



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

Fish Kills

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Water Protection Program
Compliance and Enforcement



Fish Kills

In addition to providing compliance assistance on meeting final permitted effluent limitations, submission of reports, renewing permits, monitoring facility improvement schedules and coordinating onsite compliance assistance, the Compliance and Enforcement Section recovers the State's costs associated with fish kills.



Partners

- Memorandum of Understanding (MOU)
- **EER**-respond to notifications, conduct onsite water sampling, confirm presence of dead aquatic organisms
- **MDC**-quantify and identify mortalities
- **USFWS**-consulted on sensitive habitats and federally listed aquatic organisms

Compliance and Enforcement Process

- Fish kill is identified
- Investigate and count mortalities
- Determine whether there is a responsible party
- Is there causation

Causation

- If so...
 - Was there an accidental release
 - Could the RP have avoided with operation and maintenance
 - Discharge resulted in toxic aquatic environment
- If not...
 - Naturally occurring; low dissolved oxygen
 - Undetermined cause

Legal Authority

- MCWL & Section 644.096, RSMo grants authority to recover damages, including all costs & expenses incurred for investigation, as well as costs and expenses of restoring waters of the state to their condition as they existed before the violation, sustained by it because of the violation.

Legal Authority cont'd

- Sections 644.076 & 644.079, RSMo, authorize imposition of penalties for violations of MCWL & establish monetary penalties up to \$10K/day/ violation.
- 10 CSR 20-3.010, Penalty Assessment Protocol

Investigative Cost

- Recover time and equipment expenses
 - DNR Staff
 - EER Staff
 - MDC Staff

State's Cost – Loss of Aquatic Life

- Aquatic Organisms
 - Annelids
 - Amphibians
 - Mollusks
 - Fish



Disposition of Cost for Aquatic Life

- 90/10 split
- 10% deposited into EER fund
- 90% deposited into MDC Fish Kill Grant
- Fish Kill Grant-used for restoration improvements and projects to protect the state's aquatic resources.
 - Riparian restorations
 - Wader wash stations in Ozark streams

Fish Kill Cases in Compliance and Enforcement

- 10 active cases in compliance and enforcement
- On average, 7 cases are referred to compliance and enforcement annually.



Issues and Challenges

- Identifying a responsible party and ultimately determining causation
- Responsiveness-need to be onsite quickly
- Two year SOL on penalty, Five year SOL on cost recovery.

Questions?

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