

**Hazardous Waste Regulation Worklist  
For Stakeholders  
Revised 9-17-07**

**Status Key:**

1. DNR in process of making changes
2. Stakeholder input needed
3. DNR considering changes
4. Not able to change at this time

Commenter/ Date	MO Provision	CSR Citation(s) 10 CSR 25-	How Different from Federal Rules?	Stakeholder Issue/Concern and Recommendation	DNR Response/ Next Steps	Status
1  REGFORM 4-10-06	TSD operator must unload hazardous waste from an incoming railcar within 72 hours of receipt of shipment	7.264(3)(B)  7.265(3)	No federal counterpart. Some surrounding states set 10 days limit on railcar unloading	Given the lack of control by TSD operators over rail shipping schedules, and inability to empty all railcars within 72 hours if they arrive in a large shipment, this Missouri provision encourages staging of bulk hazardous waste on rail sidings outside TSD facilities, where they are unprotected, rather than within the TSD facility.  <b>RECOMMENDATION:</b> Adopt 10-day limit to unload shipment from railcar delivery.	DNR took action to prepare and submit a Regulatory Impact Report (RIR) to management related to the change to the 72-hour rule for unloading hazardous waste from incoming railcars. The RIR will be published in a newspaper with a 60-day public comment period. The program will then review and make changes as necessary based on all inputs. After the proposed rule text is finalized, the rule will proceed through standard public hearing and public comment period steps.	1

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2  REGFORM 4-10-06	Highly prescriptive design and storage requirements for TSD storage of containers holding ignitable or reactive wastes	7.264(2)(I)5.  7.265(2)(I)8.	Must be located at least 50 feet from property line. 40 CFR 264.176 and 265.176.	<p>Missouri requirements appear to be based primarily on NFPA guidelines, but extensive recitation of these NFPA texts virtually guarantees that they are out of date.</p> <p>Regarding DNR response #2, REGFORM indicated that the role of DNR is to protect the public and environment, not perceptions, and that it should be up to companies to decide when and whether they use PE. At a minimum, DNR should consider removing the word “independent” so that in-house P.E.s can satisfy this requirement.</p> <p><b>RECOMMENDATIONS:</b> Either: 1) consolidate into a single requirement that new TSD storage areas for ignitable or reactive wastes be constructed to meet NFPA guidelines or local fire codes, if more stringent, that are in effect at the time of construction, or: 2) eliminate it entirely and verify NFPA compliance during permitting. <b>Recommend</b> a revision to the requirement for four-foot aisle space between rows, as this appears to be well in excess of what is needed to safely access containers. <b>Recommend</b> MDNR review the requirement that fire suppression system design be approved by an independent, Missouri-registered PE. This seems to be unnecessary.</p>	<p>The RCRA Burden Reduction Rule of April 4, 2006 was in the package of draft federal rules intended for adoption. This change removes the “independent and registered” requirements for selected certifications (in addition to other changes).</p> <p>DNR agrees that general citation to NFPA guidelines and local fire codes makes sense, but need to be sure that if local codes or NFPA goes away for some reason that the State is not left without a regulatory structure.</p> <p>DNR welcomes stakeholder input on citations of the NFPA standards that would be applicable to <u>all</u> generators. We agreed to keep talking about how to utilize general references and other documents.</p>	1 and 2

