners in their packets prior to the meeting.

Chairman Foresman opened the floor up to discussion.

Vice-Chairman Bracker advised that he was withdrawing the suggested language from the previous meeting. He noted that he had not provided anyone with copies of his suggested language incorporated into the policies, but believed the changes that had been made to date should cover his concerns.

Commissioner Aull requested that the word “and” be replaced with the word “or” on page 12, line #2.

Chairman Foresman then noted that the final draft would be placed on the agenda for the December meeting for a vote, and that during the interim all comments received should be posted to the web page by the Commission Secretary, for review.

No other questions were posed by the Commission. No other action was required on the part of the Commission.

7. RULEMAKING UPDATE

Mr. Tim Eiken, Rules Coordinator, HWP, addressed the Commission and advised that he would be providing a brief update on the rules currently proposed, and noted that recent legislation, HB1251, will have impacts on current proposed rules, in addition to the other rules already on the books. He noted that the Department would have a better idea by the next meeting as to the actual impacts, and that current proposed rules were almost to the point where they will be posted.

No questions were posed by the Commission. This was provided as information only and required no other action on the part of the Commission.

8. TANKS FINANCIAL RESPONSIBILITY

Mike Martin, Chief – Tanks Compliance and Enforcement Unit, Compliance and Enforcement Section, Hazardous Waste Program, addressed the Commission and provided an update on Tanks financial responsibility (FR) issues. Mr. Martin noted that this was a routine update, which had been requested regularly by the Commission. Mr. Martin advised that the law required FR and that as of January 2012, the Compliance and Enforcement section had taken over the duties of FR oversight. He went on to advise that the program was running smoothly, but that there was a slight increase in FR violations as there had been a lot of new installs, and the facilities had been slow in getting policies in place.

Chairman Foresman inquired as to the process for acquiring FR, which was explained by Mr. Martin.

No other questions were posed by the Commission. This was provided as information only and required no other action on the part of the Commission.

9. DRYCLEANING ENVIRONMENTAL RESPONSE TRUST (DERT) ANNUAL REPORT

Mr. Scott Huckstep, Chief, DERT Unit, Brownfields\Voluntary Cleanup Program, addressed the Commission and provided a brief overview of the current DERT program. He advised that the program was experiencing funding issues and that it may not have funds to address any workplans received after January 1, 2012. He went on to advise the Commission that letters had been sent out to all drycleaners and stakeholders in late September 2012, which had advised them of the current status/issue with the fund. He stated that the Department had given them as much notice and information that they had at the time.

Mr. Huckstep went on to explain that no new site applications were accepted after September 3, 2012. After the mailing was made, consultants were contacted and it was discerned that there has been a significant decrease in the number of sites that are required to register and in the amount of fees that have been paid. He noted that some of these changes are the result of changes in the chemicals that are being used, some of the sites have gone out of business and that some have consolidated operations.

Commissioner Aull inquired as to whether Mr. Huckstep could foresee whether this fund would be going away in the next ten years. Mr. Huckstep responded that the sunset date for the fund was August 2017.

Vice-Chairman Bracker advised Mr. Huckstep that he commended him and the Program and wanted to emphasize the importance of the fund. He noted that sometimes the availability of funding is a critical component, especially in urban areas.

No other comments were made or questions posed by the Commission. This was provided as information only and required no action on the part of the Commission.

10. QUARTERLY REPORT

Dee Goss, Public Information Officer, Hazardous Waste Program, addressed the Commission and gave brief highlights from the April through June 2012 Quarterly Report. Ms. Goss inquired as to whether the Commissioners had any suggestions regarding the report. Chairman Foresman suggested that the report be linked to other public contacts and Commissioner Aull suggested linking the report to Extension Services and County Health Department websites.

No other comments or questions were posed by the Commission. This was provided as information only and required no action on the part of the Commission.

11. LEGAL UPDATE

Ms. Kara Valentine, Commission Counsel, addressed the Commission and noted that there were no current Administrative Hearing Commission appeals but that there were a couple of enforcement actions/issues that may be of interest to the Commission.

Ms. Valentine began with information on a company – HPI – located in St. Joseph, Missouri. She noted that the company processed pesticides and operated two plants with four storage areas. She advised the Commission that in 2010 a Consent Decree was signed with HPI following a criminal prosecution of the company for environmental violations. She also noted that there was a civil decree and that the company was supposed to characterize the product at their plants, with the possibility of penalties being lowered if they could prove their activities. She went on to relate that the US EPA had inspected the location and discovered that HPI had not complied with the conditions of the decree, and the EPA was currently involved in calls with the Department of Justice to encourage compliance.

The second location that Ms. Valentine discussed was the Doe Run location in Sweetwater. She noted that the wind erosion plan had recently been finalized. She advised that the plan was designed to keep the lead from blowing in the wind. Ms. Valentine provided the Commission with photographs of the site, both before and after, noting that significant vegetation had been planted to keep the wind born contamination down, and that the site looked a great deal better than it had when they started. She advised the Commission that these efforts were being encouraged to try to keep this site from becoming a Superfund site.

Ms. Valentine went on to advise the Commission that the environmental attorneys with the Attorney General's Office were scheduled to meet that afternoon. She advised that the Registry was going to be discussed as some of the sites were operating under old agreements and they were going to be discussing how to get all of them in line with the Risk Based Cleanup standards.

No comments or questions were posed by the Commission. This was provided as information only and required no action on the part of the Commission.

12. PUBLIC INQUIRIES OR ISSUES

Mr. David J. Lamb, Director, Hazardous Waste Program, introduced Mr. Kevin Perry, from REGFORM, who had requested to address the Commission during this portion of the meeting.

Mr. Perry addressed the Commission and advised them that REGFORM was having an Environmental Seminar on November 13, 2012, and provided an invitation to the Commissioners to attend. He went on to advise the Commission that he expressed gratitude to the Department for their assistance with the Seminar, and that Department staff would be presenting on several of the items on the Seminar agenda.

No questions were posed by the Commission. This was provided as information only and required no action on the part of the Commission.

11. OTHER BUSINESS

Mr. David J. Lamb, Director, Hazardous Waste Program, addressed the Commission and advised them he had a couple of items he wished to pass on to them. He began with an update of Energy Policy Act issues the Department has been working with the EPA to address. He reminded the Commission that the Department had provided them with a presentation on the Energy Policy Act at the August 2012 meeting, which had included information regarding Financial Responsibility; with which the EPA still has issues with the state's requirements. He noted that there had been a demonstration document submitted to the EPA the previous Friday, which had been developed in coordination with PSTIF and the Department of Agriculture, outlining the state's procedures with regards to Financial Responsibility for the purpose of demonstrating compliance; but, that they had not heard anything back from the EPA as of today's meeting. He noted that he would keep the Commission updated on this issue as it is an issue that is critical to the funding of the Tanks program.

The second item for the Commissions information was regarding the “No Stricter Than” legislation and impacts. He advised that the Department had held a meeting with stakeholders, during the Hazardous Waste Forum, on September 24, 2012. He noted that this was the first Forum since the legislation had passed and that it had been a big topic of discussion. He advised that discussions had been had with stakeholders and that the Department had agreed to post a color coded list of the rules to the Department’s website identifying which ones were currently in compliance with the new legislation and which ones would require different levels of changes. He also noted that subgroups to the Hazardous Waste Forum were being formed to look at the specifics and that there would be more meetings with stakeholders scheduled.

Mr. Lamb advised the Commissioners that Program staff would be participating in the REGFORM Seminar, scheduled for November 13th. He noted that the seminar was centered around the “No Stricter Than” issue and that more than half of the agenda would be dedicated to that topic.

No comments or questions were posed by the Commission. This was provided as information only and required no action on the part of the Commission.

12. FUTURE MEETINGS

Chairman Foresman noted that the next meeting was scheduled for December 20, 2012.

Commissioner Sugg made the motion to adjourn the meeting at 11:27 a.m. The motion was seconded by Commissioner Aull.

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

Respectfully Submitted,

Debra D. Dobson, Commission Assistant

APPROVED

Michael Foresman, Chairman

Date

Missouri Hazardous Waste Management Commission Meeting

December 20, 2012

Agenda Item # 3

Tanks Risk Based Corrective Action (RBCA) Emergency Rule

Issue:

In 2011, the Department amended three UST rules – 10 CSR 26-2.062, 2.078, and 2.082 – to specifically allow tank owners and operators to apply the 2004/2005 Tanks Risk-Based Corrective Action (RBCA) guidance until December 31, 2012. The Department added the December 31, 2012, date in anticipation of having new RBCA rules in place by that time. However, due to ongoing discussions with stakeholders concerning revising the RBCA guidance, new rules will not be in place by that time. Therefore, the Department is proposing to amend the same three rules under an emergency rulemaking to remove the December 31, 2012, date. Removing the date will allow tank owners and operators to continue to use the 2004/2005 RBCA guidance after December 31, 2012.

Recommended Action:

The Department recommends that the Commission vote to adopt the emergency rules so that, after December 31, 2012, tank owners and operators will have certainty with regard to the guidance they may use.

Presented by:

Tim Eiken, Rule Coordinator, Hazardous Waste Program

Suggested Motion Language:

“I move that the Commission adopt the emergency amendments to 10 CSR 26-2.062, 10 CSR 26-2.078, and 10 CSR 26-2.082 to remove the December 31, 2012, sunset date applicable to the 2004/2005 Tanks RBCA guidance, and direct the Department to file the rules with the Secretary of State no later than December 21, 2012.”

**Missouri Department of Natural Resources
Hazardous Waste Management Commission
Certification of Decision**

“I move that the Commission adopt the emergency amendments to 10 CSR 26-2.062, 10 CSR 26-2.078, and 10 CSR 26-2.082 to remove the December 31, 2012, sunset date applicable to the 2004/2005 Tanks RBCA guidance, and direct the Department to file the rules with the Secretary of State no later than December 21, 2012.”

DATE: December 20, 2012

Michael Foresman, Chairman

Elizabeth Aull, Commissioner

Andrew Bracker, Vice-Chairman

Jamie Frakes, Commissioner

Deron Sugg, Commissioner

Charles Adams, Commission

Missouri Hazardous Waste Management Commission Meeting

December 20, 2012

Agenda Item # 4

Updating Commission Operating Policies

Recommended Action:

Commission to review and vote on updated language, edits and additions to the Commission Operating Policies.

Presented by:

Tim Eiken, Rules Coordinator, HWP

**Department of Natural Resources
Hazardous Waste Management Commission Operating Policies
December 2012**

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Purpose

Environmental statutes and regulations of the State of Missouri embody the goals of the people for protection of the environment and public health in a balanced manner consistent with economic growth. To achieve these goals, laws describe and assign powers and duties to the Department of Natural Resources and the environmental Commissions and boards.

The operating policy set forth herein is intended to be adopted by the members of the Missouri Hazardous Waste Management Commission. The purpose of this policy is to promote a higher level of Commission competence and independence, transparency and clarity in action, and predictability and consistency in processes, thus enhancing public trust and Commission accountability. Throughout this document the term “Commission” is understood to mean the Missouri Hazardous Waste Management Commission.

This document establishes an element of policy uniformity with the other boards and Commissions in the Department of Natural Resources. The Commission will review this policy on a biannual basis and modify as necessary to conform with any changes to the statutes that give the Commission its authority or as necessary to reflect changes in Commission practice or procedure. The Commission will review the policy at its regularly scheduled meeting in June of every other calendar year, beginning in 2012. This policy does not have the force and effect of law, and is not intended to set legally binding procedural rules

Commission Structure

1. Authority and Powers

The Hazardous Waste Management Commission was established in 1977 by section 260.365 RSMo. The Commission oversees the implementation of laws and regulations that provide for the safe management of hazardous wastes and substances to protect human health and the environment. Responsibilities carried out by the Commission include:

- Categorizing hazardous waste
 - Designating which wastes may be disposed of through alternate technologies;
 - Regulating storage, treatment, disposal, transportation, containerization and labeling of hazardous waste
 - Regulating the issuance of licenses and permits
 - Granting variance requests
 - Conducting hearings and rulemaking
 - Deciding appeals and issuing orders
 - Promoting recycling, reuse and reduction of hazardous wastes
 - Regulating USTs
- The Commission has the power to acquire information and services useful for carrying out its responsibilities through obtaining independent technical or other professional support.

2. Members

The Commission shall have seven members who are appointed by the Governor and confirmed by the Missouri Senate.

No more than four members shall belong to the same political party.

All members shall be representative of the general interest of the public and shall have an interest in and knowledge of waste management and its effects on human health and the environment.

- Three members, respectively, shall have knowledge of and may be employed in:
 - Agriculture
 - The waste generating industry
 - The waste management industry.