<p>3 REGFORM 4-10-06</p>	<p>An owner / operator must submit a "health profile," as required by 260.395.7(5) as part of the application for a hazardous waste treatment or disposal facility. This statute requires information on the extent of air pollution and groundwater contamination; and a profile of the health characteristics of the area which identifies all serious illness, the rate of which exceeds the state average for such illness, which might be attributable to environmental contamination.</p>	<p>7.264(2)(P)(1)</p>	<p>Not required under federal provisions</p>	<p>This statutory provision requires considerably more information than is necessary for MDNR to consider in the application of a hazardous waste treatment facility or operating disposal facility.</p> <p><b>RECOMMENDATION:</b> Amend statute as part of next DNR suggested legislative package</p>	<p>DNR and the Department of Health and Senior Services (DHSS) have been reviewing the requirements for Health Profiles as outlined in the law and regulations. The DHSS, who reviews and approves Health Profiles, has held several internal meetings and are in the process of proposing a recommendation to the department regarding the value of Health Profiles and whether there are appropriate alternatives to the preparation methodology currently prescribed in the regulations. The DHSS preliminary recommendation will be provided to the department prior to the October 23, 2007, Hazardous Waste Forum where discussions regarding the path forward with respect to Health Profiles will occur.</p> <p>Note: Will require a statutory change.</p>	<p>2 and 3</p>
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<p><b>4</b></p> <p>REGFORM 4-10-06</p>	<p>One-year time limit on satellite accumulation and accumulation start date on containers in satellite areas. This is a Missouri-unique provision not emulated by other States.</p>	<p>5.262(2)(C)3.</p>	<p>Federal rule has quantity limit for satellite accumulation, but not a time limit.</p>	<p>In low volume satellite areas, the Missouri one-year time limit results in the need to remove partially full containers to storage or shipping, wasted containers, unnecessary shipping costs for partly full containers and increased risk of employee exposure or accident during waste consolidation. Containers in a satellite area, unlike those in more isolated storage areas, are observed on a daily basis and used by employees working in the area, so that container deterioration would be readily apparent. Given their frequently observed location and the fact that they are removed when full, the one-year time limit provides no additional environmental protection, but it serves as a potential source of paperwork violations, since the accumulation start date must be checked in satellite areas.</p> <p><b>RECOMMENDATION:</b> Rescind Missouri rule and time limit.</p>	<p>MDNR is willing to consider a longer time frame such as two or three years but cannot agree to eliminate entirely a timeframe for satellite accumulation. Based on what is seen during inspections, some small facilities forget about such containers and environmental problems result.</p> <p>REGFORM agreed to continue a dialogue on this issue. Roger Walker agreed to confirm whether or not any other state places a limit on satellite accumulation.</p> <p>REGFORM requests that members consider their facility needs. Roger Walker asks that members let him know if a two- or three-year time frame will accomplish the goal of eliminating extra costs, risk and time.</p> <p>DNR awaits input from all interested stakeholders. DNR is willing to improve the existing regulation, but not to increase or reduce these requirements.</p>	<p>2</p>

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5  REGFORM 4-10-06	Prescriptive containment requirements for storage of waste containers in generator storage areas and transfer stations. Lesser requirements if no free liquids or <1000 kg non-acute hazardous waste.	5.262(2)(C)2.D.  6.263(2)(A)10.D	Federal rules require weekly inspections and separation of incompatibles with a dike, berm, wall, etc., but do not prescribe containment area design for generator or transfer station storage.	Containment requirements are excessive for generators (90/180/270-day max. storage time) and transfer stations (10 days). Container deterioration in these storage timeframes is an unlikely source of container leakage. Examination of spill reports should reveal that most releases occur during container handling when transporting from accumulation areas or into transport vehicles, not within the confines of storage areas or during undisturbed storage. Weekly inspections are designed to detect any gradual deterioration, and the rules require container replacement/overpack in this case. As waste generators change their production operations and move processes, it is advantageous to relocate 90/180/270 day waste storage locations, but the prescriptive Missouri containment rules cause this to be a major construction or containment building relocation project. As a result, these storage areas are not moved, and the risk of incidents increases because of longer in-plant waste transportation routes.  <b>RECOMMENDATION:</b> Rescind rule and prescriptive requirements for storage area design threshold.	DNR notes that the purpose served by the regs is additional protection to groundwater and sewers.  Based on what DNR sees during inspections, most facilities find using containment pallets an inexpensive, easy and extremely flexible means of compliance. DNR questions REGFORM's statement that a "major construction or containment building relocation project" is necessary if waste needs to be relocated.  DNR is willing to improve the existing regulation, but not to increase or reduce these requirements. Stakeholder input remains welcome to advance this topic.	2