Members shall serve for four years and until their successors are selected and qualified. There is no limitation on the number of terms any appointed member may serve.

Members shall be reimbursed for travel and other reasonable and necessary expenses incurred in the performance of their duties and shall receive fifty dollars per day for each day spent in performance of their duties at regular Commission meetings.

A member may resign from the Commission with written notice to the chair or applicable program director.

Any Commission member absent from four consecutive regular Commission meetings for any cause shall be deemed to have resigned.

The governor may remove any appointed member for cause.

- The governor may appoint a member for the remaining portion of the unexpired term created by a vacancy.

3. Officers

- The members shall annually select from among themselves a chairman and a vice chairman.
- The members shall annually select amongst themselves a chairman and a vice-chairman during the second calendar meeting of each calendar year. As a suggestion, it is recommended that the chairmanship/vice-chairmanship be rotated amongst willing candidates at least every two years.

4. Staff

- The Hazardous Waste Management Program provides the Commission all necessary professional and administrative support the Commission may require to carry out its powers and duties.
- The Attorney General's Office provides legal advice to the Commission and acts as attorney for the Commission

5. Meetings

The Commission shall routinely meet at least four times a year, at times and places determined by the chair in consultation with staff and members of the Commission. The Commission intends to vary meeting locations and times to offer more opportunity for interested persons to attend.

The Commission may hold special meetings as necessary to the timely performance of Commission responsibilities. Special meetings may be called by three members upon written notice to each member of the Commission.

Issues may arise from time to time that are of interest to other Commissions. In such instances, the Commission may hold a joint meeting to discuss topics of mutual interest. Joint meetings may be called by the chairmen of the two Commissions in consultation with each program director.

The Commission may, from time to time, tour facilities or locations of interest. Tours will have an agenda as with any other meeting. Consideration must be given to providing access to the public during the tour.

The Commission may hold working meetings, at which no decisions are made, to discuss topics pertaining to the Commission.

Pursuant to the Missouri Sunshine Law, all meetings of the Commission at which a quorum of the Commission is present, other than social gatherings, shall be meetings open to the public.

The Commission may hold closed sessions or meetings only in accordance with the procedures and exceptions provided in the Missouri Sunshine Law. The motion to close the meeting shall cite the specific statutory exception or exceptions under which the closed meeting is being held. The number of staff attending the closed meeting will be limited, the time spent in a closed meeting will be as brief as necessary and the discussion shall be limited to only the specific topic or topics for which the meeting was closed. Roll call votes will be taken to close a meeting.

After a closed meeting the Commission should return to open session. The chair should state the general topic of the discussion held during the closed session.

6. Agendas

An agenda is a tool to organize a meeting, to notify members, staff, and any interested parties about topics to be discussed, and to assist in the orderly conduct of a meeting.

The agenda for each Commission meeting will contain the following:

- Name of the Commission

- Meeting time, date and location

- Notice that members of the public may ask to address any agenda item at the time it is discussed, together with instructions for signing a form or card to speak to an agenda item.

- A standing item to allow for public comment on any topic

- Items for consideration, brief, but clear as to the topic

- Anticipated action for each item such as: decision, no action-information only or further direction sought

- An item to discuss or set future agendas

- An item for future meetings

- If a meeting is to contain a closed session in accordance with the Sunshine Law, a statement of when the closed session will be held and when the open session will be held, whenever possible

- Contact information for the Commission and program, referencing how copies of materials provided to Commission members in preparation for the meeting may be requested

- Other agenda items as appropriate, such as legislative updates

- Contact information for those with disabilities

Where possible, preliminary agendas should be developed and provided, with the statement that the agenda is preliminary and subject to change.

Agenda items shall generally be determined by the program director in consultation with the Commission chair. Any Commissioner or the public may request that an item be brought before the Commission. Such requests should be received at least fourteen days before a meeting.

Agendas for any meeting will be posted according to the provisions of the Sunshine Law as well as posting on Department and Office of Administration (if available) websites. Agendas will be routinely provided to stakeholders who have requested to be placed on a mailing list, or to anyone requesting an agenda.

7. Conduct of Meetings

Roberts Rules of Order will be followed for the orderly conduct of Commission business and actions.

The work of the Commission will be conducted with respect and courtesy toward the staff, interested parties and the public. Decision-making will reflect independence and impartiality.

Four of the members of the Commission must appear in person or by electronic conference to constitute a quorum for the conduct of business. If there is no quorum, members may conduct a working meeting.

If a quorum is present, the affirmative vote of the majority of the members entitled to vote on the subject shall be the act of the Commission.

The Commission welcomes information and views from all interested parties regarding the work of the Commission. Members of the public shall be afforded the opportunity to comment on any agenda item at the time it is addressed and may be asked to sign a form or card to address the particular item.

If it has been decided before the meeting how much time will be allowed for public comment (for example, 3 minutes per person) and how the order of speakers will be determined, that information should be placed on the agenda. The procedures for public comment should be announced by the chair.

Records and Information

1. Meeting Materials

Materials that are provided to Commission members for any meeting will also be made available to the public on request, unless the material relates to a closed meeting topic under the Sunshine Law. Materials can be made available either as hard copies or by electronic means.

As with requests for agenda items, effort should be made to make all meeting materials available to the Commission secretary at least fourteen days prior to the date of the meeting, especially those that will be relied upon for the meeting. This ensures that the Commission secretary and Department staff have sufficient time to compile and distribute meeting materials to Commissioners and other interested parties and to make this information available on the Commission's web page within a reasonable timeframe prior to the meeting. The Commission, in its sole discretion, may determine whether or not to consider any materials provided to the Commission less than fourteen days prior to the date of the meeting.

2. Minutes

The Commission secretary will maintain minutes of Commission meetings and draft minutes shall become final upon approval at a subsequent Commission meeting.

3. Records

The Commission shall maintain the types of records listed below. Except for records closed in accordance with the Sunshine Law, the records shall be made available to the general public, by the Commission webpage if possible. In addition, citizens can obtain copies of records upon request to the Commission's custodian of records and payment of appropriate fees.

- Policies
- Meeting dates, times, places and agendas
- Minutes
- Meetings packet materials and handouts
- Rulemaking reports
- Regulatory Impact Reports
- Instruction on participation and submission of information
- Commission member contact information
- Other materials utilized by the Commission

Most Commission meetings are streamed live on the Department of Natural Resources' live meeting page at www.dnr.mo.gov/videos/live.htm. In addition, meetings are recorded and the livestream recordings of past meetings are available at the Hazardous Waste Management Commission's website at:

<http://www.dnr.mo.gov/env/hwp/Commission/commis.htm>

Roles and Responsibilities

1. Commission Members

Each Commission member represents the interest of the general public and the concerns for which he/she was appointed. Members also provide representation to facilitate open communication between the regulated community, interested groups, the general public and the Department.

The authority of the Commission rests in the Commission as a whole, not in individual members. Members shall faithfully carry out the powers and duties placed upon them by law, which may include:

- Establishing policy and direction for the program.
- Rule-making in accordance with the laws and policies governing rule-making.
- Performing a quasi-judicial function with respect to decisions on appeals.

Each Commissioner is expected to attend training events in accordance with the Training Policy contained in Appendix 2.

Each Commissioner is expected to fully review the materials provided prior to each meeting.

2. Director of the Department of Natural Resources

- By statute, the director of the Department of Natural Resources is directed to execute policies established by the Commission and is subject to Commission decisions as to all substantive and procedural rules. Department decisions are subject to appeal to the Commission. The director is also responsible for recommending policies to the Commission to achieve effective and coordinated environmental control.

3. Hazardous Waste Program Director

- The Hazardous Waste Program Director is directly responsible to the Commission and has primary responsibility for Commission support and for implementation of Commission decisions. The program director's responsibilities include preparing and disseminating meeting agendas and supporting materials, issuing notices, arranging logistics for Commission meetings, and coordinating staff presentations, analyses and rule development.
- According to Chapter 640, the program director is approved and may be removed or reassigned by the Commission through a written request to the Department director.

4. Commission Secretary and Program Staff

- The Commission secretary and program staff assist the program director. Program staff are appointed by the Department director and are required to provide optimum service, efficiency and economy. Commissions should discuss any staff issues first with the program director.

5. Department of Natural Resources Legal Counsel

- The Department's or division's legal counsel provides advice and assistance to the director, divisions and programs, and Commissions as necessary

6. Attorney General's Office

- An assistant attorney general is assigned to provide legal counsel to the Commission. The Office of the Attorney General represents the Department in appeals. The Office of the Attorney General represents the State at the relation of the Commission in matters referred by the Commission or in suits brought against the Commission. An assistant attorney general addressing the Commission should state who he or she is representing (the Department, the Commission or the State).

Appeal Hearings and Decisions

1. Appeal Hearings

Appeals of agency decisions shall be initiated in accordance with the procedure established in section 621.250 RSMo and 10 CSR 25-2.020, Hazardous Waste management Commission Appeals and Requests for Hearings

2. Decision after Hearing

As specified in 10 CSR 25-2.020, upon receipt of the Administrative Hearing Commission's recommendation and the record in the case, the Commission shall:

- Distribute the recommendation to the parties or their counsel.
- Allow the parties or their counsel an opportunity to submit written arguments regarding the recommendation
- Provide a reasonable time for oral argument upon the request of any party before the Commission makes the final determination.
- Base its decision on the appeal only on the facts and evidence in the hearing record.
- Issue a written decision including findings of facts and conclusions of law.
- Change a finding of fact or conclusion of law made by the Administrative Hearing Commission, or vacate or modify the recommended decision, only if the Commission states in writing the specific reason for the change.
- Appeal from a final decision of the Commission may be filed in the manner provided by law.
- A record of the decision in the appeal shall be preserved as provided by law and shall be available to the public.

Communications

1. Open Communication

Commission members will strive to solicit balanced viewpoints on significant issues. Members will be aware that hearing views from just one source (such as Department staff, industry or environmental groups) may not adequately present the whole issue.

On rule-makings that are expected to be significant or controversial, the Commissioners will encourage early input and involvement from all interested stakeholders, since waiting for the public hearing may be too late in the process to fully consider competing viewpoints.

Commissions serve both a quasi-legislative and quasi-judicial role. Commission members will be open to all comments in the quasi-legislative role, such as comments related to rulemaking.

In their quasi-judicial role, Commissioners will avoid any *ex parte* communications on pending appeals with litigants to the dispute, including Department staff, as well as any other persons who may have an interest in the pending appeal.

2. Commission Contact

Each Commission shall provide a means for public contact, generally including a phone number, address and email address.

3. Commission Webpage

The Department will maintain a board and Commission webpage that provides information on each Commission and its members, contact information regarding the Commission and its members and meeting agendas. Commissions are strongly encouraged to also post meeting minutes, public notices or other materials to provide for public access.

Compliance with other Laws

1. Missouri's Sunshine Law

- All activities of the Commission shall be carried out in strict accordance with the Missouri Sunshine Law, RSMo Chapter 610. The Commission honors the letter and the spirit of the Sunshine Law.

2. Personal Finance Disclosure

- Each Commissioner shall annually file a Personal Finance Disclosure Statement in accordance with RSMo Chapter 105.

3. Conflict of Interest

- Commissioners shall comply with all applicable statutory requirements regarding conflict of interest, including RSMo Chapter 105
- In the quasi-judicial role, Commissioners recognize that they are acting as judges in appeals to the Commission. In this capacity, members will strive to remain fair, independent, and open-minded. Commissioners will avoid both actual and perceived conflicts of interest in their quasi-judicial role.
- If a Commissioner publicly takes or expresses a position on an issue that later comes before the Commission on an appeal, the Commissioner will recuse himself on the record from any discussion, deliberation, or decision making on the issue.

4. Administrative Procedures

- The Commission shall comply with the rule-making and other applicable requirements of the Missouri Administrative Procedures Law, RSMo Chapter 536.



Missouri Department of Natural Resources

Missouri Department of Natural Resources
Directions for the Regulatory Impact Report
September 2004

Endorsed by the Commission Core Workgroup January 9, 2004, and September 24, 2004, as revised

The Regulatory Impact Report (RIR) is a means to provide to the public and interested parties information on some rule development within the Department of Natural Resources. It is a summary of the information, discussion, input and rationale used by the Department in rulemaking that prescribes environmental standards or conditions.

The goal of this RIR is to ensure accountability, consistency and transparency in the process for those specific rulemakings. Distribution of the RIR will make this information readily available to a wide audience in a timely manner.

Rulemaking that meets the criteria in 536.025.1 RSMo as emergency rules may be promulgated without following the standard rulemaking process if approved by the Department director. In this situation, the questions pertinent to 640.015 RSMo must be completed within 180 days of adoption of the rule.