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6  REGFORM 4-10-06	Generators and transfer station operators shall “provide safety equipment such as fire blankets, gas masks and self-contained breathing apparatus.”	5.262(2)(C)2.G.  6.263(2)(A)10.F.	Required preparedness and prevention equipment is specified in 40 CFR 265.32, but it does not include these additional questionable items.	<p>OSHA regulations require that cartridge respirators (“gas masks”) and SCBA units be used only by persons who are fit-tested to a specific size facemask and who are trained to use them. Because of this, employers restrict respirator use to designated persons, who are supplied respirators that meet these requirements, but do not make them generally available. For liability reasons, the waste facility should not provide respiratory gear to non-employees in a local Fire Department or other outside entity (ex. cleanup contractors) on an ad hoc basis. Fire blankets are no longer in common use. Their use should be governed by the highly specific criteria in NFPA and local fire codes, rather than by hazardous waste rules.</p> <p><b>RECOMMENDATION:</b> Eliminate this rule altogether or simply require that generators and transfer station operators follow NFPA and local fire codes.</p>	<p>DNR agrees that general citation to NFPA guidelines and local fire codes makes sense, but need to be sure that if local codes or NFPA goes away for some reason that the State is not left without a regulatory structure.</p> <p>DNR notes that 40 CFR 265.32 requires equipment unless hazards addressed do not apply. DNR has considered this reg. to mean that if you don’t require a type of equipment, you don’t have to have it. This has been applied by examining facility statements, procedures and documents for evidence about the types of activities planned and conducted, and comparing equipment. If facility responses didn’t require an SCBA, it was not required.</p> <p>DNR welcomes stakeholder input on citations of the NFPA standards that would apply to <u>all</u> generators and how to best utilize general references.</p>	2

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7  REGFORM 4-10-06	Missouri requires that generators package, mark and label during the entire time hazardous waste is accumulated on-site.	5.262(2)(C)(1)	40 CFR 262.32 requires generators to package, mark and label hazardous waste before offering for transportation offsite. It does not require DOT labels on containers that will never be shipped off-site.	<p>The more stringent Missouri regulations are expensive, time consuming, and do not have an environmental benefit. DOT labels are expensive. The federal rule requiring compliance prior to shipping is sufficient protection.</p> <p>Roger Walker invites additional input on this issue, noting that one accident should not be the model for regulations that impact the entire state. He suspects that all facilities are marked in a manner allowing emergency personnel to understand the nature of the contents of the buildings they enter and that the specific labeling is not necessary and does not add to the level of safety.</p> <p><b>RECOMMENDATION:</b> Remove the requirement that containers temporarily storing hazardous waste be labeled per DOT and make it clear that DOT compliance applies only at the time of shipment.</p>	<p>DNR agrees that DOT does not require labeling until time of shipment. The hazardous waste regulation was enacted after a disaster in Kansas City involving firefighters and stored chemicals. Though this incident did not involve hazardous waste, a standard for placing labels that could be readily seen at a distance to identify hazards was deemed appropriate at that time.</p> <p>DNR notes that facilities are not always adequately marked for emergency personnel and safety. Also, inspectors cannot tell what is in a container, even with adequate lighting and facility personnel beside them to provide information.</p> <p>DNR and stakeholders have discussed that DNR's original desire was to have the NFPA 704 (diamond) system apply to all generators, but the Hazardous Waste Management Commission felt it was less burdensome to apply DOT labels early that will eventually be required. If stakeholders wish to propose a higher level of safety for first responders by requiring the diamond system in lieu of early labeling, DNR would consider it, since promoting the safety of first responders was one of the primary reasons for the promulgation of this reg. Stakeholder input is welcome on this and small container labeling standards.</p>	2

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8  REGFORM 4-10-06	Before a TSD permit can be transferred, Missouri requires that the proposed new owner or operator meet a “habitual violator test.”	7.270(2)(D)(1)	There is no similar federal requirement.	The intent of the regulation may be noble, but performing these violator tests analyses is extremely difficult for large entities that operate in many states. The cost and administrative burden does not justify this provision.  <b>RECOMMENDATION:</b> Rescind the “habitual violator test.” At a minimum, the state habitual violator regulation should be streamlined and simplified while still achieving its intended purpose.	DNR prefers to modify and simplify this test rather than rescind it entirely and is reviewing this in consideration of statutory intent.  DNR invites stakeholder input on streamlined standards.	2
9  REGFORM 4-10-06	MDNR modifies requirements for letters of credit indicating that such letters shall be issued by a state- or Federally-chartered and regulated bank or trust association. However, if the issuing institution is not located in Missouri, then a bank or trust association located in Missouri shall confirm the letter of credit and the confirmation and the letter of credit shall be filed with the department.	10 CSR 25 – 7.264(1)(H)(6)	40 CFR 264.143(d), 40 CFR 264.145(d), and 40 CFR 264.147(h)	Many national & international companies with multiple facilities across the country use one letter of credit (LOC) issued by one institution to meet the financial assurance requirement of all its facilities across the country. Missouri, by this provision, requires that they utilize the services of two financial institutions (the issuing institution, and the confirming institution in Missouri), to accomplish this activity for their Missouri facility unnecessarily adding to the cost.  <b>RECOMMENDATION:</b> Modify Missouri language to avoid these extra and unnecessary costs.	Since Missouri has had a number of commercial TSDs go bankrupt, that will have to be a consideration in any change. The DNR is reviewing the FA regulations and evaluating what changes may be needed. FA is a national EPA priority and DNR participates in a workgroup with other states evaluating federal regs. on FR. However, the conclusions of this group and new EPA regs. are not imminent.  DNR continues to invite stakeholder comments on the implications of this reg.	3

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10  REGFORM 4-10-06	100 kg non-acute hazardous waste accumulation threshold between CESQG and SQG.	3.260(1)(A)25.	Federal threshold for accumulation of non-acute hazardous waste is 1000 kg. 40 CFR 261.5(g)(2)	<p>Regardless of the accumulation threshold, a facility that generates &gt; 100 kg of hazardous waste a month cannot qualify as a conditionally exempt small quantity generator. For those facilities with monthly generation rates &lt; 100 kg that could qualify as CESQG under the federal accumulation threshold, there would be significant burden reduction in inspections, recordkeeping, and reporting, and a reduced incentive to make frequent shipments (with higher aggregate risk) to stay under the Missouri 100 kg accumulation threshold.</p> <p><b>RECOMMENDATION:</b> Adopt federal threshold (1000 kg) for accumulation of non-acute hazardous waste.</p>	<p>DNR's experience shows that safety becomes an issue when a generator begins to accumulate large quantities of hazardous waste (i.e., the more waste, the more hazard). DNR has dealt with many cases where accumulation of waste by a CESQG or SQG had serious consequences. EPA used MO's experience, along with other states such as Kansas that begins regulation at 25 kilograms, in developing its SQG rule.</p> <p>Changing the regulation as requested would have a significant negative impact on the HWP's operating revenue.</p> <p>The fee reduction that would occur from this change is a barrier to address this recommendation. Therefore, the department recommends this issue be a part of the discussion of the Hazardous Waste Program's fee insufficiencies.</p>	2 and 4

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11  REGFORM 4-10-06	Quarterly manifest summary reports for large quantity generators.	5.262(2)(D)1.	Federal reporting period is biennial.	<p>Quarterly reporting is a holdover from 20<sup>th</sup> century data management systems that required DNR to manually enter data from paper reports submitted by generators. Quarterly reporting was used to spread this data entry task over time, to allow DNR time to compile annual waste fee bills to generators. In the long term, federal electronic manifesting systems should eliminate this paperwork exercise, but in the interim, some type of annual direct data feed from generators would greatly reduce the quarterly paper-handling burden on generators and DNR alike.</p> <p><b>RECOMMENDATION:</b> The Missouri rule should accommodate direct data submittal on an annual basis as an alternative to quarterly paper reports.</p>	<p>DNR is willing to go to annual reporting if the information were sent in an electronic format. The department offered this to several companies but to date has not been able to overcome data formatting issues so that both the company and DNR can manage the data.</p> <p>DNR explored this idea further with the Office of Administration-Division of Information Technology Services (OA-ITS). OA-ITS advised that an effort is already underway to convert DNR systems to make electronic reporting easier and to make data management more efficient. This will be part of a larger project to rewrite one of the HWP's primary data systems.</p> <p>DNR is working with Solvent Recovery on a pilot, using their data to dump into DNR's reporting form. However, problems have occurred with the data transfer and OA-ITS has found these problems are more difficult than originally anticipated.</p> <p>DNR will continue to work toward solutions to these problems with OA-ITS.</p>	4