References

640.015, RSMo Department of Natural Resources

An excerpt:

640.015. 1. All provisions of the law to the contrary notwithstanding, all rules that prescribe environmental conditions or standards promulgated by the Department of Natural Resources, a board or a Commission, pursuant to authorities granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the Hazardous Waste Management Commission in chapter 260, RSMo, the state soil and water districts Commission in chapter 278, RSMo, the land reclamation Commission in chapter 444, RSMo, the safe drinking water Commission in this chapter, the air conservation Commission in chapter 643, RSMo, and the clean water Commission in chapter 644, RSMo, shall cite the specific section of law or legal authority. The rule shall also be based on the regulatory impact report provided in this section.

Definitions

Rulemaking: Any action by the Department to add, amend or rescind a rule in the Code of State Regulations.

Promulgate: For the purposes of the Department's rulemaking, the filing of a proposed rulemaking with the Secretary of State for publication in the Missouri Register.

Complete or Completed Regulatory Impact Report: The finished Regulatory Impact Report signed by the division director. The RIR is completed before it is submitted to the Secretary of State with the proposed rule.

Draft rule or rulemaking: A rule that is in the development stage within the Department.

Proposed rule or rulemaking: A rulemaking that has been filed with the Secretary of State.

Applicability

The Regulatory Impact Report is required for any rulemaking that meets the requirements of 640.015 RSMo; that is, one that prescribes environmental standards or conditions.

The following guidance describes what divisions or programs will typically have to complete a Regulatory Impact Report and which may not. *If you have any questions – please talk with your legal counsel.*

Regulatory Impact Report	No Regulatory Impact Report
Rulemakings impacted by the requirements for Regulatory Impact Report (640.015 RSMo)	Rulemakings that do not meet requirements for Regulatory Impact Report
Summary of who must complete a Regulatory Impact Report based on 640.015 RSMo	Summary of who may not need to complete the Regulatory Impact Report based on 640.015 RSMo
<ul style="list-style-type: none"> ▪ Any rulemaking prescribing environmental conditions or standards 	<ul style="list-style-type: none"> ▪ Division of State Parks
<ul style="list-style-type: none"> ▪ Hazardous Waste Commission 	<ul style="list-style-type: none"> ▪ State Historic Preservation Office
<ul style="list-style-type: none"> ▪ Soil and Water Districts Commission 	<ul style="list-style-type: none"> ▪ Division of Administrative Support
<ul style="list-style-type: none"> ▪ Safe Drinking Water Commission 	<ul style="list-style-type: none"> ▪ Communication and Education Office
<ul style="list-style-type: none"> ▪ Land Reclamation Commission 	<ul style="list-style-type: none"> ▪ Any divisional administrative programs
<ul style="list-style-type: none"> ▪ Air Conservation Commission 	<ul style="list-style-type: none"> ▪ Land Survey Program
<ul style="list-style-type: none"> ▪ Clean Water Commission 	<ul style="list-style-type: none"> ▪ Environmental Assistance Office
<ul style="list-style-type: none"> ▪ Geologic Survey Program 	
<ul style="list-style-type: none"> ▪ Water Resources Program 	
<ul style="list-style-type: none"> ▪ Solid Waste Management Program 	
<ul style="list-style-type: none"> ▪ Environmental Services Program 	
<ul style="list-style-type: none"> ▪ Energy Center 	
<ul style="list-style-type: none"> ▪ EI ERA 	
<ul style="list-style-type: none"> ▪ PSTIF 	
References: Chapter 260 – EI ERA, SWMP, HWP, EC Chapter 278 – SWCP Chapter 319 – PSTIF Chapter 444 – LRP Chapter 643 – APCP Chapter 644 – WPP Chapter 640 – DNR	

Drafting the Regulatory Impact Report

The length of the RIR will vary widely, depending on the complexity and scope for the rulemaking. For some rulemaking proposals, a detailed RIR with numerous technical and scientific references, explanations, stakeholder meeting notes or recommendations will be warranted. Other rulemakings may require a simple RIR of two to three pages. Supporting documents should be made available via references, hypertext links, embedded PDF files or paper copies on file as appropriate for the rulemaking.

Peer reviewed and published data or scientific information and references

640.015 RSMo requires the use of available peer-reviewed science and an explanation of that scientific information used that has not undergone peer review. In order to meet the requirements of 640.015 RSMo the following process is to be used to delineate the scientific support of any new rulemaking or amended rule/regulation. The purpose of these guidelines is to address any questions that arise about the scientific support for any proposed rulemaking.

All scientific information used in the creation of the rulemaking is to be documented. This includes any information introduced into the process by Department staff or brought to our attention by stakeholders during the rulemaking process. The information listed below shall be compiled and provided to the public upon request. This documentation shall be submitted following the standardized format presented below in order to allow a careful examination of the record.

1. Peer-reviewed publications – journal articles (whether paper or electronic), proceedings, books, and government reports that have undergone scientific peer-review. This would include internally produced reports that have undergone peer review under the process formally approved by the Department director
2. Non peer-reviewed publications – This would include reports from university, government, consulting firms or other researchers, manuscripts submitted, but not yet reviewed, and internally generated reports, memos and letters. It includes all documents that do not meet the criteria for peer-reviewed publications established above.
3. Raw data – This would include data collected by the Department staff or external groups that has not been published in a report, but is still useful in explaining the reason for a particular regulation or section thereof. For all raw data, the Quality Assurance Performance Plan should be available.

At the beginning of the peer-review section, list all the documents included in that section. If peer reviewed data is not reasonably available, provide an explanation of why it is not available.

For the other two sections, list all the documents and then a short explanation of how and why that information was used in creating the proposed rulemaking. For those documents that exist on-line, the complete URL for the document can be supplied.

This documentation of the record, as noted in the paragraph directly above shall be included in the submission of the rulemaking to the Secretary of State's Office and the Joint Committee

on Administrative Rules. If it were not included the proposed rulemaking as filed would be subject to challenge and voiding.

Providing the draft rulemaking to the Departments of Health and Senior Services, Economic Development, Conservation and Agriculture and Governor's Office

According to Executive Order 02-05 any rulemaking by the Department regarding environmental quality, human health, or economic and rural development must be provided to the Departments of Health and Senior Services, Economic Development, Conservation and Agriculture and the Governor's Office for a 30 day review time before the proposed rule is filed with the Secretary of State. The Regulatory Impact Report may be provided with the draft rule, at the decision of the division. This interagency review time may coincide with the required 60-day public comment period for the Regulatory Impact Report (see next section).

Distribution of the Complete Regulatory Impact Report

The complete Regulatory Impact Report is signed by the program director and is provided with the other rulemaking information to the Department director for approval to proceed. The Orange Folder process is used.

The complete RIR is then placed on the Department's or program's web site, and conspicuously labeled as a new addition on the Regulatory Agenda page. Paper copies will be sent to those requesting copies at the same time.

The Department, board or Commission also publishes in at least one newspaper of general circulation with an average circulation of 20,000 or more, a notice of availability of the Regulatory Impact Report. The public shall have at least 60 days to comment. All comments and responses to significant comments shall be posted before the proposed rule is filed with the Secretary of State.

Filing of the Regulatory Impact Report and Proposed Rule

A program may change wording in the draft rulemaking based on comments received on the Regulatory Impact Report and input from boards, Commissions or others.

The complete Regulatory Impact Report shall be filed with the Joint Committee on Administrative Rules concurrently with the filing of the proposed rule with the Secretary of State.

Missouri Department of Natural Resources

Regulatory Impact Report

In Preparation For Proposing

[*A New Rule OR An Amendment to OR A Rescission of*] [rule number]

Division/Program: _____

Rule number: 10 CSR [XX-YYY.ZZZ] **Rule title:** _____

Type of rule action: [*Select one: New Rule, Amendment to Existing Rule, Rescission of Existing Rule*]

Nature of the rulemaking: [*Select as many as apply: Affects environmental conditions, Prescribes environmental standards, Administrative, Other conditions*]

Approval of the Completed Regulatory Impact Report

Program Director

Date

Missouri Department of Natural Resources

Regulatory Impact Report

In Preparation For Proposing

[*A New Rule OR An Amendment to OR A Rescission of*] [rule number]

Applicability: Pursuant to Section 640.015 RSMo, “all rulemakings that prescribe environmental conditions or standards promulgated by the Department of Natural Resources...shall... be based on the regulatory impact report...” This requirement shall not apply to emergency rulemakings pursuant to section 536.025 or to rules of other applicable federal agencies adopted by the Department “without variance.”

Determination: The Missouri Department of Natural Resources has determined this rulemaking prescribes environmental conditions or standards and verifies that this rulemaking is not a simple unvarying adoption of rules from other federal agencies. Accordingly, the Department has produced this regulatory impact report which will be made publicly available for comment for a period of at least 60 days. Upon completion of the comment period, official responses will be developed and made available on the agency web page prior to filing the proposed rulemaking with the Secretary of State. Contact information is at the end of this regulatory impact report.

1. Describe the environmental conditions or standards being prescribed.
2. A report on the peer-reviewed scientific data used to commence the rulemaking process.
3. A description of the persons who will most likely be affected by the proposed rule, including persons that will bear the costs of the proposed rule and persons that will benefit from the proposed rule.
4. A description of the environmental and economic costs and benefits of the proposed rule.
5. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue.
6. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction, which includes both economic and environmental costs and benefits.
7. A determination of whether there are less costly or less intrusive methods for achieving the proposed rule.
8. A description of any alternative method for achieving the purpose of the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.
9. An analysis of both short-term and long-term consequences of the proposed rule.
10. An explanation of the risks to human health, public welfare or the environment addressed by the proposed rule.

11. The identification of the sources of scientific information used in evaluating the risk and a summary of such information
12. A description and impact statement of any uncertainties and assumptions made in conducting the analysis on the resulting risk estimate.
13. A description of any significant countervailing risks that may be caused by the proposed rule
14. The identification of at least one, if any, alternative regulatory approaches that will produce comparable human health, public welfare or environmental outcomes.
15. Provide information on how to provide comments on the Regulatory Impact Report during the 60-day period before the proposed rule is filed with the Secretary of State
16. Provide information on how to request a copy of comments or the web information where the comments will be located.

Boards and Commission's Operating Policies

Appendix 2

Training for Commissioners

Adopted by the Commissioners' Core Workgroup
February 27, 2004

Premise: Comprehensive knowledge and understanding of the Commissioner's responsibilities and roles, as well as of the substantive laws and regulations governing each Commissioner's respective program, is key to competent and consistent performance of Commissioners.

1. New Commissioner Information

Upon appointment, each new Commission/board member shall receive orientation from their respective Commission/board and, at a minimum, a notebook containing copies of the following:

- a. The Commission's/board's operating policies.
- b. The statutes and regulations governing the respective program and its authority, summarized as appropriate because of volume, including roles and responsibilities of the Staff Director and the Commission/Board.
- c. The Sunshine Law.
- d. The financial disclosure and conflict of interest statutes (Ethics Commission).
- e. Department of Natural Resources' general information, including mission, list of Commissions/boards, Department budget and organizational chart.
- f. Description of Commissioner's quasi-judicial role (where appropriate).
- g. General overview of the rule-making process (where appropriate).
- h. A summary of the state revolving fund and the bond process (where appropriate).

2. Training (offered once a year)

Within 12 months following appointment, all new Commission/board members shall attend a standardized training module. Other Commission/board members are encouraged to attend one of the standardized training opportunities. Training modules may provide in-depth presentations on the subjects listed below:

- a. Rulemaking process, including Regulatory Impact Report (RIR).
- b. MoDNR Budget.
- c. Quasi-judicial role.
- d. Policies.
- e. Services of the Attorney General's Office.
- f. Sunshine Law.
- g. Financial disclosure laws and conflicts of interest.

- h. Authority of Commissions/boards.
- i. Organizational structure.
- j. Permits process.

Alternate means (electronic, etc.) of training will be provided for new members unable to physically attend a comprehensive training session.

3. Commissioners Conference (to be held every two years)

All Commission/board members will be expected to attend a biennial one-day conference that will provide:

- a. Updated training refresher sessions (one-half day).
- b. Issues seminar in break-out sessions (one-half day). The Department, environmental groups, business/industry groups, legislators and other interested parties will be invited to give presentations on relevant issues pertinent to the Commissions/boards.

4. Training Providers

Planning for the training events will be managed by the Outreach and Assistance Center in consultation with Commission/board chairs, representative Division and Program Directors, and external constituencies. Presentations of the various topics at the training sessions will be provided, as appropriate, by:

- a. The Director's Office and Outreach and Assistance Center.
- b. Program staff.
- c. The Attorney General's Office.
- d. The Ethics Commission.
- e. Environmental groups.
- f. Business/industry groups.
- g. Agencies or groups representing the general public.
- h. The Environmental Protection Agency (EPA).
- i. Other federal or state agencies.
- j. Environmental Improvement and Energy Resources Authority (EIERA).

5. Training Costs

- a. Training and incidental tasks by MoDNR and other state personnel will be provided by existing personnel as part of their work assignments.
- b. Costs of information notebooks, incidentals, travel, meals and lodging will be borne by each respective program for its Commission/board member.
- c. Logistic costs of meeting place and incidentals will be borne by the Department.
- d. Members of the public attending the training shall

Department of Natural Resources
Hazardous Waste Management Commission Operating Policies
December 2012

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Purpose

Environmental statutes and regulations of the State of Missouri embody the goals of the people for protection of the environment and public health in a balanced manner consistent with economic growth. To achieve these goals, laws describe and assign powers and duties to the Department of Natural Resources and the environmental commissions and boards.

The operating policy set forth herein is intended to be adopted by the members of the Missouri Hazardous Waste Management Commission. The purpose of this policy is to promote a higher level of commission competence and independence, transparency and clarity in action, and predictability and consistency in processes, thus enhancing public trust and commission accountability. Throughout this document the term “commission” is understood to mean the Missouri Hazardous Waste Management Commission.

This document establishes an element of policy uniformity with the other boards and commissions in the Department of Natural Resources. The commission will review this policy on a biannual basis and modify as necessary to conform with any changes to the statutes that give the commission its authority or as necessary to reflect changes in commission practice or procedure. The commission will review the policy at its regularly scheduled meeting in June of every other calendar year, beginning in 2012. This policy does not have the force and effect of law, and is not intended to set legally binding procedural rules

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Commission Structure

1. Authority and Powers

The Hazardous Waste Management Commission was established in 1977 by section 260.365 RSMo. The commission oversees the implementation of laws and regulations that provide for the safe management of hazardous wastes and substances to protect human health and the environment. Responsibilities carried out by the commission include:

- Categorizing hazardous waste
- Designating which wastes may be disposed of through alternate technologies;
- Regulating storage, treatment, disposal, transportation, containerization and labeling of hazardous waste
- Regulating the issuance of licenses and permits
- Granting variance requests
- Conducting hearings and rulemaking
- Deciding appeals and issuing orders
- Promoting recycling, reuse and reduction of hazardous wastes
- Regulating USTs

- The commission has the power to acquire information and services useful for carrying out its responsibilities through obtaining independent technical or other professional support.

2. Members

The commission shall have seven members who are appointed by the Governor and confirmed by the Missouri Senate.

No more than four members shall belong to the same political party.

All members shall be representative of the general interest of the public and shall have an interest in and knowledge of waste management and its effects on human health and the environment.

- Three members, respectively, shall have knowledge of and may be employed in:
 - Agriculture
 - The waste generating industry
 - The waste management industry.

Members shall serve for four years and until their successors are selected and qualified. There is no limitation on the number of terms any appointed member may serve.

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Members shall be reimbursed for travel and other reasonable and necessary expenses incurred in the performance of their duties and shall receive fifty dollars per day for each day spent in performance of their duties at regular commission meetings.

A member may resign from the commission with written notice to the chair or applicable program director.

Any commission member absent from four consecutive regular commission meetings for any cause shall be deemed to have resigned.

The governor may remove any appointed member for cause.

- The governor may appoint a member for the remaining portion of the unexpired term created by a vacancy.

3. Officers

- The members shall annually select from among themselves a chairman and a vice chairman.
- The members shall annually select amongst themselves a chairman and a vice-chairman during the second calendar meeting of each calendar year. As a suggestion, it is recommended that the chairmanship/vice-chairmanship be rotated amongst willing candidates at least every two years.

4. Staff

- The Hazardous Waste Management Program provides the commission all necessary professional and administrative support the commission may require to carry out its powers and duties.
- The Attorney General's Office provides legal advice to the commission and acts as attorney for the commission

5. Meetings

The commission shall routinely meet at least four times a year, at times and places determined by the chair in consultation with staff and members of the commission. The commission intends to vary meeting locations and times to offer more opportunity for interested persons to attend.

The commission may hold special meetings as necessary to the timely performance of commission responsibilities. Special meetings may be called by three members upon written notice to each member of the commission.

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Issues may arise from time to time that are of interest to other commissions. In such instances, the commission may hold a joint meeting to discuss topics of mutual interest. Joint meetings may be called by the chairmen of the two commissions in consultation with each program director.

The commission may, from time to time, tour facilities or locations of interest. Tours will have an agenda as with any other meeting. Consideration must be given to providing access to the public during the tour.

The commission may hold working meetings, at which no decisions are made, to discuss topics pertaining to the commission.

Pursuant to the Missouri Sunshine Law, all meetings of the commission at which a quorum of the commission is present, other than social gatherings, shall be meetings open to the public.

The commission may hold closed sessions or meetings only in accordance with the procedures and exceptions provided in the Missouri Sunshine Law. The motion to close the meeting shall cite the specific statutory exception or exceptions under which the closed meeting is being held. The number of staff attending the closed meeting will be limited, the time spent in a closed meeting will be as brief as necessary and the discussion shall be limited to only the specific topic or topics for which the meeting was closed. Roll call votes will be taken to close a meeting.

After a closed meeting the commission should return to open session. The chair should state the general topic of the discussion held during the closed session.

6. Agendas

An agenda is a tool to organize a meeting, to notify members, staff, and any interested parties about topics to be discussed, and to assist in the orderly conduct of a meeting.

The agenda for each commission meeting will contain the following:

- Name of the commission

- Meeting time, date and location

- Notice that members of the public may ask to address any agenda item at the time it is discussed, together with instructions for signing a form or card to speak to an agenda item.

- A standing item to allow for public comment on any topic

- Items for consideration, brief, but clear as to the topic

- Anticipated action for each item such as: decision, no action-information only or further direction sought

- An item to discuss or set future agendas

- An item for future meetings

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If a meeting is to contain a closed session in accordance with the Sunshine Law, a statement of when the closed session will be held and when the open session will be held, whenever possible

Contact information for the commission and program, referencing how copies of materials provided to commission members in preparation for the meeting may be requested

Other agenda items as appropriate, such as legislative updates

Contact information for those with disabilities

Where possible, preliminary agendas should be developed and provided, with the statement that the agenda is preliminary and subject to change.

Agenda items shall generally be determined by the program director in consultation with the commission chair. Any commissioner or the public may request that an item be brought before the commission. Such requests should be received at least fourteen days before a meeting.

Agendas for any meeting will be posted according to the provisions of the Sunshine Law as well as posting on department and Office of Administration (if available) websites. Agendas will be routinely provided to stakeholders who have requested to be placed on a mailing list, or to anyone requesting an agenda.

7. Conduct of Meetings

Roberts Rules of Order will be followed for the orderly conduct of commission business and actions.

The work of the commission will be conducted with respect and courtesy toward the staff, interested parties and the public. Decision-making will reflect independence and impartiality.

Four of the members of the commission must appear in person or by electronic conference to constitute a quorum for the conduct of business. If there is no quorum, members may conduct a working meeting.

If a quorum is present, the affirmative vote of the majority of the members entitled to vote on the subject shall be the act of the commission.

The commission welcomes information and views from all interested parties regarding the work of the commission. Members of the public shall be afforded the opportunity to comment on any agenda item at the time it is addressed and may be asked to sign a form or card to address the particular item.

If it has been decided before the meeting how much time will be allowed for public comment (for example, 3 minutes per person) and how the order of speakers will be

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determined, that information should be placed on the agenda. The procedures for public comment should be announced by the chair.

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Records and Information

1. Meeting Materials

Materials that are provided to commission members for any meeting will also be made available to the public on request, unless the material relates to a closed meeting topic under the Sunshine Law. Materials can be made available either as hard copies or by electronic means.

As with requests for agenda items, effort should be made to make all meeting materials available to the commission secretary at least fourteen days prior to the date of the meeting, especially those that will be relied upon for the meeting. This ensures that the commission secretary and department staff have sufficient time to compile and distribute meeting materials to commissioners and other interested parties and to make this information available on the commission's web page within a reasonable timeframe prior to the meeting. The commission, in its sole discretion, may determine whether or not to consider any materials provided to the commission less than fourteen days prior to the date of the meeting.

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2. Minutes

The commission secretary will maintain minutes of commission meetings and draft minutes shall become final upon approval at a subsequent commission meeting.

3. Records

The commission shall maintain the types of records listed below. Except for records closed in accordance with the Sunshine Law, the records shall be made available to the general public, by the commission webpage if possible. In addition, citizens can obtain copies of records upon request to the commission's custodian of records and payment of appropriate fees.

- Policies
- Meeting dates, times, places and agendas
- Minutes
- Meetings packet materials and handouts
- Rulemaking reports
- Regulatory Impact Reports
- Instruction on participation and submission of information
- Commission member contact information
- Other materials utilized by the commission

Most commission meetings are streamed live on the Department of Natural Resources' live meeting page at www.dnr.mo.gov/videos/live.htm. In addition,

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meetings are recorded and the livestream recordings of past meetings are available at the Hazardous Waste Management Commission's website at:

<http://www.dnr.mo.gov/env/hwp/commission/commis.htm>

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Roles and Responsibilities

1. Commission Members

Each commission member represents the interest of the general public and the concerns for which he/she was appointed. Members also provide representation to facilitate open communication between the regulated community, interested groups, the general public and the department.

The authority of the commission rests in the commission as a whole, not in individual members. Members shall faithfully carry out the powers and duties placed upon them by law, which may include:

- Establishing policy and direction for the program.
- Rule-making in accordance with the laws and policies governing rule-making.
- Performing a quasi-judicial function with respect to decisions on appeals.

Each commissioner is expected to attend training events in accordance with the Training Policy contained in Appendix 2.

Each commissioner is expected to fully review the materials provided prior to each meeting.

2. Director of the Department of Natural Resources

- By statute, the director of the Department of Natural Resources is directed to execute policies established by the commission and is subject to commission decisions as to all substantive and procedural rules. Department decisions are subject to appeal to the commission. The director is also responsible for recommending policies to the commission to achieve effective and coordinated environmental control.

3. Hazardous Waste Program Director

- The Hazardous Waste Program Director is directly responsible to the commission and has primary responsibility for commission support and for implementation of commission decisions. The program director's responsibilities include preparing and disseminating meeting agendas and supporting materials, issuing notices, arranging logistics for commission meetings, and coordinating staff presentations, analyses and rule development.
- According to Chapter 640, the program director is approved and may be removed or reassigned by the commission through a written request to the department director.

4. Commission Secretary and Program Staff

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- The commission secretary and program staff assist the program director. Program staff are appointed by the department director and are required to provide optimum service, efficiency and economy. Commissions should discuss any staff issues first with the program director.

5. Department of Natural Resources Legal Counsel

- The department's or division's legal counsel provides advice and assistance to the director, divisions and programs, and commissions as necessary

6. Attorney General's Office

- An assistant attorney general is assigned to provide legal counsel to the commission. The Office of the Attorney General represents the department in appeals. The Office of the Attorney General represents the State at the relation of the commission in matters referred by the commission or in suits brought against the commission. An assistant attorney general addressing the commission should state who he or she is representing (the department, the commission or the State).

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Appeal Hearings and Decisions

1. Appeal Hearings

Appeals of agency decisions shall be initiated in accordance with the procedure established in section 621.250 RSMo and 10 CSR 25-2.020, Hazardous Waste management Commission Appeals and Requests for Hearings

2. Decision after Hearing

As specified in 10 CSR 25-2.020, upon receipt of the Administrative Hearing Commission's recommendation and the record in the case, the commission shall:

- Distribute the recommendation to the parties or their counsel.
- Allow the parties or their counsel an opportunity to submit written arguments regarding the recommendation
- Provide a reasonable time for oral argument upon the request of any party before the commission makes the final determination.
- Base its decision on the appeal only on the facts and evidence in the hearing record.
- Issue a written decision including findings of facts and conclusions of law.
- Change a finding of fact or conclusion of law made by the Administrative Hearing Commission, or vacate or modify the recommended decision, only if the commission states in writing the specific reason for the change.
- Appeal from a final decision of the commission may be filed in the manner provided by law.
- A record of the decision in the appeal shall be preserved as provided by law and shall be available to the public.

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¶ . . . The Memorandum of Understanding shall govern remuneration and other arrangements for the services of the Administrative Hearing Commission.¶

Deleted: . . . Following a hearing on an appeal, the hearing officer will provide the appeal record, findings of fact and conclusions of law, and recommendations to the commission. The commission shall hold a meeting as expeditiously as possible to decide the appeal.¶

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Communications

1. Open Communication

Commission members will strive to solicit balanced viewpoints on significant issues. Members will be aware that hearing views from just one source (such as department staff, industry or environmental groups) may not adequately present the whole issue.