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12  REGFORM 4-10-06	Missouri treats commercial and non-commercial TSDs differently and does not allow commercial TSDs the option of using all six financial assurance mechanisms.	7.264(2)(H)(7)	Federal regulations allow a facility to choose between six different mechanisms/instruments to demonstrate financial assurance is available for post-closure care.	Missouri requires much more costly financial assurance mechanisms to be used for commercial TSDs that are costly but without any environmental benefit.  <b>RECOMMENDATION:</b> Amend Missouri regulation to treat all TSD facilities equally regarding financial assurance.	Since MO has had a number of commercial TSDs go bankrupt, that will have to be a consideration in any change. The DNR is reviewing the FA regulations and evaluating what changes may be needed. FA is a national EPA priority and DNR participates in a workgroup with other states evaluating federal regs on FR. However, the conclusions of this group and new EPA regs are not imminent and DNR would like to table this discussion for a later date.	4
13  University of Missouri 10-9-07	Missouri interpretation of 40 CFR.262.34(c)(1)	None [Missouri interpretation of 40 CFR.262.34 (c)(1)]	Federal interpretation is that generators may accumulate up to 55 gallons of non-acute hazardous waste at a satellite location in multiple containers, including multiple containers of the same waste.  <i>See items 4 and 9 of attached EPA PDF.</i>  MDNR interpretation is that one container, regardless of size, of each waste stream may be accumulated at satellite location. Their interpretation acknowledges these multiple waste streams may collectively total	MDNR's interpretation forces diverse generators, such as the University of Missouri-Columbia, (which has 3,000 SAA generating locations) into either decreasing safety by using the largest containers permissible at SAA (to allow time to collect them before they are full) or to increase what is already the largest university hazardous waste staff in the country to service all potential 3,000 locations every three days to remain in compliance with state policy.  MDNR's interpretation of one container (regardless of size) per waste stream is more restrictive than the federal interpretation yet bypasses the regulatory process to place a more restrictive provision on Missouri through the CSR.  MDNR's interpretation of one container per waste stream without regard to total waste accumulated allows generators to exceed the 55-	Missouri generators have the option of choosing the size of container they wish for satellite accumulation (up to 55 gallons per wastestream).  Opening and closing multiple containers is considered more hazardous than using a single container. Sites have been observed using multiple containers, opening them to verify contents and volume, with several open at the same time. This increases exposure to operators and inspectors.  Missouri allows larger containers that will be filled and transported less frequently, reducing the greatest threats. Transporting multiple containers or increasing the number of transport events would seem to increase the potential for spillage, release or exposure. Smaller containers are often hand-carried. We acknowledge that larger containers could result in larger spills if drums are not properly handled during transport.  Missouri allows small businesses to have more cost-effective waste management by their ability to satellite accumulate individual wastestreams in a more commercially viable	2

			<p>over 55 gallons.</p> <p><i>See attached MDNR PDF.</i></p>	<p>gallon threshold, thus being less restrictive than the Federal interpretation. The state acknowledges this less stringent stance in their original determination but fails to acknowledge that the authorized state may not be less stringent than the federal laws.</p> <p><b>RECOMMENDATION:</b> Amend Missouri interpretation to treat all satellite accumulation in alignment with federal interpretation or go through the regulatory process to amend the CSR or to notify EPA of this policy change per the procedures in 40 CFR 271.</p> <p>.</p>	<p>cost-minimizing 55-gallon drum. Also, accumulating in single smaller containers of 30-gallon capacity or less makes it easier for small businesses to achieve or maintain conditionally exempt generator status.</p> <p>Unless a generator restricts itself to accumulating substantially less than 55 gallons in a satellite area or of a wastestream, it is more likely to accumulate over the regulated amount and be in violation.</p> <p>Missouri is an authorized state with its satellite accumulation policy in place for more than 20 years, predating EPA's guidance and not challenged by that agency. Changing policy would require a major re-education effort with fewer resources to conduct it. A change would appear to result in a situation with fewer benefits to cost-effective facility safety.</p> <p>DNR would consider information showing that this change would be as protective as current policy and that it would not be costly or burdensome to other entities to make the change.</p>	
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