On rule-makings that are expected to be significant or controversial, the commissioners will encourage early input and involvement from all interested stakeholders, since waiting for the public hearing may be too late in the process to fully consider competing viewpoints.

Commissions serve both a quasi-legislative and quasi-judicial role. Commission members will be open to all comments in the quasi-legislative role, such as comments related to rulemaking.

In their quasi-judicial role, commissioners will avoid any ex parte communications on pending appeals with litigants to the dispute, including department staff, as well as any other persons who may have an interest in the pending appeal.

2. Commission Contact

Each commission shall provide a means for public contact, generally including a phone number, address and email address.

3. Commission Webpage

The department will maintain a board and commission webpage that provides information on each commission and its members, contact information regarding the commission and its members and meeting agendas. Commissions are strongly encouraged to also post meeting minutes, public notices or other materials to provide for public access.

Compliance with other Laws

1. Missouri's Sunshine Law

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- All activities of the commission shall be carried out in strict accordance with the Missouri Sunshine Law, RSMo Chapter 610. The commission honors the letter and the spirit of the Sunshine Law.

2. Personal Finance Disclosure

- Each commissioner shall annually file a Personal Finance Disclosure Statement in accordance with RSMo Chapter 105.

3. Conflict of Interest

Commissioners shall comply with all applicable statutory requirements regarding conflict of interest, including RSMo Chapter 105

- In the quasi-judicial role, commissioners recognize that they are acting as judges in appeals to the commission. In this capacity, members will strive to remain fair, independent, and open-minded. Commissioners will avoid both actual and perceived conflicts of interest in their quasi-judicial role.
- If a commissioner publicly takes or expresses a position on an issue that later comes before the commission on an appeal, the commissioner will recuse himself on the record from any discussion, deliberation, or decision making on the issue.

4. Administrative Procedures

- The commission shall comply with the rule-making and other applicable requirements of the Missouri Administrative Procedures Law, RSMo Chapter 536.

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Boards and Commission's Operating Policies
Appendix 1
Regulatory Impact Report
Requirements and Content



Missouri Department of Natural Resources

Appendix K1 Rev 8-09

Missouri Department of Natural Resources

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Directions for the Regulatory Impact Report

September 2004

Endorsed by the Commission Core Workgroup January 9, 2004 and September 24, 2004 as revised

The Regulatory Impact Report (RIR) is a means to provide to the public and interested parties information on some rule development within the Department of Natural Resources. It is a summary of the information, discussion, input and rationale used by the department in rulemaking that prescribes environmental standards or conditions.

The goal of this RIR is to ensure accountability, consistency and transparency in the process for those specific rulemakings. Distribution of the RIR will make this information readily available to a wide audience in a timely manner.

Rulemaking that meets the criteria in 536.025.1 RSMo as emergency rules may be promulgated without following the standard rulemaking process if approved by the department director. In this situation, the questions pertinent to 640.015 RSMo must be completed within 180 days of adoption of the rule.

References

640.015, RSMo_ Department of Natural Resources

An excerpt:

640.015. 1. All provisions of the law to the contrary notwithstanding, all rules that prescribe environmental conditions or standards promulgated by the department of natural resources, a board or a commission, pursuant to authorities granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the hazardous waste management commission in chapter 260, RSMo, the state soil and water districts commission in chapter 278, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, shall cite the specific section of law or legal authority. The rule shall also be based on the regulatory impact report provided in this section.

Definitions

Rulemaking: Any action by the department to add, amend or rescind a rule in the Code of State Regulations.

Promulgate: For the purposes of the department's rulemaking, the filing of a proposed rulemaking with the Secretary of State for publication in the Missouri Register.

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Complete or Completed Regulatory Impact Report: The finished Regulatory Impact Report signed by the division director. The RIR is completed before it is submitted to the Secretary of State with the proposed rule.

Draft rule or rulemaking: A rule that is in the development stage within the department.

Proposed rule or rulemaking: A rulemaking that has been filed with the Secretary of State.

Applicability

The Regulatory Impact Report is required for any rulemaking that meets the requirements of 640.015 RSMo; that is, one that prescribes environmental standards or conditions.

The following guidance describes what divisions or programs will typically have to complete a Regulatory Impact Report and which may not. *If you have any questions – please talk with your legal counsel.*

Regulatory Impact Report	No Regulatory Impact Report
Rulemakings impacted by the requirements for Regulatory Impact Report (640.015 RSMo)	Rulemakings that do not meet requirements for Regulatory Impact Report
Summary of who must complete a Regulatory Impact Report based on 640.015 RSMo	Summary of who may not need to complete the Regulatory Impact Report based on 640.015 RSMo
<ul style="list-style-type: none"> ▪ Any rulemaking prescribing environmental conditions or standards ▪ Hazardous Waste Commission ▪ Soil and Water Districts Commission ▪ Safe Drinking Water Commission ▪ Land Reclamation Commission ▪ Air Conservation Commission ▪ Clean Water Commission ▪ Geologic Survey Program ▪ Water Resources Program ▪ Solid Waste Management Program ▪ Environmental Services Program ▪ Energy Center ▪ EIERA ▪ PSTIF 	<ul style="list-style-type: none"> ▪ Division of State Parks ▪ State Historic Preservation Office ▪ Division of Administrative Support ▪ Communication and Education Office ▪ Any divisional administrative programs ▪ Land Survey Program ▪ Environmental Assistance Office
References: Chapter 260 – EIERA, SWMP, HWP, EC Chapter 278 – SWCP Chapter 319 – PSTIF Chapter 444 – LRP Chapter 643 – APCP Chapter 644 – WPP Chapter 640 – DNR	

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Drafting the Regulatory Impact Report

The length of the RIR will vary widely, depending on the complexity and scope for the rulemaking. For some rulemaking proposals, a detailed RIR with numerous technical and scientific references, explanations, stakeholder meeting notes or recommendations will be warranted. Other rulemakings may require a simple RIR of two to three pages. Supporting documents should be made available via references, hypertext links, embedded PDF files or paper copies on file as appropriate for the rulemaking.

Peer reviewed and published data or scientific information and references

640.015 RSMo requires the use of available peer-reviewed science and an explanation of that scientific information used that has not undergone peer review. In order to meet the requirements of 640.015 RSMo the following process is to be used to delineate the scientific support of any new rulemaking or amended rule/regulation. The purpose of these guidelines is to address any questions that arise about the scientific support for any proposed rulemaking.

All scientific information used in the creation of the rulemaking is to be documented. This includes any information introduced into the process by department staff or brought to our attention by stakeholders during the rulemaking process. The information listed below shall be compiled and provided to the public upon request. This documentation shall be submitted following the standardized format presented below in order to allow a careful examination of the record.

1. Peer-reviewed publications – journal articles (whether paper or electronic), proceedings, books, and government reports that have undergone scientific peer-review. This would include internally produced reports that have undergone peer review under the process formally approved by the department director
2. Non peer-reviewed publications – This would include reports from university, government, consulting firms or other researchers, manuscripts submitted, but not yet reviewed, and internally generated reports, memos and letters. It includes all documents that do not meet the criteria for peer-reviewed publications established above.
3. Raw data – This would include data collected by the department staff or external groups that has not been published in a report, but is still useful in explaining the reason for a particular regulation or section thereof. For all raw data, the Quality Assurance Performance Plan should be available.

At the beginning of the peer-review section, list all the documents included in that section. If peer reviewed data is not reasonably available, provide an explanation of why it is not available.

For the other two sections, list all the documents and then a short explanation of how and why that information was used in creating the proposed rulemaking. For those documents that exist on-line, the complete URL for the document can be supplied.

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This documentation of the record, as noted in the paragraph directly above shall be included in the submission of the rulemaking to the Secretary of State's Office and the Joint Committee on Administrative Rules. If it were not included the proposed rulemaking as filed would be subject to challenge and voiding.

Providing the draft rulemaking to the Departments of Health and Senior Services, Economic Development, Conservation and Agriculture and Governor's Office.

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According to Executive Order 02-05 any rulemaking by the department regarding environmental quality, human health, or economic and rural development must be provided to the Departments of Health and Senior Services, Economic Development, Conservation and Agriculture and the Governor's Office for a 30 day review time before the proposed rule is filed with the Secretary of State. The Regulatory Impact Report may be provided with the draft rule, at the decision of the division. This interagency review time may coincide with the required 60-day public comment period for the Regulatory Impact Report (see next section).

Distribution of the Complete Regulatory Impact Report

The complete Regulatory Impact Report is signed by the program director and is provided with the other rulemaking information to the department director for approval to proceed. The Orange Folder process is used.

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The complete RIR is then placed on the department's or program's web site, and conspicuously labeled as a new addition on the Regulatory Agenda page. Paper copies will be sent to those requesting copies at the same time.

The department, board or commission also publishes in at least one newspaper of general circulation with an average circulation of 20,000 or more, a notice of availability of the Regulatory Impact Report. The public shall have at least 60 days to comment. All comments and responses to significant comments shall be posted before the proposed rule is filed with the Secretary of State.

Filing of the Regulatory Impact Report and Proposed Rule

A program may change wording in the draft rulemaking based on comments received on the Regulatory Impact Report and input from boards, commissions or others.

The complete Regulatory Impact Report shall be filed with the Joint Committee on Administrative Rules concurrently with the filing of the proposed rule with the Secretary of State.

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Missouri Department of Natural Resources
Regulatory Impact Report
In Preparation For Proposing

[A New Rule OR An Amendment to OR A Rescission of] [rule number]

Division/Program:

Rule number: 10 CSR [XX-YYY.ZZZ] Rule title:

Type of rule action: [Select one: New Rule, Amendment to Existing Rule, Rescission of Existing Rule]

Nature of the rulemaking: [Select as many as apply: Affects environmental conditions, Prescribes environmental standards, Administrative, Other conditions]

Approval of the Completed Regulatory Impact Report

Program Director

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Missouri Department of Natural Resources

Regulatory Impact Report

In Preparation For Proposing

[A New Rule OR An Amendment to OR A Rescission of] [rule number]

Applicability: Pursuant to Section 640.015 RSMo, “all rulemakings that prescribe environmental conditions or standards promulgated by the Department of Natural Resources...shall... be based on the regulatory impact report...” This requirement shall not apply to emergency rulemakings pursuant to section 536.025 or to rules of other applicable federal agencies adopted by the Department “without variance.”

Determination: The Missouri Department of Natural Resources has determined this rulemaking prescribes environmental conditions or standards and verifies that this rulemaking is not a simple unvarying adoption of rules from other federal agencies. Accordingly, the Department has produced this regulatory impact report which will be made publicly available for comment for a period of at least 60 days. Upon completion of the comment period, official responses will be developed and made available on the agency web page prior to filing the proposed rulemaking with the Secretary of State. Contact information is at the end of this regulatory impact report.

1. Describe the environmental conditions or standards being prescribed.
2. A report on the peer-reviewed scientific data used to commence the rulemaking process.
3. A description of the persons who will most likely be affected by the proposed rule, including persons that will bear the costs of the proposed rule and persons that will benefit from the proposed rule.
4. A description of the environmental and economic costs and benefits of the proposed rule.
5. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue.
6. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction, which includes both economic and environmental costs and benefits.
7. A determination of whether there are less costly or less intrusive methods for achieving the proposed rule.
8. A description of any alternative method for achieving the purpose of the proposed rule that were seriously considered by the department and the reasons why they were rejected in favor of the proposed rule.
9. An analysis of both short-term and long-term consequences of the proposed rule.
10. An explanation of the risks to human health, public welfare or the environment addressed by the proposed rule.

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If Yes, a RIR is not needed. ¶

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If No, the remaining questions must be answered.¶

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Please provide the following requested information. Each item must be addressed. ¶

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11. The identification of the sources of scientific information used in evaluating the risk and a summary of such information
12. A description and impact statement of any uncertainties and assumptions made in conducting the analysis on the resulting risk estimate.
13. A description of any significant countervailing risks that may be caused by the proposed rule
14. The identification of at least one, if any, alternative regulatory approaches that will produce comparable human health, public welfare or environmental outcomes.
15. Provide information on how to provide comments on the Regulatory Impact Report during the 60-day period before the proposed rule is filed with the Secretary of State
16. Provide information on how to request a copy of comments or the web information where the comments will be located.

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Boards and Commission's Operating Policies

Appendix 2

Training for Commissioners

Adopted by the Commissioners' Core Workgroup
February 27, 2004

Premise: Comprehensive knowledge and understanding of the commissioner's responsibilities and roles, as well as of the substantive laws and regulations governing each commissioner's respective program, is key to competent and consistent performance of commissioners.

1. New Commissioner Information

Upon appointment, each new commission/board member shall receive orientation from their respective commission/board and, at a minimum, a notebook containing copies of the following:

- a. The commission's/board's operating policies.
- b. The statutes and regulations governing the respective program and its authority, summarized as appropriate because of volume, including roles and responsibilities of the Staff Director and the Commission/Board.
- c. The Sunshine Law.
- d. The financial disclosure and conflict of interest statutes (Ethics Commission).
- e. Department of Natural Resources general information, including mission, list of commissions/boards, Department budget and organizational chart.
- f. Description of commissioner's quasi-judicial role (where appropriate).
- g. General overview of the rule-making process (where appropriate).
- h. A summary of the state revolving fund and the bond process (where appropriate).

2. Training (offered once a year)

Within 12 months following appointment, all new commission/board members shall attend a standardized training module. Other commission/board members are encouraged to attend one of the standardized training opportunities. Training modules may provide in-depth presentations on the subjects listed below:

- a. Rulemaking process, including Regulatory Impact Report (RIR).
- b. MoDNR Budget.
- c. Quasi-judicial role.
- d. Policies.
- e. Services of the Attorney General's Office.

- f. Sunshine Law.
- g. Financial disclosure laws and conflicts of interest.
- h. Authority of commissions/boards.
- i. Organizational structure.
- j. Permits process.

Alternate means (electronic, etc.) of training will be provided for new members unable to physically attend a comprehensive training session.

3. Commissioners Conference (to be held every two years)

All commission/board members will be expected to attend a biennial one-day conference that will provide:

- a. Updated training refresher sessions (one-half day).
- b. Issues seminar in break-out sessions (one-half day). The Department, environmental groups, business/industry groups, legislators and other interested parties will be invited to give presentations on relevant issues pertinent to the commissions/boards.

4. Training Providers

Planning for the training events will be managed by the Outreach and Assistance Center in consultation with commission/board chairs, representative Division and Program Directors, and external constituencies. Presentations of the various topics at the training sessions will be provided, as appropriate, by:

- a. The Director's Office and Outreach and Assistance Center.
- b. Program staff.
- c. The Attorney General's Office.
- d. The Ethics Commission.
- e. Environmental groups.
- f. Business/industry groups.
- g. Agencies or groups representing the general public.
- h. The Environmental Protection Agency (EPA).
- i. Other federal or state agencies.
- j. Environmental Improvement and Energy Resources Authority (EIERA).

5. Training Costs

- a. Training and incidental tasks by MoDNR and other state personnel will be provided by existing personnel as part of their work assignments.
- b. Costs of information notebooks, incidentals, travel, meals and lodging will be borne by each respective program for its commission/board member.

- c. Logistic costs of meeting place and incidentals will be borne by the Department.
- d. Members of the public attending the training shall

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Missouri Hazardous Waste Management Commission Meeting

December 20, 2012

Agenda Item # 5

Rulemaking Update

Recommended Action:

Information Only.

Presented by:

Tim Eiken, Rules Coordinator, HWP

SPENCER FANE

BRITT & BROWNE LLP

ATTORNEYS & COUNSELORS AT LAW

ANDREW C. BROUGHT
DIRECT DIAL: (816) 292-8886
abrought@spencerfane.com

File No. 1163000-0009

December 6, 2012

VIA ELECTRONIC MAIL AND U.S. FIRST CLASS MAIL

Ms. Debra Dobson
Missouri Hazardous Waste Management Commission
1730 E. Elm Street
Jefferson City, Missouri 65101
debra.dobson@dnr.mo.gov

Re: Follow-Up from October 18, 2012, Commission Resolution to Address Temporary Staging of In-Bound Trailers of Lead-Acid Batteries

Dear Ms. Dobson:

At the October 18, 2012, Hazardous Waste Commission Meeting the Commission approved a resolution “adopting the language and specific approach presented in the attached set of proposed revisions to Missouri Hazardous Waste Management regulations addressing temporary staging of in-bound trailers of lead-acid batteries pending processing at battery recycling and reclamation facilities.”

Since the Commission’s action, the Exide Technologies Canon Hollow Recycling Facility continues to reject in-bound shipments of lead-acid batteries that cannot be temporarily staged before recycling because of MDNR’s imprudent interpretation of its current regulations. Indeed, Exide rejected a shipment last week and sent the trailer back on Missouri’s highways and roads.

Accordingly, Exide requests that the Commission inquire with the Department at the December 20 Commission Meeting on the status of the rulemaking package. The Commission has clearly indicated a desire to expedite a solution that will avoid the need to reject such shipments. Exide concurs with the Commission’s direction in this regard so as to avoid additional unwarranted enforcement directed at the Canon Hollow Recycling Center and to implement an approach that is better for the environment as proposed by Exide.

The Commission may also be interested in an update on the status of the Indiana Department of Environmental Management (IDEM) Proposed Rule (LSA Document #09-365) because this proposed rule codifies a 14-day trailer staging provision for reclamation facilities currently found in the Hazardous Waste Permits for two battery recycling facilities in Indiana. The Indiana Solid Waste Management Board has a hearing scheduled for Tuesday, December 18, 2012, to consider the proposed rule. Both lead-acid battery recycling facilities in Indiana

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WA 3908230.1



Ms. Debra Dobson
December 6, 2012
Page 2

(Exide and Quemetco) support the 14-day staging provision, as does IDEM. Simply put, all parties are in agreement concerning the 14-day trailer staging provision currently found in the permits and approved by EPA Region 5.¹

Please contact me at (816) 292-8886 should you have any questions.

Sincerely,

A handwritten signature in blue ink, which appears to read "Andrew C. Brought", is written over a horizontal line that extends to the right across the page.

Andrew C. Brought

cc: Kara Valentine, Esq., Assistant Attorney General (via U.S. First Class Mail)
Mr. David Lamb, Director, MDNR-HWP (via U.S. First Class Mail)

¹ Quemetco currently opposes other provisions in the Indiana proposed rule including the RCRA Containment Building provisions on the basis that Quemetco asserts that its management of battery components within its Feed Room are part of the reclamation process and exempt under RCRA. Quemetco's Indiana facility is currently not subject to the RCRA Containment Building regulations because of a 1991 Final Order of the Indiana Solid Waste Management Board. Exide does not oppose the codification of the RCRA Containment Building requirements in the Indiana proposed rule as Exide's Indiana Recycling Center and the Canon Hollow Recycling Center are already subject to the requirements.

Missouri Hazardous Waste Management Commission Meeting

December 20, 2012

Agenda Item # 6

Hazardous Waste Transportation and Compliance Activities

Issue:

This is a summary of the Hazardous Waste Program's activities related to hazardous waste transportation regulatory compliance. All of these activities are done with the goal of assuring that hazardous waste is safely and legally transported and disposed.

Information:

Billie Hains is certified by the Commercial Vehicle Safety Alliance to conduct Level 1-6 commercial motor vehicle inspections.

Motor Vehicle Inspections

- Approximately 100 transporter inspections are performed per year, each consisting of approximately 100 separate checkpoints in a Level 1 inspection. Inspection of non-bulk containers, cargo tanks, and hazardous materials, including brakes, tires, rims, air systems, electrical systems, and exhaust systems may add an additional 50-150 checkpoints to the average inspection. Ms. Hains' certification gives her the authority to put trucks "Out of Service" for certain safety violations, until they are corrected.
- Inspections insure that the transporters have the training to handle the material they are hauling, the insurance to deal with problems in case of an accident, and to make sure that transporters will deliver to permitted or authorized facilities.
- A Level 1 inspection is the North American Standard Inspection. This type of inspection includes: examination of driver's license, medical examiner's certificate, and skill performance evaluation if applicable, alcohol and drugs, driver's record of duty status as required, hours of service, seat belt, vehicle inspection, brake system, coupling devices, exhaust system, frames, fuel systems, lighting devices, securement of cargo, steering mechanisms, suspensions, tires, van and open top trailer bodies, wheels, rims, hubs, windshield wipers, emergency equipment, electrical systems, hazardous material compatibility, and packaging.
- Inspection of Cargo Tanks includes retest requirements, cargo tank authorization, manhole covers, internal valves, discharge valves, cargo tank integrity, supports and anchoring, double bulkhead drains, ring stiffeners, rear end protection, emergency flow control, piping and protection, overturn protection, venting, and hazardous material compatibility.
- A Level 5 inspection is the North American Standard inspection of the vehicle only, minus the driver information and the driver and vehicle paperwork. Ms. Hains was recently certified as a Level 6 inspector which includes transuranic and highway route controlled quantities of radioactive material.

Page Two

- The Department coordinates with the Missouri Highway Patrol, U.S. Department of Transportation (DOT) and Missouri Department of Transportation (MoDOT). Our inspection reports are sent to the Missouri Highway Patrol and the transporter must certify to the Patrol that the violations were corrected.

Manifest Reviews

- Ms. Hains reviews approximately 180,000 hazardous waste shipping manifests a year to assess compliance with the hazardous waste laws and regulations. This review includes looking at the Environmental Protection Agency (EPA) identification (ID) number, emergency number, generator, transporter, transporter ID, treatment, storage, or disposal facility (TSDF) and TSDF EPA ID number, hazardous waste material, weights of materials, EPA waste codes, date of generator readied for shipment, date picked up by transporter, and date arrived at a TSDF.
- The purpose of reviewing manifests is to find unlicensed transporters, fictitious TSDF's, unregistered generators, and generators that are registered incorrectly.

Transporter Licensing

- MoDOT receives the transporter license application, reviews the information, assures the applicant passed the DOT Safety and Compliance Check and meets insurance requirements. They transmit the application to the Department where Ms. Hains reviews the application for compliance with hazardous waste regulations, assuring that the applicant is a legitimate business, and that they have contracts with legitimate TSDFs for the waste being hauled.
- Missouri currently has approximately 250 licensed hazardous waste transporters and a list is available on the Department's and MoDOT's website.

Recommended Action:

Information only.

Presented by:

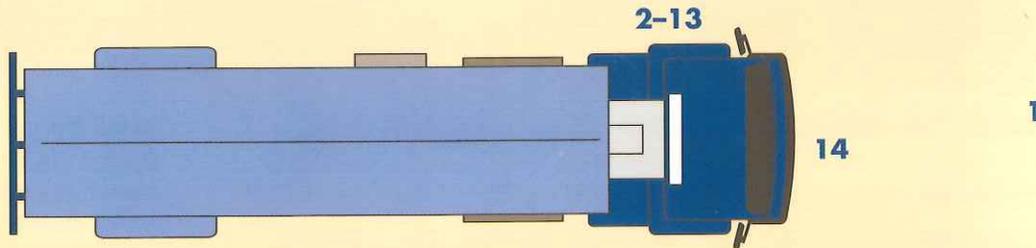
Billie Hains, Compliance and Enforcement Section, Hazardous Waste Program

North American Standard Level I Inspection Procedure



For Levels II, III, IV, and V, omit steps that do not apply.

For more detailed information, see the written procedures contained in the CVSA Operations Manual.



STEP 1 Choose the Inspection Site

- Select a safe location, paved, level, away from traffic, visible to traffic, and able to support the weight of the vehicle.
- Avoid hills, curves, soft shoulders and construction sites.
- You must be visible to oncoming traffic.

STEP 2 Approach the Vehicle

- Observe the driver.
- Adhere to officer/inspector safety policies.
- Be alert for leaks, unsecured cargo.

STEP 3 Greet and Prepare Driver

- Identify yourself.
- Ensure that the driver is capable of communicating sufficiently to understand and respond to official inquiries and directions.
- Place chock blocks on the driver's side.
- Explain this inspection procedure.
- Ensure engine is off.
- Check seat belt usage and condition.
- Observe the driver's overall condition for illness, fatigue or other signs of impairment.
- Check for illegal presence of alcohol, drugs, weapons or other contraband.

STEP 4 Interview Driver

- Ask for the following from the driver: starting location, final destination, load description, time traveled, most recent stop, fueling location(s).
- Talk to the driver about the trip.

STEP 5 Collect the Driver's Documents

- Medical Examiner's Certificate (if applicable).
- Skill Performance Evaluation (SPE) Certificate (if applicable).
- Driver's license, CDL, record of duty status.
- Shipping papers.
- Periodic inspection certificates, CVIP.
- Supporting documents: bills of lading, receipts, other documents used to verify record of duty status.

STEP 6 Check for the Presence of Hazardous Materials/Transportation of Dangerous Goods

- Check shipping papers, placards, any leaks or spills, unsecured cargo, markings and labels.

STEP 7 Identify the Carrier

- Identify carrier using the following: vehicle identification, vehicle registration, insurance, operating authority, driver interview.

STEP 8 Examine Driver's License

- Expiration date
- Class
- Endorsements
- Restrictions
- Status

STEP 9 Check Medical Examiner's Certificate and Skill Performance Evaluation (SPE) Certificate (If Applicable)

- Check certificate date (valid for 24 months).
- Check corrective lens requirement.
- Check hearing aid requirement.
- Check physical limitations.

Note: In Canada and Mexico proper class indicates adequate medical.

STEP 10 Check Record of Duty Status

- Hours of Service verification.
- If driver claims to be exempt, check that driver meets all criteria for said exemption(s).
- Check accuracy of record.

STEP 11 Review Driver's Daily Vehicle Inspection Report (If Applicable)

- Review the required vehicle inspection report to verify that listed safety defects have been certified as corrected.
- Check for driver signature on previous inspection reports.

STEP 12 Review Periodic Inspection Report(s)

- Ensure vehicle has passed the required inspection and has the required documents and decals.

STEP 13 Prepare Driver for Vehicle Inspection

- Explain the vehicle inspection procedure.
- Advise the driver in the use of hand signals.
- Check chock blocks.
- Prepare the vehicle, vehicle transmission in neutral. Engine off, key must be in the "on" position, and release all brakes.
- Instruct driver to remain at the controls.

STEP 14 Inspect Front of Tractor

- Check headlamps, turn signals (do not use four way flashers to check turn signals) and all other required lamps for improper color, operation, mounting, and visibility.
- Check windshield wipers for improper operation (two wipers are required unless one can clean the driver's field of vision).



Commercial Vehicle Safety Alliance

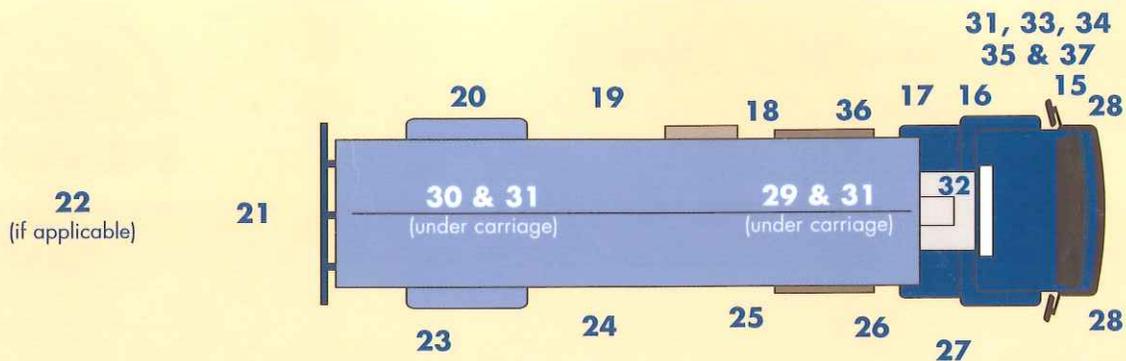
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Promoting Commercial Motor Vehicle Safety and Security

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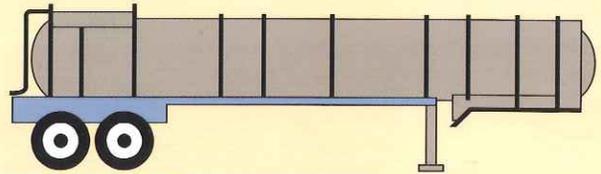
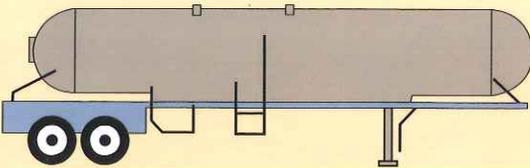
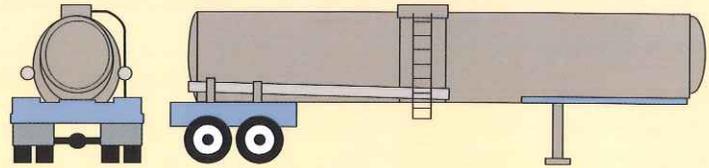
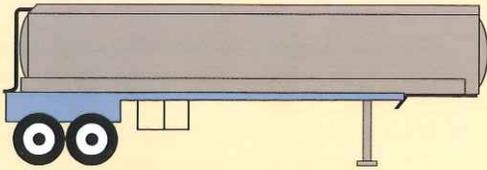


- STEP 15** Inspect Left Front Side of Tractor
- Check front wheel, rim, hub, and tire.
- STEP 16** Inspect Left Saddle Tank Area
- Check fuel tank area.
 - Check exhaust system.
- STEP 17** Inspect Trailer Front
- Check air and electrical lines.
- STEP 18** Check Left Rear Tractor Area
- Check wheels, rims, hubs, and tires.
 - Check lower fifth wheel.
 - Check upper fifth wheel.
 - Check sliding fifth wheel.
 - Check all required lamps.
- Caution:** Never place yourself in between tires of tandem axles.
- STEP 19** Inspect Left Side of Trailer
- Check frame and body.
 - Check condition of hoses.
 - Check van and open-top trailer bodies.
 - Check cargo securement.
- STEP 20** Inspect Left Rear Trailer Wheels
- Check wheels, rims, hubs, and tires.
 - Check sliding tandem.
- STEP 21** Inspect Rear of Trailer
- Check tail, stop, turn signals, all other required lights and lamps/flags on projecting loads.
 - Check external ABS malfunction lamp.
 - Check cargo securement.
- STEP 22** Inspect Double, Triple and Full Trailers
- Check safety devices on full trailers/converter dollies.
 - Check the safety devices (chains/wire rope) for sufficient number, missing components, improper repairs, and devices that are incapable of secure attachments. Inspect pintle hook, eye and drawbar for cracks, excessive movement, and improper repairs.
- STEP 23** Inspect Right Rear Trailer Wheels
- Check as in step 20.
- STEP 24** Inspect Right Side of Trailer
- Check as in step 19.
- STEP 25** Inspect Right Rear Tractor Area
- Check as in step 18.
- STEP 26** Inspect Right Saddle Tank Area
- Check as in step 16.
- STEP 27** Inspect Right Front Side of Tractor
- Check as in step 15.
- STEP 28** Inspect Steering Axle(s)
- Check steering system (both sides).
 - Check front suspension (both sides).
 - Check front axle.
 - Check frame and frame assembly.
 - Check front brake components (both sides).
 - Mark push rods (both sides).
- Note:** Inform the driver that you are going under the vehicle. Enter the under carriage in view of the driver. (At front of power unit, rear of power unit, and in front of trailer axle(s).)
- STEP 29** Inspect Axles 2 and/or 3
- Check suspension (both sides).
 - Check frame and frame assembly.
 - Check brake components (both sides).
 - Mark push rods (both sides).
 - Exit under carriage in view of driver.
- STEP 30** Inspect Axles 4 and/or 5
- Same as step 29.
- STEP 31** Check Brake Adjustment
- Ensure air pressure is 90–100 psi.
 - Have driver fully apply brakes and hold.
 - Measure and record all push rod travel.
 - Identify size and type of brake chambers.
 - Ensure brake lining to drum contact.
 - Listen for air leaks.
- STEP 32** Inspect Tractor Protection System (This procedure tests both the tractor protection system and the emergency brakes.)
- Have driver release brakes and disconnect both brake lines.
 - Full brake application.
 - Listen for air leaks.
- STEP 33** Inspect Required Brake System Warning Devices
- Observe the dash panel area when the key is turned “on” for the function test of the ABS malfunction lamp(s) (if applicable).
 - Observe dash gauges while ignition is “on” and the driver is pumping the foot valve to approximately 55 psi for the function test of a low air pressure warning device.
- STEP 34** Test Air Loss Rate
- Apply brakes while the engine is idling, the governor has cut in, and pressure is 80-90 psi.
- STEP 35** Check Steering Wheel Lash
- Measure steering wheel lash while wheels are straight and the engine is running.
- STEP 36** Check Fifth Wheel Movement
- Prepare the driver and vehicle.
 - Check for excessive movement.
- Caution:** If conducted improperly, this method of checking for fifth-wheel movement can result in serious damage to the vehicle. Use caution and instruct the driver carefully.
- STEP 37** Complete the Inspection
- Complete documentation.
 - Conclude with driver.
 - Follow correct and current OOS procedures (if applicable).
 - Issue CVSA decal(s) (if applicable).

North American Standard Cargo Tank and Other Bulk Packagings Inspection Procedure



Omit steps that do not apply. For more detailed information, see the written procedures contained in the CVSA Operations Manual.



STEP 1 Initiating the Inspection

- As the vehicle is approached for inspection, follow all safety precautions. Do a complete walk-around of the vehicle and check for placards, leaks and general vehicle condition.
- Shipping papers and emergency response information must be within the driver's immediate reach when restrained by the lap belt and visible to the person entering the vehicle, or in a holder mounted on the inside of the driver's door.

Check the Shipping Paper for Compliance

- The presence of Hazardous Materials (HM)/Transportation of Dangerous Goods (TDG) on the shipping paper that also contains non-hazardous freight must:
 - Be entered first, or
 - Be entered in contrasting color, or
 - Be identified with an "X" in the HM column.
- Shipments of Hazardous Waste that are required to be manifested must be accompanied by a Hazardous Waste Manifest. The manifest may meet the requirements of the shipping paper.
- Verify compliance of the Proper Shipping Name.
- Check the 172.101, Appendix A, to see if the material is a Hazardous Substance. Hazardous substances are regulated by all modes. (In the US only)
- Check the 172.101, Appendix B, to see if the material is a Marine Pollutant. Only bulk packages containing Marine Pollutants are subject to the regulations when transported by highway. (In the US only)

- Refer to the HMT Column 1 for the presence of a symbol when determining which entry to use for the proper shipping name. (In the US only)
- Verify that the hazard class/division entered on the shipping paper corresponds with the proper shipping name and subsidiary hazards in parentheses.
- Verify that the identification number entered on the shipping paper corresponds with the proper shipping name.
- Verify that the packing group entered on the shipping paper corresponds with the proper shipping name.
- Verify that the total quantity and unit of measure is entered on the shipping paper.
- Verify that the HM/TDG basic description appears on the shipping paper in the proper sequence or an approved alternative manner: (check transitional allowances)
 - Identification number;
 - Proper shipping;
 - Hazard class/division;
 - Packing group;
 - Total quantity and unit of measure; and,
 - Number and type of packages.

or

- Proper shipping name;
- Hazard class/division;
- Identification number;
- Packing group;

- Total quantity and unit of measure; and,
- Number and type of packages.
- Always refer to special provisions, when inspecting a shipping paper and check for additional entries that may be applicable to the shipment.
- Recognize when exceptions to the shipping paper requirement apply.
- Verify that the emergency response telephone number is entered on the shipping paper in the proper manner.
- Verify that the emergency response information, as appropriate, accompanies the shipment.
- Verify that the Emergency Response Assistance Plan (ERAP) number and activation telephone number is entered on the shipping paper. (Canada only)

Check for Placarding Compliance

- Check for exceptions that may apply to the placarding requirements for the HM/TDG shipment.
- Placarding is required for any quantity of a HM/TDG in a bulk package/large means of containment.
- When HM/TDG is offered for transportation in bulk packaging, appropriate placards must be displayed unless specific conditions have been met.
- Verify the proper display, if any subsidiary hazard placards.



Commercial Vehicle Safety Alliance

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- Verify that placards meet general specifications.
- Verify that the required placards are displayed and meet visibility and display requirements on a transport vehicle.

Check Marking Compliance

- Use the shipping papers to determine the HM/TDG being transported and the quantity of HM/TDG. Determine if the shipment is a bulk or non-bulk shipment.
- Verify display of the identification number on bulk packages in one of the three acceptable manners: orange panels, placards, or plain white-square on point displays.
- If no identification number is displayed on a bulk package, verify if appropriate for that shipment using the prohibited display and special provision sections.
- Verify additional marking requirements that apply to portable tanks, cargo tanks and multi-unit tank car tanks.
- Verify that markings on packages conform to set size standards and specifications.
- Verify that packages are marked on at least one side or end of the package as required.
- Determine if the package is subject to a DOT exemption requiring that it be marked with "DOT-E" followed by the applicable exemption number. (In the US only)
- Check the "basic markings" are on all non-bulk packages.
- When the shipping papers reveal the following HM, check for additional marking requirements:
 - PIH Materials;
 - Elevated Temperature Materials;
 - Marine Pollutants; and/or,
 - Infectious Substances
- Verify that location of the marking is appropriate.

Check Labeling Compliance

- Begin inspection of labeling compliance with the shipping papers in hand, using the shipping papers to determine the HM/TDG being transported.
- Observe labels (if any) that are present on the package. When labels are specified for the package and are not present on the package, check for exceptions to labeling requirements that may apply.
- Verify that labels are properly located on the package. Check for multiple and duplicate labeling as appropriate.
- Verify that the required label specifications are met for all displayed labels.

Rev. September 2007

Check Packaging Compliance

- Use the shipping papers to determine the HM/TDG being transported. Refer to Special Provisions that may apply to packaging regulations for that material.
- Identify the type of packaging used and determine if the packaging is appropriate for the HM/TDG it contains, and is not leaking.
- Determine if a DOT exemption applies to the packaging. (In the US only)

Check Loading Compliance

- Observe the general securement of the HM/TDG being transported. Verify compliance with the blocking and bracing requirements of cargo.
- Verify segregation, separation, and compatibility for the HM/TDG being transported.
- Determine if more stringent regulations apply for the subsidiary hazard of the HM. (In the US only)

Package Authorization

- Verify that the bulk package is authorized under regulations for the product being transported, including any testing or inspection standards.

STEP 2 Check for Specification Marking

- Examine package for specification marking, attachment, and location of specification marking and other required information.

STEP 3 Inspect Test Date Markings

- Verify test date markings on bulk packages for:
- Location;
 - Size;
 - Legibility and Durability; and,
 - Appropriate Test for Package.

STEP 4 Inspect Securement and Integrity

- Inspect the bulk package for proper securement and integrity including supports, anchoring, and ring stiffeners (if applicable).

Note: If the cargo tank is constructed with external ring stiffeners, with an air space, check to see that a drainage hole has been provided and is open.

STEP 5 Inspect Double Bulkhead Drains

- Void spaces in double bulkheads are required to be vented and must be equipped with drainage which must be kept operative at all times.

Caution: If bottom drain is plugged, do not remove.

STEP 6 Inspect Piping and Protection

- Check for shear sections, sacrificial devices or suitable guards when applicable.

- Check for minimum road clearance when applicable.
- Ensure that piping is free of leaks.

STEP 7 Inspect Emergency Flow Control Devices

- Inspect internal valves and other closures, as applicable. Requirement for valves may differ depending upon specification and commodity.
- Inspect emergency flow controls devices including:
 - Remote Control Devices and required markings;
 - Automatic Heat Actuated Devices; and,
 - One Way or Excessive Flow Valves.
- Inspect inlet/outlet markings (if applicable).

Caution: Do not open valves or closures.

STEP 8 Inspect Rear End Protection

- Inspect Rear End Protection and Rear Bumper.

STEP 9 Optional Inspection Items

- The following inspection items are located on the top of cargo tanks and inspection of these items will be dependent upon the operating policies of individual agencies:
 - Manhole Assemblies;
 - Pressure Relief Devices; and,
 - Overturn Protection.

STEP 10 Apply CVSA Decal

- When a U.S. DOT/Transport Canada specification cargo tank inspection is completed in conjunction with North American Standard Level I and/or Level V Inspection CVSA decals shall not be issued to U.S. DOT/Transport Canada specification cargo tank vehicles found to have violations of the following:

- Retest requirements
- Cargo Tank Authorization (Does not include specification shortages)
- Manhole Covers
- Internal Valves
- Discharge Valves
- Cargo Tank Integrity
- Supports and Anchoring
- Double Bulkhead Drains
- Ring Stiffeners
- Rear End Protection
- Emergency Flow Control
- Piping and Protection
- Overturn Protection
- Venting

- CVSA decal(s) shall only be applied to U.S. DOT/Transport Canada specification cargo tanks by CVSA-certified Cargo Tank inspectors.

- The location for a CVSA decal on a cargo tank semi-trailer shall be at eye-level near the right front of the cargo tank and on the lower right corner of the exterior surface of the passenger's windshield of a straight truck.

North American Standard Hazardous Materials/Transportation of Dangerous Goods Inspection Procedure



Omit steps that do not apply. For more detailed information, see the written procedures contained in the CVSA Operations Manual.

STEP 1 Initiating the Inspection

- As the vehicle is approached for inspection, follow all safety precautions. Do a complete walk-around of the vehicle and check for placards, leaks and general vehicle condition.
- Shipping papers and emergency response information must be within the driver's immediate reach when restrained by the lap belt and visible to the person entering the vehicle, or in a holder mounted on the inside of the driver's door.

STEP 2 Check the Shipping Paper for Compliance

- The presence of Hazardous Materials (HM) Transportation of Dangerous Goods (TDG) on the shipping paper that also contains non-hazardous freight must:
 - Be entered first, or
 - Be entered in contrasting color, or
 - Be identified with an "X" in the HM column.
- Shipments of Hazardous Waste that are required to be manifested must be accompanied by a Hazardous Waste Manifest. The manifest may meet the requirements of the shipping paper.
- Verify compliance of the Proper Shipping Name.
- Check the 172.101, Appendix A, to see if the material is a Hazardous Substance. Hazardous substances are regulated by all modes. (In the US only)
- Check the 172.101, Appendix B, to see if the material is a Marine Pollutant. Only bulk packages containing Marine Pollutants are subject to the regulations when transported by highway. (In the US only)
- Refer to the HMT Column 1 for the presence of a symbol when determining which entry to use for the proper shipping name. (In the US only)

- Verify that the hazard class/division entered on the shipping paper corresponds with the proper shipping name and subsidiary hazards in parentheses.
- Verify that the identification number entered on the shipping paper corresponds with the proper shipping name.
- Verify that the packing group entered on the shipping paper corresponds with the proper shipping name.
- Verify that the total quantity and unit of measure is entered on the shipping paper.
- Verify that the HM/TDG basic description appears on the shipping paper in the proper sequence or an approved alternative manner: (check transitional allowances)
 - Identification number;
 - Proper shipping;
 - Hazard class/division;
 - Packing group;
 - Total quantity and unit of measure; and,
 - Number and type of packages.

or

 - Proper shipping name;
 - Hazard class/division;
 - Identification number;
 - Packing group;
 - Total quantity and unit of measure; and,
 - Number and type of packages.
- Always refer to special provisions, when inspecting a shipping paper and check for additional entries that may be applicable to the shipment.
- Recognize when exceptions to the shipping paper requirement apply.
- Verify that the emergency response telephone number is entered on the shipping paper in the proper manner.

- Verify that the emergency response information, as appropriate, accompanies the shipment.
- Verify that the Emergency Response Assistance Plan (ERAP) number and activation telephone number is entered on the shipping paper. (Canada only)

STEP 3 Check for Placarding Compliance

- Check for exceptions that may apply to the placarding requirements for the HM/TDG shipment.
- Placarding of Table 1 materials is required for any quantity.
- Placarding of Table 2 materials is required for 454 kg (1,001 lbs.) or more.
- When HM/TDG is offered for transportation in bulk packaging, appropriate placards must be displayed unless specific conditions have been met.
- Verify the proper display, if any subsidiary hazard placards.
- Verify that placards meet general specifications.
- Verify that the required placards are displayed and meet visibility and display requirements on a transport vehicle.

STEP 4 Check Marking Compliance

- Use the shipping papers to determine the HM/TDG being transported and the quantity of HM/TDG. Determine if the shipment is a bulk or non-bulk shipment.
- Verify display of the identification number on bulk packages in one of the three acceptable manners: orange panels, placards, or plain white-square on point displays.
- Check transport vehicle for display of ID numbers when transporting large quantities of a single HM/TDG in non-bulk packages.



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- If no identification number is displayed on a bulk package, verify if appropriate for that shipment using the prohibited display and special provision sections.
 - Verify additional marking requirements that apply to portable tanks, cargo tanks and multi-unit tank car tanks.
 - Verify that markings on packages conform to set size standards and specifications.
 - Verify that packages are marked on at least one side or end of the package as required.
 - Determine if the package is subject to a DOT exemption requiring that it be marked with "DOT-E" followed by the applicable exemption number. (In the US only)
 - Check the "basic markings" are on all non-bulk packages.
 - When the shipping papers reveal the following HM/TDG, check for additional marking requirements:
 - PIH Materials;
 - Hazardous Substances;
 - Orientation Arrows;
 - ORM-D;
 - Explosive Package Requirements;
 - Toxic/Poison Package Markings; and/or,
 - Infections Substances.
 - Verify that location of the marking is appropriate.
- STEP 5 Check Labeling Compliance**
- Begin inspection of labeling compliance with the shipping papers in hand, using the shipping papers to determine the HM/TDG being transported.
 - Observe labels (if any) that are present on the package. When labels are specified for the package and are not present on the package, check for exceptions to labeling requirements that may apply.
 - Verify that labels are properly located on the package. Check for multiple and duplicate labeling as appropriate.
 - Verify that the required label specifications are met for all displayed labels.
- STEP 6 Check Packaging Compliance**
- Use the shipping papers to determine the HM/TDG being transported. Refer to Special Provisions that may apply to packaging regulations for that material.
 - Identify the type of packaging used and determine if the packaging is appropriate for the HM/TDG it contains, and is not leaking.
 - Determine if a DOT exemption applies to the packaging. (In the US only)
- STEP 7 Check Loading Compliance**
- Observe the general securement of the HM/TDG being transported. Verify compliance with the blocking and bracing requirements of cargo.
 - Verify segregation, separation, and compatibility for the HM/TDG being transported.
 - Determine if more stringent regulations apply for the subsidiary hazard of the HM. (In the US only)

Hazardous Materials of Trade Checklist

ITEM	Y	N	NA	Packaging [173.6(b)]	Y	N	NA
Class/Div. Limits [173.6(a)]				Leak Tight / Sift Proof / Securely Closed			
Div. 2.1				Secured against movement / Protected			
Div. 2.2				Original pkg. or equivalent			
Div. 2.2, ASME ≤ 70 gal.				Single pkg. secured in cage, box, bin, compt.			
Class 3				Gasoline [173.6(b)(4)]			
Div. 4.1				Plastic or Metal (no glass)			
Div. 4.3, PG II or III, ≤ 1 oz.				Plastic (UL/FM): 1 gal. or Less			
Div. 5.1				Metal (UL/FM): 1 gal. or Less			
Div. 5.2				Safety Can: 5 gal. or Less			
Div. 6.1				UN Spec. Container: 8 gal. or Less			
Div. 6.2, not Risk Group 4, (see other limits)				Cylinders [173.6(b)(5)]			
Class 8				Div. 2.1 or 2.2			
Class 9				Spec. pkg., except outer			
ORM-D				Valves tightly closed			
3, 4.1, 5.1, 5.2, 6.1, 8, 9, ORM-D				Hazard Communication [173.6(c)]			
Non bulk Limits				Common Name or PSN marking			
PG I ≤ 1 lb. Solid / 1 pint Liquid				"RQ," If applicable			
PG II / III / ORM-D ≤ 66 lb. Solid / 8 gal. Liquid				Bulk Class 9 ID Number Marking			
Class 9 Bulk Limits				Cylinder marking/labeling			
400 gallons, ≤ 2% concentration				Driver Requirements			
Div 6.2 Limits [173.6(a)(4)]				Driver informed of HM / RQ?			
Diagnostic / Biological pkg. Limits				Driver informed of §173.6 Requirements?			
Regulated Medical Waste Limits				Aggregate Volume Limit			
Self-Reactive or TIH / PIH or Hazardous Waste				Aggregate Gross Weight ≤ 440 lbs.			
Self-Reactive / TIH / HW not eligible for MOT!				Class 9 Tank ≤ 400 Gallons			

Missouri Hazardous Waste Management Commission Meeting

December 20, 2012

Agenda Item # 7

Quarterly Report

Issue:

Presentation of the current Quarterly Report.

Recommended Action:

Information Only.

Presented by:

Dee Goss, Public Information Officer, Division of Environmental Quality

Missouri Hazardous Waste Management Commission Meeting

December 20 2012

Agenda Item # 8

Legal Update

Issue:

Routine update to the Commission on legal issues, appeals, etc.

Information:

Information Only

Presented by:

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

Missouri Hazardous Waste Management Commission Meeting

December 20, 2012

Agenda Item # 9

Public Inquiries or Issues

Recommended Action:

Information Only.

Presented by:

David J. Lamb, Director, HWP

Missouri Hazardous Waste Management Commission Meeting

December 20, 2012

Agenda Item # 10

Other Business

Recommended Action:

Information Only.

Presented by:

David J. Lamb, Director, HWP

Missouri Hazardous Waste Management Commission Meeting

December 20, 2012

Agenda Item # 11

Future Meetings

Information:

Meeting Dates:

Date	Time	Location
Thursday, February 21, 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
Thursday, June 20, 2013	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, August 15, 2013	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, October 17, 2013	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, December 19, 2013	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101

Recommended Action:

Information Only.